

EXTERNAL FORCE INVESTIGATION TEAM'S
(EFIT'S 1) NINTH AND FINAL Quarterly Report

EFIT 2's SIXTH QUARTERLY REPORT

September 19, 2023 – January 31, 2024

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EFIT Administrator
January 29, 2024

TABLE OF CONTENTS

	PAGE
Table of Exhibits.....	2
Introduction.....	3
EFIT 1 Final Report.....	3
EFIT Basis of Authority	9
Backlog Findings	14
Upcoming Dates.....	18

TABLE OF EXHIBITS

	PAGE
EXHIBIT A- STIPULATED ORDER (DOC. 720).....	4
EXHIBIT B- AMENDED STIPULATED ORDER (DOC. 906).....	5
EXHIBIT C- JOINT NOTICE (Doc. 1029).....	8
EXHIBIT D - REMEDIAL ACTION PLAN (DOC. 1028 & 1028-1).....	8

Introduction

1. Please accept this ninth and final quarterly report of the External Force Investigation Team (“EFIT”).¹
2. The EFIT Backlog Team (“EFIT 2” or “Backlog Team”) also herein submits its sixth quarterly report at this time.
3. For the sake of the timing and completeness of this report, the data contained herein covers September 15, 2023, to December 5, 2023, inclusive. Please note that EFIT 2 will file its next quarterly report on or about April 30, 2024.

EFIT 1 Final Report

4. As of this report,² and cumulatively since EFIT went live in July 2021 until December 5, 2023, 55 out of the 987 (5.77%) UOF investigations closed by EFIT/Internal Affairs Force Division (“IAFD”) were found not within the Albuquerque Police Department (“APD”) use of force (“UOF”) policy. Most significantly, 159 out of the 987 (16.10 %) of the UOF investigations closed by EFIT/IAFD were out of compliance when evaluated against the Process Narrative (Doc. 862).³
5. APD was under a federal monitorship since November 2014. With the potential of a Contempt of Court proceeding in early 2021, the DOJ and the City of Albuquerque entered

¹ While the Stipulated Order Establishing EFIT (Doc. 720) and its attendant mandate *did not require* EFIT to file quarterly reports, in the interest of transparency, the EFIT Executive Team (Messrs. Neier, Hurlock and Bone), decided to prepare and file quarterly reports for EFIT. The Order establishing the EFIT Backlog Team (Doc. 906), Statement of Work (“SOW”) requires that the EFIT backlog team prepare and file quarterly reports. For the sake of the timing and completeness of this report, the data contained herein covers September 15, 2023, to December 5, 2023, inclusive. However, EFIT, consistent with past practices, respectfully reserves the right to amend its report if necessary.

² For these statistical purposes EFIT will be using December 5, 2023, as a cutoff date unless otherwise noted.

into a Federal Stipulated Agreement to ensure APD conducted complete and thorough use of force investigations in a timely manner. On February 26, 2021, the United States District Court for the District of New Mexico granted a joint motion filed by the DOJ and the City of Albuquerque with the concurrence of the Independent Monitor Team. By entering a Stipulated Order (See Ex. A), it established an EFIT in the case *United States v. City of Albuquerque*, No. CIV. 14-1025 JB\SMV. (Doc. 720).

6. On May 2, 2021, a preliminary contract was signed between DLG, (Darryl Neier was named the EFIT Administrator), and APD enabling the EFIT Executive team (Darryl Neier, William Hurlock, Deputy Administrator and Darriell Bone, Lead Supervisor) to start providing technical assistance and establishing procedures foundational to the EFIT mission. EFIT executives collaborated with senior APD leadership, field commanders, specialized units, police union officials, and members of the involved community groups to transparently convey the EFIT's vision, mission, and core objectives.
7. Within the first three months, the EFIT, in collaboration with APD executives, developed numerous processes and procedures within the APD Internal Affairs Force Division ("IAFD") that became the foundation of our on-site mentorship and oversight function. The EFIT Executive team assisted in revising and publishing use of force investigation-related policies and temporary operations orders.
8. Additionally, the EFIT Executive team worked with APD IAFD to establish and incorporate a detailed Use of Force Investigative Process Narrative that governed the response and investigative protocols for all Level 2 and Level 3 UOF cases. These documented procedures for an IAFD/EFIT investigation were the basis for EFIT to evaluate IAFD. EFIT filed with the

Court an amended and revised Process Narrative that reflected the revised UOF policies effective January 26, 2023. (Doc. 979 and 981).

9. Within the first six months of commencing full operations on July 16, 2021, APD identified that IAFD had a backlog of 667 incomplete UOF investigations. Recognizing the early achievements of EFIT, and the potential that existed to attain closure on outstanding cases, an agreement was reached by the City of Albuquerque and the DOJ to have DLG establish a separate backlog team (“EFIT 2”) to investigate these UOF cases.
10. On March 21, 2022, the Court granted a joint motion filed by DOJ and the City with the concurrence of the Independent Monitor by entering an Amended Stipulated Order (See Ex. B), Establishing EFIT 2 (Doc. 906). The Amended Stipulated Order modifies and supersedes the Stipulated Order previously entered by the Court (Doc. 720).
11. The Amended Stipulated Order restates many of the Original Stipulated 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 2 to investigate all UOF incidents occurring from 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 DLG to assist IAFD to investigate new Level 2 and Level 3 UOF incidents (“New Force Cases”).
12. Pursuant to the relevant documents, EFIT was on call 24/7 and responded to all call outs within one hour of notification. All UOF investigations were completed within 60 days with

an additional 30-day supervisory review period for a total of 90 days from start to finish. Pursuant to the Amended Stipulated Order, EFIT conducted joint investigations with APD IAFD of all Level 2 and Level 3 UOF incidents. This included all tactical deployments, Officer-Involved Shootings (“OIS”) and in-custody deaths where UOF was utilized. EFIT also monitored and mentored civilian investigators and sworn detectives of IAFD, and assisted implementing APD policies concerning the UOF and IAFD personnel training.

13. The EFIT Executive team developed a detailed transition plan, consisting of four (4) phases, to ultimately graduate civilian investigators and sworn detectives using the methodology to accurately conduct UOF investigations without EFIT oversight. This transition plan, approved by APD and DOJ, went into effect on January 17, 2022, with the first detective graduating four (4) phases of comprehensive training and mentorship in June 2022, and a total of 12 detectives/investigators graduated the program.

14. While the EFIT administrator met on a weekly basis with the IAFD Commander, EFIT executives actively participated in, and attended, supervisor meetings, conducted weekly case status meetings (ultimately transitioned to IAFD), and actively participated in roundtable meetings on complex UOF investigations. Additionally, every two weeks the EFIT Executive team and APD Police Reform Bureau leaders met to discuss the progress and develop strategies to overcome any obstacles that would stall the progress of the EFIT, and ultimately the transition of oversight to APD. Initially, the EFIT Administrator met monthly with APD Chief of Police Harold Medina and City Attorney Lauren Keefe. While this was not required by either the Stipulated Order nor Amended Stipulated Order, Mr. Neier believed that transparency was of utmost importance and issued weekly status reports

to DOJ, the IMT, APD executives and City Legal, to provide real-time information and quickly resolve issues.

15. This weekly report was adopted by IAFD and became their responsibility to issue on a weekly basis to the Parties. Additionally, Mr. Neier believes in transparency for the Court, the community groups, and the residents of Albuquerque. Again, EFIT filed eight Quarterly Reports with the United States District Court informing all of EFIT's progress.
16. The EFIT Executive team understood the importance of meeting personally with involved community groups and Community Policing Councils ("CPCs"). Since May 2021, Messrs. Neier and Hurlock participated in monthly meetings with these groups, which typically included updates on the status of the EFIT and the notation of any concerns brought forth by involved community groups and/or CPCs.
17. Additionally, Messrs. Neier and Hurlock participated in public status hearings held by the Honorable James O. Browning, United States District Judge for the District of New Mexico every six months, formally presenting and fielding questions from the Court regarding its Quarterly Reports and APD/IAFD's progress.
18. On November 1, 2023, EFIT started an enhanced transition plan approved by DOJ. On December 5, 2023, five months ahead of schedule and within the contractual budget, the EFIT transitioned UOF Investigations back to APD IAFD. This success was due in large part to the EFIT's implementation of intensive technical assistance, mentorship, and proactive engagement with APD executives, DOJ, and the involved community groups with the cooperation of APD.

