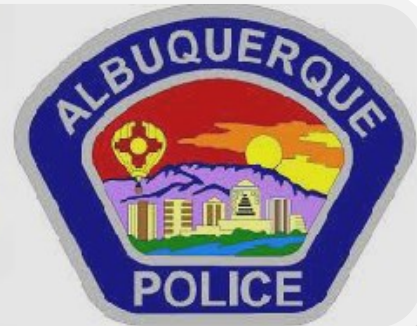


**OFFICE OF INSPECTOR GENERAL**  
*City of Albuquerque*



**SPECIAL INVESTIGATION**  
*ALBUQUERQUE POLICE DEPARTMENT*  
*BODY-WORN CAMERA PROCUREMENT*



**SPECIAL INVESTIGATION REPORT  
ABUQUERQUE POLICE DEPARTMENT  
BODY-WORN CAMERA PROCUREMENT  
CASE NO. 14-207**

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Peter Pacheco  
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## OFFICE OF INSPECTOR GENERAL

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### EXECUTIVE SUMMARY

The Office of Inspector General (“OIG”) conducted an investigation into the Former Albuquerque Police Chief and his relationship with TASER International, Inc. (“TASER”). This investigation sought to determine:

1. Whether or not the Former Chief violated the City’s Conflict of Interest Ordinance in his dealings with TASER International, Inc.
2. Whether the Former Chief used his influence to assist TASER in its dealings with the City.

The investigation focused on the relationship between the Former Chief and TASER from the initial test phase of the TASER Axon-Flex cameras up through the execution of the \$1.9 million contract.

#### **Investigative Findings**

1. The Former Chief accepted meals or other gratuities from TASER while still employed by the City. This is a probable violation of City’s Administrative Instruction No. 3-12, Section 3(B), which states, “It is prohibited to accept at a suppliers expense travel, accommodations, meals and all other gratuities.
2. The Former Chief represented TASER after his retirement date of January 1, 2014. The Former Chief was under contract as a paid consultant with TASER to present at events and promote TASER products. This is a probable violation of § 3-3-7 of the City’s Conflict of Interest Ordinance, which restricts a former employee from representing any person or business for one year after the employee’s date of termination in connection with a matter in which the employee performed an official act.
3. APD employees accepted meals or other gratuities from TASER. This a violation of the City’s Administrative Instruction No. 3-12, Section 3(B), which prohibits City employees from accepting, travel, accommodations, meals and all other gratuities at a suppliers

expense.

4. APD's initial purchase of 75 Axon-Flex cameras and associated services from TASER totaling \$106,855 bypassed the City's competitive procurement process. APD's initial purchase of 75 Axon-Flex cameras was improperly purchased from a Sole Source contract that did not include Axon-Flex cameras or services.
5. APD was overcharged \$25,243 for overlapping Evidence.com services associated with the initial purchase of cameras from TASER.

### **Conclusion**

The Former Chief's dealings with TASER indicate probable violations of City rules and regulations. This investigation identified that the Former Chief was a paid consultant for TASER while in early retirement leave and continued to be a paid consultant within a year after his retirement.

Additionally, as the primary decision maker for the Albuquerque Police Department, evidence shows that the Former Chief's support for TASER was pivotal in the procurement process and may have benefited TASER's relationship with the City of Albuquerque.



**CITY OF ALBUQUERQUE**  
*Office of Inspector General*  
P.O. BOX 1293, ALBUQUERQUE, NM 87103

May 11, 2015

Accountability in Government Oversight Committee  
City of Albuquerque  
Albuquerque, New Mexico

Special Investigation: Albuquerque Police Department  
Body-Worn Camera Procurement  
14-207

**Final**

## **SPECIAL INVESTIGATIVE REPORT**

### **Introduction**

The Office of Inspector General (“OIG”) was contacted by Councilor Dan Lewis on April 25, 2014, requesting an investigation. Councilor Lewis requested that the OIG look into the actions of the former Albuquerque Police Chief to determine whether or not the Former Chief violated the City’s Conflict of Interest Ordinance in his dealings with TASER International, Inc. (“TASER”). In addition, Councilor Lewis asked that the OIG investigate whether the Former Chief used his influence to assist TASER in its dealings with the City.

There was also a request from Councilor Ken Sanchez that the Office of Internal Audit (“OIA”) initiate an audit into the procurement process surrounding the City’s purchase contract with TASER for lapel cameras and related equipment. Councilor Sanchez also requested for an independent review from the New Mexico Office of the State Auditor (“OSA”).

Following the requests, the OIG reached out to the OSA and the OIA to establish a line of communication and requested that the departments work collaboratively in this investigation to decrease the burden throughout the review process. The OIG has worked closely with the OIA and the OSA throughout this investigation.

The OIG and the OIA identified several findings relating to the same issues. The component relating to Councilor Lewis's request is addressed in depth in the OIG findings. The OIA's report will contain more in-depth information related to their objectives and scope of work. The findings to OIA's report will be published in report number 14-107.

### **Methodology**

Our report is based on information gathered.

- Review of documents,
- Review of emails,
- Approximately 46 individuals were contacted for interviews and/or documentation, and
- Review City Ordinance, Administrative Instructions, and other City Policies and Procedures pertaining to APD's TASER procurement.

Our investigation was conducted in accordance with fraud investigation techniques, which include-but are not limited to examination of records, documents, interviews with appropriate personnel, and other evidence-gathering procedures as necessary under the circumstances.

## **BACKGROUND**

### **TASER International, Inc.**

TASER International, Inc., ("TASER") based out of Scottsdale Arizona is the vendor for conducted electrical weapons (electroshock weapons) and Axon-Flex cameras. APD's relationship with TASER began in 2007 with a contract related directly with the purchase of TASER electroshock weapons, accessories and repair. In October 2012, APD began testing and evaluating TASER's Axon-Flex cameras and Evidence.com. Evidence.com is a division of TASER that provides secure digital evidence management for TASER products.

