

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



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*Office of the Independent Monitor
of the Los Angeles Police Department*

REPORT FOR THE QUARTER ENDING
MARCH 31, 2008

Issued May 15, 2008

EXECUTIVE SUMMARY

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The original term of the Consent Decree expired on June 15, 2006. On May 15, 2006, Judge Gary Allen Feess ordered that the Consent Decree be extended for an additional three years, commencing on July 1, 2006.

This, the Monitor's twenty-seventh report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2008 and is the seventh report issued during the three-year extension period. As described in our Report for the Quarter Ending June 30, 2006, the City and the DOJ agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a significant number of paragraphs of the Consent Decree, and the Monitor would not actively monitor or report on the Department's compliance with these paragraphs during the three-year extension period. Rather, during the extension period, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance. Based upon this approach, the Monitor examined 23 paragraphs or subparagraphs of the Consent Decree during the current quarter. Of these, the City and the LAPD successfully complied with 11; failed to achieve compliance with seven; and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with five paragraphs.

During the current quarter, the Monitor assessed the LAPD's compliance with various Consent Decree requirements relative to its computer information system (TEAMS II); use of force incidents and investigations; search and arrest procedures; data collection efforts in connection with the enforcement of its non-discrimination policy; a training plan for Field Training Officers; training of members of the public scheduled to serve on the Board of Rights in police practices and procedures; audits by the LAPD's Audit Division; reviews and audits by the Office of the Inspector General; and the operations of the Police Commission and Inspector General.

In connection with Consent Decree requirements regarding the TEAMS II computer information system, the City and Department's TEAMS II staff completed its review of the remaining items required to be included in the TEAMS II database pursuant to paragraph 41 and concluded that the system includes the specific items required. The Monitor reviewed the TEAMS II staff's analysis and concurred with these findings. The Monitor also found the City and Department in compliance with the requirement that the protocol for using TEAMS II includes provisions and elements related to supervisory and managerial review to detect patterns that indicate at-risk behavior (paragraph 47) and requirements regarding the maintenance of specified information about officers during their employment with the LAPD and for at least three years thereafter (paragraph 49).

The Monitor found the Department in compliance with the requirement that all officers involved in a Categorical Use of Force resulting in death or the substantial possibility of death be referred to the LAPD's Behavioral Science Services for a psychological evaluation (paragraph 63). The

Department's Civil Right Integrity Division was able to verify that more than 97% of officers selected for testing were assigned to non-field assignments pending BSS consultation and notification of fitness for duty. The Department was previously in non-compliance with this requirement, as the Department was unable to verify this information when the Monitor last assessed compliance with this requirement.

In the area of search and arrest procedures, the Monitor assessed the Department's compliance with requirements that managers analyze the circumstances surrounding the presence or absence of a supervisor at the service of a search warrant (subparagraph 62b) and that supervisors' analyses be considered in their annual personnel performance evaluations (subparagraph 62c). The Monitor found that the Department continues to be in non-compliance with both provisions, as more than 10% of the executed search warrants selected for review by the Monitor contained evaluations of supervisors' presence that were not completed within the mandated time period. In addition, more than 25% of the search warrants reviewed contained analyses that did not sufficiently document the supervisors' actions. Lastly, the Commanding Officers' analyses were not documented on the respective supervisors' filed employee comment sheets for more than 25% of the search warrants reviewed.

The Monitor also assessed compliance with requirements regarding supervisory review of the service of search warrants and of the search warrant log (paragraphs 71 and 72). Based on the findings from the LAPD Audit Division's *Warrant Applications and Supporting Affidavits Audit Report* submitted in December 2007, the Monitor concluded that the Department has not yet achieved compliance with the requirements of these paragraphs.

The Monitor assessed the Department's compliance with Consent Decree requirements regarding the collection of field data each time an officer conducts a motor vehicle or pedestrian stop (paragraphs 104 and 105). The City and Department are taking steps to enhance the data collection process and provide alternatives to the current method of data collection through the modification of existing ordinary-course-of-business forms and by moving forward with Department-wide implementation of in-car cameras. The Monitor noted that these steps will, when appropriately implemented, be sufficient to satisfy the requirements of the Consent Decree but we have withheld a determination of the Department's compliance with the data collection requirements pending that implementation.

In regard to training, the Monitor determined that the Department is in compliance with requirements relative to a Field Training Officer Training Plan (paragraph 116). The Monitor also determined that the Department is complying with the Consent Decree's requirement to train members of the public scheduled to serve on the Board of Rights in police practices and procedures (paragraph 118).

The Monitor completed its review and evaluation of two audits submitted by the LAPD's Audit Division: the *Gang Unit Work Product Audit* (subparagraphs 131a, f and g), submitted in September 2007, and the *Complaint Form 1.28 Systems Audit* (subparagraph 129iii), submitted in December 2007. The Monitor found the *Complaint Form 1.28, Systems Audit* in compliance

with the Consent Decree but the *Gang Unit Work Product Audit* was not. The Monitor also completed its review of the *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131a, 131c-1, and 131e), also submitted in December 2007, but has withheld its determination of compliance pending the review of our findings with AD. The Monitor also conducted a limited review of the *Supplemental Audit of Arrest Booking and Charging Reports* (subparagraph 128(2), 131a, 131c-2, 131e), which reviewed the Department's compliance with subparagraph 70b.¹ The Monitor commends AD for conducting this supplemental audit and concluded that the prior finding of compliance in connection with the *Arrest Booking and Charging Reports Audit* continues.

During the current quarter, the Monitor also assessed reviews conducted by the Office of the Inspector General (OIG) of three audits performed by Audit Division: *ABC Reports Audit* (subparagraph 128(2), 131a, 131c-2 and 131e), *Confidential Informant Control Packages Audit* (subparagraph 128(5), 131a, 131c-5, 131e), and the *Gang Unit Work Product Audit* (subparagraphs 131a, f and g). The Monitor concluded that the OIG's reviews of Audit Division's three audits were quality reviews. The Monitor also assessed the OIG's *Categorical Use of Force Investigations Audit* (paragraph 136) and the OIG's *Complaint Form 1.28 Investigations Audit* (paragraph 136ii), and concluded that these audits were in compliance with the requirements of paragraph 136.

Lastly, the Monitor found the Department in compliance with the requirement that the Police Commission annually issue a publicly-available report detailing its findings regarding Categorical Use of Force incidents (subparagraph 142b).

¹ Audit Division found the Department in non-compliance with subparagraph 70b in its *ABC Reports Audit* dated September 28, 2007; additional testing conducted in the *Supplemental Audit* confirmed this finding of non-compliance.

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- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the
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- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

I. INTRODUCTION

The City of Los Angeles (the City) and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Inc. have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. The original term of the Consent Decree expired on June 15, 2006. On May 15, 2006, Judge Gary Allen Feess ordered that the Consent Decree be extended for an additional three years, commencing on July 1, 2006.

This, the Monitor's twenty-seventh report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2008. As described in our Report for the Quarter Ending June 30, 2006, during the three-year extension to the Consent Decree, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Consent Decree with which the City has failed to achieve substantial compliance during its original term. As further described in that report, the City and the DOJ (the parties) agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a substantial number of paragraphs of the Consent Decree, and the Monitor would not be actively monitoring or reporting on the Department's compliance with these paragraphs. This is not to say that the City can ignore any of the provisions of the Decree. If there is any indication of backslide in any paragraph not being actively monitored, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate. As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms that have been successfully implemented.

The introduction sections to each of the substantive areas reviewed in the remainder of this report include the specific paragraphs upon which the Monitor will be reporting during the extension period i.e. those paragraphs of the Decree with which the City has failed to achieve substantial compliance. For informational purposes, also included in footnotes under each introduction section are those paragraphs for which the City has achieved substantial compliance.²

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or subparagraph of

² The Department has also achieved substantial compliance with several paragraphs that are not referred to in the footnotes in the introduction sections of this report, as the pertinent sections of the Consent Decree, in their entirety, are no longer being actively monitored and reported on. These are: paragraphs 111-113 (Development of Program for Responding to Persons with Mental Illness) and paragraphs 155-156 (Community Outreach and Public Information).

the Consent Decree for the last five quarters, beginning with the quarter ending March 31, 2007.³ The “Status as of Last Evaluation” column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph.⁴ This is an estimate based on available information at the date of issuance of this Monitor’s Report and Report Card. These estimates are subject to change as information develops and circumstances change.

³ The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department’s compliance with the provisions of the Consent Decree.

⁴ The Report Card included as Appendix A to the Report for the Quarter Ending June 30, 2006 contains a comprehensive listing of all Consent Decree paragraphs; the comments section of that Report Card identifies those paragraphs which are not scheduled to be actively monitored and reported on during the three-year extension of the Consent Decree. Subsequent Report Cards i.e. those issued during the three-year extension, include only those paragraphs that are being actively monitored and reported on during the extension period.

II. FOCUS ISSUES

A. MACARTHUR PARK ONE YEAR LATER

Over the last year we have reported on the May 1, 2007 MacArthur Park incident in which an otherwise peaceful demonstration gave rise to questions about the state of LAPD reform when a relatively small group of disruptive individuals caused the forceful clearing of the park. By all accounts, including the Department's candid and introspective report on the incident, the actions of some of the officers involved appeared to be inappropriate and in violation of Department policies and procedures.

Although final discipline has not yet been determined for involved officers, over the year that has followed, the Department has undertaken a number of steps designed to ensure that such incidents would never occur again. The revision of the crowd control curriculum and the immediate undertaking of re-training for the entire Department have been key to the Department's remedial plan. In addition, the creation of a dedicated unit to plan for and provide operational oversight of major events gives the Department a resource dedicated to making certain that best practices are fully developed and employed in critical incidents. Perhaps most significantly, the Department's internal report, which in addition to being candid and introspective, outlined the myriad strategic, tactical and systemic mistakes that contributed to the incident and set the standard for internal after-action analysis of a critical incident. These efforts, taken together, have shown that a police department can, with the proper leadership and talent, improve itself through self-analysis and self-criticism.

On May 1, 2008, the anniversary of the MacArthur Park event, the Monitor closely observed the Department's performance at the May Day events. The Monitor was extremely impressed with the preparation and execution of the plans for the event. Contingencies that were planned for never materialized due in large measure to the attitude and comportment of the police officers assigned to the day's celebration. In short, the day was an example of LAPD at its finest, and showed how best practices can bring about change in a police department.