19. On December 18, 2023, a Joint Notice (Doc. 1029) was filed by DOJ and the City of Albuquerque announcing the transition from EFIT back to APD and IAFD of all new Level 2 and Level 3 UOF investigations (See Ex. C).
20. The processes established by EFIT, and some now enhanced by IAFD, will remain in place long after EFIT. These processes were memorialized by ADP in a Remedial Action Plan Quarterly Report filed with the Court on December 15, 2023 (Doc. 1028 and Doc. 1028-1) (See Ex. D).
21. During EFIT's tenure (July 2021 to December 2023), 1,102 UOF occurrences were jointly investigated⁴, and 1,544 interviews were conducted jointly by EFIT and IAFD, resulting in the following:

- Low-Level Control Tactics/Non-Force -14
- Level 1 UOF – 17
- Level 2 UOF – 864
- Level 3 UOF – 173
- Level 3 OIS UOF - 34
- Total Call Outs – 836
- Total UOF Cases Closed – 987 (57 or 5.77% Out of APD Policy).

22. When EFIT first started with APD in May 2021, approximately 10% of all cases investigated were out of policy, By December 31, 2023, this was reduced to approximately 3%. It stands as a true testament to the collaborative effort of EFIT and APD.
23. EFIT was committed to a successful transition to IAFD and since its first interaction with APD appreciated APDs position that eventually they needed to conduct UOF Investigations without EFIT oversight. EFIT's ground operations ended effective December 5, 2023. EFIT now transitioned all of the EFIT investigators to the backlog team.

⁴ Pursuant to the Stipulated Order EFIT assumed 13 UOF investigations between July 2021 and May 2022. Additionally, on February 7, 2023 EFIT issued a memorandum to the Parties outlining EFIT's disagreement with IAFD and ultimately APD's conclusion regarding a case.

24. EFIT stood shoulder-to-shoulder with APD and looks forward to phasing out the remainder of the final case review on January 31, 2024, with total independence granted to IAFD.
25. EFIT provided extensive training, mentorship, guidance, and technical assistance to APD and IAFD and if the protocols established by EFIT and IAFD are maintained, all parties and the public should have confidence that UOF investigations will be completed timely and at the highest of standards.
26. While EFIT now turns its attention to completing the UOF backlog investigations, on or before May 2024, the EFIT Executive Team remains present to provide any technical assistance requested by APD and/or IAFD.

Amended Stipulated Order and Backlog Force Cases (“EFIT 2”)

EFIT’s Basis and Authority

27. As stated previously, on March 21, 2022, the Court signed the Amended Stipulated Order (Doc. 906) that established and provided the authority for EFIT to investigate the APD UOF backlog cases pursuant to Exhibit 1 (Scope of Work or “SOW”) attached to the Amended Stipulated Order (Doc. 906) (See Ex. B).
28. EFIT 2’s original backlog team consisted of two groups with each group comprising a supervisor and three investigators. In an effort to capture certain efficiencies, the EFIT Executive Team reformed the teams and added a third and fourth team with a supervisor and investigators that were originally assigned to EFIT 1.
29. All members of the EFIT 1 team, and newly hired investigators, are now assigned to the Backlog Teams. These teams are now comprised of four groups. Each group has a supervisor and four Investigators. This reorganization allowed the Backlog Team to review cases more

expeditiously and efficiently, while not sacrificing accuracy. It is important to note that the EFIT Executive team will never sacrifice quality and thoroughness for expediency.

30. In April 2022, EFIT executives, with the assistance of APD, drafted the Backlog Methodology that was circulated to APD, DOJ and the IMT for comment. Final approval was received on April 27, 2022, and the Backlog Methodology was filed on May 16, 2022, by EFIT as an attachment to the EFIT Third Quarterly Report (Doc. 912). Additionally, on June 17, 2022, APD issued Special Order 22-76 Implementation of the External Force Investigative Team (“EFIT 2”).

31. Specifically, EFIT invoked that portion of the Amended Stipulated Order 22-76 as follows:

- A. The City shall enable the EFIT Administrator to establish a Backlog Team to complete investigations of the Backlog Force Cases in accordance with the 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.
- B. 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.
- C. 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.

D. 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.

E. Within 90 days after EFIT completes the 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.

32. The EFIT Executive Team identified additional candidates and added them to the backlog team.

33. While the audit of the backlog cases was completed by IAFD, the EFIT Executive Team expressed concern about the lack documentation and the use of sub-par verbal UOF Narratives for these cases.

34. If the EFIT Investigator cannot make a determination of the force incident, the matter will be reviewed by the team supervisor and if the supervisor concurs, the EFIT Executive Team will temporarily move the case into a category delineated as “Insufficient Documentation for Evaluation” to expeditiously complete those cases for which there is sufficient documentation to make a determination as to force. There were such 10 designations during this reporting period.
35. The EFIT Executive Team monitors this category and makes recommendations as to the investigation and/or closure of these cases. EFIT developed a modified report for all Level Two investigations that EFIT determines to be in-policy, with no unreported uses of force, and no potential criminal conduct.
36. Based upon an agreement between the Parties, the Data Analysis Unit conducted an analysis of the backlog UOF cases that are now considered a Level 1 UOF due to the new policy changes and the Third Amended CASA. These 51 cases are investigated only for any potential criminality, lawful objective, if the force was in or out of policy and for potential policy violations. UOF reporting and data tracking was developed, along with an APD Course of Business (“COB”) memorandum outlining the review process.
37. As of this report, Messrs. Neier and Hurlock presented 19 cases (4 are pending presentation) to the FRB that EFIT determined were out of APD Policy at the time the force was utilized.
38. In addition, during this reporting period, EFIT made no criminal referrals to MATF concerning a Backlog case.
39. The EFIT Backlog Force Case Investigation Teams are comprised of seasoned and experienced attorneys and former law enforcement personnel.⁵

⁵ The four teams previously identified along with the existing EFIT Executive and analytical Support Teams.

40. APD issued a Special Order (SO 22-76) outlining the cooperation expected from all Sworn APD Officers as the EFIT Backlog Team went “live” on June 20, 2022.

41. As previously noted, the Amended Stipulated Order restates many of the Original Stipulated Order’s requirements and supplements them. First, the Amended Stipulated Order requires the City to modify its existing contract to allow EFIT to investigate the Backlog Force Cases, namely, all use-of-force incidents occurring between January 1, 2020, through July 16, 2021, that APD did not investigate, in full or in part, in violation of the CASA, (Doc. 465-1). *See* 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.”

42. The EFIT Executive Team conducted a number of meetings with APD’s Accountability Bureau, including the Compliance and Oversight Division, and Data Analytics Division

43. calculated normative thresholds for UOF incidents to identify the Officer(s) who utilize force over the expected incident rate and are thus considered High Incident Officers.
44. With assistance from APD's Accountability Bureau, the EFIT Executive Team obtained the data on all Backlog Force Cases identified in the Amended Stipulated Order (Doc. 906).
45. Additionally, the EFIT Executive Team worked with members of the Accountability Bureau to develop a dashboard that is similar to the current IAFD case tracking and management dashboard, stratifying the data distributed to APD, DOJ and the IMT when reporting on the Backlog Force Case investigations. This dashboard was successfully tested by the Data Analytics Division and EFIT.
46. Backlog investigations review whether the Officers' actions were reasonable, necessary, proportional, minimal and within APD guidelines and SOPs and if the UOF was outside of APD's policies.
47. As of this report, EFIT assigned 596 UOF investigations to the backlog team for investigation. Prior to closure, each case is reviewed by the EFIT Executive Team and forwarded to APD and DOJ.

Backlog Findings:

48. The backlog teams completed their investigation of all backlog cases involving OIS and High Incident Officers.
49. EFIT found, as of as of January 20, 2024, that 24 of the 515 (4.60%) backlog cases investigated by EFIT were out of APD guidelines and policies. 58.25% of the cases were Level 2 UOF, 17.66% were Level 3 UOF, 1.55% were Level 3-OIS, and 17.86% were Level 1 UOF.