### **Former Chief**

The Former Chief began working for the Albuquerque Police Department ("APD") in 1982 and originally retired from APD in 2003. Shortly after his retirement, the Former Chief went to work for the Scottsdale, Arizona, Police Department. In 2005, he was rehired by APD as Chief of Police. He remained employed with the City until his retirement on January 1, 2014.

### **APD and TASER Axon-Flex Cameras**

In early 2011, APD began wide-use of the Scorpion body-worn camera. Officers began wearing the cameras and recording in limited situations. APD later mandated that officers record all calls for service. This mandate was difficult to implement using the Scorpion cameras due to their battery life and recording memory limitations. Thus, APD began looking for other camera options in 2012.

- September 2012: APD received four TASER Axon-Flex cameras for testing and evaluating purposes.
- October 2012 and November 2012: APD tests and evaluates TASER Axon-Flex cameras.
- November: APD received four additional Axon-Flex cameras for testing and evaluation.
- November 2012: The Former Chief asked for a roadmap to implement TASER Axon-Flex cameras by February 15, 2013.
- March 2013: APD purchased 75 Axon-Flex cameras at a cost of \$106,855 and received one year of Evidence.com at no charge.
- September 2013: APD signs a 5-year subscription based contract for Evidence.com at a cost of \$1.9 million and received 525 Axon-Flex cameras at no charge.

## FINDINGS

### 1. BASED ON INFORMATION REVIEWED, DURING THE PERIOD OF SEPTEMBER 7, 2013 THROUGH JANUARY 1, 2014, THE FORMER CHIEF ACCEPTED MEALS AND GRATUITIES WHILE CONSIDERED AN ACTIVE EMPLOYEE ON EARLY RETIREMENT LEAVE.

APD's Former Chief was a paid contractor for TASER while he was on early retirement leave and considered an active employee for the City of Albuquerque. According to TASER's Chief Operating Officer, as a paid consultant, the Former Chief was paid \$1,000 per day plus expenses for presenting at events and promoting TASER products.

In early retirement leave, City employees are allowed to use accrued vacation and sick leave to extend their employment with the City and gain additional service credits towards retirement. Employees may use all or a portion of their accrued vacation and sick leave with any remaining amount paid out at their retirement date. The Former Chief entered into early retirement leave on September 7, 2013 and officially retired from the City on January 1, 2014. During his early retirement leave, the City contributed over \$18,000 to the Former Chief's insurance and retirement benefits.

On September 17, 2013, ten days into the Former Chief's early retirement leave, TASER offered the Former Chief a consult for fee contract to include monetary compensation as well as expenses.

While on early retirement leave, September 7, 2013 through December 31, 2013, the Former Chief presented at three events for TASER. In his presentations, the Former Chief promoted TASER products by talking about APD's experiences. For these presentations, the Former Chief received \$1,000 a day plus airfare/travel, food/beverage, and lodging from TASER.

October 2013

- Philadelphia Presentation

November 2013

- Mexico City Presentation

November 2013

- United Kingdom Presentation

**INFORMATION PROVIDED BY TASER**

As the Former Chief did contract work for TASER and was still considered a City employee while on early retirement leave, accepting meals or other gratuities from a current or potential vendor is a probable<sup>1</sup> violation of the City's Administrative Instruction No. 3-12, Section 3(B), which states, "It is prohibited to accept at a suppliers expense travel, accommodations, meals and all other gratuities."

The OIG reviewed the City's Human Resources Department files and APD personnel files to see if the Former Chief had completed an outside employment form as mandated by the City's Conflict of Interest Ordinance, no form was found in either file.

**§ 3-3-10 OUTSIDE EMPLOYMENT**

No employee shall engage in outside employment without prior approval of the Chief Administrative Officer, or a designee of the Chief Administrative officer....

The OIG also asked the Chief Administration Officer ("CAO") if the Former Chief ever informed him or anyone within the City's administration that he was going to be a paid contactor with a City vendor during his early retirement. The CAO replied: "no consent or permission was ever provided by me to the Chief, if indeed one was required."

**Human Resources Department Verification**

To verify if the Former Chief was still considered a City employee, the OIG contacted the City's Human Resources Department ("HR") on October 21, 2014 and asked the following:

If an employee decides to retire or leave the City and they have accumulated vacation and sick leave, when are they considered not to be a City employee? Is it when they physically leave, when they receive their last paycheck or when they stop accruing service credit in PERA?

HR responded on October 23, 2014:

There are two options when retiring from the City of Albuquerque:

<sup>1</sup> Definition of "probable" used by OIG: supported by evidence strong enough to establish presumption but not proof.

Definition of "presumption" used by OIG: a belief that something is true even though it has not been proved.



### **Option 1**

If you work up until your retirement date your last day as a City employee is your termination date.

Example: Termination Date 12/31/2014 Retirement Date 1/1/2015  
(PERA retirements are always on the first day of the month).

### **Option 2**

If you retire from the City of Albuquerque using the Early Retirement option, where one can exhaust their accumulated sick and vacation until their actual retirement date they are considered an active employee until their retirement date.

Example: You may enter Early Retirement on 10/18/2014 your hard retirement date is 7/1/2015. You are still considered a city employee until 6/30/2015 your termination date.

In speaking with HR, the OIG does recognize that some City employees who enter into early retirement leave may work during that time period. The Former Chief in his capacity as Police Chief was working on a multi-million dollar contract with the vendor weeks before his early retirement, and working as a paid contractor for the vendor during his early retirement leave. According to City regulations, that is a probable conflict of interest. At a minimum, there is an appearance of impropriety.

