



IntegrAssure

OFFICE OF THE INDEPENDENT CONSENT DECREE MONITOR FOR THE CITY OF AURORA

Report of the Independent Consent Decree Monitor

Reporting Period 4

Covering November 16, 2022 - February 15, 2023

Issued: April 15, 2023

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	1
SUMMARY OF ASSESSMENTS OF MANDATES	2
FOURTH QUARTER ORGANIZATION AND ACTIVITIES	3
FOCUS ISSUES	4
RENEWED EFFORTS TO COMPLY WITH THE CONSENT DECREE	4
YEAR IN REVIEW	6
STAKEHOLDER ENGAGEMENT	7
ESTABLISHING AN EFFICIENT AND EFFECTIVE PROCESS FOR THE MONITORSHIP	8
TECHNICAL ASSISTANCE	9
COMMUNITY ENGAGEMENT	12
CIVIL SERVICE COMMISSION DISCIPLINARY PROCESS - DE NOVO REVIEW	13
HIRING AND PROMOTION ISSUES	14
ENTRY-LEVEL HIRING DECISION - 2020	14
ENTRY-LEVEL HIRING DECISION - 2022	16
PROMOTION OF AN OFFICER TO AGENT	17
LATERAL HIRE DECISION - 2022	18
REINSTATEMENT OF AN OFFICER DECISION 2022	19
SELECTION FOR SPECIAL ASSIGNMENT	19
QUESTIONS RELATIVE TO THE WHOLE PERSON REVIEW AND MODIFICATION OF MINIMUM QUALIFICATIONS	21
NPI REPORT	22
ICAT TRAINING	22
ASSESSMENT OF MANDATES THIS REPORTING PERIOD	24
POLICIES AND TRAINING GENERALLY	25
INTRODUCTION	25
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION	26
ADDRESSING RACIAL BIAS IN POLICING	36
INTRODUCTION	36
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	37
CONSENT DECREE'S OBJECTIVES	37
POLICY IMPLICATIONS	38
TRAINING IMPLICATIONS	38
OPERATIONAL INTEGRITY IMPLICATIONS	38
DATA UTILIZATION	38
PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD	39
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION	39
USE OF FORCE	50
INTRODUCTION	50
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	50
CONSENT DECREE'S OBJECTIVES	51
POLICY IMPLICATIONS	51
TRAINING IMPLICATIONS	51
OPERATIONAL INTEGRITY IMPLICATIONS	52

DATA UTILIZATION	52
PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD	52
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION.....	53
DOCUMENTATION OF STOPS	68
INTRODUCTION	68
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	69
CONSENT DECREE'S OBJECTIVES.....	70
POLICY IMPLICATIONS.....	70
TRAINING IMPLICATIONS	70
OPERATIONAL INTEGRITY IMPLICATIONS	70
DATA UTILIZATION	70
PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD	71
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION.....	71
USE OF KETAMINE AND OTHER SEDATIVES AS CHEMICAL RESTRAINT	75
INTRODUCTION	75
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	76
CONSENT DECREE'S OBJECTIVES.....	77
POLICY IMPLICATIONS.....	77
TRAINING IMPLICATIONS	77
OPERATIONAL INTEGRITY IMPLICATIONS	78
DATA UTILIZATION	78
PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD	78
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION.....	78
RECRUITMENT, HIRING AND PROMOTION	84
INTRODUCTION	84
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	85
CONSENT DECREE OBJECTIVES.....	86
POLICY IMPLICATIONS.....	86
TRAINING IMPLICATIONS	86
OPERATIONAL INTEGRITY IMPLICATIONS	86
DATA UTILIZATION	86
PROGRESS AND NOTABLE OBSERVATIONS FROM THE REPORTING PERIOD.....	87
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION.....	87
ACCOUNTABILITY AND TRANSPARENCY	99
INTRODUCTION	99
HISTORY AND BASIS FOR CONSENT DECREE MANDATES	100
CONSENT DECREE OBJECTIVES.....	100
POLICY IMPLICATIONS.....	100
TRAINING IMPLICATIONS	101
OPERATIONAL INTEGRITY IMPLICATIONS	101
DATA UTILIZATION	101
PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD	101
THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION.....	101
CONCLUSION	103
APPENDIX A – REPORT CARD	104
APPENDIX B – CONSTITUTIONAL POLICING POLICY	105
APPENDIX C – BIAS-BASED POLICING POLICY.....	106
APPENDIX D – DE NOVO REVIEW REPORT	107

INTRODUCTION

This is the fourth of twelve scheduled reports that the Independent Consent Decree Monitor for the City of Aurora (“the Monitor”) will produce, detailing the progress that has been made by the City, the Aurora Police Department (“APD, or the Department”), Aurora Fire-Rescue (“AFR”), and the Aurora Civil Service Commission (“CSC”) in reforming these agencies pursuant to the mandates contained in what is known as the Consent Decree (the “Decree”). This report also marks the end of the first year of the Consent Decree Monitorship.

Aurora leadership at the City level and in both the APD and AFR, as well as the vast majority of rank-and-file members of each department with whom we have spoken, have continued to embrace the need for change, and recognize that a culture of continuous improvement is one that will benefit all. The City and its agencies have, up until this point, continued to cooperate with the Monitor in complying with requests and maintaining an open line of communication. It has been stated by leadership of both the APD and AFR that their goal is to make their Departments all that they can and should be.

This report constitutes the fourth report of the Monitor, covering the fourth Reporting Period (“RP4”) from November 16, 2022, to February 15, 2023.

EXECUTIVE SUMMARY

The fourth reporting period of the Consent Decree ended on February 15, 2023. During this period, the City of Aurora and its constituent agencies have cooperated fully with the Monitor and have begun working on, and in some cases have made significant strides toward, the implementation of the mandated reforms. The Monitor observed renewed focus and prioritization by APD to comply with the Consent Decree during this reporting period. There were significant accomplishments during this reporting period, such as publication of the Constitutional Policing and updated Bias-Based Policing policies and delivery of training on both of these policies. APD also improved its policy development and governance and made significant strides in updating and completing the entire Use of Force policy and provided best-practice use of force and de-escalation training department-wide.

While there were some concerns raised in the last reporting period due to missed deadlines, the Monitor believes that APD, through the leadership of interim Chief Art Acevedo, who was sworn in as the interim Chief of Police on December 5, 2022, has put the department back on track to achieve full compliance with the Consent Decree within the five-year period envisioned by the Consent Decree.

This report reflects on how the City performed not just during the fourth reporting period but in the first year of the Consent Decree overall.

SUMMARY OF ASSESSMENTS OF MANDATES

During the third reporting period the Monitor examined 68 of 79 mandates included in the Consent Decree, finding nineteen of the 68 to be in substantial compliance. The mandates found to be in substantial compliance involved two on Aurora Fire Rescue’s policy governance and timely submission of new policy for the Monitor’s review, one on Aurora Fire Rescue’s training, and nine centered on Aurora Fire Rescue’s Use of Chemical Sedatives. One mandate found to be in substantial compliance involved the Civil Service Commission’s submission of new policies for the Monitor’s review. The remaining six mandates found to be in substantial compliance involve APD’s publication of the Constitutional Policing Policy and its completion of training on the Constitutional Policing Policy.

Of the remaining 49 mandates examined, 24 were found to be on a cautionary track, where either there was some uncertainty as to whether the expectations of the Monitor would be fulfilled, or where a deadline for the mandate was missed, but it was felt that the mandate would be met in a reasonable amount of time. Of the 24 mandates on the cautionary track, 18 were related to the Use of Force policy, its adjunct policies, Use of Force metrics, Use of Force training, and improved and updated Force Review Board policies. As detailed below, the Monitor believes that APD has made substantial progress in these areas and that the mandates will be fulfilled in a reasonable amount of time. The remaining 25 mandates were found to be in various stages of movement toward substantial compliance in line with the Monitor’s expectations.

The summary breakdown of compliance shown by the number of mandates in each of the areas of the Consent Decree according to their status is found in the chart that follows:

Area of the Consent Decree	RIGHT TRACK					CAUTIONARY TRACK				WRONG TRACK				NYE
	0-24%	25-49%	50-74%	75-99%	100%	0-24%	25-49%	50-74%	75-99%	0-24%	25-49%	50-74%	75-99%	
Policies and Training Generally (APD)		3						2						0
Policies and Training Generally (AFR)			1		3									2
Policies and Training Generally (CSC)			1		1									1
Addressing Racial Bias in Policing		1			2	1	2		4					1
Use of Force			4				1	11						0
Documentation of Stops					4			2						0
Use of Ketamine and Other Chemical Sedatives					9									0
Recruitment, Hiring and Promotion (APD)		1	4											
Recruitment, Hiring and Promotion (AFR)				5										
Recruitment, Hiring and Promotion (CSC)			4											5
Accountability and Transparency	1					1								0

Greater detail for each mandate and its history of compliance is detailed in the *Assessment of Mandates for This Reporting Period* section below and graphically represented on the updated Report Card, attached to this report as Appendix A.

In addition to reporting on these 68 mandates, we have included six focus issues for this Reporting Period.

FOURTH QUARTER ORGANIZATION AND ACTIVITIES

The Monitor spent a significant portion of the fourth reporting period continuing to work closely with the stakeholders. While some of these meetings have been held virtually, the Monitoring Team has spent considerable time in Aurora during the fourth reporting period, visiting on three separate occasions, with each visit lasting from three to four days.

The Monitoring Team held meetings and interacted with a variety of police officers, firefighters, and city officials. Team members met on multiple occasions with the Chief of Police, acting Chief of the Fire Rescue, and numerous Deputy Chiefs and Commanders within the APD and AFR, the

Civil Service Commission (CSC) and its staff, and many sworn personnel of APD and AFR as well as other city employees. Meetings were also held with the City Manager’s Office, the City Attorney’s Office, the Attorney General’s Office, the Fraternal Order of Police (FOP) and International Association of Fire Fighters (IAFF), and various members of the City Council. The Monitor met formally in three sessions with the Civil Service Commission¹. The Monitor also attended all three of the Aurora Key Community Response Team (AKCRT) meetings and presented at the Public Safety, Courts, and Civil Service committee of the City Council.

The Monitoring Team also reviewed assorted policies, documents, and reports and held three “All Stakeholders” meetings during this reporting period. During these meetings, the Monitor reported on significant developments during the preceding month, provided a preview of what is expected to be accomplished in the following month, and heard issues of concern or noteworthiness from each of those in attendance.

The Monitor published its third report on January 15, 2023, on auroramonitor.org. Along with the third report, the Monitor published a PowerPoint presentation to provide a quick summary of the report.

FOCUS ISSUES

As noted in our previous reports, in each of our periodic public reports, we will focus on various timely issues which affect the Consent Decree. These are the issues of focus for this reporting period.

RENEWED EFFORTS TO COMPLY WITH THE CONSENT DECREE

The status of APD mandates in the last report was significantly different than in the first two reporting periods. This was primarily because of the many deadlines that came due during the last reporting period and were missed. It resulted in many more mandates being put on the “Cautionary (Yellow) Track” than in previous reporting periods.

The Department, under the leadership of the new interim Chief, Art Acevedo, has prioritized meeting these deadlines and has assigned additional resources to help make it happen during this reporting period. APD has formulated a project management plan to meet the deadlines in the Consent Decree with the leadership of the department fully invested in meeting those

¹ The Civil Service Commission ceased having virtual options for attendance in July of 2022.

deadlines. These renewed concerted efforts to comply with the Consent Decree has resulted in significant improvement as reflected in this report.

APD's accomplishments during this reporting period include publication of the Constitutional Policing Policy and the Biased-Based Policing Policy. With the finalization of these two policies, APD also developed and completed training on both policies during this reporting period. In addition, APD published its policy on the governance of policy development. They prioritized designing and coming up with a plan for developing a transparency portal, which will publish data regarding APD's members' demographics; crime data and mapping; response outcomes, including arrests, contacts, offense reports, summonses, and use of force; Consent Decree progress; and disciplinary matters. Lastly, this renewed effort has moved APD significantly along the path to updating and restructuring all policies related to use of force. APD completed three of its use of force directives during this reporting period and have a clear timeline on accomplishing the remaining use of force directives in RP5. While some of the mandates remain on the Cautionary Track because some of these efforts won't be completed until RP5 and therefore will miss the deadlines in the Consent Decree, the Monitor notes that the trajectory for compliance is significantly different this reporting period when compared to the last reporting period.

In addition to the missed deadlines, there were a number of additional concerns that were raised during the last reporting period. One major concern during the last reporting period was APD's inability to analyze the contact data that APD started collecting in July. That data is being collected pursuant to a requirement of SB 217 and is required to be transmitted to the State. APD has not yet gained the capability to analyze the contact data themselves and there has been some progress in transmitting this data to the State. APD initially submitted the necessary data to the State in January. However, since APD is collecting more data than what is required under SB-217, the State asked APD to re-submit only the data points that are required under SB-217 to ensure consistency across the State for the State's purpose. The vendor has been working with the Department of Criminal Justice ("DCJ") to troubleshoot issues as well as to best understand DCJ's capability to accept and digest APD's data. As of April 14, 2023, DCJ informed law enforcement agencies in Colorado that 51% of law enforcement agencies in Colorado have successfully submitted contact data to DCJ. Due to technological issues that many agencies are having with submitting data to DCJ, DCJ informed the agencies that for agencies that submit the contact data by April 15, 2023 to DCJ (even if it's not in the exact format DCJ needs for successful submission) will have until May 1 to continue to work with DCJ to correct any outstanding issues to ensure successful submission. APD is submitting the contact data to DCJ by April 15 and will continue to work with DCJ to ensure successful submission until May 1.

The Monitor also raised continuing concerns about the Force Review Board during the last reporting period. The Monitor has observed significant improvement with the Force Review Board during this reporting period in how it is critically assessing use of force in situations when current policies are not violated, however the practices can be improved, including improving outcomes of encounters with those experiencing mental health crises. While there is still room to further promote a culture of continuous improvement within the FRB, the Monitor communicated its support of the direction of the Force Review Board throughout this reporting period.

Four mandates in the Documentation of Stops section were found in substantial compliance this reporting period. This is a significant accomplishment since all five mandates under the Documentation of Stops section were on cautionary tracks during the last reporting period. Two additional mandates related to the policy and training of Constitutional Policing were found to be in substantial compliance for APD this reporting period. While 24 mandates continue to be on cautionary tracks due in large part to missed use of force related deadlines, as noted here and throughout this report, APD has made significant progress in completing the required tasks during this reporting period and the Monitor fully anticipates that the entire Use of Force policy will be published in RP5.

YEAR IN REVIEW

This is the fourth of twelve scheduled reports that the Monitor will produce, detailing the progress that has been made by the City, APD, AFR, and the CSC in reforming these agencies pursuant to the mandates contained in the Consent Decree. It also signifies the conclusion of the first year of the monitorship. This reform process was brought about by the in-custody death of Elijah McClain and other events which set in motion an investigation by the Colorado Attorney General and subsequent litigation that was resolved with the agreement by the City of Aurora to enter the Consent Decree.

Implicated in the Attorney General's investigation and the resultant Consent Decree are policies, training and systems of accountability that were found not to be operating properly in Aurora. These deficits failed not only the residents of Aurora who want, and deserve, public safety in their community to be based on best practices, but also failed Aurora officers and firefighters who, to some extent, have lost the trust of those they serve, when each entered the profession only to do the right thing and relied on the system to properly guide them.

The purpose of the Consent Decree is to make certain that these systems are reformed and it is the responsibility of the Monitor not only to audit and report on the City's progress toward that goal, but to provide technical assistance and guidance on how to best get there. Overall, the Monitoring Team has developed an excellent working relationship with the stakeholders in the

Consent Decree process and has worked closely with APD, AFR, CSC, City Management, and the City Attorney's Office to move the agencies along the path toward full substantial compliance. At the same time the Monitor has worked assiduously to keep the community apprised of progress being made and to hear concerns from the community relative to public safety issues that they see and feel. While a lot was accomplished during this first year, the Monitor recognizes that there is a lot more to accomplish for the community to fully feel the difference in their public safety agencies.

The following sections highlight the significant activities of the Monitor during the first year of the engagement:

STAKEHOLDER ENGAGEMENT

The Monitor spent significant time in the first 30 days of the monitorship to establish collaborative relationships and familiarity with stakeholders, which include the City Manager's Office, the City Attorney's Office, the Attorney General's Office, the Fraternal Order of Police (FOP) and International Association of Fire Fighters (IAFF)², Civil Service Commission, and, of course, APD and AFR. Much to their credit, Aurora leadership at the City level and in both the APD and AFR, as well as the vast majority of rank-and-file members of each department with whom we have spoken, have, almost without exception, embraced the need for change, and recognized that a culture of continuous improvement is one that will benefit all. Our first year, was not without some challenges, though. Most notably, during this first year there have been three different Chiefs at APD. Unfortunately, the first change of leadership came with a shifting of some focus away from the reforms called for by the Consent Decree. We are happy to report, however, that the current leader of the department, Interim Chief Art Acevedo, understands not only that reforms are sorely needed, but that the Consent Decree offers the best roadmap and impetus for achieving those reforms.

For the past year, City leadership has cooperated and collaborated with the Monitor in every way, which bodes extremely well for the outcome of the Monitorship process. It has been stated by leadership of both the APD and AFR that their goal is to make their departments all that they can and should be. In order to provide for open communication and collaboration, the Monitor instituted monthly meetings in which all Stakeholders participate including: APD, AFR, CSC, the Attorney General's Office, the City Manager's Office, the City Attorney's Office, the Community Advisory Council, the International Association of Fire Fighters (IAFF), the Fraternal Order of Police (FOP), and the Police Auditor. During these meetings, the Monitor reports on significant

² The FOP is the collecting bargaining agent for APD and the IAFF is the collective bargaining agent for AFR.

developments during each preceding month, provides a preview of what is expected to be accomplished in the following month, and listens to issues of concern or noteworthiness from each of those in attendance. These meetings will continue in the coming years of the monitorship.

In addition to these meetings, the Monitor attends and observes, at minimum, 30 different meetings each month related to the monitorship. These meetings and events include regularly scheduled Force Review Board, Policy Committee, and Civil Service Commission meetings; check-ins with the City management and City Attorney's Office, APD and AFR, and the Attorney General's Office; APD Chief's Staff and Executive Staff meetings; AKCRT meetings; CAC meetings; joint meetings between APD and AFR; and various meetings on variety of topics with staff at the City, APD, AFR, Civil Service Commission, and CAC.

Moreover, during the first year, the Monitoring Team was in Aurora on 13 different occasions, with each of those trips lasting from three to five days. During these trips, the Team conducted ride-alongs with APD and AFR and held three community events. Team members also rode along with both the Crisis Response Team (CRT) and the Aurora Mobile Response Team (AMRT), which are the two units that have been set up to divert calls involving mental health issues away from patrol officers. Additionally, the Monitoring Team held meetings and interacted with a variety of police officers, firefighters, city officials, and community members during each trip. Team members met on multiple occasions with the Chief of Police, Chief of AFR, numerous Deputy Chiefs and Commanders within the APD and AFR, the Civil Service Commission and its staff, and many sworn personnel of APD and AFR as well as other city employees and union representatives throughout these trips.

ESTABLISHING AN EFFICIENT AND EFFECTIVE PROCESS FOR THE MONITORSHIP

In broad strokes, the Consent Decree envisions a 5-year process for realizing its aims and achieving compliance with its mandates, with three stages for the majority of the mandates. The first stage involves updating relevant policies within each agency to meet the requirements imposed by the decree. The second stage involves training agency personnel on these new policies. The final stage involves the Monitor (and the agency) ensuring that the policy is being followed properly and, if not, that appropriate remediation, and, when necessary, discipline is being utilized to correct deviations from policy. The Monitor is assessing each of these stages and, through this reporting process, reporting to the public on the progress of each mandate. To ensure steady progress toward this end, deadlines for meeting certain consent decree requirements were agreed to by the parties. And while there have been failures to meet some of the agreed-upon deadlines relative to development of policies and training, overall, the City has expressed its belief that all deadlines will be met within the first two years of the Decree.

Of course, during the first year, the Monitor assessed the progress of both AFR and APD in meeting each of the mandates of the Decree—beginning the process of integrity assurance relative to the mandates of the Decree. The Monitor’s efforts in this regard were guided by the agreed-upon Methodologies to Aid in the Determination of Compliance (“MADCs”), and generally included reviews of policies, reviews of trainings, reviews of reports and forms, targeted and random Body Worn Camera (“BWC”) reviews, and discussions with various stakeholders. In addition, the Monitor reviewed every single incident in which AFR and APD jointly responded to a call where chemical sedatives were administered.

The Monitor continuously looked for significant deviations from the Decree’s mandates or its underlying goals. The Monitor documents its findings in these areas in its written reports, which were delivered quarterly during the first year, with this being the fourth such report. In the first report, published on July 15, 2022, the Monitor assessed 36 mandates out of 79 mandates. In the second report, published on October 15, 2022, the Monitor assessed 52 mandates out of 79 mandates. In the third report, published on January 15, 2022, the Monitor assessed 58 mandates out of 79 mandates, and as stated above, in this report the Monitor has assessed 68 mandates out of 79 mandates.

As noted in these reports, the key to success in this monitorship lies in the combination of oversight and the provision of technical assistance called for by the Decree, and, of course, the willingness of the stakeholders to meaningfully engage and embrace the process. Equally important is the transparent methodology of how the Monitor will conduct that oversight and technical assistance for each mandate in the Decree which are detailed in a document titled “The Methodologies to Aid in the Determination of Compliance”.

The MADCs sets clear expectations and goals from the start of the process and were developed in full collaboration with the stakeholders. The MADCs set forth the steps or tasks that will be expected of the relevant agency in achieving “substantial compliance” for each mandate of the Decree. In addition, the MADCs contain the data and information that the Monitor will be seeking from the City upon which, at least in part, determinations of compliance will be made. Lastly, the MADCs include a timetable for the review of each mandate. The MADCs were published on April 15, 2022. The roadmap as laid out in the MADCs have been instructive in providing guidance to both the parties and the public of what is measured each reporting period. Pursuant to these methodologies, self-assessment questionnaires regarding the level of compliance and any barriers to success with respect to each mandate being reviewed were distributed to and completed by the relevant City agencies for each reporting period.

TECHNICAL ASSISTANCE

As noted, there are two major tranches of work that the Monitor is called upon to perform. The first involves reviewing the performance of the City, APD, AFR and CSC in complying with the individual mandates of the Decree. The second is providing technical assistance to the Departments as requested. During the first year, the Monitor provided technical assistance in the areas of Recruitment, Hiring and Promotion; Biased Policing; Stops; and Use of Force, as well as executing a baseline survey of community sentiment relative to APD and AFR.

The Monitoring Team worked intimately with APD on formulating many policies in the first year. Most notably, these efforts led to the publication of the Constitutional Policing and Biased-Based Policing Policies. These policies have the following core principles³:

Relationship-Based Policing: Every interaction with a member of the public is an opportunity to build respect, legitimacy, and trust with the public. These interactions increase cooperation, strengthen connections between APD and the public, and advance public safety. We share a responsibility with the public to develop strategies to decrease crime and improve the quality of life for our community and visitors.

Constitutional Policing: Every encounter shall be conducted lawfully under the First, Fourth, and Fourteenth Amendments to the United States Constitution and in accordance with state law and this policy.

Procedural Justice: Members will treat people with fairness, dignity, and respect and, whenever possible, take time to explain the actions of a member and answer questions.

Open Dialogue | Voice: Members of the public should be given a voice during encounters when it is safe to do so, regardless of the nature of the contact.

Anti-Bias Policing: Members will not initiate or continue any contact based on a person's race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, or gender identity, except when such an attribute is part of a suspect-specific description identified by the member. The suspect-specific description must be combined with other non-demographic identifying factors in such cases.

³ Directives 8.52- Constitutional Policing (see attached Appendix B) and Directives 8.32-Bias-Based Policing (see attached Appendix C)

Accountability: Contacts, detentions, searches, or arrests that do not conform to policy or law shall result in an administrative investigation. Members are expected to hold themselves and other members accountable to the Vision, Mission, and Core Values of the Aurora Police Department.

A contact with a person does not automatically justify a pat-down for weapons; pat-downs must be articulated separately.

These policies are significant first steps to achieving compliance with many of the mandates and will be used to inform APD's policies and training on racial bias and disparity and to improve the department's culture overall. The core principles are commitments from APD to clearly define their values and its dedication to build trust with the community.

Before developing the Constitutional Policing policy, APD did not have a comprehensive policy dedicated to providing guidance to officers on the complexities regarding the legal authority to make a stop under the Fourth Amendment. Development of this policy required a substantial amount of work-- more than was originally anticipated by the parties. The standalone policy on Constitutional Policing was accompanied by training on both Constitutional Policing and updated Biased Based Policies effectively making the statement that Constitutional Policing requires compliance with not only the 4th Amendment, which protects people from unreasonable searches and seizures, but also the 14th Amendment, which guarantees due process and equal protection under the law. The Monitor applauds this recognition by the Department and the directives it has adopted. The Monitor further applauds the timely training of APD members on these policies and the completion of this training by end of this reporting period. The feedback provided to the Monitor from officers was that the training on the policies was helpful and provided them with the kind of training they had previously requested. Officers further expressed that they were grateful that this guidance was provided as a result of the Consent Decree.

Related to these policies, the Monitoring Team provided extensive technical assistance on developing the Contact Data Collection form, which is mandated by SB-217, and on Directive 8.5 the Contact Data Collection policy, which provides officers guidance on when and how to document the contacts.

In addition to these policies, the Monitoring Team has been providing technical assistance on a continuing basis on developing the Use of Force policies, and on improving the Force Review Board. The Monitoring Team's work in these areas have been centered on de-escalation, accountability, and the promotion of a culture of continuous improvement. The Monitoring Team's work on these topics have been detailed in each of the four reports published this year and will continue for the duration of the monitorship. Lastly, the Monitoring Team provided

technical assistance on over twenty other directives and special orders which covered a range of topics from policy governance to body-worn camera policies.

In addition to providing technical assistance on policy development, the Monitoring Team provided technical assistance on the entry-level hiring process for APD and AFR and how current policies should best be modified to comply with the Consent Decree, the City Charter, and best practice. The aim of a reformed process pursuant to the Consent Decree is to provide APD and AFR with more active roles in the hiring process, resulting in the most qualified and diverse candidates being hired. The Decree provides that APD and AFR will have the final say on which candidates are hired by the City to enter the agency's respective academy. The first deliverable of this engagement was a hiring report entitled "Report on Hiring Process of Aurora Police and Fire Rescue: The Past and a Proposed Future ("Hiring Report")." The Hiring Report was the culmination of extensive listening sessions with Aurora Civil Service Commission (CSC), APD, AFR, the City of Aurora Human Resources Department (HR) the City of Aurora's City Attorney's Office, and the City Manager's Office

The City, APD, AFR, and CSC have had ongoing discussions based on the Hiring Report on rule modifications regarding the entry-level hiring process for APD and AFR. As noted in more detail below, the discussions have not been as productive as hoped for. The discussions continue, however, and it is anticipated that the issues will be resolved in RP5.

Additionally, the Monitoring Team has been, and will continue to provide technical assistance to APD and AFR on developing written recruitment plans, and on the disciplinary and promotional processes. This work will continue and will be completed in RP 5.

Finally, as is discussed more in detail within the focus issue section of this report, the Monitoring Team has been engaged with analyzing APD's data.

COMMUNITY ENGAGEMENT

The Monitor has prioritized community engagement during the first year. The Monitor published a website for the community to easily access all related documents and information regarding the Monitorship. The website, auroramonitor.org, contains all reports that the Monitor has published thus far (4 quarterly reports and one interim 45-day report) along with additional materials provided to supplement these reports such as the MADCs, the Hiring Report, and recordings of prior community events. The website also provides a conduit for public comment and questions, as well as a link to resources and APD's Complaint Intake form.

The Monitor held the first Town Hall to inform the community about the monitorship on April 19, 2022. In addition to the Town Hall meeting, the Monitor met with various community

members and stakeholders throughout the first year, including the Public Defender’s Office, three Sheriffs whose jurisdictions overlap with APD as well as with both District Attorneys who work with APD, CCJRC4Action, various members of the City Council, attended every Aurora Key Community Response Team, Youth Violence Prevention Advisory Council, and various individual members of the community.

Most importantly, as part of the Monitor’s effort to engage the community in the Consent Decree process, the Community Advisory Council (CAC) was created by the Monitor in March 2022 to provide community input and guidance regarding the reform efforts of the City. Essentially, the CAC is the Monitor’s “eyes and ears” in the community, providing community perspectives and insight to the Monitor on matters related to each of the areas covered by the Decree. The Monitoring Team has met with the CAC monthly to update them on the progress of the monitorship as well as to solicit feedback and insight from the community about any effects of the Consent Decree on the community. The CAC also hosted two community events (August 9, 2022, and February 16, 2023) to update the community on the progress of the monitorship as well as provide a forum to answer any questions the community may have had about the monitorship. These efforts will continue throughout the monitorship.

Lastly, in order to understand the sentiment of the community relative to its public safety agencies and the reform measures which the City has agreed to and undertaken, the Monitor will conduct periodic surveys and will include the results of those surveys in our public reports and on the auroramonitor.org website. Our first survey was conducted at the close of our first reporting period, from May 25, 2022, to May 28, 2022, and surveyed 1,164 residents from age 18 and older. Respondents were recruited via text messages randomly selected cell phone numbers. The click through rate of the text message was 4.22% and the completion rate was 64.5%. The margin of error for the overall sample is +/-2.87%. The results of the survey were published with RP1 Report on July 15, 2022.

CIVIL SERVICE COMMISSION DISCIPLINARY PROCESS - DE NOVO REVIEW

The Consent Decree mandates that the Civil Service Commission strongly consider changing its current policy relative to the hearing of disciplinary appeals by not allowing a full “de novo” review of disciplinary cases and replacing that process with one which is more appellate in style. The mandate contains the caveat that any change must conform to the Aurora City Charter, the relevant portion of which dates back to 1987. The Commission is mandated by the Decree to take

any action necessary to effect changes to its rules to change the current “de novo” practice by May 15, 2023.⁴

IntegrAssure prepared a report pursuant to its designation by the Civil Service Commission as its expert. Specifically, the firm was engaged to provide technical assistance under the provision of the Consent Decree that calls for the Monitor to provide such assistance to the City to help it in achieving the goals of the Decree. As such, the findings and recommendations in the report are not binding on the City or the Civil Service Commission, but rather should be considered expert advice in assisting the Civil Service Commission to fulfill its obligations under the Consent Decree.⁵ The work of IntegrAssure and its report forms the basis of the effort of the City and the Commission to meet its obligation to “strongly consider” changing its rules relative to the de novo review of disciplinary decisions of both the APD and AFR.⁶

In sum, the Report recommends that, after strong consideration, the rules with respect to de novo review not be changed. The full report is attached as Appendix D.

The report covers only the role of the Civil Service Commission in the disciplinary process for both APD and AFR. Other aspects of the disciplinary process for each agency will be the subject of separate reports.

HIRING AND PROMOTION ISSUES

There have been several controversial APD hiring and promotion issues during this reporting period. This has raised questions from the community about how certain decisions were made and what, if anything, is being done to address these issues. The following issues were noteworthy during this reporting period:

ENTRY-LEVEL HIRING DECISION - 2020

⁴ See Consent Decree Section XII, Recruitment, Hiring and Promotion, Civil Service Commission Rules and Regulations Modification Deadline (455 days from the effective date of contract with the Monitor).

⁵ The relevant portion of the *Section IX 8 2* of the Consent Decree reads as follows: In undertaking its responsibility to ensure Aurora’s compliance with this decree, the Consent Decree Monitor will serve as a resource and a coach as needed to help Aurora succeed in the commitments the City is making in this decree. The parties expect the Consent Decree Monitor to communicate informally with all parts of the organization in a way that supports the chain of command. Pursuant to this provision and in fulfillment of its obligation under Section VII C 4 to engage an expert to assist the Commission in meeting the requirements of the Decree, the Commission engaged IntegrAssure and its team member, Cassi Chandler, to provide advice relative to its obligations.

⁶ Section VII C 3 of the Consent Decree.

The first of these incidents involved a former male officer who was hired in 2020 as an entry-level officer. In 2020, the Civil Service Commission conducted hiring with no input from the agencies and unilaterally set cut-off scores on the written exam and acceptable minimum score for the job suitability assessment without agency input.

According to an arrest affidavit, on January 11, 2023, the above officer and his wife were approaching the garage to their apartment as a 49-year-old woman was walking her dog in the middle of the road. He saw that the victim's dog was not on a leash and had to drive slowly behind the victim and her dog because they were in the middle of the road. At one point, the victim turned around to yell at him for following her. The three individuals got into an argument and the former officer and his wife got out of their car. According to the affidavit, several individuals then witnessed the former officer punch the victim in the face causing her to fall to the ground. He then got on top of her and punched her in the head four to five more times. The victim was taken to the hospital with injuries. The arrest affidavit noted that during the argument, the victim stated that she was disabled. The former officer was arrested on a charge of third-degree assault against an at-risk adult, a Class 5 felony.

When this incident occurred, the former officer was, per APD policy, on administrative leave after shooting a man in the lower leg while responding to a domestic violence incident on December 31, 2022. He resigned from APD on January 30, 2023, and the internal affairs investigation is still ongoing. APD has stated that any findings will be reported to the appropriate entities upon conclusion of its investigation.

This incident highlights the value of internal disciplinary actions to moving ahead separately from any criminal investigations which may be undertaken.

CHANGES IN THE HIRING PROCESS

With respect to APD input into the hiring process, as noted above, the Consent Decree mandates the City re-examine and modify its entry-level hiring process to ensure hiring of qualified and diverse workforce for APD and AFR. The Decree envisions giving APD and AFR a far more active role in the hiring process, with coordination and assistance from HR. This role would include having the final say in hiring decisions, which the agencies currently lack. CSC modified its hiring process in December of 2021 after the publication of the Consent Decree to seek some input from the agencies on hiring decisions, but CSC still retains authority over final hiring decisions.

Since the publication of the Hiring Report from IntegrAssure in November 2022, the City, APD, AFR, and CSC have been engaging in ongoing discussions on how to modify the entry-level hiring

process. These discussions have not been as productive as hoped.⁷ Particularly alarming was a meeting of the CSC held on February 28, 2023, where there was a clear and vocal questioning from certain CSC Commissioners about whether the CSC will comply with the requirements of the Consent Decree and its willingness to do so by the mandated deadline in the Consent Decree.

RECOMMENDATION RELATIVE TO THE USE OF PARALLEL ADMINISTRATIVE INVESTIGATIONS⁸

Until recently it was the policy of APD to hold administrative investigations and disciplinary proceedings in abeyance when the underlying incident was also the subject of a criminal investigation or criminal proceedings. This often led to extremely lengthy delays in the adjudication of those matters and kept officers on the City's payroll when termination was the ultimate outcome.

Under Interim Chief Acevedo, APD has changed its policy. APD will no longer wait for the conclusion of the criminal investigation to conduct its own internal investigations. Rather, APD will initiate an internal investigation into potential policy violations when a criminal matter occurs, regardless of the status of the criminal investigation, to provide for a swift and timely determination of whether internal policies as opposed to criminal statutes may have been violated. The Monitor applauds this change and recommends that the policy be retained irrespective of who the next APD Chief is.

ENTRY-LEVEL HIRING DECISION - 2022

In a second controversial issue, a newly hired officer was involved in a public intoxication incident in another state resulting in their arrest in the summer of 2022. All newly hired police officers in Aurora have a probationary period of one year from the time they graduate from the Department's police academy training, per the Aurora City Charter. At the end of an officer's probationary period, if the officer demonstrated satisfactory conduct and capacity, then the officer can receive a permanent appointment. If not, the officer can be involuntarily separated with a written notification by the Chief of APD with the approval of the City Manager or a designee within the City Manager's Office. That decision is final and unreviewable by the CSC. The officer in question was not terminated, but rather agreed to an extension of their probationary period and to attend counseling.

⁷ See Assessment of Mandate 2 C below, for more details on the discussions.

⁸ All recommendations will be tracked and reported on in future reporting periods.

RECOMMENDATION RELATIVE TO EMPLOYING ENHANCED SUPERVISION UTILIZING BODY-WORN CAMERA VIDEO IN SITUATIONS WHERE ISSUES OF PERFORMANCE MIGHT EXIST

The Monitor notes that while the exercise of discretion of a Chief to provide second chances for individuals might be appropriate in certain instances, those individuals who are given a second chance should be closely monitored to ensure that their disciplinary issues were fully resolved. One way to closely monitor such individuals is through the use of targeted reviews of Body Worn Camera (“BWC”) video to ensure that the involved officer is performing as expected. The Department will be undertaking random reviews of BWC video in the next reporting period, but the Monitor recommends that APD develop specific protocols for enhanced supervision of BWC video in cases where prior performance or other conduct is at issue, such as the scenario described above.

PROMOTION OF AN OFFICER TO AGENT

A third incident involves the promotion of an officer to an agent. The officer in question was found drunk at the wheel of an Aurora police vehicle in March of 2019. At the time, he was in full police uniform and was armed. He was found unresponsive and the first responders had to break a car window to get to the officer. His blood alcohol level was more than five times the legal limit for DUI.

The then-Chief, Nick Metz, suspended and then subsequently demoted the officer from the rank of agent to the rank of officer as the disciplinary penalty imposed. The 2019 incident was well-publicized with the failure to terminate the officer described by former Chief Vanessa Wilson as having “destroyed our reputation.” In addition, an independent review of how the Aurora Police Department handled the case was conducted. The independent review found that high-ranking officials in the department at the time made significant errors of judgment by not pursuing a criminal investigation and by not terminating the officer. The independent review also noted that there was not sufficient evidence to prove there was malicious intent to obstruct justice in leadership’s choice not to pursue a criminal investigation against the officer.

Three and a half years after the 2019 incident, the officer was re-promoted to the rank of agent, after taking part in a new and separate promotional process and finishing third among those who applied for the promotion. His promotion comported with existing rules of the CSC.

The promotion raised significant alarm in the community and called into question the promotion process and minimum qualifications for promotion.

RECOMMENDATIONS RELATIVE TO THE PROMOTION PROCESS

While the City of Aurora Charter requires that police officers and firefighters who test for promotion into a civil service position be promoted based on how they rank on the list certified by the Civil Service Commission, there are some rules and processes that should be re-evaluated in light of this promotion. For example, Section VII 42 of the Civil Service Commission's Rules states that any candidate who has been subjected to involuntary demotion within the two-year period preceding the first day of testing is ineligible to test for promotion. The Monitor questions whether a two-year disqualification period is sufficient and suggests that the CSC review this policy and consider increasing the ineligibility time-period.

In addition, CSC ranks candidates for promotion with 30% of the overall rank being determined by the score on the written exam, 55% of the overall rank being determined by the Assessment Center score, and 15% of the overall score being determined by the Records Evaluation. Records Evaluation is wholly conducted by APD and consists of reviewing the candidate's records and profile. While the Records Evaluation has a score designated for the candidate's disciplinary history, it limits the history to three years. The Monitor questions whether a three-year lookback is sufficient and whether the allocation of only 15% of the overall score for ranking is appropriate. As such, the Monitor suggests that CSC likewise review this aspect of its promotional process.

The Monitoring Team is evaluating the promotion process and will issue additional findings and recommendations during the next reporting period.

LATERAL HIRE DECISION - 2022

A fourth incident involves the lateral hiring of an officer. The lateral hiring process, unlike the entry-level hiring process, is completely governed and overseen by APD. The lateral officer was serving in the neighboring police department for approximately two and a half years before starting with APD. During his time with that department, he was involved in a fatal on-duty shooting in which 19 shots were fired at an individual in a moving vehicle. The individual in the vehicle was killed and the officer was, pursuant to policy, placed on desk duty during the investigation. The incident was compounded by complaints of the officer on social media relative to his duty status.

The prosecutor for the county in which the shooting occurred later announced that the involved officer would not be charged for the fatal shooting. Following that, an undisclosed sum was paid out pursuant to a civil suit filed by the deceased's family.

While the Monitor is not providing any conclusion about the incident itself, the hiring does raise questions about APD's decision-making process.

RECOMMENDATION RELATIVE TO THE LATERAL HIRING PROCESS

The process as to how the determination that the officer would be a good fit for APD is under review by the Monitor. In the meantime, it is recommended, that the City consider the inclusion of community representation in the selection process of lateral hires. This community representation exists with new hires and provides APD with diverse perspectives and input. While the Monitor appreciates the critical need to hire more officers for APD, it is imperative that officers hired through both the entry-level and lateral process are aligned with the core values and the mission of APD. The lateral hiring process should be examined to make sure that the APD hires the most qualified and diverse applicants who will be assets to APD in continuously improving its culture.

REINSTATEMENT OF AN OFFICER DECISION 2022

The last incident, over which the community expressed extreme anger and frustration, was the reinstatement of an officer who was involved in the Elijah McClain tragedy. The officer responded to the scene and, while Elijah McClain was restrained on the ground, threatened Elijah McClain by saying he would have his police dog bite him. While this was a permissible tactic within APD's policy at the time of the incident, that tactic has been outlawed since the incident. The officer was not charged in the Elijah McClain incident and was disciplined and removed from the K-9 unit following an investigation of his actions.

The officer resigned from the department in July 2021 and took a job as a deputy sheriff. The Civil Service Commission rules allow for APD members to re-apply within 36 months of separation as long as the officer was in good standing at the time of their separation from APD and still meets the minimum qualification for hiring. While the background investigation and administrative process for reinstatement is conducted exclusively by APD, the CSC must approve each reinstatement. The Civil Service Commission voted on December 13, 2022, to reinstate the officer.

RECOMMENDATION RELATIVE TO REINSTATEMENT

The reinstatement of an officer who voluntarily separates from the department should be carefully reviewed and documented. Prior discipline, especially when the subject of great public interest and concern, must be fully appreciated and weighed when deciding whether an officer who decided to abandon the department should be welcomed back. We urge all those in the reinstatement process to ask themselves for each potential reinstatement, "is the reinstatement of this officer what my community would want?"

SELECTION FOR SPECIAL ASSIGNMENT

In 2018, a woman called the Aurora Police Department to report to the Internal Affairs that one of its officers, a man that she'd been romantically involved with years prior but was no longer involved with, had been stalking her since 2016 and had used police databases to research her contact information. In 2015, the woman had told the officer that she no longer wanted to be in contact with him. Several months later, while visiting her father in the hospital, the officer appeared in the ICU room. In early 2016, the officer again showed up at her new home. Notwithstanding that she told him to leave and cease contact with her, he called and texted her repeatedly, including one day when he called her 22 times over a course of two and half hours. On one occasion, when she arrived home, the officer while on duty pulled into the driveway in his patrol car and left a note on her car. Days after this incident, the woman called APD's internal affairs and reported the officer.

Then-Police Chief Nick Metz requested the Arapahoe County Sheriff's Office to investigate her claims and they concluded in a 33-page report that the officer in question should be charged with crimes of harassment and domestic violence. However, the 18th Judicial District Attorney's Office declined to prosecute the officer due to a claimed insufficiency of evidence. Subsequently, APD's internal affairs investigation concluded in March 2019 with the officer admitting to using a police database to find the woman's home address, a violation of Colorado law. The officer received a 240-hour unpaid suspension.

In 2022, the officer, who had been a sergeant since 2008, was chosen to lead one of the two Direct Action Response Teams (DART) as a sergeant. DART was re-established in May of 2022 as a high-profile response to increased crime in the region. When APD informed the public about the re-activation of DART, it shared that DART officers were selected from a pool about 40 applicants based in part on their disciplinary history and that officers who were frequently accused of abuses were not considered for the post.

RECOMMENDATION RELATIVE TO SPECIAL ASSIGNMENT

APD defines its own process for application and selection for special assignments, such as DART. APD needs to review their special assignment selection process and criteria so as to potentially provide for specific rules relative to eligibility that reflect the core value and mission of APD in who they are selecting for these highly coveted and high-profile positions. The applying officer's disciplinary history, relevant experience, and skillset should be scrutinized to identify the best qualified officers and supervisors to lead these units. Moreover, the application and selection process should be transparent so there is an assurance for those who participated in the application process that neither favor nor bias played any role in the final selections. This is an area that the Monitor will review, with additional findings and recommendations to come in the future.

QUESTIONS RELATIVE TO THE WHOLE PERSON REVIEW AND MODIFICATION OF MINIMUM QUALIFICATIONS

Since the publication of the Hiring Report in November 2022, the City, CSC, APD, and AFR have been working toward implementing a “whole person” review method recommended in the Hiring Report. This approach considers all of an applicant’s information and life circumstances before an eligibility decision is made and replaces a more traditional method of considering applicants one qualification at a time and then rejecting the applicant if a singular qualification is not met. Under the “whole person” approach, the number of automatic disqualifiers, many of which may have a disparate impact and may eliminate candidates who would excel at police work, are reduced and decision makers review each applicant on a case-by-case basis, considering all elements of an applicant’s background. Final decisions on an applicant’s eligibility are based upon the totality of the available information.

The report recommended that that the City adopt this approach and that such an adoption would require a reevaluation of current policies regarding the automatic disqualification of applicants due to marijuana usage, misdemeanor criminal histories, and prior automotive infractions. Additionally, it would require evaluating items of note identified during background investigations through a lens of whether a particular item would negatively impact the essential skills and strengths an applicant brings to the department. Adopting the recommendations of the Hiring Report, many disqualifiers were changed from mandatory disqualification to permissive disqualification.⁹

There have been some concerns raised in the media as to whether this change results in lowering the quality of officers who are eventually selected. The clear purpose of the change is not to reduce standards for hiring, but to eliminate potential barriers for the best candidates to be hired, as many well qualified candidates may nonetheless have blemishes in their background. The change recognizes that those without minor arrests may very well have engaged in minor criminal behavior and were lucky enough not to have been caught or arrested. Likewise, it recognizes that some individuals may lie about drug use, where others tell the truth. Moreover, it recognizes that a single bad decision does not necessarily define an individual. Essentially, a “whole person” review allows hiring decision makers to fully consider whether a candidate would make a good officer or firefighter, taking into account the individual’s total background, test score, job suitability analysis, and oral interview, thus giving each candidate an opportunity to be fairly evaluated on their own merits.

⁹ See revision of CSC Rule section 9 moving many disqualifiers from the “must” category of 9A, to the “may” category of 9B.

NPI REPORT

A research team from the National Policing Institute (“NPI”) has been engaged by IntegrAssure and the City of Aurora to conduct statistical analyses and interpret enforcement data collected by the APD. This work will assist the Consent Decree Monitor in assessing whether the City has met the requirements of Mandate 16, which requires Aurora Police to develop metrics in consultation with the Consent Decree Monitor and outside experts to measure change in how Aurora Police engages with the community, including racial disparities in arrests and uses of force.

The technical report, which is attached as Appendix E, is the first of two reports that will be produced by NPI. The technical report describes the data, methodologies, and statistical techniques that will report out its data analysis and findings in the second report in October 2023. The technical report includes a summary of the outcomes that will be examined and preliminary assessments of the various data sources. The October 2023 report, hereafter referred to as the Baseline Report, will establish baseline measures for examining racial disparities in APD enforcement against which future years of data can be compared. The Baseline Report will focus on the use of force and arrest data, including historical data from 2017-2021 and current data from 2022, and will examine the use of force, misdemeanor arrests, and summons issued for particular offenses, such as “Failure to Obey a Lawful Order,” “Resisting Arrest,” “Criminal Trespass,” and related offenses.