EFIT BACKLOG INVESTIGATIONS AS OF – January 20, 2024	
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Total Backlog	667
Assigned to EFIT Investigators	596
EFIT Investigators - UOF Investigations Closed	515
Total Cases with Insufficient Documentation to Investigate	10
Total Completed	525
Investigations Pending	142

50. Pursuant to the SOW, EFIT, when appropriate and/or warranted, will make observations and recommendations in its reports. The final reports and recommendations were sent to Deputy Chief Lowe who responded to EFIT, in writing, within 30 days. Deputy Chief Lowe was extremely responsive to EFIT’s recommendations. Due to the retirement of Deputy Chief Lowe on December 31, 2024, the UOF final reports and any recommendations will now be submitted to Deputy Chief Smathers.

The following table captures the highest level of force applied

Level of Force Applied	Number of Cases
Low Level Control	18
Level 1	92
Level 2	300
Level 3 – OIS	8
Level 3	91
Non-Force	6
Sub-Total	515
Insufficient Documentation	10
Total	525

The following table captures the highest level of force applied and the number of out of policy findings:

Type of Force Applied	Number of Cases	Cases Out of APD Policy
OIS	8	2
Intermediate Weapon System	69	15
Empty Hand Takedown	256	3
Empty Hand Control	99	1
Handcuffing w/ Injury	21	1
SOD	23	0
K-9	14	0
Low Level Control/Non-Force	23	0
PIT	2	2
Total	515	24

51. While not a requirement in the SOW, EFIT Executives discussed with Deputy Chief Lowe the need to issue a letter to the involved Officer(s) similar to the letter recommended by EFIT that is utilized by IAFD when a case is closed. This letter will include whether the closed case was within or outside APD policy, EFIT’s observations and recommendations and any administrative investigations that would have occurred if the investigation were completed in a timely manner. This letter serves not only as notification to the Officer(s), but as a best

practice to facilitate Constitutional policing.

52. If an APD Officer is identified as a High Incident Officer, upon completion of all cases involving the Officer, the EFIT Executive team will review and issue a memorandum detailing any patterns or practices identified.

53. The City responds 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.

- A. 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;
- B. 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;
- C. the EFIT recommendations made pursuant to the SOW that APD adopted or will adopt, and APD's plan for implementing them; and
- D. 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.

(Amended Stipulated Order Paras. C7 through C11) (See Ex. B).

Upcoming Dates

54. EFIT looks forward to presenting the final EFIT Backlog Quarterly Report to the Court and all parties in June 2024.

55. Once again, we thank the Court for the opportunity to submit this report. I, and my team, are available should the Court have any questions or need any additional information concerning EFIT, EFIT 2 or their attendant mandates.

Respectfully submitted,

Darryl S. Neier

Darryl S. Neier

Encls.

EXHIBIT A

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
FEB 26 2021

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

MITCHELL R. ELFERS
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE CITY OF ALBUQUERQUE,

No. CIV. 14-1025 JB\SMV

Defendant,

vs.

THE ALBUQUERQUE POLICE
OFFICERS' ASSOCIATION,

Intervenor.

**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 Stipulated Order, which requires 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, while also assisting APD with improving the quality of its own Internal Affairs (IA) force investigations. This Stipulated Order also requires the City to improve APD's IA processes, increase the number APD IA force investigators, and provide additional training to APD's IA force investigators. The Parties intend the measures in this Stipulated Order to ensure high-quality, timely investigations of Level 2 and Level 3 force incidents, and to address the investigative deficiencies in APD's IA force investigations identified in the Independent

RFJ
2/10/21

Monitor's Twelfth Report, Doc. 652. The Court approves this Stipulated Order and enters it as an Order of the Court.

A. Establishment of the External Force Investigation Team

1. The City shall establish an EFIT to guide and direct IA force personnel, and when necessary, conduct investigations of Level 2 and Level 3 uses of force; provide written assessments of IA investigations carried out by IA force personnel; and provide written feedback on IA force personnel's work product. *See* Doc. 465-1 ¶ 48 (defining Level 2 and Level 3 uses of force).
2. For the purposes of this Order, "IA force personnel" includes IA force investigators and supervisors, other than IA Commanding Officers; "investigations of Level 2 and Level 3 uses of force" include both investigations and the review of investigations by supervisors; and "Independent Monitor" may include members of the Independent Monitoring Team.
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 Order. It is anticipated that the EFIT Administrator will hire and retain a number of Investigators, as well as administrative support staff and Supervisors, as necessary to fulfill the duties under the EFIT Administrator's contract with the City. The EFIT Administrator shall ensure that a sufficient number of EFIT Investigators to meet the requirements of Paragraph 17 of this Order are physically present in Albuquerque and able to respond to the scene of Level 2 and Level 3 uses of force.
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. The EFIT Supervisors and Investigators shall have experience

and expertise in investigating law enforcement misconduct and the constitutional standards for police officers' use of force. Neither the EFIT Administrator, Supervisors, nor Investigators shall have any current or previous employment relationship or contract for services with APD or the City.

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.
6. The City shall widely publish a request for letters of interest for the EFIT Administrator no later than March 1, 2021. ^(S) ^{AOB} _{2/26/21}
7. The City shall accept input from the United States Department of Justice (DOJ) as the City solicits EFIT Administrator candidates and on the candidate that the City ultimately selects. DOJ shall provide input within two (2) weeks of receiving information about the candidates, unless otherwise agreed by the City and DOJ.
8. The contract between the EFIT Administrator and the City shall include all standard terms for City contracts.
9. Within two weeks of the EFIT Administrator's selection, the City and DOJ shall file a notice with the Court to inform the Court of the Administrator's identity and professional background.

10. The City shall enter into a contract with an EFIT Administrator no later than May 3, 2021.

11. Within one month of the EFIT Administrator's selection, the City and the EFIT Administrator shall establish protocols for how APD IA and EFIT will coordinate on investigations of Level 2 and Level 3 uses of force. At a minimum, the protocols will specify procedures for coordinating the work of IA force personnel and EFIT personnel; and how APD IA will transmit investigative files to EFIT. The protocols will specify that EFIT shall not assist APD IA with investigations of Level 2 and Level 3 uses of force for which the investigatory deadlines established by the Court-Approved Settlement Agreement (CASA), APD policy, and the Collective Bargaining Agreement between the City and the Albuquerque Police Officers' Association (CBA) have expired at the time that EFIT begins providing services. 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.

B. Staffing of IA Force Investigators; Technical Assistance

12. The City shall ensure that APD maintains at least twenty-five (25) force investigators assigned to IA, 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. The Independent Monitor has provided and will continue to provide extensive technical to the City regarding IA processes, including the period before an EFIT administrator is selected.

14. Based on the technical assistance set forth in Paragraph 13, within two months of the entry of this Order, the City will submit a proposed written IA investigative process to DOJ and the Independent Monitor. DOJ and the Independent Monitor will have 14 days to submit proposed revisions to the written IA investigative process. The City will have seven days to agree to or reject any proposed revisions. After the City, DOJ, and the Independent Monitor reach agreement on the proposed written IA investigative process, the written IA investigative process shall be filed with the Court. If the City, DOJ, and the Independent Monitor cannot reach an agreement on the proposed written IA investigative process, the City or DOJ may submit the matter to the Court for resolution.
15. After APD implements the written IA investigative process, the Independent Monitor will spend an additional week providing intensive technical assistance, in addition to the extensive technical assistance provided to date.
16. The City shall endeavor to negotiate longer investigative deadlines with the recognized exclusive representatives of relevant bargaining agreements. Nothing in this order requires the City to violate the Labor Management Relations Ordinance or any collective bargaining agreement.

C. Investigations of Level 2 and Level 3 Uses of Force

17. From the date the EFIT contractor begins services and subject to EFIT staffing levels, APD and EFIT will both deploy investigators to the scene for every Level 2 and Level 3 use of force, unless APD deploys an APD IA investigator who has satisfied the requirements of Paragraph 35.
18. APD IA investigators shall act as the lead on-scene investigators for all Level 2 and Level 3 uses of force 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 . . .

19. 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 provided. EFIT will acknowledge receiving all forwarded investigative documents, evidence, and notes.

20. IA force personnel and EFIT personnel shall jointly conduct investigations of all Level 2 and Level 3 uses of force, subject to the exception in Paragraph 23. IA force personnel and EFIT personnel shall jointly investigate and review all 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.
21. 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 Order. EFIT shall coordinate with APD and its legal counsel to access personnel, facilities, and documents in a reasonable manner. Should APD or its 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.
22. For each use of force investigation, EFIT shall evaluate the quality of IA force personnel's investigations and immediately notify APD and APD's legal counsel of any deficiencies or misconduct by IA force 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.
23. EFIT shall be authorized to complete investigations and supervisory reviews of investigations of Level 2 and Level 3 uses of force without the involvement of IA force personnel if either of the following conditions are met:

- a. EFIT or APD has alleged that the IA force personnel assigned to the investigation has committed misconduct in the course of the investigation, and EFIT believes that the IA force 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 the IA force 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.

