

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
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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 thirtieth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending December 31, 2008 and is the tenth report issued during the three-year extension period. As described in our Report for the Quarter Ending June 30, 2006, the City and the DOJ agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a significant number of paragraphs of the Consent Decree, and the Monitor would not actively monitor or report on the Department's compliance with these paragraphs during the three-year extension period. Rather, during the extension period, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance.

As described in our Report for the Quarter Ending June 30, 2008, as part of an overall reassessment of the Department's compliance with the Consent Decree, the Monitor and the parties revisited the status of compliance with each of the substantive provisions of the Consent Decree. The Monitor reviewed the progress made by the City and the Department over the first two years of the three-year extension period and identified those paragraphs with which the Department achieved substantial compliance during this two-year period. To the Department's credit, the list of such paragraphs was extensive, providing tangible evidence of the significant accomplishments the Department and the City have made.¹ Beginning with the quarter ending September 30, 2008, the Monitor will not be assessing compliance with these paragraphs² unless there is an indication of backslide in any of them. If backslide in a paragraph is identified, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate. As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms which have been successfully implemented.

During the current quarter, the Monitor assessed the LAPD's compliance with various Consent Decree requirements relative to its computer information system (TEAMS II); annual personnel

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

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

performance evaluations for all LAPD sworn employees; search and arrest procedures; receipt and maintenance of complaints; the Department's non-discrimination policy and its data collection efforts in connection with the enforcement of that policy; audits conducted by the LAPD's Audit Division; reviews and audits conducted by the Office of the Inspector General (OIG); and steps taken by the City and the Department to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the Inspector General, and the Department under the Consent Decree.

In total, the Monitor examined 26 paragraphs or subparagraphs of the Consent Decree during the quarter, of which the City and the LAPD successfully complied with 17³ and failed to achieve compliance with three. In addition, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with six paragraphs. Significantly, the Department has now complied with 172 of the 201 paragraphs that the Monitor has assessed during the term of the Consent Decree and the extension period to-date.

In connection with Consent Decree requirements regarding the TEAMS II computer information system, the Decree, through 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. During the current quarter, the Monitor continued to evaluate the Department's implementation of the specific provisions and elements that must be included in the protocol as required by the various subparagraphs of paragraph 47. The Monitor found that the Department successfully complied with the following requirements:

- that supervisors on a regular basis 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 47a);
- that when at-risk behavior is found to be possibly occurring based on a review and analysis described in subparagraph 47a, appropriate managers and supervisors shall undertake a more intensive review of the officer's performance (subparagraph 47b);
- that on a regular basis LAPD managers review and analyze, relevant information in TEAMS II about subordinate managers and supervisors in their command regarding the subordinates' ability to manage adherence to policy and to address at-risk behavior (subparagraph 47c);
- that the guidelines for numbers and types of incidents requiring a TEAMS II review by supervisors and managers and the frequency of these reviews are specifically stated (subparagraph 47d);

³ For five of the 16 paragraphs for which compliance was achieved, the Monitor conducted limited reviews of the Department's compliance and did not identify any issues to suggest that the pertinent paragraphs and subparagraphs should be actively monitored. As a result, the Monitor concluded that the prior findings of compliance with these paragraphs and subparagraphs stand.

- that the protocol states guidelines for follow-up managerial or supervisory actions (including non-disciplinary actions) to be taken based on reviews of the information in TEAMS II required pursuant to this protocol (subparagraph 47e);
- that managers and supervisors use TEAMS II information as one source of information in determining when to undertake an audit of an LAPD unit or group of officers (subparagraph 47f); and
- that specific actions taken as a result of information from TEAMS II are based on all relevant and appropriate information, and not solely on the number or percentages of incidents in any category recorded in TEAMS II (subparagraph 47h).

The Monitor found the Department in non-compliance with the requirement for the routine and timely documentation in TEAMS II of actions taken as a result of reviews of TEAMS II information (subparagraph 47l). Non-compliance was based on the fact that the Department did not adhere to the timeliness requirement of the subparagraph in 14% of the incidents tested.

The Monitor withheld a determination of the Department's compliance with the requirement that the Department develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance (paragraph 54). The Monitor found the Department in non-compliance with this requirement during the previous quarter, but the Department is now in the process of implementing a Standards Based Assessment that is focused on supervisors providing an objective assessment of subordinates by utilizing documentation rather than supervisors' subjective assessments to assess employee performance. The Monitor will participate in the related e-learning and attend training at Supervisor School in the coming quarter in order to further evaluate the implementation of the Standards Based Assessment.

In the search and arrest procedures area, the Monitor found the Department in non-compliance with the requirements that supervisors evaluate each incident 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 it raises any issue or concern regarding training, policy, or tactics (subparagraph 70b). The Monitor reviewed and placed reliance on the LAPD Audit Division's *ABC Reports Audit*, dated September 30, 2008, which found that 88% of the arrest packages selected for review were in compliance with the requirements of the subparagraph 70b. The eight non-compliant packages did not contain documentation of the incidents on the Watch Commander's daily reports or did not include the Watch Commander's evaluation of the incident on the Watch Commander's Log.

Regarding complaints, the Monitor assessed the Department's compliance with the requirement to distribute materials needed to file a complaint upon request to community groups, community centers, and public and private service centers and with the requirement to maintain a 24-hour toll free telephone complaint hotline on which all calls must be recorded. The Monitor found that the Department was compliant with both of these requirements.

At the request of and subsequent to an initial review conducted by the DOJ, the Monitor also reviewed complaint investigations that included an allegation of racial profiling. The Monitor reviewed 77 complaint investigations that included an allegation of racial profiling made during the period November 2006 through April 2008 and found that: 55 of the 77 complaint investigations reviewed were sufficient and the adjudication appropriate; 14 of the 77 complaint investigations contained minor issues with the quality of the investigations; and 8 of the 77 complaint investigations contained significant issues with the quality of the investigations. The issues identified are described in detail in the body of this report. The Monitor notes that during December 2008 the LAPD implemented a revised *Biased Policing Investigation Protocol*, which addresses concerns previously expressed by the Monitor and the DOJ with regard to interviewing all accused officers. The protocol also requires investigators to gather and include all documents related to an incident, includes questions that should be asked of the complainant and officers, and requires any complaint that includes an allegation of biased policing to be reviewed by either the LAPD's Criminal Investigation Division or its Professional Standards Bureau prior to distribution to the concerned Commanding Officer. In addition, the Professional Standards Bureau continues to randomly audit complaint investigations conducted by Internal Affairs Group investigators in an effort to identify and address deficiencies, similar to the process used for Categorical Use of Force Investigations, which has proven useful in improving the quality of those investigations. The Monitor will again review investigations of complaints that included an allegation of racial profiling after sufficient time has passed to allow the new protocol to take effect.

The Monitor again reviewed the status of the Department's compliance with Consent Decree requirements relating to its non-discrimination policy and its data collection efforts in connection with the enforcement of that policy (paragraphs 102-105). The Monitor continues to withhold a determination of the Department's compliance with these paragraphs until various recommendations have been implemented and evaluated. As described in a Focus Issue included in the Monitor's Report for the Quarter Ending September 30, 2008, the ACLU of Southern California released a report prepared by Professor Ian Ayres of Yale University entitled, "A Study of Racially Disparate Outcomes in the Los Angeles Police Department." The report, which consisted of an analysis of the same data that was analyzed by the Analysis Group in 2006,⁴ found substantial racial disparities in post-stop action, and the ACLU made a number of recommendations based on those findings. As requested by the Police Commission, the LAPD responded to the ACLU's report at the Commission's meeting of January 13, 2009. The Department reiterated its commitment to eliminating biased policing by outlining the steps it has taken in this area. In addition, the Internal Affairs Group updated the biased policing investigative protocols, which were approved by the Police Commission on December 9, 2008. The protocols, which took effect on January 1, 2009, now require officers to articulate their complete reasons for conducting traffic and pedestrian stops.

⁴ The "Pedestrian and Motor Vehicle Post-Stop Data Analysis Report," by the Analysis Group, Inc., dated July 2006, analyzed the LAPD's stop data collected from July 1, 2003 through June 30, 2004.

As also noted in the Monitor's Report for the Quarter Ending September 30, 2008, the Department has developed and is piloting an automated reporting system at the Area level in order to achieve compliance with the data collection requirements of Paragraphs 104 and 105. This will incorporate the collection of stop data as approved by DOJ, and will be implemented Department-wide once testing has been completed. Additionally, the City and Department have continued to move toward Department-wide implementation of in-car cameras, which the Monitor has strongly endorsed and recommended. All of the hardware and servers are installed in City Hall East and the Southeast, Southwest, and 77th Area stations, and cameras have been installed in all patrol cars for Southeast, Southwest, and 77th Areas. The cameras are being tested by LAPD for functionality and field tests will begin in either February or March 2009. Upon completion of the field tests and verification that the system is operating appropriately, Southeast Area will be the first to have cameras turned on, followed by Southwest and 77th Areas shortly thereafter. Installation at Harbor Area will not take place until construction on the new police station there is completed and the building is turned over to the Department. As noted in the Report for the Quarter Ending September 30, 2008, the Monitor determined that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, sufficiently satisfy the requirements of the Consent Decree.

In connection with gang units, the Monitor assessed the Department's compliance with the requirement that unit supervisors and non-supervisory officers continue to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees (subparagraph 106e(i)). Although the Monitor continues to have concerns regarding supervisory oversight in this area, the Monitor noted the significant improvement in compliance rates in connection with the other objectives tested in this area and found the Department in overall compliance with the subparagraph.

Regarding internal and external oversight, the Monitor completed its review and evaluation of the *GED Work Product Assessment Summary*⁵ (subparagraphs 131a, f and g) submitted by the LAPD's Audit Division in September 2008. Although this report concluded appropriately that there were no identifiable patterns of at-risk practices in connection with the scope of its review, the scope did not include findings from Audit Division's June 2008 *Non-Categorical Use of Force Audit*. Further, its conclusion that 5,017 of 5,895 reports met the standards for all categories tested was of limited value for several reasons: the numbers reported were inflated due to the double- and triple-counting of reports that occurred when test results were aggregated; and the report provided no information regarding the remaining 878 below-standard reports. Furthermore, Audit Division reviewed the Bureau Gang Coordinator Inspections but did not address whether the findings from such inspections appeared to be flawed or reasonably reliable based on a comparison of their findings with the findings from audits conducted by the LAPD. As a result, the Monitor concluded that the LAPD was non-compliant with the applicable Consent Decree requirements.

⁵ Although Audit Division does not refer to this report as an audit, it was submitted by Audit Division to meet the requirements of subparagraph 131a, which requires an audit.

The Monitor also conducted limited reviews of the *Categorical Use of Force Investigations Audit* (subparagraph 129i) and the *ABC Reports Audit* (paragraph 128(2)), which were submitted by the Audit Division in June 2008 and September 2008, respectively. With regard to the *Categorical Use of Force Investigations Audit*, in a review conducted during the quarter ending September 30, 2008, the Monitor identified a number of concerns with interviews conducted by Robbery-Homicide Division investigators during Categorical Use of Force incident investigations; however, the Monitor did not identify any further concerns during its subsequent review of additional investigations conducted during the current quarter. As a result, the Monitor's conclusion that its prior findings of compliance with pertinent Consent Decree paragraphs remains in effect. With regard to the *ABC Reports Audit*, the Monitor did not identify any issues that suggested that the quality of this audit varied significantly from prior compliant audits of this topic or that this topic should be actively monitored.

During the current quarter, the Monitor conducted a limited review of the OIG's September 2008 review of the *Ethics Enforcement Section's Quarterly Report Second Quarter 2008* and the OIG's September 2008 reviews of three audits performed by Audit Division: the *Non-Categorical Use of Force Investigations Audit* (subparagraph 128(3), 129ii); the *Confidential Informant Control Packages Audit* (subparagraph 128(5)); and the *Categorical Use of Force Investigations Audit* (subparagraphs 129i). The Monitor concluded that the quality of the OIG's reviews of each of these audits had not varied significantly from prior compliant reviews of these topics.

The Monitor also reviewed the OIG's June 2008 *TEAMS II Audit – Phase I* and found it be a quality review. As a result, the Monitor found the Department in compliance with paragraph 137.