### **BASIS FOR FINDING**

1. HR People Soft documentation for Raymond Schultz states; Effective Date : 12/31/2014, Job Code: U00205 Chief of Police as job title.
2. Email sent to then HR Director on October 21, 2014: If an employee decides to retire or leave the City and they have accumulated vacation and sick leave, when are they considered not to be a City employee? Is it when they physically leave, when they receive their last paycheck or when they stop accruing service credit in PERA?

Email response from HR employee on October 23, 2014: If you retire from the City of Albuquerque using the Early Retirement option, where one can exhaust their accumulated sick and vacation until their actual retirement date they are considered an *active employee* until their retirement date. (emphasis added)

3. A comparison of pre-early retirement pay stubs and post-early retirement pay stubs shows no difference whatsoever other than no accumulation of vacation or sick leave. All amounts and deductions are identical.
4. Human Resources, "Employee Notification of Retirement" states 01/01/2014 as the retirement date.

5. The Former Chief's City email account was still receiving email several months after he went into early retirement. For example, an Assistant City Attorney assigned to APD sent the Former Chief an email on October 17, 2013 to his City email account. The email was only addressed to the Former Chief and regarded City Business. According to the City's Technology and Innovation Division, the Former Chiefs City email account was disabled on November 21, 2013.
6. Personnel Rules and Regulations §403.10 states: Immediately prior to retirement from **active service** with the City of Albuquerque an **employee** may take **leave** with pay equivalent to the amount of sick and vacation leave the employee has accumulated.

The rule demonstrates that a person participating in "early retirement" is

- a) Still an employee;
  - b) Is in active service;
  - c) Is merely on leave.
7. The Former Chief's Employee Clearance Form is not complete. Sections 4a. "City Property Turned In", 4b. "Debt Action Required", and 4c. "Other" are blank.

According to the City's Personnel Rules and Regulation §807; CLEARANCE PROCESSING; "On the last day of work employees must process out of City employment by completing and submitting a Clearance Form to the appropriate offices as instructed on the form. During this process the employee must return all pagers, cellular phones, hand held computers, portable computers, equipment , keys, supplies, card keys and all other City issued equipment.

8. City legal assigned to OIG states that finding that a salaried employee merely on early retirement leave is still an employee is a "reasonable interpretation" given the facts developed by OIG, the ambiguity of the rules and regulations, and the facts there was no clearly established law on point.

### **Solicitation for Employment**

The Former Chief, while still in his capacity as Chief, was soliciting work from TASER through his City email. This is a probable violation of the City's ordinance.

### **§ 5-5-22 ETHICAL CONDUCT.**

In the procurement of goods, services and construction for the city, all City employees shall comply with the rules of ethical conduct set out in § 3-3-1 et seq., ROA 1984, Conflict of Interest. In addition, the following ethical provisions shall also apply to all city procurements:

(A) *Employee conflict of interest.* It shall be unlawful for any city employee to participate directly or indirectly in a procurement when the employee knows that:

(1) The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or

(2) Any other person, business, or organization with whom the employee or any member of an employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

The following is correspondence from three emails dated August 28, 2013, between the Former Chief and a TASER Executive.

- **Former Chief:** My last day with Albuquerque PD is September 6th as I will be retiring.
- **Former Chief:** I will however, still have the ear of the Mayor and CAO on department issues (at least through the election), so if you run into any problems give me a shout.
- **Former Chief:** If there is anything I can do for you or TASER, especially to talk about my/our experiences please let me know.
- **TASER Executive:** We are going in front of Albuquerque City Council next Thursday at 10am for a final presentation to the board for going full deployment of the cameras. Any insight would be very helpful (and APD Fiscal Manager seems very confident it will go through).
- **Former Chief:** As for the TRC meeting next week, yes everything has been greased so it should go without any issues.
- **TASER Executive:** As for TASER, we are always in need of progressive thinkers and great presenters (and you fit the bill!). I would like to discuss more about using your success stories and PVRs to present to other agencies around the country. I will bring this up to the CEO next time we have a meeting. Is consulting something you would consider?
- **Former Chief:** Sure, my experiences with the trials and tribulations of implementation I think could be valuable to Chiefs and Sheriffs along with city administrators.

When the OIG contacted the Former Chief for an interview by email, the Former Chief declined to be interviewed. The Former Chief's attorney stated, "Until that investigation [by the New Mexico Attorney General's Office] is completed, I have directed [the Former Chief] to decline addressing *all* inquiries about the Taser [sic] contract. My advice includes any questions which the Office of Inspector General and Office of Internal Audit seek to ask.

### Recommendations

- The CAO should direct HR to revise retirement documents to include information explaining the prohibition against representing any person or business in connection with a matter in which a former employee performed an official act, unless the Chief Administrative Office consents to such representation.
- The CAO should direct HR to clarify what City policies apply to an employee in early retirement.

- The City should consider revising the City Conflict of Interest Ordinance to include prohibition against solicitation of employment from a vendor in which the City employee has direct decision making authority and/or performed an official act.

2. BASED ON INFORMATION REVIEWED, THE FORMER CHIEF REPRESENTED TASER WITHIN ONE YEAR AFTER HIS RETIREMENT DATE OF JANUARY 1, 2014, WHICH IS A PROBABLE VIOLATION OF CITY ORDINANCE.

The Former Chief did not give written notice to the CAO regarding his contractual relationship with TASER. The Former Chief's "Employee Notification of Retirement" HR form lists January 1, 2014 as the retirement date. According to the City's Conflict of Interest Ordinance, § 3-3-7, (A) ROA 1994, from January 1, 2014, through January 1, 2015, the Former Chief could not represent TASER.