24. EFIT shall provide written notice to DOJ, APD, and the Independent Monitor when EFIT exercises its authority under Paragraph 23 to complete investigations of Level 2 and Level 3 uses of force without the involvement of IA force personnel. EFIT's notice shall explain in writing the grounds for its actions. If DOJ or the City believes that EFIT's actions were improper, they will seek to resolve the matter with EFIT and the other party. If DOJ, APD, and EFIT cannot reach a resolution, DOJ or the City may bring the matter before the Court for resolution.

25. APD and EFIT shall identify all misconduct that occurred during the course of each use of force incident and provide information about all misconduct that it identifies to APD, for the purposes of screening, assigning an internal affairs number, and tracking by APD IA. IA force personnel and EFIT personnel shall complete the investigation of all misconduct related to the use of force, and APD IA shall complete the investigation of all misconduct not related to the use of force.

26. EFIT shall complete its investigations within 60 days of receiving on-scene investigation materials from APD. At the conclusion of each investigation, IA force personnel and

EFIT personnel shall prepare a joint investigative report, consistent with the requirements of the CASA and APD policy. In the report, IA force personnel and EFIT personnel shall recommend a determination of whether each use of force complied with APD policy and state and federal law. For any use of force for which the investigation determines that an officer violated APD policy or state or federal law, IA force personnel and EFIT shall recommend appropriate corrective and/or disciplinary action, consistent with the CASA and APD policy.

27. An IA Commanding Officer shall review each investigative report and recommendation, and state in writing whether he or she concurs with the report and recommendation's findings of whether the use of force complied with policy; the recommended disposition of any misconduct allegations; and any recommended corrective and/or disciplinary action. The IA 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.

D. Role of the Independent Monitor with Regard to EFIT

28. The Independent Monitor shall assist APD, DOJ, and the EFIT Administrator as the EFIT is established by, at a minimum:

- a. orienting EFIT 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 force 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.

29. The City recognizes that the requirements of Paragraph 28 of this 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 shall therefore enter into separate compensation agreements with the Independent Monitor for the provision of the services required by Paragraph 28 of this Order, as described in Paragraph 334 of the CASA.

30. 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 28 of this Order, this Order is not intended to, and does not, alter the responsibilities or authority of the Independent Monitor under the CASA.

E. Remedial Action Plan

31. Within five months of the start date of the contract with EFIT, the City shall draft a remedial action plan for IA force investigations and submit it to DOJ, the Independent Monitor, and the EFIT Administrator. The plan will identify concrete actions that the City and EFIT will take to improve the quality and timeliness of investigations of Level 2 and Level 3 uses of force by IA. 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.

32. 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 was 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 will include, at a minimum:

- a. a summary of the City's progress regarding the implementation of the written IA investigative process required by Paragraph 14, including a summary of the intensive technical assistance provided by the Independent Monitor;
- b. a summary of written evaluations by EFIT of the quality of IA force investigators' investigations during the previous quarter;
- c. a summary of written feedback by EFIT of IA force investigators' work product during the previous quarter;
- d. any formal training that IA force investigators received during the previous quarter;
- e. the number of force investigators assigned to IA and, if APD has not yet retained 25 force investigators, the steps that APD will take in the next quarter to achieve full staffing;

- f. the number of investigations or reviews of investigations that EFIT completed without the involvement of IA force personnel, pursuant to Paragraph 23;
- g. the number of IA force investigators conducting investigations independent of the EFIT, pursuant to Paragraph 35; and
- h. for Level 2 and Level 3 force investigations:
 - 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.

F. Training of IA Force Personnel

33. Subject to extensions necessary due to COVID-19-related restrictions and availability, and subject to the approval of the proposed contractor by the by the Monitoring Team and DOJ, within three months of the entry of this Order, APD shall identify and hire a contractor to who shall, in concert with APD's Academy, develop and provide training to IA force 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.

This training shall be subject to review and approval by the Independent Monitor and DOJ.

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

34. An IA Commanding Officer and EFIT shall prepare written evaluations of each investigator and supervisor who are assigned as IA force 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 Monitor and DOJ upon request and shall be kept confidential pursuant to the requirements of Paragraph 326 of the CASA. These evaluations shall include, at a minimum:
- a. a description of the nature and extent of all training provided to the IA force investigator or supervisor during the previous quarter;
 - b. a summary of written assessments by EFIT of the quality of the IA force investigator's or supervisor's investigations;
 - c. a summary of written feedback by EFIT on the IA force investigator's or supervisor's work product;
 - d. a description of any allegations that the IA force investigator or supervisor committed misconduct related to their investigations during the previous quarter, including how the allegation was ultimately resolved;
 - e. the number of the IA force investigator's or supervisor's investigations from the previous quarter in which the IA force investigator or supervisor failed to satisfy CASA requirements for investigations, compared to the number of investigations that the IA force investigator or supervisor conducted during the previous quarter;

- f. an evaluation of the IA force investigator's or supervisor's overall performance;
-
- and
 - g. any actions that will be taken during the following quarter to improve the IA force investigator's or supervisor's performance.
35. APD may transfer responsibility for conducting full investigations of Level 2 and Level 3 uses of force from EFIT to IA force personnel only after a quarterly evaluation demonstrates:
- a. that the IA force investigator or supervisor has received training on all aspects of Level 2 and Level 3 force investigations;
 - b. that the IA force investigator or supervisor has regularly conducted high-quality investigations for at least two months, as demonstrated by EFIT's written assessments of the investigations;
 - c. that the IA force investigator or supervisor regularly produces high-quality work product, as demonstrated by EFIT's written feedback;
 - d. that the IA force investigator or supervisor has not committed misconduct during the course of investigations; and
 - e. that 95% of the IA force investigator's or supervisor's investigations from the previous quarter satisfied all CASA requirements for investigations.
36. 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 IA force 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 IA force investigator or supervisor does not meet

the qualifications identified in Paragraph 35 of this 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 IA force 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.

37. 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 IA force investigators and supervisors meet the qualifications identified in Paragraph 35.
38. 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 nine (9) months of EFIT beginning to provide services. Within six (6) months of the EFIT beginning to provide services, the Parties will evaluate the progress of APD, to include considering whether the EFIT is contributing to improvements in the progress of APD to meet the requirements of the CASA. Based on this evaluation, the Parties will file a status report with the Court within seven (7) months of the EFIT beginning to provide services, indicating whether the services of the EFIT should extend beyond nine (9) months.
39. The City and DOJ agree to jointly ask the Court to terminate this Order once there are a sufficient number of IA force personnel who have met the qualifications identified in Paragraph 35 to complete all full investigations of Level 2 and Level 3 uses of force within the timelines required by the CASA, APD policy, and the CBA.

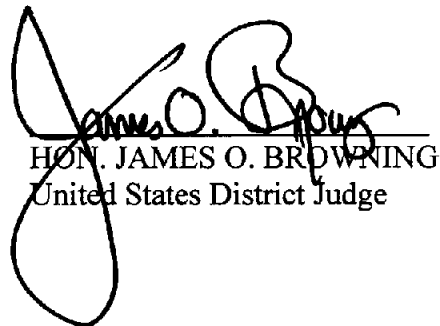
40. Notwithstanding Paragraph 39 of this Order, if the Independent Monitor, after conducting the informal assessments required by Paragraph 28(c) of this Order, or the formal assessments required by the CASA, determines that EFIT regularly fails to conduct investigations consistent with CASA requirements and APD policy, the City, with the concurrence of DOJ, may seek to terminate its contract with EFIT, and the Parties may seek to modify this Order accordingly.
41. If the City and DOJ are unable to reach agreement about asking the Court to terminate this Order, either Party may seek to terminate this Order. In the case of termination sought by the City, prior to filing a motion to terminate, the City agrees to notify DOJ in writing when the City has determined that there are grounds for termination of this Order. 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 Order. If the City moves for termination of this Order, DOJ will have 60 days after the receipt of the City's motion to object to the motion. 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 Order and that the grounds for termination of this Order are supported by a preponderance of the evidence.

