

# REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



**KROLL**

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

REPORT FOR THE QUARTER ENDING  
JUNE 30, 2008

Issued August 15, 2008

## EXECUTIVE SUMMARY

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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-eighth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending June 30, 2008 and is the eighth 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.

As described in a focus issue included in the body of this report, during the current quarter, as part of an overall reassessment of the Department's compliance with the Consent Decree, the Monitor and the parties revisited the status of compliance with each of the substantive provisions of the Consent Decree. The Monitor reviewed the progress made by the City and the Department over the first two years of the three-year extension period and identified those paragraphs with which the Department achieved substantial compliance during this two-year period. To the Department's credit, the list of such paragraphs was extensive, providing tangible evidence of the significant accomplishments the Department and the City have made.<sup>1</sup> Beginning with the next reporting period (for the quarter ending September 30, 2008), the Monitor is not planning on assessing compliance with these paragraphs.<sup>2</sup> As always, 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 which have been successfully implemented.

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<sup>1</sup> Specifics regarding the paragraphs with which the Department has achieved substantial compliance, prior to the extension and during the first two years of the extension, are included in the introductions to each section of the Consent Decree in the body of this report. The paragraphs in substantial compliance are also listed in grey, without bolding and without an asterisk, in the Report Card attached as Appendix A to this report. The paragraphs of the Decree that are currently scheduled for compliance assessments during the remainder of the extension are also included in Appendix A, but are bolded and denoted with asterisks.

<sup>2</sup> Certain paragraphs, such as subparagraph 80i and paragraph 97, as well as certain audit-related paragraphs, remain actively monitored despite substantial compliance because of the centrality of such paragraphs to the overall intent of the Consent Decree.

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; the receipt, maintenance, investigation and adjudication of complaints; management of gang units; the removal of Field Training Officers; audits by the LAPD's Audit Division and Ethics Enforcement Section; and reviews by the Office of the Inspector General (OIG). In total, the Monitor examined 42 paragraphs or subparagraphs of the Consent Decree during the quarter, of which the City and the LAPD successfully complied with 29 and failed to achieve compliance with 5; in addition, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with 6 paragraphs and did not complete its evaluation of 2 paragraphs. Significantly, the Department has now complied with 160 of the 199 paragraphs that the Monitor has assessed during the term of the Consent Decree and the first two years of the extension period.

In connection with Consent Decree requirements regarding the TEAMS II computer information system, the Monitor assessed the City and LAPD's compliance with the paragraph 46 requirement to develop and implement a protocol for using TEAMS II for purposes of, among other things, supervising and auditing the performance of specific officers, supervisors, managers, and LAPD units, as well as the LAPD as a whole. The Monitor found the City and LAPD in compliance with the requirement to implement protocols covering organizational assessments, but did not complete its evaluation of compliance with the requirements to implement protocols covering annual performance evaluations and transfers. The Monitor also assessed the Department's compliance with requirements regarding Police Commission, Inspector General and Chief of Police Access to TEAMS II (paragraph 40); training of managers and supervisors in the use of TEAMS II (paragraph 48); TEAMS II modifications (paragraph 52); TEAMS II management and coordination (paragraph 53); and Force Investigation Division and Internal Affairs Group investigators' access to TEAMS II (paragraph 83). The Monitor found the Department in compliance with each of these paragraphs.

The Monitor again found the Department in compliance with all specific investigative requirements included in paragraph 80 that apply to Categorical Use of Force incident investigations. The Monitor also found the Department in compliance with the requirement to consider an officer's work history when reviewing and/or making recommendations regarding disciplinary and non-disciplinary action as a result of a Categorical Use of Force (subparagraphs 64a and b).

In connection with complaints, the Monitor assessed the LAPD's compliance with various requirements relative to the receipt and maintenance of complaints (paragraph 74); Chain of Command complaint investigations (paragraph 81); the standards for credibility determinations while adjudicating completed complaint investigations (paragraph 84); the adjudication of complaint investigations, including the use of a preponderance of the evidence standard (paragraph 85); and managers' evaluation of all complaint investigations and identification of underlying problems and/or training needs (paragraph 90). With the exception of one subparagraph requiring the continuation of a 24-hour toll-free telephone complaint hotline, the Monitor again found the LAPD in compliance with all requirements assessed.

In addition to the above, the Monitor reviewed certain specific investigative requirements that apply to all misconduct complaint investigations (subsections a and f of subparagraph 80ii). As part of this review the Monitor looked at racial profiling complaints completed prior to June of 2007 (covering allegations of misconduct during 2006 and early 2007) and found deficiencies in a significant number of those investigations. As a result of those deficiencies, the Monitor has withheld determination of compliance with those subsections, until it reviews racial profiling investigations conducted under newly adopted and implemented protocols.

Although the Department has been in substantial compliance with many of the Consent Decree requirements regarding the management of gang units, it continues to struggle to achieve compliance with the remaining requirements. The Monitor found the Department in non-compliance with Consent Decree requirements relative to tour of duty limitations for gang unit supervisors and officers (subparagraph 106d), primarily due to several instances in which packages did not contain the current TEAMS II reports or current performance evaluation records when officers' tours were extended. The Monitor also found the Department in non-compliance with Consent Decree requirements that Area managers ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations, as well as the requirements governing the daily activities of gang unit supervisors, including providing a daily field presence and maintaining an active role in unit operations (subparagraphs 106f and g). The Monitor came to this conclusion through its review and evaluation of the findings regarding Gang Enforcement Division (GED) supervisory oversight as reported in several audits completed by the LAPD's Audit Division. The Monitor also assessed the LAPD's compliance with requirements regarding the roles of Bureau Gang Coordinators (subparagraph 106h), finding the LAPD in non-compliance. Although the Monitor found that the new inspection process instituted by the LAPD's Civil Rights Integrity Division was well-structured, the execution of the process was not yet adequate, as the Monitor identified a number of concerns in the three Bureau Gang Coordinator inspections reviewed. However, the Monitor was pleased with the improvements that are being made and the evolution of the inspection process since the time that the three inspections were conducted. Lastly, the Monitor assessed compliance with requirements regarding the selection process for gang unit personnel (subparagraph 107b). The Monitor concurred with the finding in the LAPD's Audit Division's most recent *GED Selection Criteria Audit* that the Department was in non-compliance with these requirements based on various deficiencies in the documentation required in the selection packages.

In regards to training, the Monitor determined that the Department was again in compliance with the requirements regarding the de-selection of Field Training Officers.

The Monitor completed its review and evaluation of four audits submitted by the LAPD's Audit Division: the *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131c-1, and 131e) submitted in December 2007; the *Categorical Use of Force Systems Audit* (subparagraph 129i) submitted in March 2008; the *Complaint Form 1.28 Investigations Audit* (subparagraph 129iii) submitted in March 2008; and the *GED Selection Criteria Audit* (subparagraph 131b) submitted in March 2008. The Monitor found each of these audits in

compliance with the Consent Decree. The Monitor also completed its review of Audit Division's compliance with the requirement to submit a Motor Vehicle and Pedestrian Stops Audit (subparagraphs 128(4), 131c-4, and 131e), but withheld its determination of compliance pending the Department's finalization of the policies and procedures for tracking this information and Audit Division's subsequent audit. The Monitor also found the LAPD, through its Ethics Enforcement Section, in compliance with Consent Decree requirements regarding the planning and execution of integrity/sting audits (paragraph 97).

During the current quarter, the Monitor also assessed the reviews conducted by the OIG of two audits completed by the Ethic Enforcement Section, *Ethics Enforcement Section's Quarterly Report Third Quarter 2007* and the *Ethics Enforcement Sections Quarterly Report Fourth Quarter 2007* (paragraph 97), and two audits performed by Audit Division, the *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131c-1, and 131e) and the *Complaint Form 1.28 Systems Audit* (subparagraph 129iii). The Monitor concluded that the OIG's reviews of these audits were quality reviews. The Monitor also conducted a limited review of the OIG's *Non-Categorical Use of Force Investigations Review* (paragraph 136i) and did not identify any issues that suggest this review should be actively monitored or that the quality of this review varied from prior *Non-Categorical Use of Force Investigations Reviews*.

## REPORT CONTENTS:

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>FOCUS ISSUES.....</b>	<b>3</b>
	A. The Final Year of the Extension of the Decree.....	3
	B. Changes to the Department’s Adjudication of Categorical Uses of Force .....	3
<b>III.</b>	<b>PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT.....</b>	<b>5</b>
	A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System].....	5
	B. Management and Supervisory Measures to Promote Civil Rights Integrity – Performance Evaluation System .....	12
	C. Use of Force .....	13
	D. Search and Arrest Procedures .....	18
	E. Complaints .....	18
	F. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops.....	29
	G. Management of Gang Units .....	29
	H. Confidential Informants .....	39
	I. Training.....	40
<b>IV.</b>	<b>INTERNAL &amp; EXTERNAL OVERSIGHT/MONITORING .....</b>	<b>42</b>
	A. Integrity Audits & Internal Audit Oversight.....	42
	B. Inspector General Reviews & Audits .....	60
	C. Police Commission Oversight .....	65
	D. General.....	65
<b>V.</b>	<b>CONCLUSION.....</b>	<b>66</b>

## REPORT CONTENTS (continued):

### APPENDICES:

- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending June 30, 2008
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

## I. INTRODUCTION

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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-eighth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending June 30, 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. Similarly, in a review conducted this quarter, the Monitor found that the LAPD achieved substantial compliance with a number of additional paragraphs during the first two years of the extension period. These paragraphs will likewise move into inactive status. 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 remainder of the extension period i.e. those paragraphs of the Decree with which the City has failed to achieve substantial compliance or which have been determined to be so central to the Consent Decree as to warrant continued active monitoring.

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the status of the Department's compliance with each paragraph or

subparagraph of the Consent Decree.<sup>3</sup> The “Most Recent 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 that evaluation was made is also indicated. Those paragraphs that the Monitor is planning on actively Monitoring during the remaining term of the extension are denoted with an asterisk and bolding. The Report Card also identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance with these paragraphs. 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.

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<sup>3</sup> 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.

## II. FOCUS ISSUES

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### A. THE FINAL YEAR OF THE EXTENSION OF THE DECREE

As we stated in our Report for the Quarter Ending June 30, 2006, the Los Angeles Police Department is a different agency than that which was found when the Independent Monitoring team arrived in June of 2001 to begin our assignment. It is an agency that has made great strides, through the hard work and dedication of many in the Department and the City of Los Angeles, in instituting the reforms that were mandated by the Decree. It is also an agency in which the institutions that will be charged with ensuring that the Department not revert to its former self after the expiration of the Consent Decree, namely the Inspector General's Office, the Police Commission and the Audit Division, have been significantly strengthened. At the onset of the Extension to the Consent Decree, we recognized that there remained substantial work to be done. Two years into the extension, we are happy to report here and throughout this report that much of that work has, in fact, been accomplished.

During the current quarter, as part of an overall reassessment of the Department's compliance with the Consent Decree, the Monitor and the parties revisited the status of compliance with each of the substantive provisions of the Consent Decree. The Monitor reviewed the progress made by the City and the Department over the first two years of the three-year extension and identified those paragraphs with which the Department achieved substantial compliance during this two-year period. To the Department's credit, the list of such paragraphs is extensive, providing tangible evidence of the significant accomplishments the Department and the City have made over the past two years.<sup>4</sup>

### B. CHANGES TO THE DEPARTMENT'S ADJUDICATION OF CATEGORICAL USES OF FORCE

During the current quarter the Police Commission adopted recommendations of the Department and instituted new procedures relative to the adjudication of Categorical Uses of Force (CUOFs). These changes were made with the hope of bringing about both an institutional and "officer involved" learning process from each CUOF. The changes call for all personnel substantially involved in a CUOF to participate in a tactical debrief and/or specific training after the review and adjudication of a CUOF. Moreover, the adjudication process of CUOFs will now include an analysis of actions that worked well and those that require improvement. Lastly, the new

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<sup>4</sup> The paragraphs of the Decree that are currently scheduled for compliance assessments during the remainder of the extension are denoted with an asterisk and bolded in the Report Card attached as Appendix A to this report. Those paragraphs for which the Monitor is not planning on actively monitoring are listed in gray without bolding and without an asterisk in Appendix B.

adjudication process no longer requires a CUOF adjudicated as *Administrative Disapproval* to automatically result in a personnel complaint. This change allows the Department to select the appropriate method to ensure future compliance with Department policies, rules and regulations. It will be within the ambit of the adjudication process to identify what means are most likely to ensure future compliance with policies and procedures and to determine if or when a personnel complaint is appropriate.

The Monitor believes that, if implemented and executed properly, these changes in policy stand to enhance analysis of CUOFs, thereby promoting beneficial training and, thus, limiting the number of avoidable CUOFs in the future. Yet, there is the danger that without the imposition of appropriate discipline in cases of clearly negligent conduct, a significant tool in promoting the utmost of care in adherence to Department policies, procedures and regulations may be removed. Put simply, meaningful penalties in appropriate cases have traditionally been recognized as having the ability to reduce negligence.

The new policies do recognize that in circumstances where previous remedial training has been provided or there has been intentional disregard for policies or procedures of the Department, a personnel complaint and ensuing discipline would normally be appropriate. However, the Monitor has concerns regarding the LAPD's system of discipline. The Chief of Police does not have the authority to establish the severity of discipline to be meted out. While the Chief can recommend discipline, a recommendation that includes any suspension or loss of pay may, at the option of the officer, go to a Charter-mandated Board of Rights. The Monitor recognizes that this process is not within the Chief's or Police Commission's power to revise but would, rather, require a Charter change to modify.

Another problem outside the control of the Department and the Police Commission and over which the City has no control is that officers may, and most often do, secure "insurance" through their union, so that any discipline in the form of loss of pay or suspension actually incurred is reimbursed, thereby creating paid time off for the offending officer.

The Monitor recognizes that the Department and the Police Commission continue to take a broader look at the current system of discipline. This continual review is exemplified by the changes adopted this quarter to the adjudication of CUOFs.

We will, in upcoming quarters, review the effect of the changes to the adjudication of CUOFs and attempt to determine whether the benefits that the Department hoped to reap are being realized.

### III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

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#### 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.<sup>5</sup> 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,<sup>6</sup> 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.

- TEAMS II staff and the Risk Analysis Section (RAS) of the Risk Management Group (RMG) continue to monitor and assess system-generated action items to identify 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 continues to assess the RMIS peer groups and thresholds, as it appears that more system-generated action items<sup>7</sup> 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 has developed new functionality for RMIS Department-wide, which resulted 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 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

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

<sup>6</sup> 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.

<sup>7</sup> 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.

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, 83). As a result, the Monitor continued to assess the Department's compliance with these and the additional TEAMS II-related paragraphs during the extension period. During the first two years of the extension, the Department achieved substantial compliance with most of these paragraphs;<sup>8</sup> the Monitor does not plan to actively monitor these paragraphs during the remainder of the extension period. Paragraph 46 is the sole paragraph from this section of the Consent Decree that the Monitor will continue to actively monitor during the remainder of the extension period.<sup>9</sup>

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 40, paragraph 46 as it relates to subparagraphs 47i, k and m, paragraph 48, paragraph 52, paragraph 53 and paragraph 83. The results of our current assessments follow.

## *Paragraph 40 – Police Commission, Inspector General and Chief of Police Access to TEAMS II*

Paragraph 40 requires that the Police Commission, the Inspector General (IG), and the Chief of Police shall each have equal and full access to TEAMS II and the Department shall establish a policy with respect to granting or limiting access to TEAMS II by all other persons, including the staff of the Commission and the IG.

### *Background*

The Monitor last assessed the LAPD's compliance with subparagraph 40 during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 40 during the current quarter, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of pertinent Department policy, the TEAMS II Access Control Matrix, and TEAMS II User Access

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<sup>8</sup> The Department achieved substantial compliance with paragraphs 39-44, 47-49, 52, 53 and 83, as well as subparagraphs 50d, 50e, 51b and 51d. It should be noted that substantial compliance with paragraphs 40, 48, 52, 53 and 83 was achieved during the current quarter. Compliance assessments related to these paragraphs are included in this report.