The Baseline Report will explore the following research questions:

1. Does the rate of arrests or use of force experienced by persons of different racial, ethnic, or gender groups align with those groups’ representation among persons at risk of having these enforcement actions used against them by the APD?
2. What factors or combination of factors contribute to the use of force by APD officers, injuries to community members, and injuries to police officers during arrests?
3. Is community member race, ethnicity, or gender related to the type or severity of the force used by the police while accounting for other relevant individual, situational, and environmental factors?
4. Do arrest and use of force counts shift significantly upward or downward when seminal events (i.e., events at discrete points in time) occur in Aurora?

ICAT TRAINING

As mentioned in our RP 2 Report, we were very much encouraged by the decision to provide a specific de-escalation training program to the members of APD. The training program, called “Integrating Communications, Assessment, and Tactics (ICAT)” was developed by the Police

Executive Resource Forum (PERF) and provides first responding police officers with the tools, skills, and options they need to successfully and safely defuse a range of critical incidents. PERF has described the program as having been developed with input from hundreds of police professionals from across the United States, taking the essential building blocks of critical thinking, crisis intervention, communications, and tactics, and putting them together in an integrated approach to training.

ICAT is designed especially for situations involving persons who are unarmed or are armed with weapons other than firearms, and who may be experiencing a mental health or other crisis. The training program is anchored by the Critical Decision-Making Model that helps officers assess situations, make safe and effective decisions, and document and learn from their actions. ICAT incorporates different skill sets into a unified training approach that emphasizes scenario-based exercises, as well as lecture and case study opportunities.

APD trained in-house trainers to deliver the program and began delivery of the program in January 2023. As of March 3, 2023, all active members of the department had been trained. Members of the monitor team along with, Dr. Gabrielle T. Isaza,¹⁰ an additional expert from the National Policing Institute engaged by the Monitor, observed the delivery of the training.

Dr. Isaza observed that APD delivered the exact training content as designed by PERF without any change. She found that the instructors teaching the course were knowledgeable, very comfortable presenting the training materials, and appeared to be respected by the officers in the room.

The final two hours of ICAT include scenario-based skill practice, where officers are separated into groups of three to participate in three separate skill practice scenarios. Dr. Isaza was particularly impressed with this aspect of the training. All three scenarios were adopted from the ICAT training guide, and the same scenarios and actors were used for every day of ICAT at APD. She observed that the ICAT delivery was greatly enhanced by the actors used as part of the scenario-based skill practice at the end of the day. The actors, who were from the Two Penny Productions based in Colorado, had several years of experience working with law enforcement in scenario-based training exercises, including crisis intervention training and hostage negotiation training. Dr. Isaza noted that APD is fortunate to be able to compensate these actors

¹⁰ Before joining the National Policing Institute, Dr. Isaza spent nine years in research roles at the International Association of Chiefs of Police/University of Cincinnati Center for Police Research and Policy and at the University of Cincinnati Institute of Crime Science. She earned her Ph.D. in Criminal Justice from the University of Cincinnati, with a dissertation focused on evaluating a police de-escalation training.

for their time, resulting in officer skill practice with role players who are both experienced and reliable.

The Monitor will be working with APD to embed this type of training permanently into APD curriculum. We also believe that a video message from the Chief would be beneficial as an introduction to the training.

ASSESSMENT OF MANDATES THIS REPORTING PERIOD

In each Reporting Period, the Monitor assesses various mandates of the Consent Decree as disaggregated, or distilled, from the Consent Decree itself. During this fourth Reporting Period, the Monitor assessed 68 of the 79 mandates contained in the Consent Decree. Of the 68 mandates assessed, nineteen were found to be substantially in compliance or “complete” at this time, with the remaining 49 mandates at various stages of compliance.

The current status of each mandate is depicted as an icon showing the degree of completion that the Monitor assesses that particular mandate has achieved, and, through the coloring of the icon, whether the City or its constituent agency is on the right track (green), a cautionary track (yellow), or the wrong track (red).

It is important to note that a mandate may be on one track (right, cautionary, or wrong) in one reporting period and fall into a different track in the next reporting period based on any number of evaluative factors. Also, when a mandate deadline is missed and compliance with that mandate has not yet been achieved, the maximum achievable status track will be yellow if the Monitor believes the mandate will be achieved in a reasonable period of time and the City continues to demonstrate its commitment to accomplish the tasks of the mandate. A “wrong track” (red) status will be utilized to communicate that the delay in completing the mandate is deemed to be unreasonable and/or the City is not demonstrating the necessary level of effort to achieve the mandate. In either case, a “right track” (green) status will replace the “cautionary track” or “wrong track” status once the requirements of the mandate are met.

The legend for our findings appears below:

[The Report Continues on the Next Page]

LEGEND	ESTIMATED 0-24% COMPLETE	ESTIMATED 25-49% COMPLETE	ESTIMATED 50-74% COMPLETE	ESTIMATED 75-99% COMPLETE	SUBSTANTIAL COMPLIANCE
RIGHT TRACK (IN LINE WITH MONITOR EXPECTATIONS)					
CAUTIONARY TRACK (AT THIS TIME UNCERTAIN IF MONITOR'S EXPECTATIONS WILL BE MET)					
WRONG TRACK OR UNACCEPTABLY OVERDUE (EXPECTATIONS OF MONITOR ARE NOT BEING MET)					
NOT EVALUATED IN THE INDICATED REPORTING PERIOD	[CELL IN CURRENT OR PAST REPORTING PERIODS INTENTIONALLY LEFT BLANK]				
TO BE EVALUATED IN THE NEXT REPORTING PERIOD					

The remainder of this report contains a description of each of the 68 mandates assessed in RP4, organized by the six sections of the Consent Decree as follows:

- Policies and Training Generally: An analysis of 11 of the 14 mandates
- Racial Bias in Policing: An analysis of 10 of the 11 mandates
- Use of Force: An analysis of 16 of the 17 mandates
- Stops: An analysis of 6 of the 7 mandates
- Chemical Sedatives: An analysis of 9 of the 9 mandates
- Recruitment: An analysis of 14 of the 19 mandates
- Transparency: An analysis of 2 of the 2 mandates

For each mandate assessed, we include a general description of the tasks, brief description of the Methodologies to Aid in the Determination of Compliance (MADCs), along with the Monitor’s assessment of compliance during the current Reporting Period.

The summary showing the current and historical status of the Monitor’s assessment of each of the Consent Decree’s 68 mandates appear in the Report Card, which is attached as Appendix A.

POLICIES AND TRAINING GENERALLY

INTRODUCTION

Police policies are rules and standards by which agencies operate, the guidebook that helps officers navigate the challenging and dynamic scenarios they face every day. These policies are the key foundation for an effective department, and they also serve as a promise to the

community that officers will respond safely and responsibly. Effective policies and procedures should be a part of defining an agency’s culture and providing a roadmap for all officers. Trainings will reinforce the policies and procedures to provide officers with support in understanding federal, state, and local standards and agency requirements. Appropriate training will facilitate the operation of police agencies in accord with strategic policies that guide their conduct, as well as attempt to best ensure that individual officers become competent and confident in performing their role in concert with operational and tactical policies.

The Consent Decree mandates for APD and AFR to continuously work to ensure policies are consistent and complementary and conduct training to ensure coordinated responses and hold officers and firefighters accountable for violating policy.

THIS REPORTING PERIOD’S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of eleven mandates in this area of the Consent Decree. Six of the eleven evaluated mandates were with respect to the APD. Of those, two were on a cautionary track because of missed deadlines, and four continued to be on the right track. When the remaining policies are completed, the status of the mandates will change back to green. The three mandates evaluated for AFR were all on the right track with two already in substantial compliance. Two remaining mandates were assessed relative to CSC and they were both found to be on the right track.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 1A

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 1 at II (page 4) of the Consent Decree, entitled “Policies and Training Generally (APD)” requires that the Monitor determine if the APD is developing comprehensive policies to ensure the implementation of the Consent Decree and that the policies of each department are consistent and complementary. The Monitor will also determine if the training is being conducted to ensure coordinated responses, and that officers and firefighters are being held accountable for violation of policy. The Monitor has split this mandate into Mandate 1A which deals with the mandate relative to APD and Mandate 1B which deals with the mandate relative to AFR.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance with all 32 different policy driven mandates and 16 different training driven mandates. Said simply, APD must develop and implement all Consent Decree required policies and training and,

must also have policies to hold accountable those officers or firefighters who violate established policies in contravention to their training.

This mandate was assessed relative to APD during the last reporting period and the Monitor found that it was on the cautionary track.

APD published the Constitutional Policing Policy on February 14, 2023, and is no longer on cautionary track for missing that deadline. APD also published an updated DM 8.32 Biased-Based Policing on February 15, 2023, as well. The publication and finalization of these two policies are significant and APD's concerted efforts to prioritize completion of both policies during this reporting period was appreciated. Both policies are attached as Appendix B. With a renewed focus on meeting deadlines in the Consent Decree, APD developed training on both the Constitutional Policing and Biased-Based Policing policies. By February 15, 2023, APD had delivered this training to 98% of the sworn personnel who interact with the public. APD also identified a vendor to provide training on managing implicit bias, which is scheduled to be provided.

APD also published Directive 2.09 - Policy Development on January 13, 2023, and significantly updated its body-worn camera policy, which will be published in February 2023.

Moreover, APD finalized a policy on coordination with AFR, which was memorialized in section 9.06 of the Directives Manual. There has been no violation of the policy since its implementation. Additionally, APD and AFR are developing training, to be provided jointly to AFR and APD personnel, to address deployment of APD's new CEWs. APD will focus on the deployment of these CEWs and AFR will focus on the removal of the CEW barbs. This training is scheduled for March 10, 13, and 15 and April 7, 13, and 17. The Monitor will evaluate these training in RP5.

During this reporting period, APD also completed development of Directive 5.01 - Use of Force, Directive 5.02 - Use of Force Model, and Directive 5.03 - Less Lethal Devices, Weapons and Techniques. As discussed in the last report, APD is planning on completing all policies related to use of force before publishing them to provide comprehensive and robust guidance to officers on all issues related to use of force at once rather than providing incomplete, piecemeal guidance. The Monitor supports this approach and fully expects this effort to be completed in RP5.

The Monitor has assessed this mandate again during this reporting period and still finds that the mandate is on a cautionary track due to APD's failure to timely meet the Use of Force Policy Adoption Deadline (December 12, 2022). Having said that, APD has made significant strides to comply with this mandate this reporting period and the Monitor wants to applaud the efforts and encourage APD to continue this renewed focus and prioritization in upcoming reporting

periods. Because of the missed deadlines the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met shortly, albeit, beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 1B

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 1 at II (page 4) of the Consent Decree, entitled "Policies and Training Generally (AFR)" requires that the Monitor determine if the [APD and] AFR are developing comprehensive policies to ensure the implementation of the Consent Decree and that the policies of each department are consistent and complementary. The Monitor will also determine if the training is being conducted to ensure coordinated responses, and that officers and firefighters are being held accountable for violation of policy. The Monitor has split this mandate into two; Mandate 1A which deals with the mandate relative to APD and Mandate 1B which deals with the mandate relative to AFR.

The compliance definition as agreed to in the MADC necessitates that AFR achieve compliance with all 11 different policy driven mandates and two different training driven mandates. Said simply, AFR must develop and implement all Consent Decree required policies and training and, must also have policies to hold accountable those officers or firefighters who violate established policies in contravention to their training.

This mandate was assessed relative to AFR during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period and now finds that the mandate continues to be on the right track. In addition to other policy mandates covered below, AFR has revised its paramedic protocols to clarify the interoperability of joint responses by APD and EMS personnel, including eliminating recommendations from police officers to EMS personnel on administration of medical care. In August of 2021 AFR updated MOP 6.14 "Coordination with Aurora Police Department/Law Enforcement" in conjunction with APD. MOP 6.14 covers a clear transition process for the transfer of information between law enforcement and EMS. It also establishes the culture for all personnel on scene that people in custody of law enforcement when EMS arrives are patients needing prompt evaluation and treatment. The consequences of violating these and other policies are also memorialized. There has been no violation of the policy since its implementation. Additionally, APD and AFR are developing training, to be provided jointly to AFR and APD personnel, to address deployment of APD's new CEWs. APD will focus on the deployment of these CEWs and AFR will focus on the removal of the CEW barbs. This training is scheduled for March 10, 13, and 15 and April 7, 13, and 17. The Monitor will evaluate these training in RP5. Lastly, APD

and AFR plan to conduct no fewer than two interdepartmental exercises each year that utilize online police and fire members.

We believe this mandate is on the right track.

ASSESSMENT OF MANDATE 2A

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 2 at IIA (page 4) of the Consent Decree, entitled “Policy development, review, and implementation process (APD)” requires that the Monitor determine if the APD, AFR, and CSC have developed and implemented an appropriate procedure that will govern and speed up the policy development, review and implementation process. The Monitor has split this mandate into three; Mandate 2A which deals with the mandate relative to APD, Mandate 2B which deals with the mandate relative to AFR, and Mandate 2C which deals with the CSC.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance with all 32 different policy driven mandates and 16 different training driven mandates with decreased length of time, wherever possible, of the process by which Consent Decree related policies are developed, reviewed, and implemented. Compliance will be reached when the related policies are documented within relevant agency’s procedures and the standards in those procedures are being adhered to. This mandate was assessed relative to APD during the last reporting period and the Monitor found that it was on the cautionary track.

In order to comply with this section, APD has created a Policy Committee chaired by the Division Chief of the Professional Standards and Training Division with representatives from the Chief of Police’s Office, Legal Advisor, Operations Division Chief, Special Operations Division, Investigations Division, Business Services, Professional Standards Services, Training Section, and FOP with additional attendees as needed and relevant to the policies being discussed, such as representatives from Aurora 911 and additional consultants in attendance. These meetings consist of discussing in detail the drafts of all policies and procedures that are being considered for revision or creation. The composition of the Committee has been designed to ensure that all perspectives of relevant stakeholders are contributing to the policy development. The Monitor observed Policy Committee meetings in this reporting period and observed significant improvements. One of the policies that the Policy Committee worked on and approved during this reporting period addressed the governance and workflow of policy development, including policies relevant to the Consent Decree that require approval by the Monitor. This policy, DM 2.09 - Policy Development, was published on January 13, 2023.

In addition to publishing DM 2.09, APD spent significant time finding ways to improve efficiency in policy development as well as acquiring additional resources to assist with drafting and finalizing policies to they can be developed with optimal efficiency. These efforts have been demonstrated to be effective with publication of the Constitutional Policing Policy and Biased-Based Policing Policy during this reporting period as well as a far more expedited pace in developing and finalizing multiple components of the use of force policy during this reporting period.

The Monitor has assessed this mandate again during this reporting period and finds that it is on the cautionary track only due to the missed Use of Force Policy Adoption Deadline (December 12, 2022). Because of the missed deadlines the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met shortly, albeit beyond the deadline called for in the Decree. The Monitor fully expects this work to be completed in RP5.

ASSESSMENT OF MANDATE 2B

Current Status:  - (Substantial Compliance)

Mandate 2B at IIA (page 4) of the Consent Decree, entitled "Policy development, review, and implementation process (AFR)" requires that the Monitor determine if the APD, AFR, and CSC have developed and implemented an appropriate procedure that will govern and speed up the policy development, review and implementation process. The Monitor has split this mandate into three; Mandate 2A which deals with the mandate relative to APD Mandate 2B which deals with the mandate relative to AFR, and Mandate 2C which deals with the CSC.

The compliance definition as agreed to in the MADC necessitates that AFR achieve compliance with all 11 different policy driven mandates and two different training driven mandates with decreased length of time, wherever possible, of the process by which Consent Decree related policies are developed, reviewed, and implemented. Compliance will be reached when the related policies are documented within relevant agency's procedures and the standards in those procedures are being adhered to.

This mandate was assessed relative to AFR during the last reporting period and the Monitor found that it was in substantial compliance. The Monitor has assessed this mandate again during this reporting period and continues to find it to be in substantial compliance. There were no new policies submitted by AFR for the Monitor's approval but there also were no policies relevant to the Consent Decree that were modified without the Monitor's approval during this reporting period. The Monitor will continue to evaluate this mandate in the subsequent reporting periods.

The Monitor continues believes that this mandate is in substantial compliance.

ASSESSMENT OF MANDATE 2C

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 2 at IIA (page 4) of the Consent Decree, entitled “Policy development, review, and implementation process (CSC)” requires that the Monitor determine if the APD, AFR, and CSC have developed and implemented an appropriate procedure that will govern and speed up the policy development, review, and implementation process. The Monitor has split this mandate into Mandate 2A, which deals with the mandate relative to APD, Mandate 2B, which deals with the mandate relative to AFR, and Mandate 2C, which deals with the mandate relative to CSC.

The compliance definition as agreed to in the MADC necessitates that CSC achieve compliance with all policy change-driven mandates with decreased length of time, wherever possible, of the process by which Consent Decree related policies are developed, reviewed, and implemented. Compliance will be reached when the related policies are documented within CSC’s procedures and the standards in those procedures are being adhered to.

Mandate 2C was assessed relative to CSC during the last reporting period and was on the cautionary track. The Consent Decree requires CSC to modify its Rules and Regulations regarding hiring and the disciplinary processes to be in full compliance with the Consent Decree by May 16, 2023. With the publication of the Hiring Report, that discussion has started in earnest with a focus on improving the hiring process given the staffing crisis that APD and AFR are currently facing. As we have reported in the previous reports and in the Hiring Report, CSC’s collaboration and cooperation in formulating recommendations are greatly appreciated. After the publication of the Hiring Report, there have been discussions at CSC meetings about the required rule changes, which led to uncertainty over the necessary process and the outcome, which is in compliance with the mandates in the Consent Decree. The discussions during RP4 were not focused on how to modify the process to comply with the Consent Decree but rather on whether the mandates within the Consent Decree were justified. However, despite there being multiple meetings held to discuss how to modify entry-level hiring process to be in compliance with the Consent Decree with stakeholders from the City, APD, AFR, and union representatives, the discussion did not progress beyond that point and it was unclear at the conclusion of RP4 whether the majority of the CSC Commissioners are willing to meet the CSC-related mandate by the deadline.

However, there were series of special meetings that took place after the end date of RP4 where significant progress was made by CSC to be in compliance with the Consent Decree¹¹. These meetings culminated in CSC adopting the City’s general framework on proposed modifications to the hiring process during a special meeting held on March 16th. The Monitor indicated that if implemented, the proposed general framework would meet the requirements of the Consent Decree. The framework generally follows the recommendations made in the Hiring Report but the process was modified to shorten the time for an applicant to receive a conditional offer, moved up the oral interview to be conducted prior to issuing conditional offer with optional participation from CSC, and for the final hiring to be conducted based on the rank list established at the issuance of conditional offers.

Due to progress made on March 16th and a subsequent meeting on April 11th, including presentation of a preliminary draft of CSC Rules and Regulations in efforts to implement the newly adopted modifications, the Monitor believes this mandate is currently on the right track.

ASSESSMENT OF MANDATE 3A

Current Status:  - (25-50% Complete. In line with Monitor expectations)

Mandate 3 at IIA (page 4) of the Consent Decree, entitled “Submission of new policies for review (APD)” requires that the Monitor determine if all new or revised policies, procedures and rules called for by the Consent Decree have been submitted to the CD Monitor for review before implementation.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance with all 32 different policy driven mandates (11 for AFR and eight for CSC). APD, AFR, and CSC must develop and implement all of the Consent Decree required policies in coordination with the Monitor to achieve full compliance with Mandate 3.

Mandate 3A was assessed relative to APD during the last reporting period and the Monitor found that it was on the right track. During this reporting period there were significant efforts made by APD to ensure that the relevant policies were being submitted to the Monitor prior to implementation, and no instances of failure to do so. More importantly, there were efforts to review and assess how modified policy development and workflow were actually working, alongside continuous efforts to improve these processes during this reporting period. APD was

¹¹ The Monitor understands that assessment of a mandate beyond the specified time in a reporting period is a deviation of past practices. However, given that RP5 report will not be published until October 2023 and that the hiring process for APD and AFR is of an utmost interest to the community, the Monitor is making a deviation to provide a timelier update to the community about the progress being made on this topic.

further reminded that all relevant policies and trainings must be approved by the Monitor before implementation. These efforts translated to real-time communication with the Monitor before substance of policies were finalized and sought more collaborative development process. These continuous efforts to improve the process were appreciated by the Monitor.

During this reporting period, APD submitted drafts of the following policies: Biased-Based policing Use of Force (Directives 5.02, 5.03, 5.05, and 5.06), special orders on the body-worn camera policy, Tier 1 use of force reporting and investigation, and Coaching for Improvement and SMART goals. This list demonstrates the renewed commitment of APD to be in compliance with the Consent Decree and we believe that these steps put the Department on the right track toward substantial compliance. More importantly, the submission of relevant policies to the Monitor has been formalized and published as part of APD's policy with the publication of Directive 2.09 - Policy Development.

For the reasons stated above, the Monitor believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 3B

Current Status:  - (Substantial Compliance)

Mandate 3 at IIA (page 4) of the Consent Decree, entitled "Submission of new policies for review (AFR)" requires that the Monitor determine if all new or revised policies, procedures and rules called for by the Consent Decree have been submitted to the CD Monitor for review before implementation.

The compliance definition as agreed to in the MADC necessitates that AFR achieve compliance with all 32 different policy driven mandates. APD, AFR, and CSC must develop and implement all of the Consent Decree required policies in coordination with the Monitor to achieve full compliance with Mandate 3.

Mandate 3B was assessed relative to AFR during the last reporting period and the Monitor found that it was in substantial compliance. The Monitor has assessed this mandate again during this reporting period and continues to find it in substantial compliance.

The Monitor believes this Mandate is in substantial compliance.

ASSESSMENT OF MANDATE 3C

Current Status:  - (Substantial Compliance)

Mandate 3 at IIA (page 4) of the Consent Decree, entitled "Submission of new policies for review (CSC)" requires that the Monitor determine if all new or revised policies, procedures and rules

called for by the Consent Decree have been submitted to the CD Monitor for review before implementation.

The compliance definition as agreed to in the MADC necessitates that CSC achieve compliance with all different policy driven Mandates. The CSC must develop and implement all of the Consent Decree required policies in coordination with the Monitor to achieve full compliance with Mandate 3.

Mandate 3C was assessed relative to CSC during this reporting period and the Monitor found that it was in substantial compliance. The CSC has submitted all new proposed policies and rule changes in a timely manner to the Consent Decree during this reporting period.

The Monitor believes this Mandate is in substantial compliance.

ASSESSMENT OF MANDATE 4A

Current Status:  - (25-49% Complete. In line with Monitor's expectations.)

Mandate 4A at IIB (page 5) of the Consent Decree, entitled "Incorporation of Best Practices and Scenario-Based Training (APD)," requires that the Monitor determine if APD incorporates best practices into training, including greater use of scenario-based training tools in both of their academies and in-service training.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance by incorporating best practices and uses scenario-based training to a greater extent in their training identified in the Consent Decree.

This mandate was assessed for the first time relative to APD during this reporting period. As previously discussed in RP2 report, the Monitor has observed de-escalation training in the academy that was scenario-based that was effective in providing recruits with an understanding of how dynamic various situations can be and providing with tools to de-escalate and control the situation. In addition, APD implemented ICAT training that heavily involves scenarios to ensure proper understanding and application of de-escalation tactics. All sworn members of APD will be trained by end of February. As noted in the focus section related to the training, The Monitor observed ICAT training and found it to be well-delivered and extremely valuable. This was especially true for the actor-staffed scenario training. In addition, APD continues to provide ABLE training to reinforce officer's duty to intervene. Additionally, APD and AFR are developing training, to be provided jointly to AFR and APD personnel, to address deployment of APD's new CEWs. APD will focus on the deployment of these CEWs and AFR will focus on the removal of the CEW barbs. This training is scheduled for March 10, 13, and 15 and April 7, 13, and 17. The Monitor will evaluate these training in RP5.

Once the use of force policy is fully developed and finalized, there will be updated use of force training. With the delay of completing the use of force policy, the development of training on the new policy could not be completed by February 15, 2023, which was the deadline set forth in the Consent Decree. Nonetheless, there was substantial progress made in this area with the implementation and completion of excellent ICAT training. As such, this mandate is now in line with the Monitor's expectations. The Monitor expects that the development and delivery of use of force training will be completed by the Consent Decree required deadline of August 9, 2023.

ASSESSMENT OF MANDATE 5A

Current Status:  - (25-49% Complete. In line with Monitor's expectations.)

Mandate 5A at IIB (page 5) of the Consent Decree, entitled "Incorporation of Best Practices and Scenario-Based Training (APD)," requires that the Monitor determine if APD submitted training plans identified in the Consent Decree with the Consent Decree Monitor and seek approval before the training plan is finalized.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance by submitting training plans to the Consent Decree Monitor prior to finalizing.

This mandate was assessed for the first time relative to APD during this reporting period. APD submitted all drafts of training curriculum implemented during this reporting period to the Monitor. Specifically, the Monitor reviewed the training for the Constitutional Policing and Biased-Based Policing Policies and APD made modifications according to the feedback provided by the Monitor before the training was implemented. The Monitor reviewed the draft curriculum as well as was present to observe the recording of the training. Finally, the Monitor reviewed the final edited recording to ensure fidelity to the approved curriculum and approved the final version of the training before it was shared with the officers. The Monitor also reviewed and approved 2023 Detective Academy training. There are several more trainings for Monitor to review in the upcoming reporting periods for APD but the Monitor appreciates the efforts the APD made to provide the training materials for approval in a timely manner.

The Monitor believes this mandate is on the right track.

ASSESSMENT OF MANDATE 5B

Current Status:  - (Substantial Compliance)

Mandate 5B at IIB (page 5) of the Consent Decree, entitled "Incorporation of Best Practices and Scenario-Based Training (AFR)" requires that the Monitor determine if AFR submitted training plans identified in the Consent Decree with the Consent Decree Monitor and seek approval before the training plan is finalized.

The compliance definition as agreed to in the MADC necessitates that AFR achieve compliance by submitting training plans to the Consent Decree Monitor prior to finalizing.

This mandate was assessed for the first time during this reporting period relative to AFR. The Monitor assessed de-escalation training AFR implemented during this reporting period. The purpose of the training was to offer a trained approach to addressing and assisting individuals that present in different types of mental health crisis with something other than a chemical sedative. The training was presented in three module approach. The first two modules are recorded presentations of instructor-led coursework with question and answers. The third module, which was not rolled out during this reporting period, will consist of hands-on trainings with scenarios led by instructors. The Monitor assessed Module 1 during this reporting period and found it to be very useful. The Monitor found the training provided firefighters with an understanding of how their personal trauma and each member's personal experience may also have an impact on these types of calls for service.

The Monitor believes this mandate is in substantial compliance.

ADDRESSING RACIAL BIAS IN POLICING

INTRODUCTION

Despite federal and state laws prohibiting racially biased policing, and internal departmental policies that articulate commitments against bias-based practices, policing across the nation has struggled to consistently administer policing in ways that fully address racial bias in policing. The extent to which racial disparities exist, and whether they are derivative from racial bias, either implicit or explicit, continues to be a significant issue and a barrier to full community trust. Racial justice movements have pressed to keep the issue of racial bias at the forefront of policing issues, and virtually all policing reform measures are evaluated, at least in part, on how they improve policing along racial bias metrics. To improve both perception and performance, APD and the City of Aurora must build upon their considerable bias-reduction efforts. Importantly, they must ensure that departmental policies and training programs are attentive to bias and disparity and are geared toward heightening conscious awareness of those issues. Doing so will help ensure that the department continues to mitigate disparities while signaling to the Aurora community that bias and disparity minimization remain priorities, which will, in turn, improve community trust.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

Section 08.32 of APD’s Directives Manual, adopted on October 7, 2020, defines biased based policing as “an enforcement action based on a trait common to a group, without actionable intelligence to support consideration of that trait.” The directive prohibits APD officers from engaging in biased-based policing predicated on race, ethnicity, gender, national origin, language, religion, sexual orientation, gender identity, age, and disability. The directive further contains provisions relating to traffic stops; the establishment of a citizen comment line; the responsibilities of commanding officers upon their receipt of a complaint of prohibited bias; complaint tracking; and officer training. The directive, while reaffirming APD’s departmental stance against bias-based policing, has been criticized as being insufficiently detailed to curb officer conduct that could tend toward discriminatory policing.

In its September 15, 2021, report, the Colorado Attorney General found that, notwithstanding the APD policy, both statistical and anecdotal data supported its conclusion that APD had engaged in a pattern and practice of race-based policing. After analyzing departmental data on race and use of force, for example, the Attorney General found that APD officers used force, arrested, and filed discretionary charges against Black and non-White people at a significantly higher rate than they did against White people, and that a greater percentage of Black and non-White communities experienced those actions than did members of White communities. The report also cited the anecdotal experiences of community members and Attorney General investigators who commented on differences in how APD officers interacted with members of different racial groups, including frequent escalations of force against non-White residents compared to White residents.

The Attorney General’s September 15 report included an admonishment that, to “remedy and eliminate its practice of race-based policing, Aurora must make major changes across the organization to improve its culture, including improving its policies, training, recordkeeping, and hiring.” The Attorney General’s report specifically called for greater detail in APD policies against racially biased policing; more specific standards and expectations for APD officers when they make a stop or arrest or use force; better tracking of outcomes for people arrested on misdemeanor charges to identify discrepancies between arrest rates and prosecution rates; and improved training for police academy cadets and in-service officers, among other recommendations.

CONSENT DECREE’S OBJECTIVES

The Consent Decree seeks to change, in measurable ways, how APD engages with all members of the community, including by reducing any racial disparities in arrests, uses of force, and engagement with the community, and to improve APD’s transparency in these areas.

POLICY IMPLICATIONS

Policies must be created and improved to give officers concrete guidance on how best to engage in critical decision-making and exercise discretion during community interactions. Through its policies, APD must acknowledge the role that bias can play in enforcement decisions, including in stops, arrest, and uses of force, and memorialize strategies to combat bias by the Documentation of Contacts Policy Adoption Deadline (by May 16, 2022), Stops Policy Deadline (by June 15, 2022), and Use of Force Policy Adoption Deadline (by December 12, 2022). Policies must prohibit discrimination based on protected class status and conform to the goals of the Consent Decree and applicable state and federal law, including by making policies more detailed and providing examples of prohibited behavior. Simply put, protected class status cannot be the basis, in whole or in part, of any police action except when part of a suspect-specific description.

TRAINING IMPLICATIONS

For officers to know how best to engage in critical decision-making and how to exercise discretion properly during community interactions, APD must develop trainings on bias, deliberate decision-making, recordkeeping requirements, and how to specifically articulate the basis for encounters. This training must acknowledge the role that bias can play in enforcement decisions, including in stops, arrest, and uses of force, and must instruct officers on strategies to combat bias by the Stops Policy Training Deadline (by August 14, 2022), Bias Training Deadline (by February 15, 2023), and Use of Force Training Development Deadline (by February 15, 2023).

OPERATIONAL INTEGRITY IMPLICATIONS

After the newly developed policies are implemented and the training is completed, the Monitoring Team will evaluate for operational integrity, that is, whether the policies and trainings are being followed in practice. Prior to full post-implementation monitoring, the Monitoring Team will establish a baseline by understanding how biased policing is captured and reviewed.

DATA UTILIZATION

APD, working with the Monitoring Team will need to determine which data does and does not exist. The Team's subject matter expert will identify, with APD, the metrics that will be used to measure improvements relative to policies and training developed in accordance with the mandates in this section.

PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD

APD published the Constitutional Policing Policy and the Biased-Based Policing Policy on February 14, 2023. In addition, 98% of officers who interact with the public completed the required training on Constitutional Policing and Biased Based Policing Policy by February 15, 2023. These policies are monumental first steps to achieving compliance for APD and form the foundation for achieving compliance with many of the Decree’s mandates. They should be used to inform additional APD policies and training on racial bias and disparity and to promote further improvements to the department’s culture overall.

Before developing the Constitutional Policing policy, APD did not have a comprehensive policy dedicated to providing guidance to officers on the complexities regarding the legal authority to make a stop under the Fourth Amendment. Compliance with this mandate required a substantial amount of work-- more than that originally anticipated by the parties. In addition, this new policy stresses the importance of being in compliance with both the Fourth and 14th Amendments to conduct constitutional policing and APD updated the Biased Based Policing Policy as a companion piece to the Constitutional policing Policy to drive that point home.

The City and the Monitoring team also began to establish baselines of what data is currently being collected, what data systems are currently in use, how these systems link together, how data is analyzed, how data analysis is shared to drive strategies forward, and how racial and ethnic disparities are measured and tracked. Points of focus included data on use of force, contacts, pedestrian and vehicular stops, calls for service, crime incidents, gun recoveries, and early warning/intervention systems for APD personnel. The City is in the process of updating and migrating their computer-aided dispatch (CAD) and record management (RMS) systems and has plans to migrate APD’s use of force and early-intervention program data to a new system. The goal is for these systems to be capable of communicating with one another and to improve the City’s ability to analyze the data stored within.

During this reporting period, the Monitoring Team observed in-service training on the Constitutional Policing and Biased Based policing policies which addressed topics such as routine vehicular contacts, basic search and seizure, preliminary investigations, pedestrian contacts, in-progress calls, identification of suspects, vehicle searches, legal justifications for stops, the Fourth Amendment, 14th Amendment, and vehicle contacts.

THIS REPORTING PERIOD’S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of ten of the eleven mandates in this area of the Consent Decree. All ten evaluated were with respect to the APD. Five were on a cautionary track due to missed deadlines, with two of them flagged for concerns

expressed by the Monitor about APD's inability to analyze its own contact data. Two mandates were found in substantial compliance with the publication of the Constitutional Policing Policy and the Biased-Based Policing Policies. Once the trainings for use of force and managing implicit bias are completed and APD's data issues are addressed, the status will change back to green.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 6

Current Status:  - (0-24% Complete. At this time, uncertain if Monitor's expectations will be met.)

Mandate 6 at III A (page 7) of the Consent Decree, entitled "Addressing Racial Bias in Policing – Objectives - Metrics," requires that the City change in measurable ways how APD engages with all members of the community, including by reducing any racial disparities in how APD engages, arrests, and uses force in the community.

The compliance definition as agreed to in the MADC necessitates that the APD develop and implement policies/processes to collect data designed to measure the level of change, if any, in accordance with the subject matter expert's metrics and measurements. Compliance will also be evaluated by how the APD has changed in a positive manner, how it engages with all members of the community, and how it has identified and measured ways to assist in the reduction of racial/ethnic disparities that may be indicative or symptomatic of biased policing.

This mandate was assessed during the last reporting period and found to be on a cautionary track. APD fully implemented the Contacts Form, which was developed in consultation with the subject matter expert, department-wide during the second reporting period. APD is on working on improving its data collection relevant to the Consent Decree's mandates on bias and racial/ethnic disparity with the roll-out of the Contacts Form, which includes metrics that will be used to measure improvements in how APD engages with the community. The data collection will be foundational to providing guidance to the officers on how to best engage in critical decision-making and use discretion during community interactions.

During this reporting period, as noted during the last reporting period, no one in APD has the ability to easily access the data to analyze issues, trends, patterns, or practices. While this is not directly the fault of APD, a system that is designed to collect data without providing the ability to easily analyze it is not what is required under the Consent Decree. With many additional systems set to be transitioned to new operating software, including CAD (Computer Aided Dispatch), the department's arrest and incident record management system (RMS), Internal Affairs and Use of Force Investigation tracking, and Early Intervention, it is imperative that significant thought and attention continue to be paid to the utilization of data in those systems to inform the department

and the public with respect to issues, patterns and trends as required by the Decree. Given the sheer volume and scale of work ahead for APD and City IT, and the staffing shortage being experienced by APD, having a dedicated APD IT unit may be helpful in expediting the speed and pace of updates and improvements necessary to achieve compliance.

The City and the Monitoring Team continued working on establishing baselines of what data is currently being collected, what data systems are currently in use, how these systems link together, how data is analyzed, how data analysis is shared to drive strategies forward, and how racial and ethnic disparities are measured and tracked. The technical report from the National Policing Institute, attached as Appendix E, provides detail on that continuing work. The efforts on this mandate will continue in the next reporting period.

For the reasons stated, the Monitor believes the mandate is on a cautionary track and will be evaluating progress on all of these systems in upcoming reporting periods.

ASSESSMENT OF MANDATE 7

Current Status:  - (25-49% Complete. In line with the Monitor's expectations.)

Mandate 7 at III A (page 7) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Objectives - Transparency,” requires that the Monitor determine if the City has created full public transparency on how APD engages, arrests, and uses force in the community, including any racial disparities in these enforcement actions.

The compliance definition as agreed to in the MADC necessitates that the APD develop the means to capture relevant data in accordance with applicable state law, implement appropriate attendant policies, periodically post relevant information on a public facing website, and implement an internal review process to ensure continued compliance.

This mandate was assessed during last reporting period and found it to be on a cautionary track. APD is working on its data collection relevant to the Consent Decree's mandates on bias and racial/ethnic disparity with the roll-out of the Contacts Form, which includes metrics that will be used to measure improvements in how APD engages with the community. The data collection will be foundational to providing guidance to the officers on how to best engage in critical decision-making and use discretion during community interactions.

During this reporting period, APD and the City prioritized working on developing a plan for external facing Transparency Portal. APD has been advocating for such dashboards since summer of 2022 but saw concerted support from the City to prioritize APD's efforts during this reporting period. They identified a vendor and have worked together to identify necessary data and metrics to develop these dashboards and submitted a plan to the Monitor in time to meet the deadline

for the Initial Measurement Plan Deadline (February 15, 2023). The preliminary design is to provide public facing dashboards in the following areas: department demographics, crime data and mapping, response outcomes, including arrest, contacts, offense reports, summons and use of force, Consent Decree progress, and disciplinary matters.

The Monitor believes that the plan, if implemented, will meet the requirements of the Decree. While the Monitor is concerned, given its experience relative to the Contact Form database detailed in Mandate 6 above, about the ability of the City through its vendors to complete timely implementation of the plan, at this point, we find the City is on the right track . We will be closely tracking progress on this mandate, however, to ensure that all components progress on the designated timeline.

ASSESSMENT OF MANDATE 8

Current Status:  - (75-99% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 8 at III A (page 7) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Objectives - Policies and Training,” requires that the Monitor determine if APD has improved its policies and training on officer stops, arrests, and uses of force such that officers receive concrete guidance on how best to make critical decisions and exercise discretion while interacting with members of the community. The Monitor must also determine if APD’s policies and training adequately acknowledge the role that bias can play in enforcement decisions by officers and whether APD has developed strategies for combatting bias.

The compliance definition as agreed to in the MADC necessitates that the APD’s policy and training on this topic, be developed, approved by the Monitor, disseminated, trained on, and being implemented to achieve full compliance with Mandate 3.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. While much was done in this area prior to the inception of the Consent Decree including work in 2021 on critical decision making in high-risk stops, compliance with this mandate is multi-stepped and can only be completed through the development and delivery of appropriate training after the policies for Contacts, Constitutional Policing, Biased Based Policing, and Use of Force are finalized. The Monitor has assessed this mandate again during this reporting period. The Monitor previously found last reporting period that APD had rolled out the Contacts Form department-wide and published its Documentation of Contacts Policy. APD had also trained on the policy and the Contacts Form during that reporting period.

During this reporting period, APD worked on publishing policies on Constitutional Policing and Biased Based Policing and continued working on developing different chapters of the Use of Force

policies as noted above. As for Constitutional Policing and Biased-Based Policing, APD worked on finalizing and rolling out training on these new policies and the department completed training 672 officers of the department on both policies as of February 15, 2023. This represents 98% of the officers who interact with the public. The training was broken down into several modules by topic to provide a convenient refresher to officers in the future who may not need the entire training but rather a targeted refresher on certain topics to make training more accessible and convenient. This completion of the training met the Stops Training Completion Deadline (February 15, 2023). Lastly, APD rolled out ICAT training that provides officers with the tools, skills, and options they need to successfully and safely de-escalate a range of critical incidents. ICAT training will continue in RP5 and it's anticipated that the training will be completed in RP5. Together, the trainings and the policies offered officers guidance on how to conduct contacts, encounters, stops, and arrests such that officers receive concrete guidance on how best to make critical decisions and exercise discretion while interacting with members of the community.

With the continuing development of the Use of Force policy, multiple deadlines were missed, including the Use of Force Policy deadline (December 12, 2022), the Use of Force Training Development Deadline (February 15, 2023), and the Bias Training Completion Deadline (February 15, 2023). However, it should be noted that while the Biased Based Policing Training provided instruction on the prohibitions against biased policing under the 14th Amendment, it did not provide training acknowledging the role that bias can play in enforcement decisions by officers and strategies for combatting bias. The Monitor understands that APD had an implicit bias training that would satisfy this requirement scheduled for March of 2023. As of the writing of this report, that training needs to be re-scheduled at the request of the vendor. When re-scheduled, the Monitor will be observing the training. Of note, two members of the Community Advisory Council were invited by Chief Acevedo to observe this training as well, a laudable example of transparency.

Because of the pending implicit bias training, and the Monitor's evaluation of that training, will not have occurred within the timeline set for full training in this area, and it is unclear when the training will occur, we find this mandate to still be on a cautionary track. Nonetheless, APD has made great strides and progress in achieving compliance with this mandate and the Monitor appreciates the renewed focus to do so during this reporting period.

ASSESSMENT OF MANDATE 9

Current Status:  - (Substantial Compliance)

Mandate 9 at III B 2a (page 8) of the Consent Decree, entitled "Addressing Racial Bias in Policing- Policy Changes- Amendment of Existing Policies- Revision of Directive 8.32," requires that the Monitor determine if APD revised Directive 8.32 Biased-Based Policing to prohibit discrimination

based on protected class status and conform it to the goals of the Consent Decree and applicable state and federal law.

The compliance definition as agreed to in the MADC necessitates that APD revise Directive 8.32 to reduce racial/ethnic disparities that are indicative or symptomatic of biased policing and applicable state law as defined in CRS 24-31-209 and federal law.

This mandate was assessed for the first time relative to APD during this reporting period. APD published an updated Directive 8.32 Biased-Based Policing Policy on February 14, 2023. The policy was updated with the purpose of:

[...ensuring] that all sworn members of the Aurora Police Department (APD) conduct all encounters and law enforcement actions impartially and in accordance with the rights secured and protected by the United States Constitution, federal and state law, case law, and APD policy. Conducting law enforcement activities in an unbiased manner fosters and strengthens relationships between sworn members and the public and inspires confidence in and support for policing efforts. This policy also provides guidance to APD supervisors on the proper investigation of any complaints of biased-based policing.

This policy should be read in conjunction with [DM 08.52 - Constitutional Policing](#), which specifically defines and delineates APD policy relative to contacts, detentions, arrests, searches, seizures, and the provision of business cards to members of the public.¹²

Taken together, the policies on Bias-based Policing and Constitutional policing send a powerful message that conduct that violates either the Fourth or 14th Amendments to the Constitution will not be tolerated. Of course, the Monitor will be reviewing the operational integrity of this policy in practice to ensure that, indeed, no violation of Constitutional rights are occurring.

The Monitor believes this mandate is in substantial compliance.

ASSESSMENT OF MANDATE 11

Current Status:  - (Substantial Compliance.)

Mandate 11 at III B 3 A (page 8) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Creation of New Policies-Stops,” requires that the Monitor determine if the policy APD

¹² The full policy, as revised, is contained in Appendix C hereto.

developed to address the requirements at Mandate 35 at V.B.2.a, also provides specific, practical guidance intended to support officers in determining how to exercise their discretion when making stops.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance by complying with Mandate 35 by developing a policy that includes specific, practical guidance intended to support officers in determining how to exercise their discretion when making stops, and such policy is finalized and disseminated to all appropriate APD staff, and APD has complied with the training requirements of this policy as reported in Mandate 37.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track due to the deadline for the policy creation having passed. During this reporting period, APD prioritized the development of its Constitutional Policing policy, which was published the February 15, 2023 (attached as Appendix B). Training on the policy was conducted in the fourth Reporting Period as well. The policy covers the required instruction on the legal authority to make contacts, encounters, and stops and, along with the updated Bias-Based Policing policy, commits the Department to bias-free, constitutional policing.

With the publication of the policy, the Monitor believes this mandate is in substantial compliance.

ASSESSMENT OF MANDATE 12

Current Status:  - (75-99% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 12 at III C (1-4) (page 9) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Training- Academy Training,” requires that the Monitor determine if APD developed and provided comprehensive academy training to police personnel in bias, deliberate decision-making, including avoiding unnecessary escalation and teaching officers what they should do rather than what they can do, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force.

The compliance definition as agreed to in the MADC necessitates that APD develop sufficient training plans which are consistent with the revised policies on these optics and incorporates scenario-based training for the academy on bias; deliberate decision-making, including avoiding unnecessary escalation and teaching officers what they should do rather than what they can do; recordkeeping requirements; and specific articulation of the basis for encounters, including stops and uses of force.

This mandate was assessed during RP3 and it was determined to be on the cautionary track. During this reporting period, APD made significant progress. APD published a policy on the legal

authority to make contacts, encounters, and stops as well as a policy prohibiting biased-based policing. The combined training on both of these policies were rolled out and completed by 98% officers who interact with the public by February 15, 2023. While the academy utilizes scenario-based training covering anti-bias, de-escalation, and critical decision-making, the recruits will receive this training prior to graduating from the academy as companion to existing curriculum on Search and Seizure. As noted above, ICAT training was rolled out in this reporting period and it will be completed during the fifth reporting period.

However, as noted, the training on how to combat bias will be conducted in the next reporting period as is the updated comprehensive use of force training curriculum.

With the continuing development of the Use of Force policy, neither the Use of Force Training Development Deadline (February 15, 2023) nor the Bias Training Completion Deadline (February 15, 2023) were met. Because of the missed deadlines, the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 13

Current Status:  - (25-49% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 13 at III C (1-4) (page 9) of the Consent Decree, entitled "Addressing Racial Bias in Policing- Training-Academy Training (Delivery)," requires that the Monitor determine if APD delivered comprehensive academy training on bias, deliberate decision making, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force.

The compliance definition as agreed to in the MADC necessitates that APD have delivered comprehensive academy training on bias, deliberate decision making, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force to all appropriate academy recruits/attendees.

This mandate was assessed for the first time during this reporting period relative to APD. As noted above in Mandate 13, while the academy utilizes scenario-based training covering anti-bias, de-escalation, and critical decision-making, the recruits will receive this training prior to graduating from the academy as companion to existing curriculum on Search and Seizure.

With the continuing development of the Use of Force policy, the Use of Force Training Development Deadline (February 15, 2023) were not met as well as the Bias Training Completion Deadline (February 15, 2023). Because of the missed deadlines, the Monitor's expectations have

not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 14

Current Status:  - (75-99% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 14 at III C (1-4) (page 9) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Training- In-Service Training,” requires that the Monitor determine if APD developed and provided comprehensive in-service training to police personnel in bias, deliberate decision-making, including avoiding unnecessary escalation and teaching officers what they should do rather than what they can do, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force.