Lastly, the Monitor continued its review of the OIG's approach to addressing paragraph 138, which requires the OIG to periodically use TEAMS II to conduct audits of the LAPD and to review LAPD-specific unit and officer-specific audits conducted by the LAPD. The Monitor concluded that the Department is in compliance with subparagraph 138a, which requires that the audits and reviews include procedures that examine and identify officers demonstrating at-risk behavior, as determined by their work histories, including, among others, administrative investigations, misconduct complaints, discipline, uses of forces, and other criminal or civil charges or lawsuits. Since the Monitor and the OIG recently collaborated to define the requirements for this subparagraph, the Monitor withheld a determination of compliance with subparagraph 138b, which requires that the OIG examine and identify at-risk practices or procedures as determined by trends within a unit or between and among units using the criteria in subparagraph 138a.

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

The introduction to each of the substantive areas reviewed in the remainder of this report include the specific paragraphs upon which the Monitor will be reporting during the remainder of the extension period i.e. those paragraphs of the Decree with which the City has failed to achieve substantial compliance or which have been determined to be so central to the Consent Decree as to warrant continued active monitoring.

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

subparagraph of the Consent Decree.⁶ The “Most Recent Evaluation” column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which that evaluation was made is also indicated. Those paragraphs that the Monitor is planning on actively Monitoring during the remaining term of the extension are denoted with an asterisk and bolding. The Report Card also identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance with these paragraphs. This is an estimate based on available information at the date of issuance of this Monitor’s Report and Report Card. These estimates are subject to change as information develops and circumstances change.

⁶ The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department’s compliance with the provisions of the Consent Decree.

II. FOCUS ISSUES

A. SIGNIFICANT PROGRESS IN THE EXTENSION PERIOD OF THE DECREE

As we near the end of the three-year extension period of the Consent Decree, we clearly recognize and reiterate that which we said at the end of the initial five-year period of the Decree: that the Los Angeles Police Department is an agency significantly different from the one we found when we arrived in June of 2001. Over the last three years the Department has continued to achieve compliance in those areas where such compliance had not yet been achieved at the end of the initial period. The reformation of the Department over the last eight years is a tribute to the dedication, hard work and cooperation of those within the Department and of supporting City entities, including the Police Commission, the Office of the Inspector General, the Office of the Mayor, the City Council, and the City Attorney's Office. Over the coming weeks the parties will begin discussions on how to best ensure that the interests of all stakeholders are addressed at the end of the extension period, and that the reforms that have been achieved endure.

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.⁷ 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,⁸ and the Risk Management Information System (RMIS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

Although the original timeline for completion of the TEAMS II project was not met due to the numerous challenges presented by the scope of the TEAMS II project, the City and Department achieved Department-wide implementation of all four systems as of the quarter ending March 31, 2007. The TEAMS II systems are fully functioning, with updates researched and made as required. TEAMS II staff and the Risk Analysis Section (RAS) of the Risk Management Group (RMG) continue to monitor and assess system-generated action items to identify what types of action items are being triggered and whether those being triggered, and the frequency of the triggers, are appropriate. In addition, the City continues to assess the RMIS peer groups and thresholds, as it appears that more system-generated action items⁹ are being generated than originally projected. The City will present any proposed modifications to the DOJ and Monitor once this review is complete.

As of the end of the original five-year term of the Consent Decree, the Department had not achieved substantial compliance with many of the Consent Decree requirements related to TEAMS II (paragraphs 39-44, 46-49, 50d and e, 51b-d, 52-53, 83). As a result, the Monitor continued to assess the Department's compliance with these and the additional TEAMS II-related paragraphs during the extension period. During the first two years of the extension, the

⁷ The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

⁸ 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.

⁹ Action Items are automated or supervisor-generated notifications that identify employees whose performance may indicate a need for monitoring. Automated action items are generated when performance-related data such as uses of force is compared to stops or arrests and specific individual performance thresholds are exceeded. Supervisor-generated notifications are used to conduct periodic performance monitoring, such as annual performance evaluations or assignment to specialized units.

Department achieved substantial compliance with most of these paragraphs;¹⁰ the Monitor does not plan to actively monitor these paragraphs during the remainder of the extension period. Paragraph 46, the overarching requirement paragraph, is the sole paragraph from this section of the Consent Decree that the Monitor will continue to actively monitor during the remainder of the extension period.¹¹

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

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 46, the City was 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. The protocol was, in fact, developed in consultation with both DOJ and the Monitor. Paragraph 47 lists specific provisions and elements that must be included in the protocol. Compliance with the implementation of these provisions and elements is assessed below.

Paragraph 46 as it relates to Subparagraph 47a – Implementation of Protocol

This subparagraph 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.

Background

The Monitor last assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47a during the quarter ending December 31, 2007, 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 46 as it relates to the implementation of protocols covering the requirements of subparagraph 47a, among others, the Monitor

¹⁰ The Department achieved substantial compliance with paragraphs 39-44, 47-49, 52, 53 and 83, as well as subparagraphs 50d, 50e, 51b and 51d. It should be noted that substantial compliance with paragraphs 40, 48, 52, 53 and 83 was achieved during the current quarter. Compliance assessments related to these paragraphs are included in this report.

¹¹ The Department has not yet achieved substantial compliance with sub paragraph 51c; however, compliance with the requirements of that subparagraph will be assessed under paragraph 46 during the remainder of the extension.

requested and received a list of 183 supervisor-generated action items (SAIs) completed from July-September 2008. The Monitor separated the list into 147 action items with dispositions of “no action” and 36 action items with dispositions other than “no action,” and then selected a stratified random sample of 87 action items in total, consisting of 59 with dispositions of “no action” and 28 with dispositions other than “no action.” From these 87 action items, the Monitor deselected those that were generated based on a transfer or annual performance evaluation, as these types of action items are reviewed under separate subparagraphs. This resulted in 22 total SAIs, six with dispositions of “no action” and 16 with dispositions other than “no action,” which the Monitor reviewed using TEAMS II.

The Monitor also requested and received a list of 747 system-generated action items (AIs) completed from July-September 2008. The Monitor separated this list into 633 AIs with dispositions of “no action” and 114 AIs with dispositions other than “no action.” The Monitor then selected and reviewed, using TEAMS II, a stratified random sample of 88 AIs in total, consisting of 72 with dispositions of “no action” and 16 with dispositions other than “no action.”

The Monitor also requested and reviewed the Action Item Summary reports, TEAMS reports, Summary of Employee Activity reports and Comparison of Employee Average Activity for Selected Organizations reports related to both types of action items.

The review of these AIs and SAIs was based on standing protocols and policies previously reviewed in Special Order No. 22, “Duty to Conduct and Document Individual Performance Assessments,” July 12, 2007 and Special Order No. 28, “Duty to Conduct and Document Individual Performance Assessments-Revised,” August 29, 2008. The Monitor recognizes that new guidelines were provided to supervisors and managers in a November 18, 2008 Notice entitled “Use of Complaint Information When Responding to RMIS Action Items,” which was issued after these action items were completed.

The Monitor found that 100% of both samples of action items were reviewed by supervisors on a regular basis and analyzed to detect any patterns or series of incidents that may indicate at-risk behavior. The Monitor verified that these action items were initiated when required by the thresholds. The Monitor also confirmed that cursory reviews, which included a review of the mandatory reports and of any pending complaints against an officer and which must be completed prior to deciding whether a further review of possible at-risk behavior is required, were addressed by the supervisors and managers when appropriate.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47a.

Paragraph 46 as it relates to Subparagraph 47b – Implementation of Protocol

This subparagraph requires that when at-risk behavior is found to be possibly occurring based on a review and analysis described in the preceding subparagraph, appropriate managers and supervisors must undertake a more intensive review of the officer’s performance.

Background

The Monitor last assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47b during the quarter ending December 31, 2007, 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 46 as it relates to the implementation of protocols covering the requirements of subparagraph 47b, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

The Monitor found that 80 of the 88 AIs, or 91%, were in compliance with the requirements to conduct a further review when at-risk behavior may be occurring. Of the eight non-compliant AIs, five were reviews in which the supervisors or managers did not conduct thorough enough reviews of the employees' entire work histories, did not consider any specific incidents within the work histories, and failed to document the justification for their dispositions. For the remaining three non-compliant AIs, the supervisors only considered the specific incidents or categories that were triggered, rather than reviewing the employees' entire work histories within that evaluation period and documenting the justification for their dispositions.

The Monitor commends the Department for the improvement from last year's evaluation and assessment of this paragraph.¹² As a result of the TEAMS II staff providing new policy, further training and appropriate guidance to the Department based on the Monitor's previous findings and recommendations, the reviews of these action items by managers and supervisors has seen significant improvement in both the required analysis and appropriate documentation. Further, in response to the review this quarter, TEAMS II staff immediately modified the "Respond to AI" screen in the system by adding text that emphasizes the requirement that supervisors must document a review of the employee's performance as a whole. The Commanding Officer (CO) of TEAMS II has also decided to contact the respective CO for each of the eight deficient AIs and require a further appropriate review of the employee's performance. Additionally, the CO of TEAMS II will be publishing a Notice to all supervisors that includes the findings and recommendations made by the Monitor this quarter, with instructions on how to write a quality review of an Action Item. In light of the vast improvement the Department has made in regard to this paragraph, the remedial steps which the Department committed to implementing immediately, and the fact that the 91% of AIs included a thorough and thoughtful review, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47b.

¹² In the Monitor's previous assessment of this paragraph, 60 of the 83 AIs reviewed, or 72%, were in compliance with requirement that the supervisor or manager conduct a thorough enough review of the employee's entire work history and document justification for the disposition.

Paragraph 46 as it relates to Subparagraph 47c – Implementation of Protocol

This subparagraph requires that on a regular basis LAPD managers 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.

Background

The Monitor last assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47c during the quarter ending December 31, 2007, 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 46 as it relates to the implementation of protocols covering the requirements of subparagraph 47c, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

As the Monitor reported in paragraph 46 as it relates to subparagraph 47a above, in both samples of action items assessed, on a regular basis, supervisors reviewed and analyzed employees' work histories and TEAMS II information to detect any patterns or series of incidents that may indicate at-risk behavior. The Monitor also confirmed that supervisors and managers, when appropriate, conducted cursory reviews, which included a review of the mandatory reports and of any pending complaints against an officer.

In addition, as the Monitor reported in relation to subparagraph 47b, when it was determined that at-risk behavior might be occurring, appropriate managers and supervisors were undertaking a more intensive review of officers' performance. The Monitor also reported relative to subparagraph 47b that there were some reviews in which the supervisors or managers did not conduct thorough enough reviews of the employees' entire work histories for any patterns of at-risk behavior and document the justification of their dispositions. However, managers did review every individual action item for appropriateness of their subordinates' review and analysis and documentation of the justifications for their dispositions.

After the initial review, assessment and documentation of the justification of the proposed disposition of an action item by the first-level supervisor, the action item continues up the chain-of-command for additional review and approval. Every action item must begin with review and approval by the initial supervisor, then may go to additional supervisors in their chain, and then must receive approval by the CO of that particular area and then, finally, approval by the Bureau CO. Prior to giving their approval, each manager and supervisor must review the action item for thoroughness of the review, analysis and documentation of addressing at-risk behavior; if the

action item is deemed insufficient and needs correction or additional information, the reviewer will “kick back” the action item as necessary. The previous reviewers will then conduct a further analysis or provide more sufficient documentation for justification of the disposition as instructed and send it back up the chain-of-command for approval. The action item is not deemed complete until the Bureau CO has received, reviewed and approved it.

During the Monitor’s review of subparagraphs 47a and b regarding AIs and SAIs, the Monitor observed that all action items were being reviewed and analyzed for adherence to policy and addressing at-risk behavior on every review level by the appropriate managers and supervisors. Additionally, the action items were in fact “kicked back” to previous managers and supervisors for further review, analysis and/or documentation for justification of their disposition as needed. The Monitor also found that managers were providing both direction and feedback for their subordinates’ review and analysis of these action items and their adherence to policy and addressing at-risk behavior. Since subparagraph 47c requires managers on a regular basis to review and analyze their subordinates’ ability to adhere to policy and address at-risk behavior, the Monitor believes that the review processes described herein, including the reviews conducted pursuant to the requirements of subparagraphs 47a and b, constitute a review and approval process that satisfies the requirements of subparagraph 47c.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47c.