**§ 3-3-7 CONFLICTS OF INTEREST; FORMER EMPLOYEES.**

(A) A former employee shall not within one year after the date of termination from employment represent any person or business in connection with a matter in which the former employee has performed an official act, unless the Chief Administrative Officer consents to such representation. No person or business with which a former employee is associated may knowingly undertake or continue a private representation in such a matter unless:

- (1) The disqualified former employee is screened from participation in the matter and is apportioned no part of the compensation therefrom; and
- (2) Written notice is promptly given to the Chief Administrative Officer.

As the chief decision maker for APD, the Former Chief's role was to provide authority, guidance, resources, and maintain project priority, which would include directing and authorizing APD staff on the testing and procurement of TASER's Axon-Flex cameras and Evidence.com. A history of the implementation of Axon-Flex cameras at APD includes the statement: "November 19, 2012 the Chief ask for a roadmap to implement TASER Axon Flex by February 15, 2013." In addition, APD's Strategic Plan for Fiscal Year 2013 through 2017 was created between July and December 2012, and already contained an objective to "Expand TASER/Evidence.com services."

Information received from TASER states that between January 1, 2014 and July 30, 2014, the Former Chief participated in nine events on behalf of TASER in which he was a paid contractor. In these presentations, the Former Chief promoted TASER products by talking about APD's experiences.

February 2014	• United Kingdom Tech Summit
March 2014	• Scottsdale Tech Summit
March 2014	• Australia Tech Summit
April 2014	• Scottsdale Tech Summit
May 2014	• Brazil Tech Summit
June 2014	• Scottsdale Tech Summit
June 2014	• Yonkers Risk Seminar
June 2014	• Amsterdam Tech Summit
July 2014	• Miami Tech Summit

**INFORMATION PROVIDED BY TASER**

The OIG reviewed the Former Chief’s HR records and APD personnel files to determine if any written consent was approved by the CAO allowing the Former Chief to be a paid contractor for Taser. No record of a written consent was found in HR records nor in APD personnel files.

The OIG asked the CAO if he gave consent to the Former Chief to contract with TASER during his first year of retirement. The CAO replied, “no consent was given to the Chief.”

The Former Chief did not give written notice to the CAO regarding his contractual relationship with TASER, which is a probable violation of the City’s Conflict of Interest Ordinance. The City’s Conflict of Interest Ordinance was not followed and the Former Chief’s contract with TASER is a probable violation of § 3-3-13, which can be enforced by § 1-1-99 ROA 1994, as stated below.

**§ 3-3-13 VIOLATION BY FORMER EMPLOYEE.**

Violation of any of the provisions of this article by a former employee is a misdemeanor, and, upon conviction the former employee shall be subject to the penalty set forth in § 1-1-99.

**§ 1-1-99 GENERAL PENALTY.**

Any person who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$500 or by imprisonment not exceeding 90 days or both unless a different specific penalty is provided. Each separate violation shall constitute a separate offense and, upon conviction, each day of violation shall constitute a separate offense.

When the OIG contacted the Former Chief for an interview by email, the Former Chief declined to be interviewed. The Former Chief’s attorney stated, “Until that investigation [by the New Mexico Attorney General’s Office] is completed, I have directed [the Former Chief] to decline

addressing *all* inquiries about the Taser [sic] contract. My advice includes any questions which the Office of Inspector General and Office of Internal Audit seek to ask.”

### Recommendations

- The CAO should direct HR to revise retirement documents to include wording regarding the prohibition against representing any person or business in connection with a matter in which a former employee performed an official act, unless the Chief Administrative Officer consents to such representation.
- The City should consider if legal action should be taken against the Former Chief as described in § 3-3-13 VIOLATION BY FORMER EMPLOYEE and enforceable by § 1-1-99 GENERAL PENALTY.

### 3. APD EMPLOYEES DID NOT ACT IN ACCORDANCE WITH CITY’S CONFLICT OF INTEREST REGULATIONS.

During the course of the investigation, the OIG identified numerous APD employees with direct involvement with APD’s Axon-Flex camera testing or procurement that accepted various forms of gratuities from TASER. A breakdown of the gratuities accepted includes airfare/travel, food/beverage, out of state training and entertainment.

Administrative Instruction No. 3-12 states:

#### 3. GENERAL

B. It is prohibited to accept at a suppliers expense travel, accommodations, meals and all other gratuities.

C. Travel with a supplier is prohibited unless such travel is approved in advance by the Chief Administrative Officer (CAO). All requests for travel with a supplier will be submitted on a travel request form and will include the purpose of the trip, name of the firm, individuals travelling, and the benefit of the trip to the City and Department.

#### APD Employees Acceptance of Meals

From approximately August 2012 through September 2013, during APD’s testing, implementation and contract completion, a TASER Executive would visit APD at least two times per month. Of the two times per month that the TASER Executive was in Albuquerque, he would routinely purchase lunch for two APD Officers. TASER stated the average cost of the lunches was \$20 - \$25.

#### Albuquerque Dinner (Fine Dining Restaurant)

On October 15, 2013, TASER’s Executive sent an email to two APD employees with an invitation for dinner at fine dining restaurant. The email extended the invitation to “wives, family or whoever you want to bring.”

On October 30, 2013, APD staff and guests attended dinner with TASER representatives. From information received from TASER, the cost of the dinner was \$1,349. According to information received, two officers, two evidence technicians and one APD contracted employee attended the dinner with TASER representatives. APD employees' spouses and guests may have also attended.

### **Prohibited Travel**

On October 10, 2012, TASER's Executive sent an email to an APD employee with an invitation for training on evidence.com. The email stated:

TASER International is offering an **ALL-EXPENSE PAID** training certification program on Digital Evidence Management for selected officers and IT professionals. We will fly selected personnel to TASER International headquarters in Scottsdale, Arizona and provide hotel and entertainment along with training on topics such as...