The compliance definition as agreed to in the MADC necessitates that APD develop sufficient training plans which are consistent with the revised policies on these optics and incorporates scenario-based training for in-service training on bias, deliberate decision-making, including avoiding unnecessary escalation and teaching officers what they should do rather than what they can do, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force.

This mandate was assessed during the last reporting period and it was on the cautionary track. During this reporting period, APD made significant progress as noted above. APD published a policy on the legal authority to make contacts, encounters, and stops as well as a policy prohibiting biased-based policing. The training on both of these policies were rolled out and completed by 98% officers who interact with the public by February 15, 2023. As noted above, ICAT training was rolled out in this reporting period and will be completed during the fifth reporting period. The managing bias course was scheduled for March 2023, but, at the request of the vendor, needs to be rescheduled. The date has not yet been agreed upon.

With the continuing development of the Use of Force policy which will then lead to the development and delivery of training, and the yet-to-be delivered Biased Policing training, neither the Use of Force Training Development Deadline (February 15, 2023, nor the Bias Training Completion Deadline (February 15, 2023) have been met. Because of the missed deadlines, the Monitor’s expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 15

Current Status:  - (25-49% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 15 at III C (1-4) (page 9) of the Consent Decree, entitled “Addressing Racial Bias in Policing- Training-In-Service Training (Delivery),” requires that the Monitor determine if APD delivered comprehensive academy training on bias, deliberate decision making, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force.

The compliance definition as agreed to in the MADC necessitates that APD have delivered comprehensive in-service training on bias, deliberate decision making, recordkeeping requirements, and specific articulation of the basis for encounters, including stops and uses of force to all appropriate academy recruits/attendees. As noted in Mandate 14, significant progress was made during this reporting period with 98% of officers who interact with the public being trained on the Constitutional Policing and Biased-Based Policing Policy by February 15, 2023, and the roll-out of ICAT training.

With the continuing development of the Use of Force policy which will then lead into the development and delivery of training on that policy, and the yet-to-be delivered Biased Policing training, neither the Use of Force Training Development Deadline (February 15, 2023), nor the Bias Training Completion Deadline (February 15, 2023) have been met. Because of the missed deadlines, the Monitor’s expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 16

Current Status:  - (25-49% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period, but uncertain if Monitor’s expectations will be met.)

Mandate 16 at III D (page 10) of the Consent Decree, entitled “Addressing Racial Bias in Policing – Goals and Measurement,” requires that the Monitor determine if the APD has developed metrics to measure improvements in the relevant training, recordkeeping on police interactions, and documentation and tracking use-of-force incidents are required.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance by developing metrics to measure improvements, APD has developed, finalized, and disseminated appropriate policies to adequately address metric data collection and

measurement of improvements, and implemented sufficient internal review and accountability processes designed to ensure continued compliance.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The City and the Monitoring team continued working on establishing baselines of data that is currently being collected, data systems which are currently in use, how these systems link together, how data is analyzed, how data analysis is shared so as to drive strategies forward, and how racial and ethnic disparities are measured and tracked. Points of focus include data on use of force, contacts, pedestrian and vehicular stops, calls for service, crime incidents, gun recoveries, and early warning/intervention systems for APD personnel. The status of that ongoing work is attached as Appendix E.

However, the Monitor is concerned, given its experience relative to the Contact Form database detailed in Mandate 6 above, about the ability of the City through its vendor to achieve compliance within the deadlines established. As noted above, APD is in the process of updating multiple systems and is engaging with multiple vendors to develop systems that perform the necessary functions and provide the ability to analyze data both internally and externally through public-facing dashboards. The goal is for these systems to be capable of communicating with one another and to improve the City's ability to analyze the data.

Currently, supervisors do not have access to the system to review CDC forms. While APD is working on addressing this barrier with the vendor and with the goal of having systems communicating with each other, APD is currently in the process of formulating an internal audit plan to ensure compliance with the data collection policy, through supervisory review of the data. The first step toward supervisory review is to work with vendor to provide access supervisors to CDC forms for officers they are supervising that are submitted as part of a call. Once supervisors have permissions to access these forms in system, they can review the contact forms associated with the random sample of BWC footage that they will be required to watch through that audit. Ultimately, the goal is to have a linkage of the CDC form through the RMS system so that when a supervisor approves a general offense report, they can also view the CDC form to ensure 1) that a form is completed and 2) that it comports with the information in the report. These efforts by APD to design an internal review process is laudable but will need vendor performance to bring to fruition. To date the vendor has missed numerous deadlines.

For the reasons stated, the Monitor believes the mandate is on a cautionary track and will be evaluating progress on all the components of this Mandate in the next reporting period.

USE OF FORCE

INTRODUCTION

Unnecessary and excessive uses of force—and uses of force that are perceived to be unnecessary or excessive by community observers—comprise perhaps the single greatest source of police-involved controversies. High-profile use of force incidents have occurred in every decade since American policing was formally professionalized in the early 20th century. These incidents have stirred protest, condemnation, and reflection within aggrieved communities and the ranks of sworn members of service alike.

Police departments have often defended their use of force practices as conforming to all constitutional minimum standards, including the requirements that all uses of force be proportionate to any threat faced by officers. However, departments face increasing pressure to enact policies and protocols that would reserve uses of force as secondary measures of resort even when force would otherwise be legally permissible.

The conversations surrounding uses of force and the controversies they have instigated have prompted a revisitation of the use of force policies of virtually every police department. An ideal set of policies would minimize unnecessary uses of force while maximizing the safety of police officers, those with whom they interact, and bystanders who may be caught in between. However, the development of such policies would, alone, be insufficient. Police departments must also commit to a robust and recurring training regimen that equips officers with specific skills, honed through scenario-based instruction, that allow them to achieve the goals of departmental policies in real world practice. Implementing these changes remains a primary objective for any modern department.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

APD's Directive Manual contains sections that articulate the APD's policies on the use of physical and deadly force; the use of less lethal devices, weapons, and techniques; the authorized use of a firearm; and an officer's duty to intervene when they witness conduct by another officer that violates applicable use of force requirements, among other force-related policies. Despite APD's collective use of force policies, significant deficiencies were identified in reviews conducted by the Colorado Attorney General's Office.

In its September 15th report, the Attorney General's Office found that APD had a pattern and practice of using force excessively. The report critiqued what it characterized as the APD's practice of using force whenever force could be legally justified—even if only under the outer limits of available legal justifications—rather than limiting the use of force for when force is

necessary. It further found that force was disproportionately used against persons experiencing mental health crises and against persons of color, with force frequently justified as a response to a person’s failure to obey a lawful order. The Attorney General’s report faulted APD’s policies and culture for encouraging officers to default to the use of the maximally permitted level of force rather than non-force alternatives for gaining compliance from uncooperative subjects. The report noted that inadequate documentation by officers of uses of force inhibited efforts to fully evaluate APD’s use of force practices, but that available data and evidence suggested troubling trends. To remedy the adverse findings in the Attorney General’s report, the Consent Decree prescribes specific mandates, including a revision of existing force-related policies, the creation of new policies pertaining to coordination between APD and AFR, modifications to the Force Review Board, and implementation of new training courses.

CONSENT DECREE’S OBJECTIVES

The Consent Decree seeks to create a culture of continuous improvement within the APD that prioritizes de-escalation, when possible, in accordance with Colorado law and that does not compromise officer safety when force must be used. It further seeks to create a culture of collaboration between APD and AFR that is coordinated and that emphasizes public safety, and the development of accountability measures that consistently identify excessive uses of force, situations where force should not have been used even if it was legal, and recurring training and tactical issues related to use of force.

POLICY IMPLICATIONS

Policies must be developed to better equip officers to handle challenging situations in ways that reduce the use of force, ensure force is used in compliance with state and federal law, protect officer and community safety, and that build a culture of continuous improvement by the Use of Force Policy Deadline (by November 12, 2022) and Use of Force Policy Adoption Deadline (by December 12, 2022).

TRAINING IMPLICATIONS

Training must be developed to better equip officers to handle challenging situations in ways that reduce the use of force, ensure force is used in compliance with state and federal law, protect officer and community safety, and that builds a culture of continuous improvement with scenario-based instruction on de-escalation and joint police and fire on-scene coordination trainings by the Use of Force Training Development Deadline (by February 15, 2023) and Use of Force Training Completion Deadline (by August 9, 2023).

OPERATIONAL INTEGRITY IMPLICATIONS

After the newly developed policies are implemented and the training is completed, the Monitoring Team will evaluate for operational integrity. Prior to full post-implementation monitoring, the Monitoring Team will establish a baseline by understanding how uses of force are captured and reviewed.

DATA UTILIZATION

Working with APD, the Monitoring Team will need to determine which data does and does not exist. To establish a baseline prior to the implementation of policies and completion of training, the Team will sample body-worn camera footage and participate in “ride-alongs” with APD officers, as well as observing Force Review Board Meetings. Upon the completed implementation of policies and training, the Team will sample body-worn camera footage, review associated documentation of uses of force, participate in ride-alongs, and continue its review of Force Review Board meetings. The Team will also review complaints from the public and associated documentation to ensure compliance with the implemented policies and training.

PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD

The Monitoring Team continued to observe and contemporaneously comment and advise on the Force Review Board and its processes and notes that FRB has improved significantly during this reporting period. Among these changes are a broadening and formalizing of the Board’s review process, which originally focused primarily on uses of force themselves, with relatively little consideration of the circumstances before or after the force was applied and ability to be more self-critical of uses of force that are not in violation of policy but could have been handled differently.

The Team also had multiple discussions with the Training Unit to better understand certain aspects of its current training, including arrest controls and de-escalation.

Most importantly, the Monitoring Team, in conjunction with the Crime and Justice Institute and other subject matter experts as necessary, continued to work on developing and finalizing the Use of Force policy. The Monitor has observed significant progress in this area and APD has improved the policy development process to develop and finalize many components of the Use of Force policy at a much more expedited pace.

THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of sixteen of the seventeen mandates in this area of the Consent Decree. Fifteen of these mandates related to APD and one related to AFR.

Twelve APD mandates were on a cautionary track, with eleven because of missed deadlines and the remaining one due to missed deadline as well concerns about how the data collection system will be implemented to meet the needs of the Consent Decree. When the policies and training are completed, the status will change back to green.

The remaining three APD mandates were on the right track, as was the one Mandate for AFR.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 17

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 17 at IV A (Page 11) of the Consent Decree, entitled “Use of Force – Objectives – Policies and Training,” requires that the Monitor determine that all new or revised APD policies and trainings relevant to UOF better equip officers to handle challenging situations in ways that reduce the need to use force when possible; that they ensure that when force is used, it is in compliance with state and federal law; that they protect officer and community safety and build a culture of continuous improvement.

The compliance definition as agreed to in the MADC requires that APD achieve substantial compliance with Mandates 18-32 and APD’s policies and training better equip officers to handle challenging situations in ways that reduce the need to use force when possible; ensure that when force is used, it is in compliance with state and federal law; protect officer and community safety and build a culture of continuous improvement.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. APD has worked on finalizing Directive Manual 5.01 – Use of Force, Directive Manual 5.02 - Use of Force Model, and Directive 5.03 - Less-Lethal Devices, Techniques, and Weapons in this reporting period. There are still several more directives for APD to develop and finalize before the entire Use of Force policy can be completed and published. Nonetheless, the development and finalization of the three directives during this reporting period demonstrated APD’s commitment to achieve compliance with this mandate. As demonstrated with these accomplishments, APD has improved its processes in working with their subject matter experts, refining and improving its processes throughout this reporting period to remove redundancies

and siloed communications. This reporting period was focused on a critical assessment of needed changes from current policy to incorporate best practices and the guidance for officers on when and how to use force. APD anticipates that Use of Force policy will be completed and published in RP5. Along with the policy development, APD also rolled-out ICAT training as noted above. The training is ongoing and will be completed in RP 5.

The Consent Decree has a deadline of November 12, 2022, for Use of Force Policy and December 12, 2022, for the adoption of Use of Force Policy. APD has not met these deadlines as well as the Use of Force Training Development deadline of February 15, 2023, due to the delay in completing all of the necessary Use of Force policies. However, the Monitor expects APD to continue to prioritize the finalization of its attendant Use of Force policies and development of related training in the next reporting period with a target completion date sometime in the fifth reporting period.

Because of the missed deadline for the policy, the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met shortly, albeit, beyond the deadline called for in the Decree. The Monitor looks forward to working with APD on finalizing this policy and the training curriculum in the next reporting period.

ASSESSMENT OF MANDATE 18

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 18 at IV A (Page 11) of the Consent Decree, entitled "Use of Force – Objectives – Culture of De-escalation," requires that the Monitor determine if the City has created a culture of enforcement that prioritizes de-escalation when possible in accordance with Colorado law, but does not compromise officer safety when force must be used.

The compliance definition as agreed to in the MADC defines that APD will achieve substantial compliance with this mandate when APD's policies, training, and accountability measures prioritize de-escalation whenever possible, when use of force incidents indicate that officers have de-escalated when possible, and when a use of force incident reveals that de-escalation techniques could have been, but were not employed, that the reviewing entity identifies, documents, and formally communicates those issues back to the appropriate command staff, training staff, and the involved officers.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor found that APD is engaged in an ongoing process of improving the Force Review Board to further emphasize a culture of enforcement that prioritizes de-

escalation, when possible, in accordance with Colorado law. There was significant improvement in this reporting period. FRB has been consistently more critical in its discussions. As noted above, APD is also continuing to work on finalizing the use of force policy, prioritizing and emphasizing de-escalation including tactics such as containment and verbal de-escalation techniques. De-escalation is recurring theme for the curriculum for entry-level officer training and education in the academy as well.

As noted above, there is a Consent Decree deadline of November 12, 2022, for the Use of Force Policy; a December 12, 2022 deadline of February 15, 2023, for the adoption of the Use of Force Policy; and a deadline of June 15, 2022, for the changes and improvements to the Force Review Board to be memorialized. The Monitor continues to work with the Department in defining the overall objective of the Force Review Board and collaboratively discuss and build consensus on how to best facilitate these discussions.

The Monitor is also in the process of reviewing existing curriculum, including potentially controversial outside instruction from the Force Science Institute¹³, to determine whether the curriculum advances the requirements of the Decree.

Because of the missed deadlines the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable time-period, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 19

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 19 at IV A (Page 11) of the Consent Decree, entitled "Use of Force – Objectives – Accountability Measures," requires that the Monitor determine if APD has improved and/or developed accountability measures that consistently identify excessive uses of force, situations where force should not have been used even if it was legal, and recurring training and tactical issues related to use of force.

¹³A comprehensive article about the training can be found here: <https://www.nytimes.com/2015/08/02/us/training-officers-to-shoot-first-and-he-will-answer-questions-later.html>. A more recent coverage about this training can be found here: <https://www.news5cleveland.com/news/local-news/force-science-institute-hosts-controversial-use-of-force-training-for-police-across-ohio>.

The compliance definition as agreed to in the MADC necessitates that the APD achieve substantial compliance with Mandates 12-15, 32 and 36 to achieve full compliance with Mandate 16.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that APD is engaged in an ongoing process of improving its accountability processes, including making changes to the work of the Force Review Board. The Monitoring Team remains in the process of reviewing APD's use of force accountability measures, including reviewing the Force Review Board's protocols. There has been an ongoing discussion with APD and the Monitoring Team on how to consistently identify situations where force should not have been used even if it was legal under the standards of the Force Review Board. Currently, the Force Review Board is tasked with the dual purpose of evaluating whether a use of force complied with policy and critically analyzing the incident to determine whether, notwithstanding that a particular use of force may have complied with policy, that a better outcome, including the reduction of risk to officers and non-officers alike, might have been achieved had a different approach to the situation been employed.

The Monitor observed substantial improvement relative to self-examination of use of force incidents at FRB. APD has made notable progress in this area, including asking the question for each reviewed incident of what might have been improved upon. In this reporting period, the Monitor has observed a notable reduction in reluctance to engage in these conversations, even when there is perceived to be implicit criticism of the involved officers.

That being said, there is currently no critical analysis of officers and the number of use of force incidents in which they have been previously engaged. Moreover, the FRB has previously been resistant to examining the use of force records of those involved in incidents under review. While the Monitor understands that prior history of an officer should not enter the adjudication of whether a particular use of force is within or out of policy, it clearly is important for the determination of appropriate remediation. The Monitor will continue working with the Department to improve this important area of compliance and will, in upcoming reporting periods, be looking closely at collaboratively-developed use of force metrics and analyzing uses of force to determine if patterns, trends, or individual outliers exist that may be significant. APD will need to develop a methodology to review the use of force histories of officers, recognizing, of course, that any comparison of such histories among different officers must be made with an understanding that different assignments carry different potentials for uses of force.

As detailed in Mandate 18, the Consent Decree mandates that changes and improvements to the Force Review Board be memorialized in a policy by June 15, 2022. While these discussions took longer than anticipated in the Consent Decree, the process was more difficult than anticipated

by the parties however, this reporting period marked a significant effort to embrace the spirit of continuous improvement in FRB discussions.

Because of the missed deadline for the documentation of updated protocols for FRB, the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met shortly, albeit beyond the deadline called for in the Decree. The Monitor appreciates substantial efforts APD has made during this reporting period to improve the FRB process and looks forward to working with APD on finalizing this policy in the next reporting period.

ASSESSMENT OF MANDATE 20A

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 20A at IV A (Page 11) of the Consent Decree, entitled "Use of Force - Objectives - Culture of Coordination and Collaboration Between APD and AFR (APD)" requires that the Monitor determine if APD and AFR have collaboratively developed policies and address issues where both APD and AFR are affected/involved in public safety matters; determine if training is being conducted to ensure a coordinated response between APD and AFR and that officers and firefighters are being held accountable for violations of those policies.

The compliance definition as agreed to in the MADC necessitates that APD regularly meets and coordinates with AFR and the Monitor finds no evidence of uncooperative joint response to incidents involving both APR and AFR to achieve full compliance with Mandate 20A.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that the APD has been working with AFR to improve inter-agency collaboration and coordination, including participating in quarterly meetings between agency executive staff to address myriad issues, including coordinated responses, joint training needs, and community concerns. However, the December 19th meeting was cancelled due to scheduling conflicts and was not re-scheduled. The Monitor notes that this seems to be an outlier but will continue to monitor ongoing interagency discussions.

Notably, in 2021, APD developed a new policy on coordination with AFR, which was memorialized in section 9.06 of the Directives Manual ("Coordination with Aurora Fire Rescue and Emergency Medical Services"). In addition, the APD Operations Division meets monthly with AFR Operations to problem solve any recent concerns. There is a joint training being planned to address APD's roll-out of new CEWs. This training is currently being scheduled.

For the reasons stated above, we believe the mandate continues to be on the right track.

ASSESSMENT OF MANDATE 20B

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 20B at IV A (Page 11) of the Consent Decree, entitled “Use of Force - Objectives - Culture of Coordination and Collaboration Between APD and AFR” requires that the Monitor determine if APD and AFR collaboratively develop policies and address issues where both APD and AFR are affected/involved in public safety matters; determine if training is being conducted to ensure a coordinated response between APD and AFR and that officers and firefighters are being held accountable for violations of those policies.

The compliance definition as agreed to in the MADC necessitates that the AFR regularly meets and coordinates with APD, and that the Monitor finds no evidence of uncooperative joint responses to incidents involving both APR and AFR to achieve full compliance with Mandate 20B.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. As detailed in Mandate 20A, the Monitor found that the AFR has been working with APD to improve inter-agency collaboration and coordination, including participating in quarterly meetings between agency executive staff to address myriad issues, including coordinated responses, joint training needs, and community concerns. However, the December 19th meeting was cancelled and not rescheduled but this appears to be an outlier. Regardless, APD Operations Division meets monthly with AFR Operations to problem solve any recent concerns. Nonetheless, the Monitor will continue to monitor these interagency discussions.

As noted above, AFR and APD are planning on joint training to address APD’s roll out of new CEWs. AFR has already prepared a video primer for their members in advance of hands-on, in-person joint training with APD. The Monitor reviewed that training and found it to be appropriate.

For the reasons stated above, we believe that this mandate continues to be on the right track.

ASSESSMENT OF MANDATE 21

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 21 at IV B 1 (Page 11) of the Consent Decree, entitled “Use of Force - Policy Changes,” requires that the Monitor determine if APD either adopted the CJI and/or appropriate subject matter expert recommended policies, or in the alternative, consulted with the Monitor relative to alternative policies. If needed, consult with APD and/or CJI/subject matter expert in the development or revision of the policies.

The compliance definition as agreed to in the MADC necessitates that the APD adopt the recommendations of CJI or a subject matter expert or after consultation with the Monitor, adopts alternative policies that address the use of force issues detailed in the AG's report and the policies have been finalized and disseminated.

The Crime and Justice Institute has recommended that APD revise the following policies:

DM 05.01 Authorized Firing of a Weapon

DM 05.04 Reporting and Investigating the Use of Tools, Weapons, and Physical Force

DM 05.05 Authorized Weapons and Ammunition

DM 05.06 Officer Involved Shootings

DM 05.07 Recovered and Department-Owned Firearms

DM 05.08 Less Lethal Devices, Weapons and Techniques

DM 05.09 Duty to Intervene

DM 05.10 Officer Relief Process

DM 06.13 Dealing with Persons with Mental Health Disorders

DM 08.36 Crisis Intervention Trained (CIT)

DM 09.06 Coordination with Aurora Fire Rescue and Emergency Medical Services

DM 11.02 Juvenile Procedures

DM 12.06 SWAT Deployment

DM 12.09 Active Critical Incidents

DM 12.15 Emergency Medical Aid

DM 16.04 Body-Worn Cameras

SOP FIU 01.00 Administration

SOP FIU 02.00 Operations

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. As noted above, APD has finalized several directives, which will be part of the overall suite of Use of Force policies in this reporting period and made significant progress in

achieving compliance with this mandate. Specifically, what were previously Directives 5.07, 5.08, 5.09, and 5.10 were updated and incorporated into the finalized Directive 5.01, and former Directives 5.01 and 5.04 were mostly updated and completed as part of the finalized and updated Directive 5.01, 5.05, and 5.06.

They have also worked on updating the Body-Worn Camera policy and that will be published within the initial weeks of RP5. The Body-Worn Camera policy update was driven part by information from the audit conducted by the Internal Police Auditor (discussed in RP3) as well as insight from Chief Acevedo's review of the policy as well as best practices as provided by the Monitor's subject matter experts.

APD did not meet the Consent Decree deadline for Use of Force Policy Adoption of December 12, 2022. However, the Monitor believes that APD will complete the work on Use of Force policy in RP5 and is on track to do so based on their renewed efforts to prioritize policy development in this area in this reporting period.

Because of the missed deadline for the adoption of Use of Force Policy, the mandate is on a "Cautionary Track (Yellow)". For reasons previously indicated, the Monitor understands the delay and believes that this mandate will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 22

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 22 at IV B (Page 12) of the Consent Decree, entitled "Use of Force - Amendment of Existing Policies," requires that the Monitor determine if the APD has reviewed, investigated and made appropriate changes to Directives 5.03, 5.04, 6.13 and 9.06 as recommended by CJI and/or subject matter expert and if the above directives have been appropriately revised to limit the use of force in response to low level offenses such as "Failure to Obey a Lawful Order" or "Pedestrian Failing to Yield."

The compliance definition as agreed to in the MADC necessitates that APD revise Directives 5.03, 5.04, 6.13, and 9.06 as recommended by CJI and/or subject matter expert and the revised directives appropriately limit the use of force in response to low-level offenses, and APD finalized and disseminated revised policies to appropriate personnel.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. As detailed above, APD finalized Directive 5.01 Use of Force Policy (previously 5.04) and Directive 5.03 in this reporting period. APD had previously published

Directive 9.06. The work on updating Directive 6.13 has not yet begun but is on list of policies that will be updated in RP5.

Because of the missed deadline for the adoption of Use of Force Policy, this mandate is found to be on a “Cautionary Track.” The Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met in a reasonable amount of time, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 24

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 24 at IV C (Page 13) of the Consent Decree, entitled “Use of Force – Force Review Board (Recent Changes),” requires that the Monitor determine if the recent changes to the Force Review Board (FRB) process as described in Section IV C 1-5 continue to be utilized. If APD seeks to reverse any of these changes, the Monitor will confirm that appropriate consultation with the Monitor regarding the proposed changes has occurred.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to the Force Review Board processes to achieve full compliance with Mandate 24.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that the Force Review Board continues to seek to improve its operations, incorporating feedback from the Monitoring Team. No reversal of any of the enumerated changes has taken place and the Board has been generally receptive to recommendations from the Monitoring Team’s subject matter experts to improve its processes and objectives. The Monitor will work with APD on formalizing Force Review Board process into a policy so that these changes are documented and formalized in the next reporting period.

For the reasons stated above, we believe that this mandate continues to be on the right track.

ASSESSMENT OF MANDATE 25

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period)

Mandate 25 at IV C (1)(1) (Page 14) of the Consent Decree, entitled “Use of Force – Changes to Process (Feedback for Training),” requires that the Monitor determine if the FRB modified its policies to require an evaluation of each instance when force is used in the context of the overall

encounter including the circumstances leading to its use and, an evaluation of the mental capacity of the suspect based on the information presented by the investigator.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to the Force Review Board processes to achieve full compliance with Mandate 25.

This mandate was assessed during the last reporting period and the Monitor found that it was on a cautionary track, with the Monitor concerned about progress in this area. The Monitor has assessed this mandate again during this reporting period. The Monitor notes that the Board has in many ways improved discussion at its meetings and have embraced a culture of continuous improvement in instances where current policies are not violated, but practices can be improved, is still not embedded in the process. It is encouraging that the Board has made intentional efforts to address the Monitor's concerns by adopting these changes in their practices. The department has been notably more self-critical in identifying areas in which improvement can be made and has made efforts to not just assess whether force was justified under *Graham v. Connor* and *Hill v. Miracle*, but also reviewing what other options were reasonable and available at the time. The Monitor will continue to work with the Board to foster a culture of continuous improvement which includes rigorous and critical examination of current policies, training, and practice.

The Consent Decree mandates that changes and improvements to the Force Review Board be memorialized in a policy by June 15, 2022. While the deadline is overdue, the Monitor continues to work with the Department in defining the overall objective of the Force Review Board and collaboratively discuss and build consensus on how to best facilitate these discussions. We believe the policy will be finalized in RP 5.

Because of the missed deadline, the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be during the next reporting period, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 26

Current Status:  - (25-49% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period)

Mandate 26 at IV C (1)(2) (Page 14) of the Consent Decree, entitled "Use of Force - Changes to Process (Review in Context)," requires that the Monitor determine if the FRB modified its policies to require an evaluation of each instance when force is used in the context of the overall encounter including the circumstances leading to its use and, an evaluation of the mental capacity of the suspect based on the information presented by the investigator.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to the Force Review Board processes to achieve full compliance with Mandate 26.

This mandate was assessed during the last reporting period and the Monitor found that it was on a cautionary track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that the Force Review Board significantly improved its processes as noted above. The Board will need to further revise its rules to ensure that incidents are reviewed in accordance with this mandate. The Monitor is encouraged by the discussions the Monitor had with APD leadership in formulating the Use of Force policy, specifically regarding de-escalation techniques and tactics. While the larger discussion about the role of the Force Review Board in improving outcomes for both officers and those suffering from the impairment is still ongoing with the City, it is critical that APD acknowledges that the subject of the mental status of individuals, especially when encountered in suspected low-level offenses, must go beyond the analysis of Hill v. Miracle, understanding that Hill merely sets the bar below which certain types of force absolutely may not be utilized. The Monitor has been pleased to see the progress APD made in this area during this reporting period.

The Consent Decree mandates that changes and improvements to the Force Review Board be memorialized in a policy by June 15, 2022. While the deadline is overdue, as discussed above, the Monitor continues to work with the Department in defining the overall objective of the Force Review Board. Because of the missed deadline, the Monitor's expectations have not yet been met, although the Monitor understands the delay and there is reason to believe that the mandate of the Decree will be met within a reasonable timeframe, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 27

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period)

Mandate 27 at IV C (1)(3) (Page 14) of the Consent Decree, entitled "Use of Force – Changes to Process (Review in Context)," requires that the Monitor determine if the FRB developed reliable ways to measure the frequency of use of force, compliance with policy, injuries to subjects, the safety of officers, the use of mental health holds to detain persons, and any other relevant measures of improvement.

The compliance definition as agreed to In the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to the analysis of uses of force, and other Force Review Board processes to achieve full compliance with Mandate 27.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor has assessed this mandate again during this reporting period. This mandate requires the Force Review Board to modify its procedures and policies relating to data collection, analysis, and publication. The Monitor understands that the APD is currently working on developing a new use of force form to more accurately track these metrics and anticipates that this work will be completed in the next reporting period. APD is also nearing completion of its use of force reporting policy.

The Consent Decree mandates that changes and improvements to the Force Review Board be memorialized in a policy by June 15, 2022. Furthermore, in addition to the delay in finalizing the overall proposed policy of the Force Review Board, there have been delays with updating necessary data collection including delays with the finalization of the Contact Form and other upgrades that impacted the collection, analysis, and publication of necessary data collection for use of force incidents. While this work is underway, it is imperative that systems being developed for the replacement of legacy systems have the ability to collect the data and present it for analysis and publication.

Because of the missed deadline, the Monitor's expectations have not yet been met. The reliance on an outside contractor for critical involvement is likewise a cause for caution.

ASSESSMENT OF MANDATE 28

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 28 at IV C (2) (Page 15) of the Consent Decree, entitled "Use of Force – Collaboration with Academy and Other Sections," requires that the Monitor assess whether the following adopted practices have been formalized in FRB and Training policies and continue to be implemented: 1. a member of the academy staff serves on the FRB; 2. the academy member's expertise in training is used in the evaluation of UOF cases; 3. the academy member's experience on the FRB is used in the development of training; and 4. Body-Worn Camera (BWC) footage shown during FRB reviews is used in recruit and in-service training classes at the academy; videos selected include both successful use of de-escalation, other techniques by APD officers, and, videos of incidents where improvement is recommended or needed.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to the analysis of uses of force, and other Force Review Board processes to achieve full compliance with Mandate 28.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor has assessed this mandate again during this reporting period.

A member from the academy serves on FRB and their expertise and training are used in the review of use of force during FRB. That member's experience on FRB is then utilized in developing ongoing training. The Police Academy captain has been tasked with pulling examples of good and incidents that need improvements from BWCV to be used for training of entry-level officers. APD has also created a letter advising an officer an intent to use of their BWCV for training purposes. The Monitor Team will work with APD on improving its procedures and updating its departmental policies related to this mandate once the use of force policy development is finalized. This work will include updating relevant policies and ensuring that BWCV is being properly utilized in the Academy. The Monitor will monitor how these changes are being practice in the next reporting period.

The Consent Decree mandates that changes and improvements to the Force Review Board be memorialized in a policy by June 15, 2022. Because of the missed deadline, the Monitor's expectations have not yet been met, although there is reason to believe that the mandate of the Decree will be met in a reasonable timeframe, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 29

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 29 at IV D (1) (page 15) of the Consent Decree, entitled "Use of Force- Training (Scenario-Based Training)," requires that the Monitor determine if APD developed and delivered use of force training that has scenario-based training to substantially all police personnel who interact with the public.

The compliance definition as agreed to in the MADC necessitates that APD develop and deliver use of force training which has scenario-based training to substantially all the police personnel who interact with the public by the deadlines in the Consent Decree.

This mandate was assessed for the first time during this reporting period. As noted above, APD has continued its work on developing and finalizing the Use of Force policy and is planning on developing updated Use of Force policy training and complete delivery of training by the Use of Force Training Completion Deadline (August 9, 2023) but has missed the Use of Force Policy Training Development Deadline (February 15, 2023). As also discussed above, APD rolled out ICAT training during this report period, that has heavy emphasis on scenario-based training and will complete ICAT training in RP5.

Because of the missed deadline, the Monitor's expectations have not yet been met, although there is reason to believe that the mandate of the Decree will be met in a reasonable timeframe, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 30

Current Status:  - 50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period.)

Mandate 29 at IV D (1) (page 15) of the Consent Decree, entitled “Use of Force- Training (de-escalation training),” requires that the Monitor determine if APD developed and delivered use of force training that has de-escalation training to substantially all police personnel who interact with the public.

The compliance definition as agreed to in the MADC necessitates that APD develop and deliver use of force training which has de-escalation training to substantially all the police personnel who interact with the public by the deadlines in the Consent Decree.

This mandate was assessed for the first time during this reporting period. As noted above, APD has continued its work on developing and finalizing the Use of Force policy and is planning on developing updated Use of Force policy training and complete delivery of training by the Use of Force Training Completion Deadline (August 9, 2023) but has missed the Use of Force Policy Training Development Deadline (February 15, 2023). As also discussed above, APD rolled out ICAT training during this report period, that has heavy emphasis on de-escalation and will complete ICAT training in RP5.

Because of the missed deadline, the Monitor’s expectations have not yet been met, although there is reason to believe that the mandate of the Decree will be met in a reasonable timeframe, albeit beyond the deadline called for in the Decree.

ASSESSMENT OF MANDATE 31

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 31 at IV D (3) (Page 16) of the Consent Decree, entitled “Use of Force – Training (Joint APD and AFR Training),” requires that the Monitor to determine if APD’s Use of Force training plan includes joint police and fire on scene coordination as appropriate.

The compliance definition as agreed to in the MADC necessitates that the APD develops and delivers the approved Use of Force training to achieve full compliance with Mandate 31.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. Additionally, APD and AFR are developing training, to be provided jointly to AFR and APD personnel, to address deployment of APD’s new CEWs. APD will focus on the deployment of these CEWs and AFR will focus on the removal of the CEW barbs. This training is scheduled for March 10, 13, and 15 and April 7, 13, and 17. The Monitor will evaluate these training in RP5.

The Monitor continues to believe that the APD is on the right track with respect to this mandate.

ASSESSMENT OF MANDATE 32

Current Status:  - (50-74% Complete. Deadline missed but Monitor expects that it will be met within a reasonable period, but uncertain if the expectations of the Monitor will be met.)

Mandate 32 at IV (Page 16) of the Consent Decree, entitled “Use of Force – Goals and Measurement: requires that the Monitor determine if APD developed metrics to measure improvements in participation in ABLE, crisis intervention, and other voluntary trainings, the number and type of use-of-force incidents, and community and officer complaints including any resultant disciplinary action.

The compliance definition as agreed to in the MADDC, necessitates that the APD develops metrics to measure improvements in participation in ABLE, crisis intervention, and other voluntary training, the number and type of use-of-force incidents, and community and officer complaints.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. In addition to the enumerated items, which are included herein, APD is working with the Monitor, to establish additional data points for more fulsome review and analysis. APD started ICAT training during this reporting period. In addition, in September, APD conducted CIT training and intend to schedule another CIT training early in 2023. There is now a supervisor certified in train the trainer for CIT in order to conduct in-house training.

APD currently does not have accurate or reliable way of measuring number and type of use of force incidents and community and officer complaints due to the shortcomings of their current system¹⁴. However, they are in the process of migrating to a new system that will supposedly have these data points easily accessible to APD in 2023. APD has been working on updating Use of Force form that will be utilized by the new system in 2023.

Thus far, 711 officers have completed ABLE, which in essence covers all active officers. Moving forward, recruits will receive it in the academy and there will be a 2-hour refresher each year for every member beginning in 2023.

The Consent Decree has a deadline of July 15, 2022, for Use of Force Metrics. While APD is past its deadline in the Consent Decree in developing the use of force metrics, it is clear that the City overestimated its ability to address the shortcomings of its systems and to do so simultaneously

¹⁴ However, APD’s past efforts on reporting these data points can be found here: <https://www.auroragov.org/cms/One.aspx?portalId=16242704&pageId=16573554>

across multiple platforms. From the first day of the monitorship, the Monitor has been keenly aware of the City’s efforts in updating all of the IT infrastructure for APD due to outdated systems and many shortcomings that were result of such outdated systems. Throughout the monitorship, the Monitor has met with numerous members of APD and they have universally lamented the lack of investment into these infrastructures in the past and their excitement about the level of investment the City is making in upgrading their systems now. APD has been working with their vendor on its migration of their systems and while the anticipated implementation dates have been pushed back multiple times during the monitorship.

Because of the missed deadline, the Monitor’s expectations have not yet been met, although there is reason to believe that the mandate of the Decree will be met in a reasonable timeframe, albeit beyond the deadline called for in the Decree. The Monitor is also concerned with the ability of the City to meet this mandate’s requirement to utilize use of force data given delays in bringing new systems online.

DOCUMENTATION OF STOPS

INTRODUCTION

The issue of when police are permitted to interrupt someone’s liberty by arresting them, detaining them, or even engaging them in investigative questioning lies at the heart of the U.S. Constitution’s fourth Amendment and its prohibition against unreasonable seizures. The U.S. Supreme Court has, for decades, issued opinions in cases arising under the fourth Amendment that collectively set the constitutional floor for when police seizures (also known as “police stops”, “Terry Stops”¹⁵ or simply as “stops”) are permitted and how they must be conducted. These opinions, and the body of case law they comprise, form the bulk of federal authority on police stops. However, state and local governments are empowered to enact legal standards that exceed federal constitutional minimums. Additionally, many state courts have interpreted state laws and constitutions as requiring stricter limitations on police stops than would otherwise be permitted under federal case law.

The cumulative body of law on police stops has resulted in the demarcation of different kinds of encounters that are governed by different legal standards. For example, stops that involve the fullest deprivation of liberty, that is, arrests, are permitted only when there is probable cause to believe that a person has committed an unlawful offense. In contrast, stops involving less severe deprivations—like temporary detentions during police investigations—are governed by a more

¹⁵ “Terry Stop,” takes its name from the 1968 U.S. Supreme Court case—Terry v. Ohio—that first articulated the federal constitutional minimum standard for conducting such stops.

permissive standard: reasonable suspicion to believe that a person has committed or is presently committing an unlawful offense. For individual police officers, knowing how to identify which legal standards apply to a given interaction with a member of the public is crucial for ensuring that the officer’s conduct meets all applicable requirements.

In the aggregate, knowing the total number of stops committed by officers—and the number of each kind of stop (vehicular, pedestrian, or other non-vehicular), and what police action followed the stop (frisk, search, seizure)—can be critical for public safety oversight efforts. Data on police stops are relevant when evaluating a police department’s adherence to the principles and requirements of constitutional policing and can help identify areas of both success and needed improvement. Accordingly, some states, including Colorado, have imposed data collection mandates on police departments, requiring them to document police stops and issue regular reports.

Colorado’s requirement, enacted under a landmark law enforcement reform law in 2020 (Senate Bill 20-217, or “SB20-217”), requires each local police department, including the APD, to report “[a]ll data relating to contacts conducted by its peace officers.” The law defines the term “contacts” to mean “an interaction with an individual, whether or not the person is in a motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law.” This definition encompasses the kinds of contacts that are governed by federal and state constitutional law. “Contacts” data that must be reported under the law include the demographics of each individual stopped, data relating to the times, dates, and locations of contacts; the outcomes of contacts, including arrests, warnings, and property seizures; and actions taken by police officers during the contact.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

In its September 15 report, the Colorado Attorney General’s Office noted that APD has a pattern and practice of failing to abide by the data collection mandates enacted under SB 20-217. The law requires that officers have a legal basis for any “contact” (as defined in the law) with a member of the public and imposes strict recordkeeping requirements whenever any such contact is made. The Attorney General found that, under policies that have been in place since 2020—after SB20-217 was enacted—APD officers conducted resident stops without recording them. As a result, oversight efforts have been hampered by a lack of documentation over APD’s enforcement and investigative conduct. The Attorney General also found that the APD’s policies did not provide adequate guidance to officers on when an officer may conduct a Terry Stop.

CONSENT DECREE'S OBJECTIVES

The Consent Decree seeks the development of a documentation system that complies with state law, allows for prompt and transparent review of officer behavior, and improves the ability of APD to identify successes and areas for improvement.

POLICY IMPLICATIONS

Policies are going to be developed to provide guidance on the legal requirements applicable to the different types of investigative and enforcement encounters in which police officers engage, including for all contacts as defined in SB20-217, and to implement data collection requirements that comply with state law. Such policies will be developed by the Documentation of Contacts Policy Adoption Deadline (90 days) and Stops Policy Deadline (120 days).

TRAINING IMPLICATIONS

Training must be developed to include scenario-based modules for implementing the newly developed Documentation of Contacts and Stops policies by the Stops Policy Training Deadline (180 days). Aurora Police will train substantially all the police personnel who interact with the public by the Stops Training Completion Deadline (365 days).

OPERATIONAL INTEGRITY IMPLICATIONS

After the newly developed policies are implemented and the training is completed, the Monitoring Team will evaluate for operational integrity. Prior to full post-implementation monitoring, the Team will establish a baseline by understanding how contacts are captured on body-worn cameras and how they are subsequently documented.

DATA UTILIZATION

The Monitoring Team needs to determine which data does and does not exist. To establish a baseline prior to the implementation of policies and completion of training, the Team will sample body-worn camera footage and participate in "ride-alongs" with APD officers. Upon the completed implementation of policies and training, the Team will sample body-worn camera footage, review associated documentation of contacts, participate in ride-alongs, and review a sampling of individuals contacted by the police. The Team will also review complaints from the public and associated police documentation to ensure compliance with the implemented policies and training.

PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD

APD published Constitutional Policing and Biased Based Policing Policies, policies dedicated to providing APD with clear and practical guidance on how to constitutionally conduct pedestrian and vehicular contacts, encounters, and stops.

The Team also observed and approved a new training on Constitutional Policing and Biased Based Policing Policies, which addressed topics such as on routine vehicular contacts, basic search and seizure, pedestrian contacts, in-progress calls, identification of suspects, vehicle searches, legal justifications for stops, the fourth Amendment, the 14th Amendment, and vehicle contacts. Upon approval, APD rolled-out the training and 98% of the officers who interact with the public were trained by February 15, 2023.

THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of six of the seven mandates in this area of the Consent Decree. All six mandates related to the APD.

Four mandates are in substantial compliance and remaining two are on cautionary track due to inability of APD to analyze and review its own contact data to ensure compliance.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 33

Current Status:  - (50-74% Complete. At this time, uncertain if Monitor's expectations will be met.)

Mandate 33 at V A (Page 17) of the Consent Decree, entitled "Documentation of Stops - Objectives," requires that the Monitor determine if the City has developed a documentation system for all "Contacts" as defined by Colorado Senate Bill (SB) 217 and that it contains all required information. It requires verification that the system permits prompt reviews of officer behavior and that the use of the data within the system has the potential for identifying successes and areas for improvement related to individual officers and/or policy updates or training opportunities.

The compliance definition as agreed to in the MADC necessitates that the APD develop its Stops documentation system in compliance with Colorado state law to achieve full compliance with Mandate 31.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor has assessed this mandate again during this reporting period

and is concerned about the lack of APD's through its vendor to achieve compliance because the system for collection of the data does not inherently allow for examination of that data in the aggregate, nor allows for easy examination of the data for any given event. The Monitor understands that APD has been working with its vendor to get this information so as to be able to assess compliance with this mandate. However, this capability needs to be prioritized by the vendor and needs to be completed as soon as possible.

For the reasons stated above, at this time, it is uncertain if the Monitor's expectations will be met.

ASSESSMENT OF MANDATE 34

Current Status: ● - (Substantial Compliance.)

Mandate 34 at V B (1) (Page 17) of the Consent Decree, entitled "Documentation of Stops – Policy Changes (General Principle)," requires that the Monitor determine if APD developed policies in compliance with existing Colorado state law. It further requires the Monitor to determine if all related policies were developed, finalized, and disseminated, and if all training was delivered within a reasonably close timeframe. Finally, it requires the Monitor to determine if the related platforms [contacts documentation system] contains all required information and links information for all involved officers to the connected contact.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to Stops to achieve full compliance with Mandate 34.

During the last reporting period the Monitor assessed the status of this mandate and found it to be on the cautionary track. The Monitor found that APD finalized a new Documentation of Contacts policy and Contacts Data Collection Form and it was rolled out to the entire department in the second reporting period. The form contained all required information and links information for all involved officers to the connected contact. APD also published its Constitutional Policing policy, a new policy to address the legal basis to make such contacts. Lastly, APD also trained 98% of its officers who interact with the public on the new Constitutional Policing Policy during this reporting period.

The Consent Decree's Stops Policy Deadline is June 15, 2022, and its Stops Policy Training Deadline is August 14, 2022. With the publication of the Constitutional Policing Policy and completion of training on this policy, along with the publication of the Documentation of Contacts Policy and the full roll-out of the Contact Data Collection Form, APD is now in substantial compliance with this mandate.

ASSESSMENT OF MANDATE 35

Current Status: ● - (Substantial Compliance.)

Mandate 35 at V B (2)(a) (Page 18) of the Consent Decree, entitled “Documentation of Stops – Creation of New Policies (Legal Requirements of Stops) requires that the Monitor determine if APD developed new policy that covers both Colorado law and federal law and that provides specific guidance on legal requirements for the different types of stops that police officers make, including for contacts, encounters, temporary detentions, and arrests.

The compliance definition as agreed to in the MADC necessitates that the APD develops, disseminates, and implements its approved and finalized policies related to contacts, encounters, temporary detentions, and arrests to achieve full compliance with Mandate 35.

During the last reporting period the Monitor assessed the status of this mandate and found that it was on the cautionary track due to missed deadline. However, as noted in mandates above, APD published a new policy to address the legal basis to make contacts, encounters, stops, and arrests (the Constitutional Policing Policy) on February 14, 2023. With the publication of this policy, APD is now in substantial compliance with this mandate.

ASSESSMENT OF MANDATE 37

Current Status: ● - (Substantial Compliance.)

Mandate 37 at V C (Page 18) of the Consent Decree, entitled “Documentation of Stops – Training Plan Development,” requires that the Monitor determine if APD developed a Training Plan that sufficiently covers stops/contacts policies.

The compliance definition as agreed to in the MADC necessitates that the APD develops an approved training curricula related to its Stops policies to achieve full compliance with Mandate 37.

This mandate was assessed during the last reporting period and the Monitor found that it was on the cautionary track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that the Documentation of Contacts policy was finalized and rolled out as well as the training to accompany the Contacts Form and the Documentation of Contacts policy in the second reporting period. The Monitor assessed the training and found it to be adequate. During this reporting period, APD finalized its Constitutional Policing Policy and developed a training curriculum on it as well as the newly updated Biased Based Policing Policy, to provide fulsome training on both the fourth and 14th Amendments. The Monitor reviewed the training curriculum and approved it. The Monitor also observed the recording of the training and the final version of the training and approved both. APD rolled out the training and 98% of the officers who interact

with the public have been trained on it as of February 15, 2023. The Consent Decree has the Stops Policy Deadline as June 15, 2022, and the Stops Policy Training Deadline as August 14, 2022. With the approval and completion of the training on Constitutional Policing Policy and the Biased Based Policing Policy, this mandate is now in substantial compliance.

ASSESSMENT OF MANDATE 38

Current Status:  - (Substantial Compliance)

Mandate 38 at V C (page 18) of the Consent Decree, entitled “Documentation of Stops-Training-Training (Delivery),” requires that the Monitor determine if APD trained substantially all the police personnel who interact with the public by the Stops Training Completion Deadline.

The compliance definition as agreed to in the MADC necessitates that APD train substantially all the police personnel who interact with the public by the Stops Training Completion Deadline.