The Court recognizes and approves of the measures in the Stipulated Order as good faith efforts by the Parties to address investigative deficiencies in APD's force investigations, as identified by the Independent Monitor in his Twelfth Report, and therefore approves this Stipulated Order as an Order of the Court.

THEREFORE,

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

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



HON. JAMES O. BROWNING
United States District Judge

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EXHIBIT B

**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

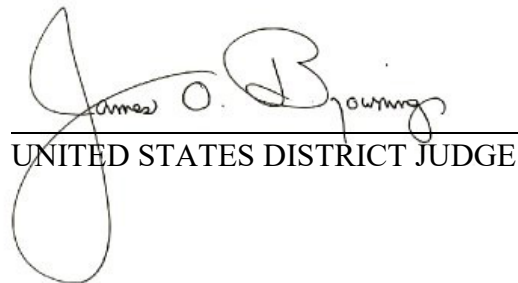
this Amended Order and that the grounds for termination of this Amended Order are supported by a preponderance of the evidence.

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.

EXHIBIT C

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

1:14-cv-1025 JB-JFR

THE CITY OF ALBUQUERQUE,

Defendant,

v.

**THE ALBUQUERQUE POLICE
OFFICERS' ASSOCIATION,**

Intervenor.

**NOTICE REGARDING THE TRANSITION OF THE INVESTIGATION OF ALL
NEW LEVEL 2 AND LEVEL 3 FORCE INVESTIGATIONS FROM THE EXTERNAL
FORCE INVESTIGATION TEAM BACK TO THE ALBUQUERQUE POLICE
DEPARTMENT'S INTERNAL AFFAIRS FORCE DIVISION**

Plaintiff United States of America and Defendant City of Albuquerque (collectively, the Parties), respectfully file this notice of their agreement, entered into with the consent of Intervenor Albuquerque Police Officers' Association (APOA), and approval of the External Force Investigation Team (EFIT) and Independent Monitor, to transition the investigation of all new Level 2 and Level 3 force investigations back to the Albuquerque Police Department (APD), Internal Affairs Force Division (IAFD), and end EFIT's mandate to assist APD in conducting investigations of Level 2 and Level 3 uses of force. *See* Doc. 720, at 1. The specific steps in the transition are laid out in Exhibit A, IAFD-EFIT Transition, Oct. 30, 2023. As a result, the only remaining operative provisions of the Amended Stipulated Order Establishing EFIT will be in

relation to EFIT's mandate to investigate the 667 cases in the backlog, of which 227 remain. *See* Doc. 906, ¶¶ 7–11.

THE AMENDED EFIT ORDER

On March 21, 2022, this Court entered an order amending a prior order from February 2021 that established EFIT, on a temporary basis, to assist APD in investigating Level 2 and Level 3 uses of force and to improve the quality of force investigations conducted by IAFD. *See id.* at 1. The Amended Order authorized EFIT to conduct joint investigations of new Level 2 and Level 3 uses of force as well as to independently conduct investigations of backlogged cases from January 1, 2020, to January 16, 2021. *See id.* The team supporting IAFD on current investigations is referred to as “EFIT-1” and the team investigating the backlog is “EFIT-2.”

The Amended Order contains several requirements of IAFD and EFIT-1. First, Paragraph 12 imposes a minimum staffing requirement for IAFD. It provides:

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.

Doc. 906, ¶ 12.

With one limited exception, the City has complied with the requirement to employ at least 25 investigators in IAFD since August 2021. *See* Doc. 1000-1, at 7. Although the City currently employs 25 investigators in IAFD, a recent staffing study conducted by APD indicates that only 19 investigators are needed to timely investigate all Level 2 and Level 3 uses of force, given IAFD's current case load. *See* Exhibit B, Staffing Study. This is due in part to IAFD's caseload decreasing by about 25% because of the decrease in Level 2 and Level 3 uses of force by APD officers and the recategorization of certain types of force from Level 2 to Level 1. *See* Doc. 990, IMR-17, at 25.

The City has also complied with the other provisions of the Amended Order regarding EFIT-1. Paragraph 13 of the Order requires the City to develop a process narrative which details steps that IAFD must follow in each investigation of Level 2 and Level 3 force events. The most recent process narrative is Doc. 989, filed on April 21, 2023. Between March and May 2023, IAFD was 100% compliant with the process narrative. *See* Doc. 1000-1, at 2.

Paragraph 22 of the Amended Order provides EFIT-1 with the authority to complete investigations and supervisory reviews without IAFD's involvement in two circumstances: First, if necessary to comply with mandatory deadlines under the CASA, and second, if IAFD personnel committed misconduct during the investigation and their continued participation is likely to undermine the integrity of the investigation. However, EFIT-1 has not assumed any cases pursuant to this authority since August 2022. *See* Doc. 995, at 1

Paragraphs 33 and 34 of the Amended Order lay out standards for transferring responsibility for conducting full investigations of Level 2 and Level 3 uses of force from EFIT to individual IAFD personnel, who would then conduct force investigations without EFIT-1's oversight and input. The Parties and EFIT developed a detailed transition process that aligns with the standards set out in the Amended Order. *See* Doc. 928-1, at 5. As of the date of this filing, nine current IAFD personnel have "graduated" from EFIT's transition process and now conduct investigations without EFIT oversight.¹

THE TRANSITION PLAN

The Amended Order anticipated that full responsibility for conducting Level 2 and Level 3 use of force investigations would return to APD over time, with a goal of responsibility returning

¹ Three (3) additional individuals have graduated the EFIT transition process but are no longer assigned as investigators in IAFD.

entirely to APD by March 2024. *See* Doc. 106 ¶¶ 36-37.² The City satisfied the requirements of the Amended Order related to EFIT-1, but the Amended Order cannot be terminated until EFIT-2 has completed investigations of the backlog. *See* Doc. 906 ¶ 38. Therefore, EFIT and APD have moved forward on the transition plan attached to this Joint Notice for new Level 2 and Level 3 force investigations. *See* Exhibit A, IAFD-EFIT Transition Plan. The transition plan has six components designed to ensure that IAFD can continue to complete investigations in a timely, thorough, and fair manner, as it has done for more than a year with EFIT-1's assistance.

First, IAFD created a division manual and orientation program for new IAFD investigators. *See* Exhibit C, IAFD Manual. The Independent Monitor and EFIT reviewed a draft of the manual and provided feedback, which IAFD incorporated into the final version. The manual and orientation program will help IAFD ameliorate the consequences of turnover and ensure that IAFD has an adequate number of trained personnel to complete Level 2 and Level 3 force investigations within the timelines required by the City's collective bargaining agreement with APOA.

Second, IAFD implemented a Field Training Officer (FTO) program for IAFD investigators who are new or in need of additional support. IAFD worked closely with the EFIT Executive Team in designing the FTO program. This on-the-job training model pairs experienced IAFD personnel with newer IAFD personnel to replicate EFIT-1's similar function. EFIT-1 remained in Albuquerque working with IAFD through December 5, 2023, focusing primarily on the eight IAFD investigators in Phase 0 to Phase 3 of the EFIT-1 graduation process. EFIT-1 identified areas of improvement for IAFD personnel and worked with them and their direct

² The Amended Order states that “[t]he 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.” Doc. 906 ¶ 37. The Court entered the Amended Order on March 21, 2022. *See id.*

supervisor to increase their capabilities. IAFD personnel identified as needing additional training will be placed in Phase 3 of the FTO program. On December 5, EFIT-1 investigators transitioned to the EFIT-2 team investigating the backlog of force cases.

Third, IAFD developed a rubric for evaluating whether the initial investigation and the supervisor's review comply with APD policy and the CASA. The rubric is attached as Exhibit D. The Independent Monitor and EFIT reviewed the rubric and provided feedback, which IAFD incorporated into the final version. IAFD also created a dashboard for tracking cases and performance of investigators and supervisors. This tool assesses IAFD personnel at various critical stages of investigations to ensure compliance with the process narrative and timelines, which enables APD to identify and address problematic trends before they become endemic.