Two APD employees attended the All-Expense paid training on January 10, 2013 in Scottsdale, Arizona. TASER was asked what the total value of this event was per person. TASER estimated that the value was \$700 per person.

This free training for a TASER application, Evidence.com, was being offered to APD five months prior to the initial purchase of 75 Axon-Flex cameras. It is the OIG's opinion that this could be viewed as an unfair advantage for a vendor.

### **Donation Solicitation**

APD employees solicited sponsorship donations from TASER for APD's Ski Team. Emails and communication indicate that TASER's Executive donated \$1,000 and TASER donated \$500 to APD's Ski Team.

APD employees stated various reasons for accepting gratuities from TASER. They included:

- Received directive to attend TASER events,
- Thought TASER paid training was part of contract,
- Do not believe a gratuity was accepted.

### **Recommendations**

- APD should ensure all Departmental staff are informed of the City's conflict of interest regulations, that: Prohibit the acceptance of any gift (meal, food/beverage, travel/airfare), reward, favor or all other gratuities from any vendor, contractor, individual or firm doing business or planning to do business with the City.
- The CAO should direct DFAS-Purchasing to create and distribute a vendor code of conduct to communicate City policies that apply to vendors, including the

prohibition against purchasing meals or other gratuities that would benefit City employees.

4. APD'S INITIAL PURCHASE OF 75 AXON FLEX CAMERAS AND ASSOCIATED SERVICES FROM TASER BYPASSED THE CITY'S COMPETITIVE PROCUREMENT PROCESS.

APD's initial purchase on March 27, 2013 for 75 Axon-Flex cameras and associated services from TASER totaling \$106,855 circumvented the competitive procurement process. The purchase was made by using a Contract Release Order ("CRO") against a Sole-Source contract that only included TASER electroshock weapons, accessories and repair.

The following events in the initial purchase were not in line with the City's competitive procurement process:

- The Sole Source contract used for the initial purchase was for TASER electroshock weapons and could not be used to create a CRO for the 75 Axon-Flex cameras;
- The initial purchase of 75 Axon-Flex cameras bypassed purchasing regulations and approvals that should have been followed in the City's competitive procurement process;
- The APD Lieutenant who authorized the payment for the initial purchase did not have the authority to approve the purchase;
- The initial purchase was used as the basis for justifying the non-competitive five year, \$1.9 million OEP purchase of Axon-Flex cameras and Evidence.com on September 30, 2013.

The OIG asked the Chief Procurement Officer several questions regarding the purchases, rules and regulations that should have been followed. Below are some key points the Chief Procurement Officer addressed:

- *We have thoroughly reviewed file number SSP2011-037-P and have determined that the Senior Buyer assigned to APD in extending the contract term of the Procurement Contract did not follow the procedures for adding ancillary items to a contract, including the requirement that the Chief Procurement Officer be notified of and approve the addition.*
- *Taser could not and cannot add pricing schedules or product without following City procedures. Vendors/Suppliers do not have the ability or discretion to change the nature of the terms of a contract unilaterally.*
- *The Axon Flex Cameras were not part of the catalog despite the fact that the APD Senior Buyer inappropriately attached the 2013 Price List to the file.*
- *To add additional items, the Purchasing process requires an end user Department to submit a Purchase Order Adjustment to "adjust" or amend the contract. However, Purchasing will authorize only items deemed ancillary to the original purchase.*



- *There were other more appropriate methodologies such as the Other Exempt Purchase, GSA or other Government Contracts.*

The Chief Procurement Officer stated the APD's initial purchase of 75 Axon-Flex cameras was improperly purchased from a Sole Source contract that did not include Axon-Flex cameras or services. The initial contract between APD and TASER was for electroshock devices, accessories and repairs.

In interviewing APD's Fiscal Manager and APD's Senior Buyer, both stated that the procurement process for the 75 Axon-Flex cameras was done correctly. But in reviewing emails from APD's Fiscal Manager and Senior buyer, it appears that the Fiscal Manager and Senior Buyer discovered a way of getting around the procurement process to purposely avoid the DFAS- Purchasing Department. The following are excerpts from email related to the initial purchase.

**APD Fiscal Manager:**

- *The City has a loophole, in that there are no internal controls for verifying that product purchased from an existing contract instead of a resolution have gone through TRC (The City's Technical Review Committee).*
- *Get me a quote and I can get you a CRO.*
- *In theory, it should probably still go through TRC before we order the product since it is going through our system, but we should be able to bypass the other DFAS processes this time.*

**Senior Buyer:**

APD's Senior Buyer email to APD's Fiscal Manager

- *I was just looking for a price list so I could update the existing contract. As long as this is covered on the Law Enforcement Pricing Schedule, you can just do a CRO (when, if there's a purchase).*
- *DFAS-Purchasing staff "told me something I didn't know; if TRC approval is required for a purchase, you can't do a CRO, it must be sent to Purchasing for a PO."*

APD is unique, from many other departments, in that it has a Senior Buyer embedded within the department. In theory, the Senior Buyer is supposed to perform the oversight functions of a DFAS-Purchasing Senior Buyer. The Senior Buyer performed under an unclear management structure, reporting to both APD's Fiscal Manager and Purchasing's Chief Procurement Officer.

APD's Senior Buyer resigned on November 29, 2014.

The City does have a procurement method for purchasing goods and services for a reasonable trial period. However, after the test phase is complete, the subsequent purchase must comply

with the City’s procurement code and be competitively bid if other vendors produce similar products. This did not happen with the initial 75 Axon-Flex camera purchase.

City Purchasing Rules and Regulations, Chapter 22, Section 2.1 states:

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City procurement organization.