<sup>9</sup> The Department has not yet achieved substantial compliance with sub paragraph 51c; however, compliance with the requirements of that subparagraph will be assessed under paragraph 46 during the remainder of the extension.

Profiles for the Police Commission, the IG and the Chief of Police, as well as their staff. The Monitor also interviewed various persons in these entities to verify their access to TEAMS II and to demonstrate its capabilities. The Access Control Matrix and User Access Profiles for the Police Commission, the IG and the Chief of Police indicate that as of June 30, 2008, each have equal and full access to TEAMS II, as required by paragraph 40.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 40. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

### **Paragraph 46 – Implementation of Protocol for Using TEAMS II (Including for Supervision & Audit Purposes)**

Paragraph 46 requires the Department to develop and implement a protocol for using TEAMS II, for purposes including supervising and auditing the performance of specific officers, supervisors, managers, and LAPD units, as well as the LAPD as a whole. The City is required to prepare this protocol in consultation with the DOJ and the Monitor, and obtain approval for the protocol and any subsequent modifications to the protocol from the DOJ for matters covered by paragraph 47. The Monitor is assessing compliance with paragraph 46 by evaluating the implementation of the requirements of each of the subparagraphs of paragraph 47.

### ***Background***

As stated above, the Monitor is assessing compliance with paragraph 46 by evaluating the implementation of the policies and protocols promulgated by the Department to meet the requirements of each of the subparagraphs of paragraph 47.<sup>10</sup> The Monitor last assessed the Department's compliance with paragraph 46 during the quarter ending December 31, 2007, at which time the Monitor assessed compliance as it relates to subparagraphs 47a, b, c and l. The Monitor found the Department in non-compliance with these requirements but noted that significant progress was expected through implementation of the remedial actions taken by the Department, as described in the Report for the Quarter Ending December 31, 2007.

The Monitor has not previously assessed the Department's compliance with paragraph 46 as it relates to subparagraphs 47i, k and m.

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<sup>10</sup> Paragraph 47 outlines specific requirements that are to be addressed by the protocol for using TEAMS II. The Monitor has determined that the City and Department are in substantial compliance with paragraph 47, as the Department has published the pertinent policies addressing the requirements of each of the subparagraphs of paragraph 47.

## *Current Assessment of Compliance*

Prior to assessing the LAPD's compliance with paragraph 46 as it relates to implementation of protocols covering annual performance evaluations and transfers (subparagraphs 47i and m), the Monitor and TEAMS II staff held several discussions regarding supervisor-generated action items and how they would be handled by supervisors. The Department decided to eliminate the need for supervisors to generate their own action items and instead developed system-generated action items to address the requirements of subparagraphs 47i and m. By automating these action items, the goal was to ease the burden on supervisors and ensure that such requirements are completed in a timely manner.

The Department began rolling out these system-generated action items in the beginning of April 2008 for transfers and piloted the annual performance evaluations for West Bureau in May 2008. Both types of action items were deployed Department-wide as of June 2008. These action items will allow direct links to not only TEAMS II reports, but also the Transfer Evaluation Report (TER) forms required for transfers and the performance evaluation forms for annual reviews. In its continued monitoring of the implementation of TEAMS II under paragraph 46, the Monitor will select a sample and conduct a review of these system-generated action items in order to determine whether the requirements of subparagraphs 47i and m have been implemented.

During the current quarter, the Monitor discussed with the TEAMS II staff the appropriate approach to assess the LAPD's compliance with paragraph 46 as it relates to the implementation of protocols covering organizational assessments (subparagraph 47k). The Monitor also reviewed the results of an organizational assessment TEAMS II staff conducted in March 2008. In that assessment, TEAMS II staff reviewed total Department-wide action items for the period January 1, 2007 to March 31, 2008 and determined that the Narcotics Unit numbers, specifically Central Area Narcotics, appeared to be higher than the average of other specialized units for RMIS thresholds.<sup>11</sup> TEAMS II staff, in conjunction with RAS, presented this to the LAPD Risk Management Executive Committee (RMEC). Through the review process, which included research and a presentation to RMEC by the Commanding Officer (CO) of Central Area, it was determined that Central Area Narcotics had a low number of stops due to the Narcotics Task Force's use of a Department-approved exception to completing FDRs, as stated in the LAPD Manual and Special Order 29, *Data Collection for Motor Vehicle and Pedestrian Stops-Revised*, dated June 23, 2003." In addition, supervisors were directly engaging in uses of force with the officers on-scene more often than perhaps necessary, rather than stepping back and serving as supervisors for the incidents.<sup>12</sup>

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<sup>11</sup> These specific action items referenced here are triggered when comparing the number of stops to the number of complaints and UOF. In this instance, Central Area Narcotics had a higher number of complaints and UOF when compared to the number of stops.

<sup>12</sup> This leads to a higher number of UOF incidents, compared to other areas, if supervisors are also counted as involved officers in these UOF.

As a result of these findings, the Captain of Central Division changed procedures to ensure that FDRs are being completed by the Narcotics Task Force, which will increase documented stops for Central Narcotics Units, and in turn be more representative of their RMIS peer group. The Captain discussed with supervisors the importance of acting as a supervisor to an incident if possible, rather than getting directly involved in the use of force (UOF). The Captain expressed that the organizational assessment engendered by TEAMS II data was critical in identifying the issue and bringing about the noted policy revisions. In the future, TEAMS II and RAS plan to look at other specialized units in each new organizational assessment, including gangs, vice, patrol, etc., and will explore other ways to review and assess the implementation of subparagraph 47k regarding organizational assessments.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it pertains to the requirements of subparagraph 47k. As indicated above, the Monitor has not yet completed its evaluation of the Department's compliance with paragraph 46 as it pertains to the requirements of subparagraphs 47i and m; this assessment will be completed in the upcoming quarters.

### **Paragraph 48 – Training Re: Use of TEAMS II and Protocol Implementation**

Paragraph 48 requires the LAPD to train managers and supervisors, consistent with their authority, in the use of TEAMS II in order to address at-risk behavior and to implement the protocol described in paragraphs 46 and 47.

### ***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 48 during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance.

### ***Current Assessment of Compliance***

In order to assess the LAPD's compliance with paragraph 48 during the current quarter, the Monitor reviewed a query generated by TEAMS II staff of all supervisors who should have attended RMIS TEAMS II training, identifying a total population of 2,579 supervisors. The TEAMS II query indicated that 2,479 of the 2,579 supervisors, or 96%, were trained.

The Monitor selected all 80 supervisors who attended training from January 1 through March 31, 2008, as identified by the TEAMS II query, and reviewed the list of supervisors trained and the dates of training, including the training rosters, to determine if the supervisors attended the RMIS TEAMS II training. The Monitor concluded that all 80 supervisors appeared to have taken the RMIS TEAMS II training.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 48. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not

planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

### **Paragraph 52 – TEAMS II Modifications**

Paragraph 52 requires that following implementation of TEAMS II, the City may cause the Department to add, subtract, or modify data tables and fields, modify the list of documents electronically attached, and add, subtract, or modify standardized reports and queries. The City or the Department shall consult with the DOJ and the Monitor before subtracting or modifying any data tables or data fields, or modifying the list of documents to be electronically attached, and make all reasonable modifications to the proposed alterations based on any objections by the DOJ.

### ***Background***

The Monitor last assessed the LAPD's compliance with paragraph 52 during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance.

### ***Current Assessment of Compliance***

In order to assess the LAPD's compliance with paragraph 52 during the current quarter, the Monitor met with the TEAMS II staff on June 24, 2008 and discussed any possible modifications to the TEAMS II system. The Monitor also reviewed the TEAMS II systems during the quarter in conjunction with its reviews of other paragraphs and found that no eliminations or changes to TEAMS II have yet been made.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 52. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

### **Paragraph 53 – TEAMS II Management and Coordination**

Paragraph 53 requires the LAPD to designate a unit within Human Resources Bureau that is responsible for developing, implementing, and coordinating LAPD-wide risk assessments. Such unit shall be responsible for the operation of TEAMS II, and for ensuring that information is entered into and maintained in TEAMS II in accordance with the Consent Decree. Such unit is required to provide assistance to managers and supervisors who are using TEAMS II to perform the required tasks, and is responsible for ensuring that appropriate standardized reports and queries are programmed to provide the information necessary to perform these tasks.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 53 during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 53 during the current quarter, the Monitor met with the TEAMS II staff and the RAS on June 24, 2008 and discussed the role of RAS, which, as reported previously, has been providing the Department with assistance in connection with TEAMS II, including providing a help desk for LAPD personnel to call when guidance is needed on how to evaluate risk and write a proper narrative to support any conclusions made based on that evaluation. The Monitor was informed that RAS continues to provide this assistance to the Department; RAS continues to conduct on-site visits to assist with training and utilization of TEAMS II, and is directly monitoring and producing reports to ensure action items are being completed in a timely manner and that those managers and supervisors needing assistance with completing these action items are receiving that help.

Also, RAS and TEAMS II staff continues to produce a daily status report that shows the status of action items Department-wide. The status report is used to coordinate the efforts of RAS and TEAMS II Helpdesk staff to assess which action items are pending and which are completed in a timely manner. RAS also attends bi-weekly meetings with the TEAMS II staff, where they provide a status update of their role in the TEAMS II process. Finally, RAS has also taken on an additional role of coordinating the organizational assessments required under subparagraph 47k.<sup>13</sup> By all accounts, through its coordination and review RAS is providing substantial benefits to TEAMS II and the areas.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of paragraph 53. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

## *Paragraph 83 – FID and IAG Access to TEAMS II*

Paragraph 83 requires that Force Investigation Division (FID) and Internal Affairs Group (IAG) investigators conducting investigations shall have access to all information contained in TEAMS II, where such information is relevant and appropriate to such investigations, including training records, Complaint Form 1.28 investigations, discipline histories, and performance evaluations.

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<sup>13</sup> Refer to the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47k, above, for an example of RAS' role in connection with the review of stops made by Central Area Narcotics.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 83 during the quarter ending March 30, 2007, at which time the Monitor found the LAPD in compliance.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 83 during the current quarter, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of pertinent Departmental policy, the TEAMS II Access Control Matrix, and TEAMS II User Access Profiles for all FID and IAG investigators. The Monitor reviewed a current roster of all FID and IAG investigators and compared it to the TEAMS II Access Control Matrix and User Access Profiles to ensure the population included in TEAMS II was complete. The Monitor found that all 153 FID and IAG investigators have appropriate access, as required by paragraph 83.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of paragraph 83. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

## **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 LAPD has not yet achieved substantial compliance with the requirements of this paragraph.

The Monitor assessed compliance with paragraph 54 during the current quarter. The results of our current assessment follow.

### **Paragraph 54 – Performance Evaluations**

Paragraph 54 mandates that the Department shall develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance, including with respect to: (a) civil rights integrity and the employee's community policing efforts (commensurate with the employee's duties and responsibilities); (b) managers' and supervisors' performance in addressing at-risk behavior including the responses to Complaint Form 1.28 investigations; (c) managers' and supervisors' response to and review of Categorical and Non-Categorical Use of Force (CUOF and NCUOF, respectively) incidents, review of arrest, booking, and charging decisions and review of requests for warrants and affidavits to support warrant applications; and (d) managers' and supervisors' performance in preventing retaliation. The plan shall include

provisions to add factors described in subparts (a)-(d), above, to employees' job descriptions, where applicable.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 54 during the quarter ending June 30, 2007, finding the Department in non-compliance. The LAPD indicated that a performance evaluation rating form and related instruction and training were under development in an effort to comply with the requirements of the paragraph.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 54 during the current quarter, the Monitor requested the *Supervisory Performance Evaluations Audit*, dated June 27, 2008, which was completed by the Civil Rights Integrity Division (CRID) and approved on July 8, 2008 by the Police Commission. This report was completed three days prior to the end of the reporting period, and will be reviewed by the Monitor during the quarter ending September 30, 2008.

Based on the foregoing, the Monitor withholds a determination of the Department's compliance with paragraph 54 pending its review of the aforementioned audit.

## 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 CUOF<sup>14</sup> is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.<sup>15</sup> Administrative investigations of these incidents are the responsibility of the FID. All completed CUOF incident investigations must be presented to a Use of Force Review Board (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.<sup>16</sup> NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from

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<sup>14</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

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.

Prior to the extension, the Department had 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 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 had not yet achieved substantial compliance with several Consent Decree provisions regarding UOF investigations (paragraph 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 continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.<sup>17</sup>

During the first two years of the extension, the Department achieved substantial compliance with subparagraph 64b (non-disciplinary action) and paragraph 80i.<sup>18</sup> The Monitor is not planning on actively monitoring subparagraph 64b during the remainder of the extension period; however, the Monitor will continue to actively monitor paragraph 80i because of the centrality of this paragraph to the Consent Decree, as well as paragraphs 62 and 63, and subparagraph 64a.

During the current quarter, the Monitor assessed the Department's compliance with subparagraph 64a and paragraph 80i. The results of our current assessments follow.

### **Paragraph 64 – Officer History Considered for Non-Disciplinary and Disciplinary Actions**

Paragraph 64 requires a manager<sup>19</sup> to consider an officer's work history, including information contained in the TEAMS II system, the officer's CUOF history and prior tactics, when reviewing and/or making recommendations regarding (a) discipline or (b) non-disciplinary action as a result of a CUOF.

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<sup>17</sup> Prior to the extension, the Department 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.

<sup>18</sup> Compliance assessments related to these paragraphs are included in this report.

<sup>19</sup> Paragraph 29 of the Consent Decree defines a "manager" as an LAPD supervisor ranked captain or above. In interpreting the requirements of this paragraph, the Monitor noted that although it requires a manager's review, it does not specifically require the involved officer's manager. The UOFRB is comprised of at least 4 participants who qualify as a manager according to the Consent Decree definition.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 64 as it pertains to disciplinary action (subparagraph 64a) during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in non-compliance. The Monitor last assessed the LAPD's compliance with paragraph 64 as it pertains to non-disciplinary action (subparagraph 64b) during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance.

## *Current Assessment of Compliance*

In order to assess compliance with subparagraphs 64a and b, the Monitor reviewed and subsequently relied on Audit Division's (AD) *Categorical Use of Force Systems Audit*, dated March 21, 2008, and related working papers.<sup>20</sup> The Monitor noted the following:

### *Subparagraph 64a Officer History Considered For Disciplinary Actions*

AD included in its population those CUOF incidents adjudicated by the UOFRB, the Chief of Police and/or the Police Commission as *Out of Policy*, *Administrative Disapproval*, *Unauthorized Force*, and/or *Unauthorized Tactics*. With any of these adjudications, the LAPD initiates a personnel complaint and an investigation is completed.<sup>21</sup>

The LAPD AD identified 32 CUOF incidents involving 51 officers whose adjudication required the completion of a personnel complaint investigation during the 2007 Calendar Year. For all 51 officers, LAPD AD reviewed the respective complaint investigations and Letters of Transmittal and determined that there was evidence that the involved employees' COs considered the officers' work and prior UOF histories.

### *Subparagraph 64b Officer History Considered For Non-Disciplinary Actions*

The AD reviewed 23 CUOF incidents involving 71 officers who were presented to the UOFRB during the period September 1, 2007 through December 15, 2007. For all 71 officers, supporting relevant officer work history documentation, such as TEAMS reports, were reviewed and considered by the UOFRB.

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<sup>20</sup> Refer to the Current Assessment of Compliance for paragraph 129iii for information regarding the Monitor's assessment of the AD's *Complaint, Form 1.28 Investigations Audit*.

<sup>21</sup> Under the upcoming changes to the discipline system, which were requested by the Chief of Police and approved by the Police Commission, personnel complaints will not be automatically generated in all instances. Refer to the focus issue entitled *Changes to the Department's Adjudication of Categorical Uses of Force* in this report for information.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 64a and b. The Department is in substantial compliance with subparagraph 64b; as a result, the Monitor is not planning on actively monitoring compliance with this subparagraph during the remainder of the extension period.

