

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice-Chair*
Eric Nixon *Michael Wartell*
Diane McDermott, Interim Executive Director

Thursday, June 9, 2022 - 5:00 p.m.

Members Present:

Patricia J. French, Chair
Jesse Crawford, Vice Chair
Eric Nixon
Michael Wartell

Members Absent:

Others Present:

Diane McDermott, CPOA
Katrina Sigala, CPOA
Ali Abbasi, CPOA
Tina Gooch, CPOA/CPOAB Legal Counsel
Elizabeth Martinez, DOJ
Jared Hager, DOJ
Cdr. Richard Evans, APD
Lt. Martinez, APD
Pastor David Walker, Mayor's Office
Deputy Cdr. Anthony Maez, APD
Carlos Pacheco, Sr. Managing City Atty
Chris Sylvan, City Council
Kelly Mensah, CPC

Attendance: In response to the Public Health Emergency, the Civilian Police Oversight Agency (CPOA) Board meeting on Thursday, June 9, 2022 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: <https://www.cabq.gov/cpoa/events/cpoa-board-meeting-06-09-2022>. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the CPOA Board will also remain available for viewing at any time on the CPOA's website. CPOA Staff is available to help members of the public access pre-recorded CPOA meetings on-line at any time during normal business hours. Please email CPOA@cabq.gov for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 p.m., Monday, June 6, 2022 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 p.m. on Thursday,

June 9, 2022. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

Board Minutes

I. Welcome and call to order. Vice Chair Crawford called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:05 p.m. A roll call vote of Board members present was taken. All CPOA Board members were present.

II. Approval of the Agenda

a. Motion. A motion by member Wartell to approve the agenda with the removal of Agenda Item XI. Serious Use of Force Cases/Officer Involved Shooting Executive Director's Findings and Recommendation and that the item be placed on the CPOA Board Special meeting agenda scheduled for June 30, 2022. Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

III. Approval of Consent Agenda: The CPOA Executive Director's findings in each case listed on the consent agenda have been provided to the CPOA Board for their information. The CPOA Board has approved or modified any disciplinary recommendations. The findings become part of the officer's file, if applicable. Copies of the full findings letters to the citizens are located at

<http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>

a. Administratively Closed

246-21 001-22 061-22 076-22

b. Exonerated

011-22

c. Exonerated and Not Sustained

014-22

d. Exonerated and Unfounded

242-21

e. Unfounded

033-22

- i. **Motion.** A motion by Chair French to approve the consent agenda with the exception of Administratively Closed CPC 001-22, CPC 076-22 and Unfounded CPC 033-22 cases and to provide the Board with the full investigative files and that the cases be placed on the next regularly scheduled CPOA Board meeting agenda. Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

IV. Public Comments

- a. None.

V. Review and Approval of Minutes from May 19, 2022 Meeting

- a. Draft minutes from the Civilian Police Oversight Board regular meeting on May 19, 2022, were distributed to each Board Member electronically via a weblink.
- b. **Motion.** A motion by Member Wartell to approve the minutes from the May 19, 2022, regular meeting. A roll call vote was taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

VI. Report from DOJ on Amended EFIT (External Force Investigative Team)-
DOJ Attorney Jared Hager provided a summary of the Amended Stipulated Order filed with the Court and the Methodology for investigating the backlog of Force cases. (see attached)

VII. Reports from City Departments

a. APD

- 1. IA Professional Standards Division (SOP 7-1, SOP 3-41, SOP 3-46)** – Acting Lieutenant Martinez reported on the Statistical Data for the month of May 2022. A document titled *Civilian Police Oversight Board, Internal Affairs Professional Standards Division*

Statistical Data for the Month of May 2022 was screen shared and distributed to CPOA Board members electronically. (see attached)

2. **IA Force Division (SOP 2-52 through SOP 2-57)** – Deputy Commander Anthony Maez reported on the Statistical Data for the month of May 2022. A document titled *Civilian Police Oversight Board, Internal Affairs Force Division Statistical Data for the Month of May 2022* was screen shared and distributed to CPOA Board members electronically. (see attached)

b. City Council – Chris Sylvan

1. **City Council Representative** - Chris Sylvan reported that Greg Jackson and Rashad Raynor were introduced and voted on and the Legislation for the Executive Director was introduced at the June 6, 2022, City Council meeting.

c. Public Safety Committee - Chris Sylvan

1. **Public Safety Representative** - Chris Sylvan reported that the Public Safety Committee will be held on June 14, 2022, in the City Council Committee room, 9th floor at 5:00 p.m. and that the Legislation for the Evaluation of the Executive Director will be on the agenda.
2. Chris Sylvan also noted that next week, 2 potential CPOA Board member candidates will be interviewed by the City Council and may be on the June 22, 2022, City Council Meeting Agenda for immediate action and that the City Council will continue to meet with potential candidates on a monthly basis until the CPOA Board fully staffed.

d. Mayor's Office – Pastor David Walker

1. **APD Community Outreach Liaison** – Pastor David Walker gave a verbal update on the automated speeding cameras.

e. City Attorney

- 1. Senior Managing Attorney** – Carlos Pacheco gave a verbal report on the IMT recommendation for a mediation program and the CPOA Board Training proposal. He also noted he is working on Sutin, Thayer & Browne contract.

f. CPC – Kelly Mensah

- 1. Community Policing Council Liaison** - Kelly Mensah presented his report.

g. APOA – Shaun Willoughby

1. There was no report.

h. CPOA – Diane McDermott, Interim Executive Director

Interim Executive Director – Diane McDermott presented her report.
(see attached)

- 1. 3 Firms and Cost for CPOA Staff Study** – A staffing study update was shared with the Board.
- 2. POB Calendar** – An overview of the POB calendar’s functionality was provided.
- 3. Status on plaque for Member Galloway** – The CPOA purchased a plaque for Member Galloway and the Board will present it to her at the next regularly scheduled Board meeting.
- 4. Copy of communication from Mayor’s office requested by Member Wartell concerning board not authorize to have City letterhead** – Email communications regarding blank City Letterhead was provided to the Board.
- 5. Update on ride-along backgrounds as stated in May meeting** – An update on the ride-along background requirement was provided to the Board.
- 6. Clarification on who from APD decides what lapel videos are submitted to Board as requested at March 10, 2022 board meeting by Member Galloway. (Ref 18-0105978)** – Clarification on the

process APD uses to create SUOF/OIS PowerPoint presentations was provided.

7. **Is AMICI going to be recorded on June 23rd?** – Per the City Attorney and an APD staffer, it is a practice not to have AMICI meetings recorded.
8. **Plans on how the agency is going to move forward with the concerns from IMR 15** – Quality training meetings are being held with CPOA Investigators and specific recommendations from IMR-15 are in the process of being implemented.
9. **Percentage of budget increase as requested by Member Wartell** – The percentage of the CPOA budget and overall City Budget was provided to the Board. The CPOA Board and Interim Director Diane McDermott discussed the Board’s role in the Budget process and IT requests. Member Nixon will contact APD to discuss simplification of how the Board receives SUOF/OIS materials.

VIII. Requests for Reconsideration

- a. **None.**

*****A fifteen-minute break began at 6:55 p.m. and the meeting resumed at 7:10 p.m.*****

- IX. Review of Cases:** The CPOA Board has approved or modified any disciplinary recommendations. The findings become part of the officer’s file, if applicable. Copies of the full findings letters to the citizens are located at

<http://www.cabq.gov/cpoa/findings-letters/civilian-complaints-pob-findings>

- a. **Sustained NBOC, Not Sustained, Exonerated and Unfounded 041-22**

1. **Motion.** A motion by Chair French to accept the Civilian Police Oversight Agency’s disciplinary recommendation for CPC 041-22. A roll call vote was taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

b. Sustained, Exonerated and Unfounded

040-22

1. **Motion.** A motion by Member Nixon to accept the Civilian Police Oversight Agency's disciplinary recommendation for CPC 040-22.
Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

X. Non-Concurrence Cases

- a. 191-21
- b. 202-21
- c. 207-21

1. There was no discussion on Non-Concurrence Cases.

XI. Serious Use of Force Cases/Officer Involved Shooting Executive Director's Findings & Recommendation– *Diane McDermott, Interim Executive Director*

- a. 21-0076453
- b. 21-0082733
- c. 21-0084243
- d. 21-0084423
- e. **File Requests:**

1. The Serious Use of Force Cases/Officer Involved Shooting Cases listed above were removed from the agenda and will be placed on the June 30, 2022 Special Board meeting agenda.

XII. Reports from Subcommittees

a. Case Review Subcommittee – *Eric Nixon*

1. Met May 31, 2022 (video conference)
2. Member Nixon gave a verbal report.
3. Next Meeting July 26, 2022 at 4:30 p.m.

b. Policy and Procedure – *Jesse Crawford*

1. Met June 2, 2022 (video conference)

2. Vice-Chair Crawford reviewed the list of PPRB Polices with No Recommendation from the CPOA Board.

- i. **Motion.** A motion by Vice-Chair Crawford to move the list of PPRB Policies with no recommendations and delegate CPOA Data Analyst Ali Abbasi to communicate the Board's decision to APD. A roll call vote was taken. Motion passed. (see attached)

For: 4 – Crawford, French, Nixon, Wartell

3. Next Meeting July 7, 2022, at 4:30 p.m.

XIII. Discussion and Possible Action:

a. Board Approval of Firm to Complete CPOA Staff Study – *Patricia J. French*

1. The CPOA Board and Interim Executive Director Diane McDermott discussed the CPOA Staffing Study and the procurement process.
2. **Motion.** A motion by Chair French that the Chair and another Board member contact and/or meet with Alexander Weiss Consulting to discuss the scope of work. And if Alexander Weiss Consulting satisfies the intended scope of work, the proposal will be forwarded to the City's Procurement Department for approval. If the City's Procurement department approves the proposal, the Board will move forward with Alexander Weiss Consulting to conduct the CPOA Staffing Study. Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

b. Consideration of PPRB Policies with No Recommendation: - *Jesse Crawford*

1. See CPOA Board action under agenda XII.b.2.

c. Vote on Executive Director's findings and recommendations on Case #19-0077270 – *Patricia J. French*

1. The CPOA Board discussed OIS Case 19-0077270 and the Interoffice Memo received from J. J. Griego, Deputy Chief. The Board recommends that the CPOA Board receive a response from the Chief

of Police. City Attorney Carlos Pacheco will discuss the Board's concerns with the Chief of Police. (see attached)

2. **Motion.** A motion by Chair French to accept the CPOA Findings of OIS Case 19-0077270. Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

d. Consideration of Proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA on OIS/SUOF Materials – *Tina Gooch, CPOA/CPOAB Legal Counsel*

1. Senior Managing Attorney Carlos Pacheco and CPOA/CPOAB Legal Counsel Tina Gooch provided an update on the status of the proposed MOU between the City of Albuquerque, CPOA/CPOAB and APOA on OIS/SUOF Materials. Mr. Pacheco will follow up with the APOA and set up another meeting and provide an update at the next regularly scheduled Board meeting.

e. Findings Letter sent to Complainant

1. Interim Executive Director Diane McDermott screen shared the 3rd page of the CPOA Findings letter. Chair French recommended the reordering of the criteria and the changes were agreed to be made.

f. Scheduling CPOA Board Special Meeting for Review of SUOF/OIS Backlog.