Recommendations

- The CAO should direct HR in revising the reporting structure of embedded Senior Buyers in a department to have them report exclusively to the Chief Procurement Officer.
- The CAO should consider Ethics training for all City employees, especially those involved in the procurement process, to include personnel involved in pilot programs.
- APD should insure that only individuals with the proper signature authority approve APD payments.
- APD should determine if the actions taken by their employees regarding the TASER procurement warrant disciplinary action.

5. THE CITY OVERPAID FOR EVIDENCE.COM USAGE AND STORAGE FEES.

The initial CRO purchase agreement on March 27, 2013, for 75 Axon-Flex cameras included one year of Evidence.com usage and 6,000 Gigabytes of storage (Evidence.com) at no charge. The ensuing “Other Exempt Purchase” contract for 525 Axon-Flex cameras also included charges for Evidence.com for the same time period for the 75 Axon-Flex cameras. Evidence.com fees should have been prorated to reflect the dates of the agreements overlapping.

According to calculations, TASER overcharged the City \$25,243 for Evidence.com fees that should have been prorated to reflect the overlapping period between August 15, 2013 through March 27, 2014 illustrated below.

March 2013	Evidence.com at no charge	March 2014
August 2013	Evidence.com Paid Subscription	August 2014

**OVERCHARGE FOR OVERLAPPING EVIDENCE.COM SERVICES**

**TASER Invoice: SI1317648**

**75 Axon-Flex cameras**

**3/27/2013 through 3/27/2014**

Quantity	Item Number	Description	Net Total
75	85018	1 Year Evidence .Com Usage	\$0
6000	85035	Evidence.Com Storage	\$0
<b>TOTAL:</b>			<b>\$0</b>

**TASER 5 Year Quotation: Q-02878-3**

**Contract Start Date: 8/15/2013**

**Payment due on August 15 of each year until 2017**

**525 Addition Axon-Flex camera purchase to Include yearly fees for Evidence.com**

**for 75 Axon-Flex cameras for TASER Invoice: SI1317648**

Quantity	Item Number	Description	Net Total
75	85121	Annual Evidence.Com: Year 1	\$31,950
6000	85035	Evidence.Com Storage	\$9,000
<b>TOTAL:</b>			<b>\$40,950</b>

Prorated charge Evidence.Com from 3/27/2014 - 8/15/2014 (140 Days) \$15,707

Overcharged for Evidence.Com from 8/15/2013 - 3/27/2014 (265 Days) **\$25,243**

Total Charge Evidence.Com from 8/15/2013 through 8/15/2014 **\$40,950**

Recommendations

- APD should request a refund of \$25,243 from TASER.

## Conclusion

The TASER Axon-Flex camera may or may not have been the best camera for APD at the time of the procurement. Nevertheless, the way in which the cameras were procured, lack of documentation and conflicts of interest gives this procurement an appearance of impropriety.

Did the Former Chief use his influence to assist TASER in its dealing with the City? Evidence shows that the Former Chief was a key supporter in the TASER procurement. Items below highlight key support points<sup>2</sup>:

- As APD's Chief, the Former Chief was the chief decision maker for the City's law enforcement agency.
- According to APD personnel, the Former Chief wanted to be on top of the "next big thing in law enforcement.
- On November 19, 2012, the Former Chief asked for a roadmap to implement TASER Axon Flex by February 15, 2013.
- The evidence shows that TASER was given a competitive advantage over other vendors.
- An email from the Former Chief to a TASER Executive: "I will however, still have the ear of the Mayor and CAO on department issues (at least through the election), so if you run into any problems give me a shout."
- An email from the Former Chief to a TASER Executive: "As for the TRC meeting next week, yes everything has been greased so it should go without any issues."
- On September 17, 2013, ten days into the Former Chief's early retirement, TASER offered the Former Chief a consult for fee contract.

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<sup>2</sup> It should be pointed out that TASER may have gained an unfair advantage in what should have been a competitive procurement process. From emails and documentation reviewed, it appears that TASER Axon-Flex cameras were the preferred cameras from the beginning. It appears the testing of other vendors cameras was minimal compared to that of the TASER Axon-Flex camera. APD's Strategic Plan for Fiscal Year 2013 through 2017 was created between July – December 2012 and already contained an objective to "Expand TASER/Evidence.com services."

According to APD staff, the Department tested several cameras from vendors to include VieVue, GoPro, Scorpion and Wolfcom, but determined that TASER Axon-Flex cameras were the best fit for APD. However, when the OIG asked how the different cameras were evaluated and if there was supporting documentation, APD could supply only minimal documentation. APD staff stated that communication regarding the evaluation of the cameras was "mostly verbal."

On October 9, 2012, TASER was also given information not readily available to other vendors that included: two "Department Special Orders" and all Standard Operating Procedures ("SOP") regarding use of digital recorders that APD was working on. Information provided to TASER allowed them to capture insight on the direction APD was going regarding the implementation of body-worn cameras.

REVIEWED BY:

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Acting IG

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IG Investigator

APPROVED:

APPROVED FOR PUBLICATION WITH  
CAUTIONARY STATEMENT:

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Peter J. Pacheco, CFE, CIGI  
Acting IG, Office of Inspector General

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Chairperson, Accountability in Government  
Government Oversight

## **APPENDIX**

The following conflict of interest regulations also apply to APD and City personnel and vendors are encouraged to cooperate with such regulations.

- City Charter – Article XII Code of Ethics
- APD Standard Operating Procedure
- City Administrative Instruction No. 3-12 (September 24, 1997)
- City Ordinance – § 3-3-1, et, seq., ROA 1994: Conflict of Interest Ordinance
- City Ordinance – § 5-5-1, et, seq., ROA 1994: Public Purchases Ordinance
- Personnel Rules and Regulations – Section 301 Code of Conduct
- DFAS Purchasing – Vendor Handbook

## **Glossary of terms**

### **Contract Release Order (“CRO”)**

Purchase mechanism that allows user Departments to purchase specific products and services from authorized contracts.

