

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



Kroll

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

**REPORT FOR THE QUARTER ENDING
DECEMBER 31, 2004**

Issued February 15, 2005

REPORT CONTENTS:

INTRODUCTION.....1

EXECUTIVE SUMMARY2

I. FOCUS ISSUES.....3

 A. THE DEVIN BROWN INCIDENT3

 B. TEAMS II DELAYS4

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY5

 A. TEAMS II [Computer Information System].....5

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW10

 A. Use of Force.....10

 B. Search and Arrest Procedures12

 C. Initiation of Complaints15

 D. Conduct of Investigations16

 E. Adjudicating Investigations20

 F. Discipline & Non-Disciplinary Action20

 G. Professional Standards Bureau21

 H. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops.....23

IV. MANAGEMENT OF GANG UNITS.....26

V. CONFIDENTIAL INFORMANTS.....34

VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS34

VII. TRAINING.....36

 A. Field Training Officers Program.....36

 B. Training Content36

 C. Supervisory Training37

VIII. INTEGRITY AUDITS38

 A. Audit Plan40

 B. Audits by the LAPD.....41

 C. Inspector General Reviews & Audits59

**IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR
GENERAL65**

 A. Operations of the Police Commission.....65

 B. Operations of the Inspector General68

 C. General.....68

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION.....72

XI. CONCLUSION.....74

APPENDICES:

- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending December 31, 2004
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

INTRODUCTION

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 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. This, the Monitor's fourteenth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending December 31, 2004.

For the provisions of the Consent Decree evaluated in this quarter, the Monitor assessed primary, secondary, and functional compliance with the requirements of the Consent Decree (as described in the Monitor's Report for the Quarter Ending September 30, 2002). If the Department is in non-compliance with any of these three definitions of compliance for a paragraph or subparagraph, the Department is in overall non-compliance with that paragraph or subparagraph. The nature of the non-compliance, i.e. primary, secondary or functional, is fully detailed in the applicable section of this report.

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or sub-paragraph of the Consent Decree for the last five quarters, beginning with the quarter ending December 31, 2003.¹ The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. 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.

¹ 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.

EXECUTIVE SUMMARY

During the quarter ending December 31, 2005, the Monitor examined 47 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 29, failed to achieve compliance with 14, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance for the remaining 4 paragraphs or subparagraphs.

Areas of concern identified during the quarter ending December 31, 2004 include:

- Although the Inspector General has taken steps to address its resource-related concerns, due to inadequate resources the Office of the Inspector General remains unable to effectively perform several of its oversight functions.
- Although the Internal Affairs Group has been successful in completing nearly all of its complaint investigations within statutory time limits, the Monitor is concerned about its current staffing level.
- There have been additional delays in the deployment of the TEAMS II early identification system.

During the current quarter, the Monitor determined that the LAPD has achieved full compliance or shown significant improvements in the following important areas:

- LAPD's Audit Division achieved full compliance with the timeliness and qualitative requirements for seven of the audits evaluated by the Monitor in the current quarter.
- Although the LAPD took more than six months to complete its supplemental audits of patterns identified in prior Gang Enforcement Detail work product audits, the Monitor believes such supplemental audits were thorough and complete, and the Monitor supports Audit Division's finding that the patterns originally identified do not represent a risk management concern.
- Audit Division's *Basic Law Enforcement Performance Auditing Course* was recently certified by both the California and Michigan Commissions on Peace Officer/Law Enforcement Standards & Training. This course has now been presented on three separate occasions to sworn and civilian personnel from LAPD's Audit Division and the Office of the Inspector General, as well as police performance auditors and command staff in Detroit, Michigan. The Monitor considers the success of this course to be another milestone in Audit Division's development.

I. FOCUS ISSUES

A. THE DEVIN BROWN INCIDENT

In the early morning hours of February 6, 2005, two officers on routine patrol observed what they believed to be a potentially drunk driver in a maroon Toyota. Minutes later, the driver of that Toyota, Devin Brown, a thirteen year old with no apparent prior involvement with the police, was dead, having been shot by one of the officers after backing the Toyota into the police cruiser.

As we have said previously, while a police department can certainly strive to eliminate these types of incidents through a process of good selection, good policies, good training, and appropriate early identification systems, such as TEAMS II, it is, unfortunately, inevitable that, occasionally, such incidents will occur. That being said, it is imperative that the occurrence of such incidents be met by public confidence that the “system” will deal with such instances appropriately in terms of the investigation, appropriate administrative and criminal prosecution, as well as revision of policies and training, where needed.

The circumstances of the Devin Brown shooting are currently under investigation by the LAPD’s Professional Services Bureau, Force Investigation Division. As with the investigation into the flashlight beating of Stanley Miller, an incident that was the subject of a focus issue in the Monitor’s Report for the Quarter Ending June 30, 2004, the investigation appears to be admirable in all respects. Nevertheless, the occurrence of this shooting just three days after the pronouncement by the Los Angeles District Attorney that he was not going to prosecute any officers involved in the Stanley Miller incident, coupled with the LAPD’s failure to revise policies regarding shooting at moving vehicles after a similar incident one year ago, has threatened to undermine the public’s confidence in the “system.”

The very essence of the reforms envisioned by the Consent Decree is the goal of enhancing public confidence in the LAPD. We believe that it is consistent with the Monitor’s mandate to ensure, as best it can, that this goal is achieved. As exemplified by the quality and transparency of the Professional Standards Bureau / Force Investigation Division investigations of both the Brown and Miller incidents, great strides have, indeed, been made toward restoration of public confidence in LAPD. Yet, when public confidence is shaken, it is crucial that that all available steps be taken in order to address the issues involved. Therefore, without passing any judgment on the propriety of the District Attorney’s decision to decline prosecution on state charges related to the Stanley Miller incident, we urge the City to continue to fully cooperate with Department of Justice in any review of the incident to determine whether there are viable federal charges that should be brought in the matter. Likewise, with respect to the revision of policies relative to shooting at or into vehicles, we urge LAPD to review existing policies with all deliberate speed.

Lastly, as further outlined below, we believe that the completion of TEAMS II is of the utmost importance given its potential of providing early identification of at-risk officers.

B. TEAMS II DELAYS

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. In order to meet this requirement, the City elected to develop four new systems, only one of which is currently operational. Although the City and the Department have been working to develop and implement the other three systems, delays continue to plague their progress. The situation is exacerbated by the fact that delays in the rollout of one of these databases may directly cause delays in the rollout of another. Of course, these delays can also negatively impact the Department's ability to meet the timelines required by the Consent Decree.

Since the inception of the Monitorship, the Monitor has been concerned with the City's ability to complete and implement TEAMS II within the timeframe outlined in the Consent Decree. Indeed, the anticipated milestone of achieving two years of substantial compliance before the scheduled end of the decree in June of 2006 has long passed. While we believe that the City is moving forward as expeditiously as possible and with proper attention to detail, and we are confident that the project will ultimately be completed and implemented, we cannot state with any certainty when this will occur. It is clear that, even if the project was completed according to its current timeline, the Monitor will not be able to determine whether its implementation is substantially compliant with the requirements of the Consent Decree prior to the scheduled expiration of the Monitorship. Ultimately, of course, the Court will need to address this issue. In the interim, the Monitor will continue to assess and report on the progress of the TEAMS II project.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. 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.² In developing a system that meets this requirement, the City elected to develop four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,³ and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis. The Monitor notes that the development of these additional systems substantially exceeds the requirements of the Consent Decree, and commends the City for its efforts. On the other hand, the Monitor also notes that the complexity involved in developing and integrating these additional systems is at least partially responsible for the City's failure to timely develop a TEAMS II system that meets the minimum requirements of the Consent Decree.

The ability to conform to the original timeline for completion of the TEAMS II project has, from the inception of the Monitorship, been very much in question. The Monitor has always recognized the numerous challenges presented by the scope of the TEAMS II project; therefore, the failure of the City to meet the deadlines set forth in paragraphs 50c and 50d while disappointing, is not surprising. As noted in our last few reports, and in the Focus Issue of this report, because the current timetable does not provide the requisite two years of compliance before the scheduled end of the Monitorship, an extension in the Monitorship may be necessary.

That being said, it is nonetheless the Monitor's belief that, at this point in the process, the City is moving forward in as expeditious a manner as possible, with the proper attention to the details so important in projects of this magnitude.

During the current quarter, the following progress was made towards the development of the new system:

- Sierra Systems continued work under the RMIS/UOFS contract. UOFS roll-out, after a delay in the original August 13, 2004 deadline, was scheduled for January 17, 2005, with the pilot group being Central Division. However, concerns that arose during data testing and training

² The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

³ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports regarding pedestrian and motor vehicle stops.

have caused a delay of approximately three weeks to one month. After piloting UOFS in Central Division, UOFS utilization will expand to the rest of Central Bureau and going forward, each DP will see UOFS expansion to a different Bureau.

- A meeting regarding the Use Protocols for RMIS took place on December 7, 2004. LAPD has since received approval from DOJ and will continue going forward to meet and confer. RMIS will be rolled out in a phased deployment, with the RMIS Pilot now scheduled for July 2005 and Department-wide access planned for October 2005.
- The Deployment Period System (DPS) was rolled out as a pilot program in Central and Northeast divisions in January 2005. DPS training for the rest of Central Bureau is currently taking place and the roll-out is scheduled to occur simultaneously with UOFS training and implementation, beginning in March 2005. As with UOFS, each DP will see DPS expansion to a different Bureau beginning with Central Bureau. There is a payroll interface of DPS that is not yet operational and will be tested every two weeks. This interface is essential to further deployment of DPS. If the DPS roll-out is further delayed, UOFS implementation will be negatively impacted.
- The City has begun the building of CMS. Bearing Point is currently working on build 4 of 4. Build 3 was recently completed and is currently being tested. Depending on the volume and content of changes that are required in build 3, the Department-wide roll-out of CMS, which is currently scheduled for May 2005, may experience delays.

In addition to monitoring the progress made towards the development of the TEAMS II system during the current quarter, the Monitor assessed the Department's compliance with selected provisions of paragraph 51, which requires the LAPD to utilize existing databases, information and documents to make certain key personnel decisions until TEAMS II is implemented. The results of our current assessment follow.

Paragraph 51 – Use of Existing Databases to Make Certain Decisions until TEAMS II is Implemented

Paragraph 51 requires the LAPD to utilize existing databases, information and documents to make specified decisions until TEAMS II is implemented.

The decisions specified in paragraph 51 are included in three discrete subparagraphs (51a, b and c); a fourth subparagraph (51d) addresses additional documentation requirements that pertain to the other subparagraphs. The Monitor has elected to break out its compliance assessments for each subparagraph. Our current assessments of subparagraphs 51a and c follow.

Subparagraph 51a – Selection of Officers for Assignment to Critical Incident Investigations Division / Force Investigation Division⁴ or as Internal Affairs Investigators

Subparagraph 51a requires that whenever an officer is selected for assignment to either the CIID/FID or the Internal Affairs Group (IAG) as an investigator, the LAPD shall review the applicable IAG Form 1.80's, and all pending complaint files for such officers, in conjunction with the Officer's TEAMS I record.

Background

As described in the Monitor's Report for the Quarter Ending June 30, 2003, the LAPD outlined the requirements of paragraph 51 in five distinct orders that were published and approved by the LAPD in July 2003.⁵ These Special Orders were provided to the Monitor shortly after they were issued.

The Monitor last assessed compliance with subparagraph 51a during the quarter ending December 31, 2003, at which time the LAPD was found in primary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance⁶ with subparagraph 51a during the current quarter, the Monitor requested and received listings of all investigators assigned to the IAG and the CIID/FID⁷ during the period January 1, 2004 through September 30, 2004. The Monitor reviewed the selection packages for all 11 investigators identified as having been assigned to the IAG and a sample⁸ of 33 of 49 officers identified as having been assigned to the CIID/FID during that time period.

As noted in prior Monitor reports, the LAPD's practice is to loan investigators to the IAG and CIID/FID for a three-month period to assess their performance in conducting criminal and administrative complaint investigations, in the case of the IAG, and UOF investigations, in the

⁴ The Force Investigation Division (FID) was formally known as Operation Headquarters Bureau (OHB) Unit and the Critical Incident Investigations Division (CIID).

⁵ Special Order 23, "Criteria for Transfers/Loans of Sworn Personnel – Established," published July 10, 2003; Special Order 24, "Selection and Assignment to Professional Standards Bureau," published July 10, 2003; Special Order 25, "Field Training Officer Selection and Deselection-Established," published July 10, 2003; Special Order 27, "Selection and Assignment to Gang Enforcement Details," published July 10, 2003; Special Order 30, "Selection and Assignment to Critical Incident Investigation Division," published July 25, 2003.

⁶ There are no secondary compliance requirements for this paragraph.

⁷ The dissolution of CIID and creation of FID necessitated that all FID investigators undergo the selection process.

⁸ The Monitor's sample, which consisted of 33 investigators, was selected using a 95% confidence interval and an error rate of +/-4%. Of the 33 CIID/FID investigators selected for review, one of the officers was dismissed after the three month loan period. This investigator's package lacked the documentation necessary for the Monitor's review, reducing the Monitor's sample to 32 CIID/FID investigators.

case of the CIID/FID. For all selection packages reviewed, the Monitor noted that all of the officers were loaned for three months and evaluated after their respective three-month tours.

Included in each selection package was a questionnaire and interview worksheet completed by both reviewers who administered the oral interview. The questions spanned knowledge of LAPD policy and procedure and included testing the applicant's knowledge of the Consent Decree, particularly as it pertains to misconduct investigations. For all packages reviewed, it was noted that worksheets contained comments on the applicants' knowledge, or lack thereof, of policy and the Consent Decree. Furthermore, all of the applicants' TEAMS reports and CMS reports were included and documented as reviewed.⁹ None of the candidates' histories revealed any complaints, whether completed or pending, that would preclude their service in the IAG or CIID/FID.

Based on the forgoing, the Monitor finds the LAPD in primary and functional compliance with subparagraph 51a.¹⁰

Subparagraph 51c – Transferred Officers

Subparagraph 51c requires that when an officer transfers into a new division or area, the Commanding Officer (CO) shall promptly require the watch commander or supervisor to review the transferred officer's TEAMS I record.

Background

The Monitor last assessed compliance with subparagraph 51c during the quarter ending June 30, 2004, at which time the LAPD was found in functional non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with subparagraph 51c during the current quarter, the Monitor requested and reviewed a list of officers who were transferred to a new division or area during Deployment Periods 9-11, 2004.¹¹ The Monitor then selected a stratified

⁹ It was noted that for some, but not all applicants, the reviewers made notations of the applicant's complaint history during the oral interview. In other packages, a log tracking the progression of the applicant through the process documented the review of TEAMS and CMS. The log also served to document a review of officer histories for compliance with the Consent Decree.

¹⁰ In prior reports (see for example Focus Issue B., Unreliability of TEAMS Data, in the Monitor's Report for the Quarter Ending March 31, 2004), the Monitor noted that TEAMS reports are not always accurate, in that they may not capture all reported UOF attributed to an officer. As explained further in subparagraph 51c, going forward, the Monitor's compliance assessments will include a further evaluation of whether the LAPD reviewed applicants' complete UOF history.