1. Chair French will provide a list of cases for the June 30, 2022, Special Board meeting to Interim Executive Director McDermott.

g. Board Initial and Annual Training Proposal – *Tina Gooch, CPOA/CPOAB Legal Counsel, Diane McDermott, Interim Executive Director*

1. CPOA/CPOAB Legal Counsel Tina Gooch provided an update on the proposal and the Board discussed the training methodology. Chair

French appointed Member Wartell to start attending the training proposal meetings on behalf of the Board.

2. CPOA/CPOAB Legal Counsel Tina Gooch noted that there will be a tracking mechanism to track Board training.

h. CPOAB IMR-15 Notice Letter – Jesse Crawford

1. Vice-Chair Crawford shared the content of the CPOA Board’s IMR-15 letter addressing the Board’s concerns.
2. **Motion.** A motion by Chair French to authorize Vice-Chair Crawford to finalize the letter based on members input and to submit to the CPOA to put on blank City letterhead for submission by June 15, 2022. Roll call vote taken. Motion passed. (see attached)

For: 4 – Crawford, French, Nixon, Wartell

i. Approve Draft July – December 2021 Semi-Annual Report – Diane McDermott, Interim Executive Director and Ali Abbasi, CPOA Data Analyst

1. CPOA Data Analyst Ali Abbasi provided an overview of the Draft July – December 2021 Semi-Annual Report.
2. **Motion.** A motion by Chair French to approve the Draft July – December 2021 Semi-Annual Report. Roll call vote taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

XIV. Other Business

- a. None.

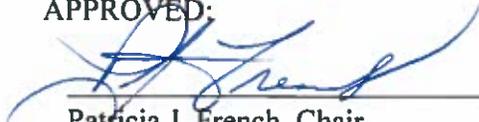
XV. Adjournment- *Next Regularly scheduled CPOA Board meeting will be on July 14, 2022, at 5:00 p.m.*

- a. **Motion.** A motion by member Nixon to adjourn the meeting. A roll call vote was taken. Motion passed.

For: 4 – Crawford, French, Nixon, Wartell

- b. The meeting was adjourned at 8:58 p.m.

APPROVED:



Patricia J. French, Chair
Civilian Police Oversight Agency Board

July 14, 2022
Date

CC: Julian Moya, City Council Staff
Ethan Watson, City Clerk
Isaac Benton, City Council President (via email)

Minutes drafted and submitted by:
Valerie Barela, Administrative Assistant

Attachments

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CIV. 14-1025 JB/SMV

THE CITY OF ALBUQUERQUE,

Defendant,

vs.

THE ALBUQUERQUE POLICE
OFFICERS' ASSOCIATION,

Intervenor.

**AMENDED STIPULATED ORDER ESTABLISHING
AN EXTERNAL FORCE INVESTIGATION TEAM**

This matter comes before the Court on the Joint Motion of Plaintiff United States of America and Defendant City of Albuquerque (collectively, the Parties), with the concurrence of the Independent Monitor, for entry of this Amended Stipulated Order, which modifies and supersedes the Stipulated Order Establishing an External Force Investigation Team that this Court entered on February 26, 2021 (Original Order). Doc. 720. The Original Order required the City to establish, on a temporary basis, an External Force Investigation Team (EFIT) to assist the Albuquerque Police Department (APD) in conducting investigations of Level 2 and Level 3 uses of force by APD officers and improve the quality of force investigations conducted by APD's Internal Affairs Force Division (IAFD). The Original Order also required the City to improve APD's internal affairs processes, maintain an increased number of IAFD investigators, and provide additional training to IAFD investigators.

This Amended Order restates many of the Original Order’s requirements and supplements them in two ways. First, this Amended Order requires the City to modify its existing contract with DLG, Accounting and Advisory Services (DLG) to enable EFIT to investigate all use-of-force incidents occurring between January 1, 2020, through July 16, 2021, that APD did not investigate, in full or in part (Backlog Force Cases), in violation of the Court Approved Settlement Agreement (CASA), Doc. 465-1. Second, this Amended Order extends by 24 months, from May 2022 through May 2024, the period during which the City shall continue to enable EFIT to assist IAFD in investigating new Level 2 and Level 3 use-of-force incidents (New Force Cases).

The Parties intend the measures in this Amended Order to ensure high-quality, timely investigations of New Force Cases, to minimize and correct deficiencies in IAFD investigations as identified in the Independent Monitor’s Twelfth and Thirteenth Reports, Docs. 652 and 782, and to address APD’s failure to investigate the Backlog Force Cases as identified in the Independent Monitor’s Fourteenth Report, Doc. 872. The Court approves this Amended Stipulated Order and enters it as an Order of the Court.

A. Definitions

1. For the purposes of this Amended Order,
 - a. “IAFD” means APD’s Internal Affairs Force Division;
 - b. “IAFD personnel” includes IAFD investigators and supervisors, other than IAFD Commanding Officers;
 - c. “investigations of New Force Cases” include both investigations and the review of investigations by supervisors of Level 2 and Level 3 use-of-force incidents that occur after July 16, 2021;

- d. “investigations of the Backlog Force Cases” means investigations of all use-of-force incidents that occurred between January 1, 2020, through July 16, 2021, and that IAFD failed to investigate, in whole or in part, as required by the CASA, a set that includes, but may not be limited to, 143 Level 3 uses of force, 470 Level 2 uses of force, 42 Level 1 uses of force, and 12 uses of force that IAFD subsequently investigated;¹ and
- e. “Independent Monitor” may include members of the Independent Monitoring Team.

B. Establish an External Force Investigation Team

- 2. The City shall establish and maintain EFIT to guide and direct IAFD personnel, and when necessary, conduct investigations of New Force Cases; assess investigations carried out by IAFD personnel; provide written feedback on IAFD personnel’s work product; and complete investigations of the Backlog Force Cases.
- 3. EFIT shall be overseen by an Administrator. The City shall empower the EFIT Administrator to hire and retain the staff necessary to fulfill the requirements of this Amended Order. The EFIT Administrator shall ensure that a sufficient number of EFIT investigators to meet the requirements of Paragraph 16 of this Amended Order are physically present in Albuquerque and able to respond to the scene of Level 2 and Level 3 uses of force. The EFIT Administrator shall also ensure that a sufficient number of EFIT

¹ The City provided DOJ and the Independent Monitor with this accounting of 667 cases. Doc. 872 at 4. If EFIT identifies other uninvestigated force cases that occurred during the relevant period or finds a different number of force cases in a particular category, those cases will be considered Backlog Force Cases.

investigators and supervisors are hired and retained exclusively to investigate the Backlog Force Cases, as required by Paragraphs 7–9 of this Amended Order.

4. The EFIT Administrator shall have experience and expertise in investigating law enforcement misconduct, the constitutional standards for police officers' use of force, and systems reform litigation. EFIT supervisors and investigators shall have experience and expertise in investigating law enforcement actions and the constitutional standards governing use of force. The EFIT Administrator, supervisors, and investigators shall have no current or previous employment relationship or contract for services with APD or the City when they join EFIT. The Parties agree that the City selected a qualified candidate, DLG, to be the EFIT Administrator and that the EFIT Administrator has, to date, selected qualified supervisors and investigators in compliance with the Original Order's requirements. Doc. 720, ¶¶ 4, 6–7; *see also* Doc. 873, ¶¶ 12–35 (EFIT personnel's qualifications). If DLG ceases to be the EFIT Administrator before the termination of this Amended Order pursuant to Paragraphs 39 or 41, the City shall reconstitute EFIT pursuant to the process and subject to the requirements laid out in the Original Order. *See* Doc. 720, ¶¶ 3–10.
5. The City shall contract with the EFIT Administrator and fund the operations of EFIT in accordance with its Public Purchases Ordinance, specifically, ROA 1994, § 5-5-20(U) (exempting “[c]ontracts and expenditures in connection with court or administrative proceedings, including, but not limited to, experts, mediators, interpreters, translators, court reporters, process servers, witness fees, and printing and duplicating of materials for filing” from competitive requirements of the article), or any other appropriate provision of the Public Purchases Ordinance. The contract between the EFIT Administrator and the

City shall include all standard terms for City contracts. In compliance with the Original Order, the City finalized a contract with DLG, on June 23, 2021, which enabled DLG to commence operations as the EFIT Administrator on July 16, 2021. Doc. 873, ¶ 2; *see* Doc. 782, ¶¶ 2, 5 and Exhibit D. Subject to the terms of Paragraphs 39–41, the City shall modify the EFIT Administrator contract as necessary to enable EFIT to provide the additional services identified in this Amended Order.

6. The City and the EFIT Administrator shall establish and maintain protocols that require APD and EFIT to coordinate on investigations of new Level 2 and Level 3 uses of force. The protocols shall, at a minimum, specify how IAFD personnel and EFIT personnel will coordinate their work, and direct APD to transmit investigative files to EFIT. The protocols shall be submitted to DOJ and the Independent Monitor for review and comment pursuant to the procedures of Paragraphs 147 and 148 of the CASA. Doc. 465-1 at 49–50. The protocols shall not preclude EFIT from investigating the Backlog Force Cases.

C. Investigate and Report on the Backlog Force Cases

7. The City shall enable the EFIT Administrator to establish a Backlog Team to complete investigations of the Backlog Force Cases in accordance with the Scope of Work (SOW) attached to this Amended Order as Exhibit 1. The Parties shall jointly file a notice with the Court when the EFIT Backlog Team is fully constituted and commences operations.
8. When the Backlog Team completes an investigation, the EFIT Administrator shall submit the case materials, including narratives and recommendations, to IAFD for final closure. Upon receiving a completed backlog case from EFIT, IAFD shall close the case by performing the administrative steps outlined in the revised IAFD process narrative, Doc. 862-1, ¶¶ 59–63.

9. The Force Review Board (FRB) shall review completed EFIT Backlog Team investigations pursuant to the process identified in SOW, ¶ 20. Consistent with the CASA, Doc. 465-1, ¶ 78(b), any Backlog Team investigation reviewed by the FRB shall be presented by the EFIT Administrator or Deputy Administrator.
10. Within 30 days after EFIT completes an investigation pursuant to the SOW, APD shall respond in writing to the recommendations, if any, made by the EFIT Administrator and/or the EFIT Executive Team in that investigation pursuant to the SOW.
11. Within 90 days after EFIT completes investigation of all Backlog Force Cases, the City shall provide a written report to the EFIT Executive Team, DOJ, and the Independent Monitor, which includes, at a minimum:
 - a. the City's response to the EFIT Administrator's summary report, required by the SOW, ¶ 25, which identifies significant findings in individual cases, trends among all cases, root causes of the backlog, recommendations, and potential solutions to ensure against future IAFD investigations failing to be completed within timelines imposed by the CASA;
 - b. the number of APD officers who were involved in a use-of-force event between January 1, 2020, through July 16, 2021, which did not comply with APD policy or the law;
 - c. the number of use-of-force incidents occurring between January 1, 2020, through July 16, 2021, that did not comply with APD policy or the law;
 - d. the EFIT recommendations made pursuant to the SOW that APD adopted or will adopt, and APD's plan for implementing them; and

- e. the EFIT recommendations made pursuant to the SOW that APD rejected or will reject, and the rationales for APD's decisions to reject each recommendation.