This mandate was assessed for the first time during this reporting period. As noted above, 98% of the officers who interact with the public have been trained on the Constitutional Policing Policy by February 15, 2023. The Consent Decree has the Stops Policy Deadline as June 15, 2022, and the Stops Policy Training Deadline as August 14, 2022. With the approval and completion of the training on Constitutional Policing Policy, this mandate is now in substantial compliance.

The Monitor believes this mandate is in substantial compliance.

ASSESSMENT OF MANDATE 39

Current Status:  - (50-74% Complete. Uncertain if the expectations of the Monitor will be met.)

Mandate 39 at V D (Page 19) of the Consent Decree, entitled “Documentation of Stops – Goals and Measurement,” requires that the Monitor determine whether APD developed, finalized, and disseminated the policies required in this section and note the date of dissemination and determine if all appropriate personnel completed training and if APD is effectively monitoring compliance with the policies based on performance in the field.

The compliance definition as agreed to in the MADC necessitates that the APD is in compliance with Mandates 34-37 and has implemented an internal review process to monitor its compliance with related policies and after full implementation of an approved training curricula related to its Stops policies to achieve full compliance with Mandate 37, and appropriate accountability measures are utilized in instances of individual failure to comply with the policies and or training.

During the last reporting period the Monitor assessed the status of this mandate to be on the cautionary track. The Monitor found that the Documentation of Contacts policy was finalized and

rolled out, as was the training to accompany the Contacts Form and the Documentation of Contacts policy. The Monitor assessed the training and found it to be adequate in the second reporting period. During this reporting period, as discussed above, APD finalized and completed training 98% of its department on the new Constitutional Policing Policy.

However, APD will need to develop and implement a methodology that will monitor field compliance with the policy and training. This has not yet been undertaken by the Department and as noted in Mandate 6 in detail, will be difficult until there is a way for contact data to be easily accessed and assessed both by individual officer and in the aggregate. But as noted above in Mandate 16 in detail, while APD has a preliminary plan on how to conduct the audit, vendor issues have delayed the delivery of the module necessary to do so.

Because of these delays and uncertainty with respect to the development of the necessary systems, the Monitor finds this requirement to be on a cautionary track.

USE OF KETAMINE AND OTHER SEDATIVES AS CHEMICAL RESTRAINT

INTRODUCTION

The term “chemical restraint” comprises a broad category of chemicals that are administered for the purpose of reducing aggression, violence, or agitation in people experiencing acute mental distress, including those experiencing what had often been classified as “excited delirium.”¹⁶ The diagnosis was used to describe a medical emergency characterized by a combination of acute confusion, distress, agitation, and aggression, often triggered by the consumption of stimulant narcotics like cocaine, methamphetamine, phencyclidine (PCP), and lysergic acid diethylamide (LSD). However, recent discussion about how excited delirium is disproportionately used against Black people have been raised to spur the discussion about whether and how the term should be used in the medical field. This discussion emerged most recently after the murder of George Floyd when an officer at the scene was heard saying, “I am worried about excited delirium or whatever.” While delirium is well-defined and described in the Diagnostics and Statistical Manual of Mental Disorders, excited delirium is not listed in the manual.

¹⁶ Excited delirium is a controversial diagnosis, typically diagnosed in young adult males, disproportionately black, who were physically restrained at the time of death, most often by law enforcement. (Position Statement on Concerns About Use of the Term “Excited Delirium” and Appropriate Medical Management in Out of Hospital Contexts (Report) American Psychiatric Association.) <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-Use-of-Term-Excited-Delirium.pdf>

Among the drugs most commonly used as a chemical restraint is ketamine, which is categorized as a dissociative anesthetic due to its sedative and amnesiac qualities.

Although administration of chemical restraints in emergency crisis situations is a common medical practice, the use of chemical restraints is not without controversy. Opponents of the practice have alleged that chemical restraints are disproportionately used against vulnerable populations and that they are often administered as a measure of first resort in lieu of other effective crisis management strategies like de-escalation. Critics also claim that chemical restraints are often incorrectly dosed, leading to life-threatening complications for patients who are improperly monitored post-administration. Aurora Fire Rescue, up until the death of Elijah McClain, used the drug ketamine as a chemical restraint, but has since suspended its use by AFR paramedics. Today, AFR uses a slower-acting chemical sedative, Versed, for those situations which, in the medical judgement of paramedics on the scene, the chemical sedative is medically appropriate. This medical judgement is reviewed in every instance by the Medical Director of AFR.

As detailed below, beginning in 2023, AFR will be utilizing a second chemical sedative, Droperidol, which, according to medical experts, provides better results with less risk in certain situations than Versed.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

After the death of Elijah McClain, AFR's use of ketamine as a chemical restraint was scrutinized by multiple bodies, including the Colorado Attorney General's Office and an Independent Review Panel (IRP) commissioned by the Aurora City Council. The IRP concluded that AFR personnel committed multiple errors throughout their treatment of Elijah McClain, including during their administration of ketamine to chemically restrain him. The AG concluded that AFR had a pattern and practice of using ketamine in violation of the law. These errors included an inadequate assessment of Mr. McClain's medical condition prior to administering ketamine, inaccurate estimations of Mr. McClain's body weight for purposes of determining a correct dose of ketamine to administer, and a failure by AFR paramedics to assert control over Mr. McClain's treatment after their arrival on the scene.

The Attorney General's Office further found that AFR had a pattern and practice of administering ketamine illegally. These patterns and practices including administering ketamine reflexively upon the request of a police officer without first conducting a proper medical evaluation of a patient, administering ketamine doses that exceeded those allowed under AFR protocols, failing to adequately monitor patients post-administration, and a failure by AFR medical supervisors to follow agency protocols to prevent future violations by AFR paramedics.

As a response to the controversy surrounding Mr. McClain’s death, the Colorado state legislature enacted a new law prohibiting the administration of ketamine on “police-involved patients unless a justifiable medical emergency required its use.” The law further removed “excited delirium” as a recognized basis for administering ketamine for such individuals. Since April 2021, AFR has agreed not to use ketamine as a chemical restraint and, via AFR policy, prohibited its use. Nonetheless, the City, for the term of the Decree, has agreed to abide by review protocols set forth in the Decree should it seek to reinstitute ketamine for use as a chemical restraint or seek to use any other chemical as a restraint.

The Consent Decree requires the Monitor to “periodically review Aurora Fire Rescue’s use of chemical sedatives as chemical restraint to confirm policy compliance.” It further requires the Monitor to “review and analyze the coordination of policies of Aurora Police and Aurora Fire Rescue to ensure that members of Aurora Police do not recommend, suggest, or otherwise encourage the use of any chemical restraint in the field by Aurora Fire Rescue,” requiring the decision to apply such chemical restraints to be made only by qualified AFR personnel pursuant to applicable medical protocols. Finally, the Decree imposes procedural requirements for reviewing any proposal by AFR to resume the use of ketamine as a chemical restraint at any point during the monitorship period.

CONSENT DECREE’S OBJECTIVES

The Consent Decree to prohibit the use of ketamine by AFR during the monitorship period without explicit approval from the Monitor, and to monitor the circumstances of the use of any chemical sedative by AFR.

POLICY IMPLICATIONS

If AFR wishes to reinstate ketamine, its policies and procedures should reflect strict compliance with the state law and any waiver requirements. With respect to the administration of other chemical sedatives, AFR policies must include that the administration of such sedatives must be based solely on their medical judgement without reliance on the non-medical judgement of APD officers.

TRAINING IMPLICATIONS

If AFR wishes to reinstate ketamine, its training should reflect strict compliance with the state law and any waiver requirements. With respect to the administration of other chemical sedatives, training must include when chemical sedatives can be administered and the prohibition of reliance on non-medical judgements of APD officers in determining the appropriateness of such administration.

OPERATIONAL INTEGRITY IMPLICATIONS

The Monitoring Team will evaluate operational integrity by monitoring use of all chemical restraints by AFR to ensure ketamine is not re-introduced without explicit approval from the Monitor.

DATA UTILIZATION

To establish a baseline of chemical restraint use by AFR, we will review usage prior to the implementation of the Consent Decree and continue to review all use of chemical restraint use by AFR and participate in “ride-alongs” with AFR.

PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD

The Monitoring Team reviewed AFR chemical sedation reports from Q4 of 2022 and body-worn camera footage of joint responses of APD and AFR personal where chemical sedation was administered from November and December of 2022. The footage was recorded from APD body-worn cameras, as AFR does not currently equip its personnel with such cameras. However, the Monitoring Team notes that AFR needs access to any available footage to better ensure it continually improves its chemical restraint practices. AFR has consistently reiterated a commitment to no longer using ketamine as a chemical restraint but will adhere to the Consent Decree’s procedural requirements in the event it seeks to reinstate ketamine’s use.

The Team also reviewed AFR’s semiannual review of the use of chemical sedative medications for July 1, 2022, through December 31, 2022.

THIS REPORTING PERIOD’S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status all nine mandates in this area of the Consent Decree. All nine mandates related to AFR, and all nine are in substantial compliance.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 40

Current Status:  - (Substantial Compliance)

Mandate 40 VI A (Page 20) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as a Chemical Restraint – Objectives,” requires that the Monitor will verify that ketamine is not being use in the field during the time Consent Decree is in effect without explicit agreement of

the Consent Decree Monitor that its use complies with applicable law in consultation with the Aurora Fire Rescue Medical Director

The compliance definition as agreed to in the MADC is that the City does not use ketamine, or that notification and approval are received prior to its continued use, to achieve compliance with Mandate 40.

This mandate was found to be in substantial compliance during the last reporting period. The Monitor found that, as of September 15, 2020, AFR had removed ketamine from its protocols thus prohibiting its administration and has not sought to reinstate its use. AFR has further continually reiterated its intention to maintain ketamine's removal from its treatment protocols indefinitely. As such, the Monitor continues to find this mandate in substantial compliance but will continue monitoring in each Reporting Period.

ASSESSMENT OF MANDATE 41

Current Status:  - (Substantial Compliance)

Mandate 41 VI A (Page 20) of the Consent Decree, entitled "Use of Ketamine and Other Sedatives as a Chemical Restraint – Objectives," requires that the Monitor determine if AFR's policies and procedures reflect strict compliance with state law and any waiver requirements and closely review use of these sedatives to confirm policy compliance.

The compliance definition as agreed to in the MADC necessitates that the AFR develop, disseminate, and implement an approved policy related to the use of chemical restraints to achieve compliance with Mandate 41.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate. The Monitor found that AFR has modified its practices to improve oversight of the use of chemical restraints by its personnel. This includes requiring the AFR Medical Director to review all incidents involving administration of a chemical restraint through the agency's Continuous Quality Improvement process. Through this process, the Medical Director reviews a monthly report that compiles information on all calls where a chemical restraint was administered, including outcomes. This process was implemented prior to the Consent Decree's enactment and remains in place.

The Monitor has discussed with the City allowing access to BWCV of incidents in which chemical sedatives are administered in order to provide for a more fulsome review by AFR. Now that the City has finalized its contract with Axon, the City is working with AFR on providing appropriate personnel with access to BWC.

The Monitor continues to believe that AFR is in substantial compliance with this mandate and will continue to periodically review the mandate to ensure continued compliance.

ASSESSMENT OF MANDATE 42

Current Status: ● - (Substantial Compliance)

Mandate 42 at VI A (Page 21) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as Chemical Restraint – Objectives,” requires that the Monitor determine that coordination of policies of AFR and APD do not recommend, suggest, or otherwise encourage the use of any chemical restraint in the field by AFR. The Monitor will confirm that any decision to use chemical restraints in the field was made by qualified members of AFR only in accordance with the applicable medical protocols in effect and approved by AFR’s medical director in compliance with C.R.S. § 26-20-104 et seq.

The compliance definition as agreed to in the MADC necessitates that the AFR develop, disseminate, and implement an approved policy related to the use of chemical restraints to achieve compliance with Mandate 42.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate. The Monitor found substantial compliance with the mandate in that both APD’s and AFR’s, including EMS protocols and department policies, including MOP 6.13, are in place and meet the mandate’s requirements. Training and written communications have been implemented to reinforce AFR’s protocols on the use of chemical restraint, and AFR personnel are allowed to treat patients based only on their own medical judgment on the needs of patients in their care. AFR monitors compliance with its chemical restraint policies and modified its field report to include a mandatory data field that documents the presence of law enforcement on scene during any call in which a chemical sedative is administered, and, if so, whether law enforcement made any recommendation or suggestion on the use of the sedative. The Monitor reviewed BWC footage of instances during November and December 2022 in which chemical sedative was administered and recorded on BWC to determine if policy and training were being followed. We found in every instance reviewed that policy was followed. In addition, the Patient Care Report now has a mandatory data field to document if law enforcement was on scene during any calls when a patient receives a chemical sedative, and if there was any recommendations or suggestion by law enforcement personnel to use a sedative. As such, the Monitor continues to find this mandate in substantial compliance and will continue monitoring in each Reporting Period.

ASSESSMENT OF MANDATE 43

Current Status: ● - (Substantial Compliance)

Mandate 43 at VI A (Page 21) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as Chemical Restraint – Objectives,” requires that the Monitor determine if the APD and AFR meet to resolve any objections raised by the Consent Decree Monitor.

The compliance definition as agreed to in the MADC necessitates that the APD and AFR meet and resolve any issues regarding the use of chemical restraints to achieve compliance with Mandate 43.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate. The Monitor found substantial compliance with the mandate in that APD and AFR as no issues or objections were raised. As such, the Monitor finds this mandate in substantial compliance and will continue monitoring in each Reporting Period.

ASSESSMENT OF MANDATE 44

Current Status: ● - (Substantial Compliance)

Mandate 44 at VI C (Page 21) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as a Chemical Restraint – Policy Changes if Ketamine is Used,” requires that the Monitor confirm that ketamine is not being used in the field. If AFR wants to reinstate ketamine use, the Monitor will ensure that the policy dictates appropriate dosage recommendations and a procedure for how members of AFR will assess the level of patient agitation that would lead to the use of ketamine in the field.

The compliance definition as agreed to in the MADC necessitates that the AFR does not use ketamine, or if so receives approval of policy from with Monitor and Medical Director prior to implementation to achieve compliance with Mandate 44.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate and found the City to be in substantial compliance. The Monitor found that, as of September 15, 2020, AFR had removed ketamine from its protocols thus prohibiting its administration and has not sought to reinstate its use. AFR has further continually reiterated its intention to maintain ketamine’s removal from its treatment protocols indefinitely. As such, the Monitor continues to find this Mandate in substantial compliance and will continue monitoring in each Reporting Period.

ASSESSMENT OF MANDATE 45

Current Status: ● - (Substantial Compliance)

Mandate 44 at VI D (Page 23) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as a Chemical Restraint – Process Changes,” requires that the Monitor will determine if AFR developed a procedure for post-incident analysis before using ketamine in the field.

The compliance definition as agreed to in the MADC necessitates that AFR not use ketamine, or if so and has received an approved policy, conducts post-incident reviews as required to achieve compliance with Mandate 45.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate and found the City to be in substantial compliance. The Monitor found that, as of September 15, 2020, AFR had removed ketamine from its protocols thus prohibiting its administration and has not sought to reinstate its use. AFR has further continually reiterated its intention to maintain ketamine’s removal from its treatment protocols indefinitely. As such, the Monitor continues to find this mandate in full compliance and will continue monitoring in each Reporting Period.

ASSESSMENT OF MANDATE 46

Current Status: ● - (Substantial Compliance)

Mandate 46 at VI D (Page 23) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as a Chemical Restraint – Evaluation of Chemical Sedation,” requires that the Monitor determine if the AFR developed a process to periodically review its use of chemical sedation in the field to determine what improvements should be made to policy or training at AFR or APD, including assessing 1) whether the symptoms justified sedation under law and policy, 2) the involvement of police officers before or during a patient’s sedation, and 3) what factors increase the risk of adverse outcomes to patients or providers

The compliance definition as agreed to in the MADC necessitates that the AFR develop, disseminate, and implement an approved policy related to the post-incident review of uses of chemical restraints to achieve compliance with Mandate 46.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate. The Monitor found, during the last reporting period, that AFR has reviewed of 100% of calls involving the use of sedatives to manage combative patients, having started such reviews prior to the Consent Decree’s enactment. The reviews were conducted by AFR’s Medical Director pursuant to its Continuous Quality Improvement program, and the agency conducted a 6-month retrospective

review of relevant calls from July 1, 2022, through December 31, 2022, which sought to identify trends, review current treatment protocols, and determine any training needs.

The Monitor has advocated for access by AFR to BWCVs that pertain to incidents of the administration of chemical sedatives and the City is now in the process of working with AFR to provide appropriate AFR personnel with access to BWCVs.

We continue to find this mandate to be in substantial compliance and will continue to monitor it going forward to ensure the 6-month retrospective reviews continue. The next scheduled 6-month review covering the first half of 2023 is July 2023.

ASSESSMENT OF MANDATE 47

Current Status:  - (Substantial Compliance)

Mandate 47 at VI D (2) (Page 23) of the Consent Decree, entitled “Evaluation of Chemical sedation,” requires that the Monitor determine if the AFR summarized its periodic reviews to the Consent Decree Monitor at least twice a year, starting 6 months from the effective date. Confirm that the summary includes at a minimum, information about the number of times Aurora Fire Rescue used chemical sedation as a chemical restraint, the symptoms justifying sedation, the type of chemical restraint used, whether Aurora Fire Rescue followed policy, what information police officers provided to Aurora Fire Rescue for compliance with C.R.S. § 18-8- 805, and basic information about the use such as the tabular data included on pages 97-98 of the AG’s Report.

The compliance definition as agreed to in the MADC necessitates that the AFR conducts the requisite post-incident review of uses of chemical restraints to achieve compliance with Mandate 47.

During the current reporting period the Monitor assessed the status of this Mandate. The Monitor found that, during the last reporting period, AFR had reviewed 100% of calls involving the use of sedatives to manage combative patients, having started such reviews prior to the Consent Decree’s enactment. The reviews were conducted by AFR’s Medical Director pursuant to its Continuous Quality Improvement program, and the agency conducted a 6-month retrospective review of relevant for July 1, 2022, through December 31, 2022, which sought to identify trends, review current treatment protocols, and determine any training needs. The protocol change making mandatory the administration of supplemental O2 (post-sedation) is proactively in patient’s best-interest for the types of incidents during which chemical sedation has been deemed necessary.

The Monitor finds this mandate to be in substantial compliance.

ASSESSMENT OF MANDATE 48

Current Status: ● - (Substantial Compliance)

Mandate 48 at VI E (Page 24) of the Consent Decree, entitled “Use of Ketamine and Other Sedatives as a Chemical Restraint – Goals and Measurement” requires that the Monitor will review any use of ketamine regularly, and include such review in the Court reports addressing at least the issues identified in the AG’s Report, if the City implements the use of ketamine in the field again after completing the Monitor-approved process. In reporting such information, the Monitor will include its assessment of the proper use of ketamine, if any, as described in the Compliance Definition below.

The compliance definition as agreed to in the MADC necessitates that AFR does not use ketamine, or if so only does so when justified to achieve compliance with Mandate 48.

This mandate was found to be in substantial compliance during the last reporting period. During the current reporting period the Monitor assessed the status of this mandate and found the City to be in substantial compliance. The Monitor found that, as of September 15, 2020, AFR had removed ketamine from its protocols thus prohibiting its administration and has not sought to reinstate its use. AFR has further continually reiterated its intention to maintain ketamine’s removal from its treatment protocols indefinitely. As such, the Monitor continues to find this mandate in full compliance and will continue monitoring in each Reporting Period.

RECRUITMENT, HIRING AND PROMOTION

INTRODUCTION

Police departments have faced difficulty hiring over the past decade, but those difficulties have been severely exacerbated by high-profile policing controversies whose impact extends beyond the departments in which the controversies originated. Police departments have seen diminished interest in pursuing a career in policing by prospective recruits and diminishing officer morale has led to higher-than-normal attrition in many departments. These trends have been linked by some to recent developments like protests for racial justice and the perception among many officers that public opinion has turned against the profession. Given this dynamic it is not surprising that problems in recruitment, hiring and retention are at an all-time high.

APD has not been immune to the national trends concerning officer recruitment, hiring, and promotion. In fact, the trends in the APD have been stark, with nearly 20% of APD officers leaving the agency in the 18-month period between January 2020 and July 2021, as noted by the Colorado Attorney General’s September 15, 2021, report. Officers interviewed by representatives of the Attorney General’s Office cited a series of factors that contributed to the

department's high rate of attrition in this period, including lack of community support, lack of direction and accountability within the department, and concerns about the overall trajectory of the policing profession. The Attorney General's report noted that APD's retention problems in particular have led to staffing insufficiencies and a loss of institutional experience throughout the department's ranks, from patrol officers to higher executives.

Although the Attorney General found in its Report that AFR had not experienced the same difficulties relating to departmental turnover, morale, and community relations, AFR leadership has nonetheless expressed concern over the uncertain impact that recent legislation will have on the agency and its personnel, as well as liability concerns that could affect their work. The Attorney General's report further noted recent controversies that could impact recruitment efforts, including the use of racially derogatory language by a since-terminated Deputy Chief.

Any significant overhaul of the recruitment and hiring processes for APD and AFR necessarily implicates Aurora's Civil Service Commission, which is empowered to control hiring of police and fire personnel. The Aurora City Charter, as noted by the Attorney General's report, "grants the Commission sole responsibility for the examination and certification of all entry-level applicants to the police and fire departments." In practice this has been broadly interpreted and established in CSC practices, in a way that removed any significant input from the Departments in entry-level hiring. Any proposal to change how police officers, firefighters, or EMS personnel are hired will thus require a modification of the hiring process to provide for greater input from APD and AFR with the final decision on candidate selection resting with APD or AFR.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

APD's high attrition rate has led to concerns that critical policing functions will either be left unstaffed or will be staffed by newer recruits who both lack significant experience and who must rely on a shrunken pool of senior officers for mentorship and guidance. An associated worry is that these deficiencies could increase the number of critical incident events or worsen their outcomes.

To identify potential solutions to APD's personnel problems, the Decree mandates a revisitation of the City's recruitment and hiring of police officers and fire fighters.

These processes are bifurcated between the APD or AFR, on the one hand, and the Aurora Civil Service Commission, with the former handling the City's recruitment of candidates and the latter exclusively responsible for the hiring process including making final hiring decisions. Notably, the Commission also oversees the disciplinary process for APD and AFR personnel, as well as that for promotion within the ranks. The Decree requires both agencies to work with the Commission to review and identify potential changes to minimum qualifications for new agency recruits and

lateral hires, among other mandates. The goal of these mandates is to improve the transparency and accountability of the City's recruitment of key first-responder personnel and the civil service process that dictates their hiring.

CONSENT DECREE OBJECTIVES

The Consent Decree seeks to transform APD's and AFR's recruiting and hiring processes to create a more diverse and qualified workforce. It further seeks APD's and AFR's commitment to developing a culture of continuous improvement within each agency and to becoming better police and fire departments overall. Finally, the Decree seeks to improve transparency, accountability, and predictability in each agency's discipline review process, and to improve the role of the Civil Service Commission in APD and AFR hiring, promotion, and discipline. With regard to hiring, the Consent Decree mandates that APD and AFR have a much greater role in the hiring process and have the final say as to which candidates are ultimately selected for hiring.

POLICY IMPLICATIONS

APD and AFR are required to develop written recruitment plans to attract and retain a quality work force that better reflects the diversity of the City and the Civil Service Commission to make any applicable changes to the minimum qualification for entry-level police and fire recruits and lateral hires, and applicable and relevant policies in City's hiring process so APD and AFR can assume a much more active role in the hiring of candidates.

TRAINING IMPLICATIONS

Not applicable.

OPERATIONAL INTEGRITY IMPLICATIONS

The Monitoring Team will evaluate changes the City makes to transform recruiting, hiring, promotion, and the APR and AFR discipline process to improve transparency, accountability, and predictability and to create a more diverse and qualified workforce for both agencies.

DATA UTILIZATION

The Monitoring Team needs to fully determine which data does and does not exist to effectively track and identify potential disparate impact on minority applicants and potential barriers on successfully on-boarding diverse and qualified applicants. The Team will further examine historical data to determine how the City can transform its recruiting, hiring, promotion, and disciplinary processes.

PROGRESS AND NOTABLE OBSERVATIONS FROM THE REPORTING PERIOD

After being engaged as the City’s expert in hiring through the technical assistance provisions of the Consent Decree, the Monitoring Team published its findings and recommendations on the entry-level hiring process for entry-level police officers and firefighters on November 14, 2022. The Team participated in several meetings with relevant stakeholders as the City and CSC continued to discuss potential ways to be in compliance with the Consent Decree.

THIS REPORTING PERIOD’S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of fourteen of the seventeen mandates in this area of the Consent Decree. Five mandates related to APD and five related to AFR. The remaining four mandates related to CSC. All ten mandates regarding APD and AFR are on the right track in various stages of compliance. Remaining four mandates regarding CSC are on the right track.

The detailed assessment of these mandates are as follows:

ASSESSMENT OF MANDATE 49A

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 49 at VII A (Page 25) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Objectives,” requires that the Monitor determine if the City has transformed recruiting and hiring processes to create a more diverse and qualified workforce and establish APD and AFR’s commitments to a culture of continuous improvement and becoming better police and fire departments.

The compliance definition as agreed to in the MADC necessitates that APD achieve compliance with all 16 different policy-driven mandates related to recruitment and diversity to achieve full compliance with Mandate 49A.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that Aurora has begun taking preliminary steps toward meeting the Consent Decree’s mandate, including hiring a subject matter expert to assist in complying with the Decree’s requirements on recruitment and hiring. APD demonstrated renewed focus on developing and improving its written recruitment plan with the objective of creating a more diverse and qualified workforce. During this reporting period, the Team met with APD on bi-weekly basis to collaborate on the written recruitment plan and it has proven to be an effective tool on fostering significant progress with this mandate.

Additionally, the Epic Recruitment Campaign from 2022 is continuing in 2023 and APD has worked with Epic to attract under-represented candidates that share APD's community-based values.

During this reporting period, APD also signed the 30 by 30 Pledge, a national initiative to recruit and retain more women officers. This initiative is rooted in research which shows that women officers use less force, including less excessive force and are perceived as being more honest and compassionate and see better outcomes for crime victims, especially in sexual assault cases. This pledge is one of many steps APD has taken and is planning on taking to increase its diversity. APD applied for and received a grant that will allow APD to travel to regions in the U.S. that have traditionally been under-represented in law enforcement.

Most notably, APD has implemented many of the recommendations in the Hiring Report regarding increasing the engagement with recruits throughout the hiring process and has seen retaining candidates that were looking at multiple employment offers.

For the reasons above, the Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 49B

Current Status:  - (75-99% Complete. In line with Monitor expectations)

Mandate 49 at VII A (Page 25) of the Consent Decree, entitled "Recruitment, Hiring, and Promotion – Objectives," requires that the Monitor determine if the City has transformed recruiting and hiring processes to create a more diverse and qualified workforce and establish APD and AFR's commitments to a culture of continuous improvement and becoming better police and fire departments.

The compliance definition as agreed to in the MADC necessitates that AFR achieve compliance with all 16 different policy driven mandates related to recruitment and diversity to achieve full compliance with Mandate 49A.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. The Monitor found that AFR has made great strides on improving its written recruitment plan and is near-complete with its plan. More importantly, AFR has taken the initiative to implement many of the recommendations from the Hiring Report regarding improving recruit retention throughout the hiring process. AFR has taken a more active role in tracking applicants through the entry-level application process with the Civil Service Commission. This tracking has resulted in more dialogue with those who are in the entry-level application pool and more clear communication about next steps and tips for success in the hiring process. AFR has established

automatic emails that go out to the applicants throughout the hiring process on 12 different topics that provide information about the hiring process and to increase engagement with the applicants.

Moreover, while APD has received support for a nationwide recruitment campaign with Epic Recruiting, AFR has not yet received similar level of support for its recruitment efforts. The City should consider supporting AFR's recruitment needs by providing the necessary resources to implement a nationwide recruitment campaign for AFR.

For the reasons above, the Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 49C

Current Status:  - - (50-74% Complete. In line with Monitor expectations)

Mandate 49 at VII A (Page 25) of the Consent Decree, entitled "Recruitment, Hiring, and Promotion – Objectives," requires that the Monitor determine if the City has transformed recruiting and hiring processes to create a more diverse and qualified workforce and establish APD and AFR's commitments to a culture of continuous improvement and becoming better police and fire departments.

The compliance definition requires that CSC achieve compliance by working with the City to transform hiring processes to create a more diverse and qualified workforce and establish Aurora Police and Aurora Fire Rescue's commitment to a culture of continuous improvement and becoming better police and fire departments.

This mandate was assessed relative to CSC for the first time during this reporting period. As noted above, the Hiring Report was published on November 14, 2022. The Consent Decree requires CSC to modify its Rules and Regulations regarding hiring and the disciplinary processes to be in full compliance with the Consent Decree by May 16, 2023. As detailed in Mandate 2C, subsequent to the conclusion of RP4, there have been productive discussions and developments at CSC meetings on the required rule changes. Specifically, during the special meeting held on March 16th, CSC adopted the City's general framework on proposed modifications to the hiring process, which the Monitor indicated would meet the requirements of the Consent Decree if implemented.

Due to progress made on March 16th and a subsequent meeting on April 11th, the Monitor believes this mandate is currently on the right track.

Because of the number of meetings where the discussions were not very productive in achieving compliance with the Consent Decree, the mandate is currently on the wrong track.

ASSESSMENT OF MANDATE 50

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 50 at VII A (Page 25) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Objectives” requires that the Monitor determine if the City improved transparency, accountability, and predictability in discipline review, including by facilitating the Civil Service Commission’s standardization and codification of elements of its disciplinary review process.

The compliance definition as agreed to in the MADC necessitates that the Civil Service Commission improve transparency, accountability, and predictability of its review of discipline, and have a standardized and codified disciplinary review process.

During the last reporting period, the Monitor assessed CSC’s compliance with this mandate for and found it to be on the right track. The Monitor found that CSC has published three disciplinary hearing cases on its website. CSC goes beyond merely publishing its ruling in each case. It also publishes other pertinent documents to provide a comprehensive understanding of the chronology of the case and the genesis of the appeal to the community. The information that is published for each case includes the disciplinary order(s) from the police or the fire department, the individual’s petition to appeal the disciplinary order, notice of hearing, any related motions, and, finally, the ruling itself. These publication efforts were self-initiated by the CSC after independently reviewing the mandates of the Consent Decree. The Monitor appreciates their initiative in doing so.

While the information being published about the actual case is comprehensive and helpful in increasing the transparency and accountability of CSC’s decisions in specific cases, there is not adequate information for a community member to fully understand CSC’s role in the entire APD and AFR disciplinary system. The Monitor will work with CSC on improving in this area in the coming reporting periods.

The Monitor believes that this mandate is on the right track.

ASSESSMENT OF MANDATE 51

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 51 at VII A (Page 25) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Objectives,” requires that the Monitor determine whether the CSC improved transparency and accountability relative to all of the Civil Service Commission’s work, such that

community members understand the role that the Commission plays in hiring, promotion, and discipline, as well as any changes the Commission makes to those processes.

The compliance definition as agreed to in the MADC necessitates that the CSC improve transparency and the accountability of its work such that community members understand the role that the CSC plays in hiring, promotion and discipline.

During the last reporting period, the Monitor assessed CSC's compliance with this mandate and found it to be on the right track. The City hosts a website devoted to CSC's work¹⁷. On the website, information about the Commission's purpose and calendar is shared with the public, along with information about the current Commissioners and their terms. CSC routinely publishes its monthly meeting agendas on the website, along with the minutes from the meetings. The most current minutes are from the CSC's December 2022 meeting. The website also has a function which allows members of the public to submit requests for the addition of agenda items to upcoming meetings. More importantly, in February 2022, CSC started publishing disciplinary hearing cases on its website. As of this Report, CSC has published 3 cases. The information that is published for each case includes the disciplinary order(s) from the police or the fire department, the individual's petition to appeal the disciplinary order, notice of hearing, any related motions, and, finally, the ruling itself. These efforts to improve transparency and accountability of its work, especially in the disciplinary process, should be applauded and are certainly steps in the right direction.

More importantly, specific details about what CSC does, and how it makes decisions in hiring, promotion, and discipline, are currently scarce. The Monitor will work with CSC on improving in these areas.

Overall, the Monitor believes this mandate is on the right track.

ASSESSMENT OF MANDATE 52

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 52 at VII B (Page 26) of the Consent Decree, entitled "Recruitment, Hiring, and Promotion – Recruitment (APD)," requires that the Monitor determine if the APD developed written recruitment plans that include, but are not limited to, these items: clear goals, objectives,

¹⁷ The website can be found here: <https://www.auroragov.org/cms/One.aspx?portalId=16242704&pageId=16411091>

and action steps for attracting and retaining a quality work force that better reflects the diversity of the City.

The compliance definition as agreed to in the MADC necessitates that APD develops and documents an approved hiring plan and comprehensive program to achieve compliance with Mandate 52.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. The Monitor witnessed renewed focus from APD in developing a written recruitment plan. These efforts are reflected in bi-weekly meetings with the subject matter expert to ensure continuing progress with the recruitment plan. During this reporting period, APD finalized clear goals and objectives in attracting and retaining qualified diverse workforce. The work on finalizing the actions steps will continue in the next reporting period but the Monitor fully expects this mandate to be completed in the next reporting period.

For the reasons stated above, the Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 53

Current Status:  - (75-99% Complete. In line with Monitor expectations)

Mandate 53 at VII B (Page 26) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Recruitment (AFR),” requires that the Monitor determine whether the AFR developed written recruitment plans that include, but are not limited to, these items: clear goals, objectives, and action steps for attracting and retaining a quality work force that better reflects the diversity of the City.

The compliance definition as agreed to in the MADC necessitates that AFR develops and documents an approved hiring plan and comprehensive program to achieve compliance with Mandate 53.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. AFR’s efforts in developing a written recruitment plan continued this reporting period. AFR’s recruitment plan has clear goals and objectives are in the final stages of finalizing the action steps in recruiting and retaining qualified and diverse workforce. However, it is critical that there is funding and staffing power to ensure success of this newly developed recruitment plan. In particular, staffing in the recruiting office would help in processing lateral new hires and would

ensure more coordinated retention efforts during the application process for entry and lateral applicants, which is what is envisioned in the written recruitment plan.

The Monitor continues to believe this mandate is on the right track.

ASSESSMENT OF MANDATE 54

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 54 at VII B (1) (Page 26) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Recruitment (APD),” requires that the Monitor determine if the APD’s recruitment plan includes a schedule to work with the CSC to review and make any applicable changes to the hiring qualifications.

The compliance definition as agreed to in the MADC necessitates that APD develops and documents an approved recruitment plan to achieve compliance with Mandate 54.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. In the hiring report, adoption of “whole person” review method, which considers all of an applicant’s information and life circumstances before an eligibility decision is made. This model replaces a more traditional method of considering applicants one qualification at a time and then rejecting the applicant if a singular qualification is not met. Instead, with a few exceptions, automatic disqualifiers are eliminated, and hiring officials review each applicant on a case-by-case basis. They then consider all elements of an applicant’s background before making a final decision on the applicant’s eligibility based upon the totality of all available information. The “Whole Person” concept also takes into consideration the fact that no two candidates are the same, and what may be an issue for one applicant may not, because of additional history, be an issue for another applicant. This method of review heavily emphasizes adaptability. Several departments that have implemented such screening methods have also implemented candidate ranking methods that reflect the nuances of the holistic process, thereby avoiding the cut-and-dry ranking methods that reduce candidates to a reflection only of a test score. Among these ranking methodologies are three that appear to be most often used with the holistic “whole person” approach: merit-based eligibility lists, neutral eligibility lists, and discretionary selection of candidates. The Hiring Report recommended that that the City adopt this approach and that such an adoption would require a reevaluation of current policies regarding the automatic disqualification of applicants due to marijuana usage, misdemeanor crimes, and automotive infractions. Additionally, it would require a reevaluation of those items identified during background investigations that currently result in disqualifications, but that in practice do not indicate a concerning pattern of behavior and do not negatively impact the essential skills and strengths an applicant brings to the

department. Lastly, it would require further discussions on the appropriate categories and weight of preference points and the impact they should have to increase qualified and diverse applicants joining APD and AFR.

Since the publication of the report, and during this reporting period, APD, AFR, CSC, and the City have worked together to adopt the whole person approach at the request of APD in re-evaluating minimum qualifications for entry-level hires. As a result, the CSC has changed its rules on automatic disqualifiers, moving many of the items that previous required disqualification to another category that lists discretionary factors for disqualification. The effect of these rule changes will continue to be monitored and assessed but indicated a great step in the right direction of working together with CSC on evaluating hiring qualification. The recruitment plan, which is still ongoing, will address working with CSC on these qualifications in the future as well.

The Monitor continues to believe this mandate is on the right track.

ASSESSMENT OF MANDATE 55

Current Status:  - (75-99% Complete. In line with Monitor expectations)

Mandate 55 at VII B (1) (Page 26) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Recruitment (AFR),” requires that the Monitor determine if the AFR’s recruitment plan includes a schedule to work with the CSC to review and make any applicable changes to the hiring qualifications.

The compliance definition as agreed to in the MADC necessitates that AFR develops and documents an approved recruitment plan to achieve compliance with Mandate 55.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. As discussed in detail above in Mandate 54, the Hiring Report recommended that the City adopt a whole person approach.

Since the publication of the report, and during this reporting period, APD, AFR, CSC, and the City have worked together to adopt this whole person approach at the request of APD in re-evaluating minimum qualifications for entry-level hires. As a result, the CSC has changed its rules on automatic disqualifiers, moving many of the items that previous required disqualification to another category that lists discretionary factors for disqualification. The effect of these rule changes will continue to be monitored and assessed but indicated a great step in the right direction of working together with CSC on evaluating hiring qualification. The recruitment plan, which is near-final, contains AFR’s plans to have ongoing discussion with CSC on assessing and potentially changing hiring qualifications when appropriate.

The Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 56

Current Status:  - (25-49% Complete. In line with Monitor expectations)

Mandate 56 at VII B (2) (Page 26) of the Consent Decree, entitled “Recruitment (Outreach for Diversity) (APD),” requires that the Monitor determine if the APD’s written recruitment plan includes a plan to conduct outreach to many community leaders and stakeholders, aimed at increasing the diversity of each Department’s applicant pool—including race, color, gender, ethnicity, sexual orientation, national origin, and religion—and identifying recruit and lateral applicants that are committed to community-oriented policing (for police officers) and have the identified skills to succeed in the applicable role.

The compliance definition as agreed to in the MADC necessitates that APD develops and documents an approved outreach plan to achieve compliance with Mandate 56.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. As discussed in detail in Mandate 49A, APD has signed up for 30 by 30 Initiative, applied and received grants to travel to attract under-represented candidates, and implemented changes in their engagement level with recruits throughout the hiring process to retain more candidates throughout the process, which has led to some success during this reporting period in retaining candidates with multiple employment opportunities.

APD has demonstrated renewed focus on developing a written recruitment plan and substantial efforts were made in being thoughtful in designing outreach efforts locally in Aurora and nationally to increase the diversity of APD. These efforts, that are being finalized, include identifying community leaders and organizations that can be a partner in recruiting qualified and diverse candidates as well national organization that can assist APD attract qualified and diverse candidates.

The Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 57

Current Status:  - (75-99% Complete. In line with Monitor expectations)

Mandate 57 at VII B (2) (Page 26) of the Consent Decree, entitled “Recruitment (Outreach for Diversity) (AFR),” requires that the Monitor determine if the AFR’s written recruitment plan includes a plan to conduct outreach to many community leaders and stakeholders, aimed at increasing the diversity of each Department’s applicant pool—including race, color, gender,

ethnicity, sexual orientation, national origin, and religion—and identifying recruit and lateral applicants that are committed to community-oriented policing (for police officers) and have the identified skills to succeed in the applicable role.

The compliance definition as agreed to in the MADC necessitates that AFR develops and documents an approved recruitment plan to achieve compliance with Mandate 57.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. AFR’s efforts in developing a written recruitment plan continued this reporting period and had resulted in significant progress and is in near-final stage. The recruitment plan is primarily focused on increasing the diversity of AFR and there has been substantial efforts provided in identifying impactful partnership locally and nationally to achieve those goals.

However, it is critical that there is funding and staffing power to ensure success of this newly developed recruitment plan. In particular, staffing in the recruiting office would help in processing lateral new hires and ensure more coordinated retention efforts during the application process for entry and lateral applicants, which is what is envisioned in the written recruitment plan. Additionally, AFR has shared that they have reviewed the Monitor’s recommendations on the hiring process and have started incorporated recommendations regarding recruitment, specifically making sure applicants understand and are prepared for the assessments within the entry and lateral hiring process. Administratively, the recruiting office is struggling to ensure quality data tracking and follow up with target recruits due to lack of staffing and applications to track communication and outreach.

The Monitor continues to believe this mandate is on the right track.

ASSESSMENT OF MANDATE 58

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 58 at VII B (3) (Page 26) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Recruitment (APD),” requires that the Monitor determine if the APD’s written recruitment plan includes a plan to broadly distribute information about career opportunities, compensation, hiring, the applicable testing process(es), and deadlines and other requirements of each position throughout the Denver metro- area regularly. Determine if the same information is easily available on the City’s website and includes the ability for interested persons to directly contact a member of the recruiting team of each Department.

The compliance definition as agreed to in the MADC necessitates that APD develops and documents an approved career opportunities distribution plan to achieve compliance with Mandate 58.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. During this reporting period, APD has utilized easy to use recruiting website that provides information about career opportunities, compensation, and directly connects applicants with a recruiter. More importantly, the recruiters have utilized a software that allows them respond to applicants who have questions about the hiring process in real-time and recruiters have been far more active in engaging with the applicants during this reporting period. These increased touchpoints with the applicants have yielded some increase in retention of candidates, but more importantly, have provided the recruiters with the encouragement to continue and increase these efforts.

The Monitor continues to believe that this mandate is on the right track.

ASSESSMENT OF MANDATE 59

Current Status:  - (75-99% Complete. In line with Monitor expectations)

Mandate 59 at VII B (3) (Page 26) of the Consent Decree, entitled “Recruitment, Hiring, and Promotion – Recruitment (AFR),” requires that the Monitor determine if the AFR’s written recruitment plan includes a plan to broadly distribute information about career opportunities, compensation, hiring, the applicable testing process(es), and deadlines and other requirements of each position throughout the Denver metro- area regularly. It further requires the Monitor to determine if the same information is easily available on the City’s website and includes the ability for interested persons to directly contact a member of the recruiting team of each Department.

The compliance definition as agreed to in the MADC necessitates that AFR develops and documents an approved career opportunities distribution plan to achieve compliance with Mandate 59.

This mandate was assessed during the last reporting period and the Monitor found that it was on the right track. The Monitor has assessed this mandate again during this reporting period. AFR’s efforts in developing a written recruitment plan continued this reporting period and resulted in significant progress. However, it is critical that there is funding and staffing power to ensure success of this newly developed recruitment plan. In particular, staffing in the recruiting office would help in processing lateral new hires and ensure more coordinated retention efforts during the application process for entry and lateral applicants, which is what is envisioned in the written recruitment plan.

During this reporting period, AFR issued a department-wide memorandum to communicate the deadlines of the current hiring process and engaging the AFR Lateral Committee through a new Microsoft Teams portal to provide more communication and access to information under the principle that AFR members are the most effective recruiters. These intentional efforts to inform their membership about the open application period during this reporting period with information about incentives in recruitment has resulted in some success in members referring applicants to AFR. Word-of-mouth advertising was encouraged through a citywide referral program offering \$1500 to members who refer an applicant who is hired. This technique allows for highly localized recruiting from AFR's best advertisers, their own members. In addition to this word-of-mouth from current membership, the department spent approximately \$4100 in digital recruiting advertising in November and December and this resulted in reaching approximately 61,500 people in Colorado who saw AFR's value-driven messaging, as well as more than 200,000 people in other states. This resulted in the highest number of applications being submitted since 2018.

The Monitor continues to believe this mandate is on the right track.

ASSESSMENT OF MANDATE 60

Current Status:  - (50-74% Complete. In line with Monitor expectations)

Mandate 60 at VII C (Page 27) of the Consent Decree, entitled "Recruitment, Hiring, and Promotion – Civil Service Commission (Hiring of Entry-Level Police Officers and Firefighters) requires that the Monitor determine if the hiring process of police officers and firefighters will have APD and AFR play a more active role and have the final say on which candidates are hired and that the City had recodified the current Rules and Regulations of the CSC and bring about those changes.

The compliance definition as agreed to in the MADC necessitates that the Civil Service Commission and the City revise hiring processes for police officers and firefighters based on the subject matter expert's recommendations which will provide a far more active role for APD and AFR in the hiring of candidates providing for them to have the final say in the selection of candidates.

This mandate was assessed during the last reporting period and the Monitor found that it was the right track. The Monitor has assessed this mandate again during this reporting period. The former Chair and the CSC staff's insight on the hiring process was crucial in informing all of the stakeholders about the current hiring process to start the process of envisioning a new hiring process. More importantly, their leadership was critical in building the consensus that APD and AFR must play a far more active role in the hiring process.

As detailed in Mandate 2C above, subsequent to the conclusion of RP4, there have been productive discussions and developments at recent CSC meetings about the required rule changes. Specifically, CSC adopted the City’s general framework on proposed modifications to the hiring process, which the Monitor indicated would meet the requirements of the Consent Decree if implemented. Further, during the April 11th meeting, CSC staff presented a preliminary draft on how to change the CSC Rules and Regulations to conform to the new framework for the entry-level hiring process.

Due to progress made on March 16th and a subsequent meeting on April 11th, the Monitor believes this mandate is currently on the right track.

ACCOUNTABILITY AND TRANSPARENCY

INTRODUCTION

Institutional accountability and transparency are indispensable in any organization that strives for legitimacy. Police departments are frequently at the center of public calls for accountability and transparency both because of the unique authority bestowed upon them under the law and because of their mission to use their authority on behalf of the communities they serve. Without accountability and transparency, communities and police departments alike are impaired in their ability to evaluate the alignment between each other’s interests and expectations. To the extent that legitimacy is highest when this alignment is congruous, it should be in the best interest of any department to hold itself accountable to, and to be transparent with, its community constituency. Further, the most legitimate departments recognize that “accountability” and “transparency” are not simply singular goals to be achieved but are rather components of an institutional ethos that informs departmental policy and administration. To this end, the most accountable and transparent departments—and by extension the most legitimate—are those whose accountability and transparency policies and practices are motivated by an ethic of continuous institutional improvement in pursuit of those ideals. Demonstrations of this ethic include implementing the accountability mechanisms discussed in the focus issue, *Systems to Ensure Best Policing Practices*, contained in our first report, including enhanced supervision and early intervention programs that monitor agency personnel for behavioral signs that could indicate the potential for future misconduct, allowing for remedial interventions before misconduct manifests. Successful implementation of these interventions can increase both accountability and transparency by acknowledging the potential and predictability of adverse officer conduct and by improving how agencies respond to the risk of such conduct, minimizing its likelihood.

