

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



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

REPORT FOR THE QUARTER ENDING
DECEMBER 31, 2007

Issued February 15, 2008

EXECUTIVE SUMMARY

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

This, the Monitor's twenty-sixth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending December 31, 2007 and is the sixth report issued during the three-year extension period. As described in our Report for the Quarter Ending June 30, 2006, the City and the DOJ agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a significant number of paragraphs of the Consent Decree, and the Monitor would not actively monitor or report on the Department's compliance with these paragraphs during the three-year extension period. Rather, during the extension period, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance. Based upon this approach, the Monitor examined 35 paragraphs or subparagraphs of the Consent Decree during the current quarter. Of these, the City and the LAPD successfully complied with 29; failed to achieve compliance with four; and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with one paragraph and did not complete its assessment of compliance with one subparagraph.

During the current quarter, the Monitor assessed the LAPD's compliance with various Consent Decree requirements relative to its computer information system (TEAMS II); use of force incidents and investigations; search and arrest procedures; the receipt, maintenance, investigation and adjudication of complaints; management of gang units; handling of confidential informants; eligibility criteria for Field Training Officers; audits by the LAPD's Audit Division; reviews and audits by the Office of the Inspector General; and the operations of the Police Commission and Inspector General.

In connection with Consent Decree requirements regarding the TEAMS II computer information system, the Monitor assessed the City and LAPD's compliance with 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 non-compliance, primarily due to inconsistencies and a lack of uniformity in implementing the review process required under the protocol. However, the Monitor recognizes that this is a new process, one that Department supervisors and managers are just becoming familiar with, and the Department has either already taken or is in the process of taking significant steps to remedy the problems identified.

Regarding uses of force, the Monitor found the LAPD in non-compliance with the requirement that managers analyze the circumstances surrounding the presence or absence of a supervisor at a Categorical Use of Force (CUOF) incident (subparagraph 62a). Although the Monitor

determined that the required analyses were completed for 23 of 25 incidents reviewed (analyses for two incidents were not provided to the Monitor), the Monitor concluded that 11 of the 24 analyses were insufficient, and the analysis for two incidents were not completed within the mandated seven-day period. The Monitor found the LAPD in compliance with the requirement that managers consider officers' work histories, including information contained in the TEAMS II system and the officers' CUOF histories, when reviewing and making recommendations regarding non-disciplinary action as a result of a CUOF (subparagraph 64b), and in compliance with each of the specific investigative requirements that apply to all CUOF incident investigations.

Regarding search and arrest procedures, the Monitor found the LAPD in non-compliance with the requirement that supervisors evaluate incidents in which a person is charged with interfering with, delaying, or obstructing a police officer, resisting arrest, or assault on an officer to determine whether they raise issues or concerns regarding training, policy, or tactics (subparagraph 70b). The Monitor concurred with the findings of the LAPD's Audit Division, in its *Arrest, Booking and Charging Reports Audit*, that the LAPD was in non-compliance based on the lack of documentation of watch commander evaluations in connection with a number of arrests selected for review.

In connection with complaints, the Monitor assessed the LAPD's compliance with various requirements relative to the receipt and maintenance of complaints (paragraph 74); certain specific investigative requirements that apply to all misconduct complaint investigations (subsections of subparagraph 80ii and paragraph 81); requirements regarding the standards for credibility determinations while adjudicating completed complaint investigations (paragraph 84); requirements regarding the adjudication of complaint investigations, including the use of a preponderance of the evidence standard (paragraph 85); and, the requirement that managers evaluate all complaint investigations and identify any underlying problems and/or training needs. The Monitor found the LAPD in compliance with all requirements assessed.

Regarding the management of gang units, the Monitor assessed the LAPD's compliance with requirements regarding the detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)), finding the LAPD in non-compliance. The Monitor concurred with the conclusions reached by the LAPD's Audit Division in its *Arrest, Booking and Charging Reports Audit* that the LAPD was in non-compliance with the underlying actions and post-incident supervisory review requirements. The Monitor also assessed the LAPD's compliance with requirements regarding the roles of Bureau Gang Coordinators (subparagraph 106h). Although the Department submitted only three Bureau Gang Coordinators Inspections in 2007, the Monitor withheld a determination of compliance with subparagraph 106h pending its review of work product completed under full implementation of new inspection processes instituted by the LAPD. The Monitor commends the Department for recent strides made in connection with these inspections and related processes.

Regarding Confidential Informants, the Monitor found the LAPD in compliance with Consent Decree's requirements regarding the procedures for the handling of informants (paragraph 108).

Regarding Training requirements, the Monitor found the LAPD in compliance with requirements relative to eligibility criteria for Field Training Officers, as the Monitor found that 98% of the officers selected and reviewed were qualified to serve as training officers.

The Monitor completed its review and evaluation of two audits submitted by the LAPD's Audit Division in September 2007: the *Arrest, Booking, and Charging Reports Audit*, (subparagraph 128(2), 131a, 131c-2, 131e) and the *Confidential Informant Control Packages Audit* (subparagraphs 128(5), 131a, 131c-5, 131d and 131e). The Monitor conducted a limited review of the *Arrest, Booking, and Charging Reports Audit*, which is no longer actively monitored under the extension of the Consent Decree¹, and did not identify any issues that suggest this audit should be actively monitored or that the quality of this audit varied from prior *Arrest, Booking, and Charging Audits*. The Monitor found the LAPD in compliance with Consent Decree requirements relative to its *Confidential Informant Control Packages Audit*. The Monitor received and commenced its review of Audit Division's *Gang Enforcement Detail Work Product Assessment Summary* submitted September 2007 (subparagraph 131a); the Monitor will be meeting with Audit Division and the Office of the Inspector General (OIG) to discuss Audit Division's approach to this audit, and will conclude its assessment of compliance in connection with this audit after these discussions are held and further analysis is completed.

During the current quarter, the Monitor also assessed reviews conducted by the OIG of the Ethics Enforcement Sections' *Quarterly Reports for the First and Second Quarters 2007* (paragraphs 97 and 127) and four audits performed by Audit Division: *Non-Categorical Use of Force Investigations Audit* (subparagraph 128(3), 131a, 131c-3 and 131e), *Follow-up Review of Motor Vehicle and Pedestrian Stop Data Collection Audit* (subparagraph 128(4), 131a, 131c-4, 131e), *CUOF Investigations – Phase II Audit* (subparagraph 129i), and *Gang Enforcement Detail Work Product Assessment Summary Phase II* (subparagraph 131a). The Monitor concluded that the OIG's reviews of the Ethics Enforcement Sections' two audits and Audit Division's four audits were quality reviews. The Monitor also assessed the OIG's *Training Evaluation and Management System (TEAMS) II Audit, Phase I* (paragraph 137) and concluded that the audit was in compliance with pertinent requirements of paragraph 137.

Lastly, the Monitor assessed the Department's quarterly status reports that document the tracking and adoption of audit recommendations (subparagraph 154), concluding that the Department was in compliance with Consent Decree requirements. The Monitor commends the LAPD's Civil Right Integrity Division staff for continuing to improve their system for tracking the status and outcome of all the audit recommendations.

¹ Additionally, with the exceptions of subparagraphs 70b and 106e, all of the substantive subparagraphs that this audit covers are no longer being actively monitored.

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- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the
Consent Decree as of the Quarter Ending December 31, 2007
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

I. INTRODUCTION

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

This, the Monitor's twenty-sixth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending December 31, 2007. As described in our Report for the Quarter Ending June 30, 2006, during the three-year extension to the Consent Decree, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Consent Decree with which the City has failed to achieve substantial compliance during its original term. As further described in that report, the City and the DOJ (the parties) agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a substantial number of paragraphs of the Consent Decree, and the Monitor would not be actively monitoring or reporting on the Department's compliance with these paragraphs. This is not to say that the City can ignore any of the provisions of the Decree. If there is any indication of backslide in any paragraph not being actively monitored, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate. As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms that have been successfully implemented.

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

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

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

the Consent Decree for the last five quarters, beginning with the quarter ending December 31, 2006.³ The “Status as of Last Evaluation” column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph.⁴ This is an estimate based on available information at the date of issuance of this Monitor’s Report and Report Card. These estimates are subject to change as information develops and circumstances change.

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

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

II. FOCUS ISSUES

A. FINANCIAL DISCLOSURE

During this quarter, the issue of financial disclosure as required by paragraph 132 has moved forward with the proposal by the Police Commission of a policy that is intended to appropriately address the requirements of that paragraph. The Police Protective League has taken the position that the proposal violates California law and various meet and confer provisions, and has filed suit in State Superior Court seeking judicial intervention to prevent the adoption of the policy. The policy allows a two-year grace period for officers currently serving in affected units, thereby allowing officers who so object to the requirements to seek assignments in other units of the Department. Yet, because of this grace period, it will not be possible to meet the requirement of two years of substantial compliance during the term of the current extension of the Decree. Accordingly, it is possible that the Court will require an extension of this provision to ensure two years of substantial compliance.

A recap of the history of this provision of the Consent Decree is in order. The Consent Decree, including paragraph 132, was the result of the negotiated settlement of the litigation between the US Department of Justice and the City of Los Angeles. Paragraph 132, with its requirement to disclose information relative to finances, was presumably included in that settlement to address concerns that existed with regard to potential corruption within high-risk units of the Department. In early 2006, Judge Gary Feess denied a motion to amend the Consent Decree that would have modified the requirements of paragraph 132, and ordered that the financial disclosure requirement contained in the Decree be implemented. At that time, we indicated our hope that the parties could address the Court's concerns with alacrity and come up with a policy that represented best practice. Unfortunately, the City was unable to reach an agreement with the Police Protective League on the appropriate parameters of financial disclosure, which led to the unilateral adoption by the Police Commission of the current policy.

Paragraph 132 requires the following:

The LAPD shall require regular and periodic financial disclosures by all LAPD officers and other LAPD employees who routinely handle valuable contraband or cash. The LAPD shall periodically audit a random sample of such disclosures to ensure their accuracy. When necessary, the LAPD shall require the necessary waivers from such officers.

