



APD Forward's Analysis of the Independent Monitor's Fourth Report

“At this point, it appears that the monitoring team is the only systemic overseer of on-street activities by APD officers.”

- Fourth Report from the Independent Monitor

We have nearly reached the two-year anniversary of the signing of the settlement agreement between the United States Department of Justice and the City of Albuquerque. While the Albuquerque Police Department (APD) has achieved some important reforms, not nearly enough progress has been made to create the systemic safeguards necessary to protect the residents of Albuquerque from unconstitutional and excessive force by APD officers.

To meet the initial planned four-year timeline for compliance, APD would need to be in operational compliance with 95 percent of the 278 specific settlement agreement tasks by November 14, 2016. In his fourth report, covering the period of April 1, 2016 through July 31, 2016, the independent monitor finds APD to be in operational compliance with 25 percent of those requirements. In other words, there is no conceivable way for APD to meet the existing four-year timeline. If APD is going to succeed in coming into compliance with the settlement agreement at any point in the near future it will have to address the concerns in the monitor's report in a systematic and effective manner. That is currently not happening.

Major issues raised by the monitor's fourth report include the following:

APD must systematically respond to each of the monitor's reports

In his fourth report, the monitor expressed his concern that APD isn't really reading and internalizing the findings in his reports.¹ He urges APD to carefully “dissect” each of these reports and come up with a systematic and focused method for addressing each of his findings. That includes determining ways to measure and assess progress with compliance, and assigning specific individuals and teams within APD to ensure that problems identified by the monitor are addressed. If this core issue isn't addressed the monitor believes that “the final result will be monitor report after monitor report that identify over and over the same issues preventing compliance.” The monitor's statement appears to indicate that leaders in the APD and in Mayor Berry's administration are not treating the monitor's findings with the urgency

¹ IMR-4, p. 350

they deserve. Contrasted with the Civilian Police Oversight Agency, which, according to the monitor, seems to be thriving under its new executive director, the APD does not appear to be operating with clear administrative direction and leadership.

Critical Incident Review Team

In the monitor's third report, released in July 2016, as well as in the special report he released in September 2016, he noted that APD had failed to create a culture of accountability within the department. In the fourth report, he writes that not much has changed. "[T]he agency has not yet moved forward with a system designed to craft, structure, implement, and maintain officer accountability for use of force," he states. In this latest report, he spotlights the creation of APD's Critical Incident Review Team (CIRT) to illustrate this point. The CIRT unit was created to review serious uses of force by APD officers, and it became operational during the monitor's fourth reporting period. The monitor identified several problems with CIRT including delays in conducting reviews, failure to truly attempt to locate witnesses or even alleged victims of excessive force by APD officers, failure to document the review process appropriately, and a general tendency to gloss over the investigative process in a way that ensures that use of force incidents will not receive serious review. The monitor believes that CIRT is largely functioning as a rubber stamp for use of force incidents. "This is a critical issue," he writes, "calling for immediate, forceful, and effective remediation."

APD Forward is particularly concerned that CIRT was responsible for the distribution of a memo claiming that *APD officers were actually underusing force in encounters with Albuquerque residents*. The monitor notes in this report that the memo constituted "ill-conceived guidance" to APD supervisors and officers. The American Civil Liberties Union of New Mexico, an APD Forward partner, filed a public records request with APD, seeking supporting documents for the memo. To date we have received no response from APD regarding this request. This is deeply concerning.

Document Dumps

The monitor has emphasized from the beginning of the reform process that he would only use "normal course of business" data, specifically selected by the monitor's team, to evaluate APD's compliance progress with the settlement agreement. Yet despite repeated warnings APD continues to send self-selected data to the monitor consisting of large volumes of unusable information. This violates agreements made by the parties on this issue, wasting enormous amounts of time and resources on the part of the City, APD and the monitoring team. APD should simply comply with its obligation to provide "normal course of business" data.

Community engagement

APD will never be reformed successfully if Albuquerque communities aren't authentically engaged in the reform process. The monitor has provided guidance to APD on instilling problem-oriented community policing practices in the department, so that APD and communities can work collaboratively on public safety issues throughout the city. To date, that important effort has been placed on the back burner. The monitor also notes that the Community Policing Councils in each of APD's six area commands are rapidly set to expire under the terms of the settlement agreement. Although APD Forward has found

various aspects of the councils, which were designed to create platforms for genuine APD-community dialogue, problematic, our observations lead us to share the monitor's concern that the CPCs are emblematic of the superficial and erratic nature of the APD's community outreach efforts up to this point in time.

Conclusion

Unfortunately, two years into this process, the monitor's fourth report reveals continuing deficiencies on the part of APD in putting systems in place that will allow the department to come into compliance with the 278 requirements in the settlement agreement, and truly transform the department in a manner that will endure long after court oversight concludes. Progress has been made, especially with regard to the functioning of specialized units, such as the SWAT, canine and bomb squad unit. APD Forward also sees the creation of the Office of Policy Analysis as a sign of good progress. The OPA has allowed APD Forward members to provide substantive feedback on department policies as they are drafted and reviewed. Indeed, the crafting and review of policy is one area in which APD has made marked improvement, and that has been noted by the monitor. We hope this trend will continue.

That said, APD clearly has a long way to go. This will not, as initially planned, be a four-year process. The monitoring team "have identified clear, meaningful, and serious lapses in training, supervision, and oversight of uses of force, and have called to APD's attention additional problems in reporting, analysis, and assessment of police operations, including use of force, training assessment and control, supervision and leadership." APD needs to assess and respond to each of the problems identified by the monitor in a manner that is timely, effective and systematic if the department is ever to come into substantial compliance with the settlement agreement. As it stands, we seem to be many years away from achieving that crucial objective.