III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

A. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY – TEAMS II [COMPUTER INFORMATION SYSTEM]

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices, as well as identifying and modifying at-risk behavior.⁵ In order to meet this requirement, the City developed four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,⁶ and the Risk Management Information System (RMIS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

Although the original timeline for completion of the TEAMS II project was not met due to the numerous challenges presented by the scope of the TEAMS II project, the City and Department achieved Department-wide implementation of all four systems as of the quarter ending March 31, 2007 and have made the following progress in connection with the new systems:

- As described in our Reports for the Quarter Ending March 31, 2007 and June 30, 2007, all RMIS action items were completely rolled out by March 12, 2007 and RMIS is now implemented Department-wide. TEAMS II staff and the Risk Analysis Section (RAS) of the Risk Management Group (RMG) are now monitoring and assessing the action items to see what types of action items are being triggered and whether those being triggered, and the frequency of the triggers, are appropriate. In addition, the City is currently reassessing the RMIS peer groups and thresholds, as it appears that more action items⁷ are being generated than originally projected. The City will present any proposed modifications to the DOJ and Monitor once this review is complete.
- The City is also currently deploying new functionality for RMIS Department-wide, which will result in two new types of automated action items being sent to supervisors. The first is the Performance Evaluation Report Action Item (PER AI), which will be sent to a supervisor

⁵ The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

⁶ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports (FDRs) regarding pedestrian and motor vehicle stops.

⁷ Action Items are automated or supervisor-generated notifications that identify employees whose performance may indicate a need for monitoring. Automated action items are generated when performance-related data such as uses of force is compared to stops or arrests and specific individual performance thresholds are exceeded. Supervisor-generated notifications are used to conduct periodic performance monitoring, such as annual performance evaluations or assignment to specialized units.

when an annual performance evaluation is due on a subordinate employee. This new functionality should help the City achieve compliance with paragraph 54, in addition to paragraph 47. The second is the Transfer Action Item (TAI), which will be sent to a supervisor when a new employee is being transferred into that supervisor's command so that the employee's TEAMS report can be reviewed.

As of the end of the original five-year term of the Consent Decree, the Department had not achieved substantial compliance with many of the Consent Decree requirements related to TEAMS II (paragraphs 39-44, 46-49, 50d and e, 51b-d, 52-53). As a result, the Monitor is assessing the Department's compliance with these and the additional TEAMS II-related paragraphs during the extension period.

During the current quarter, the Monitor assessed the Department's compliance with subparagraphs 41c-e, paragraph 46 as it relates to subparagraph 47k, and paragraph 49. The results of our current assessments follow.

Subparagraphs 41c-e – Information to be Contained in TEAMS II

Subparagraphs 41c-e require that TEAMS II contain the following information:

- a. all officer-involved shootings and firearm discharges, both on-duty and off-duty (excluding training or target range shootings, authorized ballistic testing, legal sport shooting events, or those incidents that occur off-duty in connection with the recreational use of firearms, in each case, where no person is hit by the discharge);
- b. all other lethal uses of force;
- c. all other injuries and deaths that are reviewed by the LAPD Use of Force Review Board (UOFRB) (or otherwise are the subject of an administrative investigation);

In addition, for the incidents included in the database, TEAMS II must also include appropriate additional information about involved officers (e.g. name and serial number, work assignment, officer partner, field supervisor, and shift at the time of the incident) and appropriate information about the involved members of public (including demographic information such as race, ethnicity, or national origin).

Background

The Monitor last assessed the Department's compliance with paragraph 41 during the quarter ending September 30, 2007. At the time, the Monitor reviewed working papers provided by the TEAMS II staff regarding their testing of random samples of items required to be included in the TEAMS II database pursuant to a number of subparagraphs of paragraph 41, including Non-Categorical Uses of Force (NCUOF) (subparagraph 41a); canine contacts/bites (subparagraph 41b); vehicle pursuits (subparagraph 41f); traffic collisions (subparagraph 41f); complaints (subparagraph 41g); written compliments (subparagraph 41i); commendations and awards

(subparagraph 41j); claims (subparagraph 41l); lawsuits (subparagraph 41m); arrest reports (subparagraph 41n); crime reports (subparagraph 41n); motor vehicle and pedestrian stops (subparagraph 41n); assignment and rank history (subparagraph o); and weapons qualifications and training rosters for training history (subparagraph 41p). For each of these required items, TEAMS II staff obtained relevant source documents and compared them against data in RMIS to determine if the required data elements associated with these items were populated in RMIS (presence rate) and whether the information included in RMIS is accurate (accuracy rate). The Monitor found the Department in compliance with these subparagraphs of paragraph 41. The TEAMS II staff had not completed its review of subparagraphs 41c-e (Categorical Uses of Force) as of the end of that quarter.

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraphs 41c-e regarding Categorical Uses of Force (CUOF) during the current quarter, TEAMS II staff obtained relevant source documents, including CUOF investigations, and compared them against data in RMIS to determine if the required data elements associated with these items⁸ were populated in RMIS (presence rate) and whether the information included in RMIS is accurate (accuracy rate).

The TEAMS II staff tested the total population of 40 CUOF cases that occurred during the period January 1, 2006 through June 30, 2006 and were closed during the first two quarters of 2007, with each case including a total of 54 data elements. All 54 of the data elements in the total sample of 40 closed CUOF cases had presence rates of 100%. The CUOF cases were taken from the UOFS, which includes validation triggers that do not allow a user to continue from section to section unless all required fields are populated, which ensures the 100% presence rates. As for the accuracy rates, 48 of the 54 data elements were populated in RMIS at accuracy rates of 94% or greater, four data elements were below 94%⁹ and two data elements were not applicable to the CUOF incidents in the sample. Subsequent to this testing, TEAMS II staff corrected the four data elements with an accuracy rate less than 94%. As a result, all data elements are now at 100% for presence and accuracy.

The Monitor reviewed the TEAMS II staff's findings for all 40 closed CUOF cases and related working papers, which compared the data in the UOFS for these CUOF cases against the data in RMIS. Although a few minor administrative errors were identified and some additional data elements were updated in either the UOFS or RMIS subsequent to TEAMS II staff's review, the Monitor concurred with their findings related to presence and accuracy rates.

⁸ The data elements for CUOF and all other requirements describe herein were agreed upon by all parties and included in Appendix A of the RMIS Design Document.

⁹ One data element was populated in RMIS for 92%, two at 90% and one at 66%.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of subparagraphs 41c-e, and in overall compliance with paragraph 41.

Paragraph 47 – TEAMS II Protocol

Subparagraph 47k requires that the protocol shall require regular review by appropriate managers of all relevant TEAMS II information to evaluate officer performance citywide, and to evaluate and make appropriate comparisons regarding the performance of all LAPD units in order to identify any patterns or series of incidents that may indicate at-risk behavior. These evaluations shall include evaluating the performance over time of individual units, and comparing the performance of units with similar responsibilities.

Background

The Monitor last assessed the LAPD's compliance with paragraph 47 during the quarter ending September 30, 2007. At the time, the Monitor found that the policy that outlines the requirements of access is entitled *Access Control Policy for TEAMS II Information*, dated July 16, 2007 and the policy that outlines the requirements of the protocol required by paragraph 46 and covered by paragraph 47 is entitled *Duty to Conduct and Document Individual Performance Assessments*, dated July 12, 2007. The Monitor found that all requirements of paragraph 46 that are covered by paragraph 47 were contained within one of these two policies, with the exception of subparagraph 47k.

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 47k during the current quarter, the Monitor received and reviewed the policy drafted by the TEAMS II entitled *Organizational Performance Assessments*, which addresses the requirements of subparagraph 47k by requiring regular review by appropriate managers of all relevant TEAMS II information to evaluate officer performance city-wide, and to evaluate and make appropriate comparisons regarding the performance of all LAPD units to identify any patterns. This policy was submitted and approved by the Police Commission on January 29, 2008.

The policy requires the Risk Management Executive Committee (RMEC) to be responsible for "oversight of the policies, procedures and guidelines for completing regular and periodic assessment of organizational performance Department-wide to evaluate and identify any patterns or series of incidents that indicate at-risk behavior." Although this policy is not specific in terms of how such comparisons and assessments will be conducted, the Monitor believes that it does address the minimum requirements of subparagraph 47k.

The Monitor met with TEAMS II staff in order to gain an understanding of how RMEC, TEAMS II and the appropriate managers will address the challenges of these organizational assessments and is encouraged by the content of these conversations and the direction the Department is

taking in terms of methodology and guidelines for such comparisons going forward. TEAMS II staff have indicated that the first organizational assessment began in March 2008 and will conclude at the May 22, 2008 RMEC meeting. The Monitor will review organizational assessments by RMEC and the appropriate managers to assess implementation of subparagraph 47k, pursuant to paragraph 46, in future quarters.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 47k, and in overall compliance with paragraph 47.

Paragraph 49 – Data Capture and Retention

Paragraph 49 requires that the City shall maintain all personal identifiable information about an officer included in TEAMS II during the officer's employment with the LAPD and for at least three years thereafter. Information necessary for aggregate statistical analysis shall be maintained indefinitely in TEAMS II. On an ongoing basis, the City shall make all reasonable efforts to enter information in TEAMS II in a timely, accurate and complete manner, and to maintain the data in a secure and confidential manner consistent with the applicable access policy as established pursuant to paragraph 40.

Background

The Monitor last assessed the LAPD's compliance with paragraph 49 during the quarter ending August 31, 2007, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 49 during the current quarter, the Monitor reviewed working papers provided by TEAMS II staff in connection with their review of a sample of officers terminated more than three years ago. The TEAMS II staff conducted this review by selecting a specific LAPD organization for a specific time period and querying all of its employee events (i.e., arrests, stops, uses of force, et al.) during that time period. They then determined which events belonged to terminated employees and compared those terminated employees' events against a current organizational summary report to determine if the terminated employees' event were still included in TEAMS II for aggregate statistical analysis.

The review conducted by the TEAMS II staff queried an organization from January 1, 2005 through December 31, 2007 and produced a list of UOF events for this organization and found that there were two terminated employees during that time period. After comparing such events to a current organizational summary report dated April 18, 2008, it was determined that 100% of the four UOF events for the two terminated employees are still included.

Since the terminated employees' events are still included in the current organizational summary report and are available for aggregate statistical analysis, the Monitor finds the LAPD in

compliance with the requirements of paragraph 49. Given the small sample tested, which was identified through the approved methodologies, the Monitor will again assess compliance with paragraph 49 during the quarter ending September 30, 2008.

B. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY – PERFORMANCE EVALUATION SYSTEM

Paragraph 54 is the only paragraph included in this subsection of the Consent Decree. The Monitor last assessed the Department's compliance with this paragraph during the quarter ending June 30, 2007. The Monitor is scheduled to assess compliance with this paragraph during the quarter ending June 30, 2008.

C. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used with a determination as to whether that force is "Categorical" (CUOF) or "Non-Categorical" (NCUOF). A CUOF¹⁰ is defined by paragraph 13 of the Consent Decree. Any use of force (UOF) that falls under this definition is subject to certain paragraphs of the Consent Decree.¹¹ Administrative investigations of these incidents are the responsibility of the Force Investigation Division (FID). All completed CUOF incident investigations must be presented to a UOFRB and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered NCUOF, which are also subject to certain paragraphs.¹² NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

The Department has achieved substantial compliance with all Consent Decree provisions relating to uses of force except those requiring managers to analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a); the referral of all officers involved in a CUOF resulting in death or the substantial possibility of death to the LAPD's Behavioral Science Services (BSS) for a psychological evaluation (paragraph 63); and managers' consideration of the officer's work history, including information contained in the

¹⁰ CUOF include an Officer-Involved Shooting (OIS) with or without a hit; In-Custody Death (ICD); Law Enforcement Activity Related Death (LEARD); Law Enforcement Related Injury (LERI) requiring hospitalization; Neck Restraint; Head Strike with an Impact Weapon; and a Canine Bite requiring hospitalization.

¹¹ Specifically, paragraphs 13, 38, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 136 and 142, as well as certain audit-related paragraphs.

¹² Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

TEAMS II system and that officer's CUOF histories when reviewing and making recommendations regarding discipline or non-disciplinary action as a result of a CUOF (paragraph 64). In addition, the Department has not yet achieved substantial compliance with several Consent Decree provisions regarding UOF investigations (subparagraph 80i) and access to information contained in TEAMS II for those units conducting CUOF investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above). As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.¹³

During the current quarter, the Monitor assessed the Department's compliance with subparagraphs 62b and c and paragraph 63. The results of our current assessments follow.

Paragraph 62 – Analyses of CUOF and Search Warrants

Paragraph 62 requires that managers shall analyze the circumstances surrounding the presence or absence of a supervisor at (a) a CUOF incident, and (b) the service of a search warrant. The review and analysis is required to occur within seven calendar days of the occurrence of the incident or service to determine if the supervisor's response to the incident or service was appropriate. Paragraph 62 also requires (c) the consideration of the analysis in each supervisor's annual personnel performance evaluation.

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to search warrants (subparagraph 62b) during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in non-compliance. The Monitor noted that for 55 of 70 executed search warrants reviewed, the required analyses were documented as having occurred within seven days of service. Additionally, for 63 of 70 search warrants, the analyses conducted by the Commanding Officers (COs) sufficiently documented the supervisors' actions.

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to employee comment cards (subparagraph 62c) during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in non-compliance. The Monitor noted that for 60 of the 70 search warrants reviewed, the analyses were documented on the respective supervisors' employee comment cards.

¹³ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. In addition, many of the paragraphs included in Section D. Complaints, below, are related to this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Current Assessment of Compliance

Subparagraph 62b Service of Search Warrants

During the current quarter, the LAPD's Civil Rights Integrity Division (CRID) compiled information and analyses of a sample of executed search warrants selected for review by the Monitor.¹⁴ The Monitor noted that for 76 of the 86 (88.4%) search warrants reviewed, the CO completed an evaluation of the supervisors' presence within the mandated seven-day time period. The Monitor also noted that for 63 of the 86 (73.3%) search warrants reviewed, the analyses conducted by the CO sufficiently documented the supervisors' actions.

Subparagraph 62c Employee Comments Cards

In assessing the LAPD's compliance with subparagraph 62c, the Monitor noted that for 62 of the 86 (72.1%) search warrants reviewed, the COs' analyses were documented on the respective supervisors' filed employee comment sheets.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraphs 62b and c.¹⁵

Paragraph 63 – Confidential Psychological Evaluation for Officers Involved in Deadly CUOF

Paragraph 63 requires the Department to continue referring officers involved in CUOF incidents resulting in death or the substantial possibility of death to the LAPD's BSS for a consultation and evaluation with a licensed mental health professional. Such officers are precluded from working in the field until such consultation has occurred and notification of fitness for duty has been discussed with their respective CO.

Background

The Monitor last assessed compliance with paragraph 63 during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in non-compliance. At the time, in assessing compliance with this paragraph, the Monitor relied on information compiled and analyzed by CRID. For 24 of 87 officers referred to BSS, CRID was unable to verify that the officers were assigned to non-field assignments pending their BSS consultations and notification of fitness for duty.

¹⁴ CRID accumulated information on search warrants executed during January 2008. In total, 125 such warrants were identified. CRID randomly sampled 86 of the warrants for review and analyses from all 19 Areas.

¹⁵ The Monitor last assessed the LAPD's compliance with subparagraph 62a during the quarter ending December 31, 2007, and is scheduled to again assess compliance with this subparagraph during the quarter ending June 30, 2008.

Current Assessment of Compliance

During the current quarter, CRID compiled and presented information on 18 CUOF incidents that occurred between May and December 2007, which involved a total of 41 officers requiring referral to BSS. The Monitor reviewed CRID's analysis and noted that 40 of 41 officers were scheduled for an appointment with BSS within 48 hours of the incident and all 41 officers underwent a psychological examination. Similarly, the respective COs of all officers consulted with the BSS regarding the involved officers' readiness to return to field duty. CRID was able to verify that 40 of the 41 officers were assigned to non-field assignments pending BSS consultation and notification of fitness for duty.¹⁶ This translates into an overall compliance rate of 97.6%.

For the period under review, CRID noted that BSS was staffed with 16 psychologists, 12 of whom completed officer psychological evaluations related to incidents in CRID's sample. All psychologists maintained current mental health licensing with the State of California Department of Consumer Affairs, Board of Psychology.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 63.

D. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. Although the Department has achieved substantial compliance with many of the Consent Decree's requirements related to search and arrest procedures,¹⁷ it has not achieved substantial compliance with the requirement related to supervisory presence at and review of the service of search warrants (subparagraphs 62b, 70b, 70c and paragraph 71) and the search warrant log (paragraph 72). As a result, the Monitor is assessing the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the LAPD's compliance with paragraph 71 and 72. The results of our current assessments follow.

¹⁶ CRID's inspection included reviewing and comparing DPS Daily Work Sheets, Official Divisional Time Books, Detective Daily Sign In/Sign Out Sheets and Form 15.2 Interdepartmental Correspondence.

¹⁷ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Paragraph 71 – Supervisory Review of Warrants

Paragraph 71 requires supervisory review of all search warrants and probable cause arrest warrants (“Ramey” warrants). The review must include the following:

- a. A review for completeness of the information contained therein and an authenticity review to include an examination for “canned” language, inconsistent information, and lack of articulation of the legal basis for the warrant.
- b. A review of the information on the application and affidavit, where applicable, to determine whether the warrant is appropriate, legal and in conformance with LAPD procedure.
- c. A review of the plan for executing the warrant and a review of the execution of the warrant after it occurs (after-action review). In addition, a supervisor must be present for the execution of the warrant.

Background

The Monitor last assessed the LAPD’s compliance with paragraph 71 during the quarter ending March 31, 2007, at which time the Monitor found the LAPD in non-compliance with subparagraphs 71a, b and c. The Monitor reviewed AD’s *Warrant Applications and Supporting Affidavits Audit Report* submitted December 28, 2006, which found the LAPD in non-compliance with subparagraphs 71a, b and c. At the time, during its meta-audit, the Monitor found numerous material and administrative issues that were not identified by AD. These additional material findings would have further reduced the compliance percentages calculated by AD, but would not have changed the overall compliance findings.

Current Assessment of Compliance

In order to assess the LAPD’s compliance with paragraph 71 during the current quarter, the Monitor reviewed AD’s *Warrant Applications and Supporting Affidavits Audit Report* submitted December 28, 2007. The Monitor conducted a meta-audit of AD’s audit and findings, noting that AD included sealed (Hobbs) warrants in this, its sixth *Search Warrant Audit*.¹⁸

During its audit, AD selected a sample of 83 warrant packages from a total population of 162 warrants that were prepared and/or served Department-wide during July 2007. AD reviewed each of the 83 warrant packages for compliance with subparagraphs 71a, b and c, among others, and found the LAPD in non-compliance with each of these subparagraphs.

¹⁸ As described in the Current Assessment of Compliance for paragraphs 128(1), 131c-1 and 131e, below, the Monitor is withholding a final determination of compliance in connection with the *Warrant Applications and Supporting Affidavits Audit*, pending final discussion with AD. However, the Monitor completed its review of the audit and is including the audit’s findings in its assessment of compliance with paragraph 71 and 72.

In assessing compliance with subparagraph 71a, regarding completeness of the information and an authenticity review for warrants reviewed, AD determined that nine packages were non-compliant with the requirement regarding completeness of information,¹⁹ resulting in a compliance rate of 89% (74 of 83); all 83 packages were in compliance with the requirements regarding canned language and legal basis, resulting in a 100% compliance rate; and 17 packages were non-compliant with the requirement regarding inconsistent information, resulting in a compliance rate of 80% (66 of 83).²⁰

In assessing compliance with subparagraph 71b, regarding underlying actions for warrants reviewed, AD determined that 32 packages were non-compliant with the requirements regarding appropriateness and legality and conformance with LAPD procedures, resulting in a compliance rate of 61% (51 of 83).²¹

In assessing compliance with subparagraph 71c, regarding supervisory oversight for warrants reviewed, AD determined that 13 packages were non-compliant with the requirements regarding application/affidavit,²² resulting in a compliance rate of 84% (70 of 83); three packages were non-compliant with the requirements regarding supervisory oversight of applicable incidents,²³

¹⁹ Three warrants did not include a Warrant Service/Tactical Plan Report as required; one warrant did not have a Property Report completed as required; three warrants did not have a Receipt for Property as required; and two warrants had both a missing Receipt for Property and Warrant Service/Tactical Plan as required.

²⁰ The authenticity objective comprises canned language, inconsistent information and articulation of legal basis (which AD found in compliance).

²¹ These 32 warrant packages contained errors and omissions identified by AD in connection with objectives 3a and b (articulation of justification for night service; warrant not served at the correct time of day); objectives 4a-c (warrant served within the required time; use of confidential informant; warrant service in proper order); and objective 2d (other indicia that information is not authentic), as these are anomalies in which LAPD procedure was not followed. The errors and omissions identified included: missing or incomplete information on the "search warrant info" boxes of the Property Report; affiant's name not printed on warrant on the first page signed by judge; articulation of justification for night service; warrant not served at the correct time of day; warrant not served within the required time; failure to return the warrant within the time required; warrant contact information and reliability and corroboration of the confidential informant not documented in the confidential informant package; the warrant service planning, briefing, debriefing, and management review did not occur in proper order; and warrant service evaluation was not completed by the CO. Some packages contained more than one anomaly, but these packages were not counted twice in arriving at the total number of 32 packages.

²² The 13 warrants did not include documentation indicating review by a supervisor.

²³ One package did not have a supervisor of appropriate rank on scene at service; one package documented the affiant as supervisor on scene; and one package did not have evidence that a supervisor reviewed the Warrant Service/Tactical Plan Report.

resulting in a compliance rate of 93% (43 of 46),²⁴ and 28 packages were non-compliant with the post-incident review requirement,²⁵ resulting in a compliance rate of 39% (18 of 46).