### **Paragraph 80 – Categorical Use of Force Investigations**

Paragraph 80 defines specific investigative requirements that apply to all CUOF incident investigations and all administrative complaint investigations in which the underlying alleged misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven subsections requiring conformance as follows:

- a. Tape record or videotape interviews of complainants, involved officers, and witnesses;
- b. Canvass a scene, interview complainants and witnesses at sites and times convenient for them;
- c. Prohibit group interviews;
- d. Notify involved officers and the supervisors of involved officers, except when the LAPD deems the complaint to be confidential under the law;
- e. Interview all supervisors with respect to their conduct at the scene during the incident;
- f. Collect and preserve all appropriate evidence, including canvassing the scene to locate witnesses; and
- g. Identify and report all inconsistencies in officer and witness interview statements gathered during the investigation.

For reporting purposes, the Monitor has broken paragraph 80 down into two subparagraphs: 80i, which relates to CUOF investigations, and 80ii, which relates to administrative complaint investigations.

### ***Background***

The parties have agreed that the Monitor's review of CUOF incident investigations should commence at the point in time a substantially completed investigation is forwarded to the Use of Force Review Division (UOFRD) and the Office of the Inspector General (OIG) for review and presentation for adjudication to the UOFRB, the Chief of Police and the Police Commission.

The Monitor last assessed compliance with paragraph 80 as it pertains to CUOF incidents (subparagraph 80i) during the quarter ending December 31, 2007, at which time the Monitor

found the LAPD in compliance with all pertinent subsections of the paragraph.<sup>22</sup> The Monitor reviewed 25 CUOF incident investigations that were investigated solely by the FID. Although the Monitor identified instances of non-compliance in some investigations,<sup>23</sup> after considering the merits of the 25 CUOF incident investigations as a whole, the Monitor concluded that the items of non-compliance did not impact the investigations' overall quality and the ability of a reviewer to properly adjudicate officer actions.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 80i during the current quarter, the Monitor reviewed all 13 CUOF incident investigations that occurred during the period August 2006 through December 2006 and were investigated solely by the FID. The 13 incidents comprised:

- Eight OIS incidents; the suspect(s) sustained a hit(s) in seven of these eight incidents.
- Three ICD incidents for which the cause of death was not attributed to officer actions.<sup>24</sup>
- One incident in which the officer utilized a neck restraint.
- One incident in which the officer administered a head strike with an impact weapon.

The Monitor noted the following:

- For all 13 investigations reviewed, all interviews were tape-recorded (subsection a).
- Interviews were conducted at times and locations convenient to witnesses in all 13 investigations (subsection b).
- Group interviews did not occur in any of the 13 investigations (subsection c).
- Supervisors responding to the scene were interviewed regarding their conduct in all 13 investigations (subsection e).
- All appropriate evidence was collected in all 13 investigations (subsection f).

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<sup>22</sup> Subsection d of paragraph 80 is not applicable to CUOF investigations.

<sup>23</sup> Each CUOF incident is reviewed and opined upon by the UOFRB, the Chief of Police and the Board of Commissioners. The Monitor noted that materially inconsistent statements were identified and addressed in 22 of the 25 investigations reviewed. Also, the Monitor noted that interviews were not conducted at times and locations convenient to witness in two of the 25 investigations reviewed.

<sup>24</sup> Special Order No. 34, dated October 12, 2005, *In-Custody Deaths Terminology – Revised*, amended Sections 2/101, 2/140.02, 4/409.2, 3/794.1 and 4/238.55 of the Department Manual. It deactivated the categorization formerly referred to as LEARD. All incidents involving a person who dies have since been and will be categorized as ICDs. This Special Order revised policy to conform to California/Federal DOJ and other statewide municipal agencies.

- All materially inconsistent statements were identified and addressed during the course of 12 of the 13 investigations (subsection g). For one investigation, a discrepancy involving the driver of a vehicle was not addressed.

Finally, the Monitor considered the merits of each CUOF incident investigation as a whole, and whether or not individual items of non-compliance impacted the investigation's overall quality and the ability of a reviewer to properly adjudicate officer actions. Although certain investigations were notably superiorly conducted and reported, all 13 provided adequate information to ultimately render a decision.

Based on the foregoing, the Monitor finds the LAPD in compliance with subsections a through c and e-g of subparagraph 80i. Although the Department has achieved substantial compliance with each of these subsections, and with subparagraph 80i as a whole, because of their centrality to the Consent Decree, the Monitor will continue to actively monitor them during the remainder of the extension period.

## 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 had achieved substantial compliance with a number of requirements related to search and arrest procedures prior to the extension,<sup>25</sup> it had 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). The Monitor continued to assess the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree. Because substantial compliance with these provisions was not achieved during the first two years of the extension, the monitoring of these provisions will continue during the remainder of the extension period.<sup>26</sup>

## 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

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<sup>25</sup> Prior to the extension, the Department 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.

<sup>26</sup> However, compliance with the requirements of subparagraph 70c will be assessed under paragraph 46 during the remainder of the extension.

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 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.

Prior to the extension, the Department had achieved substantial compliance with many of the Consent Decree's requirements relative to complaint intake, investigation, adjudication and reporting.<sup>27</sup> However, the Department had not yet achieved substantial compliance with Decree requirements relative to the receipt and maintenance of complaints (paragraph 74); the investigation of complaints (certain subsections of subparagraph 80ii and paragraph 81<sup>28</sup>); 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 continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the first two years of the extension, the Department achieved substantial compliance with subparagraphs 74a-d, 74f, and 74h, and paragraphs 80ii (subparagraphs a and f), 81, 84, 85 and 90.<sup>29</sup> The Monitor does not plan to actively monitor subparagraphs 74a-d, 74f, and 74h or paragraphs 81, 84, 85 and 90 during the remainder of the extension period. However, because of the centrality of the paragraph to the Consent Decree, the Monitor will continue to actively monitor paragraph 80ii (subparagraphs a and f), as well as subparagraphs 74e and 74g.

### **Paragraph 74 – Complaint Intake**

Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials and continue the operation of a 24-hour toll free telephone complaint hotline. Specifically, the Department must continue to provide for the receipt of complaints as follows:

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<sup>27</sup> The Department 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.

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

<sup>29</sup> Compliance assessments related to these paragraphs are included in this report. It should be noted that substantial compliance with some of these provisions was achieved during the current quarter.

- a. in writing, verbally, in person, by mail, by telephone (of TDD), facsimile transmission, or by electronic mail;
- b. anonymous complaints;
- c. at LAPD headquarters, any LAPD station or substation, or the offices of the Police Commission or the IG;
- d. distribution of complaint materials and self-addressed postage-paid envelopes in easily accessible City locations throughout the city and in languages utilized by the city in municipal election ballot materials;
- e. distribution of the materials needed to file a complaint upon request to community groups, community centers, and public and private service centers;
- f. the assignment of a case number to each complaint; and
- g. continuation of a 24-hour toll-free telephone complaint hotline. Within six months of the effective date of this Agreement, the Department shall record all calls made on this hotline.
- h. In addition, the Department must prohibit officers from asking or requiring a potential complainant to sign any form that in any manner limits or waives the ability of a civilian to file a police complaint with the LAPD or any other entity. The Department must also prohibit officers, as a condition for filing a misconduct complaint, from asking or requiring a potential complainant to sign a form that limits or waives the ability of a civilian to file a lawsuit in court.

## *Background*

The Monitor last assessed compliance with paragraph 74 during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance with subparagraphs 74 a, b, f and h. The Monitor found the LAPD in non-compliance with subparagraphs 74d and g during the quarter ending March 31, 2007. The Monitor has not previously assessed the LAPD's compliance with subparagraphs c and e.

## *Current Assessment of Compliance*

In order to assess compliance with subparagraphs 74 a, b, c, f and h during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period February 16, 2008 through March 15, 2008. From this listing, the Monitor randomly selected 122 investigations for review.<sup>30</sup> The Monitor noted the following:

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<sup>30</sup> Historically, the Monitor has selected random, statistical samples utilizing a confidence level of 95% with an acceptable error rate of +/- 4%. For the current assessment period this would have equated to selecting and

- For all 122 investigations, the complaints were received either in writing, verbally, in person, by telephone, or by mail. Although none of the complaints selected were received via facsimile or email, the LAPD is capable of receipt via either method. None of the 124 complaints selected were received by the Department anonymously (subparagraphs a and b).
- Complaints received verbally or in writing were received directly by one of the LAPD's Divisions. A review of the complaint face sheets noted a check box to identify complaints received by the OIG, another law enforcement agency, an attorney or a judicial official (subparagraph c).
- For all 122 investigations, the complaints were assigned unique complaint file numbers (subsection f).<sup>31</sup>
- For all 122 investigations, the Monitor noted no instances in which the LAPD required the complainants to sign a form or waiver that in any way limited their ability to submit a complaint or file a lawsuit (subsection h).

In order to assess compliance with subparagraphs 74d and g, the Monitor reviewed and subsequently relied on AD's *Complaint, Form 1.28 Investigations Audit*, dated December 20, 2007, and related working papers.<sup>32</sup> The Monitor noted the following:

- AD conducted visits to 26 locations in an effort to verify the availability of complaint material in all mandated languages<sup>33</sup> and the availability of pre-addressed, postage paid envelopes. The identified population of complaint material totaled 364 of which the LAPD AD verified the existence of 353 or 97%.<sup>34</sup>
- AD personnel called the hotline 30 times within a 35-day period noting that on five occasions, either the call went unanswered or the messaging system failed to engage and record the call.<sup>35</sup>

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reviewing 72 randomly selected complaint investigations out of a population of 284 complaint investigations. However, the Monitor elected to increase its sample to 122 randomly selected complaint investigations.

<sup>31</sup> For duplicate complaints, a unique complaint file number is assigned; however, once determined to be a duplicate, the more recent complaint file is combined with the first complaint file and investigated as one complaint.

<sup>32</sup> Refer to the Current Assessment of Compliance for paragraph 129iii for information regarding the Monitor's assessment of the AD's *Complaint, Form 1.28 Investigations Audit*.

<sup>33</sup> The seven mandated languages are English, Spanish, Korean, Cantonese, Japanese, Vietnamese and Tagalog.

<sup>34</sup> AD also included the "Community and Commendation Poster" as an item of compliance; the Monitor does not consider this to be a requirement of subparagraph 74d.

<sup>35</sup> The Department is in the process of implementing a new phone system that will capture incoming complaint calls during non-business hours. The Professional Standards Bureau (PSB) will have oversight of the system and will staff the hotline with PSB personnel during normal business hours.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 74a, b, c, d, f and h and in non-compliance with subparagraph g. The Department is in substantial compliance with subparagraphs 74a-d, f and h; as a result, the Monitor is not scheduled to actively monitor compliance with these subparagraphs during the remainder of the extension period.

### *Subparagraph 80ii –Administrative Complaint Investigations*

Paragraph 80 defines specific investigative requirements that apply to all CUOF incident investigations and all administrative complaint investigations in which the underlying alleged misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven subsections requiring conformance as follows:

- a. Tape record or videotape interviews of complainants, involved officers, and witnesses;
- b. Canvass a scene, interview complainants and witnesses at sites and times convenient for them;
- c. Prohibit group interviews;
- d. Notify involved officers and the supervisors of involved officers, except when the LAPD deems the complaint to be confidential under the law;
- e. Interview all supervisors with respect to their conduct at the scene during the incident;
- f. Collect and preserve all appropriate evidence, including canvassing the scene to locate witnesses; and
- g. Identify and report all inconsistencies in officer and witness interview statements gathered during the investigation.

For reporting purposes, the Monitor has broken paragraph 80 down into two subparagraphs: 80i, which relates to CUOF investigations, and 80ii, which relates to administrative complaint investigations.<sup>36</sup> The Monitor's assessment of subparagraph 80ii, related to complaint investigations, follows.

### *Background*

The Monitor last assessed compliance with paragraph 80 as it pertains to administrative complaint investigations (subparagraph 80ii) during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance with subsections a and f.<sup>37</sup>

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<sup>36</sup> The Monitor's assessment of subparagraph 80i, related to CUOF investigations, is reported above.

<sup>37</sup> The parties have agreed that the Department has achieved substantial compliance with subsections b, c, d, e and g of subparagraph 80ii applicable to administrative complaint investigations.

## *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for paragraph 74 above, during the current quarter, the Monitor reviewed 122 completed complaint investigations that were closed during the period February 16, 2008 through March 15, 2007. Of these, 56 were completed by IAG and 66 were completed by the LAPD's chain of command (COC). In assessing compliance with subsections a and f of subparagraph 80ii the Monitor considered only the 56 investigations completed by the IAG.<sup>38</sup>

The Monitor noted the following as it pertains to subsection a of subparagraph 80i:

- For one investigation, a supervisor at the scene was “informally” interviewed and the interview was not tape-recorded.
- For one investigation, a witness interview was not tape-recorded.
- For one investigation, the Monitor could not determine whether all interviews were tape-recorded.
- For one investigation, the Monitor could not determine whether a supervisor's interview was tape-recorded.
- For one investigation, the Monitor could not determine whether the complainant's interview was tape-recorded.

The Monitor noted the following as it pertains to subsection f of subparagraph 80i:

- For three investigations, witnesses identified during the course of the investigations were not interviewed.
- For one investigation, five of the seven officers identified at the scene were not interviewed.
- For one investigation that included an allegation of excessive use of force, responding paramedics were not interviewed.
- For two investigations that included allegations of racial profiling, the accused officers and their supervisor were not interviewed.

The Monitor considered the merits of each complaint investigation as a whole, and whether or not items of non-compliance impacted each investigation's overall quality and the ability of a reviewer to properly adjudicate officer actions. Although certain investigations were notably superiorly conducted and reported, all provided adequate information to ultimately render a decision.

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<sup>38</sup> The remaining 66 completed complaint investigations were used in assessing the LAPD's compliance with paragraph 81.

Also during the current quarter, at the request of and subsequent to an initial review conducted by the DOJ,<sup>39</sup> the Monitor reviewed 61 complaint investigations that included an allegation of racial profiling. The underlying allegations in these complaints were made during 2006 and 2007 and were all completed by mid-2007. The cases reviewed were investigated before new policies and procedures, more fully described below, were adopted by the Department, in large part in response to the initial findings and concerns relative to the way that racial profiling complaints were being investigated.<sup>40</sup> The Monitor found that:

- Thirty-seven of the 61 complaint investigations reviewed were sufficient and the adjudication appropriate;
- Nine complaint investigations contained minor issues with the quality of the investigations; and
- Fifteen complaint investigations contained significant issues, and the Monitor questioned the appropriateness of the investigations' adjudications.

In addition, the Monitor noted a disparity in the review and documentation of officer histories by adjudicators. In some investigations, the reviews were well-documented and the officers' entire histories considered. However, many others contained minimal information and simply a statement that the officers' histories were considered. The Monitor also noted that investigating officers rarely obtained and reviewed the accused officers' stop data histories in their investigations, which can, in some instances, provide the adjudicator with useful information relevant to disposition of the complaint.

The Monitor discussed its findings with the DOJ and the LAPD, who, overall, agreed with our conclusions.

As noted above, new protocols have been adopted relative to the investigation of racial profiling allegations. This includes publication of a mandated completion of a *Racial Profiling Investigation Protocol*, as well as a *Racial Profiling Investigative Checklist* to be utilized in the investigation of all allegations of racial profiling. In addition, in an effort to identify and address potential deficiencies, the LAPD recently implemented random audits of complaint investigations to be conducted by IAG investigators not assigned to the investigation. The LAPD previously implemented a similar process for its CUOF investigations, which has proven useful in improving the quality of those investigations. The Monitor will be reviewing racial profiling complaint investigations in the next quarter to assess whether investigators are adhering to the newly-implemented protocols and whether the quality of those investigations has improved accordingly.

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<sup>39</sup> Although the DOJ requested the Monitor review certain racial profiling complaint investigations, the DOJ and the Monitor agreed not to discuss their findings until the Monitor had the opportunity to complete its review.