D. Maintain Increased Staffing of IAFD; Technical Assistance

- 12. The City shall ensure that APD maintains at least twenty-five (25) force investigators assigned to IAFD, unless and until APD can demonstrate by an internal staffing analysis that fewer investigators are necessary to timely investigate all Level 2 and Level 3 uses of force.
- 13. As required by the Original Order, Doc. 720, ¶ 14, the City filed a written process narrative for IAFD investigations with the Court on July 16, 2021. Doc. 839-1. The City filed a revised process narrative on September 27, 2021. Doc. 862-1. Any further revisions to the IAFD process narrative shall be subject to the agreement of the City, DOJ, and the Independent Monitor. If the City, DOJ, and the Independent Monitor cannot agree on a proposed revision, the City or DOJ may submit the matter to the Court for resolution.
- 14. As required by the Original Order, Doc. 720, ¶ 15, the Parties agree that the Independent Monitor provided APD with intensive technical assistance as to implementing the IAFD process narrative required by Paragraph 13 of this Amended Order.
- 15. The City shall endeavor to negotiate longer investigative deadlines with the recognized exclusive representatives of relevant bargaining agreements. Nothing in this Amended Order requires the City to violate the Labor Management Relations Ordinance or any collective bargaining agreement.

E. Investigate New Level 2 and Level 3 Uses of Force

- 16. EFIT commenced operations on July 16, 2021. Doc. 873, ¶ 2. Since then, APD and EFIT have deployed investigators to the scene of every Level 2 and Level 3 use of force, as

required by the Original Order. Doc. 720, ¶ 17. The EFIT and APD shall both continue to deploy investigators to the scene of these New Force Cases, unless APD deploys an IAFD investigator who has satisfied the requirements of Paragraph 34 of this Amended Order.

17. IAFD personnel shall act as the lead on-scene investigators for all New Force Cases and shall be primarily responsible for conducting the on-scene requirements of CASA Paragraphs 69(a), (b), (c), (d), and (e), Doc. 465-1 at 27, including but not limited to:

- a. respond to the scene and consult with the on-scene supervisor to ensure that all personnel and subject(s) of use of force have been examined for injuries, that the use of force has been classified according to APD's classification procedures, that subject(s) have been interviewed for complaints of pain after advising the subject(s) of his or her rights, and that all officers and/or subject(s) have received medical attention, if applicable;
- b. ensure that all evidence to establish material facts related to the use of force, including but not limited to audio and video recordings, photographs, and other documentation of injuries or the absence of injuries is collected;
- c. ensure that a canvass for, and interview of, witnesses is conducted. In addition, witnesses should be encouraged to provide and sign a written statement in their own words;
- d. ensure, consistent with applicable law, that all officers witnessing a Level 2 or Level 3 use of force by another officer provide a use of force narrative of the facts leading to the use of force;

- e. provide a written admonishment to involved and witness officer(s) to the use of force that they are not to speak about the force incident with anyone until they are interviewed by [an] . . . investigator

18. The City shall transmit all documents, evidence, and investigative notes created or obtained by the on-scene investigator(s) to EFIT within 72 hours of the use of force, and on an ongoing basis as additional evidence is obtained. EFIT will acknowledge receiving all forwarded investigative documents, evidence, and notes.

19. Except as provided by Paragraph 23 of this Amended Order, IAFD personnel and EFIT personnel shall jointly investigate and review all new Level 2 and Level 3 uses of force in a manner that is consistent with the requirements of the CASA, APD policy, and the CBA.

20. EFIT shall have full, direct, and timely access to APD staff, employees, facilities, documents, data, and evidence to the extent necessary to fulfill the requirements of this Amended Order. EFIT shall coordinate with APD and APD's legal counsel to access personnel, facilities, and documents in a reasonable manner. If APD or APD's legal counsel decline to provide EFIT with access to documents or data based on privilege, APD shall inform EFIT, DOJ, and the Independent Monitor that it is withholding documents or data on this basis, and shall provide EFIT, DOJ, and the Independent Monitor with a log describing the documents or data and the basis of the privilege.

21. For each use of force investigation, EFIT shall evaluate the quality of IAFD personnel's work product and immediately notify APD and APD's legal counsel of any deficiencies or misconduct by IAFD personnel related to their investigations. APD shall promptly address these deficiencies or misconduct through corrective action or discipline, consistent with the CASA, APD policy, and the CBA.

22. EFIT shall be authorized to complete investigations and supervisory reviews of investigations of New Force Cases without the involvement of IAFD personnel if either of the following conditions are met:

- a. EFIT or APD has alleged that IAFD personnel assigned to the investigation has committed misconduct in the course of the investigation, and EFIT believes that IAFD personnel's continued participation in the investigation is likely to undermine the integrity of the investigation; or
- b. EFIT or APD believes that deficiencies in the tactics or work product of IAFD personnel assigned to the investigation is likely to prevent the investigation from being completed within the deadlines provided for in the CASA, APD policy, and the CBA.

23. The EFIT Administrator shall provide written notice to DOJ, APD, and the Independent Monitor when EFIT exercises the authority under Paragraph 22 to complete investigations of New Force Cases without the involvement of IAFD personnel. The notice shall explain in writing the grounds for the EFIT Administrator's actions. If DOJ or the City believes that the EFIT Administrator's actions were improper, they will seek to resolve the matter with EFIT and the other party. If DOJ, the City, and EFIT cannot reach a resolution, DOJ or the City may bring the matter before the Court for resolution.

24. IAFD and EFIT shall identify all misconduct that occurred during the course of each New Force Case investigation. IAFD and EFIT investigators shall provide information about all misconduct they identify to APD for screening, assigning an internal affairs number, and tracking by APD Internal Affairs. IAFD and EFIT investigators shall complete the investigation of all misconduct related to the use of force, and APD Internal Affairs

Professional Standards shall complete the investigation of all misconduct not related to the use of force.

25. EFIT shall complete its investigations of New Force Cases within 60 days of receiving on-scene investigation materials from APD. At the end of each investigation, IAFD and EFIT personnel shall prepare a joint investigative report, consistent with the requirements of the CASA and APD policy. The report shall include a recommended determination of whether each use of force complied with APD policy and state and federal law. When IAFD personnel recommend that an officer violated APD policy or state or federal law, they shall recommend appropriate corrective and/or disciplinary action, consistent with the CASA and APD policy.

26. An IAFD Commanding Officer shall review each investigative report and recommendation to determine whether they concur with the report and the recommended finding for each use of force; the recommended disposition of any misconduct allegations; and any recommended corrective and/or disciplinary action. The IAFD Commanding Officer shall explain any concurrence or non-concurrence in writing. Any recommended discipline resulting from an investigation will be reviewed by APD's executive staff consistent with APD policy.

F. Role of the Independent Monitor with Regard to EFIT

27. The Independent Monitor shall continue to assist APD, DOJ, and the EFIT Administrator by, at a minimum:

- a. orienting EFIT personnel regarding CASA requirements and relevant CASA compliance deficiencies by APD;

- b. providing technical assistance to EFIT regarding the Independent Monitor's compliance assessment methodology; expectations regarding EFIT's processes, work product, and records production; and other relevant matters, as the EFIT Administrator and the Independent Monitor deem appropriate; and
- c. conducting informal assessments of the Backlog Force Case investigations and the New Force Case investigations completed with EFIT's involvement, particularly in the early stages of EFIT's implementation, to ensure that investigations completed with EFIT's involvement comply with CASA requirements regarding the quality of force investigations. The Independent Monitor shall convey the outcome of these informal assessments to the EFIT Administrator, APD, and DOJ.

28. The City recognizes that the requirements of Paragraph 27 of this Amended Order are beyond the scope of the Independent Monitor's duties under the CASA and the City's annual budgets for the Independent Monitor's services under the CASA. The City filed an unopposed motion to provide additional compensation to the Independent Monitor for the additional services required by Paragraph 27 of this Amended Order, which the Court granted. Doc. 837 (Motion); Doc. 845 (Order).

29. The Independent Monitor shall conduct formal compliance assessments of force investigations completed with EFIT's involvement as it would investigations completed by APD. Except for the requirements of Paragraph 27, this Amended Order is not intended to, and does not, alter the responsibilities or authority of the Independent Monitor under the CASA.

G. Remedial Action Plan for New IAFD Investigations

30. The City submitted a remedial action plan for IAFD investigations to DOJ, the Independent Monitor, and the EFIT Administrator on December 14, 2021. Doc. 720, ¶ 31. The plan must identify concrete actions to improve the quality and timeliness of IAFD's investigations of new Level 2 and Level 3 uses of force. The Independent Monitor may recommend changes or approve the plan consistent with the requirements of Paragraph 147 of the CASA. After the Independent Monitor approves of the plan, the City shall file it with the Court. If either the City, DOJ, or both disagree with the Monitor's recommendations, such party or parties may file the plan with the Court and move for its approval.

31. After filing a joint remedial action plan or after the Court approves the plan, and until the plan has been fully implemented, the City shall file brief reports to the Court, due every three months from the date the remedial action plan is filed, to inform the Court of progress in implementing the plan, any barriers to implementation that it has faced, and any modifications to the plan that may be necessary. The City's quarterly reports shall, at a minimum:

- a. summarize the City's progress on implementing the IAFD process narrative required by Paragraph 13, including a summary of the technical assistance provided by the Independent Monitor;
- b. summarize EFIT's written evaluations of the quality of investigations conducted by IAFD investigators during the previous quarter;
- c. summarize EFIT's written feedback on the work product of IAFD investigators' during the previous quarter;

- d. identify any formal training that IAFD investigators received during the previous quarter;
- e. identify the number of force investigators assigned to IAFD and, if APD has not yet retained 25 IAFD investigators, the steps that APD will take in the next quarter to achieve full staffing;
- f. identify the number of investigations or reviews of investigations that EFIT completed without the involvement of IAFD personnel, pursuant to Paragraph 22;
- g. identify the number of IAFD investigators conducting investigations independent of the EFIT, pursuant to Paragraph 35; and
- h. for investigations of Level 2 and Level 3 use-of-force incidents that occurred after July 16, 2021, identify:
 - i. the number of investigations initiated during the previous quarter;
 - ii. the number of investigations completed during the previous quarter;
 - iii. the average and mean number of days from initiation to completion for the investigations completed during the previous quarter;
 - iv. the number of investigations during the previous quarter that were completed within the deadlines required by the CASA, APD policy, and the CBA; and
 - v. the number of investigations during the previous quarter that were not completed within the deadlines required by the CASA, APD policy, and the CBA.

H. Train IAFD Personnel

32. Subject to extensions necessary due to COVID-19-related restrictions and availability, and subject to the approval of the proposed contractor by the Independent Monitor and DOJ, within three months of the entry of this Amended Order, APD shall identify and hire a contractor who shall, in concert with APD's Academy, develop and provide training to IAFD personnel on conducting high-quality and timely force investigations. This training shall be developed, approved, and provided consistent with APD policy and the CASA, and shall incorporate problem-solving, experiential adult-learning principles.

