



## ANALYSIS OF THE MONITOR'S THIRD REPORT

July 12, 2016

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***“The establishment of a culture of accountability begins at the top of an organization. Only when command level personnel begin challenging obvious performance deficiencies will change in APD’s performance and cultural underpinnings begin.”***

*- Dr. James D. Ginger*

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The Monitor assigned to oversee APD’s reform effort, Dr. James D. Ginger, issued his third report in July 2016. It analyzes APD’s efforts to comply with the settlement agreement between the City of Albuquerque and the U.S. Department of Justice, mainly covering the period from December 1, 2015 through March 31, 2016.

The Monitor’s third report once again makes clear that APD is facing huge challenges in coming into compliance with the settlement agreement. The single biggest issue is that APD’s system for tracking and responding to use of force incidents seems to be almost completely dysfunctional.

An underlying problem is that APD continues to fail to take responsibility for the reform effort and own the problems that led to the need to change its organizational culture in the first place. This issue is most evident at the command level where APD leadership has failed to lead by example. Throughout the report, Dr. Ginger notes points of contention between APD and the Monitor regarding whether or not APD is in compliance with certain requirements of the agreement. APD still lacks the self-awareness needed to be truly successful in the reform process. That said, although APD is largely failing to make adequate progress in complying with the most significant terms of the settlement agreement, the Monitor did praise the Civilian Police Oversight Agency and also noted improvements in the functioning of APD’s specialized units, including SWAT.

### **Use of Force**

The Monitor requested the total number of use of force cases that were investigated by APD during the third reporting period and asked for supporting documentation related to those cases. One particular use of force

investigation – involving a knee strike to a suspect’s head that rendered him unconscious – had so many issues that the monitor will do a full review of the case in a “special report” to be issued in late July 2016.

The monitor noted other numerous problems with APD’s use of force investigations and provided a non-exhaustive list of these issues in his report. The issues can be succinctly described as a failure of APD supervisors and command staff to recognize use of force issues, to reliably collect use of force data, to do any type of meaningful investigation, to recognize and address patterns of use of force that could implicate the need for meaningful policy review, and the failure of APD to realize that certain de-escalation tactics are inappropriate. Of particular concern is the failure of APD supervisors and command staff to recognize when officers’ accounts of what happened are directly contradicted by video evidence of the same incident.

In the Monitor’s second report, he noted specific examples of use of force investigations that were also troubling. It seems, however, that APD has either not read the Monitor’s previous report or ignored his feedback and suggestions. According to the Monitor, “[p]ast notification to the APD of problematic behavior have resulted in piecemeal, uneven, or, in some cases no, responses by APD, even after questionable incidents have been brought to APD’s attention by the monitoring team.” As an example, a problematic use of force investigation mentioned in previous reports involved the failure of investigators to review a crucial lapel video. That lapel video has since gone missing from APD evidence. The confidence of the APD investigators in that case and their contentment with their original finding “was particularly troubling because it was specifically referenced in [the monitor’s second report], which indicated to the monitoring team that the [APD] representatives did not read the content of [the monitor’s second report] pertinent to this case.” APD still has not resolved this case to the Monitor’s satisfaction.

#### **APD Will Likely Not Complete the Reform Process in Four Years**

While APD has not yet missed a deadline, serious concerns exist as to whether APD will be able to complete the reform process within its self-imposed four-year timeline. Several of the early deadlines for certain requirements were already extended, though the end timeline has not yet changed. The Monitor reports:

The critical issue confronting the monitoring team and the APD is to identify why critical components of [settlement agreement] compliance are continually running behind expectations, and as a result push problems “down-line.” This is particularly critical given the accelerated timeline the City has given itself for compliance with the [settlement agreement]. A four-year timeline is, in the monitor’s experience, very difficult to achieve. We have already seen what we believe to be sacrifices made to quality in the name of alacrity.

APD’s view that the settlement agreement is “a bunch of boxes to be checked off, is a critical error,” reports Dr. Ginger. In essence, he is warning APD to slow down, expand the timeline for reform if necessary, and focus on quality. This is the only way true and lasting reform can be achieved.