¹¹ Deployment Periods 9-11, 2004 covered the period August 22 – November 13, 2004.

sample of transferred officers from this list and requested and reviewed materials related to Special Order 23, including TEAMS I reports and TEAMS Evaluation Reports (TERs).

The Monitor determined that TERs and TEAMS Reports were included in 100% of the documentation for the transferred officers reviewed. In addition, each TEAMS Reports was dated within ten working days of the transfer. However, the Monitor determined that the TERs contained supervisors' and commanding officers' signatures, indicating review of the TEAMS I reports, for only 80% of the transferred officers reviewed. In addition, the Monitor queried the Use of Force Review Section and determined that 7% of the transferred officers reviewed were involved in additional UOF that were not included on their TEAMS I reports.¹²

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with subparagraph 51c.

Proposed Recommendation

Given the deficiencies in the TEAMS I report, the LAPD must take steps to ensure that officers' complete UOF histories are considered when evaluating their records. To accomplish this, the Monitor recommends that supervisors query the UOFRS for additional UOF that may not be listed on officers' TEAMS I reports.

¹² The LAPD did not check with the UOFRS to determine if any additional UOF were omitted from the TEAMS I reports. This was not factored into the Monitor's conclusion in this current assessment of compliance. However, given the known deficiencies in the TEAMS I reports, the LAPD must take measures to ensure that officers' complete UOF histories are considered when evaluating their records (see related proposed recommendation, above); failure to do so will impact the LAPD's compliance with paragraph 51 in future compliance assessments.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A Categorical Use of Force (CUOF)¹³ is defined by paragraph 13 of the Consent Decree. Any use of force (UOF) that falls under this definition is subject to certain paragraphs of the Consent Decree.¹⁴ Administrative investigations of these incidents are the responsibility of the CIID/FID.¹⁵ 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 Non-Categorical. These are also subject to certain paragraphs.¹⁶ Non-Categorical Uses of Force (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.

During the quarter ending September 30, 2004, the Monitor reviewed the LAPD’s compliance with Consent Decree requirements regarding CUOF incident investigations.

During the current quarter, the Monitor assessed the LAPD’s compliance with Consent Decree requirements regarding criminal CUOF investigations and the analysis of a supervisor’s presence or absence at a CUOF incident. The results of our current assessments follow.

¹³ CUOF include an Officer-Involved Shooting with or without a hit, In-Custody Death, Law Enforcement Activity Related Death, Law Enforcement Related Injury requiring hospitalization, Neck Restraint, Head Strike with an impact weapon and a Department canine bite requiring hospitalization.

¹⁴ 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.

¹⁵ Prior to September 2004, the Division responsible for conducting CUOF incident investigations was collectively referred to as the CIID, which was established pursuant to Special Order 39, 2001 – “*Critical Incident Investigation Division – Established*,” approved by the Police Commission, December 11, 2001. Effective August 22, 2004, in a reorganization of the way in which CUOF are handled, CIID responsibilities were transferred to the newly created FID, a unit in the command structure of the PSB.

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

Paragraph 57 – Criminal CUOF Investigations/LAPD Responsibility

Paragraph 57 requires the LAPD to conduct a criminal investigation of CUOF incidents, where the facts so warrant one. Such investigations cannot be conducted by the same unit that is responsible for completing the administrative investigation.

Background

The Monitor last assessed compliance with paragraph 57 during the quarter ending March 31, 2004, at which time the LAPD was found in compliance.¹⁷

Current Assessment of Compliance

During the current quarter, in order to assess compliance with a number of paragraphs, including paragraph 57, the Monitor reviewed and subsequently relied on the LAPD Audit Division's *Categorical Use of Force Investigations Final Audit Report*, dated August 15, 2004, and related workpapers.¹⁸ In this audit, Audit Division identified 55 CUOF incidents that occurred during the time period January 1, 2003 through April 30, 2004 for which investigations were also completed, reviewed by the UOFRB and provided to the Chief of Police by April 30, 2004. From the population of 55 incidents, Audit Division randomly selected 36 for review. Audit Division examined all 36 completed investigations for indications of criminal misconduct, concluding that none of them contained such indications.

During its meta-audit of the CUOF Audit, the Monitor randomly selected and reviewed 17 of the 36 completed investigations reviewed by Audit Division. The Monitor concurred with Audit Division's findings that none of the investigations contained indications of criminal misconduct.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 57.

Paragraph 62 – Analyses of CUOF and Search Warrants

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

¹⁷ There are no primary or secondary compliance requirements for paragraph 57.

¹⁸ The Monitor conducted a meta-audit of Audit Division'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 57. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

Background

The Monitor last assessed compliance with paragraph 62b during the quarter ending December 31, 2003, at which time the LAPD was found in functional non-compliance.¹⁹ At that time the Monitor also noted that the LAPD instituted new forms and logs designed to specifically address the documentation requirements of this paragraph.

Current Assessment of Compliance

In order to assess compliance with paragraph 62b during the current quarter, the Monitor relied on the LAPD Audit Division's *Warrant Applications/Affidavits Audit* dated March 26, 2004.²⁰ Audit Division selected and reviewed a stratified sample of search warrants executed during the period October 15, 2003 through November 19, 2003. Out of a population of 175 warrants, Audit Division reviewed 75 warrant packages. Of the 75 warrant packages reviewed, paragraph 62b was applicable to 49 packages.²¹

For 46 of the 49 packages reviewed, Audit Division determined that an evaluation was completed by the Commanding Officer. However, this analysis occurred within the mandated seven-day period for only 43 of these packages.²² This translates into a compliance rate of 87.8% (43 of 49 packages).

Based on the foregoing, the Monitor finds the LAPD in continued non-compliance with paragraph 62b.

B. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests.

During the quarter ending March 31, 2004, the Monitor assessed both supervisory review of warrants and supervisory review of warrant logs.

¹⁹ The Monitor last evaluated paragraph 62a during the quarter ending September 30, 2004, at which time the LAPD was found in functional non-compliance based on the findings in the Audit Division's *Categorical Use of Force Interim Audit Report* and the Monitor's meta audit of this audit.

²⁰ The Monitor conducted a meta-audit of Audit Division's audit and findings during the quarter ending June 30, 2004, concluding that the audit was complete, accurate and reached appropriate conclusions.

²¹ The remaining 26 warrants related to third party records warrants that do not require the presence of a supervisor.

²² The remaining packages were approved one day late, three days late, four days late, six days late, and two did not identify the date of the approval, precluding any conclusion regarding the timeliness of such approvals.

During the current quarter, the Monitor assessed LAPD compliance with Consent Decree requirements regarding supervisory review of booking recommendations and watch commander inspections of all detainees and arrestees. The results of our current assessments follow.

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

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

- Subparagraph 70a requires that such reviews include a review for completeness of the information contained on the applicable forms and an authenticity review, comprising an examination for "canned" language, inconsistent information, lack of articulation of the legal basis for the action or other indicia that the information on the forms is not authentic or correct.²³
- Subparagraph 70b requires that supervisors evaluate each incident in which a person is charged with interfering with a police officer (California Penal Code § 148), resisting arrest, or assault on an officer 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.

Background

The Monitor last assessed compliance with subparagraph 70a during the quarter ending December 31, 2002, at which time the Monitor found the LAPD in primary compliance, but in secondary and functional non-compliance. The Monitor relied on the findings from the LAPD's *Arrest, Booking and Charging Reports Audit*, dated September 15, 2002 and issued to the Police Commission on October 23, 2002.²⁴ The audit concluded that only 55.5% of arrest packages reviewed were in compliance with the subparagraph's four operational objectives: completeness, authenticity, proper underlying actions, and supervisory oversight.

The Monitor last reviewed the LAPD's compliance with subparagraph 70b during the quarter ending March, 30, 2003, at which time the Monitor withheld a determination of compliance

²³ In assessing the LAPD's compliance with paragraph 70, 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.

²⁴ The Monitor elected to rely on the audit's findings after concluding that it was complete, accurate and reached appropriate conclusions.

because the LAPD had only recently been made aware that its interpretation of subparagraph 70b was deemed inadequate by the Monitor. On November 25, 2003, the LAPD released Special Order No. 49 entitled Mandatory Prebooking Evaluation of Certain Arrests, which outlines the supervisory responsibilities required under this paragraph.

The Monitor has not previously assessed compliance with subparagraph 70c, which was previously a “meet and confer” item, nor did the Monitor do so during the current quarter. The Monitor is currently developing an assessment methodology and will evaluate compliance with paragraph 70c for the first time during the quarter ending June 30, 2005.

Current Assessment of Compliance

Since the Monitor’s last assessment of the policy and training requirements related to subparagraph 70a, the LAPD has developed and implemented a new NCUOF policy and new NCUOF training that, while it was not developed to specifically address subparagraph 70a, focuses on proper completion and oversight of the booking process. Following a review of the new policy, which was finalized on June 11, 2004, and attendance at the training sessions,²⁵ the Monitor is satisfied that the training adequately addresses secondary compliance requirements with this subparagraph.

In order to assess functional compliance with subparagraphs 70a and 70b during the current quarter, the Monitor reviewed and subsequently relied on Audit Division’s *Arrest, Booking and Charging (ABC) Reports Audit*, dated October 8, 2004.²⁶ In this audit, Audit Division found the LAPD in compliance with the requirements of paragraph 70 and subparagraph 70a;²⁷ and in non-compliance with the requirements of paragraph 70b.²⁸

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

²⁵ The Monitor found the LAPD in compliance on this policy and training in the Monitor’s Report for the Quarter Ending June 30, 2004. See the Monitor’s Current Assessment of Compliance for paragraph 123 in that Report.

²⁶ The Monitor conducted a meta-audit of Audit Division’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, subparagraph 70a and subparagraph 70b. See the Monitor’s Current Assessment of Compliance for paragraph 128(2), below.

²⁷ As reported by Audit Division, all 260 of the arrest packages examined address the mandates of paragraphs 70 and 70a.

²⁸ As reported by Audit Division, of the 260 arrest packages reviewed, 16 had elements relative to paragraph 70b. Of these, Audit Division concluded that 13 were in compliance with the requirements of the Consent Decree. In addition to the reviews conducted during its meta-audit, the Monitor reviewed 10 arrest packages involving 19 arrestees, concluding that that 5 of the 19 were in non-compliance due to deficient or missing watch commander evaluations.

C. INITIATION OF COMPLAINTS

The Consent Decree directs the LAPD to ensure the public unfettered ability to lodge complaints against police officers. The Decree provides specific requirements relative to the intake of complaints, including the continuation of a 24-hour toll-free complaint hotline.

During the quarter ending September 30, 2004, the Monitor again assessed the LAPD's compliance with Consent Decree requirements regarding the receipt, initiation and maintenance of citizen complaints. The Monitor is scheduled to again assess compliance with each of the requirements of this section of the Consent Decree during the quarters ending March 31, 2005 and September 30, 2005.

During the current quarter, the Monitor reviewed additional information provided by the LAPD in connection with a compliance assessment made during the prior quarter. The results of our review follow.

Paragraph 74 – Receipt/Maintenance of Complaints

Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials and continue the operation of a 24-hour toll free telephone complaint hotline. Officers are also prohibited from asking or requiring the complainant to sign a form that in any manner limits or waives certain rights.

Background

The Monitor last assessed compliance with paragraph 74 during the quarter ending September 30, 2004, at which time the LAPD was found in functional non-compliance based on the results of the Ethics Enforcement (EES) sting audits and testing of the LAPD's hotline.²⁹

Current Assessment of Compliance

During the current quarter, in response to the Monitor's finding of non-compliance as reported in its Report for the Quarter Ending September 30, 2004, the LAPD requested and was provided with a copy of the Monitor's work product with regard to testing of the 24-hour hotline. Upon reviewing the Monitor's work product, which included the LAPD's initial response to a document request, the LAPD determined that it was in possession of additional information, which it immediately provided to the Monitor.

In its Report for the Quarter Ending September 30, 2004, the Monitor reported that the substance of the complaint was not adequately documented on complaint face sheets for nine tapes

²⁹ 13 of 60 sting audits conducted by EES determined that officers and/or supervisors administratively failed the audit as a result of their refusal or failure to accept a complaint.

reviewed. Upon reviewing the additional information provided by the LAPD during the current quarter, the Monitor determined that for six of the previously-reported nine tapes the assigned investigator had in substance correctly reported the complainant's allegations. However, for three of the tapes reviewed, the Monitor reiterates its concern regarding the accuracy of the recorded and reported information. Indeed, information omitted was significant, and there is no plausible explanation for its absence on complaint face sheets.

Based on the foregoing, the Monitor's previously-reported finding of functional non-compliance with paragraph 74 stands as reported.³⁰

D. CONDUCT OF INVESTIGATIONS

The Consent Decree provides a series of specific instructions relating to the conduct of CUOF, NCUOF and complaint investigations.

During the quarter ending December 31, 2003, the Monitor assessed the LAPD's compliance with Consent Decree requirements related to the conduct of NCUOF and collateral misconduct investigations. During the quarter ending March 31, 2004, the Monitor's review focused on thoroughly reviewing CUOF incident investigation and during the quarter ending June 30, 2004, the Monitor reviewed completed Chain of Command (COC) and Collateral Misconduct Investigations. During the quarter ending September 30, 2004, the Monitor assessed compliance with Consent Decree requirements regarding the documentation and forwarding of all complaint face sheets to the PSB for review and investigative assignment.

During the current quarter, the Monitor assessed compliance with Consent Decree requirements regarding the conduct of CUOF investigations and the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover indications of misconduct unrelated to CUOF incidents under investigation. The results of our current assessments follow.

Paragraph 80i – Use of Force Investigations

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

- a. Tape record or videotape interviews of complainants, involved officers, and witnesses;

³⁰ The Monitor notes that this finding of non-compliance is not a new assessment of compliance, as no new sampling or testing was conducted. The Monitor is scheduled to again assess compliance with paragraph 74 during the quarter ending March 31, 2005.

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

For reporting purposes, the Monitor has broken paragraph 80 down into two subparagraphs: 80i,³¹ which relates to CUOF investigations, and 80ii, which relates to complaint investigations.

Background

The Monitor last assessed compliance with paragraph 80, as it pertains to CUOF incidents, during the quarter ending March 31, 2004, at which time the LAPD was found in functional non-compliance with all six requirements (subsections a.-c. and e.-g.). The Monitor's evaluation of compliance was based on its review of 40 CUOF investigations that were forwarded to the Office of the Inspector General (OIG) during the period July 1, 2003 through December 31, 2003.