<sup>40</sup> In addition to concerns raised by the reviews conducted by DOJ and the Monitor, the Police Commission raised concerns of its own relative to the investigation of racial profiling complaints.

Because of the issues identified above with respect to racial profiling investigations, the Monitor is withholding a determination of compliance with subsections a and f of subparagraph 80ii. The Monitor will continue to actively monitor these subsections during the remainder of the extension period.

### *Paragraph 81 – COC Investigations of Complaints*

Paragraph 81 states that COC administrative complaint investigations and NCUOF administrative investigations must comply with subsections c, e and f of paragraph 80.<sup>41</sup>

### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 81 as it relates to COC complaint investigations during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance with the requirements of the paragraph.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 122 completed complaint investigations, of which 56 were completed by the IAG and 66 were completed by COC. In relation to the requirements of paragraph 81, the Monitor noted the following:

- For two investigations, the LAPD did not canvass for additional evidence and/or witnesses.
- For one investigation, in addition to not canvassing for witnesses, the investigation contains information suggesting a witness taped the encounter. There is no indication of any attempts to locate the witness and secure the tape.
- For one investigation, the LAPD failed to address all of the complainant's allegations.

Overall, although certain investigations were notably superiorly conducted and reported, all provided adequate information to ultimately render a decision.

Notwithstanding the few discrepancies identified above, the Monitor finds the LAPD in compliance with paragraph 81. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

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<sup>41</sup> The parties have agreed that the Department has achieved substantial compliance with subsections b, c, d, e and g of subparagraph 80ii applicable to administrative complaint investigations.

## **Paragraph 84 – Standards for Credibility Determinations**

Paragraph 84 requires that when adjudicating a completed complaint investigation, the following apply: use of Standard California Jury Instructions to evaluate credibility; consideration of the accused officer's history and disciplinary records where relevant and appropriate; consideration of the civilian's criminal history, where appropriate; no automatic preference of an officer's statement over the statement of any other witness, including the complainant; no automatic judgment of insufficient information to make a credibility determination when only conflicting statements exist; no automatic rendering of a witness statement as biased or untruthful given a familial or social relationship.

### ***Background***

The Monitor last assessed the LAPD's compliance with paragraph 84 during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance.

### ***Current Assessment of Compliance***

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 122 completed complaint investigations, of which 56 were completed by the IAG and 66 were completed by COC. The Monitor concluded that the rationales used to evaluate the credibility of complainant, officer and witness statements were sufficient and unbiased in 118, or 96.7%, of the 122 investigations selected for review. For the remaining four investigations, the Monitor concluded that sufficient information existed in the investigation files for a reasonable individual to conclude that automatic judgments in favor of the accused officers took place.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 84. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

## **Paragraph 85 – Preponderance of the Evidence**

Paragraph 85 requires that all complaints be adjudicated using a preponderance of the evidence standard<sup>42</sup> and, wherever supported by evidence, collected complaints shall be adjudicated as follows:<sup>43</sup>

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<sup>42</sup> Per the LAPD's *Management Guide to Discipline*, dated January 2002, preponderance is defined using the *Black's Law Dictionary* as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the

- *Sustained*
- *Sustained – no penalty*
- *Not resolved*
- *Unfounded*
- *Exonerated*
- *Duplicate*
- *No Department employee.*

Paragraph 85 also specifies that no Complaint Form 1.28 investigation be closed without a final adjudication.

## *Background*

After a complaint investigation is completed and enters the adjudication stage, it can be subject to review by LAPD management, the Review and Evaluations Section of the PSB, the Administrative Division of the PSB, and the OIG. At any one of these levels, the evidence collected during the investigation may be reviewed and critiqued.

The Monitor assessed the LAPD's compliance with paragraph 85 during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance.

## *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 122 completed complaint investigations, of which 56 were completed by the IAG and 66 were completed by COC. In relation to the requirements of paragraph 85, the Monitor concluded that the LAPD applied a preponderance of the evidence standard in 116, or 95.1%, of the 122 investigations reviewed. The Monitor noted the following regarding the six investigations for which it concluded that the LAPD failed to apply the appropriate standard:

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*greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity from knowledge, information possessed, and manner of testifying determines the weight of testimony."*

<sup>43</sup> The LAPD also adjudicates complaint investigations as *Insufficient Evidence to Adjudicate*, *Other Judicial Review* and *Withdrawn by the Chief of Police*. These additional dispositions represent a continuation of LAPD policy and new policy released in October 2001.

- For an investigation of alleged unauthorized tactics, the Monitor concluded that the finding of *Non-disciplinary Actions Could Have Been Different* should have been adjudicated as *Sustained*. The Monitor concluded from its review that the officer acted as alleged.
- For an investigation of alleged unbecoming conduct, the Monitor concluded that the finding of *Unfounded* should have been adjudicated as *Sustained*, particularly in light of supervisory review comments describing the officer's actions as "concerning."
- For two investigations of alleged neglect of duty, the Monitor concluded that the findings of *Non-disciplinary Actions Could Have Been Different* should have been adjudicated as *Sustained*. The Monitor concluded from its review that the officers acted as alleged.
- For an investigation of alleged discourtesy, the Monitor concluded that the finding of *Unfounded* should have been adjudicated as *Not Resolved*.
- For an investigation of alleged racial profiling, the Monitor concluded that the finding of *Unfounded* should have been adjudicated as *Not Resolved*.

Based on the foregoing, and notwithstanding the aberrations noted above, the Monitor finds the LAPD in compliance with the requirements of paragraph 85. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

### *Paragraph 90 – Manager Review of Complaint Form 1.28 Investigations*

The LAPD is required to continue its practice of having managers evaluate all complaint investigations and identify any underlying problems and/or training needs. Recommendations or actions, if any, shall be implemented by the manager or referred to the appropriate entity for implementation.

### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 90 during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance.

### *Current Assessment of Compliance*

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 122 completed complaint investigations, of which 56 were completed by IAG and 66 were completed by the LAPD's COC. In relation to the requirements of paragraph 90, the Monitor determined that two of the 122 completed investigations reviewed lacked sufficient management review that otherwise should have identified underlying

inconsistencies, additional investigation and/or training needs.<sup>44</sup> This translates into a compliance rate of 98.4%.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 90. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

## 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 Department has not achieved substantial compliance with paragraphs 102-105. The Monitor is scheduled to next assess the Department's compliance with these paragraphs during the quarter ending September 30, 2008.

## 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 Gang Enforcement Divisions (GEDs),<sup>45</sup> 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.

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<sup>44</sup> Of the investigations indicating underlying inconsistencies, additional investigation and/or training needs, one involved allegations of unbecoming conduct, and one involved allegations of excessive force, unbecoming conduct and discourtesy.

<sup>45</sup> GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

Prior to the extension, the Department had achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.<sup>46</sup> However, it had 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 continued to assess the Department's compliance with these subparagraphs during the extension.

During the first two years of the extension, the Department achieved substantial compliance with subparagraphs 106d and 107a.<sup>47</sup> The Monitor does not plan to actively monitor these subparagraphs during the remainder of the extension period. The Monitor will continue to actively monitor subparagraphs 106e(iv), 106f-h, and 107b during the remainder of the extension period.

During the current quarter, the Monitor assessed the Department's compliance with subparagraphs 106d, f, g and h and 107b. The results of our current assessments follow.

### *Subparagraph 106d- Gang Unit Tour of Duty Limitations*

Subparagraph 106d limits the amount of time that officers can spend working in the gang units for a period not to exceed 39 Deployment Periods (DPs), unless granted by written approval of the Chief of Police. In order to be eligible for reassignment, officers must meet the same eligibility criteria required for initial assignment into the unit, and the reevaluation process must include review of the officers' most current TEAMS and performance evaluation records.<sup>48</sup>

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<sup>46</sup> The Department achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree.

<sup>47</sup> It should be noted that substantial compliance with subparagraph 106d was achieved during the current quarter. The compliance assessment of this subparagraph is included in this report.

<sup>48</sup> Due to the lack of specifics in the Consent Decree regarding extensions beyond 39 DPs, the Chief submitted a letter to the DOJ proposing that after a 39-DP tour of duty, successful incumbents would be reassigned to the GED after a reevaluation process took place, for no longer than 26 DPs. The DOJ, in a letter dated February 11, 2003, agreed but indicated that the officers must meet these additional requirements i.e. same eligibility criteria required for initial assignment into the unit and the reevaluation process must include review of the officers' most current TEAMS and performance evaluation reports. In addition, under the standard utilized by AD, TEAMS II records must be dated no earlier than 45 days prior to the CO approval. The OCOP Notice dated May 8, 2008, referred to below, now mandates 30 days.

## Background

The Monitor last assessed the LAPD's compliance with subparagraph 106d during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance.

## Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 106d during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit*, dated March 28, 2008, and related working papers.<sup>49</sup> In this audit, AD identified the total population of GED officers due for an extension from DP12, 2006 to DP 11, 2007;<sup>50</sup> in total, 39 GED personnel were due for an extension during the time period. In assessing Department-wide compliance regarding tour limitations, for the 39 GED personnel identified, AD reviewed TERs, TEAMS II records and performance evaluations for proper documentation and approval in extending the GED tours of duty. AD found that the extension requirements for tour assignments were adequately addressed for all 39, or 100%, of the GED personnel reviewed.

The Monitor selected a random sample of 19 GED personnel from AD's sample of 39, and reviewed their TERs, current TEAMS I and II records and performance evaluations.<sup>51</sup> The Monitor found one instance not identified by AD in which both the Watch Commander and the CO signed the TER prior to the date of the TEAMS II record.<sup>52</sup> AD also identified four packages that did not contain the current TEAMS II reports or current performance evaluation records,<sup>53</sup> which they reported as an "other related matter," rather than as a compliance issue. The Monitor believes that consideration of these documents for eligibility to be reassigned to a gang unit should be reported as a compliance requirement, and these packages should have been included in the calculations of compliance for this subparagraph.<sup>54</sup>

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<sup>49</sup> Refer to the Current Assessment of Compliance for subparagraph 131b, below, for additional information regarding the *GED Selection Criteria Audit* and the Monitor's review of that audit.

<sup>50</sup> DP 12 2006 to DP 11 2007 covers the period November 12, 2006 to November 10, 2007.

<sup>51</sup> Refer to the Current Assessment of Compliance for subparagraph 131b for information regarding AD's and the Monitor's sampling parameters.

<sup>52</sup> The Monitor also noted that the packages that were selected after TEAMS II became available included varying types of TEAMS II records. In direct response to AD's Audit, the OCOP Notice dated May 8, 2008 specified that the "Promotion/Paygrade Advancement Report" shall be submitted going forward.

<sup>53</sup> Two packages contained TEAMS II records that were dated after the Chief of Police's approval; one TEAMS II Report was dated more than 45 days prior to the Chief's approval; and one package did not contain the most recent performance evaluation record.

<sup>54</sup> The Monitor has previously pointed out that the reevaluation process, including the review of current TEAMS and performance evaluation records, is based upon Consent Decree requirements as interpreted by the DOJ. The DOJ letter dated February 11, 2003 stated that in order to be eligible for reassignment, the reevaluation process must include review of the officers' most current TEAMS and performance evaluation records.

Overall, with the one non-compliant instance related to the supervisor's signature prior to the TEAMS report, and four non-compliant instances related to current TEAMS II or performance evaluation records, the Monitor computed a compliance rate of 87.2% (34 of 39).<sup>55</sup> As a result, the Monitor finds the LAPD in non-compliance with subparagraph 106d.<sup>56</sup> The Monitor will continue to actively monitor compliance with this subparagraph during the remainder of the extension period.<sup>57</sup>

### *Subparagraphs 106f and 106g – Role of Gang Unit Supervisors and Area Managers*

Subparagraph 106f addresses the daily activities of gang unit supervisors, including providing a daily field presence and maintaining an active role in unit operations.

Subparagraph 106g requires Area managers to ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations.

### *Background*

The Monitor last assessed compliance with subparagraphs 106f and g during the quarter ending March 31, 2007, at which time the Monitor found the LAPD in non-compliance with both subparagraphs. The assessments were based on a review of documentation and findings from AD audits related to GED supervisory oversight, including its *Arrest Booking and Charging (ABC) Reports Audit*, *NCUOF Audit*, *Search Warrant Audit*, *Confidential Informants (CI) Audit*, *GED Work Product Assessment Summary Audit (GED WP Audit)*, and *Command Accountability and Performance Audits (CAPAs)* related to GED supervisory oversight of unit activities and daily field presence, as well as the Monitor's review of daily logs from GED supervisors and Watch Commanders.

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<sup>55</sup> Refer to the Current Assessment of Compliance for Paragraph 128(5), 131c-5, and 131d, below, for additional information regarding the *GED Selection Criteria Audit* and the Monitor's review of that audit.

<sup>56</sup> Although the Monitor found AD in compliance with their GED Selection Criteria Audit as reported below, the Monitor encourages AD to reconsider their assessment of these reevaluation requirements for compliance, rather than other related matters, in their future audits.

<sup>57</sup> In the Monitor's Report for the Quarter Ending September 30, 2006, the compliance rating was 89.5% and the Monitor concluded compliance. In the Monitor's Report for the Quarter Ending June 30, 2007, although the Monitor found a 95% compliance rating, there were four additional packages found that did not comply with the requirements outlined in the DOJ's letter. Although the Monitor concluded that the Department was in compliance, it indicated that instances of non-compliance with the requirements outlines in the DOJ's letter should be included as compliance-related deficiencies in subsequent assessments of compliance with subparagraph 106d.

## *Current Assessment of Compliance*

In order to assess compliance with subparagraphs 106f and g during the current quarter, the Monitor utilized the new methodology proposed by the City and accepted by the Monitor in October 2006.<sup>58</sup> This methodology includes the following:

- Measure GED supervisory oversight through the supervisory oversight objective of specified audits completed by AD, including the *ABC Audits*; *NCUOF Audits*; *Search Warrant Audits*; *CI Audits*; and *GED WP Audits*.
- Conduct reviews of GED daily supervisor logs to assess the following: Watch Commander's notification of GED units' activities, mission, and deployment; approval of GED uniform and vehicle deviations; and training provided to GED units.
- Measure supervisor daily field presence through a review of the GED Supervisory Oversight Inspection conducted by CRID.

Each of the above-listed specified audits contains a separate GED strata and analysis. As the Monitor would be reporting on this provision twice annually, a minimum of three audits/inspections should be available for review. The assessment of GED supervision and management would therefore be based on multiple audit products addressing the critical aspects of GED supervision.

The Monitor began the current assessment by reviewing the specified audits listed above, specifically evaluating AD's findings regarding GED supervisory oversight in each of these audits.

- The Monitor reviewed the most recent *ABC Audit* issued by AD, dated September 28, 2007. In this audit, AD reviewed a sample of 107 GED arrests and found the LAPD in 100% compliance with the on-scene supervision requirement, but in 65% compliance with the post-incident supervisory oversight requirement. In AD's findings, they separated each of the issues under each objective for compliance, whereas the Monitor combined these findings to come up with one compliance percentage for each issue. The Monitor's combined percentage for supervisory oversight was reported at 63%, which is slightly less than AD's reported 65%.
- The Monitor reviewed the last *Search Warrant Audit* issued by AD, dated December 28, 2007. In this audit, AD reviewed a total of 11 GED search warrants and found the LAPD in:
  - 91% compliance with the supervision of the application/affidavit requirement;

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<sup>58</sup> The City has proposed that this amended methodology be revisited so that managers' oversight (subparagraph 106g) and supervisors' oversight (subparagraph 106f) are assessed separately. The Monitor will discuss this proposal with the parties.