Paragraph 46 as it relates to Subparagraph 47d – Implementation of Protocol

This subparagraph requires that the guidelines for numbers and types of incidents requiring a TEAMS II review by supervisors and managers and the frequency of these reviews are specifically stated.

Background

The Monitor has not previously assessed the LAPD’s compliance with paragraph 46 as it relates to subparagraph 47d.

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 subparagraph 47d, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

In connection with subparagraph 47d, the Monitor found that the protocols do state the guidelines required for the numbers and types of incidents requiring a TEAMS II review and the frequency of such reviews. In addition, the supervisors and managers are adhering to such guidelines. The Monitor initially had concerns whether three of the 88 AIs should have been triggered. However, TEAMS II provided sufficient documentation and system-related reports to show that the triggering of these three AIs was, in fact, appropriate under the agreed upon thresholds. As a result, the Monitor found that 100% of the AIs were in compliance with the requirements of this subparagraph.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47d.

Paragraph 46 as it relates to Subparagraph 47e – Implementation of Protocol

This subparagraph requires that the protocols state guidelines for the follow-up managerial or supervisory actions (including non-disciplinary actions) to be taken based on reviews of the information in TEAMS II required pursuant to this protocol.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47e.

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 subparagraph 47e, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

In connection with subparagraph 47e, the Monitor found that the protocols do state the guidelines required for the follow-up managerial or supervisory actions, including non-disciplinary actions, to be taken based on reviews of the information in TEAMS II required pursuant to this protocol. The Monitor conducted a further review of 21 of the 32 AIs and SAIs with dispositions other than "no action" to ensure that follow-up was conducted on the dispositions adjudicated. The Monitor found that for ten¹³ of the AIs and SAIs, the dispositions

¹³ For the remaining 11 AIs and SAIs that had dispositions other than "no action," those dispositions included comment cards, commendations and a notice to correct. For the eight comment cards and the two commendations dispositions, the Monitor assumed these took place, given these were positive disposition outcomes. For the one notice to correct, these take place in divisional packages; given that there was only one in this sample, the Monitor decided to follow-up on these in the next review.

other than “no action” were followed through 100% of the time, including training, modified or non-field duties, informal meeting, and complaints.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47e.

Paragraph 46 as it relates to Subparagraph 47f – Implementation of Protocol

This subparagraph requires that managers and supervisors use TEAMS II information as one source of information in determining when to undertake an audit of an LAPD unit or group of officers.

Background

The Monitor has not previously assessed the LAPD’s compliance with paragraph 46 as it relates to subparagraph 47f.

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 subparagraph 47f, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

In connection with subparagraph 47f, there was no evidence that the managers and supervisors had undertaken an audit of an LAPD unit or group of officers, as all of these action items were based on a review of individual officers and supervisors. As a result, the requirements of the subparagraph are not applicable. In addition, subparagraph 47k which was assessed by the Monitor in the quarter ending June 30, 2008, requires a regular review by managers of officers’ and LAPD units’ performance citywide. During this assessment, the Monitor found that the Department, including managers and supervisors, used TEAMS II information related to action items triggered for Central Area Narcotics, as well as specific use of force incidents and stops for that area in their audit review of that LAPD unit’s citywide performance.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47f.

Paragraph 46 as it relates to Subparagraph 47h – Implementation of Protocol

This subparagraph requires that specific actions taken as a result of information from TEAMS II are based on all relevant and appropriate information, and not solely on the number or percentages of incidents in any category recorded in TEAMS II.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47h.

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 subparagraph 47h, the Monitor selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

In connection with subparagraph 47h, although the Monitor found that there were a few action items reviewed by managers and supervisors in which they only assessed the numbers or percentages of incidents in any category, these action items were concluded with a disposition of "no action." The Monitor has spoken with TEAMS II personnel regarding the recommendation that these managers and supervisors conduct more thorough reviews in the future. However, since none of these action items resulted in specific action taken, the Monitor did not identify any instances in which specific actions were based solely on the number or percentages of incidents in any category recorded in TEAMS II.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 46 as it relates to subparagraph 47h.

Paragraph 46 as it relates to Subparagraph 47l – Implementation of Protocol

This subparagraph requires the routine and timely documentation in TEAMS II of actions taken as a result of reviews of TEAMS II information.

Background

The Monitor last assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47l during the quarter ending December 31, 2007, 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 46 as it relates to the implementation of protocols covering the requirements of subparagraph 47I, selected and reviewed the samples of 22 SAIs and 88 AIs described in the Current Assessment of Compliance for paragraph 46 as it relates to subparagraph 47a, above. The Monitor also requested and reviewed the reports and conducted its reviews in accordance with the standing protocols and policies described above.

In connection with subparagraph 47I, the Monitor found that for 12 of the 88 AIs, or 14%, the total time for completion of the action item review took more than 60 days. In addition, the Monitor found that for 19 of the 88 AIs, or 22%, the completion of the action item review took more than 30 days. At the time these action items were completed, the Department policy stated that the completion of action items was to take no more than 30 days; as of the date of this report, Department policy has been revised to allow no more than 30 days for completion of the first level of review, and no more than 60 days for overall completion of the action item. As the Monitor and the DOJ both agreed with the Department that a 30-day completion deadline is not a sufficient time frame for review and completion, the Monitor is not including these 19 AIs in its assessment for compliance this quarter. Therefore, the Monitor found that 76 of the 88, or 86% of the action items were in adherence with the timeliness requirements of subparagraph 47I.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 46 as it relates to subparagraph 47I.

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

Paragraph 54 is the only paragraph included in this subsection of the Consent Decree. The LAPD has not yet achieved substantial compliance with paragraph 54. As a result, this paragraph is being monitored during the extension, and the Monitor conducted a compliance assessment during the current quarter. The results of our current assessment follow.

Paragraph 54 – Performance Evaluations

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

and supervisors' performance in preventing retaliation. The plan shall include provisions to add factors described in subparts a-d above to employees' job descriptions, where applicable.

Background

The Monitor first assessed the LAPD's compliance with paragraph 54 during the quarter ending June 30, 2007, finding the Department in non-compliance. The Department indicated at the time that a performance evaluation rating form and related instruction and training were under development in an effort to comply with the requirements of the paragraph. The Monitor again assessed the LAPD's compliance with paragraph 54 during the quarter ending June 30, 2008, at which time the Monitor withheld a compliance determination pending review of the *Supervisory Performance Evaluations Audit*, dated June 27, 2008, which was to be conducted by the LAPD's Civil Rights Integrity Division (CRID). The Monitor last assessed the LAPD's compliance with paragraph 54 during the quarter ending September 30, 2008, at which time the Monitor found the Department in non-compliance based on the results of CRID's *Supervisory Performance Evaluations Audit*, dated June 27, 2008.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 54 during the current quarter, the Monitor requested Special Order No. 44, "Activation of Standards Based Assessment – Lieutenants and Below," dated November 25, 2008, and any lesson plans related to the implementation of the new performance evaluation form. Included in the Department's submission was the special order, a fact sheet on the new Standards Based Assessment (SBA), guidelines for completing the report, the SBA completion checklist, blank versions of the performance evaluations for supervisory and non-supervisory personnel, and a supplemental form used to evaluate field training officers (FTOs).

The new SBA is focused on supervisors providing an objective assessment of a subordinate and using documentation rather than supervisors' subjective assessments to assess employee performance. Employees will now be rated as follows in the different subject areas:

- Greatly Exceeds Standards
- Meets or Sometimes Exceeds Standards
- Needs Improvement.

Documentation such as commendations and comment cards are now required to be attached to the completed rating form to support ratings of "Greatly Exceeds Standards" or "Needs Improvement." Additionally, COs will be required to validate ratings other than "Meets or Sometimes Exceeds Standards" in order to ensure that ratings are not "inflated." Furthermore, the SBA will allow decision-makers to more easily distinguish candidates for promotion and selection to coveted positions.

The new SBA addresses the requirements of the following paragraphs:

- 62c: Supervisor Conduct at Search Warrant Services or CUOF Incidents
- 70c: Watch Commander Approval of All Booking Recommendations
- 108i: Quality of Supervisory Oversight Regarding Use of Confidential Informants
- 116: Competency of FTOs in Successfully Completing and Implementing FTO Training

The Monitor will participate in the related e-learning and attend training at Supervisor School in the coming quarter in order to further evaluate the implementation of the SBA.

Based on the foregoing, the Monitor withholds compliance regarding Paragraph 54.

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 CUOF¹⁴ is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.¹⁵ 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.¹⁶ 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.

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

¹⁴ 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.

¹⁵ 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.

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

histories when reviewing and making recommendations regarding discipline or non-disciplinary action as a result of a CUOF (paragraph 64). In addition, the Department had not yet achieved substantial compliance with several Consent Decree provisions regarding UOF investigations (paragraph 80i) and access to information contained in TEAMS II for those units conducting CUOF investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above). As a result, the Monitor continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.¹⁷

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

D. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. Although the Department had achieved substantial compliance with a number of requirements related to search and arrest procedures prior to the extension,¹⁸ it had not achieved substantial compliance with the requirement related to supervisory presence at and review of the service of search warrants (subparagraphs 62b, 70b, 70c and paragraph 71) and the search warrant log (paragraph 72). The Monitor continued to assess the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree. Because substantial compliance with these provisions was not achieved during the first two years of the extension, the monitoring of these provisions will continue during the remainder of the extension period.¹⁹ The Monitor assessed the LAPD's compliance with subparagraph 70b during the current quarter. 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.

¹⁷ Prior to the extension, the Department achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. In addition, many of the paragraphs included in Section D. Complaints, below, are related to this section of the Consent Decree.

¹⁸ Prior to the extension, the Department achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. As a result, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs during the extension period.

¹⁹ However, compliance with the requirements of subparagraph 70c will be assessed under paragraph 46 during the remainder of the extension.

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.²⁰
- 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.
- Subparagraph 70c requires that the quality of the supervisory reviews be taken into account in the supervisor's annual performance evaluations.²¹

Background

The Monitor last assessed compliance with subparagraph 70b during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in non-compliance. The Monitor relied on the findings from Audit Division's (AD's) *Arrest, Booking and Charging (ABC) Reports Audit*, dated September 28, 2007,²² in which AD found the LAPD in non-compliance with the requirements of subparagraph 70b.²³

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 70b during the current quarter, the Monitor conducted a limited review of AD's *ABC Reports Audit*, dated September 30, 2008.

²⁰ 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.

²¹ 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.

²² 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, 2007.

²³ As reported by AD, of the 223 arrest packages reviewed, five had elements relative to paragraph 70b. AD selected an additional 30 packages to review for this subparagraph. Of the 35, AD concluded that 26 packages were in compliance with the requirements of the Consent Decree.

The Monitor's review consisted of a review of the audit report, related work plan, matrices and electronic database.²⁴ The Monitor also reviewed a sample of arrest packages from the additional testing conducted by AD for issues related to paragraph 70b.²⁵

In this audit, AD found the LAPD in non-compliance with the requirements of subparagraph 70b. Specifically, AD selected a sample of 65 arrests from the entire population of arrests that occurred during deployment periods 4 and 5 (March 30 through May 24, 2008). Of the 205 arrest packages reviewed, AD identified one that had elements relative to subparagraph 70b. AD extended its sample and selected an additional 64 arrest packages from a population of incidents involving paragraph 70b charges.²⁶ Of the 65 packages that were tested, AD concluded that 57, or 88%, were in compliance with the requirements of subparagraph 70b. For the remaining eight packages, seven contained no documentation of the incidents on the Watch Commander's daily reports and one did not include the Watch Commander's evaluation of the incident on the Watch Commander's Log.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 70b.²⁷

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

²⁴ 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), below, for further information.

²⁵ 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%.

²⁶ 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 116 arrests, the required statistically valid sample size utilizing a one-tailed test and testing to a 95% confidence level and an error rate of +/-4% is 53. In stratifying its sample, AD rounded up Area sample sizes, which explains the jump from 53 to 64. In all, AD reviewed a total of 65 arrests involving incidents where charges were filed pursuant to subparagraph 70b, 64 arrests involving 70b incidents in the extended testing plus the one arrest where charges were filed relating to paragraph 70b in the original sample that was part of the population of 205 incidents.