Current Assessment of Compliance

In order to assess compliance with paragraph 80 during the current quarter, the Monitor reviewed and subsequently relied on Audit Division's *Categorical Use of Force Investigations Final Audit Report*, dated August 15, 2004, and related workpapers.³² In this audit, Audit Division selected for review 36 of 55 CUOF incidents that occurred during the time period January 1, 2003 through April 30, 2004 for which investigations were completed, reviewed by the UOFRB and provided to the Chief of Police by April 30, 2004. Audit Division reviewed the 36 completed investigations to determine whether they complied with the requirements described in subsections a.-c. and e.-g. of subparagraph 80i:

³¹ Item (d) does not apply to the evaluation of CUOF incident investigations.

³² As indicated in the Current Assessment of Compliance for paragraph 57, the Monitor conducted a meta-audit of Audit Division's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to the issues in paragraph 80i. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

- Interviews with all witnesses, involved officers and the person(s) upon whom force was used were tape recorded or video recorded;
- Investigations contained documentation that interviews were conducted at a convenient site and time;
- Investigations contained no evidence that a group interview was conducted;
- All on scene supervisors were interviewed regarding their conduct at the scene;
- All appropriate evidence was collected and preserved, including photographs of the suspect's injuries, where appropriate, and that the scene was canvassed for witnesses;
- All significant inconsistencies in statements were addressed in the investigation.

During its meta-audit of the CUOF Audit, the Monitor randomly selected and reviewed 17 of the 36 investigations reviewed by Audit Division. Following are Audit Division's findings; with which, subject to the additional findings noted, the Monitor concurred:

- The LAPD is in functional non-compliance with the requirement that all witness, officer and suspect interviews be tape recorded (subsection a.). For six investigations, Audit Division determined that at least one witness, officer or suspect statement was not tape recorded or video recorded.
- The LAPD is in functional compliance with the requirement that all witnesses be interviewed at times and locations convenient to the witness (subsection b.). However, Audit Division noted that in one incident reviewed the time of the interview was inconvenient.
- The LAPD is in functional non-compliance with the requirement that prohibits group interviews (subsection c.). For five investigations, Audit Division determined that group interviews did indeed occur. During its meta-audit, the Monitor concurred with Audit Division's findings.
- The LAPD is in functional compliance with the requirement that all on-scene supervisors be interviewed with regard to their conduct at the scene (subsection e.). Audit Division determined that for all investigations reviewed this indeed occurred.
- The LAPD is in functional non-compliance with the requirement that all evidence, including canvassing the scene, be collected and preserved (subsection f.). Audit Division determined that in two investigations this did not occur. During its meta-audit, the Monitor identified one additional investigation for which available medical evidence was not collected and included in the report.
- Audit Division found the LAPD in functional compliance with the requirement that all inconsistent statements be identified and included in reports (subsection g.), noting one such investigation in which this occurred. However, during its meta-audit, the Monitor identified two additional investigations that contained inconsistencies in witness statements, which

were not referenced in Audit Division's report.³³ As a result, the Monitor concluded that the LAPD was in non-compliance with this subsection.

Based on the foregoing, the Monitor concurred with Audit Division's conclusions that the LAPD is in compliance with subsections b. and e. of subparagraph 80i, and concurred with Audit Division's conclusions that the LAPD is in overall non-compliance with each of subsections a, c. and f. of subparagraph 80i. The Monitor disagrees with Audit Division's findings regarding the LAPD's compliance with subsection g. of subparagraph 80i, and instead concludes that the LAPD is in non-compliance with this subsection.³⁴

Paragraph 82 – Collateral Misconduct Investigations

Paragraph 82 requires an investigator to immediately notify a supervisor and commence a separate complaint investigation if he or she uncovers information of misconduct unrelated to the incident under investigation.

Background

The Monitor last assessed compliance with paragraph 82 during the quarter ending June 30, 2004, at which time the LAPD was found in primary and functional compliance. The Monitor's evaluation of compliance was based on its review of 90 closed complaint investigations from the period January 1 through February 29, 2004.

Current Assessment of Compliance

In order to assess compliance with paragraph 82 during the current quarter, the Monitor reviewed and subsequently relied on Audit Division's *Categorical Use of Force Investigations Final Audit Report*, dated August 15, 2004, and related workpapers.³⁵ In this audit, Audit Division selected for review 36 of 55 CUOF incidents that occurred during the time period January 1, 2003 through April 30, 2004 that were also completed, reviewed by the UOFRB and provided to the

³³ Accordingly, there were 3 investigations with inconsistencies out of the 36 investigations examined by Audit Division, resulting in a compliance rate less than 94%.

³⁴ For subsections a., b. f. and g., the conclusion reached by the Monitor during the current quarter are consistent with the Monitor's conclusions from the quarter ending March 31, 2004. However, in regards to subsections c and e, these findings differ from the conclusions reached by the Monitor during that quarter. The partial overlap in the periods reviewed during that quarter and the current quarter resulted from the Monitor's reliance on Audit Division's *CUOF Investigations Final Audit*. The Monitor emphasizes that its review criteria and methodology have not changed; rather, the different findings resulted from the fact that samples were drawn from different population at different points in time.

³⁵ As indicated in the Current Assessment of Compliance for paragraph 57, the Monitor conducted a meta-audit of Audit Division's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

Chief of Police by April 30, 2004. Audit Division reviewed the 36 completed investigations to determine whether any indications of misconduct resulted in the initiation of a complaint investigation. Audit Division noted the initiation of complaint investigations in connection with eight CUOF investigations; no other cases were identified that contained unreported misconduct.

During its meta audit of the CUOF Audit, the Monitor randomly selected and reviewed 17 of the 36 investigations reviewed by Audit Division. For all 17 investigations, the Monitor concurred with Audit Division's findings.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with paragraph 82.³⁶

E. ADJUDICATING INVESTIGATIONS

The Consent Decree requires that misconduct complaints be adjudicated in a fair, timely and consistent fashion. The Consent Decree also provides specific requirements relative to the adjudication process, including standards for credibility determination and categories for final adjudication.

The Monitor last evaluated all aspects of the adjudication phase of the complaint process during the quarter ending June 30, 2004. The Monitor is scheduled to again assess the requirements in this area during the quarter ending March 31, 2005.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

The Consent Decree provides specific requirements regarding the imposition and reporting of disciplinary and non-disciplinary action. The Chief of Police must report to the Police Commission his imposition of discipline during each calendar quarter. The Inspector General (IG) 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.

During the quarter ending September 30, 2004, the Monitor assessed compliance with requirements relative to the Chief of Police's discipline report and the IG's and Commission's reviews of said report.

The Monitor is scheduled to assess the LAPD's compliance with each of the paragraphs in this section of the Consent Decree during the quarter ending March 31, 2005.

³⁶ This finding is consistent with the Monitor's conclusion from the quarter ending June 30, 2004, during which the Monitor reviewed closed complaint investigations from the period January 1 through February 29, 2004. The partial overlap in the periods reviewed during that quarter and the current quarter resulted from the Monitor's reliance on Audit Division's *CUOF Investigations Final Audit*.

G. PROFESSIONAL STANDARDS BUREAU

The Consent Decree mandates that certain categories of cases -- including unauthorized UOF; unlawful search or seizure; dishonesty; domestic violence; and discrimination -- be handled directly by the PSB. It also outlines certain best practices with respect to complaint procedures and provides for a transition period to accomplish the reassignment of personnel to the PSB. In addition, the Consent Decree provides specific requirements regarding integrity/sting audits and outlines various requirements regarding the staffing of the PSB, including the selection and evaluation of PSB officers.

During the quarter ending September 30, 2004, the Monitor assessed the LAPD's compliance with the Consent Decree requirements relative to integrity/sting audits.

During the current quarter, the Monitor reviewed the Consent Decree requirements relative to staffing and personnel management within PSB and requirements regarding the hiring criteria for PSB investigators. The results of our current assessments follow.

Paragraph 95 – PSB Investigator Positions

Paragraph 95 defines the time period in which the City and the LAPD must properly staff the PSB while transitioning certain sensitive complaint investigations as defined by paragraphs 93 and 94 of the Consent Decree. All positions must have been filled and investigative responsibility transitioned no later than December 31, 2002. The purpose of allocating human resources and re-assigning complaint investigation responsibility is to improve the quality of certain investigations.

Background

The Monitor last assessed compliance with paragraph 95 during the quarter ending December 31, 2003, at which time the LAPD was found in functional non-compliance. Non-compliance was attributed to the LAPD's failure to complete its assigned cases, notwithstanding the PSB's increased staffing levels.

Current Assessment of Compliance

In order to assess compliance with paragraph 95 during the current quarter, the Monitor requested and received data for the eighteen-month period that ended October 31, 2004 to determine whether or not the PSB is completing more investigations than it is being assigned. During this period, the number of continuing investigations climbed from 1,053 on May 1, 2004 to 1,259 as of October 31, 2004. This represents an increase of nearly 20%. Despite the increase in the number of investigations during this time period, the PSB made no new hires. As of December 31, 2004, the PSB's staffing vacancy stood at 20 individuals and there exists no pending plan to correct this staffing deficiency.

Notwithstanding the PSB's staffing issues, for the period January 1, 2004 through October 31, 2004, the LAPD PSB completed 2,368 complaint investigations of which 48 were not completed within the statutory period.³⁷ This translates into a completion rate of 98%.

Although the PSB has been successful in completing nearly all of its cases within the statutory time limits, the ever-increasing load of continuing cases causes the Monitor concern that over time, without the addition of much needed investigators, the PSB's ability to complete timely and accurate investigations will erode. This may result in either rushed investigations that do not meet the standards set forth by other Consent Decree paragraphs or an increase in the number of investigations that are not completed within the statutory requirements.

Despite the concerns expressed above, the Monitor finds the LAPD in functional compliance with paragraph 95.

Paragraph 98 – Hiring of PSB Investigators/Supervisors

Paragraph 98 requires that when hiring an individual for service as a PSB investigator, the PSB CO must consider investigative experience as desirable criterion, but not a required one. In addition, a candidate whose work history includes any sustained complaint investigation or discipline received for the use of excessive force, a false arrest or charge, an improper search or seizure, sexual harassment, discrimination or dishonesty must be disqualified as a candidate for service in the PSB unless the CO justifies the candidate's hiring in writing.

Background

The Monitor last assessed compliance with paragraph 98 during the quarter ending December 31, 2003, at which time the LAPD was found in primary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 98 during the current quarter, the Monitor reviewed all selection packages of investigators assigned to the IAG during the period January 1, 2004 through September 30, 2004. The Monitor reviewed each candidate's selection package in its entirety, including his or her respective TEAMS and CMS histories. None of the candidates' histories contained sustained complaint investigations that might preclude their selection to the IAG as outlined in paragraph 98.

The candidates' selection packages included thoroughly documented interview worksheets and interview questionnaires. The current procedure is for two interviewers to ask the same questions of each candidate. Additional questions may be asked as warranted. The interviewers

³⁷ Of the 48 investigations identified, 16 were for complaint investigations initiated prior to the date the LAPD entered into the Consent Decree.

rate each candidate in five areas and then provide an overall rating. The worksheet provides for written comments, as well. The overall rating for all candidates in contention for a position determines their ranking and ultimately their selection.

Each candidate considered for permanent assignment to IAG was first required to conduct complaint investigations over a three-month loan period. At the end of this period, the candidates were also rated. This rating form was provided to the reviewers.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with paragraph 98.³⁸

H. 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 solely on race, color, ethnicity or national origin. Race, color, ethnicity or national origin can only be utilized as part of a basis for police activity when such activity is based on subject-specific information. The Consent Decree directs the LAPD to enforce these policies and mandates data collection with the ultimate goal of determining whether racially biased stops are being made.

The Monitor assessed the LAPD's non-discrimination policy and its compliance with the Consent Decree requirement to collect field data each time its officers conduct a motor vehicle or a pedestrian stop during the quarter ending June 30, 2004. During the quarter ending September 30, 2004, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy.

During the current quarter, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy. 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.

³⁸ There are no secondary compliance requirements for this paragraph.

Background

The Monitor last assessed the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2004, at which time the Monitor withheld a determination of functional compliance with the provisions of the paragraphs pending further analysis of field data collected. In previous reports, the Monitor noted that until the propriety of the stops being made by LAPD is adequately determined, it remains difficult for the Monitor to fully assess compliance with these paragraphs.

Current Assessment of Compliance

As reported in the Monitor's previous quarterly reports, the data collected in the field and posted on the LAPD website for the periods July 1, 2002 through June 31, 2003, July 1, 2003 through December 31, 2003 and January 1, 2004 through June 31, 2004 indicate that African Americans and Hispanics are much more likely than Caucasians to be patted down and subjected to a search after being stopped. The Monitor continues to acknowledge that the disparate treatment reflected in the statistics is not necessarily indicative of biased policing and additional analysis is required.

During the current quarter, Analysis Group, Inc.³⁹ submitted its proposal for how best to analyze LAPD stop data entitled "Proposed Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report." Subsequent to this submission, the City posted the Report on its website and has invited public comment on the proposal.⁴⁰

The Monitor is pleased with the steps being taken to better understand the stop data; nevertheless, the Monitor recognizes that analysis of the data has inherent limitations and therefore, additional methods need to be employed to assist in evaluating the City's non-discrimination policies and procedures. To that end, during the current quarter, the Monitor reviewed another method by which the LAPD can continue to combat biased policing and deter discriminatory behavior: the acceptance, investigation and proper adjudication of discrimination complaints. In the past, the Monitor has reviewed the quality of these investigations and their ultimate adjudication to measure whether the Department is appropriately handling these complaints. During the current quarter, the Monitor sought to determine whether all gender bias, discrimination, and related complaints were being properly classified and consequently investigated by the PSB.⁴¹ The Monitor requested a listing of completed complaint investigations filed between April 1, 2004 and September 30, 2004 with classifications of Conduct Unbecoming an Officer, Neglect of Duty, and Discourtesy. Of the 2, 227 complaints filed during this time period with the above classifications, the Monitor reviewed a random

³⁹ As described in prior Monitor reports, the Analysis Group, Inc. is the vendor selected by the Department to develop a methodology to analyze the field data in order to determine if the disparity can be explained and, if so, what those explanations are.

⁴⁰ The Report can be viewed at www.lacity.org/lapdstops.

⁴¹ The concern was that if the complaints were not classified as a discrimination or bias complaint, they would be adjudicated at the division in which the alleged behavior occurred, rather than by PSB.

sample of 91 complaints. Of the 91 complaints reviewed, 4 were questionable in their classification and, as a result, were subsequently investigated by the wrong investigative body. This represents an error rate of 4.4%.

Notwithstanding the above analysis, as in previous quarters, the Monitor withholds a determination of functional compliance with paragraphs 102 and 103 pending further analysis of the field data. The Monitor will report on the next project deliverables during the quarter ending March 31, 2005.

IV. 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 (SEU). The SEUs, which were subsequently reorganized into Gang Enforcement Details (GED),⁴² report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),⁴³ 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.

During the quarter ending June 30, 2004, the Monitor assessed all Consent Decree requirements regarding the LAPD's management of gang units. During the quarter ending September 30, 2004, the Monitor again assessed compliance with the requirements regarding the eligibility criteria for and the selection process of GED officers, tour of duty limitations, and supervisory review of sustained complaint or adverse judicial findings during an officer's assignment tour in the GED.