- 100% compliance with the supervision of applicable incidents requirement;
  - 11% compliance with the post-incident supervisory oversight requirement;
  - 100% compliance with the supervisory oversight of the warrant tracking log requirement; and
  - 11% compliance with the CO's analysis requirement.
- The Monitor found that an additional two GED search warrants did not have Warrant Tactical Plans and therefore calculated the following compliance rates that are slightly lower than AD reported:
    - 82% for supervision of the application/affidavit;
    - 9% for post-incident supervisory oversight; and
    - 9% for the CO's analysis.
  - The Monitor reviewed AD's most recent *NCUOF Audit*, dated June 28, 2007. In this audit, AD reviewed a sample of 11 GED NCUOF reports and found the Department 100% compliant with the on-scene supervision requirement and 73% compliant with the post-incident supervisory oversight requirement.
  - The Monitor reviewed AD's most recent *CI Audit*, dated September 25, 2007. In this audit, AD reviewed a sample of four Gang Impact Team (GIT)<sup>59</sup> CI packages and found the Department 100% compliant with the supervisory oversight requirement.
  - The Monitor reviewed AD's most recent *GED WP Audit*, dated September 26, 2007. In this audit, AD reviewed 25 audit reports consisting of Consent Decree-related audits and CAPAs and identified issues in regards to supervisory oversight. In the Summary of Findings, AD stated, "The identified findings were based mainly on insufficient supervisory oversight. In addition, there was a lack of adherence to established Department policies and procedures." This conclusion was consistent with the *GED WP Audits* dated September 29, 2005 and September 28, 2006. Findings regarding supervisory oversight reported in the recent *GED WP Audit* included:
    - 76% compliance with the evaluation of GED work product requirement for Arrest Reports
    - 64% compliance with the evaluation of GED work product requirement for Search Warrants;
    - 100% compliance with the evaluation of Detention Logs signed by a GED supervisor;

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<sup>59</sup> GIT comprises several specialized units, including GED, which operates as GIT's uniformed component; however, GIT also includes gang detectives who do not wear uniforms and may manage informants.

- 99% compliance with the evaluation of DFARs by a GED supervisor;
  - 93% compliance with the evaluation of GED Supervisor Daily Reports requirement; and
  - 73% compliance with the evaluation of Performance Evaluations requirement.
- The Monitor reviewed the most recent *Summary of GED CAPA Performance Audit*, dated January 10, 2007. This summary/audit, in which AD compiled a summary consisting of the findings from all 20 *GED CAPA Reports* conducted in 2006, identified various issues in regards to supervisory oversight. The supervisory oversight concerns involving the evaluation of supervisory roles via DFARs and Supervisor Daily Reports included:<sup>60</sup>
    - 80% compliance with Watch Commander notifications; and
    - 85% compliance with Vehicle and Equipment Assignment Sheets.
  - The Monitor reviewed the most recent *GED Selection Criteria Audit*, dated March 28, 2008. In this audit, AD reviewed a sample of 81 GED Selection packages and found the LAPD in:
    - 100% compliance with review of TEAMS II reports and adherence to GED tour limitations; and
    - 63% with procedures for the selection process, including a formal written application process, oral interview, the use of TEAMS II and annual performance evaluations to assist in evaluating the application.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraphs 106f and g.

### **Subparagraph 106h – Bureau Gang Coordinator Inspections**

Subparagraph 106h requires BGCs to monitor and assess the operation of all units in their respective bureaus that address gang activity. Subparagraph 106h further requires that the BGCs inspect at least one Area unit each month.

### **Background**

The Monitor last assessed the LAPD's compliance with subparagraph 106h during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in non-compliance. The Monitor reviewed two BGC inspections<sup>61</sup> and identified deficiencies in sampling and selection

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<sup>60</sup> Although the *GED WP Audit* dated September 26, 2007 was more recent than the *Summary of GED CAPA Performance Audit*, dated January 10, 2007, these supervisory oversight activities, including Watch Commander notifications and Vehicle and Equipment Assignment Sheets, were not included in the more recent audit.

<sup>61</sup> BGC Inspection 19, "Evidence Documentation," dated November 29, 2004, and BGC Inspection 20, "Arrest Quality," dated December 6, 2004.

processes. The LAPD acknowledged the deficiencies; in addition, its internal BGC inspection review process identified some of those deficiencies, as well as deficiencies in other BGC inspections completed over the prior quarter. The Monitor commended the LAPD for progress made in these inspections and the accountability process at COMSTAT meetings.<sup>62</sup>

During the quarter ending March 31, 2006, the Monitor was requested by CRID to review its Inspection entitled *Consent Decree Paragraph 106ef*, dated November 21, 2005. This inspection was conducted by CRID in order to provide guidelines to the BGCs for supervisory oversight and field presence in future inspections. Since CRID Inspections are not conducted by BGCs, this review by the Monitor was not considered an assessment of compliance with subparagraph 106h, although the Monitor identified some sampling methodology deficiencies and other discrepancies, and presented those findings to the Department for consideration in future inspections.

During the quarter ending December 31, 2007, the Monitor withheld determination of the LAPD's compliance with subparagraph 106h and reported that the Department was deficient in its completion of BGC Inspections. The Monitor commended the Department for the strides it made in connection with the BGC inspections and new processes.

### *Current Assessment*

In January 2008, the Department provided training to BGCs and Gang and Operations Support Division (GOSD) personnel. The Department also provided the Monitor with its revised BGC inspection process during the quarter ending March 31, 2008. During this quarter, the Monitor thoroughly reviewed the revised BGC inspection process and the training conducted in January, and identified many improvements in the structure of the process as outlined below.

The Monitor found that GOSD has been working directly with the Department Gang Coordinator (DGC), CRID and AD in connection with monthly inspection topics, training, sampling, methodology, and inspection matrices for future inspections. The Monitor commends GOSD and CRID personnel for this approach to the new process, as it allows input from all entities and allows all involved to understand the process prior to implementation of these inspections.

GOSD has also developed its own inspection team, the Inspection Coordination and Assessment Unit (ICAU), which performs a number of checks and balances to ensure proper systems are in place. After the BGC inspection team completes their inspection, ICAU selects a sample of matrices and related documents and conducts its own review of this sample to ensure the BGC inspection team is completing their inspection correctly and that the Areas are correcting deficiencies identified by the BGC inspections. ICAU then follows-up with the command staff of those areas and the BGC inspectors to discuss any deficiencies found and provide follow-up

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<sup>62</sup> The Monitor originally noted the progress made by the LAPD in this area in its Report for the Quarter Ending June 30, 2004.

training to ensure these deficiencies will be identified by future inspectors. All deficiencies found by ICAU and any follow-up done by those Areas are documented in the executive summary of the final BGC Inspection Report, which goes out Department-wide. The Monitor has recommended that GOSD ask for written documentation, such as 15.2s, in future follow-up discussions with command staff regarding how such deficiencies were addressed. The CO of GOSD will also begin to track any recommendations that are outlined in these inspections going forward.

During the current quarter, the Monitor conducted a review of the Department's first and second BGC monthly inspections regarding search warrants and the third inspection regarding Performance Evaluation Reports (PERs).<sup>63</sup> The Monitor began by reviewing each of these inspections' methodologies, sample sizes, work plans, and summary of findings, including the completed matrices. The Monitor then selected a sample from each of these three inspections and reviewed each of the corresponding completed matrices and related documents.<sup>64</sup> During its review, the Monitor identified the following concerns among all three inspections, many of which were not identified by the inspectors during their review.

- Inconsistencies regarding the execution of the methodology,<sup>65</sup> the answering of matrix questions, reporting<sup>66</sup>, and findings.
- Deficiencies that were not assessed in certain Areas.
- Incorrect responses to matrix questions.
- Missing and inconsistent information between property reports and receipts.
- Missing information on the Warrant Tracking Logs, Warrant Tactical Plans, and PERs.

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<sup>63</sup> BGC Inspections 1 and 2, "GED Warrant Tracking Logs, Warrant Service Tactical Reports," dated January 18, 2008 and February 21, 2008, and BGC Inspection 3, "GED and CLEAR Performance Evaluation Reports," dated May 14, 2008.

<sup>64</sup> For BGC Inspections 1 and 2, the BGCs reviewed a total population of 94 GED warrants issued from June through November 2007; the Monitor selected a random sample of 48 of these 94 GED warrants. For BGC Inspection 3, the BGCs reviewed a total population of 78 PERs completed from January 6 through February 2, 2008; the Monitor selected a random sample of 44 of these 78 PERs. The Monitor initially reviewed 15 GED warrants and 13 Performance Evaluation Reports, and discontinued the reviews, as the deficiencies identified, combined with the inconsistencies in the execution of the methodology resulted in determinations of non-compliance.

<sup>65</sup> There were contradictions between the written methodology instructions and what some areas were later instructed verbally regarding which questions to assess for compliance, which questions to answer and how to answer them, and how to assess compliance for all questions. Additionally, sample numbers did not always reflect the de-selection of certain packages.

<sup>66</sup> The executive summary reported different compliance percentages for particular areas than the detailed matrices. In addition, the findings in raw numbers for certain areas in the summaries were often inconsistent with the findings contained in the completed spreadsheets.

- Missing approval signatures and dates of supervisory oversight.
- Issues with timeliness of debriefings and CO analyses regarding supervisory oversight.

The Monitor met with CRID and GOSD regarding its review of BGC Inspections 1-3, 2008, the new BGC inspection process, the role of ICAU, and the findings as outlined above. The Monitor indicated that although this new process was well-structured, the execution of the process was not yet adequate. Prior to the Monitor's review, the Department recognized the deficiency in execution and has since made changes in staffing and training to improve the execution. The Monitor has reviewed the work product of the new GOSD staff and ICAU inspection team, including their methodology, instructions and follow-up documentation, as well as CRID's oversight in this process, and is pleased with the improvements that are being made and the evolution of the inspection process going forward.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 106h.

### **Subparagraph 107b – Selection Process for Gang Unit Personnel**

Subparagraph 107b mandates that the procedures for the selection of all officers to the gang units shall include a formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations to assist in evaluating the application.

### ***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 107b during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in non-compliance. The Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit* and related working papers, and reviewed a sample of supervisory and non-supervisory officers AD's samples. AD and the Monitor identified a number of issues, including lack of written applications, TEAMS records dated well before selection, lack of relevant performance evaluations, CO approvals after selections, no documentation of oral interviews, lack of evidence that RMG was contacted, and selections approved prior to the oral interviews taking place.

### ***Current Assessment of Compliance***

In order to assess the LAPD's compliance with subparagraph 107b during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit* dated March 27, 2008, and related working papers.<sup>67</sup> In this audit, AD identified a total population of

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<sup>67</sup> Please refer to the Current Assessment of Compliance for subparagraph 131b for additional information regarding the GED selection process in connection with the *GED Selection Criteria Audit*.

330 GED officers assigned between November 12, 2006 and November 10, 2007. AD selected a sample of 90 officers (67 non-supervisory and 23 supervisory) from this population and reviewed 81 of them<sup>68</sup> to assess Department-wide compliance with requirements regarding eligibility criteria for officers selected to a gang unit. AD reviewed the TEAMS II records, performance evaluations, written applications and evidence of an oral interview for the 81 non-supervisory and supervisory officers selected. AD determined that 51 of 81 officers, or 63%, had a formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations considered and documented in their selection packages as required by subparagraph 107b. Of the 30 in non-compliance, issues included lack of written application, lack of current TEAMS II records, lack of performance evaluations, CO approval after selection or lack of approval, no documentation of oral interview, lack of evidence that the UOFRD was contacted, and selections approved prior to the oral interview taking place.<sup>69</sup>

The Monitor selected a random sample of 22 non-supervisory officers and 12 supervisory officers from AD's samples, and reviewed the TERs, the current TEAMS II records, performance evaluations, written applications and evidence of an oral interview. The Monitor identified one additional package not identified by AD in which the Department personnel package was reviewed after the package was approved by the supervisor/watch commander and CO.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 107b.

## 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).<sup>70</sup> As a result, the Monitor continues to assess the Department's compliance with this paragraph during the extension to the Consent Decree. The Monitor notes that the Department was found

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<sup>68</sup> The sample originally consisted of 67 officers and 23 supervisors for a total of 90, but AD found that 5 of the supervisors and 4 of the officers were on loan to GED, and therefore were not used to assess compliance. This made the final count 81.

<sup>69</sup> An Interdepartmental Notice dated May 8, 2008 clarifies some of the GED selection criteria, and states that an employee's TEAMS II record should not be over 30 days old. However, there is no specificity as to whether this date is determined from the date of the CO's approval or the date of selection. The Monitor recommends that the Department clarify this issue.

<sup>70</sup> The Department achieved substantial compliance with paragraphs 109-110 from this section of the Consent Decree.

compliant with this paragraph during the quarter ending December 31, 2007, and the next assessment is scheduled for the quarter ending September 30, 2008.<sup>71</sup>

## 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.

Prior to the extension, the Department had achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content<sup>72</sup> but had not achieved substantial compliance with Consent Decree requirements to train members of the public scheduled to serve on the Board of Rights (BOR) in police practices and procedures, (paragraph 118), nor had 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).

During the first two years of the extension, the Department achieved substantial compliance with the training requirements relative to FTO eligibility criteria (paragraph 114) and FTO de-selection (paragraph 115).<sup>73</sup> As a result, the Monitor is not planning on actively monitoring compliance with these paragraphs during the remainder of the extension period. The Monitor will continue to assess the Department's compliance with paragraph 116. The Monitor notes that the Department achieved compliance with this paragraph during the quarters ending March 31, 2008 and September 30, 2007, and the next assessment is scheduled for the quarter ending September 30, 2008.

The Monitor assessed the Department's compliance with paragraph 115 during the current quarter. The results of our current assessment follow.

### Paragraph 115 – FTO De-selection

Paragraph 115 instructs that the Department may remove an FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.<sup>74</sup>

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<sup>71</sup> The Department has not achieved substantial compliance with this paragraph, as compliance has not been achieved for two consecutive years. The Monitor found the Department in compliance during the quarter ending December 31, 2007, but in non-compliance during the quarter ending September 30, 2006.

<sup>72</sup> The Department achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree.

<sup>73</sup> A compliance assessment of paragraph 115 is included in this report.

<sup>74</sup> Under paragraph 114, the required eligibility criteria includes demonstrated analytical skills; demonstrated interpersonal and communication skills; cultural and community sensitivity; diversity; and, commitment to police integrity.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 115 during the quarter ending June 30, 2007, at which time the Monitor found the Department in compliance.

## *Current Assessment of Compliance*

During the current quarter, the Monitor requested and received a list of all FTOs assigned a probationary officer during the period January 1, 2007 through March 31, 2008. A total population of 764 officers was identified, from which the Monitor selected a sample of 85<sup>75</sup> and reviewed their TEAMS II reports and personnel packages for sufficiency of annual evaluations, FTO eligibility criteria outlined in paragraph 114, and UOF and complaint histories. The Monitor identified one officer who had a personnel complaint that rose to the level of warranting de-selection from the FTO program.<sup>76</sup> As a result, 84 of the 85 FTOs reviewed qualified for retention in the FTO program, yielding a compliance rate of 98.8%.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 115. The Department is in substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with this paragraph during the remainder of the extension period.

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<sup>75</sup> A random, statistical sample of 85 officers was selected out of a population of 764 officers utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

<sup>76</sup> These officers were not de-selected by the LAPD; documentation indicates that each was assigned a probationer during the period January 1, 2007 through March 31, 2008.

## IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

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### 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).

Since the inception of the Consent Decree, the Department has established an AD composed of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,<sup>77</sup> an audit protocol,<sup>78</sup> 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.<sup>79</sup> This course, offered on a quarterly basis, has been offered 18 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

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<sup>77</sup> 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.

<sup>78</sup> 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.

<sup>79</sup> 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.<sup>80</sup> 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 were in substantial compliance for the two years prior to the extension, the Monitor generally reviews the quality of the audits in order to gain assurance that the underlying area being audited does not require active monitoring.