As we have said before, the purpose of financial disclosure as a prerequisite for positions of trust is five-fold. First, to potentially detect officers and employees engaging in wrongdoing through disclosure or through the process of verifying unexplained wealth. Second, to detect potential conflicts of interest. Third, to detect officers and employees who are in financial difficulty in order to identify those who, because of their financial situation, might be susceptible to the temptations that routine handling of valuable cash or contraband poses. Fourth, to determine

whether a particular officer who may have evidenced irresponsibility in the handling of his or her financial matters is responsible enough to handle valuable contraband or cash. And lastly, to serve as a potential deterrent to those in the affected units who, because of the disclosure (and verification) procedures, would refrain from engaging in conduct which they otherwise might.

Today, in order to join the Los Angeles Police Department, potential recruits must complete financial disclosure forms and authorize the examination of their credit reports for the purpose of evaluating their suitability for the position of police officer. Moreover, many officers who serve in joint federal task forces, including the Joint Terrorist Task Force and various drug task forces, must likewise complete financial disclosure forms and authorize an examination of their credit reports, understanding that there will be periodic reinvestigations of their financial situations for as long as they remain on the task force. In fact, all federal law enforcement officers, regardless of whether they handle cash or contraband, are required to submit to such scrutiny.

Indeed, financial disclosure is made by many of us every day in every day situations. When we want a retail store to allow us credit or a bank to grant a mortgage or auto loan, we provide financial disclosure and authorize the examination of our credit reports, upon which those institutions base their decisions as to whether we are responsible enough to be accorded the privilege of credit. The Monitor believes that the decision of whether to appoint a police officer to a position in which they will be handling valuable cash or contraband is no less important a decision, and that every available means to determine suitability for such a position should be utilized. We also firmly believe, as has been the case with financial disclosure material from police department applicants and those officers who serve on joint federal task forces, that all information contained on such disclosures must be held in the strictest of confidence, inaccessible through ordinary Pitchess Motions or routine discovery.

We hope that the litigation instituted by the Police Protective League can be resolved quickly, and that the proposed policy be fully implemented so as to allow for the mandated compliance with the Consent Decree.

III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

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

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

Although the original timeline for completion of the TEAMS II project was not met due to the numerous challenges presented by the scope of the TEAMS II project, through great effort the City achieved Department-wide implementation of all four systems as of the quarter ending March 31, 2007.

During the current quarter, the City and the LAPD made the following progress in connection with the new systems:

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

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

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

second is the Transfer Action Item (TAI), which will be sent to a supervisor when a new employee is being transferred into that supervisor's command so that the employee's TEAMS report can be reviewed.

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

During the current quarter, the Monitor assessed the Department's compliance with paragraph 46 as it relates to subparagraphs 47a, b, c and l. The results of our current assessments follow.

Paragraph 46 – Implementation of Protocol

Paragraph 46 requires the Department 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. Pursuant to the requirements of paragraph 47, 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 the paragraph.

Protocols required to be implemented by paragraph 46 involve the following:

Subparagraph 47a, which requires that, on a regular basis, supervisors review and analyze all relevant information in TEAMS II about officers under their supervision to detect any pattern or series of incidents that indicate that an officer, group of officers or LAPD unit under his or her supervision may be engaging in at-risk behavior.

Subparagraph 47b, which requires that when at-risk behavior may be occurring based on a review and analysis described in the preceding subparagraph, appropriate managers and supervisors shall undertake a more intensive review of the officer's performance.

Subparagraph 47c, which requires that LAPD managers on a regular basis review and analyze relevant information in TEAMS II about subordinate managers and supervisors in their command regarding the subordinate's ability to manage adherence to policy and to address at-risk behavior.

Subparagraph 47l, which requires the routine and timely documentation in TEAMS II of actions taken as a result of reviews of TEAMS II information.

Background

The Monitor has not yet assessed the LAPD's compliance with paragraph 46 as it relates to subparagraphs 47a, b, c and l.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 46 as it relates to the implementation of protocols covering the requirements of subparagraphs 47a, b, c and l, the Monitor requested and received a list of 157 system-generated action items completed from June 21-August 21, 2007.⁷ The Monitor separated the list into 27 action items related to supervisors and 130 action items related to officers (non-supervisors), and reviewed 83 action items in total, consisting of all 27 related to supervisors and a random sample of 56 related to officers,⁸ for performance using TEAMS II.

The Monitor also received and reviewed the two policies drafted by the TEAMS II staff that outline the requirements of paragraph 47: *Access Control Policy for TEAMS II Information*, dated July 16, 2007, which outlines access requirements, and *Duty to Conduct and Document Individual Performance Assessments*, dated July 12, 2007, which outlines the requirements of the protocol that is required by paragraph 46 and covered by paragraph 47. Under these policies, when an action item is triggered⁹ and sent to a supervisor, that supervisor must review the information and documentation pertaining to the employee's activities and work history, and document that review and action taken.

The review of these system-generated action items based on these protocols and policies was a new process to these supervisors and managers. Although the two policies provide some guidelines regarding the review of action items, there are still some inconsistencies and a lack of uniformity in the review process that are currently being addressed. The Monitor has identified some overall issues regarding such inconsistencies, which have been discussed with the Department and are outlined below:¹⁰

⁷ The Monitor notes that all RMIS action items were completely rolled out Department-wide by March 12, 2007.

⁸ The sample was selected using a one-tailed test and a confidence level of 95% with an acceptable error rate of +/- 4%.

⁹ Action items are triggered based on certain thresholds calculated by RMIS that compare an employee's activity to his/her peer group

¹⁰ Although the OIG used a different time period and sample from the Monitor's to conduct its assessment of paragraph 137 regarding action items, the OIG similarly identified inconsistency, lack of uniformity and timeliness of the review and documentation. In addition, the OIG recognized TEAMS II staff for planning to make some changes in regards to some of these issues; the Monitor notes that many such plans were already in process. See Current Assessment of Compliance for paragraph 137, below, for details regarding the OIG's findings and the Monitor's review of the OIG's work.

- Some supervisors are reviewing and commenting on the nature of the pending complaints or uses of force and some are not, apparently because they consider a pending incident not adjudicated and therefore not available for review.¹¹ Given that these action items are always triggered based on pending incidents, there needs to be clarification on whether such incidents should be reviewed and what would constitute proper review, analysis and documentation.
- There exist no guidelines and therefore no uniformity as to what constitutes an appropriate review of employee histories, or what would fall into the category of a “pattern of behavior” or “cause for concern.” Moreover, there are no standards for proper documentation of such a review.
- Some reviewers are indicating in their reviews that an action item was inappropriately triggered and not conducting any further review of the incident that caused the trigger.¹² Although there may be some action item triggers that need to be reassessed, it is not the reviewer’s role to make that assessment; until remedies are put in place, all reviewers should review action items pursuant to current protocols.
- Supervisors are required to document the date of the notification or discussion, as required by Special Order No. 22, July 12, 2007. However, this is not occurring and, as a result, it is unclear whether supervisors are notifying the involved employees of the action items and the nature of the action items upon receipt, and whether they are notifying the involved employees of the outcome of the action item.¹³
- Reviewers must look at all required TEAMS II comparison and threshold reports when completing their action items, as required by Special Order No. 22; however, reviewers were not doing this on a consistent basis.¹⁴
- The Department has set a guideline regarding the timeliness requirement in subparagraph 47l, requiring that the action item be completed in 30 days; however, some reviewers are not yet meeting this standard, primarily due to the newness of the process and the steps involved.¹⁵

¹¹ Seventeen of the non-supervisory action items and six of the supervisory action items were not documented appropriately.

¹² The reviews falling under this category are included in the seventeen non-supervisory action items and six supervisory action items described in the previous footnote.

¹³ Documentation of initial notification was not provided for any of the action items selected. Documentation of notification of the outcome was not provided for 47 of the 56 non-supervisors selected and 17 of the 27 non-supervisors selected.

¹⁴ The system tracks whether the required reports are reviewed by tracking whether a reviewer opens a report. Based on this process, four of the 27 supervisors selected and 33 of 56 non-supervisors selected had reviewed the required reports.

¹⁵ In all, action items fell outside the 30 day requirement for 14 of the 56 non-supervisors selected and three of the 27 supervisors selected.

- The protocol requires that the final reviewer be a manager at the bureau level; however, 22 of the 83 total action items (related to 13 non-supervisors and nine supervisors) were completed by a sergeant or officer serving as the final reviewer.

As stated above, the Monitor has had ongoing discussions with the Department about these concerns and recognizes that the review of action items is a new process for the Department. In addition, the Department has also identified some areas that it feels need to be reassessed and has already taken major steps to do so. Steps that the Department is considering in order to remediate some of these issues include:

- Planning to work with the command staff and all supervisors and managers to give them further guidance on what constitutes appropriate review of action items and how to properly document such a review. The Department is hoping to provide such informal training with the assistance and/or input of the Office of the Inspector General (OIG), DOJ and the Monitor based on their review and assessment of such action items.
- Modification of the system so as to require that all TEAMS II comparison and threshold reports are opened and reviewed prior to an action item being closed.
- Provision of additional fields in RMIS to record when an officer is notified of the receipt and disposition of action items as mandated by Department policy. The Department will be reviewing this policy, as well.
- Re-evaluating thresholds and trigger formulas. The Department will consult with DOJ and the Monitor prior to instituting any changes.
- Conducting a review of all required evaluations or reviews required by paragraph 47 to determine whether additional beneficial changes to the process can or should be made.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 46 as it pertains to the requirements of subparagraphs 47a, b, c and l. The Monitor expects that the Department will make significant progress in this area through implementation of the above-noted remedial actions. In addition, the Department continues to monitor and track action items and the timeliness of their completion, and is providing supervisors and managers with assistance and feedback as they conduct their reviews.