I. Returning Responsibility for Full Investigations of New Level 2 and Level 3 Uses of Force to APD

33. An IAFD Commanding Officer, with input from the EFIT evaluations prepared pursuant to the process narrative, shall prepare written evaluations of each investigator and supervisor who are assigned as IAFD personnel on a quarterly basis. These evaluations shall be considered confidential consistent with City Personnel Rules and Regulations and state law, but shall be provided to the Independent Monitor and DOJ upon request and shall be kept confidential pursuant to the requirements of Paragraph 326 of the CASA. These evaluations shall, at a minimum:

- a. describe the nature and extent of all training provided to the IAFD investigator or supervisor during the previous quarter;
- b. summarize EFIT's written assessments of the quality of the IAFD investigator's or supervisor's investigations;
- c. summarize EFIT's written feedback on the IAFD investigator's or supervisor's work product;

- d. describe any misconduct allegations against the IAFD investigator or supervisor related to their investigations during the previous quarter, including how the allegation was ultimately resolved;
 - e. compare the number of the IAFD investigator's or supervisor's investigations from the previous quarter that failed to satisfy CASA requirements for investigations with the number of investigations that the IAFD investigator or supervisor conducted during the previous quarter;
 - f. evaluate the IAFD investigator's or supervisor's overall performance; and
 - g. identify any actions that will be taken during the following quarter to improve the IAFD investigator's or supervisor's performance.
34. APD may transfer responsibility for conducting full investigations of Level 2 and Level 3 uses of force from EFIT to IAFD personnel only after a quarterly evaluation demonstrates:
- a. that the IAFD investigator or supervisor has received training on all aspects of Level 2 and Level 3 force investigations;
 - b. that the IAFD investigator or supervisor has regularly conducted high-quality investigations for at least two months, as demonstrated by EFIT's written assessments;
 - c. that the IAFD investigator or supervisor regularly produces high-quality work product, as demonstrated by EFIT's written feedback;
 - d. that the IAFD investigator or supervisor has not committed misconduct during the course of investigations; and
 - e. that 95% of the IAFD investigator's or supervisor's investigations from the previous quarter satisfied all CASA requirements for investigations.

35. APD shall notify the EFIT Administrator in writing two weeks before APD intends to transfer sole responsibility for conducting full investigations of Level 2 and Level 3 uses of force from EFIT to an IAFD investigator or supervisor. The EFIT Administrator shall promptly notify the City, APD, DOJ, and the Independent Monitor in writing if the EFIT Administrator determines that the IAFD investigator or supervisor does not meet the qualifications identified in Paragraph 34 of this Amended Order. The City, APD, DOJ, the Independent Monitor, and the EFIT Administrator shall confer about any disagreements between APD and the EFIT Administrator regarding the qualifications of any IAFD investigator or supervisor to take responsibility for conducting full investigations of Level 2 and Level 3 uses of force. The City and DOJ shall seek to resolve any such disagreements. If the City and DOJ are unable to resolve such disagreements, they may bring the matter before the Court for resolution.
36. The City and DOJ anticipate that APD will take responsibility for conducting full investigations of Level 2 and Level 3 uses of force over time as individual IAFD investigators and supervisors meet the qualifications identified in Paragraph 34.
37. The City will endeavor to ensure that the responsibility for conducting full investigations of Level 2 and Level 3 uses of force returns entirely to APD within 24 months of that date this Amended Order is entered as a Court order. The Parties shall evaluate APD's progress every six (6) months, including whether EFIT is contributing to improvements in APD's progress on complying the CASA. After conducting two evaluations, the City, in consultation with DOJ, will file a status report with the Court indicating whether the services of the EFIT should extend beyond 24 months.

38. The City and DOJ agree to jointly ask the Court to terminate this Amended Order once there are a sufficient number of IAFD personnel who have met the qualifications identified in Paragraph 34 to complete investigations of all new Level 2 and Level 3 uses of force within the timelines required by the CASA, APD policy, and the CBA, provided that the EFIT Backlog Team has completed investigations of the Backlog Force Cases pursuant to the Scope of Work attached to this Amended Order as Exhibit 1.
39. Notwithstanding Paragraph 38 of this Amended Order, if the Independent Monitor, after conducting the informal assessments required by Paragraph 27(c), or the formal assessments required by Paragraph 29 and the CASA, determines that EFIT regularly fails to conduct investigations consistent with CASA requirements and APD policy, the City, with the concurrence of DOJ, may seek to terminate its contract with the EFIT Administrator, and the Parties may seek to modify this Amended Order accordingly.
40. If the City and DOJ are unable to reach agreement about asking the Court to terminate this Amended Order, either Party may seek to terminate this Amended Order. However, before the City may file a motion to terminate this Amended Order, the City shall notify DOJ in writing of the grounds for the motion. Thereafter, the City and DOJ shall promptly confer about the City's assertions. If, after a reasonable period of consultation and the completion of any audit or evaluation that DOJ and/or the Independent Monitor may wish to undertake, the City and DOJ cannot resolve any disagreements, the City may file a motion to terminate this Amended Order. If the City moves to terminate this Amended Order, DOJ will have 60 days after the receipt of the City's motion to file objections. If DOJ does not object, the Court may grant the City's motion. If DOJ objects, the Court will hold a hearing on the motion, and the burden shall be on the City to demonstrate that it has fully complied with

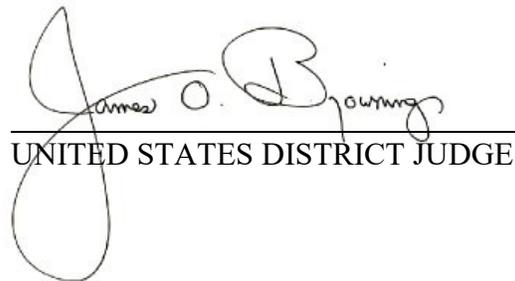
this Amended Order and that the grounds for termination of this Amended Order are supported by a preponderance of the evidence.

The Court recognizes and approves of the measures in this Amended Order as good faith efforts by the Parties to address deficiencies in IAFD's investigations, as identified by the Independent Monitor in his Twelfth, Thirteenth, and Fourteenth Reports, and therefore approves this Amended Order as an Order of the Court.

THEREFORE,

IT IS ORDERED that the Parties' Joint Motion for Entry of this Amended Stipulated Order Establishing an External Force Investigation Team is approved, and the Amended Stipulated Order is hereby entered as an Order of the Court.

IT IS FURTHER ORDERED that the Court will retain jurisdiction to enforce the provisions of the Order.



UNITED STATES DISTRICT JUDGE

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Exhibit 1: Scope of Work to Remedy the Backlog Force Cases

The City of Albuquerque (City) shall modify its existing contract with DLG Consulting and Advisory Services (DLG), to enable the External Force Investigation Team (EFIT) to investigate all use-of-force incidents that the Albuquerque Police Department (APD) Internal Affairs Force Division (IAFD) did not investigate, in whole or in part, from January 1, 2020, through July 16, 2021 (Backlog Force Cases),² in violation of the Court Approved Settlement Agreement (CASA), Doc. 465-1 of the Court's docket. The EFIT shall investigate the Backlog Force Cases pursuant to this Scope of Work (SOW).

A. Establishing the EFIT Backlog Team

1. Pursuant to DLG's modified contract with the City, the EFIT Administrator will create an EFIT Backlog Team, which shall consist of additional staff hired and retained by the EFIT Administrator to fulfill the requirements of the Amended Stipulated Order and this SOW. It is anticipated that the EFIT Administrator will hire and retain at least six (6) additional investigators and two (2) additional supervisors to investigate, evaluate, identify appropriate corrective action, if any, that APD shall formally adjudicate, and report back on the Backlog Force Cases in accord with this SOW.

2. The EFIT Administrator will ensure that EFIT Backlog Team members have experience and expertise in investigating law enforcement actions and constitutional standards governing use of force. Members of the EFIT Backlog Team shall have no current or previous employment relationship or contract for services with APD or the City.

3. The EFIT Executive Team, which currently consists of Darryl Neier, William Hurlock and Darriell Bone, shall have discretion to determine whether and to what extent EFIT Backlog Team members will provide services in Albuquerque or from remote locations.

4. As soon as practicable after the Amended Stipulated Order is entered by the United States District Court for the District of New Mexico (Court) as an Order, and a contract is signed with the City, the EFIT Backlog Team will be fully constituted and begin investigating the Backlog Force Cases. The EFIT Administrator will advise the City and DOJ of the date on which the EFIT Backlog Team is fully constituted and operating so that the Parties can notify the Court.

5. The EFIT Backlog Team shall be sufficiently staffed and shall complete the tasks outlined in this SOW within 24 months of the date the Amended Stipulated Order is entered as a Court order and a contract is signed with the City.

6. The EFIT Administrator shall, within one month of the entry of the Amended Stipulated Order, provide the City, DOJ, and the Independent Monitor with a written plan for how it will accomplish the requirements of the Order. The plan shall describe, at a minimum, the methodology that the EFIT Backlog Team will use in investigating the Backlog Force Cases and how the EFIT

² EFIT was not involved in and is not in any way responsible for APD's backlogs.

Backlog Team will prioritize its investigations of the force incidents included in the Backlog Force Cases. The City, DOJ, and the Independent Monitor shall provide any comments or suggestions on the written plan to the EFIT Administrator within two weeks of receiving it. The EFIT Administrator shall work in good faith to address the concerns and suggestions provided by the City, DOJ, and the Independent Monitor.

B. Investigation Protocol for Backlog Force Cases

7. Within two (2) days of the date the City and DOJ file a joint motion to amend the EFIT Stipulated Order, Doc. 720, IAFD shall provide to the EFIT Executive Team access through IAPro/BlueTeam for all documents in its possession for each of the Backlog Force Cases, whether final or in draft form, including but not limited to: the IAFD case files, officers' use-of-force narrative forms, on-scene recorded verbal statements, on-body recording device (OBRD) recordings, the names of all involved officers, witness officers, and civilian witnesses, any recorded written or verbal witness statements, crime scene specialist photographs, responding supervisors' on-scene checklists, any related Internal Affairs Request (IAR) or Multi-Agency Task Force (MATF) referrals, all supervisory on-scene investigation forms, IAFD Evaluative Data forms, any entries in Blue Team or IAPro, and any other evidence of the force incidents.

8. The EFIT Executive Team shall exercise its discretion in deciding how to assign the Backlog Force Cases to the EFIT Backlog Team investigators and supervisors, while first prioritizing Level 3 force investigations involving use of lethal force and then prioritizing cases from 2020. EFIT will have discretion to expand the scope of a use-of-force investigation as necessary to reach reliable conclusions.

9. For each use-of-force incident, the EFIT Backlog Team investigators shall develop an appropriate investigative plan with input from their respective supervisors, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 31–40. An appropriate investigative plan will vary depending on the use-of-force incident and the available evidence. However, unless variance is granted by the EFIT Executive Team, an appropriate investigative plan will include, but is not limited to, the following minimum requirements:

a. Evaluating APD's on-scene investigation, if any, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 1–30, however, the plan shall incorporate the IAFD process narrative as it relates to potential criminal conduct, *id.*, ¶ 17;

b. Reviewing available documentary evidence, including but not limited to use-of-force narratives, OBRD recordings, and recorded witness statements; and

c. Conducting appropriate interviews of involved officers, witness officers, and, if necessary, civilian witnesses. The EFIT will have discretion to decide whether interviews will be conducted in person or remotely, by Zoom.