During its meta-audit, the Monitor evaluated AD's findings for a sample of 52 warrants reviewed by AD. The Monitor identified a number of additional findings that were not originally identified and reported by AD, some of which would have further reduced the compliance percentages calculated and reported by AD for subparagraphs 71a, b and c, but would not have changed the overall compliance findings. As noted above, the Monitor is currently discussing these findings and related issues with AD.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraphs 71a, b and c.

Paragraph 72 – Supervisory Review of Warrant Log

Paragraph 72 requires each Area and specialized Division of the LAPD to maintain a log listing:

- each search warrant;
- the case file where a copy of the warrant is maintained;
- the name of the officer who applied for the warrant; and,
- the name of each supervisor who reviewed the application for the warrant.

Background

The Monitor last assessed the LAPD's compliance with paragraph 72 during the quarter ending March 31, 2007, at which time the Monitor found the LAPD in non-compliance. At the time, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report* submitted December 28, 2006, which found the LAPD in non-compliance with paragraph 72. During its meta-audit, the Monitor evaluated AD's findings for a sample of warrants reviewed by AD and concurred with AD's findings and conclusions in relation to paragraph 72.

²⁴ Of the 83 warrants reviewed, 32 involved third party records, such as telephone records, and five packages did not include a Warrant Service/Tactical Plan Report, and were therefore not reviewed for compliance with the supervisory review requirements.

²⁵ Three warrants did not document that a debrief took place by the next day; three warrants did not indicate that the CO evaluated the Warrant Service/Tactical Plan Report; 24 warrants did not indicate the appropriateness of service; and one warrant did not document that a supervisor reviewed the written debrief critique. There was overlap among the anomalies in certain packages.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 72 during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report*, submitted December 28, 2007. As described in the Current Assessment of Compliance for paragraph 71, above, the Monitor conducted a meta-audit of AD's audit and findings, noting that AD included sealed (Hobbs) warrants.

AD selected and reviewed a sample of 83 warrant packages²⁶ and the corresponding warrant tracking log for compliance with paragraph 72 and found the LAPD in non-compliance. AD concluded that nine warrants were non-compliant with the requirements regarding completeness and accuracy of the Warrant Tracking Log, resulting in a compliance rate of 89% (74 of 83). The Monitor evaluated AD's findings for a sample of 52 warrants reviewed by AD and identified no additional material issues in connection with the requirements of paragraph 72; accordingly, the Monitor agreed with AD's findings.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 72.

E. COMPLAINTS

The Consent Decree directs the LAPD to ensure the public unfettered ability to lodge complaints against police officers, and provides specific requirements relative to the intake of complaints, including the continuation of a 24-hour toll-free complaint hotline. The Decree also provides a series of specific instructions relating to the conduct of complaint investigations and requires that misconduct complaints be adjudicated in a fair, timely and consistent fashion; provides specific requirements relative to the adjudication process, including standards for credibility determination and categories for final adjudication; and provides specific requirements regarding the imposition and reporting of disciplinary and non-disciplinary action. In addition, the Chief of Police must report to the Police Commission on his imposition of discipline during each calendar quarter. The Office of the Inspector General (OIG) must review, analyze and report to the Police Commission on the Chief's actions, and the Police Commission must assess the appropriateness of his actions.

The Department has achieved substantial compliance with many of the Consent Decree's requirements relative to complaint intake, investigation, adjudication and reporting.²⁷ However, the Department has not yet achieved substantial compliance with Decree requirements relative to

²⁶ Refer to the Current Assessment of Compliance for paragraph 71 for information regarding this audit and the Monitor's review of it.

²⁷ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 75-78, 79, certain provisions of paragraph 80, and paragraphs 82, 86-89, 91-96 and 98-101 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

the receipt and maintenance of complaints (paragraph 74); the investigation of complaints (certain subsections of subparagraph 80ii and paragraph 81²⁸); access to information contained in TEAMS II for those units conducting specified complaint investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above); standards for credibility determinations (paragraph 84); adjudication of complaint investigations (paragraph 85); and manager review of complaint investigations (paragraph 90). As a result, the Monitor is assessing the Department's compliance with these paragraphs during the extension to the Consent Decree. The next assessments of the paragraphs included in this section of the Consent Decree, including paragraphs 64 and 80i, are scheduled for the quarter ending June 30, 2008.

F. NON-DISCRIMINATION POLICY AND MOTOR VEHICLE AND PEDESTRIAN STOPS

The LAPD prohibits discriminatory conduct. As mandated by the Consent Decree, LAPD officers may not make pedestrian or vehicle stops based on race, color, ethnicity or national origin. Race, color, ethnicity or national origin can only be utilized as part of a basis for police activity when such activity is based on subject-specific information. The Consent Decree directs the LAPD to enforce these policies and mandates data collection with the ultimate goal of determining whether racially biased stops are being made.

The Monitor is scheduled to assess the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2008. The Monitor assessed the Department's compliance with paragraphs 104 and 105 during the current quarter. The results of our current assessments follow.

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

Paragraphs 104 and 105 mandate that by November 1, 2001, officers are to collect field data each time they conduct a motor vehicle or pedestrian stop.

Background

The Monitor last assessed the LAPD's compliance with paragraphs 104 and 105 during the quarter ending June 30, 2007, finding the Department in non-compliance. At that time, the Monitor relied on AD's *Motor Vehicle and Pedestrian Stop (MV&PS) Data Collection Audit, Third Quarter, Fiscal Year 2006/2007*, dated December 28, 2006, to assess compliance with these paragraphs. At the time, the Monitor concurred with AD in its finding that the Department, including the Gang Enforcement Detail (GED) units, was non-compliant with the paragraph 104 and 105 requirements that FDRs be administratively complete (90% compliance). The Monitor

²⁸ The parties agreed that during the extension the Monitor will assess subparagraph 80ii, subsections a and f, and paragraph 81 as it relates to subparagraph 80ii, subsection f.

also reviewed the OIG's *Review of the Department's MV&PS Data Collection Audit, Fiscal Year 2006/2007*, dated March 29, 2007 and concurred with the OIG's conclusions that the audit was complete, performed in a quality manner, and that its findings were adequately supported.

Current Assessment of Compliance

To determine whether there is systemic biased policing occurring in Los Angeles, paragraphs 104 and 105 require that the City collect data on all motor vehicle and pedestrian stops made by LAPD officers. The data collected has consistently demonstrated disparate treatment among different racial and ethnic groups for both stops and after-stop actions. While the City has made good faith efforts to determine why these disparities exist, accurate analysis is difficult at best and these variances remain unexplained.

As noted in past reports, the City requested that the collection of field data by officers as mandated under the Consent Decree be revisited.²⁹ This is due to the inability to analyze and draw conclusions from the aggregate data, and the significant expense of replacing the data collection devices, or PODDS. In addition, data collection capability has diminished due to the degradation of the existing hardware that the City utilizes for that purpose, as evidenced by AD's finding that the Department was non-compliant with the collection requirements in its most recent *MV&PS Audit*, described in the Background section, above.

The City and the DOJ have, with Monitor input, been working toward inclusion of data in existing ordinary-course-of-business forms. For example, a new Daily Field Activity Report (DFAR) form is being developed that will include race, ethnicity, and gender data, as well as a checkbox for after-stop activity such as a search. This will cover all of the required data that cannot currently be collected through arrest reports, citations, and other forms.

Additionally, the City and Department are moving forward with Department-wide implementation of in-car cameras, which the Monitor has strongly endorsed and recommended. These devices will help protect against biased policing while at the same time being universally recognized as an enhancement to officer safety, risk management analysis, and mitigation against liability claims. The City Council has approved a contract for the first phase of this project, deploying cameras in South Bureau patrol vehicles.³⁰ This is a positive first step toward full deployment.

²⁹ AD did not conduct a MV&PS audit during the current year due to the City's request.

³⁰ The LAPD advises that three hundred in-car camera units have been ordered. Installation will begin in South Bureau's Southeast Division within the next ninety days. Subsequent installations will take place in the Southwestern, 77th, and Harbor Divisions. All South Bureau installations are expected to be completed by November 2008. A timeline for installation in the other patrol bureaus has not yet been established.

The Monitor has determined that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, be sufficient to satisfy the requirements of the Consent Decree.

Based on the foregoing, at this time the Monitor withholds a determination of the Department's compliance with paragraphs 104 and 105.

G. MANAGEMENT OF GANG UNITS

In the wake of the Rampart scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units. The Special Enforcement Units, which were subsequently reorganized into GEDs,³¹ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD), which has responsibility for monitoring gang units Department-wide.

The Department also established new monitoring procedures and instituted minimum eligibility requirements for GED personnel before the Consent Decree was finalized or adopted. The Consent Decree directs the LAPD to continue these practices and provides for the adoption of additional requirements in the selection of GED personnel.

The Department has achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.³² However, it has not achieved substantial compliance with the requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d); detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)); the roles of gang unit supervisors, Gang Area Managers and Bureau Gang Coordinators (BGCs) (subparagraphs 106f, g and h); and eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). As a result, the Monitor will be assessing the Department's compliance with these subparagraphs during the extension to the Consent Decree. The next assessments of paragraphs included in this section of the Consent Decree, including subparagraphs 106d, f, g and h and 107a and b, are scheduled for the quarter ending June 30, 2008.

³¹ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

³² The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

H. CONFIDENTIAL INFORMANTS

The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of Confidential Informant (CI) information. The Department has not yet achieved substantial compliance with the Consent Decree's requirements relative to procedures for the handling of informants (paragraph 108).³³ As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree; such an assessment is scheduled for the quarter ending September 30, 2008.

I. TRAINING

The Consent Decree training requirements center largely on Field Training Officers (FTOs), supervisory training, and training content, including periodic training on police integrity. The Department has achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content.³⁴ The Department has not achieved substantial compliance with Consent Decree requirement to train members of the public scheduled to serve on the Board of Rights (BOR) in police practices and procedures, (paragraph 118), nor has the Department complied with training requirements relative to FTO eligibility criteria (paragraph 114), FTO de-selection (paragraph 115), and an FTO Training Plan (paragraph 116). As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 116 and 118. The results of our current assessment follow.