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

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

C. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used with a determination as to whether that force is “Categorical” (CUOF) or “Non-Categorical” (NCUOF). A CUOF¹⁶ is defined by paragraph 13 of the Consent Decree. Any use of force (UOF) that falls under this definition is subject to certain paragraphs of the Consent Decree.¹⁷ Administrative investigations of these incidents are the responsibility of the Force Investigation Division (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.¹⁸ NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

The Department has achieved substantial compliance with all Consent Decree provisions relating to uses of force except those requiring managers to analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a); the referral of all officers involved in a CUOF resulting in death or the substantial possibility of death to the LAPD’s Behavioral Science Services (BSS) for a psychological evaluation (paragraph 63); and managers’ consideration of the officer’s work history, including information contained in the TEAMS II system and that officer’s CUOF history when reviewing and making recommendations regarding discipline or non-disciplinary action as a result of a CUOF (paragraph 64). In addition, the Department has not yet achieved substantial compliance with several Consent Decree provisions regarding UOF investigations (subparagraph 80i) and access to information contained in TEAMS II for those units conducting CUOF investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above). As a result, the Monitor will be assessing the Department’s compliance with these paragraphs during the extension to the Consent Decree.¹⁹

¹⁶ 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.

¹⁷ 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.

¹⁸ Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

¹⁹ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. In addition, many of the paragraphs included in Section D. Complaints, below, are related to this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department’s compliance with these paragraphs.

During the current quarter, the Monitor assessed the Department's compliance with subparagraph 62a, subparagraph 64b, and paragraph 80, as it relates to CUOF investigations. The results of our current assessments follow.

Paragraph 62 – Analyses of CUOF and Search Warrants

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to CUOF (subparagraph 62a) during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in non-compliance. For 11 of the 23 CUOF incidents reviewed, the Monitor noted that the evaluations either were insufficient or did not address all responding supervisors. For another two incidents, the Monitor noted that the required analyses were not completed within the mandated seven-day period.

Current Assessment of Compliance

Subparagraph 62a CUOF Incidents²⁰

In order to assess compliance with subparagraph 62a, the Monitor reviewed 25 CUOF incidents that occurred in April through August 2006²¹ and were investigated solely by the FID. Although the Monitor determined that the analyses required by paragraph 62 were completed for 23 of the 25 incidents reviewed (analyses for two incidents were not provided to the Monitor), the Monitor concluded that 11 of the 24 analyses were insufficient, as they did not address material facts that would have been known at or right after the incident.²² The Monitor also determined that the analyses for two incidents were not completed within the mandated seven-day period.²³

²⁰ The Monitor is scheduled to again assess the LAPD's compliance with subparagraphs 62b and c during the quarter ending March 31, 2008.

²¹ The Monitor is granted access to review completed CUOF investigations anywhere from 245 to 300 days following the date of the incident.

²² For example, for six incidents, the Monitor identified supervisors who were either at or responded to the scene and assumed a supervisory role, but were not evaluated.

²³ One analysis was completed more than three months subsequent to the relevant incident and another analysis was completed more than eight months subsequent to the incident.

Based on the foregoing, the Monitor finds the LAPD non-compliance with subparagraph 62a.

Paragraph 64 – Officer History Considered for Disciplinary or Non-Disciplinary Actions

Paragraph 64 requires a manager²⁴ 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 disciplinary or non-disciplinary action as a result of a CUOF.

Background

Once FID has completed a CUOF investigation, and prior to the UOFRB, the Use of Force Division (UOFD) reviews the investigation and prepares a form entitled, "*Officer Work History Review*."²⁵ At the conclusion of the Board of Review, an involved officer's Commanding Officer (CO) is questioned as to whether or not his/her review identified a pattern regarding tactics of the involved officer.

The Monitor last assessed the LAPD's compliance with subparagraph 64b (regarding non-disciplinary action) during the quarter ending June 30, 2007, at which time the Monitor found the LAPD in compliance. For 23 CUOF incidents, the Monitor reviewed relevant documentation, including TEAMS reports, and determined that the UOFRB received accurate officer history information for consideration of non-disciplinary action.

Current Assessment of Compliance

Subparagraph 64b Officer History Considered For Non-Disciplinary Action²⁶

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed 25 CUOF incident investigations that were investigated solely by the FID. For all 25 CUOF incidents, the Monitor reviewed relevant documentation, including TEAMS II reports, and determined that the UOFRB received accurate information.²⁷

²⁴ Paragraph 29 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 four participants who qualify as a manager according to the Consent Decree definition.

²⁵ This form documents disciplinary history that includes lethal UOF, non-lethal UOF, and complaints.

²⁶ The Monitor is scheduled to again assess the LAPD's compliance with subparagraph 64a during the quarter ending March 31, 2008.

²⁷ The LAPD represented to the Monitor that during January 2006 it commenced generating reports from the TEAMS II system for use by the UOFRB in evaluating officer history.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 64b.

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 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 September 30, 2007, at which time the Monitor found the LAPD in compliance with all pertinent subsections of the paragraph.²⁸ The Monitor reviewed 25 CUOF incident investigations that were investigated solely by the FID. The

²⁸ Subsection d of paragraph 80 is not applicable to CUOF investigations.

Monitor identified instances of non-compliance in some investigations.²⁹ However, after considering the merits of 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

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed 25 CUOF incident investigations that occurred during the period April 2006 through August 2006 and were investigated solely by the FID. The 25 incidents comprised:

- Fifteen OIS incidents; the suspect(s) sustained a hit in eight of these 15 incidents.
- Eight ICD incidents for which the cause of death was not attributed to officer actions.³⁰
- One incident involving injuries requiring the hospitalization of the suspect.
- One incident in which the officer utilized a neck restraint.

The Monitor noted the following:

- For all 25 investigations reviewed, virtually all interviews were tape-recorded (subsection a).³¹
- Interviews were conducted at times and locations convenient to witnesses in 23 of the 25 investigations reviewed (subsection b).³²
- Group interviews did not occur in any of the 25 investigations (subsection c).

²⁹ Each CUOF incident is reviewed and opined upon by the UOFRB, the Chief of Police and the Board of Commissioners. The Monitor noted that appropriate evidence was not preserved in 24 of the 25 investigations reviewed. Also, the Monitor noted that interviews were not conducted at times and locations convenient to witness in three of the 25 investigations reviewed.

³⁰ 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.

³¹ There were in excess of 500 interviews conducted in connection with the investigations reviewed. The Monitor noted that one interview of a witness officer was not tape-recorded; however, the content of the interview was memorialized.

³² In one investigation, multiple witnesses were detained at the station; the Monitor contends that this was not convenient to the witnesses. The issue was identified during the investigation and the LAPD addressed it via its complaint process. In another investigation, a review of the transcripts of two witnesses determined that they were not asked whether the time and place was convenient, thus a determination was not possible.

- Supervisors responding to the scene were interviewed regarding their conduct in all 25 investigations (subsection e).
- All appropriate evidence was collected in all 25 investigations (subsection f).
- All materially inconsistent statements were identified and addressed during the course of 22 of the 25 investigations (subsection g). For one investigation, a discrepancy in the number of shots fired was not addressed. For another investigation, conflicting witness statements were not addressed. For a third investigation, inconsistencies regarding cell checks were not reported.

For five of the eight ICD incidents reviewed, the suspect appeared to be under the influence of an unknown substance, resisted arrest and required the LAPD to apply a hobble restraining device. For all five incidents, which occurred within weeks of each other, subsequent to applying the hobble, the suspect was not immediately placed into a seated position, as required by LAPD policy, and in most instances remained in a prone position as officers placed pressure on the suspect.³³ The Monitor is not questioning the application of the hobble in any of these incidents; however, the Monitor has voiced concerns in past quarterly reports with regard to officer actions subsequent to a UOF, specifically the proper positioning of any suspect. The Monitor's review of these five incidents yielded no evidence to conclude failure to properly place the suspect in a sitting position contributed to the suspect's death. The line of questioning for four of the five incidents included the topic of proper positioning. However, when these investigations were reviewed by both the UOFRB and the Chief of Police, contrary to Department policy, training was not required for any of the involved officers with regard to proper positioning. The Monitor will continue a review and analysis of ICD, particularly those involving either the application of a hobble and/or the prolonged restraining of a suspect in the prone position. The Monitor will also look into whether officers involved in these five incidents have any prior similar UOF history and whether they received any training with regard to the application of the hobble and proper suspect positioning.

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 25 provided adequate information to ultimately render a decision.

Notwithstanding those discrepancies identified above, the Monitor finds the LAPD in compliance with subsections a through c and e-g of subparagraph 80i.

³³ During May 2007, subsequent to these incidents, the LAPD issued an order requiring officers to immediately place a hobbled suspect either in a sitting position or in the left lateral position.

D. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. Although the Department has achieved substantial compliance with many of the Consent Decree's requirements related to search and arrest procedures,³⁴ it has not achieved substantial compliance with the requirement related to supervisory presence at and review of the service of search warrants (subparagraphs 62b, 70b, 70c and paragraph 71) and the search warrant log (paragraph 72). As a result, the Monitor will be assessing the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the LAPD's compliance with subparagraph 70b. The results of our current assessment follow.

Paragraph 70 – Review and Approval of Booking Recommendations/Arrest Reports

Paragraph 70 requires supervisors to review all booking recommendations and evaluate the recommendations for appropriateness, legality, and conformance with Department policy. Supervisors must review all arrest reports and supporting documentation for appropriateness, legality, and conformance with Department policy in light of the booking recommendation. Paragraph 70 has three subparagraphs:

- Subparagraph 70a requires that such reviews include a review for completeness of the information contained on the applicable forms and an authenticity review, comprising an examination for "canned" language, inconsistent information, lack of articulation of the legal basis for the action or other indicia that the information on the forms is not authentic or correct.³⁵
- Subparagraph 70b requires that supervisors evaluate each incident in which a person is charged with interfering with, delaying, or obstructing a police officer (California Penal Code (CPC) § 148), resisting arrest, or assault on an officer (CPC § 243) to determine whether it raises any issue or concern regarding training, policy, or tactics.