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 20 compliant audits, bringing the total number of quality audits to 50 since the commencement of the Consent Decree. In addition, as explained above, the Monitor recently completed a review of the Department's compliance with the Consent Decree after two years under the extension and determined that AD has now achieved substantial compliance with many paragraphs. As a result of this recent review, there are a number of audit-related paragraphs that the Monitor is not planning on actively monitoring during the remainder of the extension period,<sup>81</sup> as well as a number of additional paragraphs for which the Monitor will conduct only limited reviews during the remainder of the extension period.<sup>82</sup> These paragraphs subject to limited review are generally those with which the Department has achieved substantial compliance but the Monitor has concluded that some degree of review is still required. This may be for a variety of reasons but is most likely due to the audit paragraph reviewing a critical part of the Consent Decree or the expectation of significant changes in the Department that may affect how the audit is conducted in the future.

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<sup>80</sup> 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."

<sup>81</sup> The Monitor plans to treat the following paragraphs as inactive paragraphs: paragraph 124 Annual Audit Plan, subparagraph 128(3) Use of Force audit, subparagraph 129i Categorical Use of Force Systems audit, subparagraph 129ii Complaint Form 1.28 Systems audit, paragraph 136 OIG's review of Categorical Use of Force Investigations, subparagraph 136i OIG's Non-Categorical Use of Force review and subparagraph 136ii OIG's Complaint Form 1.28 Investigations review.

<sup>82</sup> The Monitor plans to conduct limited reviews of the following audits conducted by AD: subparagraph 128(2) Arrest Booking and Charging audit, subparagraph 129i Categorical Use of Force Investigations audit, subparagraph 129iii Complaint Form 1.28 Investigations audit, and subparagraph 131b GED Selection Criteria audit. The Monitor plans to conduct limited reviews of the following reviews conducted by the OIG: subparagraph 135b OIG's review of AD's paragraph 128 audits and EES paragraph 97 audits. Additionally the Monitor will be conducting a limited review of reports required by paragraph 154.

## Audit Plan

One of the significant findings of the *Board of Inquiry into the Rampart Area Corruption Incident* was the LAPD's failure to establish a meaningful system of internal audits. This finding was subsequently incorporated into paragraph 124 of the Consent Decree, which requires the completion of an Annual Audit Plan prior to the beginning of each fiscal year, and sets out other requirements associated with establishing a meaningful and effective system of internal audits. The Monitor found the Department compliant with paragraph 124 in connection with its evaluation of the Annual Audit Plans submitted for the fiscal years ended June 30, 2006, 2007 and 2008. Based on this history of being in compliance with paragraph 124 and AD's continued success at addressing all of its primary responsibilities required by paragraph 124, the Monitor has determined that the Department has achieved substantial compliance with this paragraph and does not plan to actively monitor or report on the Department's compliance with paragraph 124 during the balance of the extension period.

## Audits by the LAPD

During this quarter, the Monitor evaluated:

- The LAPD's planning and execution of integrity / sting audits for the third and fourth quarters of 2008 (paragraph 97);
- AD's *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131a, 131c-1, and 131e) dated December 28, 2007;
- AD's compliance with the requirement to submit a *Motor Vehicle and Pedestrian Stops Audit* (subparagraphs 128(4), 131a, 131c-4 and 131e);<sup>83</sup>
- AD's *Categorical Use Of Force Systems Audit* (subparagraph 129i) dated March 21, 2008;
- AD's *Complaint Form 1.28 Investigations Audit* (subparagraph 129iii) dated March 28, 2008; and
- AD's *GED Selection Criteria Audit* (subparagraph 131b) dated March 28, 2008.

### Paragraph 97 – Scheduled Integrity/Sting Audits

Paragraph 97 requires the LAPD, via its Ethics Enforcement Section (EES), 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, including,

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<sup>83</sup> AD was scheduled to complete its *Motor Vehicle and Pedestrian Stops Audit* during the quarter ending June 30, 2008; however, this audit has been deferred pending finalizing the policies and procedures for collecting the appropriate data.

but not limited to: unlawful stops, searches, seizures (including false arrests), uses of excessive force, or discouraging the filing of a complaint or failing to report misconduct or complaints. The LAPD was required to develop and initiate this plan before July 1, 2001.

## *Background*

The LAPD established the EES in order to fulfill the requirements of paragraph 97. The EES falls under the management of the CO of the LAPD's PSB. The purpose of the EES is to identify, through research or referrals, officers who may exhibit tendencies of at-risk behavior. Once identified, the EES must make a determination as to whether or not the behavior constitutes a violation of paragraph 97, and if it does, whether or not a staged scenario is necessary to confirm the officers' at-risk behavior.

The Monitor last assessed the LAPD's compliance with paragraph 97 during the quarter ending December 31, 2007, for audits conducted during the First and Second calendar quarters of 2007, at which time the Monitor found the LAPD in compliance.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 97 during the current quarter, the Monitor reviewed the *Office of the Inspector General's Review of Ethics Enforcement Section Quarterly Reports* for the Third and Fourth calendar quarters of 2007. The OIG reviewed a total of 56 EES sting audits.<sup>84</sup> Forty-nine of the 56 audits reviewed were random and addressed the following:

- Complaint Intake
- Unlawful search/seizures
- Excessive Force
- Immigration Laws
- Neglect of Duty

The remaining seven audits addressed the following:

- Excessive Force
- Narcotics
- Theft

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<sup>84</sup> The EES completed a total of 88 audits during the Third and Fourth calendar quarters of 2007, comprising complaint intake audits and 22 sting audits.

- Unbecoming Conduct
- Neglect of Duty
- Benefit Abuse

In its meta-audit of the OIG's work, the Monitor randomly selected and reviewed a total of 51 audits. In most instances, the Monitor agreed with the conclusions reached by the EES. However, the Monitor disagreed with the analysis and/or conclusions reached by the EES in four integrity audits.<sup>85</sup>

- For one audit, the Monitor concluded that the audit scenario was not adequately designed to assess officer conduct; however, the Monitor agreed with the EES' disposition.
- For two audits that were testing for criminal behavior, there were no audio recordings of the encounters between the undercover officers and the audited officers.<sup>86</sup> However, the Monitor agreed with the disposition of *Pass* for both audits, as the video recording does not indicate any wrongdoing on the part of the audited officers. The EES Report did not indicate why the interaction was not audio recorded.
- For one audit, an officer booked only a portion of the evidence into Property Division. The Final Report indicated that the CO of EES spoke with the CO of the officer's division and the matter would be handled as a training issue. The Monitor concluded that EES should have followed up on the training (e.g. roll call or individual training) and how it was conducted, and documented it in the final report. The Monitor concluded this audit should have been classified as a *Pass Substandard*.

Although not a compliance requirement for this paragraph, the Monitor noted that in six audits designed to test the LAPD's intake of complaint allegations, the information provided by the complainant was not accurately or completely recorded on a complaint face sheet, or the complainant's telephone call was placed on hold for an excessive length of time. For another audit, although the officer's response to the complaint intake audit was not optimal, the officer did complete the complaint face sheet. Lastly, in one audit, the Monitor was unable to determine whether there was dissuasion and believes the best disposition should had been inconclusive.

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<sup>85</sup> The EES, at the conclusion of each audit, rates the audit as a *Pass*, *Pass Substandard*, *Fail*, *Inconclusive*, or *Attempt*. A *Pass Substandard* indicates that although the officer's actions, overall, met the minimum requirements, areas for improvement were nonetheless identified requiring action, which in most instances is training. An *Inconclusive* indicates there was insufficient evidence to support a conclusive finding. An *Attempt* indicates that either an audited officer did not respond to the scenario, or the officer did not interact in a manner that afforded effective examination of their conduct.

<sup>86</sup> It has been the standard practice for EES to audio record as well as video record the interaction between the audited officers and the undercover officers for those audits designed to address potential criminal behavior. One of the audits was designed to address excessive use of force and the other unlawful search.

Going forward, the Monitor recommends that EES reporting include more thorough documentation of the conversations between the EES auditor and the audited officer.<sup>87</sup>

The Monitor has noted a declining number of “at-risk behavior” audits conducted by EES. During this assessment period there were no audits conducted for unlawful stops (including racial profiling) and only eight audits were conducted to evaluate searches, seizures and uses of excessive force. The Monitor recognizes that EES resources are limited; as a result, the Monitor recommends the LAPD consider assigning certain audit responsibility, such as neglect of duty audits not specifically mandated by paragraph 97, to units other than PSB. Consideration might be given to assigning certain complaint intake audits to other PSB units as well.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 97. Although the Department has achieved substantial compliance with this paragraph, because of its centrality to the Consent Decree, the Monitor will continue to actively monitor it during the remainder of the extension period.

### **Subparagraphs 128(1), 131c-1 and 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 131c-1 and 131e require 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 using the same qualitative factors that are required in subparagraph 128(1). Subparagraph 131e requires the audit to evaluate the roles and conduct of the gang unit supervisors in relation to the gang unit warrants.

### ***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. The Monitor found the audits submitted December 2005 and December 2006 in non-compliance because the Monitor identified a number of significant issues that were not identified by AD, including lack of documentation in LAPD files to support the searches conducted,

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<sup>87</sup> EES audits designed to assess whether there is dissuasion in the acceptance of complaints record only the EES auditor’s portion of the conversation, necessitating a summary after the conclusion of the audit.

canned language, insufficient supervisory review and packages with 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*, submitted December 28, 2007.<sup>88</sup> 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 issued in July 2007 and 100% of the 11 gang (GED) warrants issued in July 2007, for a total sample of 83 warrants. The Monitor obtained and reviewed a random sample of 42 Departmental and ten GED warrants that were reviewed by AD.<sup>89</sup>

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

- The Monitor concurred with AD's conclusions for each audit objective for both the general and GED samples and agreed with AD's compliance assessments for each of the Consent Decree paragraphs evaluated. Given the extent of the audit and the number of different areas assessed, the Monitor commends AD for its thorough assessment of most areas. Additionally the Monitor commends AD for the improvements over the prior year's audit, particularly in its review of supervisors' comments and comment cards.
- The Monitor commends AD for raising concerns and making recommendations in connection with a number of areas, including the Department's third party warrants; supervisors who conduct warrant debriefs who also review such debriefs; the need to clarify which supervisors are appropriately classified as on-scene at the service of a warrant; how the Department handles Hobbs warrants; and the tracking of court orders.
- In one package, the Monitor identified five elements that caused the Monitor to question if there was sufficient articulation of probable cause for the warrant, raising a concern about AD's evaluation of sufficient probable cause. These elements included an affidavit to search an out-of-town residence for narcotics that made an unsupported statement that "it is common practice for narcotics dealers to... keep a large quantity [of narcotics] at their residence in the event that they are apprehended by law enforcement or robbed by their

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<sup>88</sup> AD also submitted this audit to partially meet the requirements of subparagraph 131a by capturing data that would subsequently be incorporated into the next *GED WP Audit*. The Monitor evaluated subparagraph 131a in conjunction with its review of AD's *GED WP Audit* during the quarter ending March 31, 2008.

<sup>89</sup> These random samples were selected using a one-tailed test, a 95% confidence interval and an error rate of +/- 4%.

competition.”<sup>90</sup> In addition, there did not appear to be any urgency to obtain or execute this warrant, as it was not obtained until eight days after the arrest for street level drug sales and it was not executed for an additional eight days. Additionally, no drugs were found in the home and the tactical plan debriefing summary contained a comment that “The suspect was still in custody and the search warrant was served *in hopes* (emphasis added) of finding additional narcotics and/or gang paraphernalia.” These points were not identified or otherwise questioned by AD during the course of their audit.<sup>91</sup>

- When evaluating the Post Incident Supervisory Oversight objective, AD assessed numerous areas, including whether or not there was a documented debrief of the warrant service that occurred prior to the next day, a supervisory review of that debrief and a CO’s evaluation of the warrant service and supervisor’s actions, concluding the Department had only achieved 39% compliance with this objective. While AD’s review of these warrants was generally complete, the Monitor identified the following concerns:
  - AD did not review the quality of the warrant debrief and whether it met the required standards. The Monitor identified six warrants where either the debrief summary was very minimal or it did not evaluate the effectiveness or any issues associated with the warrant.<sup>92</sup>
  - There were three packages in which the reviewers’ signatures on the warrant debrief were typed and one package in which the required CO’s analysis did not contain specific information.<sup>93</sup>
- The Monitor did not agree with how AD assessed and/or reported its findings in relation to five warrant packages that were missing a search warrant service tactical plan. AD concluded that the packages were incomplete and properly included these packages in its assessment of whether or not the Department met the completeness objective but excluded

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<sup>90</sup> There were no statements of facts in the affidavit that associated the arrestee’s out-of-town residence to drug trafficking activities, and the residence that was searched was in a different city, 55 miles from the scene of the arrest for possession of drugs in a manner consistent with street level sales.

<sup>91</sup> The question of whether or not there was sufficient probable cause is a legal issue that the Monitor discussed with AD during the Monitor’s review of the audit, with the OIG and other lawyers, some of whom believe there was probable cause, while others do not.

<sup>92</sup> In two of these six packages, AD identified other areas where there was insufficient Post-Incident review. The other four packages would only lower the compliance rate further. AD has agreed that it will assess the quality of the warrant debrief in future search warrant audits.

<sup>93</sup> In two of these four packages, AD previously identified other concerns with post incident supervisory oversight; as a result, the additional anomalies identified by the Monitor in these packages would not have affected AD’s assessment of the Department’s 39% compliance rate with objective 5c, post incident review. The other two packages would only lower the compliance rate further.

these five packages from its review and assessment of the supervisory oversight (on scene and post-incident review) of these packages and the CO's analysis.<sup>94</sup>

Notwithstanding the above, the Monitor finds the LAPD in compliance with subparagraphs 128(1), 131c-1 and 131e. However, the Monitor will continue to actively monitor the LAPD's compliance with subparagraphs 128(1), 131c-1 and 131e during the third year of the extension, as the LAPD has not been in compliance for the past two years with these paragraphs and many of the underlying substantive paragraphs are not yet in compliance.

### **Subparagraphs 128(4), 131c-4 and 131e – Motor Vehicle & Pedestrian Stop Audit**

Paragraph 128(4) requires the Department to complete a regular, periodic audit of stratified random samples of all motor vehicle and pedestrian stops (MV&PS). This audit requires, at a minimum, an assessment for completeness, authenticity, appropriateness of action taken, conformity with Department procedures, quality of supervisory oversight, and compliance with the requirements for documenting MV&PS as noted in paragraphs 104 and 105.

Subparagraphs 131c-4 and 131e require the Department to conduct similar audits of a stratified random sample of all gang unit MV&PS. Subparagraph 131c-4 requires using the same qualitative factors that are required in subparagraph 128(4). Subparagraph 131e requires the audit to evaluate the roles and conduct of the gang unit supervisors in relation to these gang unit MV&PS.

### ***Background***

The Monitor first found the Department in compliance with paragraph 128(4) during the quarter ending September 30, 2003; however, the Monitor found the Department in non-compliance with subparagraph 131c-4, which requires a separate gang component to be included in the *MV&PS Audit (subparagraph 128(4))* and it was not. The Monitor found the *MV&PS Audit* submitted during the quarters ending December 31, 2004, and June 30, 2005 in compliance with the requirements of subparagraphs 128(4) and 131c-4.

The Monitor found the *MV&PS Audit* submitted during the quarter June 30, 2006 in compliance with subparagraphs 128(4), 131c-4, and 131e. The Monitor found the *MV&PS Audit* submitted during the quarter June 30, 2007 in compliance with subparagraph 128(4) but withheld a

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<sup>94</sup> AD did not include these warrants in its assessment of supervisory oversight. AD explained that if these five packages with missing tactical plans were also included in its assessment of the Department's supervisory oversight objective, the missing tactical plans would be double-counted in AD's assessment of the Department's compliance, since AD had already included this issue in its assessment of completeness. The Monitor disagrees, as the compliance assessment related to supervisory oversight is a separate objective from completeness.

determination of compliance with subparagraphs 131c-4 and 131e pending additional testing that the AD needed to undertake in order to conclude on the Department's compliance.<sup>95</sup>

### *Current Assessment of Compliance*

During the quarter ending March 31, 2008, the Monitor reported in relation to paragraphs 104 and 105 that the City requested that the collection of field data by officers, as mandated under the Consent Decree, be revisited. 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* submitted during the quarter ending June 30, 2007.