Paragraph 116 – FTO Training Plan

Paragraph 116 requires FTOs to receive adequate training in LAPD policies and procedures, training on how to be an instructor, and regular and periodic re-training on these topics. An FTO's annual performance evaluation shall include their competency in completing and implementing their FTO training.³⁵

³³ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 109-110 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

³⁴ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

³⁵ As mentioned in the Monitor's Report for the Quarter Ending June 30, 2007, the Monitor no longer reviews the FTOs' personnel packages to assess whether their annual performance evaluations addressed their competency in

Background

The Monitor last assessed the LAPD's compliance with paragraph 116 during the quarter ending September 30, 2007, at which time the Monitor found the Department in compliance with this paragraph. At the time, the Monitor reviewed training records and TEAMS II reports for a random sample of 84 officers assigned as FTOs during the period October 1, 2006 through March 31, 2007, and determined that 82 of the 84 had completed FTO School and related FTO update training.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 116 during the current quarter, the Monitor requested and received from the LAPD a list of 726 officers assigned as FTOs during the period April 1, 2007 through December 31, 2007. From that list, the Monitor selected a random sample of 85 FTOs³⁶ and reviewed training records and TEAMS II reports to verify that they had completed FTO School and related FTO update training. The Monitor determined that 83 of 85 FTOs reviewed had completed FTO School and related FTO update training, resulting in 97.6% compliance with the requirement that FTOs receive adequate training and regular and periodic retraining.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 116.

Paragraph 118 – Public Members on Board of Rights

Paragraph 118 requires the Department to properly train all civilian members of the BOR in police practices and procedures.

Background

The Monitor last assessed the LAPD's compliance with paragraph 118 during the quarter ending March 31, 2007, at which time the Monitor found the Department in compliance with this paragraph. On February 27, 2007, the Police Commission approved the selection of 48 hearing examiners to fill civilian BOR positions and Police Commission staff, with the Monitor's participation, developed lesson plans for civilian BOR training to meet the requirements of this paragraph.

successfully completing and implementing their FTO training. This requirement is now assessed as part of paragraph 54.

³⁶ Utilizing a one-tailed test with a 95% degree of confidence and a +/- 4% error rate, the sample size required to test 726 field training officers is 85.

Current Assessment of Compliance

The Police Commission has maintained the same 48 hearing examiners to fill civilian BOR positions that were selected on February 27, 2007, as described in the Background section, above. The lesson plans previously developed for civilian BOR training have not been changed. Of the 48 hearing examiners selected in 2007, 45 attended the all-day training session held on March 31, 2007. The three hearing examiners who did not attend the training were provided with a copy of the documents that were disseminated during that training. They have also met with the Executive Director of the Police Commission to ensure that they have an understanding of all current Commission responsibilities and policies.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 118.

IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

A. INTEGRITY AUDITS & INTERNAL AUDIT OVERSIGHT

The Consent Decree mandates that the LAPD perform regular, periodic audits of numerous aspects of policing, including warrants, arrests, UOF, stops, CIs, complaints, gang units, financial disclosure, and police training. Each audit examines a variety of issues, but a common theme among all the audits is the requirement to assess and report on compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight. In addition, the Consent Decree provides specific requirements for the City to develop and initiate a plan for organizing and executing regular, targeted, and random integrity audit checks, or "sting" operations, to identify and investigate officers engaging in at-risk behavior (paragraph 97).

At the inception of the Consent Decree, the Department established an Audit Division composed of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,³⁷ an audit protocol,³⁸ and submitted annual audit plans which outline the audits to be completed in each coming year as required by paragraph 124. AD has also developed and run a Basic Law Enforcement Performance Auditing Course, which covers all aspects of police performance auditing.³⁹ This course, offered on a quarterly basis, has been offered 17 times and has been attended by police professionals from the US and Canada. Additionally, AD offered its first Intermediate Law Enforcement Auditing Course in 2007.

During the original five-year period of the Consent Decree from June 1, 2001 to June 30, 2006, AD issued a total of 30 quality Consent Decree audits. For certain audits produced by AD in more recent years, in those instances in which the scope of an AD audit directly addressed the requirements of a given Consent Decree paragraph, the Monitor elected to perform a meta-audit

³⁷ The Audit Charter outlines AD's role, the requirement for independence, the goal of complying with Generally Accepted Government Auditing Standards (GAGAS), AD's access authorization to records, and the scope of audits. It was originally approved by the Police Commission in January 2006 and re-approved on October 1, 2007.

³⁸ The Audit Protocol sets the standards for LAPD's audits. It outlines the requirements for audit staffing, audit team member responsibilities, and the audit process. It includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection, and audit reporting.

³⁹ This course, which was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005, covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process.

of AD's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.⁴⁰ Instances of such reliance are clearly indicated in our reports.

Given these advancements, during the three-year extension of the Consent Decree, the Monitor revised its methodology for reviewing certain required audits. Under the revised methodology, described in our Report for the Quarter Ending June 30, 2006, for those areas/audits that have been in substantial compliance for the past two years, the Monitor will generally review the quality of the audits in order to gain assurance that the underlying area being audited does not require active monitoring. The Monitor will continue its focused review of documents in those areas/audits where the Department did not achieve substantial compliance in the first five years of the Consent Decree, such as complaints, CUOF and CIs.

During the extension period, AD has continued to develop its auditing expertise and enhance its role within the LAPD and the law enforcement community and has now submitted an additional 16 compliant audits, bringing the total number of quality audits to 46 since the commencement of the Consent Decree.

Audits by the LAPD

During this quarter, the Monitor evaluated:

- AD's *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131a, 131c-1, and 131e) dated December 28, 2007;
- AD's *Supplemental Audit of Arrest, Booking and Charging (ABC) Reports* (subparagraph 128(2), 131a, 131c-2, 131e) dated December 18, 2007;
- AD's *Complaint Form 1.28 Systems Audit* (subparagraph 129iii) dated December 20, 2007; and
- AD's *GED Work Product Assessment Summary (GED WP Audit)*⁴¹ (subparagraph 131a, f and g) dated September 26, 2007.

⁴⁰ This is consistent with paragraph 162 of the Consent Decree, which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

⁴¹ Although AD does not refer to this report as an audit, it is submitted by AD to meet the requirements of subparagraph 131a, which requires an audit. Since this report is summary of the results of the *Command Accountability Performance Audits* conducted by AD, the Monitor agrees that this report meets the requirement of an audit. Throughout this report, the Monitor refers to the *GED Work Product Assessment Summary* as the *GED WP Audit*.

Subparagraphs 128(1), 131a, 131c-1 & 131e – Warrant Applications and Supporting Affidavits Audit

Subparagraph 128(1) requires the Department to complete a regular, periodic audit of stratified random samples of warrant applications and supporting affidavits. Paragraph 128 requires that this audit assess, at a minimum, such documents for completeness, authenticity, appropriateness of action taken, compliance with the law, conformity with Department procedures and an evaluation of supervisory oversight.

Subparagraph 131a requires the Department to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review. These requirements are evaluated by AD within this audit and are assessed in relation to the Monitor's evaluation of the *GED WP Audit*.⁴²

Subparagraphs 131c and 131e requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit warrant applications and supporting affidavits. Subparagraph 131c-1 requires an assessment of the same qualitative factors that are required in subparagraph 128(1). Subparagraph 131e requires the Department to audit the roles and conduct of supervisors of gang units covered by paragraph 106.

Background

The Monitor first found the Department in compliance with paragraph 128(1) for the audit completed in July 2002, and subsequently during the quarters ending June 30, 2004 and June 30, 2005. At the time, the Monitor found the audits submitted in December 2005 and December 2006 in non-compliance because the Monitor identified a number of significant issues relating primarily to lack of documentation in affidavits to support searches being conducted, insufficient supervisory review and inadequate COs' analyses of the search warrant, as well as numerous administrative errors that were not identified by AD.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraphs 128(1), 131c-1 and 131e during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit* Report, submitted December 28, 2007. The Monitor also reviewed selected AD working papers, including work plans, crib sheets, matrices and related documents.

AD selected and reviewed a stratified random sample of 72 LAPD warrants from the population of 151 Department warrants and 100% of the 11 gang (GED) warrants issued in July 2006 for a

⁴² See Monitor's review of the *GED WP Audit* below.

total sample of 83 warrants. The Monitor obtained and reviewed a random sample of 42 Departmental and 10 GED warrants that were reviewed by AD.⁴³

The Monitor has completed its review of these packages and has identified a number of substantive issues that are being discussed with AD. The outcome of these discussions affects the Monitor's findings in relation to this audit. Accordingly, the Monitor will be reporting on the results of its review in the next quarter.

Based on the foregoing, the Monitor is withholding a determination of compliance with subparagraphs 128(1), 131a, 131c-1 and 131e.

Subparagraphs 128(2), 131a, 131c-2, and 131e: Supplemental Audit of Arrest Booking & Charging Reports

Subparagraph 128(2) requires the Department to conduct regular, periodic audits of stratified random samples of ABC reports. Paragraph 128 further requires that such audits include a review for completeness, authenticity and consistency of the information contained; appropriateness, legality and conformance with Department policies; and supervisory oversight of the applicable incident or any post-incident review.

Subparagraph 131a requires the Department to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review. These requirements are evaluated by AD within this audit and assessed in relation to the Monitor's evaluation of the *GED WP Audit*.⁴⁴

Subparagraph 131c-2 requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit arrest booking and charging reports. This subparagraph requires an assessment of the same qualitative factors that are required in subparagraph 128(2).

Subparagraph 131e requires the Department to conduct regular, periodic audits of the roles and conduct of supervisors of gang units covered by paragraph 106.

Background

Since 2004, the Monitor has found all of AD's *ABC Reports Audits* in compliance.⁴⁵

⁴³ These random samples were selected using a one-tailed test, a 95% confidence interval and a +/-4% error rate.

⁴⁴ See Monitor's review of the *GED WP Audit*, below.

⁴⁵ The Monitor also found AD's September 2002 *ABC Reports Audit* in compliance.

Status Update

During the current quarter, the Monitor reviewed AD's *Supplemental Audit of ABC Reports* dated December 18, 2007. AD conducted this review in order to follow up on findings AD identified in its *ABC Reports Audit* dated September 28, 2007, which revealed that the Department had only achieved 74% compliance with subparagraph 70b.

The Monitor commends AD for conducting this additional audit, which also concluded that the Department is non-compliant with subparagraph 70b. As this audit is not required by the Consent Decree, and since the Monitor reviewed the original audit during the quarter ending December 31, 2007, the Monitor did not review or assess whether this supplemental audit is in compliance with the requirements of the Consent Decree. The Monitor also did not revisit AD's conclusions regarding subparagraph 70b, but notes that the original *ABC Reports Audit* and the *Supplemental Audit* consistently concluded that the Department was in non-compliance with subparagraph 70b. The Monitor's previous finding that the Department is in compliance with subparagraph 128(2) remains in effect.

Paragraphs 129iii – Complaint Form 1.28 Investigations Phase I Audit

Paragraph 129iii requires the Department to conduct regular, periodic audits of random samples of all Complaint Form 1.28 investigations. This paragraph also describes the qualitative factors that should be assessed in such audits, including the requirement to assess the timeliness of completing the investigation, the completeness of the investigation file, the accuracy of the investigators statement summaries, the adequacy of the investigation, and the appropriateness of the Professional Standards Bureau's (PSB's) determinations relative to who shall conduct the investigation.