³⁴ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

³⁵ The Monitor considers subparagraph 70a to include all of the supervisory review requirements of the paragraph other than the specific requirements related to the charges delineated in subparagraph 70b. As described above, the LAPD has achieved substantial compliance with subparagraph 70a; accordingly, the Monitor is not scheduled to assess compliance with this subparagraph during the extension to the Consent Decree.

- Subparagraph 70c requires that the quality of the supervisory reviews be taken into account in the supervisor's annual performance evaluations.³⁶

Background

The Monitor last assessed compliance with subparagraph 70b during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in compliance. The Monitor relied on the findings from Audit Division's (AD) *Arrest, Booking and Charging (ABC) Reports Audit*, dated September 27, 2006,³⁷ in which AD found the LAPD in compliance with the requirements of subparagraph 70b.³⁸

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 70b during the current quarter, the Monitor conducted a limited assessment of AD's *Arrest, Booking and Charging Reports Audit*, dated September 28, 2007. The Monitor's assessment consisted of a review of the audit report, related work plan, matrices and electronic database.³⁹ The Monitor also reviewed a sample of arrest packages from the additional testing conducted by AD for issues related to paragraph 70b.⁴⁰

In this audit, AD found the LAPD in non-compliance with the requirements of subparagraph 70b. Specifically, AD selected a sample of 223 arrests from the entire population of 26,699 arrests that occurred during deployment periods 4 and 5 (April 1 through May 26, 2007). Of the 223 arrest packages reviewed, AD identified five that had elements relative to subparagraph 70b. Although AD found 100% compliance with these first five packages, AD extended its sample and selected an additional 30 arrest packages from a population of incidents involving paragraph

³⁶ As described in the Monitor's Report for the Quarter Ending June 30, 2006, the requirements of subparagraph 70c are no longer separately assessed; instead, they are incorporated into the requirements of paragraph 54 during the extension.

³⁷ The Monitor conducted a meta-audit of AD's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to paragraph 70 and subparagraph 70b. This was described in the Monitor's Current Assessment of Compliance for subparagraph 128(2) in the Report for the Quarter Ending December 31, 2006.

³⁸ As reported by AD, of the 221 arrest packages reviewed, 5 had elements relative to paragraph 70b. Of these, AD concluded that all 5 were in compliance with the requirements of the Consent Decree.

³⁹ The purpose of the Monitor's limited review was to determine if AD had used the same methodology as it had in prior compliant *ABC Reports Audits* and if AD had arrived at similar conclusions in relation to the Department's compliance. Refer to the Current Assessment of Compliance for subparagraph 128(2) for further information.

⁴⁰ After reviewing for appropriateness, the Monitor used the OIG's sample, which was selected using a one-tailed test, a confidence level of 95% with an acceptable error rate of +/- 7%.

70b charges.⁴¹ Of the 35 packages that were tested, AD concluded that 26, or 74%, were in compliance with the requirements of subparagraph 70b.⁴² The remaining nine contained no documentation of the watch commander's evaluation of the incident on the Watch Commander's Log. Based on these findings, AD will perform a supplemental audit reviewing a statistically valid sample of subparagraph 70b incident arrests for deployment periods 6, 7, and 8 (May 27 through August 18, 2007).⁴³

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 70b.⁴⁴

E. COMPLAINTS

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

⁴¹ Although AD used a judgmental basis to select the additional sample, the Monitor determined that AD's sampling was statistically valid. For a population of 158 arrests, the required statistically valid sample size utilizing a one-tailed test and testing to a 95% confidence level and an error rate of +/-7% is 27. AD selected 30 arrests involving 70b incidents in their extended testing plus there were an additional 3 arrests where charges were filed relating to paragraph 70b in their original sample that were part of the population of 158 incidents. Therefore, AD reviewed a total of 33 arrests involving incidents where charges were filed pursuant to subparagraph 70b. Two additional incidents from the original sample had elements of subparagraph 70b but were not part of this population, as no charges were filed under subparagraph 70b penal code sections.

⁴² AD assessed compliance based on the total number of arrests from the two samples. If compliance was assessed based on the statistically valid sample size of 33, using a one-tailed test, 94% confidence interval and +/-7% error rate, the compliance rate would have been 73%

⁴³ AD issued this report on December 18, 2007 and concluded the Department achieved 84% compliance in relation to subparagraph 70b

⁴⁴ The Monitor notes that the audit also included an assessment of compliance with subparagraph 70a. AD found the Department in 68% compliance with that subparagraph. Although, as mentioned above, the Monitor is not actively monitoring subparagraph 70a, the audit's findings in connection with the subparagraph remain of concern. Because AD is identifying and reporting on this non-compliance, the Monitor has elected not to renew active monitoring of subparagraph 70a. However, the Monitor will continue to track the Department's compliance with subparagraph 70a through AD's audits, as substantial compliance with the subparagraph remains at risk.

The Department has achieved substantial compliance with many of the Consent Decree's requirements relative to complaints intake, investigation, adjudication and reporting.⁴⁵ However, the Department has 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 81⁴⁶); access to information contained in TEAMS II for those units conducting specified complaint investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above); standards for credibility determinations (paragraph 84); adjudication of complaint investigations (paragraph 85); and manager review of complaint investigations (paragraph 90). As a result, the Monitor is assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 74, 80ii, 81, 84, 85 and 90. The results of our current assessments follow.

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:

- 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 Inspector General (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

⁴⁵ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 75-78, 79, certain provisions of paragraph 80, and paragraphs 82, 86-89, 91-96 and 98-101 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

⁴⁶ The parties agreed that during the extension the Monitor will assess subparagraph 80ii, subsections a and f, and paragraph 81 as it relates to subparagraph 80ii, subsection f.

- 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 March 31, 2007, at which time the Monitor found the LAPD in compliance with subparagraphs 74 a, b, f and h and in non-compliance with subparagraphs 74 d and g.

Current Assessment of Compliance

In order to assess compliance with subparagraphs 74 a, b, f and h during the current quarter, the Monitor requested and received a listing of all complaint investigations closed during the period May 14, 2005 – May 29, 2007. From this listing, the Monitor randomly selected 80 investigations for review.⁴⁷ The Monitor noted the following:

- For all 80 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 (subparagraph a).
- Four of the 80 complaint investigations selected were anonymously reported and received by the Department (subparagraph b).
- For all 80 investigations, the complaints were assigned unique complaint file numbers (subparagraph f).⁴⁸
- For all 80 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 (subparagraph h).
- In April 2007, the Department implemented a new phone system that captures incoming complaint calls during non-business hours. On the date of implementation, the LAPD's

⁴⁷ A random, statistical sample of 80 investigations was selected out of a population of 476 complaint investigations closed during the period July 1 – 31, 2007 utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

⁴⁸ 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.

Professional Standards Bureau (PSB) assumed oversight of the system and has since staffed the hotline with PSB personnel during normal business hours.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 74a, b, f and h.⁴⁹

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.⁵⁰ The Monitor's assessment of subparagraph 80ii, related to complaint investigations, follows.

⁴⁹ The Monitor will assess the LAPD's compliance with subparagraphs 74d and g during the quarter ending March 31, 2008 in conjunction with its assessment of AD's Complaint, Form 1.28 Investigations Audit, dated December 20, 2007.

⁵⁰ The Monitor's assessment of subparagraph 80i, related to CUOF investigations, is reported above.

Background

The Monitor last assessed compliance with paragraph 80 as it pertains to administrative complaint investigations (subparagraph 80ii) during the quarter ending March 31, 2007, at which time the Monitor found the LAPD in compliance with subsections a and f.⁵¹

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 74 above, during the current quarter, the Monitor reviewed 80 completed complaint investigations that were closed during the period May 14, 2005 – May 29, 2007, of which 43 were completed by IAG and 37 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 43 investigations completed by the IAG.⁵²

- The Monitor noted that for two investigations, certain officer and witness interviews were not tape-recorded. For an additional investigation, the Monitor could not determine whether all interviews were tape recorded.
- The Monitor noted that evidence was not collected for two investigations reviewed. In one investigation, Department employees were not interviewed and in the other investigation there was an insufficient canvass for witnesses.

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.

Notwithstanding the few discrepancies identified above, the Monitor finds the LAPD in compliance with subsections a and f of subparagraph 80ii.

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.

⁵¹ 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.

⁵² The remaining 37 completed complaint investigations were used in assessing the LAPD's compliance with paragraph 81.

Background

The Monitor last assessed the LAPD's compliance with paragraph 81 as it relates to COC complaint investigations during the quarter ending March 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 paragraph 74, above, during the current quarter, the Monitor reviewed 80 completed complaint investigations, of which 43 were completed by the IAG and 37 were completed by COC. In relation to the requirements of paragraph 81, the Monitor noted that for one investigation, the search warrant and related photographs were misplaced. Overall, although certain investigations were notably superiorly conducted and reported, all provided adequate information to ultimately render a decision.

Notwithstanding the one discrepancy identified above, the Monitor finds the LAPD in compliance with paragraph 81.

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 March 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 paragraph 74, above, during the current quarter, the Monitor reviewed 80 completed complaint investigations, of which 43 were completed by the IAG and 37 were completed by COC. The Monitor concluded that the rationale used to evaluate the credibility of complainant, officer and witness statements was sufficient and unbiased in 78, or 97.5%, of the 80 investigations selected for review. For the remaining two 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.

Paragraph 85 – Preponderance of the Evidence

Paragraph 85 requires that all complaints be adjudicated using a preponderance of the evidence standard⁵³ and, wherever supported by evidence, collected complaints shall be adjudicated as follows:⁵⁴

- 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.

⁵³ 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 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."

⁵⁴ 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.

The Monitor assessed the LAPD's compliance with paragraph 85 during the quarter ending March 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 paragraph 74 above, during the current quarter, the Monitor reviewed 80 completed complaint investigations, of which 43 were completed by the IAG and 37 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 78, or 97.5%, of the 80 investigations reviewed. The Monitor noted the following regarding the two investigations for which it concluded that the LAPD failed to apply the appropriate standard:

- For an investigation of alleged unbecoming conduct and discourtesy, the Monitor concluded that the finding of *unfounded* should have been adjudicated as *sustained*. The Monitor concluded from its review that the officer acted as alleged.
- For an investigation of alleged retaliation, 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.