During the current quarter, the Monitor assessed the LAPD's compliance with all Consent Decree requirements regarding the management of gang units that were not assessed during the prior quarter. The results of our current assessments follow.

Paragraphs 106a and 106h – Gang Coordination

Paragraph 106a requires that all LAPD units primarily responsible for monitoring or reducing gang activity must be assigned to an Area or Bureau, and managed and controlled by the Area or Bureau command staff. The Citywide and Bureau Gang Coordinators (BGC) direct the bureau-wide and citywide activities of these units, provide training and technical assistance, and are involved in coordinating and providing information for the audits of these units.

Paragraph 106h requires BGCs to monitor and assess the operation of all units in their respective bureaus that address gang activity.

⁴² GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

⁴³ SOSD was formerly known as Detective Support Division (DSD). Under a March 2003 Department reorganization, SOSD was mandated to assume many of DSD's responsibilities.

Background

The Monitor last assessed compliance with paragraphs 106a and h during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional non-compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraphs 106a and h during the current quarter, the Monitor requested and reviewed BGC Inspections 2 and 3, 2004 and related work papers. The LAPD conducted BGC Inspection 2, "GED Vehicle Equipment Check-In," in order to evaluate the GED's compliance with paragraphs 106e(iii) and (iv) regarding marked vehicles and vehicle equipment procedures. The LAPD conducted BGC Inspection 3, "GED Supervisory Oversight," in order to evaluate the GED's compliance with paragraphs 106e(ii)-(v) and 106f regarding procedures for uniforms, marked vehicles, vehicle equipment, roll call procedures and supervisory oversight of GED units. Both Inspections reviewed activity on every date during DP 6, 2004 for all divisions.

The Monitor selected a random sample of dates, stratified across all divisions, and compared the findings in the Inspections and related workpapers to Daily Work Sheets, Daily Field Activity Reports (DFARs), Vehicle and Equipment Assignment Sheets and Supervisors' Daily Reports. For BGC Inspection 2, the Monitor determined that the Inspection's findings were 91.1% accurate. For BGC Inspection 3, the Monitor determined that the Inspection's findings were 97.7% accurate. In connection with Inspection 3's assessment of paragraph 106f⁴⁴ regarding supervisory oversight, the Monitor noted that although the Inspection included a review of Supervisors' and Watch Commanders' Daily Reports, the only consideration given to daily field presence was reviewing these reports for supervisors' documentation of their available field time, which is simply listed numerically. As the Daily Reports are self-reported, they are limited as independent corroborative sources, yet there was no reconciliation of the supervisors' narrative or other documentation to verify this self-reported time.

Nevertheless, Inspections 2 and 3 included sound methodology, analyses and recommendations regarding their conclusions and, under the totality of the circumstances, the Monitor found that they constituted adequate substantive reviews of the gang units.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraphs 106a and h.

⁴⁴ Paragraph 106f requires that gang supervisor's provide a daily field presence and maintain an active role in daily operations.

Proposed Recommendation

In assessing daily field presence under paragraph 106f, BGC inspections should compare Supervisors' Daily Reports, specifically the narrative portion describing any field time spent by supervisors, to DFARs maintained by officers.

Paragraph 106e(i) – Gang Unit Procedures

Paragraph 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 paragraph 106e(i) during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 106e(i) during the current quarter, the Monitor reviewed the LAPD Audit Division's *ABC Reports Audit*, dated October 8, 2004, and related audit working papers.⁴⁵

In its ABC Reports Audit, Audit Division reviewed a sample of 116⁴⁶ GED arrests out of a total of 2,414 GED arrests made during the period April 1 to May 31, 2004. Audit Division determined that GED officers were in 99% compliance with completeness requirements, which pertain to the inclusion of required documents in an arrest package, and in 98% compliance with authenticity requirements, which include canned language, inconsistent information, articulation of legal basis and other indicia that information is not authentic or correct. However, Audit Division found that GED officers were in 81% compliance with the requirement regarding evaluation of underlying actions for appropriateness and conformance with Department procedures; these instances of non-compliance resulted from the officers' failure to document the arrestees' responses to Miranda in the arrest packages. In addition, Audit Division found 72% compliance with the requirements for supervisory oversight of the incident and post-incident review; these instances of non-compliance resulted from the officers' failure to issue Receipt for

⁴⁵ The Monitor conducted a meta-audit of Audit Division's audit and findings and concluded that it was complete, accurate and reached appropriate conclusions relative to paragraph 106e(i). See the Monitor's Current Assessment of Compliance for paragraph 128(2), below.

⁴⁶ Detailed information regarding the population and sample selection criteria is included in the Current Assessment of Compliance for paragraph 128(2).

Property forms when required and the failure of supervisory oversight to identify the Miranda issue related to underlying actions and inconsistent information.

During its meta-audit of the ABC Reports audit, the Monitor reviewed a sample of 14 GED arrest report packages to determine if officers were subject to existing procedures regarding detention, transportation, arrest processing and booking of arrestees. The Monitor concurred with Audit Division's findings and with its overall assessment that the Department was in non-compliance with these procedures.

In assessing compliance with paragraph 106e(i), the Monitor could have elected to place reliance on the *ABC Reports Audit*, which would have resulted in the Monitor finding the LAPD in non-compliance. However, the LAPD informed the Monitor that recent BGC inspections, including two inspections completed on November 29, 2004 and December 6, 2004, respectively, reviewing GED and CLEAR arrests during October 2004, indicate that the Department is in compliance with this paragraph. In light of the fact that these inspections involved a review of samples more recent than that contained in the *ABC Reports Audit*, the Monitor has elected to withhold a determination of compliance with paragraph 106e(i) pending a review of the inspections to confirm the conclusions reached.⁴⁷ This review will be conducted during the quarter ending March 31, 2005 and findings will be included in the Monitor's Report for the Quarter Ending March 31, 2005.

Paragraphs 106e(ii), (iii) – Gang Unit Uniforms / Vehicles

Paragraphs 106e(ii) and (iii) require that unit supervisors and non-supervisory officers continue to wear Class A or C uniforms and use marked police vehicles for all activities.

Background

The Monitor last assessed the LAPD's compliance with paragraphs 106e(ii) and (iii) during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraphs 106e(ii) and (iii) during the current quarter, the Monitor reviewed documentation from the stratified sample of dates from BGC

⁴⁷ Given the retrospective nature of audits and the time required in their review processes, the Monitor acknowledges that there will be instances in which more recent information may become available that contradicts the findings contained in the audits. Where Audit Division has concluded non-compliance based upon its audit(s) but the Department believes it has reliable data that shows current compliance based on more current data, the Monitor will examine the data and related findings and take them into account in assessing compliance. The Monitor notes that the Department has the affirmative duty to inform the Monitor of such instances.

Inspections 2 and 3⁴⁸ for language indicating whether the GED officers were in uniform and using marked police vehicles for all activities. The Monitor determined that GED officers were in compliance 100% of the time for both the uniform requirements and for using marked police vehicles or providing written approval for exceptions.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraphs 106e(ii) and (iii).

Paragraph 106e(iv) – Gang Unit Kit Room

Paragraph 106e(iv) requires unit supervisors and non-supervisory officers to continue to check out and return all field equipment from the Area kit room on a daily basis.

Background

The Monitor last assessed compliance with paragraph 106e(iv) during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 106e(iv) during the current quarter, the Monitor reviewed documentation from the stratified sample of dates selected from BGC Inspections 2 and 3⁴⁹ for language indicating whether the GED officers checked out and returned all field equipment from the Area kit room on a daily basis. The Monitor determined that 94% of the officers working in the field were accounted for on the Vehicle & Equipment Assignment Sheets. In addition, the Monitor compared the Vehicle and Equipment Assignment Sheets to the DFARs for officers' equipment numbers and determined that there were discrepancies between the two sheets 17% of the time. Only 87% of the sheets reviewed included the time equipment was checked out and returned, rendering it impossible for the Monitor to determine if equipment was returned by end of watch, as is required.

The Monitor also determined that 96% of the Vehicle and Equipment Assignment Sheets reviewed contained the employee's signature, although only 92% contained a supervisor's signature.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 106e(iv).

⁴⁸ For a detailed description of BGC Inspections 2 and 3 see the Current Assessment of Compliance for Paragraphs 106a and 106h.

⁴⁹ See footnote 48.

Paragraph 106e(v) – Gang Unit Patrol Roll Calls

Paragraph 106e(v) requires unit supervisors and non-supervisory officers to continue to attend scheduled patrol roll calls.

Background

The Monitor last assessed compliance with paragraph 106e(v) during the quarter ending June 30, 2004, at which time the LAPD was found in functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 106e(v) during the current quarter, the Monitor reviewed documentation from the stratified sample of dates selected from BGC Inspections 2 and 3⁵⁰ for language indicating whether the GED officers attended scheduled roll calls. The Monitor determined that 97% of GED officers attended scheduled patrol roll calls or received approval from appropriate managers for any deviation from this requirement.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 106e(v).

Paragraphs 106e(vi) – Area Station Activities

Paragraph 106e(vi) mandates that unit supervisors and non-supervisory officers continue to base unit activities out of Area stations.

Background

The Monitor last assessed compliance with paragraphs 106e(vi) during the quarter ending June 30, 2004, at which time the LAPD was found in functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 106e(v) during the current quarter, the Monitor reviewed documentation from the stratified sample of dates from BGC Inspections 2 and 3⁵¹ for language indicating whether the GED officers and supervisors continued to base unit activities out of Area stations. The Monitor determined that 100% of GED officers based their unit activities out of their respective Area stations as required.

⁵⁰ See footnote 48.

⁵¹ See footnote 48.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 106e(vi).

Paragraph 106e(vii) –Area Station Activities

Paragraphs 106e(vii) mandates that unit supervisors and non-supervisory officers not hold arrestees or interview witnesses at off-site locations at night.

Background

The Monitor last assessed the LAPD's compliance with paragraph 106e(vii) during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 106e(vii) during the current quarter, the Monitor reviewed and subsequently placed reliance on the LAPD Audit Division's *ABC Reports Audit* and related audit working papers, as described in the Current Assessment of Compliance for paragraph 106e(i), above.⁵²

In its ABC Reports Audit, Audit Division determined that GED supervisors and officers were in 100% compliance with the requirements of paragraph 106e(vii). Audit Division determined that none of the arrest packages reviewed revealed that the arrestees and witnesses were inappropriately transported to any location other than the primary Area station for interviews.

During its meta-audit of the ABC Reports audit, the Monitor reviewed a sample of 14 GED arrest report packages to determine if GED supervisors and officers held arrestees or interviewed witnesses at off-site locations at night. The Monitor concurred with Audit Division's findings and with its overall assessment that the Department was in compliance with procedures regarding interviews of arrestees and witnesses.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 106e(vii).

Paragraphs 106f and 106g – Role of Gang Unit Supervisors and Area Managers

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

⁵² The Monitor conducted a meta-audit of Audit Division'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 106e(vii). See the Monitor's Current Assessment of Compliance for paragraph 128(2) later in this report.

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

Background

The Monitor last assessed compliance with paragraphs 106f and g during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraphs 106f and g during the current quarter, the Monitor reviewed documentation from the stratified sample of dates selected from BGC Inspections 2 and 3⁵³ for language indicating whether the GED supervisors provided a daily field presence and maintained an active role in unit operations. The Monitor found the following regarding the daily activities of gang unit supervisors:

Material Findings

- Supervisors provided a field presence in 100% of the deployment days reviewed.
- 53% of the entries on DFARs for gang officers listed specific details⁵⁴ of their activities rather than “gang suppression” or “did so.”
- Supervisors provided the required signature for the end of watch on 80% of the DFARs reviewed.
- 87% of the Vehicle and Equipment Assignment Sheets reviewed included the time equipment was checked out and returned; in addition to this, only 92% contained a supervisor’s signature.

Administrative Findings

- 100% of the pedestrian stops recorded on the DFARs reviewed listed the corresponding field data report number.
- 83% of the DFARs reconciled with the corresponding Vehicle and Equipment Assignment Sheets with regard to the assignment and shop numbers for each officer or unit.
- Officers initialed the last entry as required on 87% of the DFARs reviewed.

⁵³ For a detailed description of BGC Inspections 2 and 3 see the Current Assessment of Compliance for Paragraphs 106a and 106h.

⁵⁴ The Monitor has previously noted that the blanket categorization of time as “gang suppression” or “did so” raises concern about officer accountability and does not assist in supervisory oversight to assess gang officers’ activities.

- 100% of the GED Supervisors' Daily Reports contained the required supervisory signatures; 100% were approved and signed by the CO within a week of the deployment date.⁵⁵
- 27% of the officers' time spent on individual activities reconciled with the total watch time worked on the DFARs.⁵⁶

In addition to the findings listed above, the Monitor notes that in its *GED Warrant Applications and Supporting Affidavits Audit* dated June 29, 2004,⁵⁷ Audit Division found supervisory oversight of GED warrants to be 86% compliant. In addition, it is "ABC Reports Audit dated October 8, 2004,"⁵⁸ Audit Division found supervisory oversight of GED arrests to be 72% compliant.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraphs 106(f) and 106(g).

V. 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 informant information.

The Monitor last assessed compliance with the Consent Decree's requirements regarding Confidential Informants (CIs) during the quarter ending September 30, 2004. The Monitor is schedule to again assess compliance with these requirements during the quarter ending September 30, 2005.

VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS

The Consent Decree mandates that the Department evaluate successful programs in other law enforcement agencies across the United States for responding to persons who may be mentally ill. The Department is also required to evaluate LAPD training, policies, and procedures for dealing with persons who may be mentally ill. The Consent Decree further mandates that the Department prepare a report for the Police Commission detailing its findings and recommending

⁵⁵ Although there is no compliance requirement regarding when the supervisors' daily reports must be approved, the Monitor recommends that for supervisory oversight of unit activities, a CO should review and approve these reports within 7 working days, at the latest.

⁵⁶ Although this percentage is low, the errors appear to be administrative in nature, resulting from miscalculations by the gang officers. It is the Monitor's contention that these errors could be easily rectified by bringing it to the officers' attention at roll call.

⁵⁷ See Current Assessments of Compliance for paragraphs 106e(i) and 128(2).

⁵⁸ See Current Assessment of Compliance for paragraph 131c-1.

changes in policies, procedures, and training relative to police contact with persons who may be mentally ill. The Police Commission, in turn, is to forward its reports and actions regarding new or revised policies, practices, or training to the City Council and Mayor. In addition, the Department is expected to complete an audit of the LAPD's handling of calls and incidents involving persons who appear to be mentally ill, no more than 32 months after the effective date of the Consent Decree.

During the quarter ending September 30, 2004, the Monitor evaluated the Department's progress with its Mental Illness Program, and evaluated the Department's *Audit of Police Contact with the Mentally Ill*. The Monitor is scheduled to again evaluate the Department's progress with its Mental Illness Program during the quarter ending March 31, 2005.