10. EFIT Backlog Team investigators will prepare a narrative report for each case that, at a minimum, identifies the data reviewed, evaluates the use-of-force incident, and recommends a

finding for whether each application of force complied with APD policy. Investigators will identify training, equipment, or policy concerns arising from the use-of-force incident. Investigators will also identify other substantial APD policy violations related to the use of force that they become aware of during an investigation.

11. When policy violations are found, investigators will identify appropriate corrective action, which may include but is not limited to: training, counseling for involved or witness officers, equipment modifications, changes to policies or protocols, or reassignment of involved officers. While EFIT may make recommendations, it is APD's responsibility to review the recommendations and make the final determination for such actions.

12. EFIT Backlog Team investigators will submit completed investigations, including narrative reports, case materials, and recommendations to their supervisors for further review.

13. EFIT Backlog Team supervisors will review each completed investigation for accuracy and completeness, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 41–50. The supervisor will discuss with the investigator, at a minimum, the incident, data, and recommended findings, and determine whether any revisions or additional investigation is needed. If revisions or additional investigation is needed, the supervisor will return the case to the investigator with an appropriate plan of action and a deadline to resubmit the completed investigation.

14. EFIT Backlog Team supervisors will prepare a supervisory narrative that confirms whether each application of force complied with APD's use-of-force policy and identifies other substantial violations of APD policy. The supervisors will also approve, modify, or disapprove any corrective action recommended by the investigator.

15. EFIT Backlog Team supervisors will submit the completed investigation and supervisory narratives to the EFIT Executive Team for final review and comment.

16. The EFIT Executive Team will review the completed investigation and supervisory narratives to determine if they are thorough, objective, and complete, or if any revisions or additional investigation is needed, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 51–58. If revisions or additional investigation is needed, the Executive Team will return the case to the supervisor with an appropriate plan of action and a deadline to resubmit the completed investigation.

17. The EFIT Executive Team will finalize the investigation of a backlog force case by identifying whether each application of force complied with APD's use-of-force policy, identifying other substantial violations of APD policy arising from the conduct under investigation, and identifying training, equipment, or policy concerns arising from the use-of-force incident.

18. When policy violations are found, the EFIT Executive Team's final review will identify appropriate corrective action, which may include but is not limited to: training, counseling for involved or witness officers, equipment modifications, changes to policies or protocols, or

reassignment of involved officers. The completed investigation will also identify what, if any, discipline may have been warranted had the City and APD met their obligation to investigate the force incident within timelines imposed by the CASA and APD policy. The EFIT Executive Team shall provide this information to APD. While EFIT may make recommendations, it will be APD's responsibility to review the recommendations and make the final determination for such actions. Any corrective actions derived out of the EFIT investigation are at the sole discretion of APD.

C. Closing Backlog Force Cases

19. Upon finalizing an investigation, the EFIT Administrator will submit all case materials, including narratives and recommendations, to IAFD for closure pursuant to the administrative steps outlined in the revised IAFD process narrative, Doc. 862-1, ¶¶ 59–63.

20. Consistent with the CASA ¶ 78(b), the EFIT Administrator or Deputy Administrator will present to the Force Review Board (FRB) completed investigations that involve (a) an application of lethal force, and (b) an application of non-lethal force that EFIT identifies as not complying with APD's use-of-force policy. The EFIT Administrator or Deputy Administrator also will present a general status report on the Backlog Force Cases to the FRB on a monthly basis, including any emerging themes or issues, data about the type of force being used and whether it complies with APD policy, and specific examples of any officers whose conduct is indicating a concerning pattern or anything else problematic that EFIT is identifying.

D. Ongoing Reviews and Reports

21. Backlog Team investigators and their supervisors will meet at regular intervals, to be determined by the EFIT Executive Team, to discuss the status of ongoing investigations, revise investigative plans as necessary, and resolve any impediments to timely completing investigations.

22. The EFIT Executive Team will meet with the Backlog Team supervisors and investigators at regular intervals, to be determined by the EFIT Administrator, to discuss the status of ongoing investigations, address concerns, and ensure that the Backlog Force Cases will be completely investigated within 24 months.

23. The EFIT Executive Team will provide weekly written reports to DOJ, the City, IAFD, and the Independent Monitor that, at a minimum, contain status updates on the Backlog Force Cases, including cases assigned and completed, significant findings, and corrective actions.

24. The EFIT Administrator will file quarterly reports with the Court that provide status updates on the Backlog Force Cases, including cases assigned and completed, significant findings, recommended corrective actions, and analyses provided to the FRB.

25. Within 30 days of investigating all Backlog Force Cases, the EFIT Administrator shall provide the City and DOJ with a summary report identifying significant findings in individual cases, trends among all cases, root causes of the backlog, recommended corrective actions, and potential solutions to ensure against future IAFD investigations failing to be completed within

timelines imposed by the CASA. The City and DOJ will have two weeks to review and provide comments on the summary report. The EFIT Administrator will have two weeks to consider the comments and revise the draft summary report. Within 60 days of investigating all Backlog Force Cases, the EFIT Administrator will file a final summary report with the Court.

DLG Consulting & Advisory Services, LLC
Methodology for Albuquerque Police Department
Use of Force – Backlog Investigations

Darryl S. Neier, EFIT Administrator
April 27, 2022 *DSN*

Background

On March 21, 2022, the United States District Court for the District of New Mexico (the “Court”) granted a joint motion filed by the United States Department of Justice (“DOJ”) and the City of Albuquerque (“City”), with the concurrence of the Independent Monitor (“IM”), by entering an Amended Stipulated Order Establishing an External Force Investigation Team (“Amended Stipulated Order”) in the case *United States v. City of Albuquerque*, No. CIV. 14-1025 JB\SMV (Doc. 906). The Amended Stipulated Order modifies and supersedes the Stipulated Order Establishing an External Force Investigation Team that the Court entered on February 26, 2021 (Doc. 720).

The Original Stipulated Order required the City to establish, on a temporary basis, an External Force Investigation Team (“EFIT”) to assist the Albuquerque Police Department (“APD”) in conducting investigations of Level 2 and Level 3 uses of force by APD officers and improve the quality of force investigations conducted by APD’s Internal Affairs Force Division (“IAFD”). The Original Stipulated Order also required the City to improve APD’s internal affairs processes, maintain an increased number of IAFD investigators and provide additional training to IAFD investigators.

The Amended Stipulated Order restates many of the Original Order’s requirements and supplements them in two ways. First, the Amended Stipulated Order requires the City to modify its existing contract to allow EFIT to investigate all use-of-force incidents occurring between January 1, 2020, through July 16, 2021, that APD did not investigate, in full or in part (“Backlog Force Cases”), in violation of the Court Approved Settlement Agreement (“CASA”), Doc. 465-1. Second, the Amended Stipulated Order extends by 24 months, from May 2022 through May 2024, the period during which the City shall continue to engage EFIT to assist IAFD to investigate new Level 2 and Level 3 use-of-force incidents (“New Force Cases”).

Exhibit 1: Scope of Work to Remedy the Backlog Force Cases (“SOW”) to the Amended Stipulated Order (Doc. 906, Ex. 1 at 1-2, Para. 6) provides:

“The EFIT Administrator shall, within one month of the entry of the Amended Stipulated Order, provide the City, DOJ, and the Independent Monitor with a written plan for how it will accomplish the requirements of the Order. The plan shall describe, at a minimum, the methodology that the EFIT Backlog Team will use in investigating the Backlog Force Cases and how the EFIT Backlog Team will prioritize its investigations of the force incidents included in the Backlog Force Cases. The City, DOJ, and the Independent Monitor shall provide any comments or suggestions on the written plan to the EFIT Administrator within two weeks of receiving it. The EFIT Administrator shall work in good faith to address the concerns and suggestions provided by the City, DOJ, and the Independent Monitor.”

Based on the data received from APD pursuant to the Amended Stipulated Order, the EFIT Executive Team (“EET”) determined that between January 19, 2020, and July 14, 2021, a total 655 cases (2,537 UOF incidents) were not investigated by APD. In addition, of those, 12 UOF cases were either completed and/or were in the review process for a total of 667 cases¹. In order to comply with the Amended Stipulated Order (Doc. 906), the EFIT Administrator has identified/interviewed, and anticipates hiring six investigators and two supervisors who are highly experienced professionals to work with the three members of the current EET to makeup the EFIT 2 “Backlog” Team.

EFIT and APD agreed to utilize three categories of cases for reporting, tracking and statistical purposes. The categories are: Inactive, Active, and Completed.² Currently, all backlog cases had the status changed in IAPro to now reflect a status of Inactive. Additionally, data was provided indicating the status of involved Officer(s) with APD (e.g., dates of hire and, if applicable, dates of separation).

The methodology, once approved, along with the SOW (attached), will guide EFIT’s process of investigating the Backlog Force Cases.

Methodology

This methodology statement, along with the SOW will guide the assignment of the backlog cases to the EFIT 2 Investigators for investigation and reporting.

With assistance from APD’s Accountability Bureau, the EET obtained an Excel spreadsheet containing the data of all the Backlog Force Cases identified in the Amended Stipulated Order (Doc. 906). Additionally, the EET worked with members of the Accountability Bureau and agreed that APD will develop a dashboard that is similar to the current IAFD case tracking and management dashboard, stratifying the data readability that will be distributed to APD, DOJ and the IMT when reporting on the Backlog Force Case investigations. This dashboard will be developed by June 1, 2022, by APD’s new Data Analytics Division and tested by the EET prior to use.

The EET conducted a number of meetings with APD’s Accountability Bureau, including the Compliance and Oversight Division and the newly created Data Analytics Division who will also assist calculating normative thresholds for UOF to identify the Officer(s) who utilize UOF over the expected incident rate and are thus considered High Incident Officers.

¹ Three Backlog Force Cases have already been presented to the Force Review Board (“FRB”).

² Inactive – unassigned backlog case; Active – a UOF investigation assigned for an investigation; Completed – a Backlog Force Case that has been closed by the EET.

The early intervention thresholds currently used by APD compare all Officers assigned to an area command shift to a threshold calculated for all Officers assigned to the shift. The Performance Evaluation and Management System Section (“PEMS”) analysts found that shift was a better predictor of force for patrol officers than area command assignments. The threshold is set to identify the top 10% of officers who use force relative to the number of calls for service. Additionally, this model will be applied to specialized units to identify thresholds for those units compared to all other Officers in the unit.

Once the data is reviewed by the EET, the EET will use the expected incident rate of the involved Officer(s) to find those that significantly deviate from expectation, who will be labeled a "High-Incident Officer."

The EET will assign Backlog Force Cases according to the following prioritization levels –

1. Officer Involved Shootings (regardless of the backlog year)³
2. High-Incident Officer (regardless of the backlog year)⁴
3. Ad-Hoc (regardless of the backlog year)⁵
4. K-9 apprehension(s) and bite(s) other than a Tactical Activation
5. Tactical Activation and any associated UOF
6. Applications⁶ of an ECW
7. Level 3 UOF
8. Level 2 UOF
9. UOF of Officer(s) who separated from APD (except if the force is in the prioritization levels 1-5)⁷

Once the Backlog Team completes investigations of the Backlog Force Cases in prioritization tiers 1, 2, and 3 the EET will assign the Backlog Force Cases in tiers 4-9 within tiers 4-9, EFIT will prioritize force events occurring in 2020⁸, then assign force events occurring in 2021.