²⁷ The Monitor notes that the audit also included an assessment of compliance with subparagraph 70a. AD found the Department in 84% 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.

requirements relative to the adjudication process, including standards for credibility determination and categories for final adjudication; and provides specific requirements regarding the imposition and reporting of disciplinary and non-disciplinary action. In addition, the Chief of Police must report to the Police Commission on his imposition of discipline during each calendar quarter. The Office of the Inspector General (OIG) must review, analyze and report to the Police Commission on the Chief's actions, and the Police Commission must assess the appropriateness of his actions.

Prior to the extension, the Department had achieved substantial compliance with many of the Consent Decree's requirements relative to complaint intake, investigation, adjudication and reporting.²⁸ However, the Department had not yet achieved substantial compliance with Decree requirements relative to the receipt and maintenance of complaints (paragraph 74); the investigation of complaints (certain subsections of subparagraph 80ii and paragraph 81²⁹); access to information contained in TEAMS II for those units conducting specified complaint investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above); standards for credibility determinations (paragraph 84); adjudication of complaint investigations (paragraph 85); and manager review of complaint investigations (paragraph 90). As a result, the Monitor continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the first two years of the extension, the Department achieved substantial compliance with subparagraphs 74a-d, 74f, and 74h, and paragraphs 80ii (subparagraphs a and f), 81, 84, 85 and 90.³⁰ The Monitor does not plan to actively monitor subparagraphs 74a-d, 74f, and 74h or paragraphs 81, 84, 85 and 90 during the remainder of the extension period. However, because of the centrality of the paragraph to the Consent Decree, the Monitor will continue to actively monitor paragraph 80ii (subparagraphs a and f), as well as subparagraphs 74e and 74g.

The Monitor assessed compliance with subparagraphs 74e and 74g during the current quarter. The results of our current assessments are below. During the current quarter, the Monitor also reviewed complaint investigations that included an allegation of racial profiling pursuant to a request made by the DOJ. The results of this review are described immediately below.

²⁸ The Department achieved substantial compliance with paragraphs 75-78, 79, certain provisions of paragraph 80, and paragraphs 82, 86-89, 91-96 and 98-101 from this section of the Consent Decree.

²⁹ The parties agreed that during the extension the Monitor will assess paragraph 80ii, subparagraphs a and f, and paragraph 81 as it relates to subparagraph 80ii, subsection f.

³⁰ Compliance assessments related to these paragraphs are included in this report. It should be noted that substantial compliance with some of these provisions was achieved during the current quarter.

Review of Investigations of Complaints Alleging Racial Profiling

During the current quarter, the Monitor reviewed 77 complaint investigations that included an allegation of racial profiling. The allegations were made during the period November 2006 through April 2008 and all investigations were closed during late 2008. This, the Monitor's second such review, was conducted at the request of the DOJ in light of concerns regarding the quality of the racial profiling investigations, as identified by the DOJ in an initial review of such complaints.³¹ The Monitor found that:

- Fifty-five of the 77 complaint investigations reviewed were sufficient and the adjudication appropriate.
- Fourteen of the 77 complaint investigations contained minor issues with the quality of the investigations.
- Eight of the 77 complaint investigations contained significant issues with the quality of the investigations.

The Monitor discussed its findings with the LAPD, which for the most part, agreed with our conclusions. Our specific findings are as follows:

Significant Issues Identified (Eight of 77 Investigations):

- An investigation in which the Supervisor who took the complaint and interviewed the complainants concluded that their allegations did not rise to misconduct allegations that included racial profiling based on the rationale that a witness officer and the accused officer were of the same race. The Monitor believes that similarity of race of any complainant, accused or witness cannot and should not negate the filing of a complaint and a thorough investigation.
- An investigation in which the accused officers should have been interviewed yet were not. Information contained in the investigation suggested additional allegations of neglect that were not addressed. Lastly, the CO's rationale in questioning the timing of the filing of the complaint was flawed.
- An investigation in which a complainant who submitted a written complaint was not interviewed. In addition, although the accused officers were interviewed and asked some very direct questions, the line of questioning did not address the presence of other pedestrians in the vicinity.
- An investigation in which an initial adjudication of *Sustained* was changed to *Actions Could Have Been Different* in connection with an allegation other than racial profiling. The

³¹ Although the DOJ requested the Monitor review certain racial profiling complaint investigations, the DOJ and the Monitor agreed not to discuss their findings until the Monitor had the opportunity to complete its review. The Monitor's first review of racial profiling complaint investigations was reported during the quarter ending June 30, 2008.

Monitor concluded that the initial adjudication was most appropriate, particularly in light of the officers' Skelly responses. An analysis should have been completed to determine whether the officers' actions were part of a pattern or practice for these officers, and perhaps this would have impacted the ultimate adjudication. Consistent with other investigations, the CO considered only the accused officers' sustained history and nothing else. Consideration should be given to the entire history and whether the officer had accumulated any number of complaints of the same sort. Based on the information contained in the investigation, the most appropriate adjudication for racial profiling should have been *Not Resolved*.

- An investigation completed at the divisional level that was not identified as a Professional Standards Bureau (PSB) investigation until nearly one year later. Given the number of years that this protocol has been in place, it should now be evident throughout the Department which types of complaints are required to be completed by PSB. The Monitor also believes that the investigators should have made a better effort to locate and interview the witnesses.
- An investigation in which it was noted that the complainant alleged he had contacted the Department on a separate occasion to lodge a complaint. Although there is record of this contact by the complainant, a unique complaint number was not generated and there is no record of any existing complaints.
- An investigation in which the Monitor disagreed with the CO's rationale in reaching an adjudication of *Unfounded*. Also, after listening to tape-recorded interviews, the Monitor concluded that the complainant's mother should have been interviewed, since she was at the scene. The investigation did not address an allegation of an improper search, although it should have done so. Lastly, based on a witness statement, when weighed with other statements contained in the investigation, an additional allegation of discourtesy should have been adjudicated as *Not Resolved*, rather than *Unfounded*.
- An investigation in which a review of a tape-recorded interview suggested inconsistent officer statements that were not identified or addressed by the investigation.

Minor Issues Identified (Fourteen Investigations):

- An investigation in which the referenced tape-recording of the encounter with the officer and the complainant was not preserved in the investigation.
- An investigation that also included an allegation of an unlawful search in which a witness interview was not tape-recorded. The complaint investigation also did not include an allegation of an unlawful search.
- An investigation in which the Sergeant responding to the scene requested the complainant to "follow him" to the station to conduct the interview. The complainant did not have transportation as a result of the stop. As a result, an interview of the complainant occurred over five months later.
- An investigation in which a witness to the encounter was not interviewed.

- For two investigations, the COs' consideration of the accused officers' histories were limited to sustained racial profiling complaints. As there have been no racial profiling complaints adjudicated as sustained in the LAPD, the Monitor contends any review should encompass a broader officer history.
- An investigation in which inclusion of the arrest report, which detailed the events leading up to the complainant's arrest, would have provided additional useful information to the reviewer. The Monitor would also have preferred an additional line of questioning of an officer with regard to contact with the complainant.
- An investigation in which the complainant's tape-recorded interview was damaged and not recoverable.
- Three investigations in which the Monitor would have preferred the Investigating Officers interviewed the accused officers.
- An investigation in which two allegations classified as *Unbecoming Conduct* should have been classified as discrimination and sexual misconduct, respectively.
- An investigation identifying that the officer failed to appear (FTA) at a traffic trial, but for which there was no indication that an FTA complaint existed or was generated. The Monitor also would have preferred that officers at the traffic stop were interviewed with regard to one of the allegations.
- An investigation in which the complainant should have been interviewed in order to specifically articulate the racial profiling allegation.

During December 2008 the LAPD implemented a revised *Biased Policing Investigation Protocol*. Among other things, the protocol addresses concerns previously expressed by the Monitor and the DOJ with regard to interviewing all accused officers. The protocol also requires investigators to gather and include all documents related to an incident, including officer DFARs, FIs, logs, arrest reports, traffic citations, and any audio or video recordings. Additionally the protocol includes questions that should be asked of the complainant and officers. Lastly, the protocol includes an important review component, requiring any complaint that includes an allegation of biased policing to be reviewed by either the LAPD's Criminal Investigation Division (CID) or PSB prior to distribution to the concerned CO.

The LAPD's PSB continues to randomly audit complaint investigations conducted by Internal Affairs Group (IAG) investigators in an effort to identify and address deficiencies. The LAPD previously implemented a similar process for its CUOF Investigations, which has proven useful in improving the quality of those investigations. The Monitor will again review investigations of complaints that included an allegation of racial profiling after sufficient time has passed to allow the new protocol to take effect.

Subparagraph 74e – Distribution of Material Upon Request

Subparagraph 74e mandates that the Department shall continue to provide for the distribution of the materials needed to file a complaint upon request to community groups, community centers, and public and private service centers.

Background

The Monitor has not previously assessed the LAPD's compliance with subparagraph 74e.

Current Assessment of Compliance

During August 2008, CRID conducted an inspection to determine whether LAPD Divisions have procedures in place to distribute complaint materials upon request to community groups, community centers, and public and private service centers. In particular, CRID focused on each Division's Community Relations Office (CRO), responsible for serving as each Area's community liaison. CRID queried all 19 Divisions and determined that complaint forms were available should community groups, community centers, and public and private service centers submit a request. Additionally, all officers have access to complaint materials and may distribute them upon request. Finally, CRID emphasized that complaint forms are available on the LAPD website and that there is a 24-hour complaint hotline for those community members unable to pick up a form.

Based on the foregoing, the Monitor finds the LAPD compliance with subparagraph 74e.

Subparagraph 74g – 24-hour Complaint Hotline

Subparagraph 74g requires the continuation of a 24-hour toll free telephone complaint hotline on which all calls must be recorded.

Background

The Monitor last assessed compliance with subparagraph 74g during the quarter ending June 30, 2008, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

In order to assess compliance with subparagraph 74g during the current quarter, the Monitor relied on an inspection conducted by CRID. CRID tested the Department's 24-hour toll-free complaint hotline for operational compliance with the Voice Print System and assessed its capability to record calls during non-business hours. The inspection found that the Voice Print System worked flawlessly. Each call made was returned and confirmed by Internal Affairs.

In assessing compliance, CRID conducted a total of 33³² telephone calls to the toll-free number during non-business hours.³³ The testing was completed in two series to ensure compliance during different time periods.³⁴ The first series of calls were placed between November 18, 2008 and November 24, 2008. The second series occurred from January 17, 2009 through January 26, 2009. Additionally, two calls were placed simultaneously on the last day to determine if the Voice Print System has the capability to accept and record multiple incoming calls. In addition to ascertaining the functionality of the 24-hour hotline, CRID also requested that Internal Affairs contact the caller by either a return phone call or e-mail message.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 74g.

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

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

The Department has not achieved substantial compliance with paragraphs 102-105. The Monitor assessed the Department's compliance with these paragraphs during the current quarter. The results of our current assessment follow.

Paragraphs 102 and 103 – Non-Discrimination Policy

Paragraph 102 requires that the Department continue to prohibit discriminatory practices in the conduct of law enforcement activities, specifically stops and detentions. Paragraph 103 requires adherence to LAPD policy prohibiting biased policing and allowing officers, when conducting stops or detentions or activities following stops or detentions, to take into consideration the race, gender, ethnicity, or national origin of (an) individual(s) only when engaging in suspect-specific activity.

Background

The Monitor last assessed the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2008, at which time the Monitor withheld a determination of the Department's compliance with the provisions of the paragraphs.

³² All 33 calls were recorded on the Voice Print System.

³³ Internal Affairs business hours are from 7:00 a.m. to 5:00 p.m., Monday through Friday.

³⁴ In both series, the inspector placed calls during both p.m. and a.m. hours.

Current Assessment of Compliance

As described in a Focus Issue included in the Monitor's Report for the Quarter Ending September 30, 2008, the ACLU of Southern California released a report prepared by Professor Ian Ayres of Yale University entitled, "A Study of Racially Disparate Outcomes in the Los Angeles Police Department." The report consisted of an analysis of the same data that was analyzed by the Analysis Group in 2006.³⁵ The study found substantial racial disparities in post-stop action. Based on the report, the ACLU made the following recommendations:

- The Department should continue to collect data on stops through TEAMS II. In addition, the Department should make better use of the data to identify officers or units with significant racial disparities by analyzing the data on at least an annual basis.
- The Department must further reform the racial profiling complaint process.
- The Inspector General should be given powers and resources to review the complaint investigations in real time.
- The Department should adopt additional anti-bias training focused on helping officers identify and eliminate even latent bias in policing decisions.
- The Department should reduce the disparate impact of consensual searches by requiring officers to inform subjects who they request to search that they have the right to refuse the search.