Fourth, APD staffed an IAFD Deputy Commander as Quality Control Manager (QCM) to ensure consistency amongst commanding officer reviews, replicating the EFIT Executive Team's similar function. EFIT provided the QCM technical assistance as he began this new role, and the transition plan provides for a gradual reduction in EFIT's technical assistance over time. At first the QCM and EFIT jointly reviewed IAFD investigations, with EFIT closing the investigations after that review. Then the QCM reviewed cases on his own, with EFIT still responsible for closing each investigation. At present, the QCM is closing investigations without EFIT's involvement, though EFIT randomly samples closed investigations on a weekly basis, as a further quality control measure. EFIT's review of randomly sampled investigations will end early in 2024. See Exhibit A, IAFD-EFIT Transition.

Fifth, the EFIT Executive Team will remain available to assist IAFD with new Level 2 and Level 3 force investigations at APD's request. EFIT Administrator Darryl Neier will remain on-site in Albuquerque through EFIT-2's completion of the backlog, which will trigger the

termination of the Amended Order, which the Parties anticipate will occur in May 2024. The other members of the EFIT Executive Team, Darriel Bone and Bill Hurlock, will be available for meetings and/or visits to Albuquerque, at APD's request.

Sixth, APD will continue to regularly document IAFD's work to train personnel and complete investigations within timelines. APD will send DOJ and EFIT an IAFD weekly report and an FTO program weekly observation report. The Independent Monitor will continue to assess APD's compliance with Paragraphs 60–77, which address the timeliness and quality of Level 2 and Level 3 force investigations.

For these reasons, the Parties agree that a phased disengagement approach for EFIT-1 to transition to IAFD full responsibilities for Level 2 and Level 3 force investigations is appropriate. IAFD has demonstrated its capacity to complete investigations in a timely, thorough, and fair manner. IAFD has also set up systems to independently train, mentor, and oversee personnel going forward. Returning the responsibility for Level 2 and Level 3 force investigations back to APD while EFIT continues working on the backlog also provides the Parties, the Monitor, the Court, and the public an opportunity to evaluate the efficacy of APD's systems for investigating force, with a backstop still available if it is needed.

WHEREFORE, the Parties, with the consent of the Intervenor and the approval of EFIT and the Independent Monitor, respectfully submit this Notice of the Parties' agreement to transition the investigation of all new Level 2 and Level 3 force investigations back to APD's IAFD and end the EFIT-1 mandate pursuant to a phased disengagement approach.

Respectfully submitted December 18, 2023,

Plaintiff UNITED STATES OF AMERICA:

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2023, I filed the foregoing pleading electronically through the CM/ECF system which caused all parties or counsel and the Independent Monitor to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Ruth F. Keegan

RUTH F. KEEGAN
Counsel for Plaintiff United States

EXHIBIT D

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

1:14-cv-1025 JB/JFR

THE CITY OF ALBUQUERQUE,

Defendant,

v.

**THE ALBUQUERQUE POLICE
OFFICERS' ASSOCIATION,**

Intervenor.

**NOTICE OF FILING EXTERNAL FORCE INVESTIGATION TEAM
STIPULATED ORDER REMEDIAL ACTION PLAN QUARTERLY REPORT**

COMES NOW, Defendant City of Albuquerque, and hereby files the attached “Albuquerque Police Department Internal Affairs Force Division Current Process, dated December 8, 2023” (Exhibit A).

On March 21, 2022, the Parties filed an *Amended Stipulated Order Establishing an External Force Investigation Team* (Amended Stipulated Order). See Doc. 906. Paragraph 31 of the Amended Stipulated Order requires the City to “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 EFOT's written feedback on the work product of IAFD investigators during the previous quarter;
- d. identify any formal training the IAFD investigators received during the previous quarter;
- e. identify the number of force investigators assigned to IAFD and, if APD has not yet retained twenty-five (25) investigators, the steps that APD will take in the next quarter to achieve full staffing;
- f. identify the number of investigations or review of investigations the 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, 2023, 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. Doc. 906 at Paragraph 31.

The Albuquerque Police Department EFIT Stipulated Order Amended Remedial Action Plan Quarterly Report as Exhibit A hereto, which the City now files with the Court as required by Paragraph 31 of the Amended Stipulated Order.

Respectfully submitted:

Defendant City of Albuquerque

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2023, I filed the foregoing pleading electronically through the CM/ECF system which caused all parties or counsel and the Independent Monitor to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Taylor S. Rahn
Taylor S. Rahn



**ALBUQUERQUE POLICE DEPARTMENT
INTERNAL AFFAIRS FORCE DIVISION CURRENT PROCESSES**

December 08, 2023

The purpose of this document is to outline the current investigative process at IAFD to investigate Use of Force cases. This document is intended to fulfill the requirements of Paragraph 14 of the February 26, 2021, Stipulated Order in *United States v. City of Albuquerque*, 14-cv-1025. This document reflects the current investigative process at IAFD. The remedial action plan created pursuant to paragraph 31 of the Stipulated Order will supersede this investigative process.

- 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.**

The process narrative includes multiple investigative and administrative steps that the Internal Affairs Force Division (IAFD) is required to complete for each Level 2 and Level 3 use of force investigation. The External Force Investigative Team (EFIT) conducts evaluations of IAFD investigations and determines whether each force case is in or out of compliance with this process narrative. Please note that this is different than the determination of whether the use(s) of force is in or out of policy. During this last quarter, APD has maintained progress in complying with the IAFD process narrative required by Paragraph 13. IAFD has increased or maintained its average compliance from 95% or above from the third quarter to the fourth quarter with the process narrative:

September 2023

45 total cases

In: 44

% in: 97%

Out: 1

% out: 3 %

October 2023

37 total cases

In: 36

% in: 97%

Out: 1

% out: 3 %

November 2023

11 total cases

In: 11

% in: 100%

Out: 0

% out: 0%

We believe a major contributor to this success is the continued use of the Investigative Plan. Supervisors have continued the responsibility for directing the investigation. Through this Investigative Plan, there has been a significant increase in compliance ratings.

IAFD continues to use the quality control dashboard created last quarter (also mentioned in the last quarterly report) to help assess and make improvements on IAFD investigations and reviews. Below are tables taken from the dashboard illustrating IAFD's progress from its inception to present date.

Monthly IAFD Call-Out Scorecard

Metric	JUL	AUG	SEP	OCT	NOV	DEC	Overall	Legend
# of Call-Outs Reviewed	45	16	19	19	67	1	167	
Criminal Conduct Identified	100%	100%	100%	100%	100%	100%	100%	95-100%
IAR Initiated	100%	100%	100%	100%	100%	100%	100%	85-94%
Evidence Collected	100%	100%	100%	100%	100%	100%	100%	≤ 84%
Interviews Conducted	100%	100%	100%	100%	100%	100%	100%	
Identified Involved Officers	100%	100%	100%	100%	99%	100%	100%	
Documented Involved Officers	100%	100%	100%	100%	100%	100%	100%	
No Leading Questions	100%	100%	100%	100%	100%	100%	100%	
Injuries Addressed	98%	100%	100%	95%	100%	100%	99%	
Canvassed for Witnesses	93%	100%	100%	100%	99%	100%	99%	
Identified Witnesses	100%	100%	100%	100%	100%	100%	100%	
Interviewed Witnesses	100%	100%	100%	100%	100%	100%	100%	
Encouraged Witness Statements	96%	100%	100%	100%	100%	100%	99%	
APD Witness Statements	100%	100%	100%	100%	100%	100%	100%	
APD Admonishments	100%	100%	100%	100%	100%	100%	100%	
Data as of 7/1/23								

Monthly IAFD Sergeant Review Scorecard

Metric	JUL	AUG	SEP	OCT	NOV	DEC	Overall	Legend
# of Call-Outs Reviewed	45	16	19	19	67	1	167	
Criminal Conduct Identified	100%	100%	100%	100%	100%	100%	100%	95-100%
Classified Force	100%	100%	100%	100%	90%	100%	98%	85-94%
Identified All Force	97%	97%	100%	100%	92%	100%	97%	≤ 84%
IAR Initiated	94%	97%	100%	100%	97%	100%	98%	
Evidence Collected	100%	100%	100%	100%	97%	83%	97%	
Interviews Conducted	100%	100%	100%	100%	99%	100%	98%	
Investigative Credibility	100%	100%	100%	98%	100%	100%	100%	
Made Revisions	94%	100%	100%	98%	97%	100%	98%	
Follow-Up Measures	97%	97%	96%	96%	100%	100%	98%	
Identified Involved Officers	100%	100%	100%	100%	100%	100%	100%	
Documented Involved Officers	97%	100%	100%	100%	100%	100%	99%	
Addressed Inconsistencies	94%	100%	100%	98%	100%	100%	99%	
Findings for Each UOF	97%	100%	100%	100%	90%	100%	98%	
No Leading Questions	94%	100%	96%	98%	100%	100%	98%	
No Boilerplate	88%	92%	100%	98%	100%	100%	96%	
Injuries Addressed	100%	100%	100%	98%	97%	100%	99%	
Canvassed for Witnesses	97%	100%	100%	100%	95%	100%	99%	
Identified Witnesses	100%	100%	100%	100%	97%	100%	100%	
Interviewed Witnesses	100%	100%	100%	100%	97%	100%	100%	
Document Witnesses	50%	100%	100%	100%	97%	100%	91%	
Encouraged Witness Statements	100%	100%	100%	100%	100%	100%	100%	
APD Witness Statements	100%	100%	100%	100%	100%	100%	100%	
APD Admonishments	100%	100%	100%	100%	100%	100%	100%	
CBA Compliance	100%	100%	100%	100%	100%	100%	100%	
Data as of 7/1/23								