HISTORY AND BASIS FOR CONSENT DECREE MANDATES

The Colorado Attorney General’s Office September 15th, 2021, report noted four potential accountability mechanisms for police departments: internal discipline, lawsuits, community feedback, and external oversight. In each of these areas, the report noted significant room for improvement within the APD and the City more broadly. For example, the report noted that APD maintained aggregate data in a way that made it difficult to appreciate the scope or scale of alleged misconduct by APD officers, with cases being tracked but not the number of allegations within those cases. This finding tracked closely with community feedback gathered by Aurora residents, who, according to the report, “expressed a desire to have more information about critical incidents promptly disclosed,” with many feeling that APD’s investigations and reviews are “largely hidden from the public.” Even the Attorney General’s own investigators expressed difficulties in being able to assess the scope of misconduct among APD’s officers, with the report claiming that the investigators could not determine how many APD officers within a given sample were disciplined after undergoing the department’s disciplinary process. Further, the report noted that civil liability against individual officers has not been an effective accountability measure since the APD and the City have failed to provide direct feedback to officers whose conduct resulted in legal liability for the City. Data concerning legal liability, for example, is not tracked within an early warning database that could flag potential interventions to ensure officers conduct themselves lawfully and appropriately. The Decree aims to improve on current practices to maximize accountability and transparency both internally within departmental stakeholders and externally with APD’s service community. Among its goals is to track officers’ disciplinary outcomes, identify trends and patterns of misconduct, and improve APD’s public reporting.

CONSENT DECREE OBJECTIVES

The Consent Decree seeks the development of systems for APD to regularly and easily identify trends and patterns in the conduct of its officers for use in decision making and for transparency to the public.

POLICY IMPLICATIONS

The Monitor will be working with the City to ensure that appropriate data is being captured and is readily accessible to spot issues and trends and provide the public with insight into how their public safety agencies are holding their members accountable. Although not directly required by this section of the Decree, the Monitor will be working with each department to ensure that all appropriate systems of accountability, including those outlined in Systems to Ensure Best-Practice Policing, above, are implemented.

TRAINING IMPLICATIONS

To the extent that training on the use of these systems is required, the Monitor will be working with each Department to help develop those systems.

OPERATIONAL INTEGRITY IMPLICATIONS

The Monitoring Team will review the efficacy of the system for APD to identify trends and patterns in the conduct of its officer and the role this information plays in decision-making as well as how this information is transparently shared with the public.

DATA UTILIZATION

The Monitoring Team needs to determine which data does and does not exist and will then work with each department to ensure that such data is being utilized most effectively.

PROGRESS AND NOTABLE OBSERVATIONS FROM THIS REPORTING PERIOD

The Monitoring Team reviewed APD's data analysis capabilities for the new contacts database and found it to be lacking, as discussed above. The Monitoring Team has been engaged in multiple discussions with the City and APD on how to improve its capabilities. These discussions are ongoing and are reliant upon multiple moving pieces, such as the vendor's availability and capacity to provide these capabilities in a timely fashion, available staffing from the City to facilitate this ongoing work, and continuing evaluation of migration to new systems to implement the necessary systems to be in compliance with this section. The Monitor also received and approved the plan for the Initial Measurement Plan.

THIS REPORTING PERIOD'S ASSESSMENTS OF INDIVIDUAL MANDATES IN THE SECTION

During the current reporting period the Monitor assessed the status of both mandates in this area of the Consent Decree. Both mandates are related to the APD.

One mandate is on the right track and the remaining one is on the cautionary track due to concerns the Monitor has with APD's data collection and analytical capabilities.

ASSESSMENT OF MANDATE 67

Current Status:  - (0-24% Complete. In line with Monitor expectations.)

Mandate 67 at VIII A (Page 31) of the Consent Decree, entitled "Accountability and Transparency - Objectives" requires that the Monitor confirm that the City has implemented a system to review and identify trends and patterns in the conduct of its police officers, including lawsuits,

complaints, and misconduct, uses of force regularly and easily. The systems shall have the ability to track, among other things, conduct by officer, supervisor, shift, beat, and district and identify needs of additional training and/or policy revisions.

The compliance definition as agreed to in the MADC necessitates that APD develop and disseminate a system that permit APD to identify trends and patterns in the conduct of its officers with the indicator listed in the Consent Decree along with sufficient training and orientation to its supervisor.

During the last reporting period the Monitor assessed the status of this mandate and found it to be on the cautionary track. As noted above, APD still has not been given the capability to analyze their own data and that needs to be prioritized during this reporting period. While this is not directly the fault of APD, a system that is designed to which collect data without providing the ability to easily analyze it is not what is required under the Consent Decree.

The Consent Decree has a deadline of February 15, 2023, for APD to develop the initial plan for the data collection as mandated in this section and the plan was submitted to the Monitor on time. The Monitor has approved the general framework and the timeline for this plan and will closely monitor its compliance and progress in the next reporting period. With many additional systems set to be transitioned to new operating software, including CAD (Computer Aided Dispatch), the department's arrest and incident record management system (RMS), Internal Affairs and Use of Force Investigation tracking, and Early Intervention, it is imperative that significant thought and attention be paid to the utilization of data in those systems to inform the department and the public with respect to issues, patterns and trends as required by the Decree. But, most importantly, it is critical that the City and APD make their best efforts to stay on top of the vendors to ensure that these migrations progress expeditiously to meet the timeline in the approved plan.

For the reasons stated, the Monitor now believes the mandate is on the right track and will be evaluating progress on all of these systems in upcoming reporting periods.

ASSESSMENT OF MANDATE 68

Current Status:  - (0-24% Complete. Uncertain if the expectations of the Monitor will be met.)

Mandate 68 at VIII B (Page 31) of the Consent Decree, entitled "Accountability and Transparency-Goals and Measurements" requires that the Monitor determine if APD developed a system and process to track and follow the areas enumerated below for use in decision making and for

transparency to the public by the Initial Measurement Plan Deadline by tracking of officer's disciplinary outcomes, identification of trends or patterns of sustained complaints about officers' law enforcement activities, and public reporting of data collection.

The compliance definition as agreed to in the MADC necessitates that APD develop and implement a system that tracks and identifies all of the indicators as included in the Initial Measurement Plan and disseminate sufficient training or orientation on the system with sufficient accountability measures for failure to do utilize the system and publicly report on the data points.

During the last reporting period the Monitor assessed the status of this mandate on the cautionary track. The Consent Decree has a deadline of February 15, 2023, for APD to develop the initial plan for the data collection as mandated in this section and the plan was submitted to the Monitor on time. The Monitor has approved the general framework and the timeline for the plan and will closely monitor APD's progress and compliance in the next reporting periods. Yet, as noted above, APD is in the process of updating multiple systems and is engaging with multiple vendors to develop systems that perform the necessary functions and provide the ability to analyze data both internally and externally through public-facing dashboards. However, the plan submitted by APD takes into account this ongoing work and includes a proposed timeline to complete the work to implement the transparency portal. However, we again reiterate the need for the City and APD to ensure that their vendors complete their work in a timely manner to be in compliance.

For these reasons the Monitor believes this mandate is still on a cautionary track.

CONCLUSION

The fourth reporting period of monitoring activity has been marked by cooperation and apparent good will of all parties and stakeholders in the process. The Monitor believes there is genuine interest among the parties to achieve the goals of the Consent Decree and effectuate its provisions as quickly as possible so that the resulting reforms are soon seen and felt on the streets of Aurora.

APPENDIX A – REPORT CARD

REPORT CARD MATRIX		RP1 2/15/22- 5/15/22	RP2 5/16/22- 8/15/22	RP3 8/16/22- 11/15/22	RP4 11/16/22- 2/15/23	RP5 2/16/23- 8/15/23	RP6 8/16/23- 2/15/24	RP7 2/16/24- 8/15/24	RP8 8/16/24- 2/15/25	RP9 2/16/25- 8/15/25	RP10 8/16/24- 2/15/26	RP11 2/16/26- 8/15/26	RP12 8/16/26- 2/15/27
MANDATE NUMBER	TITLE AND SYNOPSIS	COMPLIANCE DETERMINATIONS											
POLICIES AND TRAINING GENERALLY													
1A	Policies and Training Generally (APD): APD and AFR will develop policies that are consistent and complimentary and will conduct training for coordinated response and will hold officers and firefighters accountable for policy violation												
1B	Policies and Training Generally (AFR): APD and AFR will develop policies that are consistent and complimentary and will conduct training for coordinated response and will hold officers and firefighters accountable for policy violation												
2A	Policy development, review and implementation process (APD): City will work with the Monitor to evaluate policies, training and implementation, and develop process to speed up process.												
2B	Policy development, review and implementation process (AFR): City will work with the Monitor to evaluate policies, training and implementation, and develop process to speed up process.												
2C	Policy development, review and implementation process (CSC): City will work with the Monitor to evaluate policies, training and implementation, and develop process to speed up process.												
3A	Submission of new policies for review (APD): City must submit any covered policies, procedures, rules to the Monitor for review and approval												
3B	Submission of new policies for review (AFR): City must submit any covered policies, procedures, rules to the Monitor for review and approval												
3C	Submission of new policies for review (CSC): City must submit any covered policies, procedures, rules to the Monitor for review and approval												

50	Recruitment, Hiring, and Promotion – Objectives: The City will improve transparency, accountability and predictability in discipline review including by facilitating CSC standardization and codification of elements of the disciplinary review process.																		
51	Recruitment, Hiring, and Promotion – Objectives: The City will improve transparency, and accountability in the work of the CSC such that Community understands the role that the CSC plays in hiring, promotion and discipline.																		
52	Recruitment, Hiring, and Promotion – Recruitment (APD): APD will revise review and revise recruitment and hiring programs to attract and hire a diverse group of qualified individuals through a plan that has clear goals, objectives and action steps.																		
53	Recruitment, Hiring, and Promotion – Recruitment (AFR): AFR will revise review and revise recruitment and hiring programs to attract and hire a diverse group of qualified individuals through a plan that has clear goals, objectives and action steps.																		
54	Recruitment, Hiring, and Promotion – Recruitment (APD): The recruitment plan should include an examination of minimum qualifications for both new recruits and lateral hires in consultation with the Civil Service Commission																		
55	Recruitment, Hiring, and Promotion – Recruitment (AFR): The recruitment plan should include an examination of minimum qualifications for both new recruits and laterals in consultation with the Civil Service Commission																		
56	Recruitment (Outreach for Diversity) (APD): The recruitment plan should include an outreach to community leaders and stakeholders, to increase the diversity of APD's applicant pool and identify candidates that are committed to community policing and have skills to succeed																		
57	Recruitment (Outreach for Diversity) (AFR): The recruitment plan should include an outreach to community leaders and stakeholders, to increase the diversity of APD's applicant pool and identify candidates and have skills to succeed																		
58	Recruitment, Hiring, and Promotion – Recruitment (APD): The plan should include broad distribution of career opportunities and details pertaining thereto in the metro Denver area, and make the same info available on the website with direct contact to recruiting member																		
59	Recruitment, Hiring, and Promotion – Recruitment (AFR): The plan should include broad distribution of career opportunities and details pertaining thereto in the metro Denver area, and make the same info available on the website with direct contact to recruiting member																		

3B

LEGEND (REV)	ESTIMATED 0-24% COMPLETE	ESTIMATED 25-49% COMPLETE	ESTIMATED 50-74% COMPLETE	ESTIMATED 75-99% COMPLETE	SUBSTANTIAL COMPLIANCE
RIGHT TRACK (IN LINE WITH MONITOR EXPECTATIONS)					
CAUTIONARY TRACK (AT THIS TIME UNCERTAIN IF MONITOR'S EXPECTATIONS WILL BE MET)*					
WRONG TRACK OR UNACCEPTABLY OVERDUE (EXPECTATIONS OF MONITOR ARE NOT BEING MET)					
NOT EVALUATED IN THE INDICATED REPORTING PERIOD	[CELL IN CURRENT OR PAST REPORTING PERIODS INTENTIONALLY LEFT BLANK]				
TO BE EVALUATED IN THE NEXT REPORTING PERIOD					
*OR, DEADLINE MISSED BUT MONITOR EXPECTS THAT IT WILL BE MET WITHIN A REASONABLE PERIOD					

APPENDIX B – CONSTITUTIONAL POLICING POLICY

AURORA POLICE DEPARTMENT

DIRECTIVES MANUAL

08.52 CONSTITUTIONAL POLICING

Approved By:	Art Acevedo, Interim Chief of Police
Effective:	Feb-14-2023
Revised:	
Associated Policy:	DM 08.48, 08.50
References:	C.R.S. § 24-31-901(1), C.R.S. § 16-3-103(1)
Review Authority:	Professional Standards and Training Division Chief and APD Legal Advisor(s)

8.52.01 PURPOSE

The purpose of this policy is to ensure Aurora Police Department (APD) sworn members conduct all encounters as well as the associated weapon pat-downs and searches in accordance with the rights secured and protected by the United States Constitution, federal and state law, case law, and APD policy. Persons contacted include those who are in vehicles or as pedestrians and encompass consensual, investigatory (reasonable suspicion), arrest (probable cause), and emergency mental health (M-1) situations. Contacts can be officer-initiated, person-initiated, or result from a call for service. This policy also provides guidance to supervisors on proper review and documentation of APD sworn members' contacts with persons.

8.52.02 SCOPE

This directive applies to all sworn members of APD.

8.52.03 DEFINITIONS

Consensual: An encounter where the sworn member has no lawful authority to direct or detain the person and is voluntary on the part of the person. The person is free to decline or revoke the consent at any time and leave without interference or implied authority of the sworn member. These encounters could result from a sworn member's suspicion or a hunch but do not rise to the level of reasonable suspicion required to detain a person.

Contact: as defined by C.R.S. § 24-31-901(1), means an in-person interaction with an individual, whether or not the person is in a motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law.

Custodial Arrest: Seizure of a person for the purpose of taking them to a detention facility for booking procedures and the subsequent filing of criminal charges.

Encounter: Whenever a sworn member is interacting with a member of the public while in a sworn law enforcement capacity (in-person).

Non-custodial Arrest: Seizure of a person for the purpose of issuing them a summons to court to face criminal charges or issue them a verbal warning. Sworn members who conduct a non-custodial arrest have the same legal authority as when they conduct a custodial arrest.

Pat-Downs: A physical check of a person's outer clothing using hands for readily accessible weapons. Consent or reasonable suspicion to believe the person is armed and presently dangerous to the sworn

member or to others is required. A pat-down does not involve entering pockets or manipulating objects in the pockets unless the object is perceived as a weapon.

Pointing a Firearm at a Person: When a sworn member intentionally points a firearm in the direction of a person, and if the sworn member were to pull the trigger of the firearm, the likely outcome would be that person being struck by a bullet.

Levels of Proof:

Reasonable Suspicion: Articulable facts and circumstances known to the sworn member at the time of a contact when, taken as a whole, that would lead a reasonable officer to reasonably suspect that a particular person has committed, is committing, or is about to commit a specific crime(s). Reasonable suspicion is more than a hunch; however less than probable cause. The person is not free to leave during a detention based on reasonable suspicion.

Probable Cause: Facts and circumstances taken as a whole that would lead a reasonable officer to believe that a particular person has committed or is committing a crime.

Pretext Stop: Stopping a person or occupants of a vehicle to investigate other suspected crimes or violations for which the sworn member has neither reasonable suspicion nor probable cause. Sworn members must have reasonable suspicion or probable cause for a violation for which they are actually stopping the person or vehicle rather than relying only on the pretense of suspected crimes or violations for which the sworn member has not yet established reasonable suspicion or probable cause.

Search: A search is a physical inspection of a person, vehicle, location, or item that the sworn member has the lawful authority to perform under consent or probable cause.

Witness: A person that is not believed to be involved in criminal activity; however, someone whom the sworn member believes may have information relating to suspected criminal activity or an event of public interest the member is involved in.

8.52.04 POLICY

The policy of the Aurora Police Department is that sworn members contact persons in a manner that is unbiased and recognizes the constitutional protections afforded to all persons. Sworn members should recognize the value of creating opportunities to improve the perceived legitimacy of the agency by the public. Contacts with persons should reflect respect and impartiality and promote trust between the APD and the community we serve. Additionally, this policy provides guidance on documentation and review regarding person contacts. See related [DM 08.48 - Suspicious Calls](#) and [DM 08.50 - Contact Data Collection](#) for further information.

8.52.05 CORE PRINCIPLES

The following principles are expectations of APD sworn members when in contact with a member of the public:

Relational-Based Policing: Every interaction with a member of the public is an opportunity to build respect, legitimacy, and trust with the public. These interactions increase cooperation, strengthen connections between APD and the public, and advance public safety. We share a responsibility with the public to develop strategies to decrease crime and improve the quality of life for our community and visitors.

Constitutional Policing: Every encounter shall be conducted lawfully under the First, Fourth, and Fourteenth Amendments to the United States Constitution and in accordance with state law and this policy.

Procedural Justice: Members will treat people with fairness, dignity, and respect and, whenever possible, take time to explain the actions of a member and answer questions.

Open Dialogue | Voice: Members of the public should be given a voice during encounters when it is safe to do so, regardless of the nature of the contact.

Anti-Bias Policing: Members will not initiate or continue any contact based on a person's race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, or gender identity, except when such an attribute is part of a suspect-specific description identified by the member. The suspect-specific description must be combined with other non-demographic identifying factors in such cases.

Accountability: Contacts, detentions, searches, or arrests that do not conform to policy or law shall result in an administrative investigation. Members are expected to hold themselves and other members accountable to the Vision, Mission, and Core Values of the Aurora Police Department.

8.52.06 GUIDELINES RELATED TO PERSON CONTACTS

During a contact, the sworn member's authority varies depending on the level of proof that has been established for the contact. The following are associated actions that can take place depending on the level of proof that exists:

- Applying handcuffs or directing a person to stand, sit, or position themselves in a manner not of their choosing:

The sworn member shall establish reasonable suspicion or probable cause and articulate why it is objectively reasonable, based on the totality of the circumstances, for the person to assume the position directed by the sworn member. Such articulation may include but is not limited to enhancing specific officer safety concerns, bystanders' safety, the subject's safety, reducing the risk of the subject fleeing, and specific environmental factors.

- Pointing a firearm at a person:

When a sworn member points a firearm at a person, it is a seizure under the Fourth Amendment to the United States Constitution. In these circumstances, the sworn member shall be able to articulate an objectively reasonable fear for their or another's safety, based on the totality of circumstances, and that the use of deadly force would be objectively reasonable and permissible under department policy under those circumstances.

- Use of Force

In these circumstances, the sworn member shall articulate why it is objectively reasonable to use force either to effect an arrest, protect the person or another, or involuntarily detain the person during an investigation.

Contacts Transition into Another Level of Proof:

Sworn members shall articulate when a contact transitions to another level of proof, thereby changing the lawful authority of the sworn member and the rights of the person contacted. Examples include when reasonable suspicion is dispelled, and the sworn member informs the person that they are free to leave, or during an investigatory consensual encounter when the sworn member develops reasonable suspicion to detain a person. When an encounter transitions to another level of proof, the sworn member shall document the facts and circumstances that led to that change. Documentation shall be in CAD notes, general offense (GO) reports, or supplemental reports.

8.52.07 CONSENSUAL ENCOUNTERS

Consensual encounters are the foundation of enhancing communication, trust, legitimacy, and understanding between APD and members of the public. The outcome of such interactions are information sharing, strong relationships, and public support in crime prevention and intervention efforts. These interactions are based on mutual respect and are professional in nature. People should always feel free to discontinue a consensual encounter without pressure or repercussions. Additionally, the fact that a person declines to participate in a consensual encounter cannot be used as a basis for the sworn member to escalate the contact or further intrude on the person. Sworn members should be aware that they can imply detention through tone, verbiage, and actions.

Can the person refuse the contact:	Yes
Contact Data Collection Form Required:	No
BWC Activation Required:	No
Member has Authority to Detain:	No
Member has Authority to Pat-Down:	No
Member has Authority to Search:	No
Member must provide Business Card:	Upon Request

8.52.08 INVESTIGATORY CONSENSUAL CONTACTS

Consensual contacts can be investigatory, either of the person being contacted or witnesses, victims, etc. In these cases, the sworn member does not have specific articulable facts amounting to reasonable suspicion; however, for other reasons may believe criminal activity is afoot. In these cases, sworn members are reminded that the person involved in the consensual contact is free to disengage at any time and that the sworn member is not permitted to imply detention through words, tone, or actions.

Can the person refuse the contact:	Yes
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	No
Member has Authority to Pat-Down:	With Consent
Member has Authority to Search:	With Consent
Member must provide Business Card:	Yes

8.52.09 INVESTIGATORY DETENTIONS / TERRY STOPS

An investigatory detention based on reasonable suspicion occurs when a sworn member uses words or takes actions to stop a person, keep a person in place, or compel a person to do something. Reasonable suspicion affords the sworn member the authority to detain the person involuntarily to

either confirm or dispel the suspicion. If the sworn member's suspicion is dispelled at any time, the sworn member shall, without delay, advise the person that they are free to leave. C.R.S. § 16-3-103(1) provides that sworn members can require a person to give their name, address, ID (if available), and an explanation of their actions.

The scope of questioning during an investigatory detention shall be consistent with the suspected criminal activity, and the duration of the contact shall be proportional to the suspected criminal activity. An investigatory detention shall be discontinued when the duration of the contact is no longer proportional to the suspected criminal activity being investigated.

Investigative stops may not be based solely on a person's presence in a location known for criminal activity. Investigative stops must be supported by other articulable facts that amount to reasonable suspicion for a specific crime(s). Additionally, a pat-down for weapons is not assumed unless the sworn member has reasonable suspicion that the person is armed and presently dangerous to the sworn member or to others.

When discontinuing an investigatory stop when the person(s) is released, an explanation for the stop shall be provided, and the sworn member shall take a reasonable amount of time to answer questions.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	If reasonable suspicion for a weapon is present.
Member has Authority to Search:	With Consent
Member must provide Business Card:	Yes

8.52.10 PAT-DOWNS

A pat-down as the result of a lawful *Terry* stop is not intended to discover evidence of a crime. To perform a pat-down, the sworn member must have articulable reasonable suspicion why they believe the person is armed and presently dangerous to the sworn member or to others. Reasonable suspicion of a crime does not necessarily presume reasonable suspicion of a weapon, and both must be articulated independently. The scope of a pat-down can extend to bags or other property only when the sworn member has a reasonable belief that the bag or property could contain a weapon and is within the person's reach.

Sworn members must provide specific information when articulating their reasoning for a pat-down other than general statements such as "officer safety" or "high crime area." The aforementioned statements alone do not solely provide justification for a pat-down.

Some factors sworn members should consider when determining whether a pat-down is lawful include the following:

- Type of crime suspected - particularly in crimes of violence where the use or threat of weapons is involved.
- Sworn member versus subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, and number of officers versus subjects)
- Prior knowledge of the subject's use of force or propensity to carry weapons
- The appearance or demeanor of the subject (e.g., bulky clothing or jacket on a warm day)

The following factors may, in and of themselves, constitute reasonable suspicion for a pat-down, such as a visual indication that the person is carrying a firearm or other weapon and the sworn member has reason to believe the person is armed and presently dangerous to the sworn member or to others. During a pat-down, if the sworn member feels an item that is immediately apparent as a weapon or contraband (plain-feel doctrine based on probable cause), the sworn member may reach into or disturb the article of clothing to retrieve the item. A pat-down does not involve entering pockets or manipulating objects in the pockets unless the object is perceived as a weapon or contraband. If the sworn member discovers contraband or evidence of a crime, the sworn member may lawfully seize those items, and they may be considered when establishing probable cause to arrest or further search the person.

Alternatives to a pat-down could include directing a person to either remove or not remove their hands from pockets or separating a person from unsearched bags or areas that may contain a weapon. When returning unsearched items to a person, a sworn member may briefly manipulate the exterior to determine if it may contain a weapon if the sworn member reasonably suspects that harm may result if returned to the person unchecked. If a pat-down is performed, irrespective of whether a weapon is found, the sworn member will document the contact to include the justification for the stop and pat-down.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	If reasonable suspicion for a weapon is present.
Member has Authority to Search:	With consent, probable cause, or a warrant.
Member must provide Business Card:	Yes

8.52.11 ARRESTS

An arrest can be custodial (physical arrest) or non-custodial (i.e., summons, warning, etc.). A physical arrest is effected when the sworn member has achieved probable cause and physically restrains the person or advises the person they are under arrest, and the person submits. The person is not free to leave, and a search incident to arrest is authorized.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	Yes
Member has Authority to Search:	Yes
	<ul style="list-style-type: none"> - <u>Custodial Arrest</u>: Complete Search - <u>Non-Custodial Arrest</u>: Search only for instrumentality of the crime the suspect is being issued a summons for.
Member must provide Business Card:	Yes

8.52.12 EMERGENCY MENTAL HEALTH HOLDS (M-1)

A sworn member may initiate an emergency mental health hold (M-1) when the sworn member believes the person may be a danger to themselves, danger to others, or gravely disabled due to their mental state, whether a crime has been committed or not.

A crime may or may not have been committed, and any crime committed may be mitigated by the person's mental culpability. A sworn member's intent during such contact generally must be to care for the person's welfare and protect others. A sworn member has the authority to detain in this context and shall only use force as a last resort when other options have been ineffective or are not practical to protect the person or others.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	Yes
Member has Authority to Search:	Yes
Member must provide Business Card:	Yes

8.52.13 PRETEXTUAL STOPS

When contacting a person relative to a pretext (i.e., the sworn member suspects the person is involved in some type of criminal activity), the sworn member must have either reasonable suspicion or probable cause of another violation that justifies the detention. For a pretextual stop, the officer must have an articulable suspicion or hunch relative to a specific crime or criminal activity. The underlying reason for a pretextual stop shall not be based on a person or person's membership in a protected class.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	If reasonable suspicion for a weapon is present.
Member has Authority to Search:	With consent, probable cause, or a warrant.
Member must provide Business Card:	Yes

8.52.14 SEARCHES

Searches of persons, places, vehicles, or things are only permissible under certain circumstances governed by the Fourth Amendment. A consensual search is permitted if the person freely consents to a sworn member's request, and the person has the authority to permit such search regarding ownership or lawful control of such place or thing. Consistent with C.R.S. § 16-3-310, a request for consent must be accompanied by a statement that the consent can be revoked at any time. Non-consensual searches are permitted when the sworn member has a warrant approving such search or when there is a valid exception to the warrant requirement.

Can the person refuse the contact:	Depends upon the level of proof
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	N/A
Member has Authority to Search:	With consent, probable cause, or a warrant.
Member must provide Business Card:	Yes

8.52.15 WITNESSES

Encounters with witnesses are consensual, and the witness cannot be detained, compelled to speak with the sworn member, or compelled to identify themselves regardless of the suspected crime.

Can the person refuse the contact:	Yes
Contact Data Collection Form Required:	No
BWC Activation Required:	Yes
Member has Authority to Detain:	No
Member has Authority to Pat-Down:	With Consent
Member has Authority to Search:	With Consent
Member must provide Business Card:	Yes

8.52.16 VEHICLE STOPS

A vehicle stop is a contact that involves the involuntary detention of the occupants of a vehicle based on reasonable suspicion or probable cause. During a vehicle stop based on a traffic violation by the driver, other occupants may be detained but cannot be compelled to identify themselves. A vehicle stop for the purposes of issuing a summons is a seizure; however, the stop should not last longer than the time required to issue the summons. This time can include checking the driver's license status, checking for warrants, and checking vehicle registration and proof of insurance. Deliberately prolonging a stop for any reason not amounting to reasonable suspicion is a Fourth Amendment violation.

In the event the stop is based on articulable reasonable suspicion of another crime the sworn member reasonably believes the vehicle's occupants are involved in, the sworn member can request identifying information of those persons. A contact form is required to be completed for the driver of the vehicle and any occupant that is questioned under reasonable suspicion.

Sworn members are permitted to conduct a protective sweep of a vehicle in a limited capacity to within arm's reach of the person when the member has reasonable suspicion to believe the occupant may have a weapon in the area searched and it presents a danger. Occupants may be ordered from the vehicle during a protective sweep.

Can the person refuse the contact:	No
Contact Data Collection Form Required:	Yes
BWC Activation Required:	Yes
Member has Authority to Detain:	Yes
Member has Authority to Pat-Down:	If reasonable suspicion for a weapon is present.
Member has Authority to Search:	With consent, probable cause, or a warrant.
Member must provide Business Card:	Yes

APPENDIX C – BIAS-BASED POLICING POLICY

AURORA POLICE DEPARTMENT

DIRECTIVES MANUAL

08.32 BIAS-BASED POLICING

Approved By:	Art Acevedo, Interim Chief of Police
Effective:	Mar-15-2023
Revised:	Mar-15-2023
Associated Policy:	DM 08.52
References:	N/A
Review Authority:	Professional Standards and Training Division Chief

8.32.01 PURPOSE

The purpose of this policy is to ensure that all sworn members of the Aurora Police Department (APD) conduct all encounters and law enforcement actions impartially and in accordance with the rights secured and protected by the United States Constitution, federal and state law, case law, and APD policy. Conducting law enforcement activities in an unbiased manner fosters and strengthens relationships between sworn members and the public and inspires confidence in and support for policing efforts. This policy also provides guidance to APD supervisors on the proper investigation of any complaints of biased-based policing.

This policy should be read in conjunction with [DM 08.52 - Constitutional Policing](#), which specifically defines and delineates APD policy relative to contacts, detentions, arrests, searches, seizures, and the provision of business cards to members of the public.

8.32.02 SCOPE

This directive applies to all members of APD.

8.32.03 DEFINITIONS

Biased-Based Policing: Any police-initiated law enforcement action that is based in whole or in part on race, ethnicity, gender, national origin, language preference, religion, sexual orientation, gender identity, age, or disability, except to the extent that such action is based on an articulable suspect-specific description of an individual and is combined with other non-demographic factors such as behavior, statements, circumstances, etc.

8.32.04 POLICY

Sworn members of APD must only contact persons in a manner that is consistent with [DM 08.52 - Constitutional Policing](#). To the extent that a sworn member's decision to contact an individual is based in whole or in part on a person's actual or perceived race, ethnicity, gender, national origin, language preference, religion, sexual orientation, gender identity, age or disability, that contact violates this policy unless that contact is based on a reliable suspect-specific description of the individual that includes other non-demographic identifying characteristics.

The Aurora Police Department neither condones nor tolerates the use of biased-based policing. Biased-based policing undermines legitimate law enforcement efforts, alienates a significant percentage of the population, and fosters distrust of law enforcement by the public. Sworn members should recognize the value of creating opportunities to improve the perceived legitimacy

of the agency by the public. Contacts with persons must reflect respect and impartiality and promote trust between the APD and the public.

8.32.05 CORE PRINCIPLES

The following principles are expectations of APD members when in contact with a member of the public:

Relational-Based Policing: Every interaction with a member of the public is an opportunity to build respect, legitimacy, and trust with the public. These interactions increase cooperation, strengthen connections between APD and the public, and advance public safety. We share a responsibility with the public to develop strategies to decrease crime and improve the quality of life for our community and visitors.

Constitutional Policing: Every encounter shall be conducted lawfully under the First, Fourth, and Fourteenth Amendments to the United States Constitution and in accordance with state law and this policy.

Procedural Justice: Members will treat people with fairness, dignity, and respect and, whenever possible, take time to explain the actions of a member and answer questions.

Open Dialogue | Voice: Members of the public should be given a voice during encounters when it is safe to do so, regardless of the nature of the contact.

Anti-Bias Policing: Members will not initiate or continue any contact based on a person's race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, or gender identity, except when such an attribute is part of a suspect-specific description identified by the member. The suspect-specific description must be combined with other non-demographic identifying factors in such cases.

Accountability: Contacts, detentions, searches, or arrests that do not conform to policy or law shall result in an administrative investigation. Members are expected to hold themselves and other members accountable to the Vision, Mission, and Core Values of the Aurora Police Department.

8.32.06 BIASED POLICING COMPLAINTS

Complaints alleging biased-based policing will be accepted in accordance with policies regarding the acceptance of all internal and external complaints in [DM 10.02 - Complaint and Discipline Procedures for Sworn Members](#). All biased-based policing complaints will immediately be forwarded to the APD Internal Affairs Bureau (IAB) for tracking in the administrative management system.

After the initial inquiry and preliminary investigation have been completed by that member's supervisor, IAB will determine whether the complaint should be investigated by IAB or by the command of the member whose conduct is the subject of the complaint.

8.31.07 TRAINING

All members, including supervisors and executive staff, will be given initial training and annual training thereafter on biased-based policing issues, including, but not limited to, different types of bias, understanding and combatting implicit biases, the prohibition of using a person's race,

ethnicity, national origin, religion, gender, sexual orientation, age, disability, or gender identity, unless such an attribute is part of a suspect-specific description. Additionally, all sergeants and IAB investigators must receive training on how to properly conduct biased-based policing investigations.

APPENDIX D – DE NOVO REVIEW REPORT

Assessment of the *de novo* Review
Process of the Civil Service
Commission

March 14, 2023

Table of Contents

<u>INTRODUCTION</u>	<u>1</u>
<u>EXECUTIVE SUMMARY</u>	<u>2</u>
<u>BACKGROUND</u>	<u>3</u>
<u>APD’S DISCIPLINARY PROCESS.....</u>	<u>3</u>
<u>AFR’S DISCIPLINARY PROCESS</u>	<u>4</u>
<u>THE PROCESS FOR APPEAL TO CIVIL SERVICE COMMISSION</u>	<u>6</u>
<u>THE RESULTS OF DE NOVO APPEALS TO THE CIVIL SERVICE COMMISSION</u>	<u>8</u>
<u>AURORA POLICE DEPARTMENT</u>	<u>8</u>
1. SERGEANT MARLENA CANDELARIA (2017)	8
2. OFFICER JOHN GONZALES (2017)	9
3. LIEUTENANT CHARLES DESHAZER (2018)	10
4. OFFICER JOSIAH COE (2018)	11
5. OFFICER LEVI HUFFINE (2020)	11
6. LIEUTENANT REX MCKINNEY (2020)	12
7. OFFICER JASON ROSENBLATT (2021)	14
8. OFFICERS ERICA MARRERO AND KYLE DITTRICH (2021)	15
9. DETECTIVE AGENT BRIAN MCCLURE (2021)	16
10. OFFICER JORDAN ODNEAL (2021)	17
11. OFFICER ROBERT ROSEN (2021)	18
12. SERGEANT EDWARD ACUTI (2022).....	19
13. OFFICER DOUGLAS WILKINSON (2022).....	22
<u>AURORA FIRE RESCUE</u>	<u>24</u>
1. CAPTAIN ROBERT OTT (2017)	24
2. FIREFIGHTER DAVID GIBBS (2018)	25
3. TECHNICIAN JOHN SPERA, CAPTAIN BRETT STEADMAN, AND CAPTAIN THOMAS JOHNSON (2020)	27
<u>APPEALS OF CIVIL SERVICE COMMISSION RULINGS TO DISTRICT COURT</u>	<u>28</u>
<u>FINDINGS AND RECOMMENDATIONS.....</u>	<u>29</u>

FINDING 1 – THE CHARTER PROVIDES A MANDATORY FRAMEWORK FOR APPEALS FROM DISCIPLINARY DECISIONS TO WHICH THE CURRENT DE NOVO REVIEW PROCESS IS COMPLIANT..... 29
DISCUSSION 29
RECOMMENDATION..... 29

FINDING 2- THE DE NOVO REVIEW PROCESS AS MANDATED BY THE CHARTER AND IMPLEMENTED BY THE COMMISSION RULES IS THE FIRST TIME IN THE DISCIPLINARY PROCESS THAT MEMBERS ARE AFFORDED FULL DUE PROCESS 29
DISCUSSION 29
RECOMMENDATION..... 29

FINDING 3: THE CIVIL SERVICE COMMISSION HAS COMMENDABLY INCREASED THE TRANSPARENCY OF THE DE NOVO REVIEW PROCESS. 30
DISCUSSION 30
RECOMMENDATION..... 30

FINDING 4: WHILE UNDER THE CHARTER, A MEMBER OF THE DEPARTMENT MAY REQUEST A CLOSED HEARING, THERE EXIST NO RULES OR GUIDELINES FOR THE RESOLUTION OF THE REQUEST 30
DISCUSSION 30
RECOMMENDATION..... 31

FINDING 5: THE TIMELINE FOR THE RESOLUTION OF APPEALS AS CALLED FOR BY THE CHARTER HAS NEVER BEEN MET ... 31
DISCUSSION 31
RECOMMENDATION..... 31

FINDING 6: THE USE OF PRECEDENT TO DETERMINE WHETHER AN IMPOSED PENALTY IS APPROPRIATE IS PROBLEMATIC 32
DISCUSSION 32
RECOMMENDATION..... 32

FINDING 7: THE COMMISSION RULES DO NOT SET A METHOD BY WHICH A DECISION ON APPEAL SHOULD BE RENDERED, AND THE FACTORS THAT SHOULD BE CONSIDERED IN MAKING THE DECISION 33
DISCUSSION 33
RECOMMENDATION..... 33

CONCLUSION 33

APPENDIX 34

INTRODUCTION

This report has been prepared by IntegrAssure pursuant to its designation by the Civil Service Commission as its expert, engaged to provide technical assistance under the provision of the Consent Decree which calls for the Monitor to provide such assistance to the City to help it in achieving the goals of the Decree. As such, the findings and recommendations in this report are not binding on the City or the Civil Service Commission, but rather should be considered expert advice in assisting the Civil Service Commission fulfill its obligations under the Consent Decree.¹ This report covers only the role of the Civil Service Commission in the disciplinary process for both APD and AFR. Other aspects of the disciplinary process for each agency will be the subject of separate reports.

The Consent Decree (sometimes “the Decree”) mandates that the Civil Service Commission (sometimes “the Commission”) strongly consider changing its current policy relative to the hearing of disciplinary appeals by not allowing a full “de novo” review of disciplinary cases and replacing that process with one which is more appellate in style.² The mandate contains the caveat that any change must conform to the parameters of the Aurora City Charter.³ This Report

¹ The relevant portion of the *Section IX 8 2* of the Consent Decree reads as follows: In undertaking its responsibility to ensure Aurora’s compliance with this decree, the Consent Decree Monitor will serve as a resource and a coach as needed to help Aurora succeed in the commitments the City is making in this decree. The parties expect the Consent Decree Monitor to communicate informally with all parts of the organization in a way that supports the chain of command. Pursuant to this provision and in fulfillment of its obligation under Section VII C 4 to engage an expert to assist the Commission in meeting the requirements of the Decree, the Commission engaged IntegrAssure and its team member, Cassi Chandler, to provide advice relative to its obligations.

² *Section VII C 3 a* of the Consent Decree reads as follows: The Civil Service Commission will update its Rules and Regulations by the Civil Service Commission Rules and Regulations Modification Deadline and this update will include, at a minimum:

a. guidelines that substantially reduce the time disciplinary cases take from filing to resolution, including to strongly consider not allowing a full “de novo” review of disciplinary cases and instead handling them as a more appellate style of review within the parameters set forth by the Aurora Charter;

³ The relevant portion of the Aurora City Charter reads as follows:

8) Disciplinary and appeal procedure.

(e) A member shall have ten (10) business days from the service of the order to file an appeal of the disciplinary order with the Civil Service Commission. The appeal shall be in writing and contain the name and address of the appealing member, a copy of the written command being appealed and a brief summary of the reasons for the

constitutes a major part of the efforts of the City and the Commission to meet its obligation under VII C 3, to strongly consider changing its rules relative to the *de novo* review of disciplinary decisions of both the APD and AFR. The Commission is mandated by the Decree to take any action necessary to effect changes to its rules to change the current “*de novo*” practice by May 15, 2023.⁴

EXECUTIVE SUMMARY

IntegrAssure has reviewed the relevant provisions of the Consent Decree and the City Charter as well as the 16 disciplinary appeal decisions (13 for APD and 3 for AFR) made by the Commission over the last five years. We have also spoken extensively with stakeholders including those representing APD and AFR, the collective bargaining organizations for each Department, the Commission through its chair and Administrator, the City including both the Office of the City Manager and the Office of the City Attorney, as well as the Monitor’s Citizen Advisory Committee. We have also spoken with the Attorney General’s Office relative to our findings and recommendations.

After those conversations and after independently considering the question of whether the *de novo* review process should be changed, it is our recommendation to the Commission and the

appeal. A member may express a desire to have the hearing closed to the public. Upon receipt of an appeal, the Commission shall promptly provide a copy of it to the office of the City Attorney.

(f) The Commission shall conduct a hearing on the appeal not less than fifteen (15) nor more than thirty (30) days after receipt of the appeal. After a hearing date has been set, it may be continued only upon agreement of all the parties or upon good cause shown to the Commission. The notice of the hearing shall indicate whether the hearing will be public.

(g) At the hearing before the Commission, each side may offer evidence and cross examine witnesses. The member may be represented by a representative of their choosing and the City Manager-Department shall be represented by the City Attorney or a designee. The hearing shall be recorded by a reporter or an electronic recording device. The Commission may adopt rules for the conduct of the hearing. The City Manager and Chief of the Department, through the office of the City Attorney as counsel, shall offer evidence and justification of the departmental action. The rules of evidence shall conform, to the extent practicable, with those in civil nonjury cases in the District Courts. However, when necessary to do so in order to ascertain facts affecting the substantial rights of the parties to the proceeding, the Commission may receive and consider evidence not admissible under such rules if such evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

⁴ See Consent Decree Section XII, Recruitment, Hiring and Promotion, Civil Service Commission Rules and Regulations Modification Deadline (455 days from the effective date of contract with the Monitor).

City that the current system be retained. Simply put, the suggested change to the process in the Consent Decree would be violative of the City Charter. Moreover, our review has found that the current system is working well assuring what, through the Commission, amounts to community review of disciplinary decisions of each department, while, at the same time providing due process for department members, which, by design, does not fully exist within the current disciplinary process of each department.

We have made additional recommendations in areas relative to the disciplinary process that we believe would enhance and improve the overall process as it currently exists.

BACKGROUND

The Charter provision (see footnote 3) has been in place since at least November 3, 1987.

APD'S DISCIPLINARY PROCESS

In 2006 APD created the Automated Complaint and Commendation System to manage and record all complaints, investigations, and compliments or commendations relating to both sworn and non-sworn members of the department. The department permits submission of complaints through the City's website, via telephone, by mail, or in person, with all complaints entered into the automated system. The complaint can be received by the district or by the Internal Affairs Bureau (IAB). The complaint is reviewed by the receiving party to determine whether the complaint should be reviewed at the District or Bureau level or by IAB itself. If a determination is made that the allegation can be investigated at the District or Bureau level, the case is either retained by the District or Bureau if it originated there or sent by IAB to the appropriate Commanding Officer for investigation. The District or Bureau Commanding Officer will then assign the case to an appropriate supervisor to commence and complete a preliminary investigation. If during the preliminary investigation the investigator believes the allegation should not be handled at the District or Bureau level because of the seriousness or criticality of the investigation, a request for investigation by the IAB will be completed and forwarded through the complaint management system to the subject member's Division Chief.

If IAB determines that an investigation is warranted⁵, IAB will seek authorization from APD's Chief of Police. This is necessary because under the existing rules, only the Chief of Police can order an IAB investigation. Once approval is received, IAB will commence an investigation and, upon its

⁵ For certain critical incidents, including police-involved shootings or uses of force resulting in serious injury or death, an IAB investigation may result regardless of whether misconduct is alleged or indicated against any involved officer.

completion, notify the subject officer, the officer's Division Chief, and the officer's commanding officers that the case is available for review by the officer and their representative for any factual misstatements or requests for additional investigation. Thereafter, the case will be reviewed by the Chief of Police.

The next step in the disciplinary process is that subject sworn member is informed of the Chief's decision during a "pre-disciplinary hearing." During this hearing, the sworn member has the opportunity to provide any additional context or mitigating information that may help inform the Chief's decision. The sworn member may waive the pre-disciplinary hearing, but the Chief of Police can order the sworn member to participate. The pre-disciplinary hearing is an informal hearing in which the sworn member is not represented by counsel, or has the opportunity to confront witnesses.

The sworn member may also request an Independent Review Board to review the proposed discipline, but the decision to convene an Independent Review Board is completely within the discretion of the Chief of Police. After the pre-disciplinary hearing or Independent Review Board (if conducted), the Chief issues a final disciplinary order that is served upon the sworn member. The sworn member must accept any non-disciplinary action (which is not appealable to the Civil Service Commission) and may accept formal discipline. If the sworn member receives formal discipline, the sworn member can choose to exercise the right to appeal the final order to the Civil Service Commission.

AFR'S DISCIPLINARY PROCESS

The Fire Chief is given the primary authority to maintain discipline within the Department. As such, the Fire Chief has the discretion to initiate an internal investigation to review AFR members' conduct, and to designate the investigation to be conducted by any of the following three entities: the Internal Affairs Division, third-party investigators, or the Human Resource Department. However, only the Human Resource Department investigates claims of harassment and equal employment standards.

Formal complaints from citizens are referred to the Internal Affairs Department (IAD), regardless of where the information was first received. Based on the information received, one of two types of investigations may be commenced: an administrative inquiry or an administrative investigation.

An administrative inquiry is conducted in circumstances where the allegations received did not meet the requirements for the making of a formal complaint. Administrative inquiries are appropriate when the accused member's identity is unknown, the allegations are unspecific, the complaint was anonymous, or there are strong indicators that the complainant was untruthful.

When an administrative inquiry is initiated, the investigating officer at IAD contacts and interviews all of the available witnesses and participants. If at any point an AFR member or supervisor learns of information that would allow the allegation to meet the requirements of a formal complaint, the individual may become a complainant and file said formal complaint.

An administrative investigation is appropriate when the allegations meet the requirements of a formal complaint, and an investigation is necessary to determine whether City or Departmental rules were violated. Upon learning of misconduct, a departmental supervisor will self-initiate and conduct a supervisory investigation of the misconduct to determine the facts and circumstances of the incident. The goal of the investigation is to determine whether corrective measures are warranted. As part of the preliminary investigation, the supervisor may interview any person they believe holds necessary information. If the supervisor determines that the misconduct was minor and requires minimal corrective action, they may engage in such corrective action. However, where the supervisory investigation reveals evidence of the commission of a criminal offense, serious misconduct, or negligence in the performance of duty that would necessitate discipline higher than a reprimand (suspension, demotion, or discharge), the supervisor must request an Internal Affairs Investigation.

To request an Internal Affairs Investigation, a supervisor will submit a memo (letter of charges) through Departmental channels to the Fire Chief which provides the allegations, the underlying facts, and the potential discipline which could be imposed. The Fire Chief will review the memo and determine if the allegation would rise to the level of an administrative sanction if sustained. If so, the IAD Commander will conduct an internal investigation into the member's conduct. All other conduct if sustained below the level of an administrative sanction are evaluated by the respective Battalion Chief, which could result in a written reprimand, letter of counseling or a verbal warning.

Individuals who are subjects of an investigation and hold the rank of Captain or below are eligible to have a "designated observer" accompany them during all phases of the investigative process. The observer serves as a neutral party who ensures that the proper procedures are being followed at all times. They do not otherwise participate in the proceedings. Such observers may not be an attorney, directly involved in the investigation, nor the employee's direct supervisor. Additionally, observers are only allowed in proceedings related to formal investigations and sanctionable discipline.

At the conclusion of the investigation, the investigating entity will provide a report summarizing the findings. The investigator will also provide a classification of the investigation identifying the overall outcome.