The Monitor has noted in past reports that the stop data collected to date has consistently shown that disparate treatment exists among different racial and ethnic groups for both stops and after-stop actions. While the City has made good faith attempts to determine why these disparities exist, such analysis is difficult at best, and these variances remain unexplained. Further, as noted and detailed in "Section E – Complaints" of this report, the quality of investigations of racial profiling allegations have historically been less than adequate.

As requested by the Police Commission, the LAPD responded to the ACLU's report at the Commission's meeting of January 13, 2009. The Department reiterated its commitment to eliminating biased policing by outlining the steps it has taken in this area:

- Focusing recruiting efforts on all areas of the City in order to reflect the diversity of the City.
- Exploring bias in hiring through questions in the polygraph portion of background checks
- Integrating the topic into more than 200 courses of both Recruit and In-Service Training
- Promoting minorities to command-level positions as more are hired as recruits

³⁵ The "Pedestrian and Motor Vehicle Post-Stop Data Analysis Report," by the Analysis Group, Inc., dated July 2006, analyzed the LAPD's stop data collected from July 1, 2003 through June 30, 2004.

- Recording stops through the use of in-car video

Additionally, IAG updated the biased policing investigative protocols and the Police Commission approved them at its meeting of December 9, 2008.³⁶ The protocols, which took effect on January 1, 2009, now require officers to articulate their complete reasons for conducting traffic and pedestrian stops.

The Monitor continues to withhold a determination of the Department's compliance with these paragraphs until the above recommendations have been implemented and evaluated.

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

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

Background

The Monitor last assessed the LAPD's compliance with paragraphs 104 and 105 during the quarter ending September 30, 2008. At that time the Monitor withheld a determination of the Department's compliance with the provisions of the paragraphs.

Current Assessment of Compliance

As noted in the Monitor's Report for the Quarter Ending September 30, 2008, the Department has developed and is piloting an automated reporting system at the Area level in order to achieve compliance with the data collection requirements of Paragraphs 104 and 105. This will incorporate the collection of stop data as approved by DOJ, and will be implemented Department-wide once testing has been completed.

Additionally, the City and Department have continued to move toward Department-wide implementation of in-car cameras, also known as the Digital In-Car Video System (DICVS), which the Monitor has strongly endorsed and recommended. The DICVS will help protect against biased policing while enhancing officer safety and risk management analysis, and mitigating liability claims. The first phase of the project will deploy cameras in South Bureau patrol vehicles. All of the hardware and servers are installed in City Hall East and the Southeast, Southwest, and 77th Area stations. Cameras have been installed in all patrol cars for Southeast, Southwest, and 77th Areas. The cameras are being tested by LAPD for functionality and field tests will begin in either February or March 2009. Upon completion of the field tests and verification that the system is operating appropriately, Southeast Area will be the first to have cameras turned on followed by Southwest and 77th Areas shortly thereafter. Installation at

³⁶ The Police Commission instructed the Department to change the term "racial profiling" to "biased policing."

Harbor Area will not take place until construction on the new police station there is completed and the building is turned over to the Department.

As noted in the Report for the Quarter Ending September 30, 2008, the Monitor determined that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, sufficiently satisfy the requirements of the Consent Decree.

Based on the foregoing, the Monitor continues to withhold a determination of the Department's compliance with paragraphs 104 and 105.

G. MANAGEMENT OF GANG UNITS

In the wake of the Rampart scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units. The Special Enforcement Units, which were subsequently reorganized into Gang Enforcement Divisions (GEDs),³⁷ 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.

Prior to the extension, the Department had achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.³⁸ However, it had not achieved substantial compliance with the requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d); detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)); the roles of gang unit supervisors, Gang Area Managers and Bureau Gang Coordinators (BGCs) (subparagraphs 106f, g and h); and eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). As a result, the Monitor continued to assess the Department's compliance with these subparagraphs during the extension.

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

³⁷ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

³⁸ The Department achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree.

period. The Monitor assessed compliance with subparagraphs 106e(i) during the current quarter. The results of our current assessment 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, 2007, 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 30, 2008, 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 post-incident supervisory review requirements of the Consent Decree.

In its *ABC Reports Audit*, AD reviewed a sample of 92³⁹ GED arrests that occurred during the period March 30 to May 24, 2008. Based on AD's findings, the Monitor determined that GED officers were in 100% compliance with completeness requirements,⁴⁰ which pertain to the inclusion of required documents in an arrest package. Additionally, based on AD's findings, the Monitor determined that GED officers were in 98% compliance with the authenticity requirements pertaining to canned language,⁴¹ inconsistent information,⁴² articulation of legal basis⁴³ and other indicia that information is not authentic or correct;⁴⁴ the LAPD was in 95% compliance with the underlying action requirements and conformance with LAPD procedures

³⁹ Detailed information regarding the population and sample selection criteria is included in the Current Assessment of Compliance for subparagraph 128(2).

⁴⁰ AD found all 92 packages were in compliance with completeness.

⁴¹ AD found all 92 packages were in compliance with canned language.

⁴² AD found one package with inconsistent information related to property seized.

⁴³ AD found two packages with a lack of articulation of legal basis for search and one package with lack of articulation of legal basis for seizure.

⁴⁴ AD found none of the 92 packages that had other indicia that information was not authentic or correct.

objectives.⁴⁵ Finally, based on AD's findings, the Monitor determined that the LAPD was in 100% compliance with the requirements for supervisory oversight of incidents, inspections and interviews, and in 89% compliance⁴⁶ with the post-incident review requirement.⁴⁷

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.⁴⁸

The Monitor continues to have concerns regarding supervisory oversight, given that the ten packages found in non-compliance under this objective are based on "higher risk" issues, and AD's *ABC Reports Audits* for the past four years have found continued non-compliance with the supervisory oversight objective. However, the Monitor commends the Department for achieving much higher compliance ratings with the other three objectives tested (related to completeness, authenticity and underlying actions) this quarter. As a result, and notwithstanding the continuing issues identified in connection with the supervisory oversight objective, the Monitor finds the LAPD in overall compliance with subparagraph 106e(i).

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. At the inception of the extension to the Decree, the Department had not achieved substantial compliance with the Consent Decree's requirements relative to procedures for the handling of informants (paragraph 108).⁴⁹ The Department did achieve substantial compliance

⁴⁵ AD found five packages that did not adhere to underlying actions or conformance with LAPD procedures. Of these five packages, three packages lacked documentation of medical treatment and two packages did not advise juvenile arrestees of their right to complete telephone call within the first hour.

⁴⁶ For the supervisory oversight objective, the ten packages that the Monitor found non-compliant included five packages that failed to meet the supervisory oversight objective because AD found they failed to provide adequate justification for strip searches, the arrestee's name on the arrest report was inconsistent with the name on the detention log, and the detention log did not adequately document to whom a juvenile was released or the handling of bike as evidence in probable cause. In addition, the Monitor concluded that the five packages with "higher risk" issues related to authenticity and underlying action should also be held out under supervisory oversight.

⁴⁷ 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.

⁴⁸ Since AD found the Department in non-compliance with conformance with supervisory oversight, these few anomalies did not effect overall compliance.

⁴⁹ The Department achieved substantial compliance with paragraphs 109-110 from this section of the Consent Decree. The Department was found compliant with paragraph 108 during the quarter ending December 31, 2007.

with paragraph 108 during the quarter ending September 30, 2008. However, in its report for that quarter, the Monitor indicated that it would continue to conduct limited reviews of compliance with the paragraph to ensure that Non-Confidential Informants are appropriately managed.

I. TRAINING

The Consent Decree training requirements center largely on FTOs, supervisory training, and training content, including periodic training on police integrity.

Prior to the extension, the Department had achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content⁵⁰ but had not achieved substantial compliance with Consent Decree requirements to train members of the public scheduled to serve on the Board of Rights in police practices and procedures, (paragraph 118), nor had the Department complied with training requirements relative to FTO eligibility criteria (paragraph 114), FTO de-selection (paragraph 115), and an FTO Training Plan (paragraph 116).

During the first two years of the extension, the Department achieved substantial compliance with the training requirements relative to paragraphs 114, 115 and 118. As a result, the Monitor is not planning on actively monitoring compliance with these paragraphs during the remainder of the extension period. The Monitor continued to assess the Department's compliance with paragraph 116. The Department was found compliant with the paragraph during the quarters ending September 30, 2007 and September 30, 2008. As a result, Monitor is no longer planning on actively monitoring compliance paragraph 116 during the remainder of the extension period.

However, the Department has not achieved substantial compliance with this paragraph, as compliance has not been achieved for two consecutive years.

⁵⁰ The Department achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree.

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

At the inception of the Consent Decree, the Department established an audit division composed of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,⁵¹ an audit protocol,⁵² and submitted annual audit plans which outline the audits to be completed in each coming year as required by paragraph 124. AD has also developed and run a Basic Law Enforcement Performance Auditing Course, which covers all aspects of police performance auditing.⁵³ This course, offered on a quarterly basis, has been offered 20 times and has been attended by police professionals from the US and Canada. Additionally, AD offered an Intermediate Law Enforcement Auditing Course in 2007. Most recently, AD has presented the Basic Law Enforcement Performance Auditing Course to the California Highway Patrol and has been requested to provide consulting services to the Los Angeles Fire Department.⁵⁴

During the original five-year period of the Consent Decree from June 1, 2001 to June 30, 2006, AD dramatically improved the quality of the audits it produced, issuing a total of 30 quality Consent Decree audits during this period. 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 of AD's audit

⁵¹ The Audit Charter outlines AD's role, the requirement for independence, the goal of complying with Generally Accepted Government Auditing Standards, AD's access authorization to records, and the scope of audits. It was originally approved by the Police Commission in January 2006, then was updated and re-approved on October 1, 2007.

⁵² 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.

⁵³ 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.

⁵⁴ These services include a review of policies and procedures for the unit that conducts arson investigations.

work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.⁵⁵ Instances of such reliance are clearly indicated in our reports.

Given these advancements, beginning in the quarter ending September 30, 2006, the Monitor revised its methodology for those areas/audits that were in substantial compliance for two consecutive years prior to the June 2006 extension. As described in more detail in our Report for the Quarter Ending June 30, 2006, under the revised methodology, the Monitor generally reviews the quality of the audits to gain assurance that the underlying areas being audited do not require active monitoring and that the quality of the audit has been maintained. Further, as explained in the Monitor's Report for the Quarter Ending June 30, 2008, the Monitor completed a review of the Department's compliance with the Consent Decree after two years under the extension and determined that AD had again achieved substantial compliance with more of the audit paragraphs. As a result, during the remainder of the extension, there are a number of audit-related paragraphs that the Monitor is no longer actively monitoring,⁵⁶ as well as a number of additional paragraphs for which the Monitor will conduct only limited reviews.⁵⁷ The Monitor will not report on the paragraphs that are no longer actively monitored unless a review of the report reveals there has been a significant change in the audit approach or audit findings. The Monitor will report on those paragraphs where there is a limited review.

Monitor's Review of LAPD Audits

During this quarter, the Monitor conducted limited reviews of the following audit reports, audit work plans, matrices and selected supporting documents:

- The LAPD's planning and execution of integrity / sting audits for the quarters ending March 31, 2008 and June 30, 2008 (paragraph 97);

⁵⁵ 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."

⁵⁶ The Monitor classified the following paragraphs as inactive paragraphs: paragraph 124 Annual Audit Plan, subparagraph 128(3) Use of Force audit, subparagraph 129i Categorical Use of Force Systems audit, subparagraph 129ii Complaint Form 1.28 Systems audit, paragraph 136 OIG's review of Categorical Use of Force Investigations, subparagraph 136i OIG's Non-Categorical Use of Force review and subparagraph 136ii OIG's Complaint Form 1.28 Investigations review.