### **Other Exempt Purchase (“OEP”)**

Procurement that is exempt from the City’s competitive procurement regulations.

### **Evidence.com**

Division of TASER that provides secure digital evidence management for TASER products.



# City of Albuquerque

Richard J. Berry, Mayor

## Interoffice Memorandum

April 24, 2015

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**To:** Peter J. Pacheco, Acting IG, Office of the Inspector General

**From:** Robert J. Perry, Chief Administrative Officer

**Subject:** Investigation Report No. 14-207  
Taser International Body Worn Camera Procurements

The Chief Administrative Officer (CAO), Department of Finance and Administrative Services-City Purchasing Division (DFAS), City Attorney and Human Resources Department (HR) and Albuquerque Police Department (APD) has jointly reviewed the above referenced audit, findings and recommendations. They are providing their responses, as follows.

### ***Finding No. 1***

The Former Police Chief accepted meals and gratuities while still employed.

Recommendations:

The CAO Should:

- Direct HRD to revise retirement documents to include information explaining the prohibition against representing any person or business in connection with a matter in which a former employee performed an official act, unless the CAO consents in writing to such representation.

### Response from CAO, HR, City Attorney

Disagree:

This finding is based upon an ambiguous interpretation of the term “Early Retirement”. The City of Albuquerque offers a “benefit” program known as **Early Retirement**. This benefit is found in the City’s Personnel Rules and Regulations § 403.10; BENEFITS, EARLY RETIREMENT “ Immediately prior to retirement from active service with the City of Albuquerque an employee may take leave with pay equivalent to the amount of sick and vacation leave the City has accumulated....

However, in accordance with the City’s Personnel Rules and Regulations § 807; **CLEARANCE PROCESSING**; “*On the last day of work* employees must process out of City employment by completing and submitting a Clearance Form to the appropriate offices as instructed on the form. During this process the employee must return all pagers,

cellular phones, hand held computers, portable computers, equipment, keys supplies, card keys and all other City issued equipment..."(*emphasis added*)

The practical issue these conflicting authorities create is that retiring employees believe that early retirement means just that..."Retirement". In the instant case, the former police chief had no access to City facilities, computers, vehicles, or equipment. He had no authority to issue orders, make management, budget, or personnel decisions. No law enforcement powers were vested in him as his law enforcement commission authority was revoked by operation of law. In actuality the Chief like any employee is entirely relieved of any responsibility, duty, or assignment. Moreover, a new Chief (Acting) was immediately named and to this extent what significance or factual basis is the finding that the old Chief retained the title predicated upon is unknown.

CAO will direct Human Resources Department to explicitly clarify the meaning of the term "Early Retirement" with specific definitions within the City's HR rules and regulation policy manual. Under the these provisions, it should be set forth that an individual who is on early retirement status, whom no longer attends work, no longer can make management or work decisions, no longer has access to City offices, vehicles, computers, or equipment, and is merely selling back accrued leave balances is not an employee of the City of Albuquerque and his/her separation date is when the aforementioned authority, rights, and privileges were terminated.

Estimated Completion Date

June 30, 2015.

***Finding No. 2***

The former Chief violated city ordinance by representing Taser after his retirement date.

Response: Disagree with legal interpretation of ordinance and agree to alleged fact.

Although this prohibition would prohibit the chief from representing Taser in connection with City business after he retired. He is not prohibited from working for Taser, or other City vendors on matters unrelated to City business.

The Chief did not represent a business "in connection with a matter in which the former employee has performed an official act". The Chief did not try to sell Taser products to the City of Albuquerque. His work seems to be directed at other Departments.

***Finding No.3***

APD Employees did not act in accordance with City's conflict of interest regulations.

Recommendations:

APD Should:

- Ensure all Departmental staff is informed of the City's conflict of interest regulations, prohibiting the acceptance of gifts, etc.

The CAO Should:



- Consider issuing a stand- alone Code of Conduct document to every City employee emphasizing important policies, including unallowable activities such as acceptance of meals and gifts from vendors.
- Create a Citywide conflict of interest reporting form. The form should include all applicable citations from State and City regulations and give clear and understandable examples of each regulation. The form should provide space for reporting potential conflicts and be acknowledged and signed by all City personnel, and retained in each employee’s HRD personnel file on an annual basis.
- In part, the CAO should work with DFAS Purchasing to create and distribute a vendor code of conduct to communicate City policies that apply to vendors, including prohibition against purchasing meals or other items for the benefit of the City.

Response from CAO, APD, HR, City Attorney:

Agree with findings but disagree with recommendations: Some of the recommendations create an unnecessary and significant administrative burden upon whereas we already have conflict of interest/ethics policies in place and all new employees receive this information at the mandatory orientation meeting. The recommendation concerning the conflict of interest form will be explored more in depth by DFAS, HR, and City Attorney to evaluate the feasibility of such a corrective action

Although the employee(s) conduct and discretion in these matters was not in accordance with conflict of interest regulations it is also important to consider the responsibility of the vendor. Gratuities are prohibited within the vendor conduct and administrative instruction. To this extent, City legal and Central Purchasing will further explore the vendors conduct, practices, and compliance with the City’s purchasing ordinance(s), regulations, and other prohibiting authority.

DFAS Purchasing will be instructed to update its Vendor Handbook to include the information set forth above and will post the updated Vendor Handbook on the City’s external website.

Estimated Completion Date

No later than July 30, 2015.