To address these concerns, the City and the DOJ have, with the Monitor's input, been working toward inclusion of data in existing ordinary-course-of-business forms. For example, a new 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 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 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.

Until the processes to collect this information are in place, AD does not plan to conduct another *MV&PS Audit* pursuant to paragraph 128(4). When that audit is completed, the Monitor will review and assess the audit.

Based on the foregoing, the Monitor is withholding a determination of the Department's compliance with paragraph 128(4), 131c-4 and 131e. The Monitor will continue to actively monitor the Department's compliance with these paragraphs during the third year of the extension in order to evaluate whether the next *MV&PS Audit* appropriately assesses the new processes that have been developed to capture the stop data.

### **Subparagraph 129i – Categorical Use of Force Systems Audit**

Subparagraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the

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<sup>95</sup> AD also submitted this audit to partially meet the requirements of subparagraph 131a by capturing data that would subsequently be incorporated into the next *GED WP Audit*. The Monitor evaluated subparagraph 131a during its evaluation of AD's *GED Work Product audit* completed during the quarter ending March 2008.

investigations. Subparagraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, 82 and 83; in addition, AD's audit has considered paragraphs 47g, 55, 56, 58, 59 and 61, 63, 64 and 65 relating to CUOF investigations, and 147 regarding timely notification to IG and Notification of Policy issues to the Police Commission. These further paragraphs are not specifically required to be included in paragraph 129i audits.

## *Background*

Commencing in the 2003/2004 fiscal year, AD split its CUOF investigations review into two separate audit reports in order to address the requirements of paragraph 129i: an audit report covering specific systems-related and process issues and a separate audit report covering the qualitative requirements for CUOF investigations.<sup>96</sup> For reporting purposes, the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations.

The Monitor determined that AD's *CUOF Systems Audits* have been in compliance with the requirements of the Consent Decree since the quarter ending September 30, 2004. AD's *CUOF Investigations Audits* have been in compliance since the quarter ending September 30, 2006.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with the systems-related elements of subparagraph 129i during the current quarter, the Monitor reviewed AD's *CUOF Systems Audit* dated March 21, 2008, as well as the related audit working papers.

AD's primary population comprised all 11 CUOF incidents that occurred during the period September 1 through December 15, 2007.<sup>97</sup> For additional audit objectives, AD selected three other audit populations of CUOF incidents.<sup>98</sup> As the audit populations were small, AD reviewed the entire populations. AD also reviewed files for FID personnel assigned to FID between September 1 and December 15, 2007.<sup>99</sup> Based on its reviews, AD found the Department in compliance with the requirements of the Consent Decree for all of the paragraphs and

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<sup>96</sup> The CUOF interim systems audit assesses the requirements of 14 paragraphs: 51 a/d, 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83 and 147. Additionally, it assesses portions of paragraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively. The CUOF final investigations audit report assesses the requirements of paragraphs 57, 80 and 82 and the remaining requirements of 128(3) and 129i.

<sup>97</sup> This population was selected to assess compliance with paragraphs 56, 58, 59, 61, 63, 65 and 147.

<sup>98</sup> To assess compliance with subparagraph 64a, AD selected all 32 out-of-policy CUOF incidents that were closed in 2007. For paragraphs 64b and 69, AD included all 23 CUOF incident investigations presented to the UOFRB from September 1 through December 15, 2007. For paragraphs 67, the audit population comprised 32 CUOF incidents occurring from January 1 to March 31, 2007.

<sup>99</sup> With the implementation of TEAMS II, this population was selected to assess compliance with subparagraph 47g and paragraphs 55 and 83. In prior audits this population assessed subparagraphs 51a and d rather than 47g.

subparagraphs reviewed, including the following five requirements that were previously in non-compliance:

	<i>Requirement</i>	<i>2006/07 Compliance %</i>	<i>2007/08 Compliance %</i>
Paragraph 56(2)	Immediate Notification of Chief of Police, FID and the IG	13/16 (81%)	11/11 (100%)
Paragraph 61	Involved officers will be separated	30/32 (94%)	30/30 (100%)
Paragraph 63	Psychological Evaluations of Officers	28/32 (88%)	24/24 (100%)
Paragraph 64(1)	Consideration of Officer Work and CUOF History Prior to Taking Disciplinary Action(s)	25/30 (83%)	51/51 (100%)
Paragraph 67	Submission of completed investigation or status report to Commission within 60 days of statute	9/20 (45%)	31/32 (97%)

The Monitor focused its review on the paragraphs required in the *CUOF Systems Audit* by subparagraph 129i, namely paragraphs 67, 69 and 83. The Monitor's sample for paragraphs 67 and 69 included a random sample of the CUOF incidents tested by AD in this audit,<sup>100</sup> and the Monitor conducted a comparison of AD's findings with the Monitor's own testing for paragraph 83. For the paragraphs that are not required to be evaluated pursuant to paragraph 129i, the Monitor reviewed 100% of the CUOF incidents as AD's assessment of some paragraphs in this review changed from non-compliant to compliant. Additionally the Monitor reviewed selected officers' packages based on an apparent pattern of complaints or uses of force.

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

- The audit report presented its audit findings in a clear manner, and the working papers contained evidence of appropriate planning and conduct of the audit processes and provided sufficient documentary support of AD's audit findings.
- The Monitor concurred with AD's findings for paragraphs 67, 69 and 83. For Paragraph 83, AD concluded that FID investigators had access to TEAMS II after reviewing the process used with the CO of FID to ensure the reports are provided to investigators when they are in the field; however, AD did not specifically test that FID investigators could access the TEAMS II system. The Monitor conducted specific testing to ensure that FID investigators had access to the TEAMS II system and concluded the officers do have this ability.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 129i. As indicated in the Background section above, AD's *CUOF Systems Audit* has been in

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<sup>100</sup> After reviewing for appropriateness, the Monitor used the OIG's sample, which was selected using a one-tailed test, a 95% confidence interval and an error rate of +/-7%.

compliance with paragraph 129i since September 2004. With the current findings of compliance for subparagraph 129i, the Monitor has concluded the Department has achieved substantial compliance with this subparagraph. As a result, the Monitor is not planning on actively monitoring the *CUOF Systems Audit* during the remainder of the extension period.

As part of this audit, AD assessed nine subparagraphs that are not required to be included in a subparagraph 129i audit. The Monitor makes the following observations to help AD to better evaluate and the Department to better address the various requirements of the subparagraphs and related Departmental Policy or to acknowledge updates AD has made to earlier audits of the same paragraph:

- The Monitor commends AD for implementing a recommendation from the Monitor's Report for the Quarter Ending June 30, 2007 by deferring its review of the requirements of subparagraph 62b as it relates to CUOF investigations to its *CUOF Investigations Audit*.
- For subparagraph 47g, the Monitor identified one FID investigator who had a series of complaints that were adjudicated as "Other Judicial Review" or "Insufficient Evidence to Adjudicate" as well as several lawsuits that the Department settled. Each of the complaints included allegations of false imprisonment. While Department policy only requires documentation of sustained complaints, given the nature of these complaints, AD should have evaluated this pattern during its review of the officer's TEAMS record and the CO's documented review of this officer's selection to FID.<sup>101</sup>

### **Paragraph 129iii –Complaint Form 1.28 Investigations 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,<sup>102</sup> the completeness of the investigation file, the accuracy of the investigator's statement summaries, the adequacy<sup>103</sup> of the investigation, and the appropriateness of PSB's determinations relative to who shall conduct the investigation.<sup>104</sup>

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<sup>101</sup> AD reviewed this officer's selection package, in particular the CO's comments related to Board of Rights hearings for this officer, but did not review these false imprisonment complaints to determine if there were any concerns.

<sup>102</sup> As required by paragraph 87 (most complaint investigations to be completed in five months).

<sup>103</sup> As required by paragraphs 80-86.

<sup>104</sup> As required by paragraphs 79 (PSB to receive Complaint Form 1.28 face sheets and classify as to investigating entity within 10 days) and 93-95.

## Background

In 2004, AD separated the requirements of paragraph 129iii into two audits: an audit that assessed systems-related issues<sup>105</sup> and a separate audit that assessed the quality of complaint investigations.<sup>106</sup> For reporting purposes, the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations. The Monitor found the most recent *Complaint Form 1.28 Systems Audit* dated December 20, 2007, and *Complaint Form 1.28 Investigations Audit* dated March 30, 2007, to be in compliance with the requirements of subparagraph 129iii.

## Current Assessment of Compliance

In order to assess the Department's compliance with the investigative quality requirements of subparagraph 129iii during the current quarter, the Monitor reviewed AD's *Complaint Form 1.28 Investigations Audit* dated March 28, 2008 and supporting audit working papers, including its audit work plan, crib sheet and selected matrices, complaint investigation packages and taped interviews.

AD identified a total audit population of 597 complaints closed in October 2007, of which 274 were investigated by IAG and 323 were investigated by COC. From this population, AD selected a stratified random sample of 38 IAG complaints and 47 COC complaints. From this sample, the Monitor selected a sample of 21 IAG complaints and 26 COC complaints.<sup>107</sup>

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

- AD appropriately concluded that the Department was compliant with 24 provisions of the Consent Decree; the following paragraphs and subparagraphs, each of which were compliant in AD's previous *Complaint Form 1.28 Investigations Audit*, dated March 30, 2007,<sup>108</sup> were the exceptions:
  - 80b Interviewing of Witnesses/Complainants in IAG Investigations (88% - 29 of 33 complaints),

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<sup>105</sup> The *Complaint Form 1.28 Investigations Phase I Audit* assessed the following provisions: 74d,f, g, 76, 79/129iii(e), 83, 87/129iii(a), 93, 94, 95 and 152 relating to investigative resources, public accessibility and administrative processes for the complaint review process.

<sup>106</sup> The *Complaint Form 1.28 Investigations Phase II Audit* assessed subparagraphs 129iii and its scope included 74h, 75, 77, 78, 80a-g/81, 82, 84-86, 90, 91, 101, and 129b-d.

<sup>107</sup> After reviewing for appropriateness, the Monitor used the OIG's sample which was selected using a one-tailed test, a confidence interval of 95% and an error rate of +/-7%. The Monitor added to this sample to decrease the error rate to +/-4%.

<sup>108</sup> In AD's *Complaint Form 1.28 Investigations Audit*, dated March 30, 2007, AD did not provide a separate assessment of subparagraph 81d, Canvassing the Scene to Locate Witnesses in COC Investigations; therefore a comparison to last years' findings for this subparagraph cannot be completed.

- 80e Interviewing of All Supervisors in IAG Investigations (78% - 7 of 9 complaints),
  - 80f Canvassing the Scene to Locate Witnesses in IAG Investigations (92% - 35 of 38 complaints),
  - 81 Interviewing of All Supervisors in COC Investigations (75% - 6 of 8 complaints),
  - 81 Canvassing the Scene to Locate Witnesses in COC Investigations (91% - 43 of 47 complaints),
  - 101 Department Referral to Criminal Prosecutorial Authorities of All Incidents Involving Officers with Facts Indicating Criminal Conduct (50% - 1 of 2 complaints),
  - 129b Completeness of Audio/Video Files (93% - 66 of 71 complaints), and
  - 129c Comparison of the Officer, Complainant and Witness Statements (91% - 61 of 67 complaints).
- AD's working papers, supporting documents and recordings, and electronic databases were accessible and well organized with sufficient detail. The Monitor concurred with AD's compliance findings for all paragraphs in this audit.
  - The Monitor identified one complaint investigation that was initiated as a result of a law suit from a citizen who received dog bites during a search for a suspect. In completing the investigation, although PSB attempted to contact the citizen through his/her lawyer, PSB ultimately relied upon the investigation completed by Metro Division at the time of the incident, which concluded that the involved officer followed all established guidelines prior to the search and the incident was within Departmental policy. When Metro personnel completed the investigation, they did not conduct taped interviews, and there was no documentation to ensure that the interviews were not group interviews or conducted at a time and place convenient to the witnesses. Rather than relying upon the Metro investigation, PSB should have waited to complete their investigation until the law suit concluded and then ensured all witnesses to the incident were interviewed. AD did not identify this as an option but, rather, concurred with PSB's assessment that the paraphrased statements were accurate, there were no group interviews and all interviews were conducted at a convenient time and place without sufficient audit evidence to arrive at this assessment.
  - For several investigations, the Monitor raised concerns with AD that the investigation reports did not document specific determinations of complainant or witness credibility, that AD deemed witness credibility to be not applicable and there was no documentation as to why AD determined witness credibility was not an issue. It is the Monitor's opinion that the witness credibility assessment is an essential element in any complaint of misconduct and this determination needs to be documented. The Monitor suggests that in future audits, AD should better document its conclusions on issues related to credibility determinations rather than just conclude it was not applicable.

- The Monitor noted that only one of the 85 complaints<sup>109</sup> was referred to prosecutorial authorities, and inquired into the Department's policy and procedure for referring complaints to the District Attorney's Office (DAO) for independent review pursuant to paragraph 101. The Monitor was eventually referred to the "Protocol for the Referral of Allegations of Criminal Misconduct by Law Enforcement Personnel to the Los Angeles County District Attorney."<sup>110</sup> It is not clear to the Monitor that this Protocol has been formally promulgated as Department policy and who in the Department is responsible for making the probable cause determination.<sup>111</sup> The Monitor recommends that the Department review this practice and formally adopt a policy for referral, with clearly designated decision responsibility. The Monitor believes the protocol for referral of complaints with a probable cause finding is not sufficiently clear, and is probably overly restrictive.<sup>112</sup> In addition, the protocol is not followed in its current format as the Monitor identified another case with clear probable cause that was subsequently not referred because the Department felt there were statutes of limitation problems in prosecuting the alleged criminal offenses, rather than allowing the District Attorney's office to make the decision regarding whether to proceed with the case.
- One complaint investigation reviewed involved allegations by the FBI of serious misconduct by a senior executive of the Department. The Monitor commends AD for reporting this complaint investigation as non-compliant with three separate audit objectives. However, the Monitor found that while AD's audit report was thorough, it did not highlight this complaint or distinguish it from complaints of less serious offenses or those involving less senior executive staff.<sup>113</sup> The Monitor recommends AD establish a protocol to highlight in its reports complaints that involve allegations of serious criminal offenses and/or those that implicate senior Department officials.
- The Monitor noted a few minor reporting errors in the Table – Department Compliance Rates by Objectives and Consent Decree that were included in both the Executive Summary and

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<sup>109</sup> Eighty-three of the 85 complaint investigations were deemed Not Applicable; one of the remaining two investigations was referred by the Department to Criminal Prosecutorial Authorities.

<sup>110</sup> This protocol, which the Monitor located on the LA County DAO's website, is an agreement between the LA County Police Chiefs Association and the District Attorney which states that law enforcement agencies will refer such matters to the DA only on a finding of probable cause that a crime was committed and that the named subject officer committed the offense.

<sup>111</sup> When the Monitor inquired about existing policies in relation to this issue, the Monitor had difficulty obtaining the policies and, as described above, obtained the protocol from the Los Angeles County District Attorney's website.

<sup>112</sup> For example, in one investigation, a civilian suffered facial trauma including a possible broken jaw during an arrest and complained that an officer struck him. The complaint was adjudicated as *Unfounded* and not meeting the criteria for referral to the DAO for further review, thus eliminating an independent finding of possible criminal conduct.

<sup>113</sup> AD indicated to the Monitor that while there is no formal procedure to highlight significant cases such as this one, they did meet with the Department and the OIG regarding the serious issues associated with this complaint investigation.

Summary of Findings section of the audit report. These errors did not significantly affect overall compliance assessments.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of subparagraph 129iii. The Department is in substantial compliance with subparagraph 129ii. However, how the Department investigates complaints and its assessment of these investigations are cornerstones of the Consent Decree. As a result, the Monitor will be conducting limited reviews of these audits during the remainder of the extension period.