During fiscal year 2004/2005, AD decided to split the requirements for a Complaint Form 1.28 investigations audit into two audits: an interim audit that assessed systems-related issues and a final audit that assessed the quality of the complaint investigations. For reporting purposes, the Monitor has similarly split its assessment of paragraph 129iii into two separate evaluations:

- 129iii Complaint, Form 1.28, Phase I Investigations Audit – an Interim Systems Audit
- 129iii Complaint Form 1.28 Investigations Audit

Background

The Monitor first found the Department in compliance with the system-related requirements of subparagraph 129iii during the quarter ending June 30, 2004 and continued to do so up to and including during the quarter ending March 31, 2007, when the Monitor last found AD's *Complaint Form 1.28 Systems Audit*, dated December 27, 2006 in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's *Complaint, Form 1.28, Investigations Phase I Audit* submitted December 20, 2007 and supporting working papers, including its audit work plan, selected matrices and complaint investigation packages.

The audit addressed subparagraphs 129iii(a and e), and its scope included paragraphs 79 and 87. In addition, the audit assessed several other paragraphs that are not specifically required by subparagraph 129iii, including subparagraphs 51a and d; 74d, f, and g; and paragraphs 76, 83, 93, 94, 95 and 152.

AD identified several audit populations and selected several samples for this audit. AD found the Department compliant with all objectives tested, except subparagraph 74g (continuation of a 24-hour toll-free recorded complaint hot line), paragraph 79 (the timeliness of the Internal Affairs Group's (IAG's) receipt and review of face sheets and its assessment thereof), paragraph 87 (the timeliness of completion of investigations), paragraph 95 (staffing of IAG positions) and paragraph 152 (notification of complaint intake to the OIG within one week).

The Monitor reviewed AD's work papers and its analysis of the LAPD's compliance with paragraphs 79 and 87. The Monitor also selected samples to review AD's assessment of compliance with paragraphs 51, 93 and 94.⁴⁶ For the remaining objectives, the Monitor used either judgmental samples (paragraph 152) or tested 100% of the population (paragraphs 76, 83 and 95). The Monitor's findings, which have been reviewed with AD, are highlighted below:

- The Monitor concurred with AD's conclusions that the Department was in non-compliance with paragraph 79, which requires that IAG receive and review all complaints within 10 days (92% compliance), and paragraph 87, which requires timely completion of complaint investigations (46% compliance).⁴⁷
- Based on a limited review of the objectives not related to subparagraph 129iii, the Monitor identified a few reporting issues in the summary table, but we concur with AD's overall findings of compliance or non-compliance.
- The Monitor identified that AD did not update the methodologies and did not utilize subparagraph 47g, which requires that TEAMS II be taken into account when selecting officers to IAG rather than prior versions of TEAMS reports. AD assessed selection referencing subparagraphs 51a and 51d. Now that TEAMS II has been implemented, AD indicated that the Annual Audit Plan has been updated to require the inclusion of subparagraph 47g in this audit.

⁴⁶ These samples were chosen using a one-tailed test, a 95% confidence interval and a +/-7% error factor.

⁴⁷ Standards for this paragraph require that greater than 50% of the investigations must be completed within 150 days.

- In its Conclusion in the Executive Summary, AD reported that IAG management noted that the investigations evaluated in the audit took place after the events that occurred on May 1, 2007 in MacArthur Park, implying that this affected the results for paragraphs 87 and 95.⁴⁸ The Monitor notes that there has also been an overall decrease in the number of staff responsible for investigating complaints,⁴⁹ which has also likely played a role in the lower levels of compliance by the Department.

Based on the foregoing, the Monitor finds the audit in compliance with the systems-related requirements of paragraph 129iii.

Subparagraphs 131a, 131f and 131g – Gang Unit Work Product Audit

Subparagraph 131a requires the Department to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review.

Subparagraph 131f requires the Department to conduct regular, periodic audits of the work product of all gang units by reviewing incidents requiring supervisory review pursuant to paragraphs 62, 64, 68, 70 and 71, assessing the supervisor's response and examining the relationships of particular officers working together or under a particular supervisor in such incidents to determine whether additional investigation is needed to identify at-risk practices.

Subparagraph 131g requires the audit to draw conclusions regarding adherence of the unit to the law, LAPD policies and procedures and the Consent Decree and to recommend a course of action to correct any deficiencies found.

As identified in prior Monitor's reports and/or as discussed with AD, the *GED WP Audit* must include, at a minimum, the following elements:

- a. The audit should assess and report on the work product of all gang units (referred to as GED units), including an analysis of trends or patterns among officers, supervisors and/or areas whose work product appears to contain indicia of untruthfulness or other forms of misconduct, including breaches of the law, LAPD policies and procedures, or the Consent Decree; or whose work product otherwise merits further review.
- b. The audit should assess and report on the work product of the bureau gang co-ordinators, specifically their subparagraph 106h inspections (referred to as the "BGC inspections").

⁴⁸ AD indicated that IAG management informed them that 14 investigators and six to seven support staff members were assigned to review complaints associated with MacArthur Park.

⁴⁹ In 2005 the Department had filled 198 of 207 positions; in 2007 the Department had filled only 137 of 201 positions.

- c. The audit should assess and report on the findings from any paragraph 128 audits or BGC inspections which appear to contain indicia of untruthfulness or other forms of misconduct by any GED units or individuals, including breaches of the law, LAPD policies and procedures, or the Consent Decree; or which otherwise merits further review.

For reporting purposes, as discussed in prior Monitor's reports, subparagraphs 131f and g describe the qualitative standards for conducting the audits required by subparagraphs 131a through e, and do not require separate audit reports. As a result, the Monitor refers to these two subparagraphs for guidance regarding the elements required in the paragraph 131a audits, and does not provide separate assessments for subparagraphs 131f and g.

Background

During the quarter ending December 31, 2004, the Monitor was informed by AD that they would be initiating a new series of audits entitled the *GED Command Accountability Performance Audits (CAPAs)*. These CAPAs would be detailed audits of individual GED units, utilizing matrices similar to the matrices for the paragraph 128 audits and covering the GED work product of all GED units over a two-year period. Although these CAPAs would evaluate certain elements required by the Consent Decree, they were not originally meant to be Consent Decree audits for review by the Monitor or the OIG. Subsequently, AD used the findings from its CAPAs as the primary basis for the subparagraph 131a, f and g⁵⁰ *GED WP Audits*.

During the quarter ending December 2005, the Monitor completed its review of AD's *GED WP Audit* dated September 29, 2005 and concluded that the Department was in non-compliance with subparagraph 131a. While AD included the results of the CAPAs and the paragraph 128 audits in its assessment, AD's *GED WP Audit* did not assess and report on the BGC inspections and, therefore, did not audit the work product of the unit as a whole. Furthermore, it did not provide sufficient detail and analysis of any trends or anomalies that occurred among officers and supervisors or whether the patterns were training issues or serious risk management issues.

During the quarter ending December 31, 2006, the Monitor reviewed AD's *GED WP Audit* dated September 28, 2006 and elected to withhold a determination of compliance with subparagraph 131a, because Phase II of the *GED WP Audit* was forthcoming. During the quarter ending September 30, 2007, the Monitor reviewed AD's *GED WP Audit Phase II* dated June 22, 2007, and again elected to withhold a determination of compliance with subparagraph 131a because AD completed a new *GED WP Audit* on September 26, 2007, using a new methodology. The Monitor did not complete its assessment of this audit during the quarter ending December 31, 2007, as additional time was required to review AD's new methodology.

⁵⁰ AD considers that its *GED WP Audit* addresses the requirements of subparagraphs 131f and g; the Monitor agrees but reports its findings as part of its evaluation of subparagraph 131a, rather than listing all three subparagraphs as reported by AD.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraph 131a, during the current quarter, the Monitor reviewed AD's *GED WP Audit*⁵¹ dated September 26, 2007, which summarized the findings from the 20 most recent *CAPAs*; AD's audit work plan; the findings from the most recent paragraph 128 audits; and relevant findings from the BGC inspections submitted to the Monitor in 2007. The Monitor also compared the audit's findings to the *CAPAs*, which AD used as the basis for the *GED WP Audit*'s findings.⁵²

In regards to the requirements of subparagraphs 131a, f and g, AD found that there were no identifiable patterns or at-risk practices in the work product of the officers evaluated in this audit. Additionally, AD concluded that the GED units were 94% compliant with Consent Decree requirements regarding supervisors approving the appropriate reports.⁵³ AD also found the Department in non-compliance (76% compliance rate) in its evaluation of GED work product.⁵⁴ Lastly, AD provided a summary of its efforts to help the BGCs develop the BGC inspections.⁵⁵

The Monitor's findings, which have been reviewed with AD, are highlighted below:

- The Monitor found the *GED WP Audit* to be a concise, well-written summary of the 20 most recent *CAPAs*. It details key areas where the GED units are performing well, provides useful comparisons between GED units, and highlights areas of concern. Both the Office of Operations and the Police Commission use this report, along with the underlying *CAPAs*, to assess the performance of each of the GED units and hold the Captains accountable for the results in their GED units. The Monitor commends AD for preparing these reports and the Department for using these reports in this manner.
- The Monitor concurs with AD's use of the *CAPAs* as the primary basis to assess the gang unit work product as they provide a summary of 100% of the work product of each GED unit for a particular period, rather than assessing a sample of one or two randomly selected officers per unit, as is done in the paragraph 128 audits. This methodology allows the

⁵¹ As described in footnote 41, above, AD refers to this audit as the "*GED Work Product Assessment Summary*."

⁵² These *CAPAs* were completed by AD during the period March 2005 to August 2007, and cover the gang unit work product of all GED units for the period July 25, 2004 to February 3, 2007.

⁵³ This assessment included reviewing 2,995 DFARS, Supervisor Daily Reports, Arrest Reports, Use of Force Reports and Performance Appraisals to see if they were approved by the appropriate supervisor. It did not involve an assessment of the supervisor's actions beyond whether or not they approved the report.

⁵⁴ This review evaluated GED officers' and supervisors' actions as described in the GED units' Arrest Reports, Warrant Packages and NCUOF Reports, which were evaluated in the *CAPAs* to see if the GED units met the standards required by the Consent Decree.

⁵⁵ AD also evaluated the Department's gathering of gang intelligence information; whether arrests and releases from custody were rejected due to the quality of the reports through the criminal complaint process; and whether cases were appropriately categorized as serious cases. While these objectives provide useful information to the Department, the Monitor did not review these findings because the Consent Decree does not address these issues.

Department to conduct in-depth reviews of each GED unit and provides a strong basis upon which to assess gang unit individuals and groups for any possible patterns.