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 March 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 paragraph 74, above, during the current quarter, the Monitor reviewed 80 completed complaint investigations, of which 43 were completed by IAG and 37 were completed by the LAPD's COC. In relation to the requirements of paragraph 90, the Monitor determined that three of the 80 completed investigations reviewed lacked sufficient management review that otherwise should have identified underlying

inconsistencies, additional investigation and/or training needs.⁵⁵ This translates into a compliance rate of 96.3%.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 90.

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

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

The Monitor is schedule to assess the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2008 and with paragraphs 103-104 during the quarter ending March 31, 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 Details (GEDs),⁵⁶ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD), which has responsibility for monitoring gang units Department-wide.

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

The Department has achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.⁵⁷ However, it has not achieved substantial compliance

⁵⁵ Of the investigations indicating underlying inconsistencies, additional investigation and/or training needs, one involved allegations of discourtesy and unauthorized force; one involved allegations of retaliation; and one involved allegations of theft.

⁵⁶ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

⁵⁷ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree. As described in the

with the requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d); detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)); the roles of gang unit supervisors, Gang Area Managers and Bureau Gang Coordinators (BGCs) (subparagraphs 106f, g and h); and eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). As a result, the Monitor will be assessing the Department's compliance with these subparagraphs during the extension to the Consent Decree.

The Monitor assessed the Department's compliance with subparagraphs 106e(i) and 106h during the current quarter. The results of our current assessments follow.

Subparagraph 106e(i) – Gang Unit Procedures

Subparagraph 106e(i) mandates that unit supervisors and non-supervisory officers continue to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees.

Background

The Monitor last assessed the LAPD's compliance with subparagraph 106e(i) during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 106e(i) during the current quarter, the Monitor reviewed AD's *ABC Reports Audit* dated September 28, 2007, related audit working papers, database and audit work plan to determine if AD used the same methodology as in prior audits when assessing if officers were subject to existing procedures regarding detention, transportation, arrest booking and charging of arrestees. Based on this review, the Monitor concurred with AD's findings, including its overall assessment that the Department was in non-compliance with the underlying actions and post-incident supervisory review requirements of the Consent Decree.

In its *ABC Reports Audit*, AD reviewed a sample of 107⁵⁸ GED arrests that occurred during the period April 1 to May 26, 2007. AD determined that GED officers were in 100% compliance with completeness requirements, which pertain to the inclusion of required documents in an arrest package. Additionally, based on AD's findings, the Monitor determined that GED officers

Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

⁵⁸ Detailed information regarding the population and sample selection criteria is included in the Current Assessment of Compliance for subparagraph 128(2).

were in 100% compliance with authenticity requirements, which pertain to canned language, inconsistent information, articulation of legal basis and other indicia that information is not authentic or correct; and in 86% compliance with underlying action requirements and conformance with LAPD procedures. Finally, based on AD's findings, the Monitor determined that the LAPD was in 100% compliance with the requirements for supervisory oversight of incidents and in 63% compliance with the post-incident review requirement.⁵⁹

As described in the Results of Monitor's Limited Review for subparagraphs 128(2), 131a, 131c-2, and 131e, below, the Monitor again identified instances in this audit where AD reported anomalies as officer-only issues (in relation to underlying actions) that should have also been reported as supervisory oversight issues, and vice versa.⁶⁰

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 106e(i).

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 inspections⁶¹ and identified deficiencies in their sampling and selection 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 past quarter. The Monitor commended the LAPD for strides made in these inspections and the accountability process at COMSTAT meetings.⁶²

⁵⁹ Although AD separated out the issues regarding completeness, authenticity, conformance with Department procedures and supervisory oversight in its summary of audit findings, which includes compliance with the subparagraphs under each heading, the Monitor combined these findings to come up with one compliance percentage for each. Therefore, the Monitor's combined percentage for each objective requirement is slightly less than the lowest percentage of compliance on AD's summary.

⁶⁰ Since AD found the Department in non-compliance with underlying actions, conformance with Department procedures and supervisory oversight, these few anomalies did not effect overall compliance. However, it is possible that compliance will be impacted in future audits.

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

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

The Monitor later was requested by the LAPD's Civil Right Integrity Division (CRID) during the quarter ending March 31, 2006 to review its Inspection entitled *Consent Decree Paragraph 106ef*, dated November 21, 2005. This was an inspection conducted by CRID which sought 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.

Current Assessment

The Department has only provided to the Monitor three BGC Inspections conducted in 2007 (January, March and June), which does not meet the requirements of the Consent Decree. The Department is aware of these shortcomings and has taken steps to address these deficiencies. First, the Department has provided the Monitor with its revised BGC inspection process, which the Monitor is currently reviewing. In addition, the Department is providing training to BGCs and Gang and Operations Support Division (GOSD), which is scheduled to take place at the end of January 2008. The Monitor will assess the revised BGC inspection process and this training upon completion.

Going forward, GOSD will be working directly with the Department Gang Coordinator (DGC), Civil Rights Integrity Division (CRID) and AD in connection with monthly inspection topics, training, sampling, methodology, and inspection matrices for future inspections.

Based on the foregoing, the Monitor is withholding a determination of compliance with subparagraph 106h until the quarter ending June 30, 2008, at which time the Monitor will be reviewing work product completed under full implementation of the new inspection processes. The Monitor commends the Department for the recent strides made in connection with the BGC inspections and process; the revised inspection processes will help the Department meet the requirements of paragraph 106h, and the Monitor awaits the Department's completion of inspections based on them.

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).⁶³

⁶³ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 109-110 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree; such an assessment was conducted during the current quarter. The results of our current assessment follow.

Paragraph 108 – Procedures for the Handling of Confidential Informants

Paragraph 108 requires the LAPD to continue to implement and follow procedures for the handling of informants. These procedures include completing an informant control package, submitting the package to COC for review and approval and numerous additional requirements for the managing of informants.

Background

The Monitor last assessed the LAPD's compliance with paragraph 108 during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 108 during the current quarter, the Monitor reviewed AD's *Confidential Informant Control Package Audit*, dated September 25, 2007, and related working papers. The Monitor selected a random sample of 47 active informant packages out of 73 that were reviewed by AD and reviewed them to determine whether they were compliant with the requirements of paragraph 108. Although the Monitor has concerns regarding the Department's use of an Informant Manual that has not yet been approved by the Chief of Police or the Police Commission (as discussed immediately below), the Monitor concurred with AD's assessments for each of the packages reviewed.⁶⁴

The Department has developed a new Confidential Informant Manual, dated January 17, 2007, that is still in draft form; although some of the changes to the manual were approved on an individual basis by the Police Commission, the entire manual had not yet been approved by the Chief of Police or the Police Commission as of the end of the current quarter. Although this Informant Manual has not yet been approved, the Department, including Narcotics Division and the concerned controlling officers and their supervisors, has begun following the policies and procedures in this draft manual. The Monitor urges that this CI Manual or any other policy changes be approved and distributed prior to implementation.

Overall, AD concluded that five out of 73 active informant packages and one out of 53 inactive packages contained an error or anomaly that failed to comply with a Consent Decree

⁶⁴ Refer to the Current Assessment of Compliance for subparagraphs 128(5), 131c-5, and 131d, below, for additional information regarding the *Confidential Informant Control Package Audit* and the Monitor's review of it.

requirement.⁶⁵ Of the six packages, AD reported that four contained anomalies associated with paragraph 128 and two had substantive errors associated with paragraph 108. Both AD and the Monitor noted that, overall, the maintenance and documentation of the CI packages had significantly improved from the prior years' reviews.

In addition to the findings described above, AD again found a persistent delay, of up to 12 weeks, in the filing of CI Contact forms. Recognizing this problem, in mid-June 2007 Narcotics Division put a procedure into place for sending interdepartmental correspondence to commanders and controlling officers to follow-up on contact sheets not received within 31 days of a contact with a CI. AD recognized this new process and acknowledged it in their audit report and, as reported in the Current Assessment of Compliance for subparagraphs 128(5), 131c-5, 131d and 131e, below, the Monitor noted a significant improvement in this area during its review.

Based on the foregoing, and notwithstanding the issues and problems identified above, the Monitor finds that overall the LAPD is in compliance with paragraph 108. The Monitor reiterates that the CI Manual should be approved and distributed prior to implementation.

I. TRAINING

The Consent Decree training requirements center largely on Field Training Officers (FTOs), supervisory training, and training content, including periodic training on police integrity. The Department has achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content.⁶⁶ The Department has not achieved substantial compliance with Consent Decree requirement to train members of the public scheduled to serve on the Board of Rights in police practices and procedures, (paragraph 118), nor has the Department complied with training requirements relative to FTO eligibility criteria, (paragraph 114), FTO de-selection (paragraph 115), and an FTO Training Plan (paragraph 116). As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the Department's compliance with requirements pertaining to eligibility criteria for FTOs (paragraph 114). The results of our current assessment follow.

⁶⁵ Historically, based on methodologies for paragraph 108, the Monitor finds a CI package in non-compliance only when there are two substantive errors in a particular CI package.

⁶⁶ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Paragraph 114 – Eligibility Criteria for FTOs

Paragraph 114 requires the Department to continue implementing formal eligibility criteria during the FTO selection process. The candidate must demonstrate analytical skills, interpersonal and communication skills, cultural and community sensitivity, diversity and commitment to police integrity.

Background

The Monitor last assessed the Department's compliance with paragraph 114 during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in compliance. The Monitor reviewed the selection packages of officers selected to serve as training officers during the period September 1, 2005 through August 31, 2006 and concluded that 94% of the officers reviewed were qualified to serve as such.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 114 during the current quarter, the Monitor reviewed the selection packages for a sample of 61 officers out of a total population of 165 who were selected to serve as FTOs during the period September 1, 2006 through August 31, 2007. The Monitor concluded that 60, or 98% of the officers reviewed were qualified to serve as training officers.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 114.

IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

A. INTEGRITY AUDITS & INTERNAL AUDIT OVERSIGHT

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

Since the inception of the Consent Decree, the Department has established an Audit Division (AD) composed of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,⁶⁷ an audit protocol,⁶⁸ and submitted annual audit plans which outline the audits to be completed in each coming year. AD has also developed and run a Basic Law Enforcement Performance Auditing Course, which covers all aspects of police performance auditing.⁶⁹ This course, offered on a quarterly basis, has been offered 15 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

⁶⁷ 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.

⁶⁸ 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.

⁶⁹ 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.⁷⁰ Instances of such reliance are clearly indicated in our reports.

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

During the extension period, AD has continued to develop its auditing expertise and enhance its role within the LAPD and the law enforcement community and has now submitted an additional 15 compliant audits, bringing the total number of quality audits to 45 since the commencement of the Consent Decree.

Audits by the LAPD

During this quarter, the Monitor evaluated:

- The LAPD's planning and execution of integrity / sting audits for the quarters ending March 31, 2007 and June 30, 2007 (paragraph 97);
- AD's *ABC Reports Audit* (subparagraph 128(2), 131a, 131c-2, 131e) dated September 28, 2007;
- AD's *CI Control Package Audit* (subparagraph 128(5), 131a, 131c-5, 131d and 131e) dated September 25, 2007; and
- AD's *GED Work Product Assessment Summary* (subparagraph 131a) dated September 26, 2007.

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, but not limited to: unlawful stops, searches, seizures (including false arrests), uses of excessive

⁷⁰ 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.”

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 September 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 97 during the current quarter, the Monitor reviewed the *Office of the Inspector General's Review of Ethics Enforcement Section Quarterly Reports* for the quarters ended March 31 and June 30, 2007. The OIG reviewed a total of 58 EES sting and observational audits.⁷¹ Thirty-six of the audits reviewed addressed the LAPD's complaint intake. The remaining 22 audits reviewed addressed the following:

- Immigration Laws
- Neglect of Duty
- Excessive Force
- Unbecoming Conduct
- Unlawful Search and Seizure
- Other

The OIG identified concerns with the completion of audit packages and expressed concerns over the quality and findings of certain audits.⁷²

⁷¹ The EES completed a total of 99 audits during the First and Second calendar quarters of 2007. The EES conducted 75 complaint intake audits, 22 sting audits and two special audits.

⁷² As reported in the Current Assessment of Compliance for subparagraph 135b, the Monitor concurred with the OIG's findings.

In its meta-audit of the OIG's work, the Monitor randomly selected and reviewed a total of 54 audits. In most instances, the Monitor agreed with the conclusions reached by the EES. However, the Monitor disagreed with the analysis and conclusions reached by the EES in three audits.⁷³ The Monitor noted the following:

- For one audit, the Monitor concluded that the audit scenario was not adequately designed to assess officer conduct.
- For two audits, although the Monitor concluded that the audit scenarios were adequate, the Monitor concluded that the LAPD arrived at the wrong disposition.

The Monitor identified instances in which audit documentation, specifically the summary report, excluded information pertinent to the audit and the disposition rationale. Due to the confidential nature of the EES' role, the specifics of the Monitor's evaluations and concerns have been communicated to the LAPD and the OIG separately from this report.

Notwithstanding the above, the Monitor finds that overall the LAPD is in compliance with paragraph 97.

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

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

Subparagraph 131a requires the Department to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review. These requirements are monitored by AD during this audit and assessed more fully in relation to the Monitor's evaluation of the *GED Work Product Assessment Summary Audit*.⁷⁴

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

⁷³ 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.

⁷⁴ See Monitor's review of GED Work Product Assessment Summary Audit below.

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

Background

Since 2004, the Monitor has found all of AD's *ABC Reports Audits* in compliance.⁷⁵

Results of Monitor's Limited Review

During the current quarter, the Monitor reviewed the *ABC Reports Audit* dated September 28, 2007 and determined that AD generally used the same methodology for completing this audit as used in prior compliant *ABC Reports Audits*. In addition, AD's finding and conclusions were similar to prior audits for most sub-objectives. The main exception to this was subparagraph 70b for which AD previously concluded that the Department was in compliance, but for this audit concluded that the Department was in non-compliance.⁷⁶ The Monitor's other observations, which have been discussed with AD, are highlighted below:

- Based on our limited review and the foregoing findings, the Monitor did not identify any issues that suggest that the quality of this audit varied significantly from prior audits of this topic or that subparagraphs 128(2), 131c-2 or 131e require active monitoring. The Monitor is reporting on its assessment of the Department's compliance with subparagraph 131a in a separate section of this report below.
- In prior *ABC Audits*, AD's samples included a limited number of incidents involving the issues pertinent to subparagraph 70b. The Monitor recommended in prior quarterly reports that AD expand its sample in testing compliance with subparagraph 70b. AD expanded its initial sample of five arrests to include an additional 30 arrests selected from a population of 158 arrests where charges were filed pursuant to subparagraph 70b.⁷⁷ The Monitor commends AD for extending its review and concurs with AD's findings.

⁷⁵ The Monitor also found AD's September 2002 *ABC Reports Audit* in compliance.

⁷⁶ Subparagraph 70b requires that "supervisors shall evaluate each incident in which a person is charged with interfering with a police officer, resisting arrest, or assault on an officer to determine whether it raises any issue or concern regarding training, policy or tactics." Given this change in compliance assessment, the Monitor elected to review a sample of these additional arrest packages. The Monitor used the OIG's sample of 17 incidents which were selected using a one-tailed test, a confidence level of 95% with an acceptable error rate of +/- 7%. The Monitor reviewed the appropriateness of this sample.

⁷⁷ This additional sample was selected from a subpopulation of 158 arrests from DP4 and DP5 that included incidents involving charges filed pursuant to California Penal Code 69, 148(a)(1), 214(b), 243(b), 243(c), 245(c), 245(d). In addition to these 30 incidents, three of the five incidents in the original sample were also part of this population where charges were filed pursuant to subparagraph 70b. Therefore, AD reviewed a total of 33 incidents from this population, which is a statistically valid sample based on a one-tailed test, using a 95% confidence level and a +/- 7% error rate.

- In prior quarterly reports, the Monitor recommended that AD review arrest packages for compliance with the paragraph 73 requirement that the supervisor who signed the detention log to indicate they had inspected and interviewed the arrestee did not assist or participate in the arrest or detention. AD staff completed this test by reviewing the arrest reports and booking approval forms to see if there was any indication this happened, but AD did not review any other reports such as the Watch Commander's Log or the Sergeants' Daily Reports, to validate or confirm this.
- AD identified and reported anomalies as either "officer" anomalies or "supervisor" anomalies, but failed to address and report that in some instances both an officer and a supervisor did not meet applicable standards.⁷⁸ The Monitor identified certain incidents that reflect a supervisor's non-compliance with the supervisory oversight provisions, as well as officer non-compliance with the Consent Decree and/or Departmental policies and procedures. This means that there were anomalies at the officer level and there were related anomalies with the supervisory oversight that should have caught/addressed the officer level anomalies. Additionally, AD reported some anomalies as supervisor-only anomalies that also involved an officer. Given that AD provides separate compliance assessments for each sub-objective, these officer and supervisor anomalies should be reported under each sub-objective.⁷⁹ This approach would result in double counting an anomaly only when AD provides the total number of packages that were out of compliance for all objectives. If such a calculation was performed, the package should only be included once; however, AD did not report such information.

Based on our limited review and the foregoing findings, the Monitor did not identify any issues that suggest that the quality of this audit varied significantly from prior audits of this topic or that subparagraphs 128(2), 131c-2 or 131e require active monitoring. As a result, the Monitor finds the LAPD in compliance with these subparagraphs. The Monitor is separately reporting on its assessment of the Department's compliance with subparagraph 131a below.

⁷⁸ For example, in connection with sub-objectives 3b "Articulation of Probable Cause" and 3c "Articulation of Legal Basis for Search," AD identified and held out of compliance two arrests that were lacking articulation of probable cause and one arrest package where there was a lack of articulation of the reason for a strip search. However, none of these packages were held out of compliance to reflect that the supervisor reviewing these arrest packages did not identify these issues. AD reported that 72 of 223 arrest packages had problems with supervisory oversight of which 61 were primarily administrative issues and the remaining 11 had other more serious issues. This count does not include many of the packages that AD identified as having anomalies in connection with other sub-objectives.

⁷⁹ AD indicated that this methodology was discussed in a monthly City Workgroup/DOJ/Monitor meeting at which time the DOJ voiced its concurrence with AD's position. However, the Monitor still has concerns about this methodology and will be following up with AD, the DOJ and the City.

Subparagraphs 128(5), 131c-5, 131d and 131e – Confidential Informant Control Packages Audit

Subparagraph 128(5) requires AD to complete a regular periodic audit of stratified random samples of CI control packages to assess the completeness, authenticity, appropriateness of action taken, conformity with Department procedures and quality of supervisory oversight of the CI control packages and compliance with the requirements for handling CIs as noted in paragraphs 108 and 109. Subparagraph 131c-5 extends these audit requirements to CIs utilized by gang units. Subparagraph 131d requires the Department to audit the use of CIs by gang units to assess compliance with paragraph 108. Subparagraph 131e requires the Department to audit the roles and conduct of supervisors in the GED unit.

Background

The Monitor found AD's most recent audit of CI control packages, submitted June 29, 2006, in compliance with subparagraphs 128(5), 131c-5 and 131d.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraphs 128(5), 131c-5, 131d, and 131e during the current quarter, the Monitor reviewed AD's *CI Control Packages Audit Report* dated September 25, 2007, the Monitor's sample of completed audit matrices for active CI packages, and other audit working papers, including documents relating to the audit population and sample determination.