³ 4 OIS (2020) and 3 OIS (2021).

⁴ The EET will assign all Backlog Force Cases involving a High-Incident Officer to one Backlog Team Investigator who will review all the associated Backlog Force Cases involving the officer to determine if a pattern or practice arises and issue a consolidated report with the findings for all of that officers’ Backlog Force Cases.

⁵ At the discretion of EFIT.

⁶ According to the CASA (Doc. 465, Para. 12) “*ECW application means the contact and delivery of an electrical impulse to a subject with an Electronic Control Weapon.*”

⁷ If the separated officer was involved in a UOF with other Officer(s) still employed by APD, the case will be investigated at a higher prioritization tier.

⁸ SOW, Para. 8.

Once the EET assigns case(s) to a Backlog Team Investigator the case will be deemed active in IAPro. The Backlog Team Investigator will follow the SOW:

Para. 9 – “For each use-of-force incident, the EFIT Backlog Team investigators shall develop an appropriate investigative plan with input from their respective supervisors, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 31–40. An appropriate investigative plan will vary depending on the use-of-force incident and the available evidence. However, unless variance is granted by the EFIT Executive Team, an appropriate investigative plan will include, but is not limited to, the following minimum requirements:

- a. *Evaluating APD’s on-scene investigation, if any, using as guidance the revised IAFD process narrative, Doc. 862-1, ¶¶ 1–30, however, the plan shall incorporate the IAFD process narrative as it relates to potential criminal conduct, id., ¶ 17*
- b. *Reviewing available documentary evidence, including but not limited to, use-of-force narratives, OBRD recordings⁹, and recorded witness statements; and*
- c. *Conducting appropriate interviews of involved officers, witness officers, and, if necessary, civilian witnesses. The EFIT will have discretion to decide whether interviews will be conducted in person or remotely, by Zoom.”*

Para. 10 – “EFIT Backlog Team investigators will prepare a narrative report¹⁰ for each case that, at a minimum, identifies the data reviewed, evaluates the use-of-force incident, and recommends a finding for whether each application of force complied with APD policy. Investigators will identify training, equipment, or policy concerns arising from the use-of-force incident. Investigators will also identify other substantial APD policy violations related to the use of force that they become aware of during an investigation.”

The EET is aware that 12 Backlog Force Cases were investigated by IAFD and are in some process of review with three of the cases already presented to the FRB. For these cases, EFIT Backlog Team Supervisors will conduct an “over the top review”. Once completed, these cases will be reviewed by a member(s) of the EET for a determination of completeness and closeout. If the investigation is deemed to be insufficient, the EET will reassign the case for a full investigation by a Backlog Team Investigator.

Upon completion of a Backlog Force Case investigation, a supervisory review process as outlined in the SOW (Paras. 11-16) will be followed along with the EET reporting and close out requirements (Paras. 17 – 20). Finally, on an ongoing basis, the EET will prepare all the required reporting as outlined in the SOW (Paras. 23-25).

⁹ The OBRD review will follow the Individual from Pre-force, the Force Incident, Post-force, Transportation and any other OBRDs determined germane to the UOF investigation.

¹⁰ This narrative report will be the same format already utilized when EFIT assumes an investigation from IAFD.

CIVILIAN POLICE OVERSIGHT BOARD

INTERNAL AFFAIRS PROFESSIONAL STANDARDS DIVISION
STATISTICAL DATA FOR THE MONTH OF **May 2022**

INTERNAL CASES FOR THE MONTH OF May 2022

Total Internal Cases Completed in the month of **May 2022**- 14

27 completed cases (sent out to the area command)

1. IA Cases opened in the month of **May 2022**: 25
 2. Area Command IA cases opened for the month of **May 2022**: 50
 3. Pending IA Cases for the month of **April 2022**: 25
 4. Internal Cases Mediated: **0**
-

DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN April 2022

I-165-22

2-56-5D2e Officer's Obligations Following Level 2 or Level 3 Use of Force

Unfounded

None

3-14-4A1 General Rules

Unfounded

None

I-95-22

1-1-6A1 Honesty, Integrity, and Accountability

Exonerated

None

I-66-22

2-56-4A8 General Requirements of Officers who Use Force

Unfounded

None

2-56-5B1 Procedural Order

Unfounded

None

2-56-4A1 General Requirements of Officers who Use Force

Unfounded

None

2-56-5B1 Procedural Order

Unfounded

None

I-59-22

3-14-4A2 Procedure

Unfounded

None

2-80-2A1 Felony Arrest Authority

Exonerated

None

I-44-22

2-8-5B Mandatory Recording

Sustained Written Reprimand

3-14-4A6 Procedures

Exonerated

None

2-5-4A3 Department Vehicles

Sustained

Verbal Reprimand

I-30-22

3-14-4A6 Procedures

Sustained

Written Reprimand

1-35-6A2 Call responsibility

Exonerated

None

2-57-3C1f On-Scene Responsibilities of Supervisors reviewing UOF

Sustained

Written Reprimand

I-1-22

2-8-4F Use of On Body Recording Device

Sustained

Written Reprimand

I-675-21

1-1-8B Reporting violations

Exonerated

None

2-45-4L2d Post Pursuit

Sustained

NDCA (Non Disciplinary Corrective Action)

3-14-4A1-5-6-7 Procedure

Sustained

Suspension

2-45-4A1a Initiating-Primary Pursuit Unit

Sustained

Written Reprimand

2-8-5A

Use of On-Body recording devices

Sustained

Written Reprimand

I-652-21

1-1-6A1 Honesty, Integrity, and Accountability

Sustained

Suspension

I-606-21

1-1-5C2 Misconduct

Exonerated

None

2-56-4A1 General Requirements of Officers who use force

Sustained

Suspension

3-14-4A1-2-5 Supervisory Leadership

Not Sustained

None

2-56-4A4 General Requirements of Officer who use force
Exonerated

None

2-82-4B4 Transporting of individuals

Sustained

2-82-4A1a Handcuffing

Sustained

Suspension

2-55-4C1 De-escalation techniques and Guidelines

Sustained

Written reprimand

2-56-4A1 General requirements of officers who use force

Unfounded

2-56-4C1 Officer's Obligations following Level 1 use of force

Unfounded

None

I-605-21

1-1-4B7a Compliance with laws, rules, and regulations

Sustained

Suspension

2-60-4A5 Preliminary Investigations

Sustained

Written Reprimand

2-73-2A Evidence/Property/Found item accountability

Sustained

Suspension

1-1-4B2 Compliance with laws, rules, and regulations

Sustained

Written Reprimand

3-14-4A2-15 Procedures

Sustained

Verbal Reprimand

1-1-4B2 Compliance with laws, rules, and regulations

Sustained

Written Reprimand

2-60-4A5f Preliminary Investigations

Sustained

Written Reprimand

I-581-21

2-8-4F Use of On-Body recording Device

Sustained

Written Reprimand

I-563-21

1-1-4A2a Authority of Federal, State, and Local laws and regulations

Unfounded

None

Special Order 20-103 Sexual Assaults reported by prisoners

Sustained

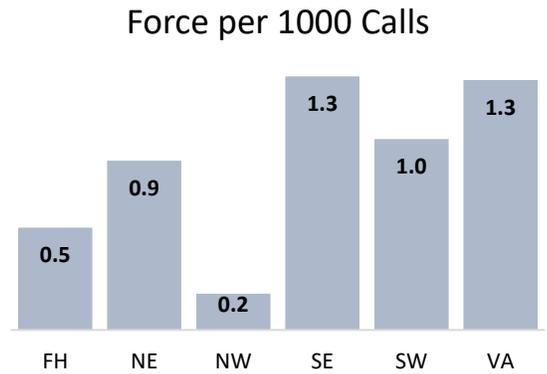
Suspension

Civilian Police Oversight Agency Board

INTERNAL AFFAIRS FORCE DIVISION

STATISTICAL DATA FOR THE MONTH OF MAY 2022

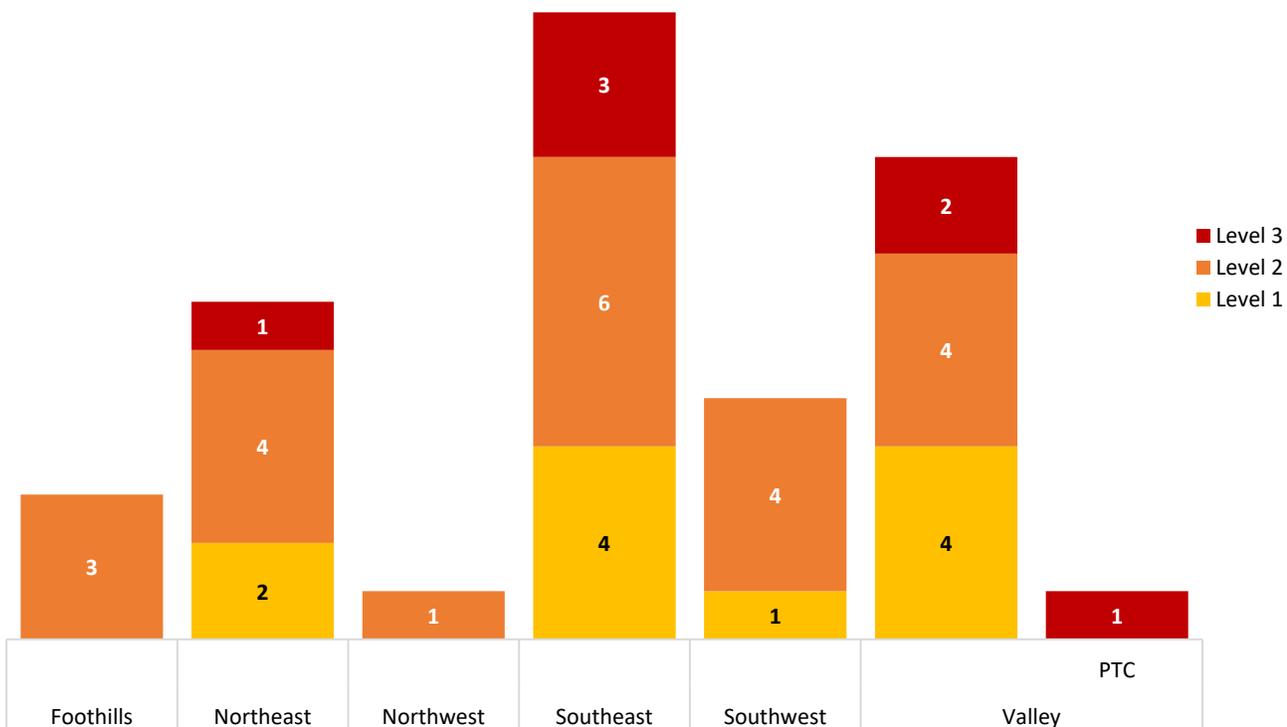
	Level 1	Level 2	Level 3	Total	CAD
Foothills		3		3	5514
Northeast	2	4	1	7	7774
Northwest		1		1	5173
Southeast	4	6	3	13	9635
Southwest	1	4			4922
Valley	4	4	3	11	8271
<i>PTC</i>			1		
Total	11	22	7	40	



Force cases are now categorized by three levels. If a case involves multiple applications of force, it is categorized as the most serious at the case level. These counts are not considered final as investigations are continuously updated.