- Although AD reported that the five subparagraph 106h BGC inspections completed between January and September 2007 were consistent with the methodologies, the Monitor found that AD failed to report that the Department was not meeting the subparagraph 106h requirement to conduct at least one BGC inspection each month. By the time of AD's *GED WP Audit* dated September 26, 2007, nine inspections should have been completed and issued in 2007, but only five were completed, of which the Monitor has only received three.
- The Monitor found that the *GED WP Audit* did not include any assessment of or details regarding the quality of the inspections,⁵⁶ nor did it highlight whether the inspections' findings were consistent with AD's other findings from the CAPAs or paragraph 128 audits. This caused AD to overlook the following findings:
 - The *BGC's Inspection of Supervisor Daily Reports*, completed in March 2007, found the Department in non-compliance with subparagraphs 106e(ii) and 106e(iii); these are two Consent Decree requirements that are not reviewed in the CAPAs.
 - This same *BGC Inspection of Supervisor Daily Reports*, completed in March 2007, found the Department in compliance (98%) with the Special Order 7 which requires the Sergeant's Daily Reports to be signed by the GED supervisor, while the *GED WP Audit* found that 93% of the GED Supervisor Daily Reports met the standards.
- The Monitor found that AD did not address any findings from the most recent paragraph 128 audits containing indicia of breaches of LAPD policies and procedures or the requirements of the Consent Decree, even though the paragraph 128 audits identified issues with the GED units' UOF Reports and Search Warrants. For future *GED WP Audits*, in order to ensure no issues are missed, AD should assess and compare the findings from all of the most recent paragraph 128 audits to the findings otherwise collected for the *GED WP Audit* and report on the consistencies/inconsistencies found.⁵⁷
 - In the *GED WP Audit*, AD concluded the Department was 100% compliant and there were no significant issues identified with the GED units' UOF investigation reports. By contrast, in its most recent *NCUOF Audit* dated June 28, 2007, AD concluded that the Department was non-compliant with numerous objectives in relation to the GED's NCUOF Reports.⁵⁸ The conclusions in the paragraph 128 audit were based on

⁵⁶ AD has raised concerns about including the results of the BGC inspections in its *GED WP Audit* reports because of the different standards applied to inspections compared to the standards for audits. The Monitor understands AD's concerns; however, AD could qualify such results.

⁵⁷ AD has agreed to assess and report on the key paragraph 128 GED findings in future *GED WP Audits*.

⁵⁸ The areas of non-compliance for GED units included evaluation of paragraph 128 canned language (82% compliance); paragraph 128 evaluation of post-incident supervisory review (73% compliance); paragraph 69 review at the Area, Division, Bureau levels (91% compliance); paragraph 129b evaluation of completeness of evidence

11 NCUOF investigations initiated between September 1, 2006 and February 28, 2007, and completed by April 30, 2007. The *GED WP Audit*'s conclusions were based on reviews of 17 NCUOF Reports issued over a longer period of time between July 2004 and February 3, 2007 from 12 areas.⁵⁹ Since the paragraph 128 *NCUOF Audit* findings were based on more recent NCUOF Reports, these findings should have been addressed in AD's *GED WP Audit*.

- In the *GED WP Audit*, AD identified many of the same concerns regarding warrants that were identified in AD's most recent paragraph 128 *Warrants Application and Supporting Affidavits Audit*. The *GED WP Audit* was based on a summary of the results in the CAPAs of 22 warrants from 9 Divisions between July 2004 and February 2007, whereas the *Warrants Audit* was based on 25 warrants from 13 Divisions issued in July 2006.⁶⁰ Since the *Warrants Audit* involved additional testing beyond the testing for the CAPAs, AD should have compared the findings between these sources, and at a minimum, should have reported whether the findings in its *GED WP Audit* were consistent with the findings from the recent paragraph 128 *Search Warrants Audit*.⁶¹
- AD failed to review to determine if any officers identified as having potential patterns in the CAPAs (as included in the *GED WP Audit*) were also identified in the paragraph 128 audits' findings. The Monitor conducted this analysis and although the Monitor did not identify any such officers for this audit, the Monitor believes that in future *GED WP Audits*, it would be prudent for AD to check if officers identified with potential patterns in the CAPAs were also identified in the paragraph 128 audits.
- The Monitor found that the *GED WP Audit* provides useful comparisons of work product between units, and identifies the units that are not achieving compliance. However, this audit report did not identify the timeframe for any of the CAPAs and failed to disclose that 15 of the CAPAs were issued more than one year ago. This concern is somewhat mitigated, however, by the fact that the reported results for the five Divisions reviewed for the second time in the most recently completed CAPAs were similar to the results from the prior CAPAs. The Monitor notes that the consistency of findings between the prior and current CAPAs should have also been addressed and reported on in the *GED WP Audit*.

documentation (91% compliance); interview of at scene supervisors (0% compliance); and paragraph 80f collecting and preserving evidence and canvassing to locate witnesses (91% and 82% compliance, respectively).

⁵⁹ NCUOF Reports were not assessed for eight Divisions, as none were issued during the deployment periods selected by AD for review in the CAPAs.

⁶⁰ Warrants were not issued by 11 Divisions during the period. In order to ensure that future *GED WP Audits* are more representative, AD has agreed in future CAPAs to extend the sample period if there are no reports of a particular kind in the DP selected for review.

⁶¹ AD also did not compare the findings of the paragraph 128 *ABC Reports Audit* with the results of the *GED WP Audit*. In relation to this report, the *GED WP Audit* had greater representation of the population of arrests compared to the paragraph 128 audit, as it summarized the review of 688 arrests from each of the areas, while the paragraph 128 *ABC Reports Audit* dated September 27, 2006, was based on a statistically valid sample of 91 arrests.

While the Monitor commends AD for the introduction of the accountability process and the degree to which this audit and the underlying reports are used to improve management of certain issues with the GED units, based on the foregoing, in particular the lack of reporting of the findings from the paragraph 128 audits and the BGC inspections, the Monitor finds the *GED WP Audit* in non-compliance with the requirements of subparagraph 131a.

B. INSPECTOR GENERAL REVIEWS & AUDITS

Subparagraph 135b – Evaluation of the OIG’s Reviews of LAPD’s Audits

Subparagraph 135b includes the requirement for the OIG to evaluate the LAPD’s audits to assess their quality, completeness and findings.

Background

The Monitor has found the OIG in compliance with the requirements of subparagraph 135b since the quarter ending September 30, 2005. Since the inception of the Consent Decree, the OIG has completed a total of 30 quality reviews.

Current Assessment of Compliance

The Monitor reviewed the following OIG reports and compared the OIG’s findings to the Monitor’s findings from its review of the same AD reports, AD audit work papers, and sampling documentation:

- OIG’s December 27, 2007 review of AD’s *ABC Reports Audit* (subparagraph 128(2));
- OIG’s December 27, 2007 review of AD’s *Confidential Informant Control Packages Audit Reports Audit* (subparagraph 128(5)); and
- OIG’s March 6, 2007 review of AD’s *Gang Enforcement Detail Work Product Assessment Summary (GED WP Audit)* (subparagraph 131a, f and g).

The Monitor’s findings, which have been discussed with the OIG, are highlighted below:

- The OIG’s reports continue to be well-organized and contain clearly reported findings and insightful comments for the Department to consider.
- The OIG appropriately found AD’s *ABC Reports Audit* and *Confidential Informant Control Packages Audit* to be quality audits that included well-supported findings.
- The OIG also concluded that AD’s *GED WP Audit* was complete, conducted in a quality manner and its findings appear to be supported. While the Monitor concurs the work was performed in a quality manner and the findings were supported, as discussed above, the

Monitor had concerns regarding the report's completeness, as the results of AD's review of some gang work product that would have changed the findings were not included.

- Regarding the *ABC Reports Audit*, the OIG provided an alternative method of assessing supervisory oversight, which involved reporting on the number of reports that were not available compared to the total number of required reports. Under this alternate method, the Department's compliance rate for Supervisory Oversight is 89%, in contrast to the 68% rate calculated in the audit. The Monitor agrees with the OIG that providing additional supplemental information on the type of supporting reports that are missing compared to the total number required is useful information for the Department.⁶² However, there are references in this table that need to be changed to better clarify the information provided, including changing the column titles to reflect that the table shows supplementary reports missing compared to total number of supplementary reports required, rather than the total arrest packages, and removing the term "compliance," as this suggests Consent Decree compliance, which, in fact, it is not.
- Also in connection with the *ABC Reports Audit*, the OIG did not identify but agrees that incidents where AD identifies that an anomaly involving an officer for some objectives will often result from a failure of the supervisor to conduct appropriate review of a report and, as a result, the supervisor's failure to review should also be included in AD's assessment of the Department's compliance with supervisory oversight.
- The Monitor commends the OIG for the recommendations it made in connection with its review of the *Confidential Informant Control Packages Audit*. While the Monitor concurs with the OIG's findings in relation to two of the CI packages, the Monitor believes the OIG could have better highlighted that one of the issues was outside the scope of AD's review.
- The OIG appropriately identified in its review of AD's *GED WP Audit* that some Area GED CAPAs did not include all types of work product, that AD did not delineate the dates of the CAPAs in its report, and that some of the CAPAs may contain stale data based on the date the CAPAs were completed. The OIG also identified that there were limited work papers to support AD's conclusion that there were no patterns and identified a few errors in the Executive Summary Table.

The Monitor concluded that each of the OIG reviews were quality reviews. The OIG has now completed a total of 33 quality reviews of LAPD audits.

Based on the foregoing, the Monitor finds the Department in compliance with the provision of subparagraph 135b that requires the OIG to evaluate the timeliness, completeness and quality of Departmental audits.

⁶² AD currently provides an appendix that lists arrest packages that are missing supporting reports and identifies which reports are missing, but this table does not compare the number of missing reports to the total supplementary reports required.

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

Paragraph 136, as amended, requires the OIG to continue its practice of reviewing all CUOF investigations and to promptly provide its written findings on each of its reviews to the Police Commission. Such reviews shall assess areas of concern identified by the Inspector General (IG), and at least one of the following three issues related to the quality and/or outcome of the investigations:

- whether the summarized and transcribed statements accurately match the recorded statements;
- whether all available evidence was properly collected and analyzed; and/or
- whether the investigation was properly adjudicated.

Background

In its previous three assessments, during the quarters ending June 30, 2006, March 31, 2007 and September 30, 2007, the Monitor found the OIG's CUOF reviews in compliance with the requirements of paragraph 136.

Current Assessment of Compliance

In completing its assessment of each CUOF incident, the OIG attends the CUOF incident and any background briefings provided by FID on the incident, and receives and reviews the FID's and Chief of Police's reports. Based on their own observations at the time of the incident and their analysis of the various reports, OIG staff assess the key requirements as described in the introduction to this section above. The OIG then provides a separate report to the Police Commission with its assessment of each incident.