⁵⁷ Although the Department has achieved substantial compliance with these paragraphs, for a variety of reasons, the Monitor concluded that some degree of review of the related audits is required. For example, the Monitor will continue to review an audit that assesses a critical part of the Consent Decree or if significant changes in the Department are expected that may affect the audit's findings or how the audit is conducted in the future. The Monitor plans to conduct limited reviews of the following audits conducted by AD: subparagraph 128(2) Arrest Booking and Charging audit, subparagraph 129i Categorical Use of Force Investigations audit, subparagraph 129iii Complaint Form 1.28 Investigations audit, and subparagraph 131b GED Selection Criteria audit. The Monitor plans to conduct limited reviews of the following reviews conducted by the OIG: subparagraph 135b OIG's review of AD's paragraph 128 audits and EES paragraph 97 audits. Additionally the Monitor will be conducting a limited review of the reports prepared to address paragraph 154.

- AD's *Categorical Use of Force Investigations Audit* (subparagraph 129i) dated June 25, 2008; and

The Monitor also completed its review and evaluation of AD's *GED Work Product Assessment Summary*⁵⁸ (submitted by AD in response to the audit requirements of subparagraphs 131a, f and g) dated September 26, 2008.

In addition, the Monitor received AD's *ABC Reports Audit* (subparagraph 128(2), 131a, 131c-2, 131e) dated September 28, 2008 and conducted a limited review of only the underlying working papers and supporting documents related to paragraph 73.

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

Background

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

The Monitor last assessed the LAPD's compliance with paragraph 97 during the quarter ending June 30, 2008, for audits conducted during the third and fourth calendar quarters of 2007, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 97 during the current quarter, the Monitor reviewed the *Office of the Inspector General's Review of Ethics Enforcement Section*

⁵⁸ Although AD does not refer to this report as an audit, it was submitted by AD to meet the requirements of subparagraph 131a, which requires an audit.

Quarterly Reports for the second quarter of 2008. The OIG reviewed a total of 31 EES integrity audits.⁵⁹ Twenty-one of the 31 audits reviewed were random and addressed the following:

- Complaint Intake (17)
- Unlawful search (2)
- Unlawful seizure/false Arrest (1)
- Neglect of Duty (1)

The remaining ten audits addressed the following:

- Discourtesy (1)
- Excessive force (1)
- Neglect of Duty (6)
- Theft (2)

In its meta-audit of the OIG's work, the Monitor randomly selected and reviewed a total of 14 audits. In most instances, the Monitor agreed with the conclusions reached by the EES. However, the Monitor disagreed with the analysis and/or conclusions reached by the EES in four integrity audits:⁶⁰

- For two audits testing for unlawful seizure and excessive force, respectively, the Monitor concluded that the audit scenarios were not adequately designed to assess officer conduct; however, the Monitor agreed with the EES' dispositions.
- For one audit testing for complaint intake, the Monitor concluded that the EES should also have included an allegation of false statements in addition to formulating an allegation for failure to take a complaint.
- For one audit testing for complaint intake, the Monitor disagreed with the EES disposition of *Pass Substandard*. Based on the information contained in the audit, specifically the officer's complaint history, the Monitor concluded this audit should have been classified as *Fail*.

⁵⁹ The EES completed a total of 47 audits during the second calendar quarter of 2008, comprising 33 complaint intake audits and 14 integrity audits.

⁶⁰ The EES, at the conclusion of each audit, rates the audit as a *Pass*, *Pass Substandard*, *Fail*, *Inconclusive*, or *Attempt*. A *Pass Substandard* indicates that although the officer's actions, overall, met the minimum requirements, areas for improvement were nonetheless identified requiring action, which in most instances is training. An *Inconclusive* indicates there was insufficient evidence to support a conclusive finding. An *Attempt* indicates that either an audited officer did not respond to the scenario or the officer did not interact in a manner that afforded effective examination of their conduct.

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

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

Subparagraphs 128(2), 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 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).

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

During the quarters ending December 31, 2006 and December 31, 2007, the Monitor conducted only limited reviews of the *ABC Reports Audits* issued by AD, as the *ABC Reports Audits* issued in 2004 and 2005 were in compliance and many of the paragraphs the audits reviewed were also found to be in compliance. The Monitor did not identify in its limited review of these audits anything that would suggest that paragraphs 128(2) and 131c-2 should be actively monitored or that the quality of such audits varied significantly from prior compliant *ABC Reports* audits. Consequently, the Monitor concluded that future audits of ABC reports require only limited reviews to ensure there are no significant changes in AD’s findings.

Results of the Monitor's Limited Review

During the current quarter, the Monitor received AD's subparagraph 128(2) *ABC Reports Audit* dated September 28, 2008. The Monitor reviewed the report to identify if there were any significant changes in findings from prior compliant audits of this topic.

In this audit, AD's finding were consistent with prior audits of this paragraph and AD concluded that the Department continues to fail to achieve compliance with subparagraph 70b, as well as two other policy and procedures objectives⁶¹ and the post-incident supervisory review objective required by subparagraphs 70a and 128(2). AD did not implement the Monitor's recommendation from reviews of prior *ABC Reports Audits* to assess significant anomalies that involve both an officer and a supervisor under both the specific objective related to the anomaly and the supervisory oversight objective.⁶²

Based on our limited review, the Monitor did not identify any issues to suggest that the quality of AD's *ABC Reports Audit* dated September 28, 2008 varied significantly from prior compliant audits of this topic or that subparagraphs 128(2) or 131c-2 should be actively monitored. As a result, the Monitor concludes that its prior findings of compliance with each of the aforementioned subparagraphs stand.

Subparagraph 129i – Categorical Use of Force Investigations Audit

Subparagraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the investigations. Subparagraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, 82 and 83; in addition, paragraphs 55 to 59 and 61 to 65 are related to this audit.

Background

Commencing in the 2003/2004 fiscal year, AD split its CUOF investigations review into two separate audit reports in order to address the requirements of paragraph 129i: an audit report

⁶¹ AD concluded that the Department did not adequately follow Departmental policies to document medical treatments and to document and /or allow a juvenile to make two telephone calls within an hour of being taken into custody.

⁶² AD disagrees with the Monitor's recommendation that anomalies that involve both an officer and a supervisor should be assessed under both the specific objective related to the anomaly and the supervisory oversight objective. The Monitor notes that implementation of this recommendation would only further lower AD's assessment of the Department's non-compliance with supervisory oversight. The Monitor had also recommended that AD conduct additional reviews of documentation related to paragraph 73 to confirm that the individual who signed the detention log was independent. AD indicated they did not review this additional documentation due to the low risk in this area. After conducting additional reviews of the detention logs and supporting documents, the Monitor now concurs with AD's assessment.

covering specific systems-related and process issues and a separate audit report covering the qualitative requirements for CUOF investigations.⁶³ For reporting purposes, the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations.

The Monitor determined that AD's *CUOF Systems Audits* have been in compliance with the requirements of the Consent Decree since the quarter ending September 30, 2004. AD's *CUOF Investigations Audits* have been in compliance during the quarters ending September 30, 2006 and September 30, 2007.⁶⁴ As a result, the Monitor concluded that the Department achieved substantial compliance with the Consent Decree requirements addressed by both the *CUOF Systems Audit* and the *CUOF Investigations Audit*. Given this compliance assessment and the lower risk associated with the *CUOF Systems Audits*, the Monitor classified the *CUOF Systems Audits* as inactive during the balance of the extension. Although the Department achieved substantial compliance with the requirements addressed by the *CUOF Investigations Audits*, because the investigation of uses of force by Department personnel is a critical element of the Consent Decree, the Monitor concluded that limited reviews of AD's *CUOF Investigations Audits* are required during the balance of the extension.

Results of the Monitor's Limited Review

During the quarter ending September 30, 2008, the Monitor conducted a limited review of AD's *CUOF Investigations Audit Report* dated June 25, 2008 and the related audit work plan and audit matrix. The main purpose of the Monitor's limited review was to determine if AD used the same methodology as it had in prior compliant *CUOF Investigations Audits* and if AD had arrived at similar conclusions in relation to the Department's compliance with the Consent Decree. In addition, the Monitor compared AD's compliance assessments of the substantive paragraphs with the Monitor's assessments, conducted during the quarter ended June 30, 2008, for the same substantive paragraphs. Lastly, for seven investigations in AD's sample, the Monitor compared AD's findings with the findings of the Monitor's subject matter experts' review of the same CUOF investigations for compliance with paragraph 80 and held discussions with the OIG in relation to these investigations.

The Monitor found that, with the exception of adequacy of the investigation objective, which changed from non-compliance to compliance, AD's *CUOF Investigations Audit Report* findings for each objective were generally consistent with prior years' findings and the audit was based upon the same methodology used in prior compliant audits. Consequently, the Monitor focused its review on areas that would affect the adequacy of the investigation. One such area was AD's

⁶³ The *CUOF Systems Audit* assesses the requirements of 14 paragraphs: 51 a/d, 55, 56, 58, 59, 61, 63, 64, 65, 67, 69, 83 and 147. Additionally, it assesses portions of paragraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively. The *CUOF Investigations Audit* assesses the requirements of paragraphs 57, 62, 80 and 82 and the remaining requirements of subparagraphs 128(3) and 129i.

⁶⁴ The OIG also concluded that AD's *CUOF Systems Audit Reports* and *CUOF Investigations Audit Reports* issued in 2006 and 2007 were complete, performed in a quality manner, and the findings were supported.

identification of possible Miranda issues in interviews conducted by RHD investigators in connection with two CUOF investigations. This was reported by AD as “Other Related Matters” rather than assessed as part of the adequacy of the investigation. The Monitor also identified other potential concerns with these investigations and how the Department handled issues in relation to these interviews. As a result, in its Report for the Quarter Ending September 30, 2008 the Monitor concluded that further review was necessary and withheld a determination of compliance until the Monitor completed its review of two additional investigations. The Monitor has now completed this additional review and did not identify any issues other than those outlined in the Monitor’s prior report. In addition, the Monitor concurs with AD’s reporting of Miranda issues as an “Other Related Matter” rather than including Miranda Issues in its assessment of adequacy, as this is consistent with how AD has reported these concerns in the past. The Monitor also concurs with the Department’s identification and handling of concerns with the way that RHD conducted interviews in these investigations.⁶⁵

Based on our limited review, the Monitor did not identify any issues to suggest that the quality of AD’s *CUOF Investigations Audit Report* dated June 25, 2008 varied significantly from prior compliant audits of this topic or that subparagraphs 129i should be actively monitored. As a result, the Monitor concludes that its prior findings of compliance with this paragraph stands.

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

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

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

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

As identified in prior Monitor’s reports, the audit required by subparagraphs 131a, f and g must include, at a minimum, the following elements:

- a. The audit should assess and report on the work product of all gang units (referred to as GED units), including an analysis of trends or patterns among officers, supervisors and/or areas

⁶⁵ RHD is no longer allowed to conduct interviews in relation to CUOF investigations. Additionally, there were personnel changes made within LAPD to better oversee RHD.

whose work product appears to contain indicia of untruthfulness or other forms of misconduct, including breaches of the law, LAPD policies and procedures, or the Consent Decree; or whose work product otherwise merits further review.

- b. The audit should assess and report on the work product of the bureau gang coordinators, specifically their subparagraph 106h inspections (referred to as the “BGC inspections”).
- c. The audit should assess and report on the findings from any paragraph 128 audits or BGC inspections which appear to contain indicia of untruthfulness or other forms of misconduct by any GED units or individuals, including breaches of the law, LAPD policies and procedures, or the Consent Decree; or which otherwise merits further review.

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

Background

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

During the quarter ending December 31, 2005, the Monitor completed its review of AD’s *GED Work Product Assessment Summary* dated September 29, 2005 and concluded that the Department was in non-compliance with subparagraph 131a. While AD included the results of the CAPAs and the paragraph 128 audits in its assessment, AD’s *GED Work Product Assessment Summary* did not assess and report on the BGC inspections and, therefore, did not audit the work product of the unit as a whole. Furthermore, it did not provide the type of detail and analysis required by subparagraphs 131a, f and g regarding any trends or anomalies that occurred among officers and supervisors or their units as to whether the patterns were training issues or serious risk management issues.

During the quarters ending December 31, 2006 and September 30, 2007, the Monitor reviewed AD’s *GED Work Product Assessment Summary* dated September 28, 2006 and Phase II report dated June 22, 2007, and elected to withhold a determination of compliance with subparagraph 131a, because AD completed a new *GED Work Product Assessment Summary* on September 26, 2007 using a new methodology.