At the conclusion of the investigatory phase of the process, if the violations are sustained the process enters the pre-discipline phase. The objective of this phase is to determine whether or not the violations are serious enough to necessitate the implementation of formal discipline. However, if the allegations are highly serious and the findings of the investigation relatively concrete, the Fire Chief has the discretion to skip this step and proceed directly to the implementation of formal discipline.

Following the conclusion of the investigation, the subject of the investigation shall be provided with the final investigative report and the findings. The individual may also read any additional documentation that provides information which would be relevant to supervisors in making a discipline determination. The member will then receive a pre-disciplinary hearing with the Fire Chief and appropriate Chief Officers within the Chain of Command. During the hearing, the member will be provided more specific details regarding the charges and investigatory findings, and they will be allowed to make a verbal statement in their defense. Following the hearing, the member has three days to submit a written response to the Fire Chief. At the expiration of the three-day period, the Fire Chief will make a determination regarding discipline.

If the behavior does not require formal discipline, but the conduct still merits correction in some form, there are two options available to the Fire Chief. First, the Chief may recommend that the member receive “Instructional Guidance” in the form of oral counseling. The member is required to attend counseling sessions, followed by which the member’s supervisor notes their attendance. Second, the member may received “Precautionary Counseling” in the form of a “letter of counseling.” The letter is a written document stating that certain performance standards are not being met. The letter notes that, while formal discipline is not currently necessary, if the behavior is not corrected a more serious response may result. The letter informs the member that their failure to remedy the behavior will result in formal disciplinary action. The letter is distributed to the subject of the complaint, and copies are provided to Internal Affairs, the Chain of Command, and the employee’s personnel file. These pre-disciplinary actions may not be appealed to the CSC.

However, if the Fire Chief determines that the conduct of the individual does warrant the implementation of formal discipline, then the Fire Chief shall issue a disciplinary order to the member and he/she has the ability to appeal the order to the Civil Service Commission.

THE PROCESS FOR APPEAL TO CIVIL SERVICE COMMISSION

Upon receiving a written disciplinary order signed by the Chief of Police or Fire, an individual has the opportunity to appeal the disciplinary decision to the Civil Service Commission (CSC). Within 10 days of receiving the order, an appealing individual must file the disciplinary order, their name

and address, and a summary of the reasons for the appeal with the CSC. The individual is represented by counsel.

They must also indicate whether they are requesting a closed hearing.⁶ Once the CSC receives all the relevant documents, a CSC administrator forwards a notice of the appeal to the CSC, the CSC's hearing officer and the City Attorney. The administrator then creates a notice of hearing and sends it to the appealing officer's attorney, the City Attorney, and the CSC hearing officer. An extension of the hearing date may also be sought by the CSC hearing officer with the consent of both parties, as long as there is good cause for the delay and the CSC commissioners agree to grant it.

Discovery is conducted within 20 days of the receipt of the appeal, or 10 days before the appeal hearing. The discovery procedures are patterned after the Colorado Rules of Civil Procedure. Parties are required to initially disclose their names, addresses, and phone numbers, along with any relevant discoverable information. The parties are also required to create a list of the category and location of relevant items within their custody. Either side may also file a petition requesting additional discovery, as necessary. Unless there is a dispute between the parties, the CSC does not participate in the discovery. However, if a party files a motion to compel, the CSC hearing officer resolves the dispute.

A week before the hearing date, the parties participate in a telephonic pre-hearing conference. The conference typically runs between twenty minutes and two hours. In the conference, the parties state how long they need for trial, provide updates on their witness and exhibit lists, provide their stipulated facts, and outline their overall theories of the case. The contested issues are identified and finalized during this pre-hearing process.

A week after the conclusion of the pre-hearing conference, the parties participate in the official hearing. The parties present their arguments, evidence, and witnesses. The City has the "burden of persuasion" and presents its case in chief first. Although the agency may call a broad range of witnesses (including IAB sergeants from APD or IAD Commander from AFR, departmental officers, etc.), APD typically only calls the Chief of Police as a witness. The Chief of Police or Fire can testify to all documents and witnesses he/she reviewed in issuing the disciplinary order. Similarly, although the appealing officer may call witnesses (including experts) to support his/her case, the subject officer is typically the only individual to testify on his/her behalf. During the hearing, the CSC hearing officer has the authority to rule on the validity of presented evidence and on any objections. However, the CSC has the ultimate authority to determine the final

⁶ See Finding 4 below pertaining to the lack of process around the resolution of a request for a closed hearing.

outcome of the hearing. Once the hearing is concluded, the CSC commissioners consider the evidence and decide to affirm the agency's decision, modify the discipline, or exonerate the officer. The penalty recommended by the Chief cannot be increased by the CSC.

THE RESULTS OF DE NOVO APPEALS TO THE CIVIL SERVICE COMMISSION

In preparing this report, we analyzed cases that were appealed to CSC from January 1, 2017 through December 31, 2022. There were sixteen cases total with thirteen cases from APD and three cases from AFR during that time period. CSC affirmed nine out of thirteen cases from APD in its entirety. CSC reduced hours of suspension on three cases and overturned APD's decision to terminate in one case. However, CSC did not affirm any of the three appeals from AFR. CSC overturned AFR's decision on demotion on one case, termination on another, and waived all fines on the last one. Summaries of APD and AFR cases are below.

AURORA POLICE DEPARTMENT

1. SERGEANT MARLENA CANDELARIA (2017)

IAB Case No. 16-31

Facts: On May 14, 2016, APD received a report of a missing person with a history of alcohol abuse. APD contacted Arapahoe House, a detox facility within Aurora. Arapahoe House told APD that they could not provide information over the phone, due to confidentiality concerns, but that officers could visit the home to search for the missing person. When Officers Oliver and Martinez arrived, Arapahoe House staff said that, as a federally funded facility, they were constrained by confidentiality laws and could not provide information the person's identity or whether or not the person was present. However, the officers were permitted to search the facility themselves. Officer Oliver's body-camera showed him in an agitated and aggressive state searching the facility, alarming the House staff and clients. The missing person was not located and the officers' acting supervisor, Sergeant Marlena Candelaria, was contacted and informed. Sergeant Candelaria, believing that disclosure of the individual's identity was permissible, visited Arapahoe House and verbally sparred with the staff. Sergeant Candelaria forcefully argued that HIPPA did not apply and would not listen to staff members informing her that other confidentiality provisions applied. Sergeant Candelaria became frustrated and left, asking a staff member for his identification information, claiming that he was "in violation" and would be reported. A staff member recorded the incident on her cell phone.

The matter was investigated and on October 10, 2016, the Chief's Review Board concluded that Sergeant Candelaria violated Directive 14.3.8 – Police-Community Relations. Directive 14.3.8 requires that officers do five things when dealing with members of the public: (1) be courteous;

(2) be tactful when performing their duties; (3) control their tempers; (4) exercise utmost patience and discretion; and (5) strive to avoid engaging in argumentative discussions. The Board concluded that Sergeant Candelaria failed to abide by these five requirements and recommended that she be suspended for twenty hours. On December 7, 2016, Police Chief Nick Metz entered a Disciplinary Order sustaining the violation of Directive 14.3.8 and suspending Sergeant Candelaria for 20 hours. Sergeant Candelaria filed an appeal with the CSC on December 21, 2016.

CSC Hearing and Findings: The appeal was heard on March 20 through 22, 2017, one-hundred and three days after the issuance of the Disciplinary Order. This was a closed hearing. Four Commissioners were present: Chair Timothy Egotz, Vice Chair Robert Christoffersen, Commissioner Deb Wallace, and Commissioner Pamela Turner. The Commission found that Sergeant Candelaria’s behavior was as courteous as could reasonably be expected under the circumstances, that she made suitable efforts to avoid the argument, and that she adequately controlled her temper. However, the request for the staff member’s identifying information was lacking tact and could have been perceived as a threat given the circumstances. Additionally, she failed to exercise patience and discretion by refusing to listen to the staff member’s explanations of the relevant confidentiality laws. These two failures amount to a violation of Directive 14.3.8, and therefore the Commission sustained the violation. With regard to the discipline, the Commission found that the 20-hour suspension was too harsh, particularly in light of Officer Oliver having received only a 10-hour suspension for his “worse” behavior and the fact that Sergeant Candelaria had sought guidance for how to mitigate such incidents in the future. The Commission reduced the discipline from a 20-hour suspension to a 10-hour suspension.

2. OFFICER JOHN GONZALES (2017)

IAB Case No. 16-50

Facts: On June 23, 2016, Officer John Gonzales and his partner were dispatched to respond to a potentially suicidal person, but actually responded to the house next door. Officer Gonzales perceived a party to be occurring inside and observed a person emerge from the house into the garage. Officer Gonzales entered the garage and asked the person if he (Gonzales) could enter the home to assess the safety of those inside, falsely claiming that he possessed a warrant. The door to the house opened and people within the home interacted with Officer Gonzales, and he entered the residence without permission. Following an investigation of the incident and pre-disciplinary hearings, Police Chief Nick Metz sustained allegations that Officer Gonzales violated Directive 14.2.9 – Constitutional Requirements, by unconstitutionally entering the home without consent. Chief Metz issued a Disciplinary Order on August 8, 2017, suspending Officer Gonzales for 20 hours without pay. Officer Gonzales filed an appeal with the CSC on August 24, 2017.

CSC Hearing and Findings: The appeal was heard by the CSC on October 23 and 24, 2017, seventy-six days after the issuance of the Disciplinary Order. This was a closed hearing. Four Commissioners were present: Chair Tim Ehtagotz, Vice-Chair Robert Christofferson, Commissioner Michael Gorin, and Commissioner Deborah Wallace. The Commission found that there were no “exigent circumstances” such that would justify Officer Gonzales’s warrantless entry into the house. Based on his training and expertise, Officer Gonzales should have known this. Therefore, the search was unconstitutional. The Commission found that Officer Gonzales violated Directive 14.2.9 and upheld Chief Metz’s implementation of a twenty-hour suspension. The CSC’s decision was entered on October 30, 2017.

3. LIEUTENANT CHARLES DESHAZER (2018)

Facts: On June 18, 2017, Denver Police Department Officers were involved in a pursuit and an officer involved shooting in Aurora. A large crowd of citizens gathered at the scene and became unruly. After the scene was secured by officers, Lieutenant Charles DeShazer and Sergeant Dunne engaged in conversation. Sergeant Dunne’s body-worn camera captured Lieutenant DeShazer saying an allegedly derogatory phrase: “We have all of the Alabama Porch Monkeys contained.” Sergeant Dunne turned off his body-worn camera. The comment was not overheard by the public. An internal investigation was performed, and a pre-disciplinary meeting was held on August 1, 2017, between Lieutenant DeShazer and Police Chief Nick Metz. Later, following Chief Metz’s receipt of additional information, Chief Metz held a disciplinary meeting with Lieutenant DeShazer in which he sustained allegations of DeShazer’s violation of APD Directive 14.3, Professional Conduct and Responsibility. On August 28, 2017, Chief Metz entered a Disciplinary Order terminating Lieutenant DeShazer’s employment. Lieutenant DeShazer filed an appeal to the CSC on August 31, 2017.

CSC Hearing and Findings: The appeal was heard by the CSC on June 19 and 20, 2018, two-hundred and ninety-five days after the issuance of the Disciplinary Order. This was a closed hearing. Four Commissioners were present: Chair Pamela Turner, Vice-Chair Michael Gorin, Commissioner Robert Christoffersen, and Commissioner Tim Ehtagotz. During the hearing, Lieutenant DeShazer stipulated that his statement and conduct violated Directive 14.3. Therefore, the Commission sustained the violation. However, the Commission determined the termination of Lieutenant DeShazer’s employment to be excessive. Although he had previously received written reprimands for his conduct, he had not received one in over a decade and his previous conduct had never involved the use of racially derogatory language. In addition, discipline imposed for other incidents involving officers’ use of derogatory or harmful language was less severe (amounting to written reprimands or 160 hour suspensions). However, the Commission still found Lieutenant DeShazer’s comments to be reprehensible and likely to bring the department into direct disrepute, in violation of Directive 14.3. The Commission determined

that the termination of Lieutenant DeShazer’s employment be reversed. As an alternative, DeShazer was demoted to the rank of sergeant and suspended without pay from the date of the Disciplinary Order (August 28, 2017) through the date of the hearing (June 19 and 20, 2018). The CSC entered its decision on June 29, 2018.

4. OFFICER JOSIAH COE (2018)

IAB Case No. 18-26

Facts: On June 16, 2018, Officer Josiah Coe accidentally sent a text message to Sergeant Burns containing an anti-gay derogatory term. The text message was originally intended for a personal friend. Officer Coe immediately followed up with Sergeant Burns, apologizing for the error. Although Sergeant Burns responded in a “joking manner”, using another anti-gay derogatory term himself, Sergeant Burns later shared the text exchange with a group of seventeen other members of the department. Police Chief Nick Metz found both Sergeant Burns and Officer Coe had violated Directive 14.3 – Professional Conduct and Responsibility. Sergeant Burns was suspended for 240 hours without pay, and he did not appeal the discipline. Chief Metz issued a Disciplinary Order on September 17, 2018, suspending Officer Coe for 40 hours for his role in the incident. Officer Coe filed a Petition for Appeal with the Civil Service Commission on September 26, 2018.

Hearing and Findings: The appeal was heard by the CSC on December 3, 2018, seventy-seven days after the issuance of the Disciplinary Order. This was an open hearing. Five Commissioners were present: Chair Pamela Turner, Vice-Chair Michael Gorin, Commissioner Tim Ehgotz, Commissioner Robert Christoffersen, and Commissioner Deborah Wallace. The CSC found that Officer Coe’s behavior, regardless of to whom the message was sent, directly discredited both the department and Officer Coe and therefore constituted a violation of Directive 14.3. Upon comparing the incident to four other comparable incidents and the amount of discipline implemented in those cases, the CSC found that Chief Metz’s original Disciplinary Order suspending Officer Coe for 40 hours without pay was appropriate. The CSC unanimously affirmed the original 40 hour suspension. The CSC entered its decision on December 11, 2018.

5. OFFICER LEVI HUFFINE (2020)

IAB Case No. 19-32

Facts: On August 27, 2019, Officer Levi Huffine responded with other officers to Fletcher Plaza and witnessed Ms. Shataeah Kelly starting a physical altercation with another individual. Over the course of the on-scene engagement, Officer Huffine discharged his taser, which was ineffective, and arrested Ms. Kelly. When Ms. Kelly became especially “combative and verbally

abusive”, damaging the patrol car, Officer Huffine placed her on the ground, hobbled her, and placed her in the patrol car in the “recovery” position to facilitate her breathing.

While transporting Ms. Kelly to the jail, Ms. Kelly remained uncooperative and “belligerent” until she rolled off the seat and onto the rear floorboard. She remained with her head in an inverted position, her head and neck on the floorboard, for 21 minutes. During that time, she repeatedly told Officer Huffine that she needed help, couldn’t breathe, and that she feared for her life. Officer Huffine did nothing to assist and did nothing to check on Ms. Kelly’s wellbeing, even upon arriving at the detention facility. Officer Huffine stated that he heard Ms. Kelly but did not know that she had rolled off the seat, although his statements to a detention officer upon arrival at the jail were contradictory. Officer Huffine’s body-worn camera, which he placed in the backseat to record the transport, captured the events.

The Chief’s Review Board sustained violations of Directive 6.5.8 – Conduct During Transport, and Directive 14.2.1 – Conduct Unbecoming. A week later, On January 23, 2020, Chief Vanessa Wilson conducted a pre-disciplinary hearing with Officer Huffine. She stated that Officer Huffine showed little remorse for his conduct, and that his actions were egregious. Chief Wilson signed a Disciplinary Order on February 6, 2020, terminating Officer Huffine’s employment. Officer Huffine received the order on February 24, and appealed the order to the CSC on March 4, 2020.

CSC Hearing and Findings: The appeal was heard by the CSC on September 29 and 30 and October 1, 2020, two-hundred and thirty-six days after the issuance of the Disciplinary Order. This was an open hearing. Four Commissioners were present: Chair James Weeks, Vice Chair Pamela Turner, Commissioner Barbara Shannon-Banister and Commissioner A.J. McDonald. Upon review, the Commission stated that Officer Huffine violated Directive 6.5.8 - Conduct During Transport, based upon his blatant disregard of Ms. Kelly’s wellbeing, his failure to take even minimal actions to confirm her safety, and his willful decision to not act. The Commission further found that Officer Huffine violated Directive 14.2.1 – Conduct Unbecoming, as his disregard for Ms. Kelly’s safety brought the department into “direct disrepute in the eyes of the public,” as well as his lack of attempts to deescalate the situation prior to Ms. Kelly’s transport. Despite the length of Officer Huffine’s time with the department, the Commission found his actions to be so egregious so as to unanimously uphold the Disciplinary Order terminating Officer Huffine’s employment. The CSC entered its decision on October 6, 2020.

6. LIEUTENANT REX MCKINNEY (2020)

IAB Case No. 19-05

Facts: On January 1, 2019, Lieutenant Rex McKinney held the position of Watch Commander for APD District 1, and as such was the direct supervisor of Sergeant Graham Dunne. That evening, Sergeant Dunne engaged in the pursuit of a driver of a stolen vehicle, in which the fleeing vehicle crashed. The pursuit ended with the suspect in custody. During the pursuit, Lieutenant McKinney was in his vehicle in an RTD parking lot, after which he drove to a strip mall. He made no attempt to contact Sergeant Dunne during that time period. Lieutenant McKinney did not begin traveling to Sergeant Dunne's scene until thirty-one minutes after Sergeant Dunne reported having the suspect in custody, but Lieutenant McKinney was diverted to another emergency before he could arrive.

Sergeant Dunne later provided a false report of the incident, failed to file a use-of-force report, did not report the use of force to Lieutenant McKinney, and had failed to turn on his body-worn camera during the incident. Sergeant Dunne was subsequently terminated. A different officer provided a more detailed report of the events, including excerpts from Sergeant Dunne's report, which Lieutenant McKinney only skimmed. Consequently, he never learned that force had been used, that a ride-along civilian actively participated in the arrest, and that Dunne's report was false.

On July 16, 2019, the Chief's Review Board found that Lieutenant McKinney violated Directive 1.4.11 – Supervisor Responsibility, by failing to adequately apprise himself of the details of the pursuit and the potential necessity of filing a use of force report. The Board recommended a 20 hour suspension. On August 19, 2019, Chief Nick Metz entered a Disciplinary Order suspending Lieutenant McKinney for 40 hours without pay, stating that Lieutenant McKinney should have contacted Dunne to learn of the circumstances and reviewed the adequately reviewed the subsequent reports following. However, the order stated that only twenty hours would be served, with twenty hours "held in abeyance for three years" and would be imposed if there were any sustained violation resulting in discipline above the level of a Written Reprimand. On August 29, 2019, Lieutenant McKinney filed an appeal with the CSC.

CSC Hearing and Findings: The appeal was heard by the CSC on July 29 and 30, 2020, three-hundred and thirty-five days after the issuance of the Disciplinary Order. This was a closed hearing. Four Commissioners were present: Chair James Weeks, Vice Chair Pamela Turner, Commissioner Barbara Shannon-Banister and Commissioner A.J. McDonald. The Commission found that Lieutenant McKinney should have either contacted Sergeant Dunne to apprise himself of the situation, or traveled to Sergeant Dunne's scene much earlier. In addition, he should have properly read the subsequent reports. Three of the four Commissioners voted to sustain the allegation of Lieutenant McKinney's violation of Directive 1.4.11. The Commission further found that the 40-hour suspension was appropriate, as well as the holding of 20 hours in abeyance. However, the Commission voted to terminate the remaining period of abeyance since more than

half of the period had been completed by the time of the hearing, and Lieutenant McKinney was now possessed a “clear understanding of his obligations.” Therefore, the Commission sustained the violation but terminated the period of abeyance for the remaining unserved 20 hours of the 40-hour suspension. The CSC’s decision was entered on August 10, 2020.

7. OFFICER JASON ROSENBLATT (2021)

IAB Case No. 20-25

Facts: On August 24, 2019, Officer Jason Rosenblatt and two other officers were involved in the arrest of Elijah McClain, during which one officer applied a carotid hold to Mr. McClain followed by EMTs later administering a shot of Ketamine to him. He subsequently was transported to a hospital where he fell into a coma and later died. On October 20, 2019, three officers took a photo simulating the carotid hold in front of the Elijah McClain memorial and texted it to Officer Rosenblatt. Although the message did not come from any contacts in his phone, Officer Rosenblatt assumed the message came from a member of APD, and responded to the photo with a message stating, “Ha ha.” Later, another officer reported to supervisors that Rosenblatt had informed them of the picture and its content, leading to an Internal Affairs investigation of Officer Rosenblatt for violating Directive 14.2.1 – Conduct Unbecoming. Officer Rosenblatt’s phone was searched, and although the photo and the “Ha ha” message were deleted, Officer Rosenblatt admitted to having replied as such. The Chief’s Review Board sustained the violation of Directive 14.2.1 and recommended that Officer Rosenblatt’s employment be terminated. On July 2, 2020, Police Chief Vanessa Wilson denied Officer Rosenblatt’s request to have his IAB case reviewed by an Independent Review Board. On July 3, 2020, Chief Wilson issued a Disciplinary Order terminating Officer Rosenblatt’s employment. Officer Rosenblatt filed an appeal to the CSC on July 9, 2020.

CSC Hearing and Findings: The appeal was heard by the CSC on January 21 and 22, 2021, two-hundred and two days after the issuance of the Disciplinary Order. This was a closed hearing. Three Commissioners were present: Chair James Weeks, Commissioner Barbara Shannon-Banister, and Commissioner A.J. McDonald. The Commission found that Officer Rosenblatt’s response to receiving the message was inappropriate and could be interpreted as him laughing at Elijah McClain’s death. Due to the fact that he did not know the identity of the sender, there was a substantial risk that his response would be disclosed to the public, thereby discrediting the police department and the officers, and further harming Elijah McClain’s family. There were alternative steps that Officer Rosenblatt could have taken with minimal effort to mitigate the risk. The Commission sustained the finding of a violation of Directive 14.2.1. Furthermore, due to the severe consequences of Officer Rosenblatt’s action, and the harm dealt to the department

and its officers, the Commission upheld Chief Wilson’s decision to terminate Officer Rosenblatt’s employment. The CSC entered its decision on February 9, 2021.

8. OFFICERS ERICA MARRERO AND KYLE DITTRICH (2021)

IAB Case No. 20-25

Facts: On August 24, 2019, Aurora police officers and EMTs were involved in the arrest and transport of Elijah McClain, the circumstances of which resulted in Mr. McClain’s death. Officers Erica Marrero and Kyle Dittrich, though not involved in the incident involving Mr. McClain, were part of a closely-knit group that included Officer Nathan Woodyard, who was involved in the incident. Two months after Mr. McClain’s death, Officer Woodyard had been placed on administrative leave and was no longer communicating with Officers Marrero and Dittrich. In the morning hours of October 20, 2021, Officers Marrero and Dittrich found themselves, along with Officer Jaron Jones, near Elijah McClain’s memorial. They took a photo of themselves in front of Elijah McClain’s memorial, simulating the carotid hold used on Mr. McClain, in an effort to “cheer up Officer Woodyard.” Officer Dittrich then sent the photo to a group chat containing Officer Woodyard, as well as independently to Officer Jason Rosenblatt.

On June 25, 2020, Officer Justin Parker informed supervisors that Officer Rosenblatt had received the photo. Police Chief Vanessa Wilson ordered an Internal Affairs investigation on an expedited schedule, alleging a violation of Directive 14.2.1. – Conduct Unbecoming. Following the discovery of the photos on Officer Dittrich’s phone and the completion of the investigation, the Chief’s Review Board sustained the violation of Directive 14.2.1 and recommended that Officer Marrero and Officer Dittrich’s employments be terminated. On June 30, 2020, Chief Wilson conducted pre-disciplinary hearings with each officer. On July 2, 2020, Chief Wilson denied Officer Marrero and Officer Dittrich’s requests to have their cases reviewed by an Independent Review Board. Finally, on July 3, 2020, Chief Wilson issued Disciplinary Orders terminating Officer Marrero and Officer Dittrich’s employments. They filed appeals to the CSC on July 8, 2020.

CSC Hearing and Findings: The appeal was heard by the CSC on February 1 and 2, 2021, two-hundred and thirteen days after the issuance of the Disciplinary Order. This was a closed hearing. Three Commissioners were present: Chair James Weeks, Commissioner Barbara Shannon-Banister, and Commissioner A.J. McDonald. The Commission found that the officers knowingly violated Directive 14.2.1, and that their intent to “assist a fellow team member who was struggling” was inconsequential. Sending the message to other individuals would inevitably lead to eventual public awareness, and subsequent discreditation of the department. Additionally, the expedited nature of the investigation (occurring over several days rather than two weeks) did not compromise the procedures or results. The Commission concluded that Officers Marrero and Dittrich’s conduct brought the department, as well as Officers Marrero and Dittrich, into

disrepute among both the public and its members. In addition, it harmed the efficiency of the Department and compromised the officers ability to adequately perform their jobs. As such, the Commission concluded that Officers Marrero and Dittrich violated Directive 14.2.1. Due to the severe nature of the violation, the lack of judgment demonstrated by the officers, and the harm caused to the department due to the dissemination of the photo to the public, the Commission sustained Chief Wilson’s termination of Officer Marrero and Officer Dittrich’s employment. The CSC entered its decision on February 9, 2021.

9. DETECTIVE AGENT BRIAN MCCLURE (2021)

IAB Case No. 20-19

Facts: On September 10, 2016, Aurora dispatch received a 911 call involving an individual who reported he was threatened with a knife and identified Anthony Izzi as the perpetrator. The individual’s wife corroborated the information. The patrol officer was unable to locate the suspect, and the case was assigned to Detective Brian McClure for investigation as a felony menacing. Felony menacing cases must be prosecuted within three years or they are barred by a statute of limitations. Detective McClure did not pursue the investigation and the statute of limitations expired. An Internal Investigation into McClure’s conduct alleged that he violated six departmental directives. Of those six, the Chief’s Review Board and Police Chief Vanessa Wilson sustained violations of five directives: Directive 14.2.15. Unsatisfactory Performance; Directive 8.10.17. Follow up Investigations by Detectives and Investigators; DET SOP 3.2.2 Victim Contacts; DET SOP 3.4.1 Case by Base Review; and Directive 15.15.4 Archiving Digital Evidence. On September 22, 2020, based on the sustained violations, the Chief’s Review Board recommended that Detective McClure receive a 160-hour suspension. Following a pre-disciplinary hearing with Detective McClure, Chief Wilson issued a Disciplinary Order on November 3, 2020, sustaining the five directive violations and suspending him for 160 days without pay. Detective McClure filed an appeal with the CSC on November 12, 2020.

CSC Hearing and Findings: The appeal was heard by the CSC on April 19 and 20, 2021, one-hundred and ninety-five days after the issuance of the Disciplinary Order. This was a closed hearing. Five Commissioners were present: Chair James Weeks, Vice Chair A.J. McDonald, Commissioner Barbara Shannon-Banister, Commissioner Harold Johnson, and Commissioner Brooke Gabrielli. The Commission found that Detective McClure made only minimal efforts to pursue the investigation of the incident, failed to reach out to appropriate witnesses and parties, did not meet investigation deadlines, and did not document the limited investigative work he actually performed. Overall, he failed to adequately investigate this case, and many others. The Commission sustained the five violations.

However, the Commission observed that the Detective Unit was suffering from a large number of overdue cases, and all Detectives in the unit were affected. Although other detectives received assistance with their caseloads, Detective McClure received little aid from his supervisors. Additionally, other detectives were similarly investigated and disciplined, but the amount of discipline recommended or implemented for the others was far lower (20-hour suspensions). The Commission noted that similarly situated individuals should receive comparable levels of discipline. Furthermore, the Commission noted that Detective McClure had never before received any type or amount of formal discipline. Based on these considerations, the Commission concluded, by a vote of four to one, to reduce the original 160-hour suspension to a 100-hour suspension. The CSC entered its decision on April 30, 2021.

10. OFFICER JORDAN ODNEAL (2021)

IAB Case No. 20-23

Facts: On May 22, 2020, Officer Odneal was on suspension due to a previous disciplinary matter. Despite being informed that he could not work or receive overtime while on suspension, Officer Odneal responded to an ERT and submitted an overtime request. On June 2, 2020, Officer Odneal was informed that he would be required to complete a series of training videos to remain POST compliant, but that he also could not receive overtime for doing so. Shortly after, on June 4, 2020, Officer Odneal discovered his overtime request for the ERT call had been deleted, and his supervisor, Sergeant Leonard, informed him again that he could not work or receive payment on his suspension days. Shortly after, on June 7, Officer Odneal submitted two improper requests for overtime for “Police One Academy training approved by Sergeant Leonard.” Sergeant Leonard had not approved the overtime and testified that he believed the requests were retaliation for the deletion of the original overtime request.

Based on IAB Case No. 20-23, a pre-disciplinary hearing, and other evidence, Police Chief Vanessa Wilson sustained allegations that Officer Odneal violated Directives 8.14 Overtime Compensation; 8.14.4 Requests for Overtime; and 14.2.2 Making a False or Untruthful Declaration. Chief Wilson issued a Disciplinary Order terminating Officer Odneal’s employment on December 16, 2020. Officer Odneal filed an appeal with the CSC on December 30, 2020.

CSC Hearing and Findings: The appeal was heard by the CSC on May 19, 2021, one-hundred and fifty-four days after the issuance of the Disciplinary Order. This was a closed hearing. Three Commissioners were present: Vice Chair A.J. McDonald, Commissioner Barbara Shannon-Banister, and Commissioner Brooke Gabrielli. The Commission found that Officer Odneal violated Directives 8.14 and 8.14.4 by submitting requests for overtime without obtaining the permission of his supervisor, Sergeant Leonard. The Commission further found that minor typographical errors in Sergeant Leonard’s communications would not have been enough to convince Officer

Odneal, an experienced officer, that overtime had been authorized. Furthermore, if Officer Odneal was confused, he had the responsibility to clarify the situation with his superior. The Commission therefore found that Officer Odneal violated Directive 14.2.2 by knowingly providing an untrue statement regarding having acquired his supervisor's approval for overtime. The Commission further determined that, due to Officer Odneal's extensive disciplinary history, his lack of remorse, his seemingly manipulative behavior during hearings, and the intolerance of the department for untruthfulness, the Disciplinary Order should be upheld. The Commission unanimously upheld the termination of Officer Odneal's employment. The CSC entered its decision on May 28, 2021.

11. OFFICER ROBERT ROSEN (2021)

IAB Case No. 20-32

Facts: On August 10, 2020, Officer Jonathan Kwon responded to a trespass call at a King Soopers store involved a suspect, Joseph Kisiel, who was known to experience mental health issues. Mr. Kisiel ignored Officer Kwon's instructions and ran away from him into the store while demonstrating "aggressive" behavior. After causing a disturbance and knocking over a display stand, Officer Kwon placed him on the ground while Mr. Kisiel continued to struggle. Every time Officer Kwon attempted to gain control of Mr. Kisiel's arms, Mr. Kisiel pulled away and continued to struggle. Officer Kwon radioed his location and requested assistance. Officer Robert Rosen, who was in route, believed Officer Kwon to be in trouble. When Officer Rosen arrived on scene and reached Officer Kwon and Mr. Kisiel, he activated his body-worn camera. Officer Kwon requested assistance in gaining control of Mr. Kisiel's arms. After making a brief attempt to pull Mr. Kisiel's arms out from underneath him, Officer Rosen punched Mr. Kisiel four times in the ribs. When this did not allow the officers to gain control, Officer Rosen warned Mr. Kisiel that he would be tased if he did not comply. After Mr. Kisiel continued to refuse, Officer Rosen activated the taser and "drive stunned" Kisiel in his right thigh, allowing Officer Kwon to gain control of Kisiel's right hand. When Mr. Kisiel still refused to give his left arm to the officers, Officer Rosen again threatened the use of the taser. Despite Mr. Kisiel then removing his arm from under his body, Officer Rosen did not notice and discharged his taser five times over a total period of 27 seconds. Afterwards, Officer Kwon was able to gain full control of both of Mr. Kisiel's arms and handcuff him. Mr. Kisiel was led outside and evaluated by medical personnel, at which point Officer Rosen became aware of Mr. Kisiel's mental health challenges.

Due to Officer Rosen's discharge of his taser, the Force Review Board analyzed Officer Rosen's actions during the incident. The Force Review Board concluded that Officer Rosen's use of "combative strikes" was unnecessary, that his five-time discharge of the taser was excessive, and that the officers should have slowed down and made a concrete plan for resolving the incident.

before resorting to force. The matter was then referred to Internal Affairs for investigation. The results were provided to the Chief's Review Board, who concluded that Officer Rosen violated four departmental directives: 5.8.10 Taser; 5.3 Use of Physical Force; 14.2.15 Unsatisfactory Performance; and 16.4.3 Body-Worn Camera Operation. The Board recommended a 60-hour suspension without pay. Following a pre-disciplinary hearing, Police Chief Vanessa Wilson issued a Disciplinary Order on February 11, 2021, sustaining the violations and terminating Officer Rosen's employment. Officer Rosen filed an appeal with the CSC on February 25, 2021.

CSC Hearing and Findings: The appeal was heard by the CSC on July 21 and 22, 2021, one-hundred and sixty days after the issuance of the Disciplinary Order. This was a closed hearing. Five Commissioners were present: Chair James Weeks, Vice Chair A.J. McDonald, Commissioner Barbara Shannon-Banister, Commissioner Brooke Gabrielli, and Commissioner Harold Johnson. The Commission sustained the violations of all four directives, plus an additional directive: 14.1.1 Lawful Orders. The Commission found that Officer Rosen exceeded both the number of times an officer may activate a taser, as well as the duration for which it can be activated, thereby violating Directive 5.8.10 Taser. By using his fists to strike Mr. Kisiel, and by repeatedly tasing an individual who was "passively resisting", Officer Rosen did not use "reasonable and appropriate force" and thereby violated Directive 5.3 Use of Physical Force. By failing to adhere to the proper standards for interacting with members of the public, Officer Rosen violated Directive 14.2.15 Unsatisfactory Performance. By failing to activate his body-worn camera until he reached the store aisle in which the incident was occurring, Officer Rosen violated Directive 16.4.3 Body-Worn Camera Operation. In addition, the Commission found that Officer Rosen violated Directive 14.1.1 Lawful Orders. In 2019, Officer Rosen took a leave of absence. Upon his return to duty, he entered into an agreement that required him to "perform in a satisfactory manner as a police officer." Officer Rosen's actions constituted an unsatisfactory performance, and therefore Officer Rosen violated Directive 14.1.1.

Due to the seriousness of Officer Rosen's actions, the excessive nature of the force used against a vulnerable member of the Aurora community, Officer Rosen's past disciplinary violations, and his inability to manage stress and respond appropriately to challenging situations, the Commission sustained Chief Wilson's termination of Officer Rosen's employment. The CSC entered its decision on August 5, 2021.

12. SERGEANT EDWARD ACUTI (2022)

IAB Case No. 21-13

Facts: Disciplinary proceedings against Sergeant Edward Acuti revolved around the occurrence of six incidents that took place during May and June of 2021, as well as a meeting that Officer Acuti attended with the Gang Intervention Unit (GIU), during which Chief Vanessa Wilson

maintained that Officer Acuti violated five Departmental Directives: Directive 5.3 Use of Physical Force; Directive 14.2.21 Police-Community Relations, Directive 14.2.1 Conduct Unbecoming, Directive 14.2.15 Unsatisfactory Performance, and Directive 14.2.14 Conduct Toward Superior and Subordinate Officers and Associates. At the time, Officer Acuti was the Sergeant in charge of the GIU.

Incident 1: Officer Acuti responded to a scene in which other members of the GIU had stopped a vehicle with two occupants: a male and female juvenile couple. The female juvenile, Ms. Davis, had been seated on the curb in handcuffs when Officer Acuti arrived. When Officer Acuti and his associates attempted to remove the male from the vehicle he fled and a chase ensued, in which the juvenile dropped a firearm. The male juvenile was not caught. When Acuti returned, Ms. Davis was extremely distressed. Officer Acuti engaged in a highly volatile verbal altercation with Ms. Davis, including the use of vulgar profanity. When Ms. Davis responded and stood up from the curb, Officer Acuti and fellow Officer Gruszeckza used a leg push maneuver to reseat her. When Ms. Davis continued yelling, Officer Acuti pinched her trapezoid muscles from behind and pushed down on her shoulders to restrain her in the seated position. When Ms. Davis continued yelling for “help,” Officer Acuti continued to verbally berate and intimidate her, continuing to use vulgar profanity. The Force Review Board reviewed the incident and found that the leg maneuver was policy compliant, but the trapezoid pressure point was non-compliant due to the fact that Ms. Davis was restrained and much smaller than the other officers.

Incidents 2: Officer Acuti responded to several vehicles which had been stopped by other members of the GIU. When the occupants of the vehicles expressed fear or concern about the stop, refused to comply with Officer Acuti’s directions, or otherwise displayed a lack of cooperation, Officer Acuti verbally berated the individuals. Officer Acuti frequently insulted and demeaned the individuals using excessive profanity. Officer Acuti frequently utilized intimidating statements relating to retaliatory actions that he could employ, as well as the charges which could be pressed against the individuals. On occasion, Officer Acuti would also threaten the use of physical force. Officer Acuti frequently relied on harsh verbal language, as well as his position and arrest authority, to attempt to compel compliance.

Furthermore, during Incident 2, Officer Acuti interacted with three individuals, all of whom were Black. During the course of his interactions, Officer Acuti referenced prior incidents between police and citizens resulting in the deaths of Black individuals. Specifically, Officer Acuti stated that the individuals were “sitting here breathing” and that they should “just keep breathing,” in apparent reference to the George Floyd incident.

Gang Intervention Unit Meeting: Upon being reported to his superior for his “outbursts with community members,” it was recommended that Officer Acuti meet with his team members to

discuss his behavior and apologize. At the meeting, Officer Acuti was openly hostile and threatened to have the associate who reported him removed from the GIU.

APD Findings: Regarding Incident 1, Chief Wilson found that Officer Acuti violated Directive 5.3 Use of Physical Force, Directive 14.2.21 Police – Community Relations, Directive 14.2.1 Conduct Unbecoming, and Directive 14.2.15 Unsatisfactory Performance. Regarding Incidents 2-6, Officer Acuti admitted during the initial investigation that his behavior violated Directive 14.2.21. Chief Wilson found that Officer Acuti violated Directive 14.2.21 Police-Community Relations, Directive 14.2.1 – Conduct Unbecoming, and Directive 14.2.15 Unsatisfactory Performance. Regarding Officer Acuti’s behavior at the GIU Meeting, he was found in violation of Directive 14.2.14 – Conduct Towards Superior and Subordinate Officers and Associates.

On February 28, 2022, Chief Wilson issued a Disciplinary Order requiring Officer Acuti to undergo forty hours of de-escalation training, and demoting him from the rank of Sergeant to the rank of Officer. Officer Acuti appealed the disciplinary decision to the CSC on March 9, 2022.

CSC Hearing and Findings: The appeal was heard by the CSC on May 24 and 25, 2022, eighty-six days after the issuance of the Disciplinary Order. This was a closed hearing. Four Commissioners were present: Chair Harold Johnson, Vice-Chair Desmond McNeal, Commissioner Barbara Cleland, and Commissioner Matthew Snider.

Regarding the first incident, the Commission found that the application of the pressure point tactic to the female juvenile’s muscles and shoulders constituted an unnecessary use of force, due to the fact that she was restrained, seated, and supervised by larger and more powerful officers. Additionally, the Commission found that Officer Acuti did not use de-escalation techniques before resorting to the use of physical force, as is mandated by Directive 5.3. Furthermore, the Commission found that Officer Acuti violated Directive 14.2.21, 14.2.1, and 14.2.15 due to his not acting courteously or tactfully, failing to control his temper, showing no discretion in his conversations with Ms. Davis, engaging in behavior that reflected poorly on the Department, and failing to take appropriate action. As such, the Commission sustained Chief Wilson’s finding of violations of Directives 5.3, 14.2.21, 14.2.1, and 14.2.15.

Regarding the second through sixth incidents, the Commission accepted Officer Acuti’s admission of violating Directive 14.2.21, due to his discourteous behavior towards the public. The Commission also subsequently found that Officer Acuti violated Directives 14.2.1 and 14.2.15 due to his unsatisfactory behavior and unprofessionalism, and the negative impact said behavior had on the efficiency of the GIU. As such, Chief Wilson’s finding that Officer Acuti violated Directives 14.2.21, 14.2.1, and 14.2.15 was sustained.

Finally, the Commission found that Officer Acuti’s treatment of his subordinates during the GIU Meeting was discourteous and uncivil, and therefore violated Directive 14.2.14. As such, Chief Wilson’s finding of this violation was sustained.

Reviewing the totality of the evidence, the footage of the incidents from Officer Acuti’s Body Worn Camera, the fact that Officer Acuti had previously been reprimanded for similar behavior, and the Chief’s Review Board’s conclusion that Officer Acuti be demoted, the Commission concluded that Officer Acuti’s behavior was unacceptable for a person holding the rank of Sergeant. As such, the Commission affirmed Chief Wilson’s Disciplinary Order, which mandated the demotion of Officer Acuti from Sergeant to Officer, and required him to complete forty hours of de-escalation training. The CSC entered its decision on June 6, 2022.

13. OFFICER DOUGLAS WILKINSON (2022)

Facts: In late 2021, the City of Aurora and the Colorado Attorney General entered into a Stipulated Consent Decree and Judgment, a portion of which was dedicated to improving the Civil Service hiring process to ensure that the public safety workforce represents the diversity of the people and communities within the City. The final version of the Consent Decree was released to the public on November 16, 2021. On that same day, Officer Douglas Wilkinson - the president of the Aurora Police Association (APA) - released an email to all APA members who had provided him with their email addresses, providing his personal thoughts on the Consent Decree’s implementation. At the time, the APA represented between 260 and 270 Aurora police officers. In his email, Officer Wilkinson derisively commented on the percentage of individuals the department would need to hire in order to represent the City’s diversity: “We could make sure to hire 10% illegal aliens, 50% weed smokers, 10% crackheads, and a few child molesters and murderers to round it out.” Furthermore, Officer Wilkinson’s comments insinuated that hiring diverse candidates was antithetical to the department’s commitment to hiring intelligent, ethical, and courageous candidates. Finally, Officer Wilkinson’s email seemingly implied that diverse candidates were hired based primarily on their minority status, as opposed to merit. The email was leaked to the public and, on November 22, 2021, Officer Wilkinson sent a follow-up email defending his initial email.

In response to Officer Wilkinson’s email, two Aurora police officers filed EEO Complaints with the City, alleging race, color, and gender discrimination. A third written complaint was later filed by another officer, asserting similar concerns. Aurora Human Resources retained an independent investigator, Ms. Langhoff, to conduct the investigation. Ms. Langhoff concluded that Officer Wilkinson’s email “denigrated the officers and showed hostility toward them and other members of their protected class”, that the hostility was premised solely on the officers’ minority statuses, and that the hostility harmed the officers and created an uncomfortable work environment

leading the officers to consider quitting their positions. Relying on this evidence, Police Chief Vanessa Wilson sent a memo to Officer Wilkinson, informing him that the evidence was adequate to support sustained violations of two directives: the City’s Employee Manual Section 1.2 Anti-Harassment Policy and APD Directive 10.9 Discrimination, Harassment & Sexual Harassment. On January 31, 2022, Chief Wilson held a pre-disciplinary hearing with Officer Wilkinson, and a final disciplinary hearing on February 3, 2022. On February 3, Chief Wilson also entered a Disciplinary Order sustaining the violations of City of Aurora Employee Manual Policy 1.2 and APD Directive 10.9. As a result of these violations, Chief Wilson terminated Officer Wilkinson’s employment. Officer Wilkinson filed an appeal with the CSC on February 15, 2022.

CSC Hearing and Findings: The appeal was heard by the CSC on June 28 and 29, 2022, one-hundred and twenty-five days after the issuance of the Disciplinary Order. This was a closed hearing. Five Commissioners were present: Chair Harold Johnson, Commissioner Barbara Shannon-Bannister, Commissioner Barbara Cleland, Commissioner Desmond McNeal, and Commissioner Matthew Snider. The Commission found Officer Wilkinson’s representations regarding his intent in sending the email to be disingenuous. The Commission found his remarks to have been openly hostile towards minority and female officers within the Department, as well as towards the Aurora community as a whole. Overall, the Commission found that the “adverse impact of Petitioner Wilkinson’s email, was hostile and offensive, stereotyping minorities and women, and creating an intimidating, hostile and offensive work environment and adversely impacting employment opportunities.”

In addition, contrary to the assertions of Officer Wilkinson, the Commission found that the email did not constitute protected free speech under the First Amendment and, as such, Officer Wilkinson could be lawfully disciplined for sending it. The test for whether or not speech is protected by the First Amendment has five important factors: (1) whether the speech was made pursuant to the individual’s official duties; (2) whether the subject of the speech was a matter of public concern; (3) whether the employer’s interest in regulating the speech outweighs the free speech interests of the individual; (4) whether the speech was a motivating factor in the decision to discipline the individual; and (5) whether the same outcome would have been reached had the speech not occurred. The Commission found that Officer Wilkinson satisfactorily addressed the first, second, fourth, and fifth factors of the test. He did not compose the email as part of his duties as an Aurora police officer (Factor 1), the topic of the Consent Decree was a matter of public concern (Factor 2), the email itself was a key factor in Chief Wilson’s decision to terminate his employment (Factor 4), and the termination would not have occurred in the absence of the email (Factor 5). However, the Commission found that the email “significantly and substantially interfered with the APD’s operations and the relationships and environment essential to allow it to provide police services.” Furthermore, it impacted the order and organization of the department and created discord among officers that are required to work cooperatively under

difficult circumstances. The Commission determined that the Department's strong interest in providing efficient police services and protections to Aurora citizens outweighed Officer Wilkinson's interest in speaking about the Consent Decree. Therefore, the Commission found that Officer Wilkinson's email was not entitled to First Amendment protection.

On the basis of these findings, the Commission sustained the violations of the City's Employee Manual Section 1.2 Anti-Harassment Policy and APD Directive 10.9 Discrimination, Harassment & Sexual Harassment. Based on Officer Wilkinson's extensive disciplinary history, the egregiousness of his behavior regarding the writing and sending of the email message, his lack of remorse and accountability for his actions, and the probability of his further interfering in the operations of the Department, the Commission sustained Chief Wilson's termination of his employment. The Commission entered its decision on July 12, 2022.