In order to assess the Department's compliance with paragraph 136 during the current quarter, the Monitor randomly selected a sample of 20 CUOF investigations from the OIG's population of 24 CUOF review reports presented by the OIG to the Police Commission during the period March 2007 to June 2007.⁶³ These reviews overlapped with CUOF investigations reviewed by the Monitor during its substantive assessment of paragraphs 62, 64 and 80. The Monitor considered the OIG's reports, matrix responses, database and other working papers, as well as the relevant CUOF investigation package, including the report of the Chief of Police, TEAMS extracts and UOFRB notes.

The Monitor's findings, which have been discussed with the OIG, are highlighted below:

⁶³The Monitor's sample was based on a selection using a one-tailed test with a +/-4% error rate and 95% confidence interval.

- The OIG's reports, files and database continue to be well-organized and easy to follow, and supported the OIG's findings. The Monitor commends the OIG for updating its database to make it more effective and easier to use.
- The Monitor commends the OIG for the thoroughness, organization and clarity of its reports to the Police Commission and the way the reports highlight key issues for the Commission to address.
- The Monitor did not identify any significant issues in any of their reviews of the investigations that were not addressed by the OIG.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 136.

Subparagraph 136ii – OIG's Complaint Form 1.28 Investigations Audit

Subparagraph 136ii, as amended, requires the OIG to conduct a regular periodic review of a random sample of complaint form 1.28 investigations, and to promptly provide its written findings to the Police Commission. This regular period review shall assess areas of concern identified by the OIG, and at least one of the following issues related to the quality and/or outcome of the investigations:

- whether the summarized and transcribed statements accurately match the recorded statements;
- whether all available evidence was properly collected and analyzed; and/or
- whether the investigation was properly adjudicated.

Background

The Monitor found the Department in compliance with subparagraph 136ii for the first time during the quarter ending March 31, 2006 and again during the quarter ending March 31, 2007.

Current Assessment of Compliance

The OIG submitted its *Complaint Investigations Audit* on February 7, 2008. The OIG evaluated a sample of 60 higher-risk complaint investigations⁶⁴ handled by the IAG that were initiated on or before January 1, 2005 and closed in May or June 2007.⁶⁵ The Monitor reviewed a random

⁶⁴ During the current audit the OIG determined that higher-risk complaint investigations completed by the IAG included at least one allegation of excessive force. As in prior audits, the OIG also excluded lower risk complaints such as failure to appear, failure to qualify and preventable traffic collisions and complaints involving neglect of duty, unbecoming conduct and discourtesy.

⁶⁵ The OIG identified a final population of 154 IAG complaint investigations.

sample of 38 of these complaints.⁶⁶ Due to the number of tape recordings, the OIG elected to listen to the tape recordings of 114 complainant and public witnesses found on 92 tapes. The Monitor reviewed tapes sampled by the OIG relating to the complaint investigations in the sample.

The OIG identified quality concerns with 29 of the 60 higher risk complaint investigations. These concerns included pertinent information obtained during recorded interviews that was not included in the paraphrased statements or was misinterpreted; additional allegations made during IAG's investigations that were not identified, addressed or framed; and key investigative steps that were not completed, such as attempting to identify accused and witnessing officers involved in the complaint or raising all the necessary questions.

The Monitor's findings, which have been discussed with the OIG, are as follows:

- The OIG met with and discussed its findings with the CO of IAG and the Officer-In-Charge of IAG's Review and Evaluation Section. The CO of PSB has decided to respond to the findings in the OIG's report, which remains outstanding. Upon receiving the Department's response, the Monitor will review and consider its impacts, if any, on the Monitor's findings.
- The OIG completed a thorough review of the complaints, using matrix questions for the packages, as well as review of tapes, and prepared a well-written report which articulated the major findings from its review.
- In addition to preparing and issuing the *Complaint Investigations Audit*, the OIG also prepared a *Report of Less Significant Concerns* during the current audit. The *Report of Less Significant Concerns* was also provided to PSB management for discussion and corrective action.⁶⁷
- In one complaint investigation, although the OIG indicated there were no issues, the Monitor identified inconsistencies and three witnesses identified in the NCUOF investigation whom IAG should have also interviewed. After further discussion, the OIG agreed that it would have been preferable for the investigating officer to follow-up with these three witnesses and interview them as part of the complaint investigation.
- The OIG appropriately identified and reported quality-related concerns pertaining to 29 investigations, including pertinent information obtained in recorded interviews that was not included in the paraphrased statements in an investigation, additional allegations that were not framed or addressed, accused or witnessing officers who were not identified or

⁶⁶ This sample was selected using a one-tailed test, 95% confidence interval and an error rate of +/-4%. The Monitor also reviewed an additional four complaint investigations at the request of the OIG, bringing the total review to 42 investigations.

⁶⁷ The Monitor has followed up with IAG staff regarding the *Report of Less Significant Concerns*, who indicated that they plan to address the items included in that report after addressing the items reported in the *Complaint Investigations Audit*.

interviewed, and key investigative steps that were not completed; other issues were reported to only PSB as Less Significant Concerns.

- The Monitor concluded that two complaints containing issues that the OIG reported in its *Report of Less Significant Concerns* to the PSB should have been reported on by the OIG in its *Complaint Investigations Audit* report to the Police Commission.⁶⁸

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 136ii.

C. POLICE COMMISSION OVERSIGHT

The Consent Decree requires the Police Commission to review and evaluate all CUOF to determine conformance with LAPD policies, procedures, and the requirements of the Consent Decree. The Police Commission is also charged with reviewing various audits to determine whether changes in LAPD policies are necessary; all such changes must be approved by the Police Commission. In addition, the Police Commission conducts annual reviews of the Chief of Police and is charged with investigating complaints against the Chief of Police. Finally, the Commission reviews and approves the LAPD's budget requests.

The only provisions of this section of the Consent Decree with which the Department has not achieved substantial compliance are those requiring the Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents (subparagraph 142b) and to review specific audits required under the Decree (subparagraph 143a). The Monitor will be assessing the Department's compliance with these requirements during the extension to the Consent Decree.⁶⁹

During the current quarter, the Monitor assessed the Department's compliance with subparagraph 142b. The results of our current assessment follow.

Paragraph 142 – Police Commission/Inspector General Review of all CUOF

Paragraph 142 is related to paragraphs 67 and 136, which require the Police Commission and the IG to continue to review all CUOF. In addition, it requires that the Police Commission determine whether an officer's conduct conforms to LAPD policies, procedures and the

⁶⁸ In one complaint, the PSB interviewer was aggressive and continued to interview the complainant even though the complainant indicated that he wanted to wait until he could have a lawyer present. In another complaint, the supervisor discussed the complainant's and the officers' behavior with a witness, which was not appropriate.

⁶⁹ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 142a, 143b and 143c and with paragraphs 144, 145 and 146 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

requirements of the Consent Decree. Paragraph 142 also requires the Police Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents.

Background

The Monitor last assessed the Department's compliance with the subparagraph 142b,⁷⁰ which requires the Police Commission to annually issue a publicly-available report detailing its findings regarding CUOF incidents, during the quarter ending December 31, 2006. The Monitor found the Department in compliance with this requirement.

Current Assessment of Compliance

Subparagraph 142b: Annual Report on CUOF Incidents

The OIG submitted its Annual CUOF Report for 2006 to the Police Commission on November 30, 2007. The Police Commission approved the Annual Report on December 4, 2007. The report notes that on June 2, 2005, the United States District Court approved the amendments to Consent Decree paragraph 13, which revised paragraph 13 to exclude Negligent Discharges and On-Duty Animal Shootings from the definition of Categorical Uses of Force.⁷¹ The Police Commission noted that Negligent Discharges and On-Duty Animal Shootings do not always warrant the immediate response and investigative resources as do other OIS incidents and these investigations have been transitioned from FID to Divisional Commands. However, if warranted, FID retains the discretion to conduct an immediate response and investigation of Negligent Discharges and On-Duty Animal Shootings. The adjudication process for these incidents remains the same.⁷²

The focus of the 2006 Annual Report includes CUOF incidents that occurred during calendar year 2006 and all the CUOF incidents that were adjudicated by the Police Commission during calendar year 2006.

⁷⁰ The LAPD has achieved substantial compliance with subparagraph 142a, which comprises the remaining requirements of paragraph 142. Pursuant to the methodology described in the Monitor's Report for the Quarter Ending June 30, 2006, the Monitor is not scheduled to assess compliance with this subparagraph during the extension to the Consent Decree. However, should there be any indication of backslide in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

⁷¹ "The term 'Categorical Use of Force' means (i) all incidents involving the use of deadly force by an LAPD officer, except for non-tactical accidental discharges and animal shootings."

⁷² The Chief of Police will continue to recommend findings to the Police Commission, and the OIG will continue to review these incidents to ensure that the investigations are comprehensive and make recommendations to the Police Commission.

In 2006, there were a total of 85 CUOF incidents (46 involved an OIS). The Police Commission reviewed a total of 100 CUOF during this period.⁷³ Of these 100, one occurred in 2004, 92 in 2005, and seven in 2006. In its report, the IG discussed those incidents that were adjudicated with any of the following findings: a) “in policy, training;” b) “accidental, administrative disapproval;” or c) “out of policy, administrative disapproval” for the use of lethal force. The report indicated that of the 100 incidents reviewed, two were found to be “in policy, training.” The IG reported that in 17 incidents, the use of lethal force was adjudicated as “administrative disapproval;” of these, eight were out of policy, six were negligent discharges, and three involved a head strike with an impact weapon. The OIG did not cover the remaining incidents because they either did not involve the use of lethal force or the use of lethal force was adjudicated as “in policy.”

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 142b.

D. GENERAL

The Consent Decree requires the City and the Department to take appropriate timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Commission, the IG, and the Department under the Consent Decree. Since the implementation of the Consent Decree, numerous reports have been issued that identify recommendations to correct deficiencies at various levels within the LAPD, and the Monitor continues to assess the Department’s compliance with the requirements of this section during the extension to the Consent Decree; the next such assessment is scheduled for the quarter ending December 31, 2008.

⁷³ This includes the following: 66 OIS incidents (6 were negligent discharges and 17 were animal shootings), 14 Law Enforcement Related Injuries; ten Head Strikes With an Impact Weapon, seven In-Custody Deaths, two Carotid Restraint Control Holds, and one K-9 Bite.

V. CONCLUSION

A year ago we indicated our alarm at an incident that occurred in MacArthur Park on May 1, 2007. Our alarm arose not only from a tactical perspective but also from a “police culture” perspective. While some issues remain, as indicated in our Focus Issue this quarter we are not only pleased by the Department’s performance on May 1, 2008, but very much impressed with the handling of the issues surfaced by the events of May 1, 2007. The introspection, candor and resulting reformation of policy, training and tactics undertaken by the Department is indicative of the exemplary leadership and talent that reside within the Department. That same leadership and talent continues to be applied to the achievement of substantial compliance with the Consent Decree, and bodes well for that goal.