During the quarter ending March 31, 2008, the Monitor completed its review of AD's *GED Work Product Assessment Summary* dated September 26, 2007 and concluded that while it contained the analyses of the units based on the CAPA findings, it was non-compliant as it did not address or report on the findings for gang units from the paragraph 128 audits; nor did it include any assessment of the work product of the bureau gang coordinators and specifically, whether or not the minimum number of BGC Inspections had been completed; nor did it assess and report on whether or not the findings of the BGC inspections appeared to be flawed or generally reliable based on a comparison of the inspections' findings and AD's findings in similar audits.

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* dated September 29, 2008, which summarized the findings from the 20 most recent CAPAs issued between March 2005 and August 2008;⁶⁶ the findings from AD's seven paragraph 128 audits issued between March 2007 and March 2008; and the 11 BGC inspections issued between November 2007 and June 2008. The Monitor also reviewed AD's supporting work papers and work papers provided by the OIG from its review of this audit.

AD found that there were no identifiable patterns of at-risk practices in the work product of the officers evaluated in this audit (Objective 1). AD also concluded that 5,017 of 5,895 reports (85%) met the standards for all tests in all categories (Objective 2). Lastly, in regards to the BGC Inspections, AD concluded that since November 2007, the Department has surpassed the minimum number of BGC Inspections required to be issued and that the BGC Inspections have undergone several iterations and improvements in sampling methods, methodologies and reporting.⁶⁷

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

- AD appropriately concluded in objective 1 that there were no patterns between officers or pairs of officers.
- In its report, AD indicated that it reviewed all paragraph 128 and 129 audits completed in fiscal year 2007/2008. However, AD in fact used the paragraph 128 audits issued between

⁶⁶ These CAPAs were completed by AD during the period March 2005 to August 2008, and cover the gang unit work product of all GED units for the period July 25, 2004 to March 29, 2008. AD selects different areas to review each quarter; two of these reports were issued in 2005; two were issued in 2006; five were issued in 2007, and 11 were issued in 2008. The four LAPD areas with the oldest audit reports (2005 and 2006) were re-audited in 2008, but such findings could not be addressed in the current *GED Work Product Assessment Summary* because the underlying 2008 reports were not issued until the quarter in which AD issued this *GED Work Product Assessment Summary*.

⁶⁷ The BGC Inspections provide information to management to monitor and assess GED operations and assist AD in identifying risk areas that warrant auditing.

March 2007 and March 2008, and did not include the findings from its *Confidential Informant Control Package Audit*, *Categorical Use of Force Systems Audit*, and *NCUOF Reports Audit*, all of which were issued in June 2008.⁶⁸ While AD's *Confidential Informant Control Package Audit* and *Categorical Use of Force Systems Audits* did not have any findings related to GED units, the *NCUOF Reports Audit* did include 31 non-compliant findings in relation to the GED Units, which were not included in the *GED WP Audit*.⁶⁹

- As described above, AD concluded in objective 2 that 5,017 of 5,895 (85%) reports met the standards for all tests for all categories. This finding is of limited value for the following reasons.
 - While the audit report states the conclusions are a summary of the findings from the paragraph 128 audits and the CAPA audits, it did not provide any details as to which reports were included in this analysis. The Monitor identified that this total number includes all of the arrest reports, use of force reports, search warrants, detention logs, DFARS, GED Supervisor Daily reports, and performance evaluations used in the different audits.⁷⁰ Certain of these reports were used to assess more than one objective; this is particularly true for arrest reports. However, AD reported only the cumulative number of reports that met the standards for all tests combined, rather than reporting the findings for each category of tests separately as they did in the *GED Work Product Assessment Summary* issued December 2007. As a result, AD counted some of the reports three times, which distorted the total number of reports and the number of reports that met the standards.
 - AD did not provide any information on the 15% of the reports that did not meet the standards, so it is unknown whether the reports contained material concerns or if there were certain areas that had more problems than other areas.⁷¹
 - While the Monitor did not identify any areas where AD missed a risk issue, AD only drew one conclusion in relation to its assessment of whether or not GED units adhered to the law, Department policies and procedures, and the Consent Decree. Because the findings were aggregated in such a way, it is difficult to identify what issues were

⁶⁸ AD indicated they wanted to include reports that had been reviewed by both the OIG and the Monitor; however, by doing this AD missed using the most recent data in its assessment.

⁶⁹ The Monitor recognizes this is only 3.4% of the total number of anomalies and likely would not have a significant effect on the overall findings, but AD should use the most current data available.

⁷⁰ These objectives from the CAPAs included an assessment of patterns and at-risk practices, an assessment of work product, an evaluation of supervisory roles and conduct, an evaluation of gang intelligence information, and an evaluation of the criminal complaint process.

⁷¹ For Objective 1, AD identified there were 919 instances of non-compliance but, in fact, only approximately 300 were medium to high risk instances. The Monitor suspects that similarly, many of the reports that did not meet the standards for objective 2 contained only administrative concerns. It would have been beneficial to the Department if this information had been provided.

included in the data and where the Department is and is not meeting the standards or if some areas have more problems than other areas.⁷²

- As listed above, AD's analysis is based on findings from varying reports, each of which has findings that differ in their significance to the Department. If AD had provided additional detail regarding its findings, it would have provided the Department with more information to better assess areas that need additional support or review.
- In the last section of the report, AD did not identify the analysis of the BGC inspections as a separate objective, but rather included these findings at the end of the audit report.⁷³ The Monitor's concern is that by not including these results as an objective, AD is effectively treating the BGC Inspections in a manner similar to its treatment of "Other Related Matters" on other audits, thereby portraying the BGC Inspections as less significant than the other work product of the GED units.
- AD reported that the Department met the minimum number of required inspections. While true, this conclusion was based upon work papers that contained incorrect dates and as such understated how often each area had been inspected.
- AD did not provide an assessment of whether or not the BGC Inspections' findings appeared to be flawed or reasonably reliable based on a comparison of their findings to the findings from AD's audit of similar topics. The Monitor identified that the findings in the two Inspections related to Search Warrants were generally consistent with AD's findings, except in the area of supervisory oversight. Specifically, the first inspection concluded that only approximately 10% of the warrants had concerns in relation to post-incident supervisory oversight and the second inspection concluded that none of the warrants had concerns in relation to such oversight; however, AD's *Warrant Applications and Supporting Affidavits Audit*, dated December 28, 2007 concluded that the Department's compliance rate in relation to post-incident supervisory oversight was only 39%. This significant difference was neither identified nor evaluated by AD to determine if the inspections' testing of supervisory oversight was flawed.
- In its Report for the Quarter Ending September 30, 2008, the Monitor identified a number of concerns with the BGC inspections. While some of these concerns resulted from the Monitor conducting a meta-audit of the inspections, others were readily identifiable by reviewing the inspection reports and comparing the findings in such reports to the attached appendices. AD should have identified at least the readily apparent concerns, but did not.

⁷² In the *GED Work Product Assessment Summary* issued in September 2007, AD provided comparisons between units and areas. AD indicated they did not do that in the current evaluation as this detail confused the areas. However, the Monitor notes that AD intends to issue a CAPA summary, which includes a comparison between areas, so it is unclear why this comparison was not included with this report.

⁷³ AD indicated they did this because it was consistent with how they have reported findings in relation to the BGC Inspections in the past and the Monitor has not raised a concern about this. While AD is correct, in that we have not identified it as a concern in the past, in this report where there were limited findings, the fact that AD treated the findings in relation to the BGC Inspections in a different manner than the rest of the report was more noticeable.

To summarize, in order to meet the requirements of subparagraph 131a, f and g, the audit must include, at a minimum, the three elements described in the introduction to this section. After reviewing AD's *GED Work Product Assessment Summary* dated September 29, 2008, the Monitor has the following concerns:

- Although AD's *GED Work Product Assessment Summary* included an analysis of trends or patterns among officers and supervisors and appropriately concluded there were none, it did not report on the nature of the concerns arising from the paragraph 128 audits and the CAPAs that existed among areas or units, and certain paragraph 128 findings were excluded from the scope of AD's review.
- Although AD's *GED Work Product Assessment Summary* assessed whether or not the Department completed the required number of BGC inspections, it did not assess or report whether the inspection findings appeared to be flawed or reasonably reliable.⁷⁴

Based on the foregoing, the Monitor finds the *GED Work Product Assessment Summary* in non-compliance with the requirements of subparagraph 131a.

B. INSPECTOR GENERAL REVIEWS & AUDITS

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

During the first five years of the Consent Decree, the OIG developed a professional audit team that includes police performance auditors and special investigators who have the expertise to ensure the OIG meets its mandate. During the first two years of the extension, the OIG made significant strides in successfully implementing its role by completing 33 timely and effective meta-audits, as required by paragraph 135, that evaluated the quality, completeness and findings of the audits completed by AD and the EES.⁷⁵ During this same period, the OIG conducted four independent reviews of complaints and NCUOF investigations that the Monitor concluded were quality reviews. Lastly, since the quarter ending June 2006, based on the quality reviews the OIG prepared for the Police Commission, the Monitor found the OIG in compliance with paragraph 136 requirements to review and report their findings for CUOF incidents.⁷⁶ Each of these reviews provided insightful comments, conclusions and recommendations to the Police Commission.

⁷⁴ AD disagrees with providing this information as it does not consider the BGC Inspections as part of the GED Work Product. However, as they provide an assessment of the GED Work Product, the Monitor believes these findings need to be considered as part of this audit.

⁷⁵ In the five-year period prior to June 30, 2006, the OIG issued 18 quality reviews.

⁷⁶ The Monitor has conducted four reviews of this paragraph, one every six months, since June 2006.

Based on the OIG's achievement in conducting quality reviews of AD and EES audits, NCUOF investigations, complaints, and FID's CUOF investigations, the Monitor concluded in July 2008, that the Department is in substantial compliance with paragraphs 135 and 136, and these paragraphs no longer required active monitoring. The Monitor believes that if the quality of the OIG's reviews continues, the OIG will be in the position to step into the Monitor's role in June 2009 and serve as the primary oversight body of the LAPD. Consequently, the Monitor will be conducting limited reviews of the Department's compliance with subparagraph 135b and paragraph 136 during the remainder of the extension period. The primary purpose behind these limited reviews is to keep abreast of any changes in AD's and EES' reports and the Departments' complaint and use of force investigations.

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. From the inception of the Consent Decree to the end of the second year of the extension (the quarter ending June 30, 2008), the OIG completed a total of 51 quality reviews.⁷⁷ During a limited review of the OIG's paragraph 135b reviews of AD's audits or the EES audits, conducted during the quarter ending September 30, 2008, the Monitor did not identify any areas of concern that suggested that the quality of the reviews had changed from prior compliant reviews.

Results of Monitor's Limited Review

During the current quarter, the Monitor conducted a limited review of the following OIG reports:

- OIG's November 17, 2008 review of *EES' Quarterly Report for the Second Quarter 2008* (paragraphs 97 and 127);
- OIG's October 1, 2008 review of AD's *NCUOF Reports Audit* (subparagraphs 128(3), 129ii);
- OIG's September 9, 2008 review of AD's *Confidential Informant Control Packages Audit* (subparagraph 128(5)); and
- OIG's October 1, 2008 review of AD's *CUOF Investigations Audit* (subparagraph 129i).

⁷⁷ Eighteen quality reviews were completed in the first five years of the Consent Decree, and 33 quality reviews were completed during the first two years of the extension of the Consent Decree.

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

- The OIG reviewed 31 EES audit packages (14 "integrity" and 17 "complaint intake") of the 47 audits that were included in the *EES' Quarterly Report for the Second Quarter 2008*. The OIG concluded that EES' audit packages were complete, as they contained all of the necessary information to review the audits. Although the OIG concluded that the audits were properly planned and executed, they identified concerns with the findings related to two specific integrity audits and four random telephonic complaint intake audits.⁷⁸ Lastly, the OIG disagreed with the EES' *Pass* classification for three complaint intake audits and believes *Pass-Substandard* was more appropriate. The Monitor reviewed all 14 integrity audits reviewed by the OIG and, with one exception, concurred with the OIG's findings. Regarding the exception, the Monitor believes that an integrity audit should have been classified as *Fail* rather than a *Pass-Substandard*. For two other integrity audits, while the Monitor agreed with the OIG's findings, the Monitor questioned why the OIG did not make additional recommendations. For example for one integrity audit, the Monitor concurred with the OIG that the officer should be re-audited; however, the Monitor questions the suitability of the audit scenario used. For another integrity audit, the Monitor believes that after concluding it was a *Fail*, the EES should have included additional information in the complaint form; this was not recommended by the OIG.⁷⁹
- As indicated in the Monitor's report for the quarter ending September 30, 2008, the OIG concluded that AD's paragraph 128(3) and 129ii *NCUOF Reports Audit* was properly planned, conducted and supervised; that it used a complete population, reported all relevant issues, and addressed all of the required Consent Decree paragraphs; and generally was a compliant audit. The OIG concluded that AD's paragraph 128(5) *Confidential Informant Control Packages Audit* was complete, that it was performed in a quality manner, and that its findings were well supported. Lastly the OIG concluded that AD's subparagraph 129i *CUOF Investigations Audit Report* contained a thorough analysis of the CUOF investigations and the audit was complete, its findings were supported, and it was a quality audit. The Monitor concurs with the OIG's findings. The Monitor did not identify any areas of concern in these reviews.