Monthly IAFD Command Review Scorecard

Metric	JUL	AUG	SEP	OCT	NOV	DEC	Overall	Legend
# of Call-Outs Reviewed	45	16	19	19	67	1	167	
Criminal Conduct Identified	100%	100%	100%	100%	96%	N/A	99.2%	95-100%
Analyzed Evidence	100%	100%	100%	100%	96%	N/A	99.2%	85-94%
Quality Investigation	100%	100%	100%	93%	85%	100%	96%	≤ 84%
Addressed Inconsistencies	100%	100%	100%	98%	100%	100%	100%	N/A
Classified Force	100%	100%	100%	100%	92%	100%	99%	
Identified Policy Violations	100%	100%	100%	100%	100%	100%	100%	
IAR Initiated	100%	100%	100%	100%	96%	100%	99%	
Identified All Force	100%	100%	100%	100%	100%	100%	100%	
Corrective Action	100%	100%	100%	100%	100%	100%	100%	
Reviewed OBRD	91%	100%	100%	97%	92%	100%	97%	
Identified Concerns	100%	97%	96%	98%	96%	100%	98%	
Supervisor Made Revisions	100%	100%	100%	100%	100%	100%	100%	
Investigator Follow-Up	100%	100%	100%	98%	100%	100%	100%	
Evaluated for Canvass	100%	100%	100%	100%	100%	100%	100%	
Evaluated Witness Identification	100%	100%	100%	100%	100%	100%	100%	
Evaluated Witness Interviews	100%	100%	100%	100%	96%	100%	99%	
Evaluated Witness Documentation	100%	100%	100%	100%	100%	100%	100%	
Evaluated Witness Encouragement	100%	100%	100%	98%	100%	100%	100%	
Review the Investigator's Interviews	96%	83%	96%	79%	77%	100%	88%	
Finding for Each Use of Force	100%	100%	100%	100%	90%	100%	98%	
No Leading Questions	100%	100%	100%	100%	100%	100%	100%	
No Boilerplate	100%	100%	96%	100%	96%	100%	99%	
Data as of 7/1/23								

The dashboard has allowed IAFD supervisors to quickly identify needed areas of improvement at all levels and take corrective action in the event an investigation or supervisory review is shown to be deficient.

IAFD made no requests for technical assistance by the IMT during this quarter, instead focusing on direct communications with EFIT.

In the event IAFD identifies the need for additional technical assistance beyond normal day-to-day assistance, IAFD will request in writing to EFIT, which will include specific needs for technical assistance. A copy of a request will be provided to the Independent Monitor Team (IMT) and Department of Justice (DOJ). There were no requests this quarter for further assistance.

b. Summarize EFIT's written evaluations of the quality of investigations conducted by IAFD investigators during the previous quarter.

In the previous quarters, EFIT submitted weekly reports to APD, DOJ, and IMT for review and consideration. These reports provided insight into IAFD's progress and EFIT's overall process.

In June 2023, IAFD assumed responsibility for this weekly report and modified report content and reflects a summary of each call out for the week, the responding investigator/detective, the assigned investigator/detective, the involved and witness officers, the individual whom we used force upon, level(s) of force used, the number of force cases generated that week, the number of force cases completed that week, the current number of force cases to date, the average number of force cases per investigator/detective, the average number of days for IAFD completion of force cases closed for this reporting period, and process narrative compliance levels.

EFIT completes and provides written evaluations after the completion of each force investigation. The evaluations are two-fold, to provide evaluations of the work product and to provide feedback on the quality of investigation.

EFIT's written evaluations of the quality of the investigation is included in the observation section, which includes topics such as, the quality of interviews and on-scene responsibilities. In October of 2023, IAFD and EFIT continued the EFIT disengagement process by redefining the role of a deputy commander. Previously, this deputy commander oversaw several teams of investigators/detectives and sergeants in charge of those teams. He completed command reviews of their investigations and the first line reviews. His role has changed to a quality control measure. His new responsibility is to ensure the investigations, first-line reviews, and command reviews are meeting the requirements relative to their roles in order to ensure the consistency, completeness and thoroughness required by policy and CASA.

c. Summarize EFIT's written feedback on the work product of IAFD investigators' during the previous quarter.

EFIT completes and provides written evaluations after the completion of each force investigation. The evaluations are two-fold, to provide evaluations of the work product and to provide feedback on the quality of investigation.

EFIT's written feedback on the work product of IAFD investigators has proven helpful, assisting in thorough and accurate investigations and timeline compliance. In addition, the revision of investigative plans assisted in keeping the investigators and supervisors within timelines and ensuring effective interview preparation.

EFIT's written feedback for work product includes, but is not limited to, topics such as, review and comment on the use of the investigative plan and an overall evaluation of the process narrative.

IAFD has used EFIT's feedback as an opportunity to regularly initiate roundtable discussions on all complex investigations (including EFIT and Internal Affairs Professional Standards personnel).

Communication at all levels within IAFD and the APD Police Reform Bureau has sustained high levels over the last quarter, these include, but are not limited to: bi-weekly meetings with Executive Director

Garcia, Deputy Director Cottrell, Deputy Director Collins, Commander Norris and EFIT Executives; weekly status meetings between IAFD Command Staff and EFIT Executives; roundtables and weekly briefings on high profile and/or sensitive investigations; coordination between IAFD IAPS; and joint APD training opportunities for IAFD and EFIT investigators.

Similar to the above, any request for more detail in evaluations will be completed in writing to EFIT along with notification to the DOJ and IMT.

d. Identify any formal training that IAFD investigators received during the previous quarter.

IAFD is committed to providing the best quality training to its personnel to ensure compliance with the Court Approved Settlement Agreement (CASA), Standard Operating Procedures (SOP), the APD/EFIT Process Narrative, and best practices associated with conducting administrative investigations.

Training begins with new IAFD personnel receiving a training manual designed to orient new personnel to the overall mission of the Internal Affairs Force Division by providing a succinct history of the Department of Justice's involvement, the Court Approved Settlement Agreement (CASA), and the Stipulated Order for the External Force Investigation Team (EFIT). Additionally, the manual outlines important APD Standard Operating Procedures (SOP) that govern an officer's decision to use force along with APD's responsibilities to investigating use of force incidents. Finally, the manual provides an overview of the processes within IAFD, an investigator's responsibilities, and forms that are necessary to meet the demands of the CASA and SOP. While this manual serves as an introduction to IAFD, it is supplemented by practical application, one-on-one mentoring, and proficiency evaluations.

IAFD Personnel On-boarding Training –

IAFD has sent four (4) new personnel through the on-boarding training this quarter.

Additional Training

This quarter, eleven (11) personnel were sent through the Special Weapons and Tactics initiation presentation and seven (7) who went through Reality Based Training, they also the most recent Use of Force Policy suite.

This quarter, IAFD began a pilot project to create a more extensive on-the-job (OJT) training program for new personnel. IAFD chose four (4) investigators/detectives to become investigative trainers who have graduated from the EFIT transition process.

OJT shall consist of 90 days to be completed by new personnel by completing the prescribed division training in order to prepare them to perform their investigative duties in a solo capacity. Onboarding is approximately 35 days which will mirror the field training process and make it a four (4) month program. If the trainee has not successfully met the benchmarks to conduct investigations independently, the OJT can be extended.