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

The Consent Decree requires the LAPD to continue to implement formal training and establish eligibility criteria for Field Training Officers (FTOs). Consent Decree requirements are intended to ensure that the officers chosen to be FTOs, who are responsible for the professionalism, skill and quality of the future Department, are, themselves, qualified and appropriately trained to educate newer members of the LAPD.

During the quarter ending March 31, 2004, the Monitor assessed the quality of the training provided to FTOs and continued its evaluation of the FTO selection process. During the quarter ending September 30, 2004, the Monitor assessed the LAPD's eligibility criteria for FTOs and attempted to assess the training of FTOs and the process for their de-selection.

The Monitor was scheduled to again assess compliance with these requirements during the current quarter; however, the Monitor's assessment was postponed again pending the receipt of information requested from the LAPD.

B. TRAINING CONTENT

The Consent Decree requires the LAPD to continue to provide periodic training on police integrity. Such training must include and address retaliation, the duty to report misconduct, cultural diversity, community policing, integrity in report writing, Fourth Amendment and other constitutional requirements, the Department's non-discrimination policy and interactive ethical decision-making.

During the quarter ending June 30, 2004, the Monitor assessed the training curriculum for the public members of the Board of Rights and found them in functional non-compliance. The Monitor determined that the curriculum did not provide the level of detail necessary to adequately train civilian members who, unlike their sworn member counterparts, do not have prior knowledge of the law, investigations, or LAPD policies and procedures. The Monitor has elected to delay its next review of this training curriculum, which was originally scheduled for this quarter, until the quarter ending June 30, 2005 in order to maintain an annual review schedule.

C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.⁵⁹ Once promoted, supervisors should continue to receive regular training on key issues, including report review, incident control, ethical decision-making, UOF and complaint investigations. The Consent Decree also requires the Department to ensure that supervisors who conduct investigations receive relevant training.

During the quarter ending June 30, 2004, the Monitor reviewed the Department's compliance with supervisory investigations training requirements. During the quarter ending September 30, 2004, the Monitor focused on the curricula for supervisory training.

The Monitor is scheduled to again assess compliance with Consent Decree requirements regarding supervisory training during the quarters ending June 30, 2005 and September 30, 2005.

⁵⁹ This requirement pertains to all promoted officers, except for those officers promoted to the rank of Captain, who must at least begin their Command Development training before they assume their new positions.

VIII. INTEGRITY AUDITS

The audit processes of both the LAPD and the OIG are important cornerstones in the reform process for the entire Department. The Consent Decree mandates that the LAPD perform regular periodic audits of numerous aspects of policing, including warrants, arrests, UOF, stops, CIs, complaints, gang units, financial disclosure, and police training. Each audit examines a variety of issues, but a common theme among all the audits is the requirement to assess and report on compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight. The Consent Decree also mandates that the OIG assess the quality, completeness and findings of such audits, and that the OIG perform independent audits of certain topics, namely UOF incidents and complaints.

Charting the Success of LAPD's Audit Division

In the first two years of the Consent Decree, the LAPD struggled with the requirement to complete quality audits on a timely basis. This was caused by the following two issues: LAPD's Audit Division faced a steep learning curve regarding the standards required for the conduct of audits, and it was under-resourced. Since then, the Department has made significant progress in both of these issues, and has now completed a total of 20 quality audits as set out below:

| <i>Timing of Monitor's Eval'n</i> | <i>Quantity and Title(s) of "Quality" Audits Completed by the LAPD⁶⁰</i> |
|-----------------------------------|---|
| Sept 30, 2002 | 1: <i>Warrant Applications & Affidavits Audit - CD128(1)</i> |
| Dec 31, 2002 | 1: <i>ABC Reports Audit - CD128(2)</i> |
| Sept 30, 2003 | 1: <i>CI Control Packages Audit - CD128(5)</i> |
| Dec 31, 2003 | 2: <i>MV&PS Audit - CD128(4); GED Work Product Audit - CD131a</i> |
| Mar 31, 2004 | 1: <i>GED Work Product Audit - CD131a</i> |
| Jun 30, 2004 | 5: <i>Warrant Applications & Affidavits Audit - CD128(1); ABC Reports Audit - CD128(2); NCUOF Reports/Investigations Audit - CD128(3) & CD129ii; Complaints Investigations Audit - CD129iii; GED Work Product Audit - CD131a</i> |
| Sept 30, 2004 | 2: <i>CI Control Packages Audit - CD128(5) & CD131d; CUOF Systems Audit - CD129i</i> |
| Dec 31, 2004 | 7: <i>ABC Reports Audit - CD128(2); MV&PS Audit - CD128(4); CUOF Investigations Audit - CD129i; GED Work Product Audit - CD131a⁶¹; GED Selection Criteria Audit - CD131b⁶²; Supplemental GED Warrants Audit - CD131c-1; Supplemental GED NCUOF Reports Audit - CD131c-3</i> |

In light of the quality of the work being performed by Audit Division in recent quarters, in those instances in which the scope of an Audit Division audit directly addresses the requirements of a given paragraph, the Monitor has elected to perform meta-audits of Audit Division's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.⁶³

During the quarter ending September 30, 2004, Audit Division developed and presented its first Basic Law Enforcement Performance Auditing Course, under the leadership of Captain Ron

⁶⁰ Although the GED Audits listed in the table above were quality audits, they were assessed as non-compliant during the quarters ending December 31, 2003 through June 30, 2004 because they were performed by Audit Division rather than by the SOSD. The Monitor noted that until the Consent Decree was amended to reflect the fact that Audit Division may conduct these audits, the Monitor would continue to find the Department in non-compliance for such audits. As noted in the Monitor's Report for the Quarter Ending September 30, 2004, the City and the DOJ agreed upon such a modification. As a result, beginning with the quarter ending September 30, 2004, the fact that Audit Division conducts GED audits has no bearing on compliance. However, during that quarter, the Monitor considered the two GED audits to be quality audits, but ultimately withheld a determination of compliance because the Monitor's sample sizes were insufficient to conclude on compliance. During the current quarter, the Monitor expanded its sample sizes as requested by the City, and completed its evaluation, concluding that these were compliant audits.

⁶¹ This was originally included as a 'quality audit' in a similar table in the Monitor's Report for the Quarter Ending September 30, 2004, but the Monitor was unable to conclude on compliance until this quarter.

⁶² Same comment as for the GED Work Product Audit.

⁶³ 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."

Sanchez. This program has recently been certified by the California Commission on Peace Officer Standards & Training (POST), and by the Michigan Commission on Law Enforcement Standards, and is now a 4-day program covering all aspects of police performance auditing, including auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process. This course has been presented on three separate occasions to sworn and civilian personnel from LAPD's Audit Division and the OIG, as well as police performance auditors and command staff in Detroit, Michigan. The Monitor considers the success of this course to be another milestone in Audit Division's development.

Resource Challenges Hampering the OIG's Oversight of the LAPD

For almost two years,⁶⁴ the Monitor has expressed concerns regarding the OIG's resource constraints that were hampering its ability to effectively oversee the LAPD. Although the OIG and the City have worked since the inception of the Consent Decree to address these issues, financial and other constraints have impeded the OIG's progress in this regard. In early 2004, the OIG stepped up its efforts to address the Monitor's concerns over the timeliness and quality of its audits and independent reviews; however, this effort was short-lived; with the result that the OIG fell behind in meeting its deadlines, and concerns over the quality of the OIG's audits/reviews persist. During the quarter ending September 30, 2004, the Monitor highlighted these concerns as a focus issue. Since then, the OIG has implemented a restructuring plan to address its resource challenges and is making progress in this area. While the Monitor commends these efforts and recognizes that it will take time for the OIG complete its recruitment process, the Monitor notes that aspects the OIG's oversight continues to be deficient.

A. AUDIT PLAN

One of the significant findings of the *Board of Inquiry into the Rampart Area Corruption Incident* was the LAPD's failure to establish a meaningful system of internal audits. This finding was subsequently incorporated into paragraph 124 of the Consent Decree, which requires the completion of an *Annual Audit Plan* prior to the beginning of each fiscal year, and sets out other requirements associated with establishing a meaningful and effective system of internal audits.

During the quarters ending September 30, 2002, September 30, 2003 and September 30, 2004, the Monitor evaluated the Department's Annual Audit Plans for the fiscal years ended June 30, 2003, 2004 and 2005, respectively, and assessed the LAPD's progress relative to each of the prior year's plans. In each instance, although the Monitor noted progress relative to the requirements of paragraph 124, the Monitor ultimately concluded that the Department was in non-compliance with the paragraph. The Monitor's next assessment of the LAPD's compliance with the requirements of paragraph 124 is scheduled to be completed during the quarter ending September 30, 2005.

⁶⁴ Since the quarter ending March 31, 2003.

B. AUDITS BY THE LAPD

During this quarter, the Monitor evaluated the following audits relative to the requirements of the Consent Decree:

- Paragraph 128(2) & 131c-2 – *Arrest Booking & Charging Reports Audit*
- Paragraph 128(4) & 131c-4 – *Motor Vehicle & Pedestrian Stops Audit*
- Paragraph 129i – *Categorical Use of Force Investigations Audit*
- Paragraph 131a – *Gang Unit Work Product Audit*
- Paragraph 131a – *Supplemental GED Work Product Patterns Audits*
- Paragraph 131b – *GED Selection Criteria Compliance Audit*
- Paragraphs 131c-1 – *Supplemental GED Warrant Applications & Affidavits Audit*
- Paragraphs 131c-3 – *Supplemental GED NCUOF Reports Audit*
- Paragraphs 131e – *Audit of Bureau Gang Coordinator Inspections*
- Paragraphs 133 – *Police Training Audit*
- Paragraph 140 – Audits Initiated by the Police Commission and the OIG

Paragraph 128(2) & 131c-2 – Department-Wide and GED Arrest, Booking & Charging Reports Audit

Paragraph 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.

Paragraph 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 paragraph requires assessment of the same qualitative factors that are required in paragraph 128(2).

Background

On March 30, 2004 and June 24, 2004, Audit Division completed its fourth Department-wide primary and second Department-wide supplemental audits, respectively. The Department-wide audit addressed most of the requirements of paragraph 128(2); the supplemental audit addressed the remaining requirements relative to supervisory oversight of paragraph 70b arrests. The

Monitor evaluated these audits during the quarter ending June 30, 2004 and concluded that they were in compliance with the requirements of paragraph 128(2).

Current Assessment of Compliance

In order to assess compliance during the current quarter, the Monitor reviewed Audit Division's *ABC Reports Audit (Juvenile Detention Procedures Included)* dated October 8, 2004, the audit workplan, matrices and cribsheet, as well as selected arrest reports and completed matrices.

Two separate populations were considered by Audit Division in conducting this audit: arrests by officers Department-wide and arrests by officers assigned to GED Department-wide. A query of the LAPD's arrest database for the period April 1, 2004 to May 31, 2004 identified a total of 26,752 Department-wide arrests and 2,414 GED arrests. The random samples from each of the two populations were stratified to include arrests made by personnel from a variety of entities.⁶⁵

Audit Division randomly selected a total of 144⁶⁶ arrest packages for the Department-wide sample and 116⁶⁷ arrest packages for the GED sample required for this audit. This resulted in a sample size of 260 arrest packages.

Audit Division concluded that the Department was in overall non-compliance with the objectives of paragraph 128(2) primarily because of deficiencies identified in conforming with Department procedure (84% compliant) and supervisory oversight (73% compliant) requirements. As in previous audits, the deficiencies primarily relate to officers failing to document verbatim Miranda responses and failing to detect this oversight during post-incident review.

In order to assess Audit Division's findings for this audit, the Monitor randomly selected a sample of 28 arrest packages, including multiple arrests.⁶⁸ The 28 arrest packages consisted of 14 Department-wide arrests and 14 GED arrests. The Monitor's findings, which have been reviewed with Audit Division, are highlighted below:

⁶⁵ For Department-wide arrests, the entities included all geographic areas, all traffic divisions, the Narcotics, Metropolitan, Juvenile Narcotics, Detective Support, Robbery-Homicide, Commercial Crimes and Organized Crime and Vice Divisions and the Valley, Central and South Operations Bureaus. Operations-West Bureau was excluded, as no arrests were made by personnel directly assigned to it during the period under review.. For the GED arrests, the entities included all geographic areas and Central and South Bureau Operations.

⁶⁶ Based on a one-tail test, 95% confidence level with +/-4% error rate, a sample size of 119 arrest incidents was determined. Audit Division's final sample totaled 144 arrest packages, after consideration of multiple arrests and rounding. GED officers were not excluded from the Department-wide sample if randomly selected.

⁶⁷ Based on a one-tail test, 95% confidence level with +/-4% error rate, a sample size of 104 arrest incidents was determined. Audit Division's final sample totaled 116 arrest packages, after consideration of multiple arrests and rounding.

⁶⁸ This sample size was determined using a +/-10% error rate, as this particular audit is considered to be a 'non-critical audit' by the Monitor. For the purposes of the Monitor's evaluations, non-critical audits are defined as audits requiring less scrutiny because there has been no substantive change in Audit Division's findings and the Monitor found the previous audit of this topic to be compliant with the requirements of the Consent Decree.

- Audit Division's audit population determination and sample selection processes were appropriate.
- Other than a few interpretational issues that were subsequently resolved through discussions with Audit Division, the Monitor's testing did not identify any issues that had not been identified by Audit Division. Accordingly, the Monitor concurs with Audit Division's findings. The Monitor notes that the number of interpretational differences between the Monitor's findings and Audit Division's findings has significantly declined compared to prior audits; this is a result of continued improvements that Audit Division has made to its matrix questions. The Monitor commends Audit Division for such improvements. The Monitor made suggestions for additional refinements in respect of a few questions, which Audit Division plans to incorporate when updating its matrix for the next audit of this topic.
- The Monitor further commends Audit Division's detailed reporting of its findings for Department-wide and GED arrests. In addition, the findings for each audit objective were concisely and appropriately reported. A summary table clearly presented the compliance percentage findings by audit objective.

Based on the foregoing, the Monitor finds this audit in compliance with the requirements of paragraph 128(2) and 131c-2.

Paragraphs 128(4) & 131c-4 Motor Vehicle & Pedestrian Stop Audit

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

Paragraph 131c-4 requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit motor vehicle stops and pedestrian stops. This paragraph requires assessment of the same qualitative factors that are required in paragraph 128(4).

Background

For the quarters ending September 30, 2002 through June 30, 2003, the Monitor found the Department in non-compliance with paragraphs 128(4) and 131c-4 because the Department had not completed a regular, periodic MV&PS audit as required by these paragraphs. The first audit of this type was not completed until August 2003, because the data collection process was not considered to be reliable enough to warrant an audit. The Monitor reviewed the August 2003 audit report during the quarter ended December 31, 2003 and found the audit in compliance with the requirements of paragraph 128(4), but in non-compliance with paragraph 131c-4 because the

August 2003 audit did not address specific gang unit issues and there were no conclusions articulated relating to gang unit findings.