Based on our limited review and the foregoing findings, the Monitor did not identify any issues that suggest that subparagraph 135b should be actively monitored or that the quality of these reviews varied significantly from prior compliant reviews of these topics.

⁷⁸ The OIG disagreed with the location for one specific integrity audit and with how the undercover officer handled a call in another integrity audit. The OIG recommended that EES re-audit both officers. Additionally, the OIG disagreed with the scenario used in one telephonic complaint intake call and with how the undercover officer handled the other three complaint intake calls.

⁷⁹ The OIG believes the additional information regarding the officer's actions will be identified during the complaint investigation.

Paragraph 137 – OIG Audit of the Use 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 relating to supervising and auditing the performance of specific officers, supervisor, managers and LAPD units as well as the LAPD as a whole.

Background

Commencing in the quarter ending September 30, 2007, the OIG split its paragraph 137 audit into two separate reports based on the type of action items expected at the time the first audit report was completed. These include a *TEAMS II - Phase I* report, which addresses higher risk threshold activated system-generated action items (AIs), the Department's handling of disputed data corrections in TEAMS II, and employees' access to TEAMS II and a *TEAMS II - Phase II Report*, which addresses SAIs.⁸⁰

For reporting purposes, the Monitor similarly split its evaluation of paragraph 137 into two separate evaluations as follows:

- paragraph 137 – OIG's *TEAMS II, Phase I AI Audit* of Threshold Activated System-Generated Action Items; and
- paragraph 137 – OIG's *TEAMS II, Phase II SAI Audit* of Routine System-Generated and Supervisor-Generated Action Items.

The Monitor found the OIG's *TEAMS II Audit, Phase I AI Audit* of threshold activated system-generated action items dated November 6, 2007,⁸¹ to be a compliant audit.

Current Assessment of Compliance

In order to assess the Department's compliance with paragraph 137 during the current quarter, the Monitor reviewed the OIG's *TEAMS II, Phase I AI Audit* report dated October 2, 2008, audit work plan and supporting work papers. Additionally, the Monitor selected samples for two objectives that reviewed the dispositions of action items during the period January 1, 2008 to

⁸⁰ During the period when the OIG was working on this Phase II audit that reviewed supervisor-generated action items, TEAMS II Bureau recognized, as did the OIG, that supervisors were not generating the action items associated with performance evaluations, promotions and transfers. Consequently, the TEAMS II Bureau automated TEAMS II so that action items related to these three activities became automated system-generated action items. These action items are routine and involve less risk than those generated as a result of an officer exceeding a threshold. These lower risk routine system-generated action items will be assessed by the OIG in the next *TEAMS II, Phase II Audit*, along with any supervisor-generated action items. The threshold system-generated action items will continue to be reviewed in OIG's *TEAMS II, Phase I Audit*.

⁸¹ Although this report was dated after September 30, 2007, the Monitor reviewed and reported on it with the reports that were issued during the quarter ending September 30, 2007.

May 25, 2008⁸² and reviewed the OIG's work papers for three objectives. One of these objectives reviewed the timely completion of action items, the second objective reviewed how TEAMS II dealt with disputed data corrections and the last objective reviewed the organizational performance assessment.

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

- The OIG appropriately concluded that the supervisors' narratives supporting the dispositions of action items evidenced good-faith comprehensive reviews of the action items, and the final dispositions were correctly reflected on the officers' TEAMS II reports. The Monitor agrees that the narratives were significantly improved over the narratives from the audit conducted in 2007, but questioned whether the narratives provided sufficient details in some cases. Specifically, for seven of 24 action items, the documented comments did not sufficiently address the incident or the reasons for the "no action" disposition. The Monitor notes that at the time of both this audit and the prior audit, supervisors were provided minimal guidance in relation to the amount of detail required to address an action item.⁸³ However, the Department has issued a new special order, Special Order No. 28 dated August 29, 2008, that provides additional guidance regarding the details that a supervisor must provide in order to dispose of an action item, in particular one where the disposition is "No Action." The Department's disposition of these seven action items would not have met the requirements of Special Order No. 28.
- The OIG reported its assessment of action items in relation to subparagraphs 47b and h, but did not assess subparagraph 47a. The OIG concluded that subparagraph 47a only applies to SAIs, which are not addressed in the Phase I audit,⁸⁴ and subparagraph 47b relates to threshold activated AIs. In the opinion of the Monitor's subject matter expert, subparagraph 47a is the beginning of the review process and relates to the requirement for supervisors to review all action items, including both AIs and SAIs, and subparagraph 47b⁸⁵ builds on this initial review, requiring supervisors to undertake a more intensive review of the officers' performance when at-risk behaviors are identified. As a result, the Monitor recommends that the OIG's Phase I audit report include its findings for threshold-activated AI's under subparagraph 47a, as well as subparagraphs 47b and h.

⁸² These samples were selected using a one-tailed test, a 95% confidence interval and an error rate of +/-4%.

⁸³ Special Order 22 stated only that "supervisor must document the extent of the inquiry and provide justification for the course of action."

⁸⁴ Subparagraph 47a states "The protocol shall require that, on a regular basis, supervisors review and analyze all relevant information in TEAMS II about officers under their supervisor to detect any pattern or series of incidents that indicate that an officer, group of officers or an LAPD unit under his or her supervision may be engaging in at-risk behavior."

⁸⁵ Subparagraph 47b states "The protocol shall provide 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."

- The Monitor concurs with the OIG's conclusions that there was evidence that prescribed corrective action was taken as required by subparagraph 47e; that all data correction requests were appropriately approved and accurately updated as required by subparagraph 47j(2); that the first organizational performance assessment was thorough as required by subparagraph 47k; and that the reviews of the action items were not completed on a timely basis as required by subparagraph 47l.

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

Paragraph 138 – OIG Use of TEAMS II

Paragraph 138 requires the OIG to periodically use TEAMS II to conduct audits of the LAPD and to review LAPD-specific unit and officer-specific audits conducted by the LAPD. Such audits and reviews should include procedures that:

- a. examine and identify officers demonstrating at-risk behavior as determined by their history of administrative investigations, misconduct complaints, discipline, uses of forces, criminal or civil charges or lawsuits, searches and seizures, racial bias, or any other matter requested by the Police Commission, or subject to Charter section 573, any other improper conduct or at-risk behavior the OIG has reason to believe exists or
- b. examine and identify at-risk practices or procedures as determined by trends within a unit or between and among units using the criteria in subparagraph 138a.

Background

The Monitor's only review of paragraph 138 occurred during the quarter ending September 30, 2008, at which time the Monitor withheld its determination of compliance since the OIG and the Monitor had not finalized defining the requirements of this paragraph.

Current Assessment of Compliance

During the current quarter, the Monitor continued its discussions with the OIG regarding the requirements of paragraph 138 and reviewed documents provided by OIG staff to support how they were using TEAMS II in their assessments of audits, uses of force, complaints and special projects.

The Monitor's findings based on this discussion and review are as follows:

Subparagraph 138a

- The Monitor confirmed that the OIG appropriately used TEAMS II on a regular basis in its paragraph 135b reviews of AD and EES audits; in its paragraph 136 NCUOF and complaints audits and CUOF investigation reviews; in its paragraph 89 quarterly discipline reviews; and in its paragraph 92 annual retaliation reviews.⁸⁶
- The OIG also reviews TEAMS II to identify if there are any patterns of at-risk behavior relating primarily to individual officer's complaints. The Monitor suggests the OIG review the entire work history of the officer when looking for patterns.
- The Monitor identified that OIG staff also used TEAMS II when they were reviewing the individual officer's information related to the McArthur Park incident and when they reviewed the Central Area's Safer Cities Unit as requested by the Police Commission.

Subparagraph 138b

- In connection with paragraph 138b, while the review of the McArthur Park incident and the Central Area's Safer Cities Unit meets the requirements of paragraph 138a, these reviews do not fully meet the requirements of 138b due to their focus on individual officers rather than patterns within a unit or between and among units.
- Subparagraph 138b requires the OIG to conduct their own reviews of trends within a unit or between and among units. Although the OIG reviewed the Department's own organizational assessment,⁸⁷ it has not conducted its own review of patterns and at-risk behavior. The Monitor encourages the OIG to use TEAMS II to conduct its own examinations of at-risk practices in a similar manner to the requirements of sub-paragraph 47k.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 138a. Since the Monitor and the OIG have only recently defined all aspects that are required for the OIG to meet the requirements of subparagraph 138b, the Monitor is withholding its determination of compliance with this subparagraph.

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

⁸⁶ The Annual Retaliation Review for 2008 has been delayed while the OIG completed its McArthur Park review, which the OIG and all parties to the CD, including the Monitor, believed to be of higher priority. This review is almost complete and will be issued shortly. Therefore the Monitor reviewed the working papers relating to the OIG's Annual Retaliation Review in order to arrive at its conclusion regarding the OIG's use of TEAMS II during this review.

⁸⁷ The OIG's review of the Department's organizational assessment is required by paragraph 137.

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

The only provisions of this section of the Consent Decree with which the Department had not achieved substantial compliance prior to the extension were those requiring the Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents (subparagraph 142b) and to review specific audits required under the Decree (subparagraph 143a). The Department achieved compliance with these provisions during the first two years of the extension. As a result, the Monitor will not be actively monitoring any of the provisions from this section of the Consent Decree during the remainder of the extension period.

D. GENERAL

Paragraph 154 is the sole paragraph in this section of the Consent Decree. This paragraph requires the City and the Department to take appropriate timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Commission, the IG, and the Department under the Consent Decree. Since the implementation of the Consent Decree, numerous reports have been issued that identify recommendations to correct deficiencies at various levels within the LAPD.

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.

Paragraph 154 – Recommendations to Improve Deficiencies

Background

The Monitor has found the Department in compliance with paragraph 154 since the quarter ending December 31, 2004; as a result, during the Monitor's review in July 2008, the Monitor concluded that only a limited review of the Department's compliance with this paragraph was required during the remainder of the extension period.

Results of Limited Review

During the current quarter, the Monitor reviewed the four quarterly⁸⁸ *Audit Recommendations Status Reports* issued in 2008 to ensure that new recommendations from all specified audits listed on the Annual Audit Plans for 2007 and 2008 and the first quarter of 2008/2009 are included in CRID's audit recommendation status reports. Additionally the Monitor compared the status of prior recommendations in this year's specified audits to the status reports. Lastly the Monitor reviewed the OIG's tracking database to ensure that EES recommendations are still being tracked.

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

- Recommendations are being tracked by CRID and appropriately closed out as they are implemented with the Police Commission having final approval over their closure.
- Any apparent inconsistencies between the audit reports and the *Audit Recommendations Status Reports* are due to either timing issues or input errors (recommendations that are contained in the database but accidentally not included in the status reports).⁸⁹

Based on our limited review and the foregoing findings, the Monitor did not identify any issues that suggest that paragraph 154 should be actively monitored or that the quality of these quarterly status reports varied significantly from prior quarterly status reports.

⁸⁸ Issued March 5, 2008; June 13, 2008; September 9, 2008; and December 10, 2008.

⁸⁹ The Monitor confirmed that the Commission was provided with supporting documentation for each recommendation that was in the database but accidentally not included in the status reports.

V. CONCLUSION

We continue to be pleased with the progress being made to achieve substantial compliance with those paragraphs that have not yet reached that status. As noted in the Focus Issue, as we near the end of the three-year extension, we will be meeting with the parties in order to develop a plan to best ensure that the interests of all stakeholders are addressed at the end of the extension period and that the reforms achieved to date do not erode.