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

- AD conducted this audit and assessed the Department's compliance using the draft copy of the Informant Manual that is currently in use by the LAPD. Although some of the changes to the manual were approved on an individual basis by the Police Commission, the entire manual has not yet been approved by the Chief of Police or the Police Commission. Implementation of a policy prior to approval by the Chief and the Commission is inconsistent with the principles developed in the Consent Decree; AD should have reported this. While the Monitor is concerned about the Department's approach to the implementation of this policy prior to approval, the Monitor believes that under the circumstances AD used the appropriate manual to assess the Department's compliance, as this draft manual was the one in use by Department personnel..⁸⁰

⁸⁰ Refer to the Current Assessment of Compliance for paragraph 108 for additional information regarding the Monitor's concerns with the Department's use of the Draft Informant Manual.

- The audit work papers addressed all of the Consent Decree requirements of subparagraphs 131c-5 and 131d, but did not report the Department's 100% compliance with subparagraph 131d.⁸¹
- AD concluded the Department was in compliance with all objectives; the Monitor concurs with these findings. Previously the Department had difficulty in achieving compliance with the requirements tested in this audit.⁸²
- The Monitor commends AD for identifying and reporting issues related to the Department's use of non-confidential informants and recommending that policies and procedures need to be put in place regarding the use of these individuals. The Monitor understands that the Department is currently reviewing and updating these procedures, and they will be added to the Informant Manual once this review is completed.
- In prior audits, the Monitor identified numerous outstanding and/or late informant contact sheets that were not included in the CI's package at the time of AD's review. AD identified and reported on the same issue during the current audit. However, subsequent to AD's current audit, during the Monitor's review, the Monitor identified very few missing or outstanding contact forms. This appears to be due to various procedures that Narcotics Division has put in place to deal with informant contact forms.⁸³ The Monitor commends AD for identifying the issue and Narcotics Division for taking steps to resolve the issue.
- The Monitor identified one package in which the managing officer and his/her immediate supervisor approved the use of the CI prior to the completion of some of the background checks. While the risk was mitigated, as these checks were completed prior to the Divisional CO and CO of Narcotics Division approving the use of the individual, the officer and his/her supervisor should not have approved this file prior to these checks being completed.
- The Monitor identified at least four questions in AD's matrix that need to be updated as a result of changes to the new informant manual⁸⁴ or because the question lacked clarity. These questions do not affect AD's or the Monitor's compliance determinations.

⁸¹ This was also an issue with the prior CI audit dated June 30, 2006. AD has indicated it will include subparagraph 131d in the Annual Audit Plan and report the results of its testing of the subparagraph in this audit in the future.

⁸² AD believes the improved compliance is the result of numerous factors, including assistance provided by AD to Narcotics Division earlier in the year to review how Narcotics Division processes the CIs; changes in personnel at Narcotics Division; the creation and implementation of more user-friendly forms to process the CI's; and increased efforts by supervisors at the Divisional level to ensure CIs are appropriately handled.

⁸³ Some of these procedures include having a sign-in form for when contact sheets are delivered to Narcotics Division; internal audits conducted by Narcotics Division personnel to ensure contact sheets are either timely or there is an explanation as to why they are not timely; and Narcotics Division initiating a policy in mid-June 2007 to send interdepartmental correspondence to the Division Commanders and controlling officers when contact sheets are handed in more than 31 days after contact.

⁸⁴ One question references looking for the CI's motivation on one form, however, with the new informant manual this information is now on another form in the file.

Notwithstanding the few discrepancies identified above, the Monitor finds the LAPD in compliance with subparagraphs 128(5), 131c-5, 131d and 131e. The Monitor is separately reporting on its assessment of the Department's compliance with subparagraph 131a below.

Subparagraphs 131a, 131f and 131g – GED Work Product Assessment Summary Audit

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

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

Subparagraph 131g requires the audit to draw conclusions regarding adherence of the unit to the law, LAPD policies and procedures and the Consent Decree and shall recommend a course of action to correct any deficiencies found.⁸⁵

Background

During the quarter ending December 2006, the Monitor completed its review of AD's *Gang Enforcement Detail Work Product Assessment Summary* report dated September 28, 2006 but withheld a determination of compliance with subparagraph 131a, as AD concluded that additional review and analyses of their work product was required and a phase II report would be issued. Subsequently, AD issued the *Gang Enforcement Detail Work Product Assessment Summary Phase II* report in June 2007 and concluded that an improved methodology was needed to assess these paragraphs; AD indicated that it was discussing the methodology with the OIG and the Monitor. The Monitor concurred with the findings of this Phase II report and concluded that the Determination Withheld would stand.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraph 131a, during the current quarter, the Monitor reviewed AD's *GED Work Product Assessment Summary Report* dated

⁸⁵ As discussed in the Monitor's Reports for the Quarters Ending December 31, 2005 and June 30, 2006, the Monitor indicated that subparagraphs 131f and g articulate the qualitative standards for conducting the audits required by subparagraphs 131a through e, and do not require separate audit reports. As a result, the Monitor refers to these two paragraphs when assessing paragraph 131a and does not provide a separate assessment for subparagraphs 131f and g.

September 26, 2007 and audit work plan.⁸⁶ AD based the findings for this audit upon the 20 most recently completed Command Accountability Performance Audits (CAPAs).⁸⁷

The Monitor held a preliminary meeting with AD and is currently reviewing the report. The Monitor will be meeting with representatives of AD and the OIG to discuss the approach to this audit. Therefore, the Monitor has not yet completed its evaluation of this audit for this quarter.

B. INSPECTOR GENERAL REVIEWS & AUDITS

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

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

Background

The Monitor has found the OIG in compliance with the requirements of subparagraph 135b since the quarter ending September 30, 2005. Since the inception of the Consent Decree, the OIG has completed a total of 33 quality reviews.

Current Assessment of Compliance

In order to assess the Department’s compliance with subparagraph 135b during the current quarter, 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 work papers and sampling documentation:

- OIG’s August 1, 2007 review of *EES’s Quarterly Report for the First Quarter 2007* and the OIG’s September 10, 2007 review of *EES’s Quarterly Report for the Second Quarter 2007* (paragraphs 97 and 127);⁸⁸

⁸⁶ AD’s *GED Work Product Assessment Summary Report* states that it was completed to meet the requirements of subparagraphs 131f and g. As discussed in the Monitor’s Reports for the Quarters Ending December 31, 2005 and June 30, 2006 the Monitor has indicated that subparagraphs 131f and g articulate the qualitative standards for conducting the audits required by subparagraphs 131a through e, and do not require separate audit reports. As a result, the Monitor will be assessing this report in relation to subparagraph 131a. Consequently the Monitor does not provide a separate assessment for subparagraphs 131f and g.

⁸⁷ These CAPA audits, which are not Consent Decree required audits and are not reviewed by the Monitor, were completed by AD during the period March 2005 to August 2007, and cover the gang work product of all Divisions for the periods July 25, 2004 to February 3, 2007.

⁸⁸ EES uses the calendar year when referencing the quarter. These reports were for the quarters ending March 31 and June 30, 2007 respectively.

- OIG's October 2, 2007 review of AD's *Non-Categorical Use of Force Reports Audit* (subparagraph 128(3))
- OIG's August 30, 2007 review of AD's *Follow-up Review of Motor Vehicle and Pedestrian Stop Data Collection Audit* (subparagraphs 128(4));
- OIG's October 2, 2007 review of AD's *Categorical Use of Force Investigations Audit, Phase II* (subparagraph 129i); and
- OIG's September 14, 2007 review of AD's *Gang Enforcement Detail Work Product Assessment Summary Phase II* (subparagraph 131a).

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

- As in prior quarters, the OIG's reports continue to contain clearly reported findings and insightful comments and recommendations for the Department to consider.
- The OIG identified a concern with completeness in five of the sting audits in the *EES's Quarterly Report for the First Quarter 2007*. Additionally, the OIG disagreed with the "Pass" classification for one integrity audit and six complaint intake audits. The OIG also identified issues in relation to the delay between sting audits. The Monitor concurred with the OIG's findings.
- The OIG concluded that the *EES's Quarterly Report for the Second Quarter 2007* was complete but identified some concerns with the quality and findings of certain audits. The OIG also identified concerns regarding whether or not all files were appropriately tracked and will be conducting additional review of this area. The Monitor concurred with the OIG's findings for this review, with the exception of one complaint intake audit, the disposition of which the Monitor disagreed, but the OIG did not.
- The OIG concluded that AD's paragraph 128(3) *Non-Categorical Use of Force Reports Audit* was properly planned and conducted and that concerns related to ensuring all force options were adequately reviewed would not significantly affect AD's findings.
- The OIG concluded that AD's 129i *CUOF Investigations Audit* was complete, included a thorough analysis of the CUOF investigations reviewed, and its findings were supported. The Monitor concurs with these findings.
- The OIG conducted a limited review of AD's 128(4) *Follow-up Motor Vehicle and Pedestrian Stops Audit* and found it to be clear, concise and well written. The Monitor concurs with these findings.
- The OIG concurred with AD's conclusion that the *GED Work Product Assessment Summary, Phase II* required a new methodology and identified several areas where the methodology could be changed, as well as potential ways of making these changes. The Monitor agreed with the OIG's findings and commends the OIG for its insights into the approaches AD could take with this audit.

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

Paragraph 137 – OIG Review of TEAMS II

Paragraph 137, requires the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform the tasks identified in paragraph 47:

Background

TEAMS II was not fully implemented until March, 2007. As such this is the first time the OIG has completed this review.

Current Assessment of Compliance

The OIG split its paragraph 137 review into two reports: a Phase I report dated November 6, 2007, which covers system-generated action items, and a Phase II report, which will cover supervisor-generated action items and routine system-generated action items.⁸⁹ For reporting purposes, the Monitor will similarly split its evaluation of paragraph 137 into two separate evaluations as follows:

- Paragraph 137 – OIG's TEAMS II Audit – Phase I and
- Paragraph 137 – OIG's TEAMS II Audit – Phase II.