During the quarter ending September 30, 2004, the Monitor commenced its review of Audit Division's *MV&PS Data Collection Audit Report* dated June 30, 2004, but that review was delayed because of complications relative to the sample selection process. As a result, the Monitor did not conclude its evaluation for that quarter. The Monitor noted that this audit segregated out the findings for gang units.

Current Assessment of Compliance

In order to assess compliance during the current quarter, the Monitor reviewed Audit Division's *MV&PS Data Collection Audit* dated June 30, 2004, the related audit workplan and cribsheet, the Monitor's sample of completed audit matrices and supporting documents, and other documents relating to the audit population and sample determination.

Audit Division's sample comprised randomly selected DFARs and Field Data Reports (FDRs) for each of the patrol units and gang units from the 18 areas, as well as Traffic Division and Metropolitan Division, for three randomly selected dates in January 2004. Audit Division also reviewed a stratified random sample of personnel complaints that were filed on or after July 1, 2003 and closed in January 2004. Lastly, Audit Division reviewed a stratified grab⁶⁹ sample of FDR books issued after July 23, 2003 and returned after May 17, 2004.

The Monitor tested a random sample of 104 FDRs, 25 deselected complaints and 38 selected complaints from the FDRs and complaints in Audit Division's sample and the relevant audit matrices.⁷⁰ The Monitor's findings, which have been discussed with Audit Division, are highlighted below.

- Audit Division appropriately concluded that the Department was non-compliant with respect to the paragraph 128(4) objectives of completeness, authenticity, and supervisory oversight; and compliant in relation to underlying actions. Audit Division appropriately concluded that the GED units were non-compliant with respect to the paragraph 128(4) objectives of completeness, authenticity, underlying actions and supervision.
- The Monitor found that Audit Division's sampling approach was thorough, albeit somewhat cumbersome. The Monitor suggested a process to Audit Division to minimize its work when selecting random samples for future audits of this type.

⁶⁹ Audit Division selected its sample of FDRs by physically "grabbing" the sample FDRs from selected boxes of FDRs. In this instance, the FDR books were stratified based on the deployed units in the 18 Areas, 4 Traffic Divisions, and Metropolitan Division. The Monitor believes that for the purposes of the review of the FDR books, this is an acceptable random sampling technique.

⁷⁰ This sample was selected based on a 95% confidence interval and an error rate of +/-4%, and included GED arrests.

- The Monitor commends Audit Division for addressing the inconsistencies identified regarding how officers should complete the seized evidence portion of an FDR when vehicles are seized as a result of an impound.
- The Monitor identified one instance in which an error on the DFAR was missed. Audit Division agrees that it should have held the related FDR out of compliance for the supervisory oversight objective. The Monitor notes that this would not have changed Audit Division's overall finding that the Department was non-compliant with the supervisory oversight objective.
- The Monitor identified one instance in which an FDR did not reference a citation. Although this was not noted by Audit Division, this error would have had minimal impact on Audit Division's assessment of the completeness objective.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraphs 128(4) and 131c-4.

Paragraph 129i – Categorical Use of Force Investigations Audit

Paragraph 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. Paragraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, and 82 to 83; in addition, paragraphs 55 to 59 and 61 to 65 are related to this audit.

Background

During the quarter ending December 31, 2003, the Monitor concluded that Audit Division's *CUOF Audit Report* dated August 22, 2003 was in non-compliance due to audit scope limitations and the extent of material issues missed by Audit Division.

For the fiscal year 2003/04, Audit Division decided to split CUOF investigations into two audits: an interim audit report that assessed systems-related issues and a final audit report that assessed the quality of the CUOF investigations. For reporting purposes, the Monitor has similarly split its evaluation of paragraph 129i into two separate evaluations as follows:

- 129i - CUOF Interim Systems Audit,⁷¹ and
- 129i - CUOF Investigations Audit.⁷²

⁷¹ This audit primarily addresses the following 13 Consent Decree paragraphs: 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83 and 147.

⁷² This audit primarily addresses the following 5 Consent Decree paragraphs: 57, 80, 82, 128 and 129.

During the quarter ending September 30, 2004, the Monitor assessed Audit Division's *CUOF Interim Systems Audit* dated June 9, 2004, and concluded that it was compliant with the systems-related elements of paragraph 129i.

Current Assessment of Compliance

In order to assess compliance with the investigative-related elements of paragraph 129i during the current quarter, the Monitor reviewed Audit Division's *CUOF Final Investigations Audit Report* dated August 14, 2004, as well as the audit workplan, cribsheet and matrices as appropriate for the Monitor's sample.

Audit Division's population comprised 55 CUOF investigations involving incidents from January 1, 2003 to April 30, 2004 where the investigation had been completed by April 30, 2004.⁷³ Audit Division randomly selected a sample of 36 of these CUOF investigations for review⁷⁴ and found the Department in compliance with the requirements of 14 of the 21 audit objectives tested in this audit, and in non-compliance with 7 audit objectives. The Department's non-compliance findings were as follows:

| | | |
|---------------|---|-------|
| Paragraph 80 | Failure to record interviews (80a) | 83.3% |
| | Conducting group interviews (80c) | 86.1% |
| | Failure to collect and preserve evidence (80f(i)) | 94.4% |
| Paragraph 128 | Non-conformance to Department policy (128(3)b) | 91.7% |
| | Inadequate supervisory oversight (128(4)a) | 94.4% |
| | Inadequate post-incident review (128(4)b) | 44.4% |
| Paragraph 129 | Inadequacy of the investigation (129i(d)) | 50.0% |

The Monitor randomly selected a sample of 17 of the 36 CUOF investigations reviewed by Audit Division.⁷⁵ The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

- This audit was a complicated and difficult audit. Notwithstanding this, the audit had insightful planning, suitable training of auditors and appropriate follow-up procedures.
- Audit Division performed some excellent audit fieldwork and identified several practical and insightful recommendations.

⁷³ Accidental discharges and animal shootings, although included as CUOF incidents in Departmental policy, were appropriately deselected from this population as the Consent Decree excludes them from the definition of CUOF. Completed CUOF investigations are those reviewed and approved by the Chief of Police.

⁷⁴ This sample was based on a 95% confidence level and a +/-4% error rate.

⁷⁵ The Monitor's sample was selected using a +/-7% error rate.

- Audit Division's audit was complete, accurate and reliable for all objectives tested, with two minor exceptions as noted below.⁷⁶
- Audit Division identified two process issues that negatively impacted the quality of CIID's investigations.⁷⁷
- Audit Division appropriately determined that only a small percentage of officers recommended for training by the UOFRB were confirmed as having actually received the training and that TEAMS was deficient in recording training recommended and provided.
- For this audit, there were numerous instances in which representatives of Audit Division's management team disagreed with and ultimately overrode the findings of Audit Division's staff auditors. The Monitor reviewed each of the instances documented in Audit Division's working papers and ultimately concurred with the appropriateness of the overrides. Several instances had inadequate articulation of the rationale for management's final conclusions. Audit Division is modifying its working paper documentation for future audits.
- Audit Division did not identify that the UOFRB had adjudicated two separate CUOF incidents without being advised that one transcript was outstanding for each of these incidents. One incident involved an interview of a witness who heard the suspect say "stop shooting" in a lull between two rounds of gunfire. The other incident involved an interview of a suspect. Neither of the transcripts from these interviews were sent to the UOFRB until after the incidents were adjudicated by the UOFRB. While the Monitor understands that the actual tapes for these interviews were provided to the UOFRB, it is unknown whether the transcripts from these supplemental investigations would have impacted the UOFRB adjudications of these incidents. Although outside of the scope of the requirements of the Consent Decree, the Monitor believes that Audit Division should have identified that there were no processes in place to ensure that the UOFRB was advised of all outstanding transcripts before adjudicating each incident.
- In its evaluation of witness interview tapes, Audit Division did not identify an inconsistency between a taped interview and the investigating officer's summary involving CIID's failure to obtain a medical release consent that was promised by the suspect. This inconsistency should have been identified by Audit Division when comparing the investigator summaries with the suspect's interview and/or when evaluating the adequacy of the investigation (relative to following up on the medical release consent) and/or when evaluating whether all evidence was collected and preserved.

⁷⁶ The exceptions are related to inconsistent witness interview tapes and possible collateral misconduct follow-up.

⁷⁷ Audit Division determined that Consent Decree mandates restricted CIID's administrative investigation from relying on interviews taken by other Department Commands conducting the criminal investigation whose interview guidelines were different. One key difference was the prohibition of group interviews in the administrative investigation. Audit Division also determined that CIID management lacked resources to conduct suitable reviews of CUOF investigations.

- The Monitor identified one CUOF investigation involving possible collateral misconduct that was reviewed under a joint complaint investigation that Audit Division did not consider when testing whether all collateral misconduct was addressed in subsequent complaint investigations. Although this situation was, in fact, examined in a complaint investigation, LAPD's audit process did not confirm this.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 129i.

Paragraph 131a & 131c-2 – Gang Unit Work Product Audit & GED ABC Reports Audit

Paragraph 131a requires the SOSD (formerly DSD) 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.

Paragraph 131c-2 requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit ABC reports; the qualitative factors that must be addressed in these audits are described in paragraphs 128 and 131e-g.

Background

From mid-2002 through September 2003, the Monitor concluded that the Department was in non-compliance with the paragraph 131a requirement to conduct regular periodic audits of this topic, as an audit of the gang unit work product had not been completed during that time period. Subsequent to September 2003, the Department completed three successive audits⁷⁸ in connection with paragraph 131a. Despite the high quality of these audits, the Monitor continued to find the Department in non-compliance due to the fact that the audits had been conducted by Audit Division rather than by the SOSD as specified in the Consent Decree.⁷⁹

The Monitor has evaluated three of the Department's paragraph 131c-2 *SEU/GED ABC Reports Audits*⁸⁰ and concluded non-compliance in each case. The first and second were non-compliant

⁷⁸ These audits were completed on October 3, 2003, January 4, 2004 and March 30, 2004 and reported in the Monitor's quarterly reports ending December 31, 2003, March 31, 2004 and June 30, 2004, respectively.

⁷⁹ In the quarters up to the quarter ending June 30, 2004, the Monitor noted that until the Consent Decree is amended to reflect the fact that Audit Division may conduct these audits, the Monitor must continue to find the Department in non-compliance for such audits. Beginning with the quarter ending September 2004, the fact that Audit Division is conducting GED audits is no longer an impediment to compliance given that the Consent Decree modification is in the process of being finalized.

⁸⁰ These SEU/GED ABC Reports Audits were dated April 1, 2002, March 5, 2003 and March 31, 2004. The first two were completed by the SOSD, and the third was completed by Audit Division.

because they were incomplete, deficient in quality and/or were stale; and the third audit was non-compliant because it was conducted by Audit Division rather than the SOSD.⁸¹

During the quarter ending September 30, 2004 the Monitor withheld a determination of compliance with paragraphs 131a and 131c-2, as the samples selected for review by the Monitor were done so using a 95% confidence interval and a +/-10% error rate, rather than the +/-7% error rate required for concluding on compliance.

Current Assessment of Compliance

As indicated in the Monitor's report for the quarter ending September 30, 2004, in order to assess compliance with paragraph 131a and 131c-2 during the current quarter, the Monitor reviewed Audit Division's *GED Work Product Audit Report* dated June 24, 2004 and related documents.

Audit Division's audit sample comprised 100% of all gang unit work product⁸² for the month of February 2004 from the five GED units⁸³ that had not previously been audited via a paragraph 131a GED work product audit. As of this date, all of the GED units have now been the subject of an audit.

During the quarter ending September 30, 2004, the Monitor obtained and reviewed a random sample⁸⁴ of 15 of the 179 arrest reports in Audit Division's sample.⁸⁵ During the current quarter, the Monitor extended this sample to 27 arrest reports. The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

- In its Report for the Quarter Ending September 30, 2004, the Monitor identified several administrative points that would improve future audits.
- The Monitor found no additional substantive issues in the additional 12 arrest reports examined for this quarter.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraphs 131a and 131c-2.

⁸¹ As mentioned previously, beginning with the quarter ending September 2004, the fact that Audit Division is conducting GED audits is no longer an impediment to compliance.

⁸² This included 179 arrest reports, 9 NCUOF reports and 1 search warrant package, for a total of 189 incidents.

⁸³ Hollenbeck, Southeast, Foothill, Hollywood and Operations-South Bureau.

⁸⁴ The sample for the quarter ending September 30, 2004 was selected using a confidence interval of 95% and a 10% error rate. For the current quarter the sample was extended to a 7% error rate.

⁸⁵ The Monitor is separately evaluating GED NCUOF reports and warrants as part of its review of the GED Supplemental NCUOF and Warrants audits.

Paragraph 131a – Supplemental GED Work Product Patterns Audits

Paragraph 131a requires the SOSD (formerly DSD) 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.

Background

In late 2003 and early 2004, Audit Division completed three GED work product audits that identified patterns suggestive of inappropriate conduct that required further scrutiny. Supplemental audits were initiated for each of these three audits:

| <i>GED WP Audit Completed</i> | <i>Supplemental Audit Completed</i> | <i>LAPD's Conclusion</i> |
|-------------------------------|-------------------------------------|--------------------------|
| Q1 September 29, 2003 | December 5, 2003 | Resolution Outstanding |
| Q2 December 26, 2003 | September 28, 2004 | Resolved – no concerns |
| Q3 March 30, 2004 | September 17, 2004 | Resolved – no concerns |

Current Assessment

During the current quarter, the Monitor reviewed Audit Division’s *Supplemental Q2 GED Pattern Assessment Audit* and Audit Division’s *Supplemental Q3 GED Pattern Assessment Audit* dated September 28, 2004 and September 17, 2004, respectively. These supplemental audits were issued more than 9 months and 6 months, respectively, after LAPD’s Audit Division first identified possible concerns that warranted further examination. The Monitor also reviewed the audit matrices and underlying arrest reports for 100% of the incidents evaluated by Audit Division.

In summary, these supplemental audits comprised an evaluation of the arrest practices of:⁸⁶

- 5 officers included in the scope of the *Supplemental Q2 GED Audit*, and
- 4 officers included in the scope of the *Supplemental Q3 GED Audit*.

Audit Division ultimately concluded, for each of the nine officers, that there were no concerns related to patterns of conduct similar to those identified in the Rampart Board of Inquiry, and that the patterns originally identified do not represent a risk management concern.

⁸⁶ The supplemental audit included an evaluation of spontaneous statements, consent searches, discarded evidence and Miranda waivers.

The Monitor evaluated the completeness and thoroughness of these supplemental audits and concluded that they were good quality audits. The Monitor supports Audit Division's findings in both audits.

Paragraph 131b – GED Selection Criteria Compliance Audit

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

Background

During the quarter ending September 30, 2004, the Monitor reviewed Audit Division's *GED Selection Criteria Audit* dated June 25, 2004. The Monitor concluded that although the *GED Selection Criteria Audit* was a quality audit that satisfied most of the requirements of paragraph 131b, the Monitor withheld a determination of compliance, as the samples selected for review by the Monitor was insufficient to conclude compliance.