***Finding No. 4***

APD’s initial purchase of 75 Axon flex cameras and associated series from Taser Bypassed the City’s competitive process

Recommendations:

The Chief Administrative Officer (CAO) Should:

- Direct the Human Resources Department (HRD) to revise the reporting structure for any senior buyers currently embedded in departments and have them report exclusively to the Chief Procurement Officer. Also, if other internal service personnel are required to spend the majority of their time in user departments,

they should be direct reports to the Director of the internal service department, not the user department.

Response from CAO:

The CAO agrees with this finding, is disappointed in the process that was utilized to procure the On-Body camera/data storage system and pledges support to insure that future procurements are in compliance with procurement rules. The CAO is directing the Department of Finance Administrative Services (DFAS) to prepare an Administrative Instruction for review by all necessary parties that insures that embedded buyers are supervised and accountable to the Purchasing Department and Chief Procurement Officer under the DFAS as well as City legal and not the user Department. The Administrative Instruction will be presented to the Administration for approval and adoption.

In addition, the reforms listed below directed to DFAS-Purchasing and APD have and/or are being implemented at the direction and in collaboration with oversight of the CAO.

Estimated Completion Date:

No later than June 30, 2015.

APD Should:

- Inform Administrative Staff that as a condition of employment, employees are required to comply with all relevant laws, statutes, ordinances, and regulations and any violations will be grounds for disciplinary action including, but not limited to termination, demotion, suspension or reprimand.
- Review the effectiveness of internal controls for payment authorization and ensure only individual(s) with proper signature authority approve APD payments.
- Review documentation associated with APD's Pilot Purchase to determine if the staff member's actions warrant disciplinary action.

Response from APD, DFAS and CAO

Agree.

a). While this is not a recommendation for APD by Internal Audit, it is an action that the CAO, DFAS Purchasing and APD is taking to ensure effective internal controls both at APD and City-wide. As part of the City's Enterprise Resource Program (ERP) project, an assessment of DFAS Purchasing's PeopleSoft purchasing software modules was conducted in 2014.

As a result, DFAS Purchasing is now engaged in an implementation project of its PeopleSoft supply chain software modules to create efficiencies, reduce processing time, enhance security and revise its procurement business practices. This project has many far reaching enhancements on the City's purchasing process to include eliminating any "loopholes" and establish internal controls for goods/services purchased utilizing the procurement contract, contract release order methodology. These system improvements will include workflow that will insure integrity of the chain of command for necessary

approvals and include specific commodity codes that will prevent future misuse of purchase contracts.

b). APD, in collaboration with DFAS Purchasing, will design and provide training to administrative staff members regarding the appropriate purchasing procedures with respect to compliance with relevant laws, statutes, etc. Each APD employee who is responsible for any purchases over \$10,000.00 will be required to sign an acknowledgement of recognition of the above referenced Administrative Instruction that will be placed in the employees personnel file.

c). APD will review the signature authority currently granted to each administrative staff member and make the necessary adjustments to ensure effective controls for payment authorization and determining proper signature authority approval for APD payments. APD has reorganized the fiscal management of their budget program to include additional supervision, reporting, and approval and accountability processes.

d). The Senior buyer referred to in the audit findings is no longer employed with the City of Albuquerque. APD will consult with HRD regarding whether any disciplinary action is warranted as to staff members' actions in the APD Pilot Purchase.

Estimated Completion Date:

a). July 2016

### ***Finding No. 5***

The City overpaid for evidence.com usage and storage fees.

Recommendations:

APD Should:

Request a refund or credit for \$25,243 from Taser. The credit can be applied to Taser's next annual renewal invoice, which is due August 2015.

Response from APD:

Agree. APD will work with City Legal to reconcile the overcharge and pursue reimbursement.

Estimated Completion Date:

July 30, 2015 (subject to progress).



# City of Albuquerque

## Accountability in Government Oversight Committee

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### CAUTIONARY STATEMENT

DATE: June 9, 2015

TO: Peter Pacheco, Acting Inspector General

FROM: Accountability in Government Oversight Committee

RE: Special Investigation Report, Albuquerque Police Department,  
Body-Worn Camera Procurement, Case No. 14-207 (the “Report”)

On June 9, 2015, the Accountability in Government Oversight Committee (the “Committee”) received your final Report, which accepted some of the suggestions made by the Committee, and rejected others. The Committee recognizes the Inspector General’s right to accept or reject such suggestions. In voting to approve the Report, the Committee finds by a majority vote that the investigation is questionable pursuant to Section 2-10-5(L) Revised Ordinances of Albuquerque (“ROA”). The Committee hereby issues this cautionary statement to articulate its concerns.

The Committee supports most of the investigation and findings of the Acting Inspector General. Therefore, the Committee has approved the Report, subject to this cautionary statement. However, this statement is necessary to caution that, in the Committee’s opinion, the Report overstates certain conclusions, which are not supported by the evidence in the investigation. The Acting Inspector General concludes that certain actions are a “probable” violation certain City rules or ordinances. The Committee believes that “potential” or “possible” would be more consistent with the facts developed by the Acting Inspector General in his report.

With respect to Finding 1, the Committee received conflicting information about the status of employees on early retirement. There is insufficient evidence to conclude that an employee on early retirement is subject to the same personnel rules as other employees. The Committee agrees that the violations are possible, but not probable.

With respect to Finding 2, the Report indicates that the former Chief participated in the Taser procurement. The Report also indicates that the Chief, within one year of employment of the City of Albuquerque, acted as a contractor to Taser, representing the company to various police departments, but not to the Albuquerque Police Department.

The cited ordinance only forbids representation “in connection with a matter in which the former employee has performed an official act.” Section 3-3-7 ROA. The Report does not establish that the former Chief’s contract work with Taser was representation with respect to the Taser procurement in which he may have taken an official act. The actions may have potentially violated this ordinance, but the evidence presented by the Acting Inspector General does not support a conclusion that the violation is probable.