AURORA FIRE RESCUE

1. CAPTAIN ROBERT OTT (2017)

Facts: Captain Robert Ott with Aurora Fire Rescue was assigned as the Officer on Engine 4, Station 4 at the time of these proceedings. On April 9, 2017, Captain Ott was scheduled to attend training at the Training Academy, which was expected to extend into the late afternoon. In the interim, Technician Guerra was assigned as acting Lieutenant. Captain Ott was released from training early and he returned to the Station before noon. At approximately 1:30 p.m. Engine 4 was dispatched, but Captain Ott did not get on Engine 4. Instead, he allowed Guerra to maintain his status as acting Lieutenant and to respond to the call instead. This failure to attend the call was the subject of an investigation, carried out by a Human Resources investigator with minimal experience and little familiarity with AFR policies. Based on the investigation, pre-disciplinary hearings, and other matters, Chief Hills issued an Administrative Sanction on June 9, 2017, finding that Captain Ott violated AFR policies by (1) failing to notify staff upon his return from training and (2) failing to get on the Engine 4 rig at the time of the call. Specifically, Chief Hills sustained violations of Standards of Conduct 1, 2, 3, 5, 6, and 8; General Orders 2 and 11; and Policies, Procedures, and Guidelines Section 10.2.10.8 Addendum A – Just Cause subsections 1, 2, 6, 7, 8, 10, 17, and 22. The Administrative Sanction demoted Ott from the rank of Captain to Lieutenant. Lieutenant Ott filed an appeal with the CSC on September 27, 2017.

CSC Hearing and Findings: The appeal was heard by The CSC on November 13 through 15, 2017, one-hundred and fifty-seven days after the issuance of the Administrative Sanction. This was a closed hearing. Five Commissioners were present: Chair Tim Ehgotz, Vice-Chair Robert Christoffersen, Commissioner Michael Gorin, Commissioner Pamela Turner, and Commissioner Deborah Wallace. The Commission found that Ott did not violate a department policy by not

notifying staffing of his early return from training, as no policy existed that would compel Ott to do so. There was also no expectation that he do so. However, the Commission unanimously concluded that Ott violated departmental policies and practices by failing to get on the rig in response to the incoming call. Regardless of his motivations for remaining behind, as the Captain of Station 4, it was his duty to get on the rig and accompany it to the scene in the event his expertise or leadership was necessary. Due to Lieutenant Ott's failing to observe "standard operating procedures and protocols," his failure to perform all of the duties required of him as a Captain, and his lack of good judgment, the Commission voted to sustain violations of AFR Standards of Conduct 2, 3, and 5. However, due to his limited disciplinary history and other circumstances, the Commission determined that Ott's demotion was too harsh a penalty. The Commission reversed Ott's demotion, ordering his reinstatement as Captain by December 1, 2017. In lieu of demotion, the Commission imposed a \$5,000 fine, approximately \$3,200 of which was considered a forfeiture of back pay resulting from the difference in pay between the Lieutenant position (held by Ott from June 9 to December 1) and the Captain position (which Ott would have held, if not for his demotion). The remaining \$1,800 was to be paid directly by Captain Ott. The Commission also recommended that Captain Ott receive ongoing mentorship for a period of six months following his reinstatement. The Commission entered its decision on November 28, 2017.

2. FIREFIGHTER DAVID GIBBS (2018)

Facts: In October 2015, while Firefighter David Gibbs was actively employed by Aurora Fire Rescue, he developed a friendship with Ms. Amber Falco, an emergency medical technician with Falck USA who, at the time, was actively applying for a position as a firefighter with AFR. Mr. Gibbs texted her an inappropriate picture of himself and, following an internal investigation, had his employment terminated. He was later reinstated with his discipline reduced to a six-month suspension. After completing his six month suspension, Mr. Gibbs was required to undergo a fit for duty evaluation in order to re-enter the AFR Department. Mr. Gibbs was found to be fit for duty, with the caveat that he satisfy certain "considerations" to maintain his position. These "considerations" were used by the City to create a performance plan which Mr. Gibbs was required to follow.

In February 2017, after Mr. Gibbs was reinstated, he visited the home of a female firefighter, Ms. Erin Sherill. On March 15, 2017, Ms. Sherill emailed Mr. Gibbs supervisor complaining of the incident, stating that the visit was unannounced and made her feel unsafe. An internal investigation was initiated and Mr. Gibbs was placed on administrative leave, with instructions not to contact city employees or go into or onto any city facilities or properties.

The City further found that, from March to May 2017, Mr. Gibbs failed on six different occasions to meet the requirements stipulated in his performance plan. Such infractions included failing to attend several required classes, failure to notify superiors of his nonattendance, failure to provide progress reports to his supervisor, and failure to provide evidence of his attending twelve mandatory counseling sessions.

Based on the above infractions, Fire Chief Fernando Gray determined that Mr. Gibbs violated certain rules, regulations, and standards of the AFR Department by failing to comply with the performance plan and his inappropriate visit to Ms. Sherill's home. On July 7, 2017, Chief Gray issued an Administrative Sanction terminating Mr. Gibbs employment. Mr. Gibbs filed an appeal with the CSC on July 21, 2017.

CSC Hearing and Findings: The appeal was heard by the CSC on March 19 through 23, 2018, two-hundred and fifty-five days after the issuance of the Administrative Sanction. This was a closed hearing. Five Commissioners were present: Chair Pamela Turner, Vice-Chair Michael Gorin, Commissioner Robert Christoffersen, Commissioner Tim Egotz, and Commissioner Deborah Wallace. The Commission found that Mr. Gibbs did not fail to meet any requirements of his performance plan, as alleged. Although he failed to attend certain mandatory classes, he took proper steps to reschedule. Furthermore, he was precluded from attending based on the circumstances of his administrative leave. He was also precluded from contacting City employees and officials, thereby excusing his failure to update his superiors. In addition, there was ample evidence that Mr. Gibbs completed the required counseling sessions, and his failure to report the evidence by the stipulated deadline was excusable based upon the nature of his administrative leave and other extenuating circumstances. In a four to one vote, the Commission found that Mr. Gibbs did not violate the performance plan.

The Commission further concluded that Mr. Gibbs' visit to Ms. Sherill's home was not a violation of any of the Department's policies or standards. The evidence demonstrated that Mr. Gibbs and Ms. Sherill possessed a close off-duty friendship, that Mr. Gibbs regularly visited Ms. Sherill's home, and that he had done so unannounced. The amount of time that passed between the incident and Ms. Sherill's reporting of it, the uncharacteristic nature of the allegation, and the lack of testimony from Ms. Sherill weighed against a finding of impropriety. The Commission concluded that Mr. Gibbs' visit to Ms. Sherill's home did not violate any AFR policies, procedures, or standards.

Based on these conclusions, the Commission did not sustain the Administrative Sanction and the alleged violations, and reversed the termination of Mr. Gibbs' employment. Mr. Gibbs was reinstated to his previous position with AFR. The Commission entered its decision on April 2, 2018.

3. TECHNICIAN JOHN SPERA, CAPTAIN BRETT STEADMAN, AND CAPTAIN THOMAS JOHNSON (2020)

Facts: On February 5, 2019, Firefighter John Spera injured his right knee and, as a result, was placed under worker's comp, prescribed narcotic pain killers, and was prevented from reporting for duty in his usual capacity. Spera's physical activities were limited to 1-2 hours per day of standing and walking, and he was required to refrain from strenuous activities including climbing. While off-duty, Spera and Captain Thomas Johnson operated a business called Fit to Fight Fire (FTFF) which specialized in providing firefighting training courses. Spera and Johnson had planned to attend the Firemanship Conference in Portland, Oregon and to teach a training course provided by FTFF. However, due to Spera's injury, Captain Brett Steadman was asked to substitute for Spera. Spera would also attend, but participate only in a limited capacity as allowed by his restrictions. All three traveled to the conference. While at the conference, the three individuals wore FTFF emblems on their helmets while simultaneously wearing AFR bunker gear. In addition, photographs taken at the conference showed Spera standing on a fire escape which would have required him to climb multiple flights of stairs. These actions inspired Fire Chief Gray to order an investigation by an outside investigator from True to Course, LLC. The investigator concluded that the three individuals collectively committed 28 violations of AFR directives and policies. 10 violations were attributed to Firefighter Spera, 5 were attributed to Captain Steadman, and 13 were attributed to Captain Johnson. Chief Gray sustained the findings of all 28 violations and issued Administrative Sanctions against all three individuals on December 4 and 5, 2019. The Sanctions imposed the following disciplinary fines: Firefighter Spera was fined \$8,630.80; Captain Steadman was fined \$4,697.80; and Captain Johnson was fined \$6,576.92. Large portions of the fines were to be held in abeyance, on the condition that the individuals not commit any further violations for a one-year period. All three individuals filed appeals with the CSC on December 18, 2019.

CSC Hearing and Findings: The consolidated appeals were heard by the CSC on November 2 through 4, 2020, three-hundred and nineteen days after the issuance of the Administrative Sanctions. This was a closed hearing. Four Commissioners were present: Chair James Weeks, Vice Chair Pamela Turner, Commissioner Barbara Shannon-Banister, and Commissioner A.J. McDonald. The Commission reviewed the findings and violations for each of the three individuals.

Firefighter Spera: The Commission voted to sustain three of the ten violations levied against Firefighter Spera. The Commission determined that Spera violated Section 1.5 Professionalism and Conflicts of Interest – City Resources; Section 1.5 Professionalism and Conflicts of Interest – Endorsement of Products; and City of Aurora Official Badge or Credentials Use Policy, Section 2.8. All three violations related to his wearing FTFF emblems alongside his AFR bunker gear, for

providing the insignia to other officers to do likewise, and the implicit endorsement of FTFF stemming from these actions. However, the Commission determined that all three violations were *de minimis*. All violations related to Spera's injury and his physical activity were not sustained by the Commission.

Captain Steadman: The Commission voted to sustain zero of the five violations levied against Captain Steadman. The Commission found that there was nothing improper about Captain Steadman's agreeing to teach the FTFF course at the conference. Such an engagement created no conflicts of interest, nor impaired his ability to effectively supervise Spera. Similarly, Captain Steadman did not fail in any of his duties or responsibilities as a supervisor.

Captain Johnson: The Commission voted to sustain four of the thirteen violations levied against Captain Johnson. The Commission sustained Captain Johnson for two counts of violating Section 1.5 Professionalism and Conflicts of Interest – City Resources; one count of violating Section 1.5 Professionalism and Conflicts of Interest – Endorsement of Products; and one count of violating the City of Aurora Official Badge or Credentials Use Policy, Section 2.8. These violations were the same as those sustained for Firefighter Spera. The reasoning for sustaining the violations against Captain Johnson was, again, the same as the reasoning provided for sustaining the violations against Spera. Again, the Commission found that the violations were *de minimis*.

Based on those findings, the Commission concluded that no formal discipline was warranted for any of the individuals. The Commission ordered that all fines be waived. The Commission entered its decision on November 19, 2020.

APPEALS OF CIVIL SERVICE COMMISSION RULINGS TO DISTRICT COURT

Three cases from above were appealed to the District Court. The combined cases for members Marrero and Dittrich were appealed as one case to the District Court and Huffine and DeShazer also appealed their cases to the District Court. While the City has the right to appeal, the City did not exercise that right during this time period. In each of the three appeals the decision of the Civil Service Commission was upheld by the District Court.

FINDINGS AND RECOMMENDATIONS

FINDING 1 – THE CHARTER PROVIDES A MANDATORY FRAMEWORK FOR APPEALS FROM DISCIPLINARY DECISIONS TO WHICH THE CURRENT DE NOVO REVIEW PROCESS IS COMPLIANT

DISCUSSION

As discussed more fully above, the *de novo* review is explicitly contemplated by the Charter and has been in place for many years. The rules of the Commission embody the Charter requirement. Any change to process would require a Charter revision.

RECOMMENDATION

The current *de novo* review process should remain in place.

FINDING 2- THE DE NOVO REVIEW PROCESS AS MANDATED BY THE CHARTER AND IMPLEMENTED BY THE COMMISSION RULES IS THE FIRST TIME IN THE DISCIPLINARY PROCESS THAT MEMBERS ARE AFFORDED FULL DUE PROCESS

DISCUSSION

The current pre-appeal departmental disciplinary process within both the APD and AFR does not provide for full due process. There is no representation by legal counsel, no right to confront and cross-examine witnesses, no right to review the finding of the Department, through its Chief, that misconduct occurred, or that the penalty imposed is appropriate. The current system as mandated by the Charter and implemented by the Commission provides due process in each of these areas before neutral finders of fact (the Commission) drawn from the Aurora community.

RECOMMENDATION

The current *de novo* review process should remain in place.

FINDING 3: THE CIVIL SERVICE COMMISSION HAS COMMENDABLY INCREASED THE TRANSPARENCY OF THE DE NOVO REVIEW PROCESS.**DISCUSSION**

Transparency into the Civil Service Commission processes was a focus of the investigation by the AG. Since the implementation of the Consent Decree, the Commission has taken steps to increase transparency of the process by advanced posting of the date that a given appeal will be heard and by posting the results of the appeal.

These are certainly steps in the right direction.

RECOMMENDATION

The Commission should continue to explore additional ways of increasing transparency of the process. Specifically, the Commission should explore the continuation of hybrid meetings which would allow for virtual attendance at regularly scheduled meetings. In order to increase community awareness of Commission proceedings and events, the Commission should post on its website and announce at its regularly scheduled public meetings any upcoming disciplinary hearings and decisions on appeals which have occurred. Additionally, the Commission should explore the live streaming and recording for later viewing of *de novo* review hearings. Lastly, the Commission should explore providing an explanation of the appeal process on its web site, so the community can clearly understand the role of the Commission and its authority under the Charter.

FINDING 4: WHILE UNDER THE CHARTER, A MEMBER OF THE DEPARTMENT MAY REQUEST A CLOSED HEARING, THERE EXIST NO RULES OR GUIDELINES FOR THE RESOLUTION OF THE REQUEST**DISCUSSION**

There are no rules that provide the Commission with guidance as to when to honor a request from a member that the *de novo* review be closed to the public. Public policy, and the underlying precepts of the Consent Decree should weigh in favor of transparency and open hearings. There may, however, be limited instances where the overall public interest would not be served by having an open hearing. There were only two hearings out of the sixteen hearings examined in this report that were open to the community.

RECOMMENDATION

The Commission should strongly consider adopting rules that provide guidance as to the factors to consider when weighing a request from a member for a closed hearing. The rules should provide for a presumption of an open hearing which could be overcome by factors that are presented by the member, in writing, to the Commission. The question should be decided by a majority of Commissioners utilizing a rubric established in coordination with the APD, AFR, the City. This change would provide for increased transparency of the Commission's work to the community.

FINDING 5: THE TIMELINE FOR THE RESOLUTION OF APPEALS AS CALLED FOR BY THE CHARTER HAS NEVER BEEN MET

DISCUSSION

The timeline established by the Charter mandates that the hearing be conducted no less than 15 days nor more than 30 days from the date the appeal is received by the Commission, which must be within 10 days of the Chief's decision. While the Commission has taken steps to improve the time from the formal appeal of an imposed penalty to the resolution of the matter by the Civil Service Commission, the timeline for the resolution of appeals as established in the Charter and the rules of the Commission has never been met. Swift resolution of appeals is in the public interest and, therefore, all steps that can be taken to have appeals concluded within the set timeframe should be investigated and provided for in the rules.

RECOMMENDATION

The Commission should strongly consider the elimination of the extension of time by mutual consent while maintaining allowing continuations for good cause shown. The practice established in 2022 of designating hearing dates each month in the beginning of the year to provide those attorneys who practice in this area with advanced notice of available hearing dates, should continue. The current practice of the Commission have tightened up the process, but some matters still linger. Every effort to provide for swift hearings should be made and good cause extension should only be granted in extenuating circumstances and those circumstance should be prescribed in the revised Rules and Regulations.

FINDING 6: THE USE OF PRECEDENT TO DETERMINE WHETHER AN IMPOSED PENALTY IS APPROPRIATE IS PROBLEMATIC

DISCUSSION

While Commission rules recognize the potential utilization of precedent to establish the inappropriateness of a particular penalty, the rules are not specific with respect to the method by which any disparities should be judged. Specifically, the rules of the Commission provide that it “may consider discipline imposed upon other civil service personnel on matters of a similar nature if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. All comparisons shall indicate the Chief that imposed the discipline. Deference shall be given to discipline imposed by the same Chief of Police or Fire Chief who imposed the discipline which is on appeal.” The utilization of precedent as the barometer for whether an imposed penalty is appropriate or not, is a method which can perpetuate mistakes of the past where prior penalties may have been either too harsh or too lenient. Moreover, because of the differing views of various Chiefs who are imposing discipline, there is the possibility of wildly inconsistent outcomes which provide no guidance to members as to what an appropriate penalty might be or consistency among administrations in penalties imposed.

RECOMMENDATION

The current Rules and Regulations for the Commission provide for the Commission to consider any disciplinary matrix adopted by APD or AFR. Each department having a disciplinary matrix with presumptive ranges of penalties for each type of infraction of policy could provide the Commission with a more objective and consistent baseline to evaluate and assess the appropriateness of the penalty rather than the current system of comparison to wildly differing precedents.

If such disciplinary matrices are adopted by APD and AFR, Section XII, Rule 10 of the current Rules and Regulations would need to be revised to provide more fulsome context around how the matrices should be utilized by the Commission. In the meantime, the Commission should explore the adoption of rules that would address the issues raised in this finding.

FINDING 7: THE COMMISSION RULES DO NOT SET A METHOD BY WHICH A DECISION ON APPEAL SHOULD BE RENDERED, AND THE FACTORS THAT SHOULD BE CONSIDERED IN MAKING THE DECISION

DISCUSSION

The Commission rules do not set the method by which a decision on appeal should be rendered and what should be considered by the Commission in rendering the decision. While the current practice is for the commission to deliver a written opinion spelling out the reasons for the decision of the Commission, and currently does so extremely well, there is no requirement in the rules for such. This allows for the format to differ depending on the composition of the Commission.

RECOMMENDATION

The Commission should adopt a rule which requires the issuance of a formal opinion in substantially the form which is utilized today, with findings of fact, its conclusions as to whether the burden of proof has been met, and the ultimate decision of the Commission relative to the imposed discipline. This will allow for consistency in disciplinary opinions, regardless of the membership of the Commission. The Commission should also document the vote of each Commissioner thereby providing for increased transparency and accountability to the community.

CONCLUSION

We have, on behalf of the City and the Civil Service Commission, as required by the Consent Decree, strongly considered the question of whether the *de novo* review process should be replaced. We have found, for the reasons stated, it should not.

We have, however, made recommendations, which are not violative of the Charter, that would serve to improve not only the *de novo* process, but the overall pre-appeal departmental disciplinary process as it currently exists with APD and AFR.

In making our recommendations, we have been guided by two major principles. First, that the system provide both due process for, and accountability of, those who have been found to have digressed from the policies of the department and who feel that they have been treated unfairly. Second, that the system be transparent to the public to the greatest extent possible. We believe that our recommendations promote those ends.

APPENDIX

Relevant Rules of the Civil Service Commission

SECTION XI. APPEAL OF DISCIPLINARY ACTIONS, FILING PROCEDURES FOR APPEALS, PROCESSING DISCIPLINARY APPEALS, AND OTHER LEGAL MATTERS.

61. DISCIPLINARY ACTIONS SUBJECT TO APPEAL. Civil Service members of the departments may appeal any disciplinary action, except written and oral reprimands, to the Commission. Written and oral reprimands are not subject to the Commission appeal and hearing procedure.

62. FILING PROCEDURES FOR DISCIPLINARY APPEALS. Any member of the Civil Service against whom a covered disciplinary order has been issued, and who desires to appeal, shall have ten (10) business days, as defined in Article III, Section 3-16(8)(e) of the City Charter, from the date of service of the disciplinary order in which to file an appeal of the order with the Commission. The petition for appeal shall be in writing; contain the name and address of the appellant; a copy of the written command order being appealed; and a brief summary of the reasons for the appeal. The petition for appeal shall state whether the appellant desires to have the hearing closed to the public and include the requirements outlined in Section XIII, Paragraph 88, Rule 1, Pleadings, of these Rules and Regulations. Upon receipt of an appeal, the Commission shall promptly provide a copy of the appeal to the office of the City Attorney.

63. PROCESSING DISCIPLINARY APPEALS. Upon receipt of an appeal of a disciplinary action, the Commission shall set a date for a hearing on the appeal, to be held no less than fifteen (15) calendar days nor more than thirty (30) calendar days from the date the appeal is received by the Commission. After a hearing date has been set, it may be continued only upon agreement of all the parties or upon good cause shown to the Commission. Commission staff will notify the parties of the new hearing date within ten (10) working days of the

Commission approving the continuance. Failure of the member to cooperate in the resetting may result in a finding that the member has waived his/her right to appeal. The new date shall be set within 60 days of the granting of the continuance unless good cause is shown to the Commission.

1. A member of the Civil Service system who has filed an appeal may be represented by someone of his/her choosing. The representative's name and mailing address shall be provided, in writing, to the Commission prior to scheduling a hearing date.
2. Commission hearings may be conducted by less than all of its members, but in no event will a hearing be conducted by less than a majority of its members.

3. The hearings shall be recorded by a court reporter or an electronic recording device. When the Commission deems it advisable, the hearings may be chaired by the attorney for the Commission.
4. The Notice of Hearing will be provided by mail, or by hand delivery, to the City Manager, appropriate department Chief, Assistant City Attorney representing the department, the member of the Civil Service system filing the appeal and the member's representative, if any. The Commission will comply with the Open Meetings Act, C.R.S. 24-6-402 in determining whether a hearing shall be open or closed to the public.
5. When an appeal is filed by a Civil Service member, copies of the following documents shall be transmitted by the Chief of the department to the Commission within five (5) business days from receipt of the Notice of Hearing:
 1. 1) Specification of charges.
 2. 2) Written report of evidence supporting charges.
 3. 3) Member's disciplinary record summary, if any.
 4. 4) Member's transcribed statement made during the pre-disciplinary hearing in response to the charges, and the written report, if any.
 5. 5) Member's written statement to the Chief submitted after the pre-disciplinary hearing, if any.

64. OTHER LEGAL MATTERS. When an appeal concerning a disciplinary action is filed with the Commission, or when there is a subsequent judicial appeal from a decision of the Commission, the Commission may retain an attorney to render impartial advice and/or advocate the Commission's position before the reviewing court. When the Commission renders its decision concerning the disciplinary action originally imposed by the City on a civil service member, and there is an appeal filed by the civil service member, the Commission may request that the City Attorney represent the Commission before the reviewing court, unless the City has filed or intends to file an appeal based upon the Commission's modification of the disciplinary action. In situations where either the City is appealing a decision of the Commission or where both parties are appealing the decision, the Commission shall retain its own attorney. Nothing stated herein shall infringe upon the Commission's right to exercise at any time its discretion to retain legal counsel concerning any matter.

The Civil Service Commission recognizes the Independent Review Board (IRB) as a process that encourages open and frank discussions between the parties, their representatives, and within the IRB board itself. To facilitate the use of the IRB without limiting the Commission's consideration of disciplinary appeals as authorized by Charter, recommendations or conclusions of the IRB shall not be presented or disclosed during a disciplinary appeal hearing before the Commission, as long as it is clear that the existence of the IRB does not interfere with an Officer's

access to appeal a discipline to the Commission and that the ability of the Civil Service Commission to conduct a fair and impartial hearing is preserved. Any dispute over the admissibility of recommendations or conclusions of the IRB shall be resolved by motion prior to the hearing. Consistent with a *de novo* presentation of evidence to the Civil Service Commission during disciplinary appeal hearings, a witness who testifies before the IRB can testify in a Commission disciplinary hearing without impeachment from their testimony to the IRB.

Under no circumstances will settlement discussions between the parties be admitted during Commission disciplinary hearings.

SECTION XII. RULES OF PROCEDURE FOR DISCIPLINARY APPEAL HEARINGS.

65. GENERAL. Rules of procedure governing the conduct of Disciplinary Appeal Hearings follow. These Rules are intended to be supplemental to and not in derogation of the provisions set forth in Section XII, Appeal of Disciplinary Actions, Filing Procedures for Appeals, and Processing Disciplinary Appeals, of the Commission Rules and Regulations as well as other provisions of the Aurora City Charter.

66. RULE 1 - PLEADINGS.

1. The appeal to the Commission shall be initiated by a petition for appeal. In addition to the requirements set forth in Section XI, paragraph 62 of these Rules and Regulations, the Petition shall conclude with a concise paragraph describing with specificity, each reason the Petitioner asserts the disciplinary action was incorrect.
2. Any issue not specifically raised in the Petition will not be heard by the Commission. The Petition may be amended to include additional issues identified as a result of discovery and preparation for the hearing, but such amendments must be made in a timely manner. Copies of the Petition, as well as any amendments must be provided to the City. No written response to the Petition or any amendments is required by the City.

67. RULE 2 - HEARING DATES AND CONTINUANCES. The City Charter requires the Commission to conduct a hearing on the appeal not less than fifteen (15) nor more than thirty (30) days after receipt of a petition for appeal. The Charter further provides that after a hearing date has been set, it may be continued only upon agreement of all parties or upon good cause shown to the Commission. Continuances are discouraged. Where possible, the Commission shall attempt to set all hearing dates in consultation with the parties or their representatives. However, it may be necessary for the Commission to reschedule a hearing. If the date for a hearing was cleared in advance with the parties or their representatives, no continuance will be granted except upon a

showing of good cause, which could not reasonably have been foreseen at the time the hearing date was initially set.

68. RULE 3 - DISCOVERY.

a. Initial disclosures. Each party shall, without awaiting a discovery request, provide to the other party:

1. 1) The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to the issues set forth in the Petition or the underlying event that resulted in disciplinary action; and
2. 2) A listing, together with a copy of, or a description by category and location of all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to the issues set forth in the Petition or that relate to the underlying event that resulted in disciplinary action.

Such initial disclosures shall be provided by the earlier of (a) twenty (20) days of the date the Commission receives the petition for appeal, or (b) ten (10) days before the date of the appeal hearing.

2. Supplemental discovery. In addition to the initial disclosures, either party may file a request for production of documents. Written responses must be provided to such requests by the earlier of (a) twenty-five (25) days of the date of such request for production of documents, or (b) ten (10) days before the date of the appeal hearing, unless some other date is mutually agreed to by both parties.
3. Claims of Privilege or Protection of Trial Preparation Materials. If a party, in connection with its initial disclosure or in response to a supplemental discovery request, withholds information required to be disclosed by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the other party to assess the applicability of the privilege or protection.
4. Duty to Supplement Disclosures or Responses. A party is under a duty to supplement its disclosures and responses when the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other party during the disclosure or discovery process.
5. Signing of Disclosures and Responses. Every disclosure, supplemental discovery request or discovery response, including objections thereto, made pursuant to the provisions of

this Rule shall be signed by at least one attorney of record in the attorney's individual name. A party not represented by an attorney shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made and that the request, response or objection is made in good faith and not interposed for any improper purpose such as to harass the other party, or delay the proceeding or needlessly increase the cost of the hearing.

f. Filing of Disclosures, Supplemental Discovery Requests and Responses. Initial disclosures by the parties, supplemental discovery requests and discovery responses need not be filed with the Commission unless a dispute arises which requires the Commission's involvement to resolve.

g. Discovery Disputes. The parties are encouraged to conduct discovery informally and freely exchange materials without involving the Commission. If it becomes necessary for a party to file a formal motion to compel discovery with the Commission, such request shall include a certification by the party or their representative that all reasonable efforts have been made to resolve the discovery issue informally between the parties.

69. RULE 4 - SUBPOENAS. Upon request of either party or their representative, the Chair or Vice Chair or the Commission shall issue subpoenas to desired witnesses requiring their attendance at the hearing. It shall be the responsibility of the party seeking the subpoena, to have it served on the witness, in the manner provided by the Colorado Rules of Civil Procedure. If a witness has been properly subpoenaed and fails to appear for the hearing, the Commission may apply to a court of competent jurisdiction for issuance of a subpoena, enforceable through the contempt powers of the Court.

70. RULE 5 - WITNESSES AND EXHIBITS. No later than seven (7) days before the hearing each party shall provide the opposing party or their representative a list of each witness they intend to call and a copy of each exhibit they intend to introduce. Any witness not disclosed to the opposing party shall not be permitted to testify at the hearing, except upon a showing of good cause for such failure. Any exhibit not disclosed to the opposing party shall not be admitted at the hearing, except upon a showing of good cause for such failure. All exhibits shall be marked in advance of the hearing. The City shall mark their exhibits using numbers and the Petitioner shall mark their exhibits using letters. Copies of all exhibits, preferably arranged in a notebook, shall be provided to the Commission members at the time of the hearing. Parties are encouraged to stipulate to the admissibility of as many exhibits as possible in advance of the hearing and through their cooperative efforts to avoid duplication of exhibits.

71. RULE 6 - MOTIONS. In general, written motions are discouraged, but permitted. One copy of the motion and any attachments must be filed with the Commission. In addition an electronic copy of the motion and attachments must be provided to the Commission and the opposing party. All written motions must be filed no less than ten (10) days before the hearing, unless good cause is shown for the failure to do so. The opposing party shall have five (5) days to file a written response to the motion, if it desires to do so. In addition to the printed copy of the response filed with the Commission, an electronic copy of the response must be provided to the Commission and the opposing party. No reply shall be permitted by the moving party, except with the express consent of the Commission or hearing counsel. In their discretion the Commission or hearing counsel may request oral argument or an evidentiary presentation on the motion or they may resolve the motion based solely on the written submissions by the parties. In the discretion of the Commission, motions may be ruled on prior to commencement of the hearing. The Commission may, in its discretion, delegate resolution of pre-hearing motion to hearing counsel. Any decision or ruling by hearing counsel may be revised by the Commission prior to the hearing.

72. RULE 7 - PRE-HEARING CONFERENCES. The parties or their representatives shall be required to attend, either by phone or in person, a pre- hearing conference to be conducted by hearing counsel for the Commission. The Commission may or may not be present at such pre-hearing conference. The parties shall be prepared to address the following issues at the pre-hearing conference:

1. 1) Procedural issues, including but not limited to timing and availability of witnesses, whether the hearing will be open or closed, and anticipated length of hearing.
2. 2) Discovery issues
3. 3) Exhibits
4. 4) Issues to be presented at the hearing. Parties shall be prepared to identify and confirm, with specificity, the actual issues to be presented to the Commission at the hearing. All issues that a party no longer intends to pursue shall be identified and eliminated from the proceedings.
5. 5) Stipulation as to undisputed facts. Upon request of hearing counsel, prior to the pre-hearing conference the parties shall exchange lists of disputed and undisputed facts that they believe are relevant to their case or defense. A party shall stipulate to any fact that they do not have a good faith, articulable basis for disputing
6. 6) Motions. Hearing counsel may resolve all motions at or as a result of the pre-hearing conference.

- 7) Other pre-hearing matters requested by the parties or raised by hearing counsel. Such pre-hearing conferences may be conducted at any time prior to the hearing.

73. RULE 8 - OPENING AND CLOSING STATEMENTS. Opening statements are to be limited to ten (10) minutes per party, unless a greater amount of time has been granted to the party in advance by the Commission. Closing statements will generally be permitted to be made orally, but should be kept as concise as possible. In its discretion, the Commission may request that closing arguments be submitted in writing.

74. RULE 9 - ORDER OF PRESENTATION. The City has the burden of persuasion and shall present its case in chief first. This shall be followed by the case in chief of the Petitioner. In the discretion of the Commission either party may be permitted to provide rebuttal evidence. The Commission may inquire into the purpose of rebuttal evidence prior to its presentation.

75. RULE 10 - EVIDENCE. All witnesses shall take an oath or be sworn by the reporter or by hearing counsel for the Commission. In general, the Colorado Rules of Evidence shall govern the admissibility of evidence presented to the Commission. However, the Commission may receive and consider evidence not admissible under such Rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs, and if the Commission concludes such evidence is necessary to enable the Commission to ascertain the facts affecting the substantial rights of the parties. The Commission may consider discipline imposed upon other civil service personnel on matters of a similar nature if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. All comparisons shall indicate the Chief that imposed the discipline. Deference shall be given to discipline imposed by the same Chief of Police or Fire Chief who imposed the discipline which is on appeal. The Commission may also consider any disciplinary matrix adopted by, as applicable, the Police or Fire Department. Hearing counsel for the Commission shall initially rule on all evidentiary matters during the hearing or, for the purposes of judicial economy, prior to the hearing. If any Commissioner disagrees with the ruling of hearing counsel to the Commission, then the issue will be resolved by a vote of a majority of the Commissioners presiding over the hearing. All votes taken shall be on the record. In the event of a tie vote, the evidence or material will be admitted. A record may be made setting forth the reasoning behind a dissenting vote.

76. RULE 11 - QUESTIONS BY THE COMMISSION. Commissioners shall be permitted to ask questions during a hearing of any witness, party, or representative of a party.

77. RULE 12 - TRANSCRIPT ON APPEAL.

1. In accordance with the Colorado Rules of Civil Procedure, if a party chooses to appeal the Commission's decision, such appeal shall be filed in the District Court. If an appeal is filed, the Commission is required by the court to file the record of such disciplinary hearing. The

cost of preparing the record, including the transcript fee, shall be advanced by the appellant, unless the Court otherwise orders.

2. Upon receipt by the Commission of written notice that an appeal has been filed in District Court, the Commission shall transmit to the appellant an estimate of the cost of preparing the record. The appellant shall advance to the Commission the estimated cost of preparing the record, including the transcript fee. Upon receipt of such payment, the Commission shall prepare the record, including the transcript, and submit it to the District Court, as provided by the Colorado Rules of Civil Procedure. Failure of the appellant to tender the requisite fee in a timely manner may be brought to the attention of the Commission, who may then recommend appropriate action including requesting dismissal of the appeal for failing to tender the requisite fee in a timely manner.

APPENDIX E– TECHNICAL REPORT



Analysis of Police Enforcement Data for the Aurora, Colorado Police Department: Technical Report

Jennifer Calnon Cherkauskas, Ph.D.
Robin S. Engel, Ph.D.
Nicholas Corsaro, Ph.D.
Murat Yildirim, M.S.

Prepared for IntegrAssure, LLC.

April 15, 2023

The findings and recommendations presented within this report are from the authors and do not necessarily reflect the official positions or opinions of IntegrAssure, LLC., the Aurora Police Department, or the National Policing Institute. Please direct all correspondence regarding this report to Robin S. Engel, Ph.D., Senior Vice President, National Policing Institute, 2550 S. Clark Street, Suite 1130, Arlington, VA 22202; 202-833-1254; rengel@policinginstitute.org

About the National Policing Institute

The National Policing Institute (NPI, formerly the National Police Foundation) is the United States' oldest non-membership, non-partisan police research organization. NPI was founded in 1970 by the Ford Foundation to advance policing through innovation and science. Today, NPI builds on its founding concept with the mission to pursue excellence through science and innovation. Through rigorous objective research, detailed independent analysis, and forward leaning thought leadership, NPI integrates the work of social scientists and practitioners to advance the policing profession. NPI staff and partners conduct scientific evaluations of policing strategies, organizational assessments, critical incident reviews, and police data projects, and issue timely policing publications important to practitioners and policymakers. NPI has three organizational focus areas: safety, wellness, and culture; community trust and the legitimacy of policing; and violence and force.

Table of Contents

Executive Summary.....	iii
Introduction	1
Research Questions.....	2
Report Outline.....	2
Data	3
Data Sources	3
Arrest and Summons Data.....	4
Use of Force Data	5
Contact Data.....	11
APD Personnel Data.....	13
Environmental Data	14
Data Quality	15
ANALYSIS PLAN FOR FUTURE REPORTS	16
Use of Force Benchmark Comparisons	16
Multivariate Statistical Modeling	18
Police Enforcement Actions – Time Series Trend Analyses	20
Analyses of Data on Police Contacts	21
Benchmark Comparisons	21
Multivariate Analyses.....	22
Time Series Analyses	22
Conclusion	23
Recommendations	23
REFERENCES	25

EXECUTIVE SUMMARY

On November 16, 2021, the Colorado Attorney General's (AG) Office announced that it was initiating a consent decree with the City of Aurora due to findings from an investigation conducted by their office following the August 2019 death of Elijah McClain. IntegrAssure, LLC., the Independent Consent Decree Monitor, was appointed on February 14, 2022. IntegrAssure and the City of Aurora engaged the National Policing Institute (NPI) to conduct statistical analyses and interpret enforcement data collected by the Aurora Police Department (APD). This work will assist the Independent Consent Decree Monitor in assessing whether the City has changed "in measurable ways, how Aurora Police engages with all members of the community, including by reducing any racial disparities in how Aurora Police engages, arrests, and uses forces in the community" (Consent Decree, 2021, p.7).

This technical report serves as a resource to inform the outcome analyses presented in an October 2023 report (Baseline Report). The study will use several official police data sources to examine four primary research questions:

1. Does the rate of arrests or use of force experienced by persons of different racial, ethnic, or gender groups align with those groups' representation among persons at risk of having these enforcement actions used against them by the APD?
2. What factors contribute to the use of force by APD officers, injuries to community members, and the victimization of police officers during arrests?
3. Is community member race, ethnicity, or gender related to the type or severity of police use of force while accounting for other relevant individual, situational, and environmental factors?
4. Do arrest and use of force counts shift significantly upwards or downwards when seminal events (i.e., events at discrete points in time) occur in Aurora?

The primary data sources that will be utilized are:

- Arrest and summons data
- Use of force data
- Criminal offense data (including suspect information for offenses)
- APD personnel data
- Environmental data (e.g., county and police district shapefiles, Census data)

Each data source is described by assessing the available data fields and how the research team will create independent and dependent measures for planned analyses. The research team will combine these information sources to develop a comprehensive dataset for analyses that provides a more holistic understanding of

the factors influencing police enforcement actions and allow the research team to triangulate information.

Unfortunately, comprehensive data quality analyses could not be conducted for the data provided to the NPI team due to the delay in receiving data before this report's deadline. Based on the research team's initial assessments of the data provided, the research team offers recommendations to continue improvements in APD's data collection policies and practices for consideration by IntegrAssure and the APD.

The analysis plan has three primary components for examining arrests and the use of force to be documented in the Baseline Report. The NPI team provides a summary of each of these methods and their strengths and limitations, including:

1. Benchmark comparisons using a valid and reliable comparison group of those *at risk* of experiencing force.
2. Multivariate analyses to predict discrete outcomes associated with an event (such as use of force among arrests or injuries within uses of force) and to estimate statistically significant predictors for a specific outcome.
3. Time series analyses to determine whether the timing of a relevant intervention (e.g., police training or policy change) or dates of interest (e.g., a seminal event) corresponds with a significant shift in count outcomes, such as arrests or use of force counts.

The APD's official contact data collection process began department-wide in July 2022. The NPI research team does not recommend statistical analyses of these data until a full calendar year of data has been collected. Therefore, no examination of these data will be provided in the Baseline Report. The technical report, however, includes documentation of the potential analysis plan for these data.

The forthcoming Baseline Report will identify patterns and trends in enforcement outcomes (e.g., use of force, arrest). It will establish baseline measures for examining racial disparities in APD enforcement against which future years of data can be compared. However, all stakeholders need to understand that even the most comprehensive data collection and rigorous statistical analyses cannot determine whether APD officers have individually or collectively made enforcement decisions based on racial bias, nor can aggregate analyses be used to assess the legality of prior or future police encounters with community members. Data collection and analyses, however, can provide police executives with the necessary information to examine potentially problematic areas more closely and identify opportunities for improvement where warranted. It also demonstrates transparency to the public and commitment toward evidence-based policing practices that can help to make police encounters with the public safer and more equitable for both.

I. INTRODUCTION

On November 16, 2021, the Colorado Attorney General's (AG) Office announced that it was initiating a consent decree with the City of Aurora, Colorado, as the result of findings from an investigation conducted by their office. The consent decree was created to oversee the Aurora Police Department (APD), Aurora Fire Rescue, and Aurora Civil Service Commission; all three agencies were ordered to undertake efforts to amend current policies, procedures, and training to increase levels of public trust, legitimacy, transparency, and community safety. The August 2019 death of Elijah McClain and the ensuing protests placed an increased level of focus on the APD and Aurora Fire Rescue. This event spurred the AG's August 2020 investigation, resulting in a report detailing examples, findings, and recommendations for the APD's conduct. The report found that the APD engaged in concerning actions and behavior regarding "racially biased policing, using excessive force, and failing to record required information when it interacts with the community" (Weiser, 2021, p. 1, par. 1). IntegrAssure, LLC., the Independent Consent Decree Monitor, was appointed on February 14, 2022, to ensure that the APD and other parties listed are implementing the Consent Decree's recommendations and progressing appropriately to meet compliance goals that align with federal and state law.

A research team from the National Policing Institute (NPI) was engaged by IntegrAssure and the City of Aurora to conduct statistical analyses and interpret enforcement data collected by the APD. This work will assist the Independent Consent Decree Monitor in assessing whether the City has changed "in measurable ways, how Aurora Police engages with all members of the community, including by reducing any racial disparities in how Aurora Police engages, arrests, and uses forces in the community" (Consent Decree, 2022, p.7).

This technical report is the first of two reports included in NPI's scope of work. It describes the data, methodologies, and statistical techniques that will be used in the second report, forthcoming in October 2023 for Reporting Period 6. It includes a summary of the outcomes that will be examined and initial assessments of the various data sources. This report will minimize the need for this more detailed, methodological information to be included in future analytical reports so that the latter can focus on the findings. The September 2023 Baseline Report will establish baseline measures for examining racial disparities in APD enforcement against which future years of data can be compared. The Baseline Report will focus on the use of force and arrest data, including historical data from 2017-2021 and current data from 2022, and will examine the use of force, misdemeanor arrests, and summons issued for particular offenses, such as "Failure to Obey a Lawful Order," "Resisting Arrest," "Criminal Trespass," and related offenses.

Research Questions

The study will explore the following research questions:

1. Does the rate of arrests or use of force experienced by persons of different racial, ethnic, or gender groups align with those groups' representation among persons at risk of having these enforcement actions used against them by the APD?
2. What factors or combination of factors contribute to the use of force by APD officers, injuries to community members, and the victimization of police officers during arrests?
3. Is community member race, ethnicity, or gender related to the type or severity of the force used by the police while accounting for other relevant individual, situational, and environmental factors?
4. Do arrest and use of force counts shift significantly upwards or downwards when seminal events (i.e., events at discrete points in time) occur in Aurora?

Report Outline

The report is organized into four sections: 1) introduction, 2) description of multiple enforcement data sources, the quality of data, and the available outcome and predictor variables, 3) summary of the planned statistical analyses and their strengths and limitations, 4) summary and recommendations.

II. DATA

The NPI team will use several official police data sources to examine these research questions, including arrest and summons data, use of force data, criminal offense data (including suspect information for offenses, where available), APD personnel data, and environmental data (e.g., county shapefiles, police district boundaries, and Census data).¹ Collectively, these data sources contain valuable information that decades of police research show are significant predictors of law enforcement actions. The research team will combine these information sources to create a comprehensive dataset for analyses that provides a more holistic understanding of the factors influencing police enforcement actions.

The electronic data sources will allow the research team to address various research questions and triangulate information. For example, criminal offenses are most frequently developed as a reporting mechanism by community members who report being the victim of a particular crime. Comparatively, use of force data are based upon reports by law enforcement personnel when they use force against community members. In this manner, the use of multiple sources of data collected and managed by police is pivotal to understanding how police are functionally operating in any given community. Thus, this section includes a description of the various data sources, the measures within each data source, and how the research team will use these data to create operational measures for different analyses.

Data Sources

The City of Aurora and the APD provided the NPI research team with six years of electronic data (2017 to 2022). This required a series of conversations with the APD and City employees to extract the necessary data and to provide comprehensive explanations of how datasets are maintained and matched across data systems. This section describes the available outcome and predictor variables for each provided data source² that will be used to examine the research questions of interest. For all measures described herein, we include a 'tentative coding plan' based primarily on the likely plan for variable coding consistent with prior research and informed by our initial review of the data sources. Once the data are analyzed, we may alter the coding of the data as needed; these changes will be reflected in an appendix to the Baseline Report.

¹ Notably, when examining use of force patterns, our team will also account for arrest and offense patterns, as these different outcomes of interest are interrelated. Therefore, we will not only examine shifts in the use of force alone, but simultaneous shifts in arrests and or criminal offenses to control for underlying trends in police activity and community crime levels).

² Additional data sources have been requested (e.g., calls for service, criminal suspects, criminal offenses) but not yet provided, or provided at too late a date, for inclusion in this report. As such, they are not included in the description herein.

Arrest and Summons Data

When APD sworn personnel arrest individuals, arrest reports are generated documenting the charges brought against each arrestee, arrestee demographic characteristics, and situational characteristics of the incident. The arrest data were collected in Versadex (i.e., the data management system) for the study period of January 1, 2017, to December 31, 2022.

The analyses of arrest data serve two purposes for this study. First, use of force and arrest incidents will be linked to better understand the factors that predict whether arrests result in the use of force (e.g., charges against civilians, time of day, multiple-suspect encounters, etc.). In this case, arrests and use of force incidents are linked by a unique identifier, where applicable. Second, arrests will be analyzed to determine trends in the use of misdemeanor arrests and summons over time, with a particular focus on offenses such as "Failure to Obey a Lawful Order," "Resisting Arrest," and "Criminal Trespass."

The various measures, descriptions, and coding that the research team engaged in for each of the variables of interest are outlined in Table 1 below. As shown, information collected relates to the characteristics of the arrest incident (e.g., arrest date, time, location), legal factors (e.g., arrest with a warrant, arrest charge severity level), and arrestee demographic characteristics. Notably, arrest data do not capture information such as the suspect's resistance level, mental health impairment, drug or alcohol impairment, or presence of a weapon (absent a weapon charge). These situational factors are strong predictors of force but are not collected within the arrest data source (Garner et al., 2002; Gau et al., 2010; Rossler & Terrill, 2017; Strohine & Brandl, 2019; Terrill & Mastrofski, 2002).

Table 1. Available Measures in APD Arrest Data

Variable Name	Description	Tentative Coding Plan
Month of Arrest	January – December Incident Dates (by Month)	1 = January; 2 = February; 3 = March; 4 = April; 5 = May; 6 = June; 7 = July; 8 = August; 9 = September; 10 = October; 11 = November; 12 = December
Year of Arrest	Years 2017-2022	Numeric value of year
Day of the Week	The day of the week that the arrest occurred	Recoded into a binary variable <i>Weekend</i> , where 0 = work week (Mon-Thu), 1 = weekend (Fri-Sun)
Time of Day	Time of arrest collected using the 24-hour clock	Recoded into a binary variable <i>Daytime arrest</i> , where 0 = night arrest (7:00 PM-6:59 AM), 1 = day arrest (7:00 AM-6:59 PM)
Arrest Location	Type of location where the arrest occurred (private residence, road, government building, jail/prison, parking area, etc.)	<i>Private location</i> is coded as: 0 = All public locations (e.g., bars, parks, restaurants, prison, jail, highway, etc.), 1 = Private residence
Outstanding Warrant	Identifies the reason for the arrest as an outstanding warrant or not	<i>Outstanding Warrant</i> is coded as: 0 = Non-warrant arrests (probable cause, detox hold, other), 1 = Outstanding Warrant
Felony Arrest	Whether any of the arrest charges against the arrestee are felony charges	<i>Felony Arrest</i> is coded as: 0 = Non-felony charges, 1 = At least one charge is a felony
APD District	APD patrol district where the arrest occurred based on the incident address/location	<i>APD district</i> is coded as: 0 = missing; 1 = District 1, 2 = District 2, and 3 = District 3
Arrestee Gender	Gender of the person arrested	Gender is coded into a <i>male</i> , where 0=female, 1 = male
Arrestee Race/Ethnicity	Race/ethnicity of the person arrested. Original race/ethnicity categories include: White, Black, Hispanic, American Indian, Asian, Hawaiian/Pacific Islander; Hispanic; Two or More Races	<i>Race/ethnicity</i> is coded as: 1 = White, 2 = Black (including Hispanic Black), 3 = Hispanic (White), 4 = Native American, 5 = Other (All other categories)
Arrestee Age	Age of the arrestee at the time of arrest	<i>Age</i> is a continuous variable measured in years between date of birth and arrest date

Use of Force Data

When APD sworn personnel use force against individuals, their supervisor is required to complete a Use of Force report. These reports are collected at the officer level (i.e., one report for each officer who used force). However, information from the officer-level reports can be culled to an incident level (e.g., multiple officers and multiple individuals) as well as an individual level (i.e., the same person who had force used on them, regardless of how many officers were involved in the incident or how many other individuals had force used on them during the same incident).