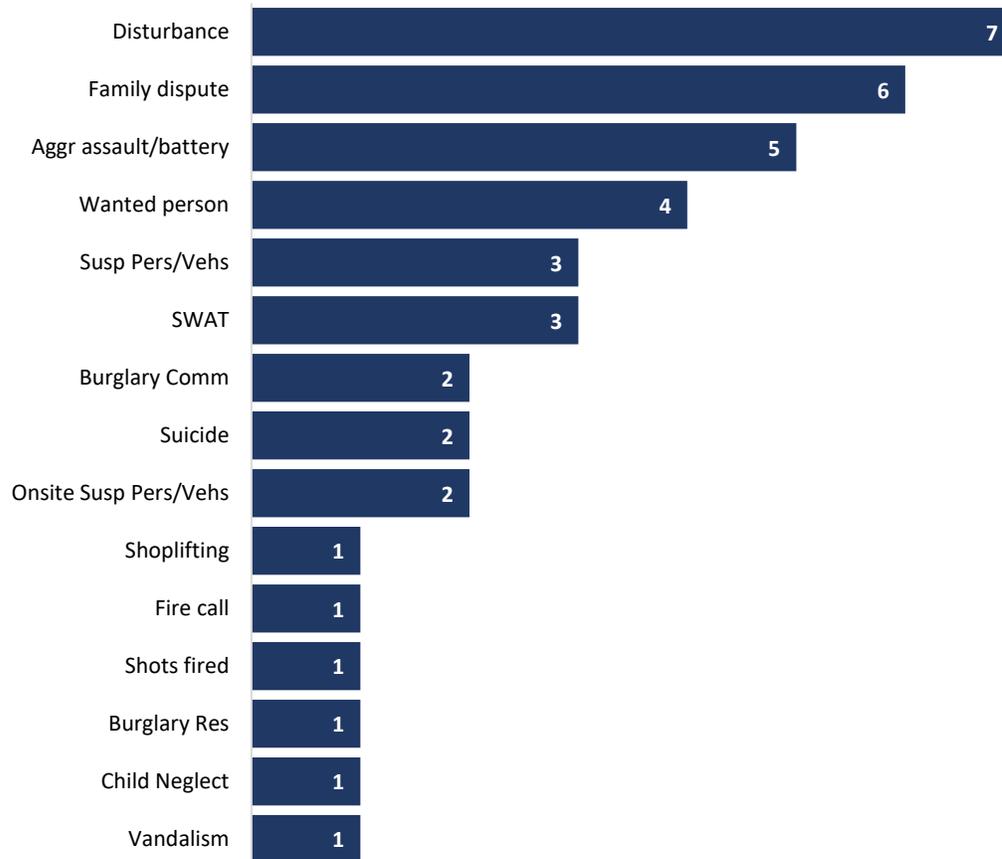
- Level 1 is force that is likely to cause only transitory pain, disorientation, or discomfort during its application as a means of gaining compliance. This includes techniques which are not reasonably expected to cause injury, do not result in actual injury, and are not likely to result in a complaint of injury (i.e., pain compliance techniques and resisted handcuffing). Pointing a firearm, beanbag shotgun, or 40 millimeter launcher at a subject, or using an ECW to “paint” a subject with the laser sight, as a show of force are reportable as Level 1 force. Level 1 force does not include interaction meant to guide, assist, or control a subject who is offering minimal resistance.
- Level 2 is force that causes injury, could reasonably be expected to cause injury, or results in a complaint of injury. Level 2 force includes use of an ECW, including where an ECW is fired at a subject but misses; use of a beanbag shotgun or 40 millimeter launcher, including where it is fired at a subject but misses; OC Spray application; empty hand techniques (i.e., strikes, kicks, takedowns, distraction techniques, or leg sweeps); and strikes with impact weapons, except strikes to the head, neck, or throat, which would be considered a Level 3 use of force.
- Level 3 is force that results in, or could reasonably result in, serious physical injury, hospitalization, or death. Level 3 force includes all lethal force; critical firearms discharges; all head, neck, and throat strikes with an object; neck holds; canine bites; three or more uses of an ECW on an individual during a single interaction regardless of mode or duration or an ECW application for longer than 15 seconds, whether continuous or consecutive; four or more strikes with a baton; any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject; and uses of force resulting in a loss of consciousness.

May 2022 Force Events



Civilian Police Oversight Agency Board
INTERNAL AFFAIRS FORCE DIVISION
STATISTICAL DATA FOR THE MONTH OF MAY 2022

Call Types Associated with May 2022 Force Events

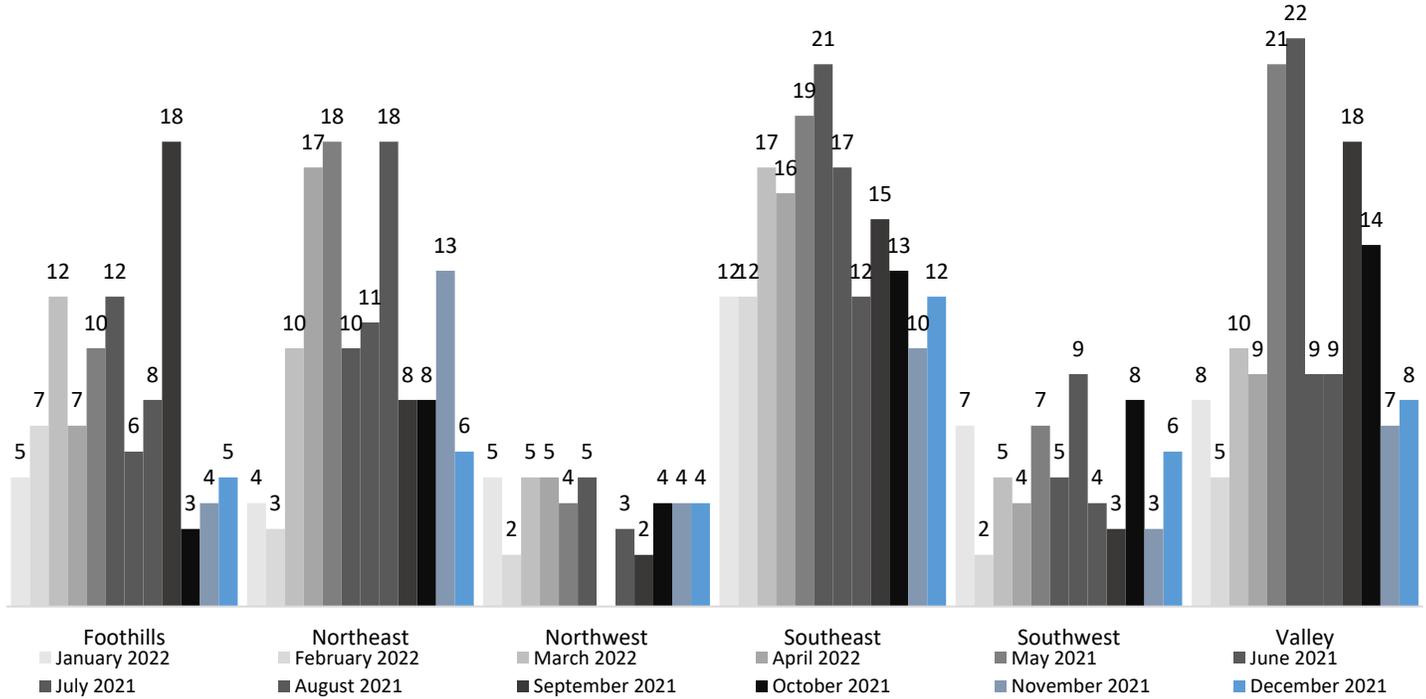


Civilian Police Oversight Agency Board

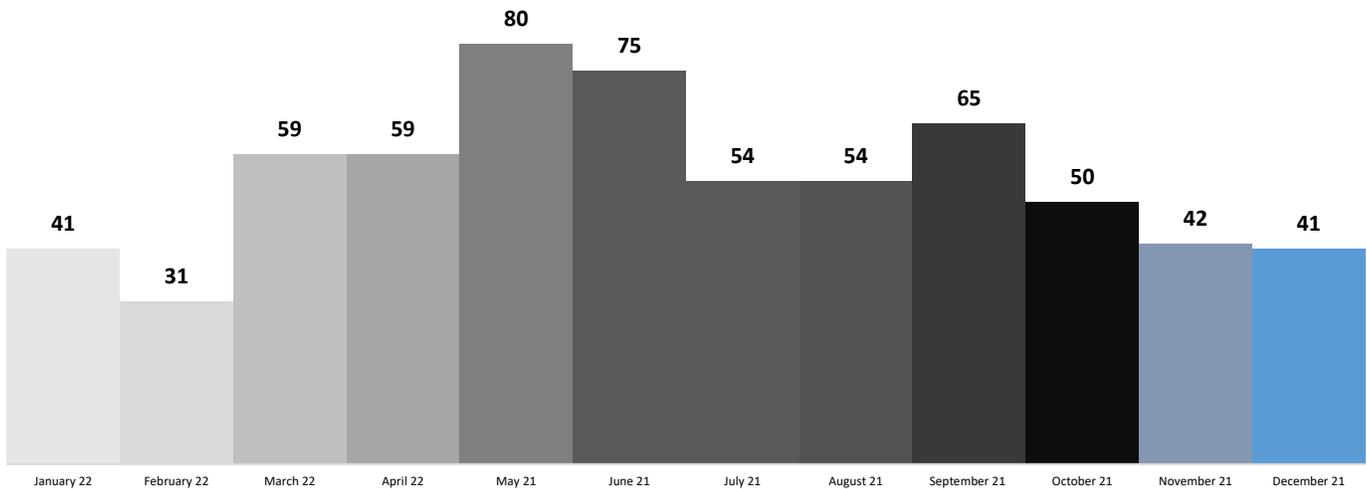
INTERNAL AFFAIRS FORCE DIVISION

STATISTICAL DATA FOR THE MONTH OF MAY 2022

Twelve Months of Force Data



Twelve Months of Force Data (Includes Out of Area)



CPOA Report 6/9/22

We opened 24 CPCs as of 5/16/22

We received information on 11 driving complaints as of 5/16/22. These predominately came from 311. We closed 10 CPCs which are on the agenda. This was as of May 23, 2022. The Board was provided with the complaints and the findings letters for its information and more extensive information for the sustained cases. This was a short turn around from the previous meeting and my being gone.

We received 2 commendations as of 5/16/22

The site visit with the IMT and DOJ has been ongoing this week. The Amici meeting for the Board to discuss questions with APD regarding the reform and reports is scheduled for June 23, 2022 via zoom 130-230. In response to the agenda item, it is not the practice to have these meetings recorded and Ms. Keefe of City Legal has said further questions may be directed to her.

The City Council is scheduled to hear and presumably decide on the Board's recommended candidate for Executive Director June 22. Then there will be HR processes involved to complete the process.

The City Council heard the appointments of Greg Jackson and Rashad Raynor to the Board on Monday. Both were appointed.