### **Subparagraph 131b – GED Selection Criteria Compliance Audit**

Subparagraph 131b requires AD to complete regular periodic audits to assess compliance with the GED selection processes and eligibility criteria set forth in paragraphs 106 and 107 for supervisors and officers. Paragraphs 106 and 107 establish the specific audit criteria to be evaluated in selecting gang supervisors and officers, including number of years required as a supervisor/police officer, skills required, information/documentation required for review and limits to assignment to GEDs.

### ***Background***

Prior to the quarter ending December 31, 2004 the Monitor found the LAPD in non-compliance with subparagraph 131b. In its Reports for the Quarters Ending December 31, 2004, September 30, 2005, September 30, 2006, and June 30, 2007 the Monitor reported that AD's *Gang Selection Criteria Audits* dated June 25, 2004, June 22, 2005, June 30, 2006, and March 27, 2007 respectively, were quality audits that were compliant with the requirements of subparagraph 131b.

### ***Current Assessment of Compliance***

In order to assess compliance with subparagraph 131b during the current quarter, the Monitor reviewed AD's *GED Selection Criteria Audit* dated March 28, 2008, the related audit work plan and matrix questionnaires, a sample of completed audit matrices for the GED selection packages,<sup>114</sup> and audit working papers relating to the audit population and sample determination.

AD identified a total audit population of 330 GED personnel for DP11.<sup>115</sup> From this population, AD selected three sample groups, each covering both non-supervisory and supervisory

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<sup>114</sup> The Monitor used the sample selected by the OIG which was chosen using a one tailed test with an error rate of +/- 7% and a 95% confidence interval.

<sup>115</sup> DP11 covered the period October 14 to November 10, 2007. The population contained 290 non-supervisory officers and 40 supervisory officers.

personnel, to assess the three audit objectives identified in AD's work plan.<sup>116</sup> The Monitor's sample consisted of 34 GED personnel (officer/supervisors) for objective 1 (new selections), 19 personnel for objective 2 (GED tour extensions), and 16 GED personnel, all of whom were identified as having sustained complaints, for objective 3 (current suitability).<sup>117</sup>

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

- AD conducted a quality audit, appropriately found the Department in non-compliance with subparagraph 107b, and identified numerous areas where the Department has not met its policy requirements or needs to address concerns especially in relation to packages documenting an employee's extension in the GED unit, loan packages, canned language, and documentation of suitability interviews. This audit has set a new standard for AD's already high standard in the organization of its supporting work papers.
- The Monitor identified that AD implemented each of the recommendations made in connection with its review of the previous *GED Selection Criteria Audit*. In particular, the Monitor commends AD for its extensive testing and reporting of canned language in performance evaluation reports and subsequent follow-up with the Office of Operations; for conducting additional testing to ensure UOFRD was contacted to see if candidates had any uses of force that were adjudicated as out of policy; and for reviewing the advanced pay-grade process.
- The Monitor identified in its review of paragraph 106d (GED Limited Tour Assignment and process for extension of tours), four extension packages where AD elected to report concerns identified in these packages as an "Other Related Matter" rather than as a compliance issue, as AD concluded these were breaches of LAPD Manual Section 3/763.78. Three of the packages did not have a TEAMS II report that was dated 45 days or less before the Area CO signed the TER and one package that did not include the two most recent Performance Evaluation Reports. The Monitor believes these should have been included in AD's assessment of compliance for paragraph 106d rather than as an "Other Related Matter."<sup>118</sup>

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<sup>116</sup> The first sample group comprised a stratified random sample of 67 GED officers and 23 supervisors to test for objective 1 (new officer selections). The second sample group comprised 39 personnel to test for objective 2 (GED tour extensions). The third sample group comprised 16 officers to test for objective 3 (current suitability).

<sup>117</sup> After reviewing for appropriateness, the Monitor used the OIG's sample selected for its review of this audit using a one-tailed test, 95% confidence interval and a +/-7% error rate.

<sup>118</sup> Subparagraph 106d requires that GED personnel have limited tour assignments to GED units with the provision for an extension upon written approval by the Bureau CO or the Chief of Police but does not stipulate the process for this extension. As described in the Current Assessment of Compliance for subparagraph 106d, above, this process is clarified in a February 11, 2003 letter from the DOJ to the LAPD, wherein the DO specifies that the officers' most current TEAMS I and Performance Evaluation records should be included in the extension assessment. Given this requirement, the Monitor believes these factors should be included in AD's assessment of the Department's compliance rather than as an Other Related Matter.

- In its review of AD's assessment of subparagraph 106d, the Monitor identified one additional package in which there was no indication that the watch commander or the CO saw the TEAMS report prior to approving the packages.
- In its review of AD's assessment of subparagraph 107a, the Monitor identified one package in which the CO concluded that a personal complaint of unbecoming conduct did not include any of six areas of concern included in paragraph 107a. However, AD did not review the complaint to determine if they agreed with the CO's assessment. The Monitor recommends that AD review the complaints to confirm that there are no concerns that have not been taken into consideration in the GED selection process.<sup>119</sup>
- In its review of AD's assessment of subparagraph 107b, the Monitor identified one package in which the Department personnel package was reviewed one day after the package was approved by the supervisor/watch commander and CO. The impact of this finding is minimal as this package was already non-compliant for other reasons.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 131b. As indicated in the Background section above, AD's *GED Selection Criteria Audit* has been in compliance with subparagraph 131b since the quarter ending December 31, 2004. The Monitor has concluded the Department has obtained substantial compliance with this paragraph; as a result, the Monitor is not planning on actively monitoring compliance with subparagraph 131b during the remainder of the extension period.

## B. INSPECTOR GENERAL REVIEWS & AUDITS

The Consent Decree mandates that the OIG assess the quality, completeness and findings of LAPD audits, and that the OIG perform independent reviews of certain topics, namely UOF incidents and complaints, and independent audits of other topics, including the LAPD's use of TEAMS II. These mandates provide for civilian oversight of the Department and will allow the OIG to step into the same role the Monitor has played during the period of the Consent Decree.

During the first five years of the Consent Decree, the OIG developed a professional audit team that includes police performance auditors and special investigators who have the expertise to ensure the OIG meets its mandate. During the first two years of the extension, the OIG has made significant strides in successfully implementing its role by completing 34 timely and effective meta-audits up to and including the quarter ending March 31, 2008 that evaluated the quality, completeness and findings of the audits completed by AD and the Ethics Enforcement Section during this period.<sup>120</sup> Additionally during this same period, the OIG conducted four independent

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<sup>119</sup> AD has agreed that in the next audit as part of their assessment of the selection process they will review complaints of unbecoming conduct, neglect of duty or dishonesty to ensure there are not issues in relation to paragraph 107a.

<sup>120</sup> In the five-year period prior to July 1, 2006, the OIG issued 13 quality reviews.

reviews of complaints and NCUOF investigations that the Monitor concluded were quality reviews. Lastly, based on the quality reviews the OIG was providing to the Police Commission, the Monitor found the OIG in compliance during four quarters with paragraph 136 requirements to review CUOF incidents and report to the Police Commission. Each of these reviews provided insightful comments, conclusions and recommendations to the Police Commission.

### *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 47 quality reviews as of the quarter ending March 31, 2008.<sup>121</sup>

### *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 audit reports, as well as the related audit working papers and sampling documentation:

- OIG’s February 13, 2008 review of EES’s *Quarterly Report for the Third Quarter 2007* and the OIG’s May 2, 2008 review of EES’s *Quarterly Report for the Fourth Quarter 2007* (paragraphs 97 and 127);
- OIG’s April 8, 2008 review of AD’s *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131c-1, and 131e); and
- OIG’s April 3, 2008 review of AD’s *Complaint Form 1.28 Systems Audit* (subparagraph 129iii).

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

- The OIG’s reports continue to contain clearly reported findings and insightful comments and recommendations for the Department to consider.
- The OIG concluded that EES used a complete population and each of the sting audit packages they reviewed in the *EES’s Quarterly Report for the Third Quarter 2007* were complete as they contained all of the necessary information to review the sting. However,

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<sup>121</sup> 13 quality reviews were completed in the first five years of the Consent Decree, and 34 quality reviews were completed during the extension of the Consent Decree.

the OIG identified quality concerns with five of the audits.<sup>122</sup> The OIG also identified concerns regarding the findings in these five sting audits, as the OIG disagreed with the EES's assessment of the officers' actions. The Monitor reviewed a sample of 27 EES audits,<sup>123</sup> which included four of these five sting audits, and concurred with the OIG's findings.

- The OIG concluded each of the sting audits in the *EES's Quarterly Report for the Fourth Quarter 2007* were complete, conducted in a quality manner and for most audits the classifications were supported.<sup>124</sup> The Monitor reviewed a sample of 24 EES audits,<sup>125</sup> which included all three of the complaint intake audits for which the OIG challenged the classification, and agreed with the OIG's findings with the exception of two additional stings that should have been classified as *Pass-substandard*.<sup>126</sup> The Monitor commends the OIG for the additional review of EES' tracking of employees who should be audited, testing of the LAPD complaint hotline and follow-up on closed investigations. The Monitor intends to review these last three areas in more detail in the future.
- The OIG concluded that AD's paragraph 129iii *Complaint Form 1.28 Investigations Systems Audit* was complete, conducted in a quality manner and the findings were adequately supported and commended AD for its quality assessments of the applicable Consent Decree paragraphs.<sup>127</sup> The Monitor concurs with the OIG's findings.

For the OIG's meta-audit of AD's *Warrant Applications and Supporting Affidavits Audit*:

- The OIG appropriately found that this audit included a complete population and identified significant issues in its evaluation of the warrant packages, and the audit report was written in a logical and concise manner and offered insightful recommendations.
- The OIG identified concerns with how AD reported certain findings, including:

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<sup>122</sup> Two of the integrity audits failed to include audio of the sting, which is standard procedure; additionally, one of these audits was in a location that may not have allowed the texted behavior to occur, a third sting was conducted in a location that may not have allowed the tested behavior to occur; and two complaint intake audits did not address whether the under-cover complainants felt that they were dissuaded from making their complaints.

<sup>123</sup> These audits were a combination of integrity sting audits and complaint intake audits, and were chosen using a one tailed test with an error rate of +/- 4% and a 95% confidence interval.

<sup>124</sup> The OIG concluded that three complaint intake audits should have been classified as *Pass-substandard* rather than *Pass*.

<sup>125</sup> These audits were chosen using the same methodology as for the OIG's review of Q3 EES audits.

<sup>126</sup> As described in paragraph 97, the Monitor concluded one audit was *Pass-substandard*, as the EES should have followed up on the training, how it was conducted and the outcome documented in the EES report. For a second audit, the Monitor was unable to determine if the complainant was dissuaded, and believes the disposition should have been *Inconclusive* rather than *Pass*.

<sup>127</sup> The OIG focused on subparagraph 74g (Continuation of a 24-Hour Tour-Free Complaint Hotline that Records all Calls; paragraph 87 (Timeliness of the Completion of Investigations); and paragraph 95 (Staffing of IAG Investigator Positions); AD found that the Department was not in compliance with each.

- Three objectives included inconsequential and minor findings;
  - Two objectives included findings where the OIG believes the standards are not clearly defined in the Department policy that AD used to assess Consent Decree compliance; and
  - Two objectives included findings reported for the wrong objective.
- The Monitor concurred with the majority of the OIG's findings; the findings that the Monitor did not agree with were inconsequential.
  - There were two specific OIG findings where the OIG and AD differed. The Monitor agreed with the OIG's finding that the "Other Indicia Information Is Not Authentic or Incorrect" objective should only be used for substantive anomalies that suggest information is not authentic or incorrect, rather than for minor or inconsequential anomalies, which should be included under the "Supervisory Oversight" objective. In this way, AD's reports will better reflect the nature of their findings. The Monitor also agreed with the OIG's recommendation that AD separately evaluate the CO's analysis from the supervisor's review. This would result in only anomalies related to the supervisors' reviews being assessed as part of "Post-incident Supervisory Oversight."

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. This brings the total number of quality reviews to 51.<sup>128</sup> The Monitor plans on conducting limited reviews of the Department's compliance with this subparagraph during the remainder of the extension period, in particular in relation to the OIG's review of the EES audits and to keep abreast of any changes in AD's reports.

### *Subparagraph 136i – OIG Review of Non-Categorical Uses of Force*

Subparagraph 136i, as amended, requires the OIG to conduct regular, periodic reviews of a random sample of all NCUOF investigations, and issue its reports thereon to the Police Commission. Such reviews are required to assess any 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: the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, or whether the investigation was properly adjudicated.

### *Background*

The Monitor found the OIG's two most recent reviews, submitted on March 31, 2006 and March 30, 2007, in compliance with subparagraph 136i during the quarters ending June 30, 2006 and June 30, 2007, respectively.

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<sup>128</sup> Thirteen prior to July 1, 2006 and 38 since then.

## *Current Assessment of Compliance*

In order to assess the Department's compliance with subparagraph 136i during the current quarter, the Monitor reviewed the OIG's *Non-Categorical Use of Force Investigations Review* dated April 30, 2008. The Monitor also reviewed selected OIG working papers, including the work plan, crib sheet, matrices<sup>129</sup> and related documents.

The OIG reviewed a random sample of 26 Level I NCUOF incidents that closed during the months of September and October 2007. The Monitor determined that OIG generally used the same methodology and matrix for completing this review as used in prior compliant *Non-Categorical Use of Force Investigations Reviews*. In addition, OIG's findings were similar to prior reviews for most objectives. Based on the OIG using the same methodology and matrices and the Monitor's past reviews which did not identify any major concerns, the Monitor conducted only a limited review of the OIG's review.

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

- The OIG assessed the overall quality of the investigations, identifying a number of concerns in relation to handling of excessive force allegations, Miranda admonitions of subjects, collection of photographic evidence, and documentation of witness vantage points. Additionally, the OIG identified concerns in relation to the timeliness of the closure of NCUOF investigations and notification to the Mental Evaluation unit in some incidents. Despite identifying these concerns, the OIG concluded that the NCUOF investigations were completed in a quality manner as no one investigation had a concern that would have affected the adjudication of the use of force. The OIG concluded this quality was due to UOFRD's review and kickback of incomplete investigations.
- The Monitor did not identify any issues suggesting that the quality of this review varied significantly from prior reviews of this topic. Additionally, the Monitor commends the OIG for the quality of its report, which was well-organized, thoughtful and provided insights for the Department to consider in future NCUOF investigations.

Based on the Monitor's limited review and the foregoing findings, the Monitor finds the Department in compliance with subparagraph 136i. The Department has achieved substantial compliance with this subparagraph. As a result, the Monitor is not planning on actively monitoring the Department's compliance with this subparagraph during the remainder of the extension period.

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<sup>129</sup> The OIG used two matrices, one that assessed the investigation and one designed specifically to assess the taped interviews and subsequent transcription of these interviews.

## 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 had not achieved substantial compliance prior to the extension were 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 Department achieved compliance with these provisions during the first two years of the extension. As a result, the Monitor will not be actively monitoring any of the provisions from this section of the Consent Decree during the remainder of the extension period.

## D. GENERAL

Paragraph 154 is the sole paragraph in this section of the Consent Decree. The paragraph 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. The Monitor plans on conducting a limited review of the Department's compliance with the requirements of paragraph 154 during the remainder of the extension period; the next such assessment is scheduled for the quarter ending December 31, 2008.

## V. CONCLUSION

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As we enter the last year of the extension of the Consent Decree, we are pleased to have found that the City and the Department have achieved two years of substantial compliance with many of those paragraphs that had been actively monitored during the first two years of the extension. The Monitor is not planning on actively monitoring such paragraphs during the remainder of the extension period. This achievement is clearly a reflection of the hard work and dedication to reform of the men and women of the Department, the Police Commission, and the Office of the Inspector General. The achievement could not, however, have been realized without the support of the Mayor, the City Council, the City Attorney and the Chief Legislative Analyst and their staffs. In the final year of the extension, we hope to be able to find substantial compliance with the remaining paragraphs of the Decree and to be able to determine that the reforms mandated by the Decree and implemented by the Department are truly transformative in nature so as to remain a part of culture of the LAPD going forward.