Assessment of trainee:

- IAFD has created a weekly observational report indicating whether the trainees passed, passed with needed improvement, or failed specific benchmarks within the categories of foundational skills, on-scene investigations, and follow-up investigations. These weekly observational reports are to be filled out by the investigative trainer.

Remediation, Extension, or Dismissal:

- Training deficiencies may be noted by anyone in the OJT trainee's chain of command.
- A trainee who has failed to meet the minimum performance standards by the end of the training process will result in an extension based on the number and seriousness of the identified deficiencies. The trainees' status will be reviewed by the chain of command if there are any additional failures after the extension.
- Under no circumstances shall a trainee be released early from OJT without completing all training.

Case responsibility for investigative trainers:

- An investigative trainer's caseload will be reduced while they are actively training new personnel. However, the number of cases will vary depending on the division caseloads and call-outs;
- An investigative trainer will attend all meetings pertaining to the investigation assigned to the trainee;
- An investigative trainer coordinator will meet weekly with the investigative trainer, the trainee, the assigned sergeant, and the assigned deputy commander to manage and evaluate the trainee's progress.

Currently, we have two (2) new personnel who are working their way through this program.

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.

APD met the requirement for 25 investigators in August 2021 and has maintained twenty-five or more investigators continually since that date.

IAFD investigative personnel includes a combination of sworn and civilian, professional staff investigators. There are ongoing efforts of hiring and training professional staff investigators and recruiting and filling vacant sworn positions. APD has created more positions than required to ensure

the department does not fall under the required number of investigators. IAFD currently has 27 investigators/detectives assigned to the division. The process of interviewing and hiring new professional staff has been continuous throughout the quarter. During this quarter one (1) investigator left the division but IAFD backfilled that loss with three (3) additional professional staff hires. All three (3) are currently in on-boarding.

Sustained staffing continues to be a concern for the DOJ, IMT, and EFIT. While APD understands this concern, the department has maintained over 25 investigators for more than two years, which the City considers to be a success based on past struggles. Of those detectives/investigators, there are seven (7) detective/investigators who have been in the division for two years or more and eleven (11) for a year or more.

Over 2 years

Last name	First name	Title	Hire date	Current assignment date
Morales	Daniel	Detective	08/23/2003	08/10/2018
Sims	Logan	Detective	11/24/2018	12/07/2019
Dickinson	Tanya	Investigator	06/19/2021	06/19/2021
Guido	Andrea	Investigator	06/19/2021	06/19/2021
Aragon	Hugenia	Detective	03/03/2018	09/12/2021
Lopez	Edward	Investigator	10/09/2021	10/09/2021
Heisey	Lane	Detective	10/13/2018	12/01/2021

Over 1 Year

Last name	First name	Title	Hire date	Current assignment date
Lisenbe	Ian	Investigator	04/09/2022	04/09/2022
Hernandez	Matthew	Investigator	04/09/2022	04/09/2022
Guzman	Omar	Investigator	04/09/2022	04/09/2022
Armijo	Monaco	Investigator	06/04/2022	06/05/2022
Mcafee	Pia	Investigator	08/27/2022	08/27/2022
Valdez	Marlene	Investigator	02/04/2017	09/24/2022
Sanchez	Luciano	Investigator	09/24/2022	09/24/2022
Padilla	David	Detective	08/23/2003	11/05/2022
Romero	Jasmin	Detective	06/19/2021	11/05/2022
Gutierrez	Erica	Investigator	10/23/2021	11/19/2022
Tsethlikai	Jeremy	Investigator	11/19/2022	11/19/2022

The division has four (4) deputy commanders, one (1) of which is in an acting capacity. Of those, three (3) have been in the division for over a year and a half, all adding value in their designated roles. While a seasoned and experienced commander was assigned to IAFD in June 2022, many steps have been taken

to better the department to include recruiting into the division. IAFD is continuously building its capacity at the supervisory level as well as the investigator/detective level.

There are going to be opportunities for some of these supervisors to return to IAFD in higher-ranking capacities when positions become available. For those who do not return, their training and experience can transfer into their new positions while benefiting the department and other officers external to the division. IAFD continues to prepare for inevitable promotions, retirements, resignations, or transfers by recruiting at various ranks into the division.

Any law enforcement agency anticipates fluctuation within its department and APD is not any different. IAFD retained a core group of personnel within the last 24 months and all this was done with continued and close oversight. This is commendable and the City again considers this a success.

Current breakdown of IAFD personnel

Commander -1

Deputy Commanders – 4 (one of which is in an acting capacity)

Lieutenants – 1

Sergeants – 5

Sworn Detectives – 8

Civilian investigators - 18

IAFD has restructured the division and redefined the roles of several of its supervisors.

One of our deputy commander's responsibilities of overseeing two teams including their sergeants were transferred to another deputy commander who was previously assigned to all misconduct reviews.

The IAFD lieutenant is now assigned to quality control of all misconduct investigations. His role is to review of all pertinent information associated with the misconduct case. This includes but is not limited to:

- IA Requests
- Blue Team Entries
- Police Reports
- Cad Print outs
- SOP
- Use of Force Reports
- IAFD Narrative/Investigation
- OBRD (Force, Interviews, etc)
- Transcripts, if applicable
- Target Letters
- Retention Cards
- DC and Chief Recommended Findings forms

- Preliminary Findings

During review of cases, the lieutenant ensures appropriate citations to evidence are noted, proper SOP is used, and ensure proper formatting and grammar are used. Corrections are then sent back to the Investigator/Detective with a given deadline for needed corrections or clarifications.

When a misconduct case has a finding of "Sustained", a disciplinary action packet is then composed. This Packet has a required two-signature section. This is to ensure that the Lieutenant Review is valid and complete.

This disciplinary action packet also includes a calculation for presumed discipline which is based on alleged violations.

Once the lieutenant review is completed, the status is then changed to a Command Review and routed to the Commander and the respective Deputy Commander for their respective Review.

f. Identify the number of investigations or reviews of investigations that EFIT completed without the involvement of IAFD personnel, pursuant to Paragraph 23;

For this quarter, no investigations or reviews were completed by EFIT without the involvement of IAFD personnel. However, the investigators/detectives perform all the work with EFIT's review and evaluation.

g. Identify the number of IAFD investigators conducting investigations independent of the EFIT, pursuant to Paragraph 35;

EFIT has developed a transition plan to determine when an investigator has met the criteria to investigate cases without oversight.

As of this report, the EFIT Executive Team identified two (2) Detective(s)/Investigator(s) from IAFD that advanced into phase 1 of the Transition Process. Two (2) IAFD Detective/Investigator is currently in Phase 2, one (1) IAFD Detectives/Investigators are currently in Phase 3, and four (4) IAFD Detectives/Investigators are currently in Phase 4. IAFD currently has nine (9) EFIT graduates and is on pace to graduate three (3) more by then end of the next quarter. EFIT graduates investigated and completed 43 cases between 9/7/23 – 12/7/23.

- h. For investigations of Level 2 and Level 3 use-of-force incidents that occurred after June 1st, 2022, 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.**

All cases were completed within the deadlines by the CASA, policy, and CBA.

The following table has been revised to adjust previous quarters based on current data. The data reflects force incidents investigated by IAFD in the relevant period.

	December 1, 2021 to February 28, 2022	March 1, 2022 to May 31, 2022	June 1, 2022 to August 31, 2022	September 1, 2022 to November 30, 2022	December 1, 2022 to February 28, 2023	March 1, 2023 to May 31, 2023	June 1, 2023 to August 31, 2023	September 1, 2023 to November 30, 2023
<i>Total New Investigations</i>								
Total investigations started	75	114	120	124	93	113	115	90
Total Level 2s started	60	88	93	90	78	92	91	72
Total Level 3s started	15	26	27	34	15	21	24	18
<i>Total Completed investigations</i>								
Investigations completed	106	81	116	113	123	98	110	112
Level 2s completed	86	66	88	88	87	83	92	88
Level 3s completed	20	15	28	25	36	15	18	24
Average days to complete	89	86	85	87	89	87	87	88
Minimum days to complete	75	69	32	51	73	22	79	52
Maximum days to complete	90	90	90	121*	125**	90	90	90

*Extension granted by US DOJ and Independent Monitor. All other investigations closed within 90 days of receipt by IAFD.

**Investigation was initially completed within 90 days but reopened for further review. All other investigations closed within 90 days of receipt by IAFD.