

Department of Justice reports Albuquerque police engaged in “excessive force”

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In the wake of the video-recorded fatal shooting of a homeless man on March 16 in Albuquerque, New Mexico, and days later the slaying of another man outside an apartment complex, the US Justice Department has issued a report accusing the Albuquerque Police Department (APD) of engaging “in a pattern or practice of excessive force that violates the Constitution and federal law.”

Since 2010, there have been 23 lethal police shootings in Albuquerque, which has a population of about a half million. The March 16 shooting of James Boyd, a mentally-ill homeless man “illegally camping” in the foothills to the east of the city—and who posed no threat to the officers—was captured on a helmet cam worn by one of the shooting officers. The video quickly went viral and sparked protests by hundreds of people in the city, which were dispersed with tear gas by riot police.

The release of the report shortly after the Boyd murder was somewhat fortuitous as the DOJ investigation had been launched in November 2012, almost a year-and-a-half ago.

Conducted jointly by the DOJ’s Civil Rights Division and the U.S. Attorney’s Office for the District of New Mexico, the report is based on data and interviews with APD officers, supervisors and command staff, city officials, as well as hundreds of community members. The full report, with additional links, can be read online [here](#).

On April 10, the DOJ sent a letter to Albuquerque mayor Richard Berry with a summary, stating, “Based on our investigation, we have reasonable cause to believe that APD engages in a pattern or practice of use of excessive force, including deadly force, in violation of the Fourth Amendment [the constitutional provision barring “unreasonable searches and seizures”] ... We have determined that structural and systemic deficiencies—including insufficient oversight, inadequate training, and ineffective policies—contribute to the use of unreasonable force.”

In the first section, “Summary of Findings,” the report notes that “of the 20 officer-involved shootings resulting in fatalities from 2009 to 2012, we concluded that a majority of

these shootings were unconstitutional.” It points out that APD officers “often use deadly force in circumstances where there is no imminent threat of death or serious bodily harm to officers or others.” These included individuals “who posed a threat only to themselves or who were unarmed.” Moreover, in many of these fatal instances, “the conduct of the officers heightened the danger and contributed to the need to use force.”

A review of over 200 randomly-sampled instances of “less lethal force” revealed the frequent misuse of painful and potentially lethal tasers “on people who are passively resisting, observably non-threatening but unable to comply with orders due to their mental state, or posed only a minimal threat to the officers.” APD officers used tasers in dangerous situations, in one case, on a man who had poured gasoline on himself. The electricity ignited the gasoline, setting him on fire.

The summary emphasizes that a “significant amount of the force we reviewed was used against persons with mental illness and in crisis.” The summary called APD’s policies, training, and supervision “insufficient to ensure that officers encountering people with mental illness or in distress do so in a manner that respects their rights and is safe for all involved.”

The summary concludes that there is nothing “isolated or sporadic” about the APD’s use of excessive force, but rather that it “stems from systemic deficiencies in oversight, training, and policy,” primarily “failure to implement an objective and rigorous internal accountability system. Force incidents are not properly investigated, documented, or addressed with corrective measures.”

The DOJ found only a few instances where supervisors scrutinized officers’ use of force and sought additional investigation. “In nearly all cases, supervisors endorsed officers’ version of events, even when officers’ accounts were incomplete, were inconsistent with other evidence, or were based on canned or repetitive language.”

It bears recalling that APD chief Gorden Eden Jr. justified the killing of James Boyd the day after the incident, claiming

that the video showed Boyd's behavior constituted a direct threat to the officers. After the video became public and proved just the opposite, Mayor Berry was forced to engage in damage control, calling Eden's clearing of the officers "premature."

Other criticisms in the report include the APD's failure to implement its force policies consistently, including requirements to document their use of force, whether by lapel cameras, audio tapes, or in reports; the lack of other internal review systems, such as internal affairs and the early intervention system; inadequate training (even remarking that officers' training "is designed to result in the unreasonable use of deadly force"); and serious limitations in the City's external oversight processes.

One section, "Findings," describes some of the killings committed by APD officers:

- In February 2009, Andrew Lopez was driving a car with a dim headlight and no taillights. After a low-speed chase by APD officers, Lopez stopped the car and ran. Five officers chased him, and one shot at him four times—hitting him once—after ordering him to drop a handgun, which later investigations proved he did not have. As he lay motionless on his back, another officer shot him point-blank in the chest, killing him.

- In October 2009, an officer shot and killed Dominic Smith, who was unarmed and fleeing the scene of a robbery on foot. The officer claimed that at one point Smith reached toward his waist. Neither the officer nor any witnesses saw a weapon on Smith.

- In January 2010, an officer shot and killed Kenneth Ellis, III, a 25-year-old veteran who was suffering from post-traumatic stress disorder. Officers suspected Ellis of vehicle theft and pulled him over in a parking lot. Ellis exited the vehicle holding a gun pointed to his head. Ellis continued to hold the gun to his head as he made several phone calls and the officers attempted to negotiate with him. After several minutes, an officer shot Ellis one time in the neck and killed him.

Other findings showed excessive use of "nonlethal" weapons, including tasers, beanbags, flash-bangs, batons, boots and police dogs. Often the victims were mentally ill, of diminished mental capacity or under the influence of alcohol. One 25-year-old man was tasered, kicked and beaten for not following orders. It was revealed later that he had the mental development of a 5-year-old.

One 75-year-old man, who refused to leave a bus station, was shocked in the abdomen with a taser when he reached for his cane, without which he could not walk. "The sergeant on the scene found the Taser use reasonable, as did other supervisors. One supervisor praised the officers' conduct as 'exceptional.' A higher-level commander called for an

investigation of the incident, however there is no indication that one was completed," says the report.

The report places the blame for the escalating violence by APD officers on a host of "systemic" causes: lack of adequate training; underuse of crisis intervention teams; ineffective use of tactical deployments (i.e., SWAT); an aggressive organizational culture; lack of accountability; limited external oversight; inadequate community policing among them. Its list of over 40 "Remedial Measures" attempts to address these presumed causes of the spike in police violence.

Another recommendation of the DOJ report is that a federal monitor be appointed. Albuquerque would join cities such as Detroit, Los Angeles, New Orleans and Seattle that have also been subjected to federal oversight.

While the US Department of Justice professes concern for the constitutionality of police actions, its head, Attorney General Eric Holder, defends domestic surveillance and drone attacks.

At a more fundamental level the increase in police violence, not only in Albuquerque, but throughout the country, is bound up with the increasing impoverishment of the working class population and growing social inequality. Police violence has increasingly become the option for dealing with the impoverished and mentally ill.

As the WSWs pointed out on April 9, "Capitalist rule in America has always been carried out by violent means, but the presence of police, armed guards and the military in daily life has grown rapidly in the aftermath of the financial crash of 2008. Its growth has paralleled a further increase in already staggering levels of social inequality."

To facilitate this process police forces have been supplied and trained with military style ordinance and weaponry as well as increasing use of overhead drone technology for use by urban SWAT teams.

New Mexico has the highest poverty rate of any state, according to the US Census Bureau. As host to numerous war-related research labs and three air force bases, New Mexico exemplifies the domestic militarization that goes hand-in-glove with imperialist aggression abroad.



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