Current Assessment of Compliance

In order to complete the Monitor's assessment of compliance for the current quarter, the Monitor extended its sample of GED selection packages to include an additional 7 supervisory staff and 9 non-supervisory staff. This resulted in a total sample of 40 GED selection packages: 17 for supervisors and 23 for non-supervisory staff.⁸⁷ The Monitor's supplemental findings, which have been discussed with Audit Division, are highlighted below:

- The Monitor identified one instance in which Audit Division incorrectly based its assessment of the approval of an individual's extension beyond 39 Deployment Periods based on the date when the individual re-joined the GED unit, rather than the original date he joined the GED unit.⁸⁸
- The Monitor noted several concerns regarding the selection process for officers selected to the GED unit prior to the implementation of Special Orders 23 and 27 in August 2003; however, officers selected prior to August 2003 were not included in the scope of Audit Division's audit. Although paragraph 107b applies to officers selected prior to August 2003, the Monitor accepts and concurs with Audit Division's rationale for excluding such officers from the scope of its review.

⁸⁷ The Monitor's total sample size was determined using an error rate of +/-7%. During the quarter ending September 30, 2004, the Monitor reviewed a random sample of 24 GED selection packages: 10 for supervisors and 14 for non-supervisory staff.

⁸⁸ This individual joined the GED unit for 7 months and then took an 8-month leave prior to re-joining it.

- No other substantive concerns were identified with this audit.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 131b.

Paragraphs 131c-1 – Supplemental GED Warrant Applications & Affidavits Audit

Paragraph 131c-1 requires the Department⁸⁹ to conduct regular periodic audits of a stratified random sample of all gang unit warrant applications and supporting affidavits. Such audits must include, at a minimum, 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.

Background

On March 30, 2004, Audit Division reported on its Department-wide audit of Warrant Applications and Supporting Affidavits. This audit did not address any GED issues, and therefore did not address the requirements of paragraph 131c as related to paragraph 128(1). The Monitor informed Audit Division of this oversight, which led Audit Division to complete a *Supplemental Warrant Applications and Supporting Affidavits Audit* dated June 29, 2004.

Prior to the issuance of the Monitor's Report for the Quarter Ending September 30, 2004, the Monitor understood that Audit Division intended to undertake a second supplemental audit of the warrants identified in the *GED Work Product Audit* during the quarter ending December 31, 2004. The Monitor deferred its evaluation until that second supplemental audit had been completed and received. It was later learned that a second supplemental audit was neither required nor completed and that the only audit requiring review was the audit dated June 29, 2004.

Current Assessment of Compliance

In order to assess compliance with paragraph 131c-1 during the current quarter, the Monitor reviewed Audit Division's *GED Warrant Applications and Supporting Affidavits Audit* report dated June 29, 2004, the related audit workplan and cribsheet, and selected audit matrices and other documents included in the Monitor's sample of reports reviewed.

Audit Division's population for the supplemental audit was derived from the search and Ramey warrants identified in the 2003-04 quarterly GED Work Product audits.⁹⁰ The population included all incidents wherein personnel assigned to either Department GED or Community Law Enforcement and Recovery (CLEAR) units wrote and served warrants. Audit Division

⁸⁹ The Consent Decree formerly required that these audits be completed by SOSD. The City and the DOJ have agreed that the audits may now be completed by Audit Division; a revision to the Consent Decree is pending.

⁹⁰ This included warrants issued in June, August and November 2003 and February 2004.

compared all quarterly GED work products to Area Warrant Tracking Logs to ensure that all warrants authored by GED personnel were identified and accounted for. Those warrants that did not meet the review criteria⁹¹ were excluded. The total population was determined to be 21 warrants.

The Monitor obtained and reviewed a random sample of 12 of the 21 warrants in Audit Division's sample.⁹² The Monitor's sample comprised 3 search and 9 Ramey (arrest) warrants.

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

- The Monitor commends Audit Division on a concise, well written report.
- Audit Division concluded that the Department had achieved a 90% compliance rate relative to supervisory oversight because there were two warrant packages for which the supervisor failed to include a commanding officer's analysis of the on-scene supervisor. The Monitor concurs with Audit Division's conclusion but noted a third occurrence, involving a warrant that had been omitted from the Warrant Tracking Log (and was assessed under the accurate inclusion on the warrant tracking log objective) that should also have been assessed as a failure under the supervisory oversight objective. This would have further reduced the Department's compliance with this objective to 86% rather than 90%. Audit Division agreed with the Monitor's assessment in this regard.
- The Monitor noted that 8 of the 12 warrants reviewed were authored and served prior to the issuance of Special Order 28 in July 2003, and accordingly, were not held to the same degree of specificity and supervisory review as those which were written and served post June 2003. The Monitor concurs with this approach.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 131c-1.

Paragraph 131c-3 – Supplemental GED Audits of NCUOF Investigation Reports

Paragraph 131c-3 requires the Department to conduct a regular, periodic audit of a stratified random sample of all gang unit UOF reports. The qualitative factors that must be addressed in this audit are described in paragraphs 128 and 131e-g.

Background

In December 2003, Audit Division reported on its Department-wide audit of NCUOF reports. In the Monitor's Report for the Quarter Ending March 2004, the Monitor found that although the sample used in the Department-wide audit included gang unit officers, this audit did not meet the

⁹¹ For example, because the affiant was from an outside agency, the warrant was for a pen register, the affidavit was a request for telephone subscriber information recorded as a warrant or the warrant was not presented to or issued by a magistrate.

⁹² This sample was selected using a confidence interval of 95% and a +/- 7% error factor.

requirements of paragraph 131c-3, as it was not conducted by SOSD, did not address specific gang unit issues, and no specific conclusions were articulated relating to gang unit findings.

Audit Division acknowledged the Monitor's findings and advised it would conduct a supplemental audit specific to NCUOF incidents involving GED officers. Audit Division provided a Supplemental GED NCUOF Reports Audit report, dated June 28, 2004, that covered a sample of 18 UOF incidents involving GED officers for which the investigation had been completed by June 9, 2004. Audit Division advised that the remaining investigations of GED NCUOF incidents not covered in the June 28, 2004 report would be reported in a further supplemental report. Additionally, a review of witness statement summaries to taped interviews would also be conducted in a separate GED NCUOF supplemental audit report.

The Monitor deferred evaluation in the Monitor's Reports for the Quarters Ending June 30, 2004 and September 30, 2004 pending the receipt of all three GED NCUOF supplemental audit reports.

Current Assessment of Compliance

Audit Division completed three *Supplemental GED NCUOF Audit Reports* to meet the requirements of paragraph 131c-3 as follows:

| Supplemental Report Date | Description of Supplemental Audit Coverage |
|--------------------------|---|
| Jun 28, 2004 | 18 GED NCUOF incidents occurring in Q1 to Q4 as per population for Work Product Audits for fiscal 2003/2004 for which investigations had been completed by June 9, 2004 |
| Nov 1, 2004 | Remaining 3 GED NCUOF incidents occurring in Q1 to Q4 as per population for Work Product Audits for fiscal 2003/2004 for which investigations had been completed subsequent to June 9, 2004 |
| Aug 2, 2004 | Summary of witness statements follow-up for GED NCUOF incidents |

Audit Division identified a population of twenty-four NCUOF incidents that involved GED officers as determined from a review of four GED Work Product audits covering the four quarters of fiscal 2003/2004, and sampled these 100%. Additionally, for this sample, Audit Division identified that five witness interviews were taped.⁹³ These were reviewed 100% by Audit Division to test the suitability of the investigators' related witness statement summaries.

Audit Division determined that the Department was 100% compliant in respect of all eight audit objectives considered. No recommendations were deemed necessary.

⁹³ For the audit period under review, neither the Consent Decree nor Department policy required supervisors conducting GED NCUOF investigations to tape-record interviews.

In carrying out its review of the three supplemental audits, the Monitor reviewed the GED NCUOF investigation reports, related arrest and other Department reports and Audit Division's audit report and matrices for those incidents included in the Monitor's sample of fifteen GED NCUOF incidents and five taped interviews.⁹⁴

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

- Audit Division's review appropriately considered the required Consent Decree mandates and relevant Department policy in its eight audit objectives.
- In several instances, Audit Division performed appropriate follow-up procedures indicative of satisfactory supervisory oversight, including the identification of an additional UOF not reported. The Department agreed and conducted a further NCUOF investigation.
- The Monitor identified no issues arising from its review of Audit Division's fieldwork.
- Retrieval of witness statement tapes was delayed, and only achieved after particular tracing efforts by Audit Division. Audit Division appropriately dealt with this recurring Department issue.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 131c-3.

Paragraphs 131e – Audit of Gang Unit Supervisors

Paragraph 131e requires the Department⁹⁵ to conduct regular, periodic audits of the roles and conduct of supervisors of gang units covered by paragraph 106.

Background

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor reported its understanding that the audits submitted for paragraph 131a would include an evaluation of supervisory oversight of the gang units covered by paragraph 106h; accordingly, paragraph 131e was not identified as a paragraph requiring separate evaluation. Subsequent paragraph 131a audits did not evaluate supervisory oversight issues; instead, the Department performed a *Bureau Gang Coordinator Audit* dated July 16, 2003. The Monitor evaluated this audit in its report for the quarter ending December 31, 2003, concluding that it was non-compliant with the requirements of paragraph 131e as it did not test or comment on the quality of the inspections performed by the Bureau Gang Coordinators, but instead represented a summary of their work.

⁹⁴ The Monitor's sample was partially determined on a randomly selected basis for the first tranche, whereby 9 investigations were randomly selected from a population of 16 investigations and on a 100% basis for the second tranche, whereby 6 of 6 investigations were reviewed.

⁹⁵ The Consent Decree formerly required that these audits be completed by SOSD. The City and the DOJ have agreed that the audits may now be completed by Audit Division; a revision to the Consent Decree is pending.

Current Assessment of Compliance

Pursuant to a proposed revision to the Methodologies upon which the City and the Monitor have agreed, the audits of BGC inspections required under this paragraph will no longer be necessary. Instead, future gang unit work product audits conducted pursuant to paragraph 131a audits of the work of the gang unit as a whole must specifically evaluate and comment on the roles and conduct of gang unit supervisors. The Monitor notes that this approach is consistent with the Monitor's original understanding as articulated in its Report for the Quarter Ending December 31, 2002, but further notes that the Department is not expected to address the requirements of paragraphs 131a and 131e until September 2005.⁹⁶

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 131e.

Paragraph 133 – Police Training Audit

Paragraph 133 requires the Department to hire independent consultants who have substantial experience in police training to audit police officer and supervisory training within 18 months of the effective date of the Consent Decree. The audit must address methods in which LAPD training could be improved:

- to reduce incidents of excessive UOF, false arrests, and illegal search and seizures; and
- by making greater use of community-oriented-police training models that incorporate factors relating to cultural diversity, including training on interactions with persons of different races, ethnicities, religious groups, sexual orientation, persons of the opposite sex, and persons with disabilities.

Background

The Monitor last assessed compliance with paragraph 133 during the quarter ending June 30, 2004, at which time the Monitor withheld a determination of compliance pending the continued assessment of the Department's new training model.

Current Assessment of Compliance

As described in prior reports, the Department hired RAND as the independent consultant to complete the training audit required by this paragraph. After evaluating RAND's review, the Monitor concluded that RAND's report was not specific enough to LAPD, despite comments

⁹⁶ The Monitor understands that the Bureau Gang Coordinators' monthly inspections and Audit Division's non-Consent Decree command accountability audits will address paragraph 131e objectives; however, the Monitor has agreed with the LAPD that such evaluations are not meant to be assessed by the Monitor for compliance with paragraph 131e.

from the City and Department to RAND throughout the process regarding the need for more specificity.

Recognizing that there were deficiencies in the LAPD's training program that needed to be addressed, the City and the LAPD reorganized the training groups, incorporating suggestions from the RAND report. Over the past two years, the Monitor has worked in conjunction with Training Group staff to ensure that all curriculum is developed with Community Oriented Policing objectives interwoven into each body of instruction.⁹⁷ The Monitor's training team reviewed lesson plans as they were being written, and suggested revisions to the final product. Interactive videos, role-playing discussions, and scenario-based training were reviewed for content, message, response evaluation and relevance. Many scenarios were rejected or modified by the team as the training was being developed and, most importantly, none were approved for classroom presentation until all Consent Decree requirements were addressed. These modifications to the curriculum, in conjunction with the institutionalization of interactive learning and a renewed focus on the core areas of UOF, search and seizure, arrest, ethics, diversity, and community policing, have become hallmarks of the new program.

Program delivery was broken into four major groups: entry level, promotional level, specialized assignment, and recurrent in-service. Embedded into all the learning domains were case studies focusing on Leadership, Ethics, and Community Policing. Facilitated group discussions, role-playing, and video clips brought best practices and realistic and historic issues to the forefront for honest dialogue and resolution. Twenty courses, including Firearms, Supervisory, and Watch Commanders courses, have been re-written, and twenty one additional courses are being re-written at this time. Anti-discrimination and racial profiling training was outsourced to the Museum of Tolerance and integrated into the newly developed lesson plans.

Several factors were instituted to ensure that instruction remains consistent; including the purchase of a Learning Management System, the creation of a Master Training Calendar, and the establishment of a regular schedule of internal monitoring and auditing of instructional delivery. In conjunction with these enhancements, instructors are now video taped and their performance critiqued for suggested improvement. Furthermore, a course evaluation and feedback system and a test score tracking system have also been implemented.

Finally, data from inspections, audits, civil suits, misconduct adjudications, and UOF review analysis are used to further enhance curriculum development.

The effect of these changes in training philosophy and delivery is that LAPD members, at all levels, should have a greater understanding of the law, a greater respect for rule of law, and more

⁹⁷ One of the members of the Monitor's team, Thomas C. Frazier, the former Commissioner of the Baltimore City Police Department, is the past Director of the DOJ's Community Oriented Policing Services (COPS). In that capacity, he was responsible for awarding and monitoring all the community policing grants in the country, with a special focus on the areas of Police Ethics and internal equity. As an evaluator of the myriad proposals and implementations nation-wide, he is in a unique position to observe the progress of the LAPD in making community policing part and parcel of every block of instruction.

applicable knowledge of the community and its members. Furthermore, scenario-based training on community policing strategies has proven to be effective. The training emphasizes a clear recognition that respect for law and human dignity is a central theme of the LAPD, and any violation of the Department's official position will be firmly dealt with through the disciplinary process. Precedent has shown that there is a direct correlation between a police officer's actions and his or her values, knowledge base, skills, and fear of discipline. In addition to addressing areas of concern identified in the Consent Decree, this combination of increased knowledge, community policing processes, and respect for the community should facilitate the implementation of a community policing model and serve to reduce incidents of UOF, illegal search and seizure, and unlawful arrests.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 133.

Paragraph 140 – Police Commission Requested Audits

Paragraph 140 requires the LAPD or the Inspector General to conduct audits as directed by the Police Commission, and to report the audit results to the Commission within the time frames established by the Commission.

Background

The Monitor has not previously assessed compliance with paragraph 140, as each quarter, the Monitor has been informed that no audits were requested by the Police Commission.