IMR 15 information/plan

Investigator training/quality meetings were initiated March 18, 2022. Investigators were provided investigative takeaways from the monitor report draft during the investigator's meeting on 4/22. Some highlights are more detailed documentation/explanations are required for interviews not being required or administrative closures. When in doubt, interviews are conducted. Previous IMR reports did not specify guidelines for contacting citizens regarding interviews. This IMR has provided expectations the IMT considers best practices so we have started following those such as recording phone attempts and making different types of attempts on different days. We have expanded when witness officers need to be interviewed despite lapel recordings being present. We have expanded when we attempt to receive a former officer's statement (retired/resigned). These are the main highlights from the report. More specifics will continue to be developed with myself as Lead and the Executive Director as it falls under the day to day duties of the Agency. Once the Director is in place there will be more opportunity for the lead investigator to monitor case progression and perform more detailed quality checks. This has already been occurring, with cases being sent back for more work. The investigative staff overall is still new and many are still in training, which performing the two full time duties of executive director and lead investigator has slowed some of that training. There will likely be delays in seeing the improvements as cases the monitor will be reviewing during this period were completed prior to the guidance provided in the IMR, but are being acted upon as soon as provided.

The CPOA specific budget increase was 4.7% for three issue papers. It was originally approved by the Administration to be a 14.4% increase, but Council removed the deputy director position issue paper. With the City technical adjustments, which include citywide cost of living increases and risk assessments the overall budget increase was 26%

PPRB Policies for Review – June 2022

1-6 Patrol Ride-Along Process

- Minor edits for language consistency
- Change in process to use of city volunteer management platform
- Change to approval by chief (from area commander) for non-eligible persons

1-13 Armed Robbery Unit

- Minor edits for language consistency
- Clarifications on definitions
- Minor changes in reporting, call-out, on-call process

1-66 Missing Persons Unit

- Minor edits for language consistency
- Refers to state law for scope and responsibilities of missing persons investigation
- Missing persons 17 or under believed to have been abducted are moved to Child Exploitation Detail
- Missing and endangered persons to be reported to NCIC within two hours

2-34 Notification of Significant Incidents

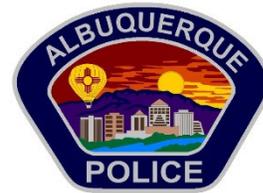
- Minor edits for language consistency
- “Immediate notification” events (e.g. OIS, large incidents, arrest of politically exposed persons) via emergency communications center to deputy chief of police
- “Timely notification” events (e.g. major violent crimes, arrest of a fugitive) via form emailed to department
- Specialized units (e.g. SWAT) responsible for significant event notifications when relevant



Timothy M. Keller
Mayor

City of Albuquerque

Albuquerque Police Department



Harold J. Medina
Chief of Police

April 13th, 2022

Interoffice Memorandum

To: Harold J. Medina, Chief of Police

From: J. J. Griego, Deputy Chief, Management Services and Support Bureau

Subject: CPOAB letter dated August 12th, 2021

We received this letter on 04/13/22. The CPOAB requests that the “Force Review Board submit written explanations for their findings.” And also that a “Force Review Board representative present an explanation of the FRB findings and stand for questions...”

We can speak to generalities to the purpose and process of the FRB but providing specific logic behind each board members vote will not be possible. The FRB meeting was held on April 23rd, 2020. The members of the Board at that time were DCOS Ross, DC Medina, DC Gonzales, Commander Byrd, and Commander Duran. The only extant person on the Department is now Chief Medina who shared many of the concerns that the CPOAB had.

The FRB identified the concerns and a referral to Internal Affairs Force Division was made to address the concerns related to policy, tactics, training, equipment and supervision.

The policy quoted is “Paragraphs 25- 4A, B, C, E” I am assuming this is a typo as the policy is 2-52. Below is what is to be believed to be the relevant policy sections that were in effect at the time.

What I can do is speak generally to the role of FRB and the process. It is important to note that issues or concerns related to policy, training, supervision, equipment or tactics, do not automatically render a use of force out of policy. It appears that the FRB recognized all of these deficiencies however when a subject points what is perceived as a firearm at Police Officers they are permitted to use force to defend themselves and others.

2-52-4 Use of Force Requirements

A. General Requirements

1. Policing at times requires that an officer exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated. However, officers do have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ. The officer shall consider and use, where appropriate, de-escalation techniques.

2. Officers should continually assess the situation in order to increase an officer's ability to bring a situation to a safe, peaceful conclusion. This conclusion may be accomplished by using time, distance, information, isolation, teamwork, force array, coordination and other techniques, to maximize an officer's advantage.

B. Assessing the Situation

The following questions help an officer assess the "totality of the circumstances," i.e., the facts and conditions confronting an officer when making decisions. Officers should consider these questions when assessing a situation that may require use of force:

1. What resources can the officer use to de-escalate the situation or to minimize the need for the use of force?
2. Can the officer allow the person time to submit to arrest before using force?
3. Is the officer using the minimum amount of force necessary to carry out lawful objectives?
4. Is the person physically or mentally capable of complying with the officer's commands?
5. Does the officer have an opportunity to utilize additional resources or other officers to bring the situation to a peaceful resolution?
6. What is the risk of bodily harm to the subject and/or officer as a result of the officer's lawful use of force in light of the level of threat the subject posed to the officer or others?
7. Does the proximity of weapons allow the subject to access them?
8. What is the time available to an officer to make a decision? What efforts has the officer made to gain additional time?
9. What are the physical considerations for the officer, such as officer exhaustion or injury during a physical confrontation?
10. Are innocent bystanders present who could be harmed if force is or is not used?
11. Are there hostile bystanders present who are sympathetic to the subject?

C. De-escalation

1. Officers should look for opportunities to de-escalate the situation. When reasonable under the totality of circumstances and where it may be accomplished without increasing the risk of harm to the officer or others, officers should—

- a. gather information about the incident;
- b. assess the risks to the subject(s), officer(s) and general public;
- c. assemble resources;
- d. communicate and coordinate a response; and e. attempt to slow the momentum of the incident.

2. In their interaction with subjects, officers shall use advisements, warnings, verbal persuasion, and other tactics prior to escalating to the use of force, if feasible. Officers should recognize that they may be able to move to a more tactically sound position or to a position which allows greater distance between them and the subjects, in order to consider or use a greater variety of tactical options.

3. Officers are expected to recognize that their approach to a civilian interaction may influence whether a situation escalates to the need for use of force.

4. When a use of force is necessary, officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate or control the situation.

5. Supervisors will become involved as soon as practicable in the management of an overall response to potentially violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess a good knowledge of tactics and ensure that officers under their supervision perform to Department standards.

6. A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. Force shall be de-escalated as resistance decreases.

E. Minimum Amount of Force

When force is necessary and objectively reasonable, officers shall strive to use the minimum amount of force that is feasible within the available range of objectively reasonable force options.

1. Officers need not start at the lowest level of force in every situation. Prior to using a particular force option, officers should evaluate their objectively reasonable options and select an option anticipated to minimize the level of injury to the subject and the officer while achieving the arrest or lawful objective.

2. While utilizing a particular force option, officers should continually assess whether the opportunity exists for them to safely deescalate their level of force while still achieving the arrest or lawful objectives.

3. Whether a particular use of force is the minimum amount of force necessary must be objectively judged from the perspective of a reasonable officer on the scene, rather than from 20/20 hindsight. The objective determination of "minimal" must account for the fact that officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving.

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

Civilian Police Oversight Agency Board

Patricia J. French, Chair *Jesse Crawford, Vice Chair*

Eric Nixon *Michael Wartell*

Diane McDermott, Interim Executive Director

June 9, 2022

Honorable James O. Browning
United States District Court
Pete V. Domenici United States Courthouse
333 Lomas Blvd NW, Suite 660
Albuquerque, New Mexico 87102

Re: CPOA Board Issues for Consideration in Anticipation of July 2022 Public Hearing

Dear Judge Browning,

The Board of the Civilian Police Oversight Agency (Board) has received the 15th report of the Independent Monitor. The Board appreciates the Independent Monitor's and the Court's diligence in pursuing constitutional policing in the city of Albuquerque. While the Board does not have objections to the report, the Board does wish to bring several key issues to the Court's attention. These ongoing matters have reduced the Board's ability to perform its mission, and the Board appreciates attention to these challenges.

Board Membership

The Board has long struggled to maintain a full compliment. While the Board had reached nine members briefly this year, following a series of resignations and one addition we are left with only four members. The Board faces a significant monthly workload, and the severe shortage of members significantly limits its ability to attend to its basic responsibilities, and almost completely prevented the type of exploratory and policy work that has the greatest potential to improve policing. While the City Council and its staff have taken measures to accelerate the process of appointing members to the Board, their efforts have not kept pace with resignations. City Council staff have once again made changes to provide more candidates, but the Board anticipates that empty seats will continue to be a significant challenge. The time obligation involved in Board membership is thought to be a major factor contributing to difficulty in recruiting and retaining members. More broadly, considering the ongoing shortage of candidates, more fundamental changes to the recruiting and selection process may be required.

MOU Related to OBRD Video

The Board has been in the process of negotiating an MOU with APD, the City, and APOA related to OBRD footage for over a year. The purpose of this MOU is to relax the requirement that OBRD footage be redacted before release to the Board--which would significantly reduce the burden on APD in preparing materials for CPOA review. Unfortunately, negotiation over this MOU has moved very slowly. While a draft exists that has been revised several times and then approved by the Board, it has been difficult to obtain approval or requested changes from other parties. While the changes made by the MOU are relatively minor, they are expected to result in significant time savings for APD and more complete and timely access to materials for the Board. Given the exceptionally long time that this MOU has been in discussion, it is critical to "cross the finish line" and put the improved process in place.

Training

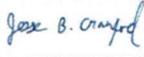
Training has also been an ongoing challenge for the Board. While the ordinance amendments made by the City Council have somewhat reduced the training burden, training remains excessive. The Ordinance's training requirements are much greater than those imposed by the CASA. While there are currently efforts underway to reduce some of the Ordinance's training requirements, even in a best-case outcome from City Council, there will be issues. For example, there has been a lack of clarity in the implementation of some CASA requirements and more Ordinance requirements. This situation may have been improved by recent changes to the training process but the training status of new Board members will need to be carefully monitored to identify any remaining problems. There have also been ongoing challenges related to training documentation and reporting. While a new process for recording of training is being implemented, it will once again require close monitoring as multiple new Board members are appointed.

Access to Materials

The Board continues to struggle with access to certain materials, particularly APD SUOF investigations. While SUOF materials are available to the Board, Board members have found the format in which they are provided to be impractical. For example, while the Board reviews SUOF cases based on their IA case numbers, the materials provided to the Board are organized by force review board meeting dates. Since the Board is often reviewing backlog cases from more than a year ago and no search functionality is available, finding the documentation related to a specific case can require a lengthy manual check of the last several years of force review board meetings.

The Board is beginning a new effort to try to arrange with APD for better access to these records, but may request assistance in resolving this roadblock to its work.

Sincerely,

DocuSigned by:

48A060B441D7443

Jesse Crawford, Vice-Chair
Civilian Police Oversight Agency Board

cc via email:

AUSA Elizabeth M. Martinez
DOJ Trial Attorney Patrick Kent
Lauren Keefe, City Attorney
Frederick Mowrer, Counsel for APOA
James Ginger, Ph.D., Independent Monitor