In order to assess the Department's compliance with paragraph 137 during the current quarter, the Monitor reviewed the OIG's *TEAMS II Audit, Phase I* report dated November 6, 2007, audit work plan and supporting work papers, as well as 100% of the OIG's sample.

- In this Phase I report, the OIG assessed "System Generated Action Items," the Department's handling of disputed data corrections, and the employees' access to their own TEAMS reports.⁹⁰ The results of the Monitor's independent testing were similar to those of the OIG, and the Monitor concurred with the OIG's findings.

⁸⁹ At the time the OIG issued its report it originally intended to include only supervisor-generated action items in its Phase II report. However, since the OIG issued its Phase I report, increased automation of TEAMS II is significantly reducing the number of supervisor-generated action items but increasing the number of system-generated action items. These new system-generated action items are not generated as a result of an officer exceeding a threshold, but as a result of a promotion or transfer. As a result, they are more routine and involve less risk. These lower risk action items will be assessed in Phase II, along with any supervisor-generated action items.

⁹⁰ The OIG's Phase II Audit report is expected to be issued in April or May of 2008. As described above, this phase is expected to address supervisor-generated action items and the routine system-generated action items relating to performance evaluations, transfers or promotions.

- The methodology employed by the OIG in this audit was based on certain assumptions regarding which subparagraphs relate to supervisor-generated action items and which subparagraphs relate to system-generated action items. The City's and the Monitor's assumptions differed from those of the OIG. The Monitor, the DOJ, the City and the OIG reconciled these differences and concluded that subparagraphs 47a, b, c, and l primarily relate to system-generated action items arising from exceeding various thresholds; subparagraphs 47g, i and m pertain to routine automated action items related to performance evaluations and transfers; and subparagraph 47k pertains to action items generated based on organizational thresholds. Lastly, subparagraphs 47d, e, f, and h are protocol- or policy-related paragraphs for which the Department has already achieved substantial compliance.
- The OIG selected eight different samples during its review in order to ensure that the most current available data available was reviewed. The Monitor commends the OIG for ensuring the analysis was as current as possible. The Monitor suggests that in future audits it may be beneficial if the OIG consolidated some of the related samples and used one sample to look at related subparagraphs.
- The Monitor commends the OIG for focusing on the complaints and use of force sections of TEAMS II to review if disputed items were being corrected and for identifying that many of the data corrections were not handled in accordance with Department policy. The Monitor recommends that in future audits the OIG should assess if data corrections have been made to officers' / supervisors' TEAMS reports in other areas, such as commendations, arrest data, traffic collisions, and vehicle pursuits, in order to validate the reliability of other critical data in TEAMS II.⁹¹
- The OIG reviewed the date when a system-generated action item was disposed of but did not review when the officer was notified of the system-generated action item. Although policy requires that the officer is to be notified of the action item, documentation does not currently exist within the system to determine when the officer was notified of the action item. The Monitor believes the OIG should have identified this in their report.
- The work papers and supporting documentation for the audit report were well-organized, findings were supported and the report was well written.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 137.

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

⁹¹ The OIG agreed that going forward they will review other areas for data correction.

whether changes in LAPD policies are necessary; all such changes must be approved by the Police Commission. In addition, the Police Commission conducts annual reviews of the Chief of Police and is charged with investigating complaints against the Chief of Police. Finally, the Commission reviews and approves the LAPD's budget requests.

The only provisions of this section of the Consent Decree with which the Department has not achieved substantial compliance are those requiring the Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents (subparagraph 142b) and to review specific audits required under the Decree (subparagraph 143a). The Monitor will be assessing the Department's compliance with these requirements during the extension to the Consent Decree.⁹² The Monitor was scheduled to assess the Department's compliance with subparagraph 142b during the current quarter, but elected to defer the assessment to the quarter ending March 31, 2008 pending additional reviews related to the ICD incidents described earlier in this report.

D. GENERAL

The Consent Decree requires the City and the Department to take appropriate timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Commission, the IG, and the Department under the Consent Decree. Since the implementation of the Consent Decree, numerous reports have been issued that identify recommendations to correct deficiencies at various levels within the LAPD.

Paragraph 154 – Recommendations to Improve Deficiencies

Paragraph 154 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 Police Commission, the IG, and the Department under the Consent Decree.

CRID has developed a Recommendations Tracking System (RTS), which is used to generate an *Audit Recommendations Status Report* for the Police Commission. This report lists the recommendations from recent LAPD audits and reviews, and tracks the steps undertaken to address such recommendations. Additionally, the OIG implemented a system in early 2005 to track the audit recommendations made from its review of the EES quarterly reports.

⁹² The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 142a, 143b and 143c and with paragraphs 144, 145 and 146 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Background

The Monitor has found the Department in compliance with paragraph 154 since the quarter ending December 31, 2004.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the *Audit Recommendations Status Reports* issued in 2007 and compared them to the *Audit Recommendations Status Report*, dated November 2, 2006, the LAPD's Annual Audit Plans for 2006/2007 and 2007/2008 and the Monitor's report for the Quarter ending December 31, 2006. The Monitor also held discussions with representatives of CRID and the OIG to review the process in place to track and adopt the closing of recommendations from specified audits, non-specified audits and Department initiated audits.⁹³

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

- The Monitor commends CRID for significantly expanding the system used to track the audit reports and its corresponding recommendations to include not only the Specified Audits but also the Non-Specified Consent Decree Compliance Audits and Department Initiated Audits. Additionally, the system now provides the Police Commission with the following information for open recommendations: number of days open, date of last status update, contact person, and the status itself. For closed recommendations, separate correspondence showing justification for closure is submitted to the Board for approval.
- The Monitor confirmed that the final *Audit Recommendations Status Report* for 2007 included recommendations from all but one of the specified Consent Decree audit reports completed from July 1, 2006 through October 2, 2007.⁹⁴ Additionally, for one non-specified Consent Decree related audit, the Monitor could not identify the outcome of one of four recommendations.⁹⁵
- Due to the confidentiality of EES audits, the OIG maintains a system for tracking recommendations that originate from its review of these audits. The Monitor reviewed the system and determined that the database continues to include all OIG recommendations from its reviews of the EES audits and the status of the recommendations. In addition, the status

⁹³ The specified audits that are tracked are detailed in Directive 1-04 from CRID, dated April 15, 2004, which lists Consent Decree-mandated Department audits as well as certain other specified audits. Recommendations may be closed either because they are determined to be not feasible or they have been implemented. In either event this information is provided.

⁹⁴ Audit recommendations from the *Use of TEAMS Data Audit*, dated December 29, 2006, were not included.

⁹⁵ Recommendation #3 in the *Supervisor and FTO Training Audit* dated December 12, 2006 was included in the database but there was no information as to the outcome of this recommendation.

of the OIG's recommendations was appropriately updated in subsequent quarterly reports. The OIG tracks recommendations that relate to specific stings and officer discipline, deriving such information from confidential reports. Going forward, CRID will track recommendations found in public versions of these reports that are procedural and not sensitive in nature.⁹⁶

- The Monitor identified a few instances where recommendations were not included in reports to the Board in one quarter but then were included in the next quarter. The Monitor found that CRID actively tracked each of these recommendations in its database, but the recommendations were inadvertently left off one of the recommendation status reports as a result of the recommendation not being marked to be included in the hard copy printout of the database. CRID ensured that they appeared in the next update to the Police Commission. These errors were administrative in nature but a few were found in each of the *Audit Recommendations Status Reports*.
- CRID actively tracks CAPA recommendations in its tracking database but this information is not included in its reports to the Police Commission. Instead, Area captains must explain in open session what their commands are doing to remedy any deficiencies identified by AD. See recommendation below.
- Responsibility for maintaining the database and preparing the status recommendations report was transitioned during the current year. Although it was difficult to obtain supporting documentation for changes to the reports during this transition period, all changes to recommendations have been adequately documented since this transition.

Over the past year, CRID has improved both its paper and electronic audit recommendation tracking systems, as well as the information provided to assist the Police Commission in its decisions to approve closing these recommendations. The Monitor is confident that the tracking system is working better than before. In addition, CRID is taking steps to ensure that the tracking of all audit recommendations remain as a best practice after the end of the Consent Decree.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 154.

Proposed Recommendations

The Monitor found that the date of an audit is no longer included in the title of audit recommendation headings in CRID's quarterly reports to the Police Commission. As the Consent Decree specified audits cover the same subparagraphs every year, the Monitor

⁹⁶ In prior quarters, CRID tracked recommendations from certain EES reports and not others. Beginning with the *Audit Recommendations Status Report*, dated December 7, 2007 CRID will track those EES report recommendations that are procedural but will not track recommendations related to specific stings or officer discipline as these are tracked by the OIG.

recommends that CRID put dates back into the titles of audit reports in order to differentiate them from year to year.

As mentioned above, CAPA audit recommendations are tracked by CRID but not included in quarterly reports to the Police Commission. AD's *GED Work Product Assessment Summary* reports are currently completed pursuant to subparagraphs 131a, f and g and generally do not contain their own recommendations, although they do refer to CAPA audit recommendations. While the CAPA audits are not specifically required by the Consent Decree, the *GED Work Product Assessment Summary* reports are. Therefore, these recommendations are required by the Consent Decree. As a result, the Monitor recommends that the status of CAPA audit recommendations be included in future quarterly reports to the Police Commission. Including these recommendations in the report will also help to ensure that the Police Commission and the Captains of the various areas address all identified issues.

V. CONCLUSION

We continue to be generally pleased with the progress being made to achieve substantial compliance with those paragraphs that have not yet achieved that status. As indicated in our Focus Issue this quarter, the issue of financial disclosure as required by paragraph 132 has moved forward with the proposal by the Police Commission of a policy that is intended to appropriately address the requirements of the paragraph. That being said, the fate of the proposed policy, and therefore the timeline for substantial compliance with paragraph 132, remains uncertain because of litigation initiated by the Police Protective League challenging the policy as written. We hope that the issue can be resolved as quickly as possible and any delay in achieving compliance with that paragraph minimized.