These data were collected in AIM (Administrative Investigations Management) from January 1, 2017, to December 31, 2022.

For all analyses herein, we analyze use of force incidents at the person level (individual who had force used on them, or the subject) for two primary reasons. First, arrest data are collected at the individual arrestee level, and thus linking uses of force to arrest requires symmetry regarding the units of analysis from these distinct data sources. Second, and perhaps more importantly, use of force reports are contingent upon officer usage. When individual officers (rather than groups or multiple officers) use force, the report count will shift accordingly (due to the number of officers involved in a single incident). However, regardless of how many officers use force on a single person, the person-event is a constant and is a more reliable indicator of the number of civilians (subjects) who had force used against them by police.

Table 2 displays the tiered system the APD uses to classify types of force. The reporting, investigatory, and review processes vary by tier. Most types of force were introduced in APD policy as "Incidents that Require Notification and Reporting" on January 3, 2015, without the associated tiers.³ On January 1, 2016, Tier Zero types of force were introduced in APD policy, and the preexisting types of force were categorized into the tiers the APD presently uses. All other types of force introduced later are noted with their effective date in parentheses in Table 2. For future analyses, the research team's examination will include Tier 1-3 Use of Force reports since Tier Zero does not result in a force report).

³ APD Policy DM 05.04 - Reporting and Investigating the Use of Tools, Weapons, and Physical, p.1, Section 5.4.1, 2015.

Table 2. APD Types of Force by Tier

Tier Level	Types of Force Included
Tier Zero Statutory Use or Display of Force	Pointing of Firearm
	Pointing of Less Lethal Weapons or O.C.
	Handcuff & Release with no arrest or summons
	Arrest with handcuffs (Introduced as Tier Zero 10/07/2020)
	Pat-Down search for officer safety (Introduced as Tier Zero 10/07/2020)
	Just moving someone out of the way (Introduced as Tier Zero 10/07/2020)
	Consensual search of a person (Introduced as Tier Zero 10/07/2020)
	Tactical Vehicle Contact "PIN" (Introduced as Tier One 10/07/2020; Tier Zero 03/30/2021)
Tier One Use of Force with No or Minor Injury/ Use of Restraint	Control Techniques used to overcome resistance with no injury or minor injury (Introduced as Tier One 01/01/2016)
	Take Down No Injury/Minor Injury (Introduced as Tier One 01/01/2016)
	Use of control weapon (e.g., baton) for leverage or control purposes (i.e., no strikes)
	Restraining to assist AFR/EMS/Medical
	Hobble, WRAP, restraint chair
Tier Two Use of weapon other than a deadly weapon to overcome resistance or when subject is injured by member's use of force and requires professional medical treatment	Pepper Spray (O.C.)
	Baton strikes/thrusts
	Launchable Impact Weapons
	Taser
	Strikes, Knees, Kicks, Punches
	Police Canine
	Pitting and/or Boxing of a vehicle (Introduced as Tier Two 01/01/2016)
	Stop-Sticks used on a vehicle (Introduced as Tier Two 10/07/2020)
	Carotid Control (Classified as Tier Two 01/01/2016, prohibited 06/09/2020)
Any injury in Tier One requiring Professional Medical Treatment	
Tier Three Use of a deadly weapon, deadly force, or potentially deadly force regardless of any injury	Use of Deadly Weapon
	Use of Deadly Force
	Use of Potentially Deadly Force (regardless of injury) ⁴
	Use of force, tools, or weapons which result in hospitalization or death ⁵
	When a supervisor, in conjunction with Duty Captain, believes UOF, weapons, or tools warrant a Tier Three notification and response
	Any Officer Involved Shooting (OIS) when another person is struck by a bullet
	Any Training Accident involving a firearm when another person is struck by a bullet
Any Training Accident involving a firearm when a person dies	

SOURCE: Adapted from APD's UOF Matrix (Vers 4) and APD's DM 05.04 - Reporting and Investigating the Use of Tools, Weapons, and Physical (Vers 0-14)

⁴ Effective 12/7/2016, "except in incidents involving a firearm, when the use of a tool or weapon that is considered potentially deadly force is used to overcome resistance resulting in no injury, or injury not requiring professional medical treatment, the Duty Captain, in consultation with the Duty Executive, may direct that the incident be investigated as a Tier Two use of force."

⁵ Effective 05/13/2019, "when a person is hospitalized due to use of force that would otherwise be considered a Tier Two use of force such as but not limited to Taser, K9 or less lethal deployment, the Duty Executive may determine that a Tier Two response (including all reporting) is appropriate."

Based on the research questions of interest and a focus on better understanding whether racial and ethnic disparities exist in APD use of force, the NPI team's examination of APD's three use of force tiers will primarily be conducted based on person-level information culled from nine use of force data tables at various levels (e.g., incident, officer, subject, force actions).⁶ Some use of force events against a single subject involve multiple officers. Thus, when culling information involving multiple officers in a single event, information about the event itself is coded (e.g., were *any* of the officers who used force against the individual injured in the encounter; were *any* of the officers who used force against the individual assigned to a specialized unit, etc.). The information about the use of force encounter, the individual against whom force was used, the force used, injuries, and the officer who used force are described in

⁶ The research team will also explore whether there are differences in the effectiveness of different types of force, but this analysis would be conducted at a different unit of analysis—unique force actions.

Table 3 below. A tentative coding plan for future analyses is also provided.

Notably, despite resistance being defined in the APD Use of Force Glossary, a measure of subject resistance was not captured in data collected from 2017 to 2022.⁷ APD is actively revising the department's use of force data collection with a new Benchmark Analytics system beginning later this year; resistance information will be captured in the updated use of force reporting protocol.

⁷ *Passive resistance* is defined as resistance on the part of the subject that is uncooperative but not forceful or active in any manner. A common form of passive resistance is going limp. *Active resistance* is defined as resistance on the part of the subject that involves their use of strength or force in opposition to an officer's efforts. *Violent resistance* is defined as resistance on the part of the subject that is imminently likely to cause serious bodily injury or death to an officer attempting to apply or applying control. (APD Use of Force Glossary, eff. 10/7/2020)

Table 3. Available Measures in APD Use of Force

Variable Name	Description	Tentative Coding Plan
Incident ID	Unique numeric identifier that can link the 9 different use of force files	Measured as collected (string identifier)
Day of the Week	The day of the week that the arrest occurred	Recoded into a binary variable <i>Weekend</i> , where 0 = work week (Mon-Thu), 1 = weekend (Fri-Sun)
Time of Day	Time of incident using the 24-hour clock	Recoded into a binary variable <i>Daytime</i> , where 0 = night (7:00 PM-6:59 AM), 1 = day (7:00 AM-6:59 PM)
Address of incident	Identifies the incident address to be linked to the various geographic files	Each location will have a unique identifier
Subject gender	Gender of the person to whom force was applied	Subject Gender is coded into a binary variable <i>male</i> , where 1 = male and 0 = female; unknown/missing will be excluded
Subject race/ethnicity	Race/ethnicity of the person to whom force was applied	Subject Race/ethnicity will likely be coded 1 = White, 2 = African American, 3 = Hispanic and 4 = Other
Subject age	Age of the person to whom force was applied	<i>Subject Age</i> is a continuous variable measured in years between date of birth and use of force date
Subject alcohol or drug impairment ⁸	Whether the person to whom force was applied was perceived to be impaired by alcohol or drugs	Recoded into a binary variable <i>Substance Impairment</i> , where 1 = impaired by drugs or alcohol, 0 = not impaired
Reason for force	Officer's legal justification for using force	Measured as follows - necessary to: 1= effect arrest, 2 = prevent a crime 3 = defend another, 4 = defend officer 5 = prevent a crime, 6 = for subjects' safety, 7 = failure to obey
Type of force	Officer-level input, aggregated to the individual-incident level (i.e., if any officer used any of the following actions in the incident against the person)	Coded as follows: 1 = control techniques (twist locks takedowns, throws, etc.), 2 = hobble, 3 = O.C. spray, 4 = punches, strikes, kicks, 5 = Baton, 6 = Taser, 7 = police canine, 8 = launchable impact weapons, 9 = Other (including PIT maneuver, stop sticks), 10 = Deadly force
Type of offenses	The offenses for which the person was charged	Measured as 1 = Misdemeanor, 2 = Felony, 3 = Protective custody, 4 = Petty offense
Type of restraint used	If applicable, the type of restraint used on the person to whom force was applied	Measured as: 1 = Hobble, 2 = Soft restraint, 3 = Kick stop, 4 = Waist chain
Subject arrested	Was the person to whom force was applied arrested	Binary variable coded as 0 = No, 1 = Yes

⁸ Preliminary analyses indicate there is high missingness for these measures, which may preclude their use in future analyses.

Variable Name	Description	Tentative Coding Plan
Subject injury	Was the person to whom force was applied injured	Binary variable coded as 0 = No, 1 = Yes
Subject unconscious	Was the person to whom force was applied rendered unconscious	Binary variable coded as 0 = No, 1 = Yes
Subject serious bodily injury	Was the person to whom force was applied seriously injured	Binary variable coded as 0 = No, 1 = Yes
Subject preexisting injury	Did the person to whom force was applied have a preexisting injury prior to force being applied	Binary variable coded as 0 = No, 1 = Yes
Subject treatment	Was the person to whom force was applied provided medical treatment	Measured on a continuum as 0 = not needed; 1 = Treated/release; 2 = Professional medical treatment; 3 = Hospitalized
Officer ⁹ age at Incident	Age of the officer who applied force at the time of the encounter	<i>Officer Age</i> is a continuous variable measured in years between date of birth and use of force date
Officer race/ethnicity	Race/ethnicity of the officer who applied force	Race/ethnicity will likely be coded 1 = White; 2 = African American; 3 = Hispanic; and 4 = Other
Officer rank at incident	Rank of officer who applied force	1 = patrol officer; 2 = Sergeant; 3 = Investigator; 4 = Detective; 5 = Command staff (Lt or above); 6 = other (all remaining)
Officer assignment at incident	Assignment of officer who applied force	1 = District 1, 2 = District 2, 3 = District 3, 4 = Investigations, 5 = Traffic section, 6 = Narcotics, 7 = Other
Officer role (in force incident)	Was the officer the initiating officer or secondary officer (supporting officer) in the incident	0 = Secondary; 1 = Initiating
Officer injured	Whether or not officer was injured in use of force incident	0 = No injury; 1 = Injury Culled into if any officer was injured in the incident when multiple officers
Officer (injury) treatment	The type of treatment for officers who were injured, where applicable	0 = Treatment not needed; 1 = Treated/released; 2 = Hospitalized

⁹ Individuals who had force used against them by more than one officer will have officer-level information incorporated at the incident level (e.g., age of first officer, age of second officer, etc.)

Contact Data

According to the APD Directives Manual, the Contact Data Collection policy¹⁰ defines a "contact" as:

An in-person interaction with an individual, whether or not the person is in a motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law.

The APD initiated the collection of contact data in July 2022. Fridell (2004) argued that it is wise to delay data analyses until officers have become accustomed to the data collection process and the initial data collected have been assessed to identify and resolve any potential issues with the reliability and validity of the data. To allow the APD sufficient time for this, the NPI team recommends the first six months of data collected from July 2022 to December 2022 be treated as a pilot test and substantive analyses not begin until a full calendar year of data is available from 2023. Although no examination of these data will be provided in the Baseline Report for Reporting Period 6, it may be examined by the research team in the future. Therefore, a description of the contact data is provided similarly to the other data sources. A tentative coding plan is not provided since these data will not be analyzed in the Baseline Report.

As shown in Table 4, APD officers collect the following information for all enforcement or investigation-related contacts: 1) contact details (e.g., date/time, location, location type, whether the contact was the result of a special operation, pre-stop indicators for contact, reasons for the contact, the duration of contact, and type of contact (i.e., vehicle or pedestrian stop); 2) driver (e.g., gender, age, race/ethnicity, perceived impairment, behavior); 3) outcome of the contact (e.g., citation, warning, arrest, mental health transport, search, property seized during the search; and 4) officer identifying information – officer name and employee number.

¹⁰ DM 8.50 Contact Data Collection <https://public.powerdms.com/AURORAPD/tree/documents/2725810>

Table 4. Available Measures in APD Contact Data

Variable Name	Description
Event Information	
Incident/Case/Ticket Number	Unique identifier for incident, case, or ticket; Only include whichever number encompasses the totality of the incident
Contact Result of Special Operation	Indicate whether the contact occurred as a result of a special operation (targeted patrol, traffic ops, op-johns, etc.), Yes/No
Date	Date of Incident; MM/DD/YYYY
Time	Time of Incident; 24-hour format
Initiation	Whether the source of the call/initiation of contact was: Officer Pro-Active: self-initiated contacts Dispatch: Radio calls for service Citizen Call for Service (Flagged Down)
Location Type	Type of location where contact occurred: Road/Parking/Camps Construction/Industrial/Farm Residence/home Jail Commercial Abandoned/Condemned Educational facility Structure Other govt / Public building Courthouse Police station Other/Unknown
Location Address Type	1) Specific numbered street address, 2) Intersection, 3) Highway and mile marker, or 4) Other
Duration of Contact	Length of interaction in minutes
For Traffic Stops Only	Select one: Driver or Passenger
Number of Passengers	Enter number of passengers
Vehicle Registration (In-State)	Yes/No
Vehicle Condition	Good, Fair, or Poor
Officer Information	
Name	Name of Officer, starting with Last Name
Officer P.O.S.T. ID	When Name is selected, POST ID auto-populates.
Were you directly involved in the use of force ¹¹ during this incident?	Yes/No Officers must select "Yes," when an arrest is made, a weapon is brandished, a subject is detained in handcuffs and released, or if force is used (APD Tier 0-3).
Subject Information 1 (If Additional Subjects, Information can be Added at the end of the Report)	
Perceived Gender	Male, Female, or Nonbinary
Perceived Race	White, Black, Multi-racial, Asian, Native American, Native Hawaiian/Other Pacific Islander, Other
Perceived Ethnicity	Hispanic or Non-Hispanic

¹¹ A series of use of force questions are also included in the contact data collection report but are not included in Table 4 as it is unknown whether this information will be analyzed or whether future analyses will rely only on the official use of force reports. The provided data fields do, however, appear to be more comprehensive than what is available in the historical use of force data, but is unknown how it will compare to the new Benchmark Analytics use of force reporting that is under development. Some examples of available contact data collection fields that are *not available* in the data from 2017-2022 use of force reports include: whether a weapon was unholstered or brandished, the type of force used by the subject against the officer, and whether the subject had a weapon.

Variable Name	Description
Age	Individual's age or estimated age in years
Perceived Impairment	Select all that apply or "none": Alcohol, Drugs, Behavioral/Mental Health, Intellectual or Developmental Disability
Language Barrier	Yes/No
Behavior	Compliant, Non-Compliant, Verbally Resistant, Physically Resistant (one selection only)
Reason for / Result of Contact	
Pre-Contact Indicators	The initial indicators of the contact, why the contact was conducted, and the initial suspected crime.
Reason for Contact	Select one: Traffic Stop, Routine patrol other than traffic stop, Response to unlawful activity, Response to suspicious activity, Follow-up investigation, Warrant service (including warrant arrest), Court order, Call for service, Other
Suspected Crime	Select all that apply
Result of Contact	Select all that apply: No action taken, Verbal or Written warning, Citation, Custodial or non-custodial arrest (summons), Property Seizure
Offenses Charged	Select all that apply.
Terry Pat Down/Frisk Information	
Terry Pat Down or Frisk conducted	Yes/No
If yes, did you reasonably believe the suspect had a weapon?	Yes/No
Terry Pat Down/Frisk resulted in a search or seizure	Yes/No
Search and Seizure Information	
Search Initiated	Yes/No
Search Type Conducted	Person, Vehicle, or Property
Unannounced Entry?	Yes/No
Person Search Information	
Basis/Reason for Person Search	Inventory, Search Warrant Exception, Consent, Search Warrant
Ask Consent to Search?	Yes/No
Property/Evidence Found?	Yes/No
Seized Property Type	Select all that apply: Drugs, Firearm Weapons, Non-Firearm Weapons, Clothing/Footwear, Phones/Computers/Electronics, Documents, Currency, Vehicle/Vehicle Parts, Other
Basis for Property Seized	Evidence, Safekeeping, or Contraband

APD Personnel Data

APD personnel data, including officer characteristics of interest, are important for various analyses. Drawing upon information about the officers from APD personnel data (e.g., race/ethnicity, age, gender, years of service, assignment, training, etc.) allows the research team to examine whether officers' characteristics significantly predict different outcomes. This information is linked to the different data sources examined by badge or employee number. Table 5 describes each of the measures in the APD personnel data. A planned operationalization of each measure is provided in the Coding for Analysis column.

Table 5. Available Measures in APD Personnel Data

Variable Name	Description	Coding for Analysis
Badge Number	The APD assigned badge number of each officer at APD	Three to four characters in length, which corresponds with the start date year and unique value for each officer
DOB/Age	Officer date of birth (month, day, year)	Recoded into <i>Age</i> (at incident, in years)
Employee Number	The APD assigned officer employee identifier (7 numbers long)	<i>Employee ID</i> is unique for each officer and can be linked without using the officer's name
Ethnic Code - Officer Race/Ethnicity	Unique number/letter combination that houses information on the officers' demographics (race/ethnicity combined)	<i>Race/ethnicity</i> is recoded as: 1 = White, 2 = Black, 3 = Hispanic, 4 = Asian, 5 = Native Hawaiian or Pacific Islander, 6 = American Indian or Alaskan Native, 7 = Two or More Races
Gender	Gender of officer	<i>Male</i> is coded as 0 = Female, 1 = Male
Job Title / Patrol Officer	Officer assignment	<i>Patrol</i> is coded as 0 = all other APD sworn personnel (Lieutenants, Chiefs, Sergeants), 1 = Patrol Officer
Officer Hire Date/Years of Service		<i>Years of Service</i> is coded as a numeric value, calculated as the time from hire date to time of event (in years)
Officer Assignment	Descriptive summary of officer assignment in organizational chart	<i>Investigations</i> is coded as 0 = non-investigators, 1 = Investigations Bureau; <i>Patrol</i> is coded as 0 = non-patrol, and 1 = any patrol regardless of district

Environmental Data

An address field maps to a specific geographic point in Aurora for APD arrest, use of force, and contact data sources. If possible, to analyze geographic context, the NPI team will also aggregate and count the events that occur in designated geographic areas (i.e., police districts, police area beats, and neighborhoods). Upon aggregating, the research team intends to obtain demographic, economic, and social information via census block groups from the 2020 U.S. Census data (which will include population, race and ethnicity, socioeconomic factors, and crime rate). The purpose of these data sources is to statistically model whether there are area-level correlates of police activity using hierarchical regression analyses (a special type of multivariate modeling for data reflecting more than one level of aggregation described in the next section). Table 6 summarizes the possible contextual levels available in this research study.

Table 6. Available Measures in GIS Data

Variable Name	Description	Coding for Analysis
Police Districts	Three polygons for the 3 police districts in Aurora	Patrol districts 1, 2, and 3.
Neighborhoods	117 polygons	53 distinct neighborhood boundaries (including, for example, North Aurora, Peterson, Tower Triangle, etc.) with different components for each
Police Area Beats	28 polygons	27 sectors housed within the 3 police districts (plus an overall exterior map to Aurora)
Zip Codes	28 polygons	Unique neighborhood (27 total) zip code identifiers
Police Station Locations	7 point-map files	Seven police station locations can be placed on any map for analysis

Data Quality

The NPI research team will assess the data quality and identify any data cleaning and coding needs before conducting comprehensive analyses. This initial data analysis phase is focused on understanding how datasets link together and the reliability and validity of the data collected. Unfortunately, preliminary data quality analyses could not be conducted for the data provided to the NPI team due to the delay in receiving data before this report's deadline. This information will be provided in an appendix to the Baseline Report in Reporting Period 6.

III. ANALYSIS PLAN FOR FUTURE REPORTS

There are three primary components of the analysis plan for examining arrests and use of force that will be documented in the Baseline Report for Reporting Period 6:

- 1) Benchmark comparisons
- 2) Multivariate analyses
- 3) Time series analyses

In addition, descriptive and bivariate analyses will initially be conducted. While these analyses cannot offer conclusive evidence to answer the research questions, they provide a critical basis for data understanding and offer an initial assessment of potential correlations between the predictor and outcome variables before primary analytical techniques are employed. As detailed below, several complex issues involving statistical analyses and interpretation of the findings must be addressed for this study.

Whenever possible, analyses in reports produced by the NPI team will be conducted to illustrate similarities and differences across organizational units.¹² Presenting information in this manner assists APD administrators in identifying units that may appear as outliers, providing opportunities for closer examination of possible explanations for variations unavailable in aggregate data, and refocused training and updates to department policies when warranted.

Use of Force Benchmark Comparisons

Interpreting rates of police use of force depends on having a valid comparison group, which should represent similarly situated people at risk of experiencing force, assuming no bias exists (Engel & Calnon, 2004; PERF, 2021; Tillyer et al., 2010). Although commonly used for comparison, using Census-derived population percentages for benchmarking purposes is not scientifically valid (Alpert et al., 2004; Fridell, 2004; Smith et al., 2019). Census data do not measure the types of characteristics shown by research to put individuals at risk of experiencing force, including several legally relevant behaviors like subject resistance, presence of a weapon, and criminal behavior (Engel et al., 2000; Garner et al., 2002; Morgan et al., 2020).

¹² The APD is organized into three districts within the Patrol Division and has multiple specialized units within the Special Operations Division. These include but are not limited to Gang Intervention Unit, Gang & Robbery Investigations Team, Narcotics Unit, DART, SWAT, and Crisis Response Team. An examination of specialized units is critical to understanding racial/ethnic disparities in enforcement outcomes because the activities of these specialized units and the persons with whom they have contact are often different than those of typical patrol officers.

Alternative comparisons that more accurately measure similarly situated people have strengths and weaknesses, including those based on calls for service, arrests, and use of higher-level force versus lower-level force (PERF, 2021). Exploring comparison data that more closely approximates those *at risk* of experiencing use of force provides an opportunity to understand better the differences in situations that lead (or do not lead) to use of force. Previous research shows that benchmark comparisons based on population statistics nearly always show racial/ethnic disparities in the use of force. In contrast, benchmarks based on traffic stops, street stops, arrests, or reported crime suspects show reduced or eliminated racial/ethnic disparities (Brown et al., 2022; Cesario et al., 2018; Fryer, 2019; Geller et al., 2020).

The research team proposes using non-Census derived benchmarks to compare the percentage of racial and ethnic groups against whom APD used force with the percentage of racial and ethnic groups among the following comparison data sources: 1) crime suspects as reported to the police (can use all or restrict to Part I, Part I violent), and (2) arrestees (can use all or restrict to Part I, Part I violent). The comparison between these groups will produce a series of disparity ratios, which are a useful and easily interpretable technique for comparing groups of persons against whom force was used to groups *at risk* for force relative to the non-Hispanic White population (Smith et al., 2019). The calculation of the disparity ratio is a two-step process.

First, the percentage of each racial group's representation in the population of use of force is compared to the same group's representation in the comparison benchmark. This is called a disproportionality index and it measures within-group differences. It is calculated the same way across all racial groups but involves dividing the percentage of White individuals (for example) who had force used against them by the percentage of White individuals in the benchmark. The result of this calculation can be interpreted as a value greater than one indicates that the group experienced more often than would be expected based on their representation in the benchmark, while a value less than one indicates they experienced force less often than would be expected based on the same benchmark.

Once the disproportionality indices have been created for each racial/ethnic group, the disparity ratio can be calculated. This measures the between-group differences in the likelihood of experiencing force between individuals in the majority group and those in the minority group. The disparity ratio is calculated by dividing the disproportionality index of the minority group by the disproportionality index of the majority group. A disparity ratio greater than one suggests that Black or Hispanic individuals were more likely than their White counterparts to have force used against them based on the benchmark used, whereas a disparity ratio less than one indicates the opposite.

If there is a sufficient volume of incidents, these analyses may be conducted at lower organizational unit levels.¹³ Specifically, there are 27 sub-area zones (1-27) across the City of Aurora. In the aggregation analyses (events per area), the NPI team will examine whether there is adequate statistical power at each aggregation level (i.e., districts versus subareas within districts, with the intent to examine the events at the subarea level). The research team will conduct power analyses to determine the appropriate level of aggregation by event type.

Multivariate Statistical Modeling

Several types of analyses will be conducted for the dependent variables of interest—use of force, and community member and officer injuries. Descriptive and bivariate analyses will initially be conducted; while these analyses cannot offer conclusive evidence to answer the research questions, they provide a critical basis for data understanding and offer an initial assessment of potential correlations between the independent and dependent variables.

The primary analytical tool used to examine stop outcomes, use of force, and injuries will be multivariate statistical analyses, particularly logistic regression (Long, 1997). Logistic regressions are the preferred multivariate analytical approach when predicting discrete outcomes, such as use of force among arrests (as events that happen or do not happen within arrests) or injuries within uses of force. These types of analyses allow for observing the effects of each independent variable (Hanushek & Jackson, 1977) by identifying the impact of a single variable on a dependent variable (i.e., an event that occurred or did not occur) while considering the effect of all other variables simultaneously.¹⁴ This allows for examining whether race or ethnicity is related to enforcement decisions once other relevant individual, legal, situational, and environmental factors are considered.

Independent variables for analyses examining the use of force within arrests and injuries within the use of force may include 1) subject demographic characteristics,

¹³ For example, calls for service and arrests can be aggregated to the lower levels of analysis (subareas within districts since there is likely to be an adequate sample size per area). However, for less-frequent events such as use of force by area, it is often difficult to aggregate to smaller units of analysis (e.g., the 27 subareas in Aurora) given that many areas will have zero to one event at most over a multi-year period.

¹⁴ Importantly, the stop, arrest, and use of force data include variables that cross units of analysis (i.e., nested data) and may require the use of multilevel modeling. For example, the primary unit of analysis will be the incident (i.e., a stop or arrest), but potential predictors exist at the incident (Level 1), officer (Level 2), and environmental (Level 3) levels. That is, incidents are nested within officers, which are nested within environmental units. Multilevel modeling is appropriate for data collected across different units of aggregation and produces unbiased estimates at each of the analysis levels (Raudenbush & Bryk, 2002). As a result, the direct effects of covariates and cross-level interactions (if appropriate) are available, and standard errors are unbiased thereby ensuring proper significance testing (Guo & Zhao, 2000; Raudenbush & Bryk, 2002).

2) situational and legal characteristics (e.g., incident day, time, and location; outstanding warrant; type of criminal charges, etc.), 3) officer demographic characteristics, experience, assignment, etc., and 4) environmental characteristics related to the location of the stop (e.g., violent crime rate, racial composition of the neighborhood or police district, neighborhood-level socioeconomic factors, etc.) Unfortunately, community member level of resistance, long-established to be the strongest predictor of police use of force (Garner et al., 2002; Jennings et al., 2020), was not captured in either arrest or use of force data for the study period.

Among single- and multilevel logistic regressions, the estimated effects of the independent variables are often expressed in odds ratios (i.e., exponentiated coefficients given the logarithmic distribution used in logistic models), which serve as a relative rate of change estimator. Point estimates (the average estimated rate of change in the dependent variable associated with a change in the independent variable), odds ratios (relative strength of association estimates), and significance values (p-values of 95% confidence intervals, which are the standard of scientific rigor required in most social sciences) will be provided for all regression models. To summarize, the regression outputs show which variables significantly (beyond chance) covary (e.g., gender and injury likelihood), net of the other independent variables; the odds ratios estimate the variables' relative strength on a standardized scale.

These analyses also move beyond odds ratios among variables that are statistically significant predictors of an outcome by providing a more precise estimation method that demonstrates the *impact* of the independent variables in a regression model on an outcome of interest. A predicted probability is simply the probability of an event (e.g., the likelihood that an individual involved in police use of force is injured during that encounter). Predicted probabilities are important to examine since they are interpreted as, "all else being equal, the likelihood that *x* is associated with *y*" (e.g., race is associated with injury) is demonstrated by a given predicted probability. In short, these estimation methods not only show what mathematically correlates with an outcome of interest, but show, net of all else controlled for in the models, the precise chances of an event (e.g., injury in a use of force event happening) occurring.

It is important to note that for all regression models, the estimated correlations between the measures of interest are only for the variables in the models that are a) measured and b) included in the regressions. Unmeasured and/or unincluded measures of importance are the basis of a problem known as omitted variable bias, or a model misspecification (where known correlates are excluded from analyses). This is important because there is not a single data form that can be collected reliably to quantify all the relevant information regarding officer decision-making. The NPI team takes great care when interpreting these analyses to note what the models mean, and what they do not mean (based on omitted variables, where they exist). As

noted previously, the APD arrest data do not include several potential explanatory factors of use of force, including systematic measures of resistance, impairment, and the presence of a weapon.

Police Enforcement Actions – Time Series Trend Analyses

Interrupted time series analyses are considered one of the strongest quasi-experimental designs (see Hudson et al., 2019) to determine whether the timing of a relevant intervention (e.g., police training or policy change) or dates of interest (e.g., an arrest or use of force incident of public interest) corresponds with a significant shift in count outcomes, such as arrests or use of force counts. Examining data in a monthly¹⁵ time series format with a sufficiently long pre-intervention period (i.e., at least two years of monthly data) allows researchers to pinpoint the extent to which shifts in stable event outcomes match a time-relevant intervention period of inquiry. Time series analyses also require a sufficiently long post-period, which ranges from a minimum of 7 to 12 months.¹⁶

Where count data (i.e., arrests, use of force, offenses, etc.) are available and a sufficiently long pre-break time series can be modeled with fidelity, it is possible to estimate the potential change in the time series corresponding with the dates of interest (i.e., policy changes or seminal events). Where seminal events or policy changes occur early in a time series (i.e., in the first 20% of the distribution), it becomes challenging to model the estimated outcome changes. Thus, data availability prior to important events are critical to time series analyses.

Examining the potential for changes to the use of force, total arrests, or specific arrests (e.g., resisting arrest charges), there were many incidents of public interest in recent years that could have potentially impacted (or shifted) the trends in use of force and arrests in the City of Aurora (e.g., Elijah McClain's death in August 2019, the impact of the COVID-19 pandemic lockdowns in April 2020, the May 2020 George Floyd killing at the hands of police in Minneapolis).

In addition, potential changes in policies and training in Aurora could have shifted possible racial/ethnic disparities. Examining patterns and trends over time using interrupted time series analyses allows the research team to identify any specific

¹⁵ Traditionally, monthly event counts are preferred over weekly event counts because the data are more stable and consistent across multiple years of observations.

¹⁶ CrimeSolutions.gov is a warehouse for the National Institute of Justice's evidence-based strategies and programs, which experts review and score for their scientific merit. For these programs, any strategy that has a follow-up period of less than 7-months is gauged as a 'short term' program, while a one-year follow-up is required to be considered a long-term program. Consistent with this framework, we obtain 7 to 12 months post-period for time series assessments to be consistent with rigorous evaluations. See also Corsaro (2022).

police actions, locations, or organizational units that experience changes in group-based disparities related to specific changes in APD policy, training, or seminal events. are increasing (or decreasing) to inform training and supervisory opportunities. Comparative tests across demographics of interest (e.g., race/ethnicity) will be employed using standardized coefficient difference tests.

Analyses of Data on Police Contacts

APD's official contact data collection process began department-wide in July 2022. As noted above, the NPI research team does not recommend statistical analyses of these data until a full calendar year of data has been collected. Therefore, no examination of these data will be provided in the Baseline Report for Reporting Period 6. It may, however, be examined in the future, and therefore, the research team's approach to analyzing these data is documented. The research questions specific to enforcement-related contacts with the public will explore the following:

1. Does the rate of traffic or pedestrian stops experienced by persons of different racial or ethnic groups align with those groups' representation among persons at risk of having these interactions with the APD?
2. What factors or combination of factors predict the post-stop law enforcement actions received by community members contacted by the APD?
3. Is community member race or ethnicity related to law enforcement actions after accounting for other relevant individual, situational, and environmental factors?

Benchmark Comparisons

Analyses of police contacts with the public are limited without adequate comparison groups. This proposed study will assess the possible use of different data sources to establish valid comparisons. However, the ultimate use of these data sources will vary based on the determined reliability and validity of the data for benchmarking purposes. Using population statistics, disproportionality indices can be developed to compare stop rates of groups to their rates in the residential population. This is the singular analytic approach used by the Colorado State AG's examination of the APD (Weiser, 2021). Leading policing scholars, however, have detailed the numerous limitations of Census-derived benchmarks for many years (Alpert et al., 2004; Engel & Calnon, 2004; Smith et al., 2019). Therefore, multiple alternative benchmark comparisons attempting to measure *the driving population at risk for traffic stops* will be explored. For example, the research team will consider the feasibility and appropriateness of veil of darkness analyses (Grogger & Ridgeway, 2006) and traffic accident data (Alpert et al., 2004; Lovrich et al., 2007; Smith et al., 2017; Withrow & Williams, 2015). All reports developed for the APD utilizing various benchmark comparisons will fully disclose the strengths and limitations associated with each

type of benchmark comparison. If any of these benchmark comparisons are considered unreliable by the research team, their use will be suspended, and alternative analyses will be conducted.

A similar approach of examining multiple benchmarks for comparisons to pedestrian stop data will also be employed. Previous research exploring appropriate non-Census benchmarks for pedestrian stops in New York City, San Jose, and Seattle have utilized crime suspects, arrestees, and calls for service data as possible comparison sources (Engel et al., 2012; Fagan, 2010; Ridgeway & MacDonald, 2010; Smith et al., 2017; Smith et al., 2021). The viability of each potential benchmark will be considered, with careful acknowledgment of the strengths and weaknesses as they specifically pertain to Aurora.

Multivariate Analyses

As previously described, multivariate regression estimation is an analytical method used to gauge the degree to which two or more independent variables (predictors) correspond with a given dependent variable. Regarding traffic and pedestrian stops, the dependent variables of interest are typically warnings, citations, arrests, searches, and seizures. The independent variables for analyses of these outcomes often include 1) stop characteristics (e.g., daytime vs. nighttime), including the legal reason for the stop, 2) demographic characteristics of the individual stopped, 3) officer characteristics, and 4) environmental characteristics related to the location of the stop (such as the social and economic conditions of the neighborhood where the stop occurred). This statistical technique allows researchers to determine the independent effect of race/ethnicity on the outcomes of interest controlling for the other possible explanatory factors.

Time Series Analyses

As described for the use of force and arrest analyses, time series analyses require a sufficiently long pre-intervention period (i.e., pre-break in the series), coupled with a roughly 20% to 40% post-intervention period among these observations (see Corsaro, 2022). Given the APD's initiation of contact data collection in July 2022, time series analyses will not be a viable analytic technique for at least two to three years (24 to 36 months) in Aurora.¹⁷

¹⁷ The stability of the time series is related to the amount of time necessary to model a stationary time series. Like sample size needs (i.e., with lower variability, smaller sample sizes are sufficient, though with higher variability, a larger sample is necessary), time series power analyses are determined by how stable and consistent a pre-intervention series is, though we note that a 24-36 month pre-intervention series is almost always sufficient.

IV. Conclusion

This technical report describes the data and statistical techniques that will serve as a resource for interpreting the Baseline Report to be delivered by the NPI team in September 2023. This initial report contains preliminary assessments of the APD's various data sources and an overview of the outcomes that will be evaluated in the Baseline Report. The latter will examine arrests and use of force from 2017 to 2022 using various data sources and statistical techniques described in this technical report.

Although the forthcoming Baseline Report will identify patterns and trends in enforcement outcomes, including whether racial/ethnic disparities exist, all stakeholders need to understand that even the most comprehensive data collection and rigorous statistical analyses cannot determine whether APD officers have individually or collectively made enforcement decisions based on racial bias, nor can it be used to assess the legality of prior or future police encounters with community members. Data collection and analyses, however, can provide police executives with the necessary information to examine potentially problematic areas more closely and identify opportunities for improvement where warranted. It also demonstrates transparency to the public and commitment toward evidence-based policing practices that can help to make police encounters with the public more equitable and safer for both.

Recommendations

Based on the research team's initial assessments of the data provided by APD, the following data-related recommendations are provided for consideration by the independent monitor and the APD. The Baseline Report recommendations will be tailored to opportunities to improve policy, training, and supervision.

Recommendation 1: Consider whether the pointing of a firearm should be a reportable use of force rather than a display of force.

Since January 1, 2016, the APD has classified the pointing of a firearm as a Tier Zero type of force; this level of force is described by department policy as a "display of force."¹⁸ All levels of force have associated reporting requirements, each with detailed instructions on recording the event, and the required phases of supervisory review. Tier Zero uses of force only require CAD entries and no further reporting (e.g., no AIM reporting). A supervisor must verify that relevant information is entered in CAD, and there must be an explanation provided as to why the Tier Zero use of force occurred. This level of scrutiny is much lower than that necessitated for even a

¹⁸ DM 05.05 Reporting and Investigating the Use of Tools, Weapons, and Physical Force
<https://public.powerdms.com/AURORAPD/tree/documents/107>

Tier One use of force event, which requires a General Offense Report, a Use of Force Report, and an investigation conducted by a supervisor.

The APD is already in the process of revising (and renumbering) use of force-related policies. As part of these updates, APD should revise Directive 05.04 *Reporting and Investigating the Use of Tools, Weapons, and Physical Force* to elevate the pointing of a firearm (not the firearm at "low ready") from Tier Zero to Tier 1 to ensure sufficiently detailed reporting and evaluation by supervisors/commanders that these actions were in line with department policy and to reduce the risk of accidental or unjustified shootings.

Recent research shows that police agencies with policies that require documentation of a pointing of a firearm have significantly lower rates of officer-involved shootings; additionally, they find that this type of policy was not associated with increased injury or death rates among officers (Jennings & Rubado, 2017; Shjarback, White, & Bishopp, 2021). In addition, the Police Executive Research Forum's 30 Guiding Principles on Use of Force recommends that police agencies document the pointing of firearms or Tasers at individuals (PERF, 2016).

Recommendation 2: We recommend that officer demographic data include distinct race and ethnicity fields.

Currently, Hispanic officers at APD are categorized as Hispanic in both race and ethnicity (rather than White Hispanics and Black Hispanics, which is distinguished in Aurora arrest and use of force data). To be consistent, we recommend APD focus on collecting more precise measures of race and ethnicity for its officers.

Recommendation 3: We recommend that APD institute regular audits of the contact data.

The APD contact data collection protocol initiated in July 2022 is comprehensive and will allow the department to examine several important correlates of officer behavior during enforcement actions. However, a regular auditing process should ensure that future analyses are based on reliable and valid data. This process should assess the degree to which contact data collection is completed for all required incidents, check for duplicate entries, and evaluate whether collected data are complete and accurate (Fridell, 2004). Although electronic data collection can mitigate many errors associated with missing data and logical inconsistencies in the data, several threats to data integrity can remain (Pryor et al., 2020).¹⁹

¹⁹ The COPS Office best practices guidebook *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities* (Pryor et al., 2020) provides valuable insight into how law enforcement agencies can develop internal data auditing procedures and mitigate the impact of systematic errors.

V. REFERENCES

- Alpert, G. P., Smith, M. R., & Dunham, R.G. (2004). Toward a better benchmark: Assessing the utility of not-at-fault traffic crash data in racial profiling research. *Justice Research and Policy*, 6, 43–69.
- Brown, Rick, Engel, Robin S., Cherkauskas, Jennifer, Corsaro, Nicholas, & Kurtz, Jon D. (2022). *Assessment of Colorado Springs Police Department Use of Force*. Report submitted to the Colorado Springs Police Department, Office of the Chief. https://coloradosprings.gov/sites/default/files/inline-images/cspd_use_of_force_final_transparency_matters_report_april_2022.pdf
- Cesario, J., Johnson, D. J., & Terrill, W. (2018). Is There Evidence of Racial Disparity in Police Use of Deadly Force? Analyses of Officer-Involved Fatal Shootings in 2015–2016. *Social psychological and personality science*, 10(5), 194855061877510.
- Consent Decree & Judgment, (November 16, 2021). State of Colorado, ex rel. Philip J. Weiser, Attorney General v. City of Aurora, Colorado (Arapahoe County District Court, Colorado).
- Corsaro, N. (2022). Interrupted Time Series Analysis in Criminal Justice: Analytical Factors to Consider. Justice Research and Statistics Association. <https://justiceresearch.dspacedirect.org/server/api/core/bitstreams/23302942-8e1d-4e92-8372-020b9a6c1f86/content>
- Engel, R., & Calnon, J. (2004). Comparing Benchmark Methodologies for Police-Citizen Contacts: Traffic Stop Data Collection for the Pennsylvania State Police. *Police Quarterly*, 7(1), 97–125.
- Engel, R. S., Smith, M. R., & Cullen, F. T. (2012). Race, place, and drug enforcement: Reconsidering the impact of citizen complaints and crime rates on drug arrests. *Criminology & Public Policy*, 11(4).
- Engel, R. S., Sobol, J. J., & Worden, R. E. (2000). Further exploration of the demeanor hypothesis: The interaction effects of suspects' characteristics and demeanor on police behavior. *Justice Quarterly*, 17(2), 235–258.
- Fagan, J. (2010). *Report of Jeffrey Fagan, Ph. D. Floyd v. New York, No. 08 Civ. 1034*. U.S. District Court Southern District of New York.
- Fridell, L. A. (2004). *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*. Washington, DC: Police Executive Research Forum.

- Fryer Jr, R. G. (2019). An empirical analysis of racial differences in police use of force. *Journal of Political Economy*, 127(3), 1210-1261.
- Garner, J. H., Maxwell, C. D., & Heraux, C. G. (2002). Characteristics associated with the prevalence and severity of force used by the police. *Justice Quarterly*, 19(4), 705–746.
- Gau, J. M., Mosher, C. & Pratt, T. C. (2010). An inquiry into the impact of suspect race on police use of TASERs. *Police Quarterly*, 13(1), 27–48.
- Geller, A., Goff, P. A., Lloyd, T., Haviland, A., Obermark, D., & Glaser, J. (2020). Measuring racial disparities in police use of force: methods matter. *Journal of quantitative criminology*.
- Grogger, J., & Ridgeway, G. (2006). Testing for racial profiling in traffic stops from behind a veil of darkness. *Journal of the American Statistical Association*, 101(475), 878–887.
- Guo, G., & Zhao, H. (2000). Multilevel modeling for binary data. *Annual review of sociology*, 26(1), 441–462.
- Hanushek, E. A., & Jackson, J. E. (1977). *Statistical methods for social scientists*. Orlando, FL: Academic Press.
- Hudson, J., Fielding, S., & Ramsay, C. R. (2019). Methodology & reporting characteristics of studies using interrupted time series design in healthcare. *BMC Medical Research Methodology*, 19(1), 137.
- Jennings, J. T., & Rubado, M. E. (2017). Preventing the use of deadly force: The relationship between police agency policies and rates of officer-involved gun deaths. *Public Administration Review*, 77(2), 217-226.
- Jennings, W. G., Hollis, M. E., & Fernandez, A. J. (2020). Deadly Force and Deadly Outcome: Examining the Officer, Suspect, and Situational Characteristics of Officer-Involved Shootings. *Deviant behavior*, 41(8), 969–976.
- Long J. S. (1997). Regression models for categorical and limited dependent variables. *Sage Advanced Quantitative Techniques in the Social Sciences Series*. Vol. 7. Thousand Oaks, CA: Sage.
- Lovrich, N. P., Gaffney, M. J., Mosher, C. C., & Pratt, T. C. (2007). *Results of the monitoring of WSP traffic stops for biased policing*. Washington State University.
- Morgan, M. A., Logan, M. W., & Olma, T. M. (2020). Police use of force and suspect behavior: An inmate perspective. *Journal of criminal justice*, 67, 101673.

- Police Executive Research Forum. (2021). *What Police Chiefs and Sheriffs Need to Know About Collecting and Analyzing Use-of-Force Data*.
- Police Executive Research Forum. (2016). Guiding principles on use of force. *Critical Issues in Policing Series*, 1-136.
- Pryor, M., Goff, P., Heydari, F., & Friedman, B. (2020). *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities*. Center for Policing Equity: West Hollywood, CA, and Policing Project at New York University School of Law: New York, NY.
- Raudenbush, S. W., & Bryk, A. S. (2002). *Hierarchical linear models: Applications and data analysis methods*. Sage.
- Ridgeway, G., & MacDonald, J. (2010). Methods for assessing racially biased policing. In S. K. Rice & M. D. White (eds.), *Race, ethnicity, and policing: new and essential readings* (pp. 180–204).
- Rossler, M. T., & Terrill, W. (2017). Mental illness, police use of force, and citizen injury. *Police Quarterly*, 20(2), 189–212.
- Shjarback, J. A., White, M. D., & Bishopp, S. A. (2021). Can police shootings be reduced by requiring officers to document when they point firearms at citizens? *Injury prevention*, 27(6), 508-513.
- Smith, J. M., Tillyer, R., Engel, R. S., & Cherkauskas, J. C. (2019). *A Multi-Method Investigation of Officer Decision-Making and Force Used or Avoided in Arrest Situations: Tulsa, Oklahoma Police Department Administrative Data Analysis Report*. Cincinnati, OH: IACP/UC Center for Police Research and Policy.
- Smith, M. R., Rojek, J., Tillyer, R., & Lloyd, C. (2017). *San Jose police department traffic and pedestrian stop study*. Retrieved from City of San Jose, CA website: http://www.sjpd.org/Records/UTEP-SJPD_Traffic-Pedestrian_Stop_Study_2017.pdf
- Smith, M. R., Tillyer, R., Smith, M., & Lloyd, C. D. (2021). Assessing police stops of pedestrians: toward a new generation of benchmarks. *Urban Affairs Review*, 107808742110169.
- Stroshine, M. S., & Brandl, S. G. (2019). The use, effectiveness, and hazards associated with police use of force: The unique case of weaponless physical force. *Police Practice and Research*, 1-18.
- Terrill, W., & Mastrofski, S. D. (2002). Situational and officer-based determinants of police coercion. *Justice Quarterly*, 19(2), 215-248.

Tillyer, R., Engel, R. S., & Calnon Cherkaskas, J. (2010). Best practices in vehicle stop data collection and analysis. *Policing*, 33(1), 69.

Weiser, P. (2021). *Investigation of the Aurora Police Department and Aurora Fire Rescue*. Denver: Colorado Office of the Attorney General.

Withrow, B. L., & Williams, H. (2015). Proposing a benchmark based on vehicle collision data in racial profiling research. *Criminal Justice Review*, 40(4), 449–469.