Current Assessment of Compliance

In order to assess compliance with paragraph 140 during the current quarter, the Monitor reviewed copies of the *Foreign Language /Telecommunications Device for the Deaf (TDD) Audit* reports from the Operations-Valley Bureau, Operations-West Bureau, Operations-Central Bureau and Operations-South Bureau, as well as selected audit matrices and working papers. The Monitor understands these audit reports were prepared with the assistance of Audit Division. In addition, the Monitor reviewed a copy of Audit Division's *Foreign Language Audit*. All five of these audits were completed in the summer of 2004.

The Monitor's findings are highlighted below:

- There appears to some confusion as to who requested these foreign language audits. Although they are included in the 2004/2005 Annual Audit Plan, Commission staff and LAPD's Audit Division have been unable to locate a formal request for such audits. Instead, the Monitor understands that the initial *Foreign Language Audit*, completed in March 2003, was requested by one of the Police Commissioners; however, it was not tracked as a paragraph 140 audit. In light of the fact that no documentation is available related to the original request for these audits, the Monitor is unable to determine if the original audit was completed within the timeframes established by the Commission.

- The methodology for the recent audits, although reasonable, uses very small samples that include phone calls to evaluate how front desk officers handle phone calls from individuals who are either hearing impaired or non-English speaking. However, there were no tapes made of these calls, during any of the audits, in order to enable the Monitor to perform a meta-audit. As a result, the Monitor could not evaluate the findings from these audits

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 140.

C. INSPECTOR GENERAL REVIEWS & AUDITS

During this quarter, the Monitor assessed:

- the timeliness of transmittal of the LAPD audits to the OIG;
- the timeliness and quality of the OIG's audit review process in general; and
- the OIG's September 30, 2004 review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004.

As described below, none of the OIG's recent reviews are compliant with the requirements of the Consent Decree.

The Monitor first reported concerns with the OIG's audits and reviews early in the term of the Consent Decree. In the Monitor's Report for the Quarter Ending March 31, 2003, the Monitor identified the OIG's lack of suitable resources as a factor contributing to this. Until recently, the City has made little progress in addressing the OIG's resource-related concerns, and the timeliness and quality of the OIG's work has made limited improvement. During the quarter ending December 31, 2004, the OIG implemented a restructuring plan to address its resource issues, and modified its quality control practices; however, until the resource issues are resolved, improvements in the timeliness and quality of the OIG's work will likely be limited.

Paragraph 135 – OIG Evaluation of LAPD Audits

Paragraph 135 requires the OIG to be provided with copies of certain audit reports within one week of completion so that OIG staff may evaluate all such audits to assess their quality, completeness, and findings. For ease of reporting, the Monitor has split its reporting on paragraph 135 into two components:

- Paragraph 135a assesses the timeliness of the transmittal of LAPD audits to the OIG, and
- Paragraph 135b assesses the timeliness and quality of the OIG's review of such audits.

Paragraph 135a – Timeliness of Transmittal of LAPD Audits to the OIG

Background

The Monitor first assessed the timeliness of the audits received by the OIG during the quarter ending December 31, 2002, at which time the Department was found in non-compliance with the requirement to transmit Departmental audits to the OIG within one week of their completion. For almost two years since then, the Monitor has continued to find the Department in non-compliance, with the exception of the quarter ending March 31, 2004, in which the Department was found in compliance.

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 during the current quarter, the Monitor reviewed details of the timing of the Department’s transmittal of the audits issued during the quarter ending December 31, 2004, as listed in the table below, and communicated directly with the OIG to confirm the dates of receipt.

| <i>CD ¶</i> | <i>Audit Description</i> | <i>Date of Approval of Audit Report by Chief of Police</i> | <i>Date Audit Report Received by OIG</i> | <i># Days to OIG Receipt</i> |
|-------------|---|--|--|------------------------------|
| CD127 | <i>Ethics Enforcement Section 3rd Quarterly Report</i> | Dec 8, 2004 | Dec 15, 2004 | 7 ✓ |
| CD128(2) | <i>Arrest Booking and Charging Reports Audit</i> | Oct 8, 2004 | Oct 13, 2004 | 5 ✓ |
| CD129iii | <i>Complaint Form 1.28 Investigations Audit</i> | Dec 22, 2004 | Jan 13, 2005 | 22 ✗ |
| CD131c-3 | <i>GED NCUOF Investigations Supplemental Audit</i> | Nov 4, 2004 | Nov 8, 2004 | 4 ✓ |

✓ = Compliant ✗ = Non-Compliant

Based on the foregoing, the Monitor finds the Department in non-compliance with the provision of paragraph 135 that requires the Department’s audit reports to be provided to the OIG within seven days of completion.

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

Background

For most of the last three years of the Consent Decree, with few exceptions,⁹⁸ the Monitor has found the OIG’s reviews of specified and other audits to be non-compliant with the requirements of paragraph 135b. This is set out in the table below. The assessments of non-compliance resulted either from shortcomings in the quality of OIG’s reviews or the failure of the OIG to present its reviews in a timely manner to the Police Commission.

| <i>Monitor’s Report for the Quarter Ending</i> | <i>Monitor’s Determination</i> | <i>Basis</i> |
|--|--------------------------------|--|
| Mar 31, 2002 | Non-compliant | Deficient quality |
| Jun 30, 2002 | Not assessed | N/A |
| Sept 30, 2002 | Non-compliant | Further improvements to quality required |
| Dec 31, 2002 | Compliant | Improved quality |
| Mar 31, 2003 | Non-compliant | Evaluation not timely |
| Jun 30, 2003 | Determination Withheld | All reviews compliant except 1 - subject to interpretation |
| Sept 30, 2003 | Non-compliant | Lack of timeliness & deficient quality |
| Dec 31, 2003 | Non-compliant | Lack of timeliness & deficient quality |
| Mar 31, 2004 | Non-compliant | Deficient quality for 3 of 4 reviews |
| Jun 30, 2004 | Non-compliant | Deficient quality for all 4 reviews |
| Sept 30, 2004 | Non-compliant | Lack of timeliness & deficient quality for all 8 reviews |
| Dec 31, 2004 | Non-compliant | Lack of timeliness & deficient quality |

Current Assessment of Compliance

For the current quarter, in light of the staffing shortages at the OIG and the limitations that this places on the OIG’s ability to conduct quality reviews on a timely basis, rather than performing a

⁹⁸ The Monitor did not assess compliance during the quarter ending June 30, 2002, found the OIG in compliance during the quarter ending December 31, 2002, and withheld a determination of compliance during the quarter ending June 30, 2003.

detailed evaluation of the quality of each of the OIG's reviews,⁹⁹ the Monitor instead evaluated the timeliness of the OIG's reviews that were outstanding at the end of the previous quarter. In addition, the Monitor assessed the quality and timeliness of the OIG's report dated September 30, 2004 on its review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004 (CD128(1)).

| <i>Audit Name</i> | <i>CD Paragraph</i> | <i>Audit Completion Date</i> | <i>Date of OIG Report</i> | <i># Months to Completion</i> |
|--|---------------------------|------------------------------|---------------------------|-------------------------------|
| AD's CUOF Interim Systems Audit | CD129i | 27-May-04 | 21-Dec-04 | 6.9 |
| GED Work Product Audit | CD131a | 24-Jun-04 | Not done | > 7.3 |
| AD's Confidential Control Packages Audit | CD128(5), 131c-5, 131d | 28-Jun-04 | 23-Nov-04 | 4.9 |
| Supplemental GED Work Product Patterns Audit | CD131a | 28-Jun-04 | 9-Nov-04 | 4.5 |
| GED Selection Criteria Audit | CD131b | 28-Jun-04 | 9-Dec-04 | 5.5 |
| Supplemental GED NCUOF Investigations Audit | CD131c-3 | 28-Jun-04 | 9-Dec-04 | 5.5 |
| Supplemental GED Warrant Applications Audit | CD131c-1 | 29-Jun-04 | Not done | > 7.1 |
| AD's MV&PS Audit | CD128(4), 131c-4 | 30-Jun-04 | Not done | > 7.1 |
| Audit of Handling of Personals with Mental Illnesses Audit | CD112, 113 | 9-Jul-04 | 29-Dec-04 | 5.8 |
| Supplemental GED NCUOF Investigations Audit | CD131c-3 | 2-Aug-04 | 7-Jan-05 | 5.3 |
| EES Sting Reporting Protocol - 2nd Q 2004 | CD127 | 10-Aug-04 | 27-Dec-04 | 4.6 |
| AD's CUOF Investigations Audit | CD129i | 14-Aug-04 | Not done | > 5.6 |
| Supplemental GED Work Product Patterns Audit | CD131a | 17-Sep-04 | Not done | > 4.4 |
| Supplemental GED Work Product Patterns Audit | CD131a | 28-Sep-04 | Not done | > 4.4 |
| Arrest Booking and Charging Reports Audit | CD128(2), 131c-2 | 8-Oct-04 | Not done | > 3.7 |
| Supplemental GED NCUOF Investigations Audit | CD131c-3 | 4-Nov-04 | 9-Dec-04 | 1.2 |

Based on information summarized in the table above as well as discussions with representatives of the OIG:

⁹⁹ This is the process that the Monitor has been following for previous evaluations of the OIG's reviews.

- with the exception of the review of the GED NCUOF supplemental audit completed in early December 2004, none of the OIG's reviews were completed within 3 months;¹⁰⁰ and
- the OIG's review dated December 29, 2004 of the Mental Health Audit, did not include a meta-audit, and therefore did not adequately evaluate the quality, completeness and findings of this audit; instead, this review provides an executive level review.

The OIG's Sept 30, 2004 Review of Audit Division's Warrant Applications and Affidavits Audit (CD128(1))

In its Report for the Quarter Ending September 30, 2004, the Monitor found the OIG in non-compliance with the timeliness requirement related to its August 11, 2004 review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004. Additionally the Monitor noted that the OIG's August 11, 2004 report was retracted and a revised report was issued on September 30, 2004 that essentially reversed the conclusions in the OIG's August report. This reversal occurred after discussions between Audit Division and the OIG in early September 2004. Although the Monitor understands that the OIG did not have sufficient resources to fully confirm its findings before issuing its first report, the Monitor concluded that the OIG's quality control processes were not effective if the OIG can issue a report that is later retracted and reversed.

In light of the apparent controversy over this audit, the Monitor reviewed the OIG's revised report dated September 30, 2004, and compared this revised report and the associated OIG matrices with the Monitor's findings from its review of Audit Division's report and matrices.

The Monitor's findings are as follows:

- The OIG's review was not completed on a timely basis.
- For one search warrant package the Monitor concluded that the OIG was overly critical of both the Department and Audit Division in finding that the description of the property to be sought and seized was impermissibly vague, and that the same warrant contained possibly inappropriate cutting and pasting.
- For another search warrant, the Monitor agrees with the OIG's assessment that Audit Division overlooked an affidavit that did not demonstrate that there was probable cause for obtaining the warrant.
- In two search warrant packages, the Monitor noted that although the OIG identified the same key issues that were identified by Audit Division, its final assessment on the audit matrices differed. Although part of this assessment was due to interpretational differences, the Monitor noted that the OIG's interpretation was often quite literal and did not consider the context of the situation when assessing Audit Division's response.

¹⁰⁰ 3 months is considered an acceptable deadline by both the Monitor and the OIG.



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

REPORT OF THE INDEPENDENT MONITOR
FOR THE QUARTER ENDING December 31, 2004
Issued February 15, 2005

Based on the foregoing, the Monitor finds the OIG in non-compliance with the requirements of paragraph 135b.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

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

During the quarter ending September 30, 2003, the Monitor reviewed current performance appraisal criteria for the Chief of Police's annual evaluation and the format for that evaluation. In addition, the Monitor assessed the Police Commission's review of Consent Decree audits and the Commission's review and approval of new/changed policies and procedures. During the quarter ending December 31, 2003, the Monitor evaluated the Police Commission's annual review of the Chief of Police and the Commission's review of the LAPD budget. During the quarter ending June 30, 2004, the Monitor assessed the Police Commission's, and the IG's, review and evaluation of CUOF, as well the related reporting requirement. During the quarter ending September 30, 2004, the Monitor assessed the Police Commission's review of audits and its investigation of misconduct complaints filed against the Chief. The Monitor also attempted to assess compliance with requirements regarding the Commission's review of policies and procedures, and its evaluation of the Chief of Police.

During the current quarter, the Monitor assessed compliance with the requirements regarding the Commission's review of the LAPD budget and its review and approval of LAPD policies and procedures. The Monitor was also scheduled to address requirements relating to the Commission's annual review of the Chief of police but deferred its assessment due to the fact that the review was not conducted until just prior to the end of the quarter. The results of our current assessments follow.

Paragraph 143 – Police Commission Review of Audits, Policies & Procedures

Paragraph 143 requires the Police Commission and the IG to review certain Consent Decree audits, to consider the results of such audits in its annual evaluation of the Chief of Police, and to review and approve all new or changed LAPD polices and procedures. For ease of reference, the Monitor has split its reporting on paragraph 143 into three components:

- Paragraph 143a assesses the Police Commission's review of the Consent Decree audits;

- Paragraph 143b assesses the Police Commission's inclusion of audit results in its evaluation of the Chief of Police; and
- Paragraph 143c assesses the Police Commission's review and approval of new/changed policies and procedures.

The Monitor's assessment of paragraph 143c follows.¹⁰¹

Paragraph 143c – Police Commission Review of Policies and Procedures

Paragraph 143c requires the Police Commission to review and approve all new LAPD policies and procedures, as well as changes to existing policies and procedures that are made to address the requirements of the Consent Decree.

Background

The Monitor last assessed compliance with paragraph 143c during the quarter ending September 30, 2003, at which time the Department was found in functional compliance. During the quarter ending September 30, 2004, the Monitor attempted to assess compliance with the paragraph but withheld a determination of compliance pending the receipt of information requested from the Police Commission.

Current Assessment of Compliance

As described in the Monitor's Report for the Quarter Ending September 30, 2004, during that quarter, the Department indicated that between September 1, 2003 and September 30, 2004, it established one new policy/procedure and made eight changes to existing policies/procedures. The Monitor requested information from the Police Commission relating to new Department policies and procedures.

During the current quarter, the Monitor received the information requested from the Police Commission and compared it to the Department's records. The Monitor confirmed that the Commission reviewed and approved the nine policies previously identified by the Department.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 143c.

Paragraph 144 – Police Commission Annual Review of Chief of Police

Paragraph 144 requires the Police Commission, while conducting its annual review of the Chief of Police, to consider the Chief's responses to UOF incidents and complaints of officer

¹⁰¹ The Monitor was also scheduled to review compliance with paragraph 143b during the current quarter. However, this review was postponed given that, as explained in the Current Assessment of Compliance for paragraph 144, below, the annual review of the Chief was not completed until just prior to the end of the current quarter.

misconduct, assessment and imposition of discipline and those matters described in paragraphs 67, 88, 89, 106, 124, 127, and 143 of the Consent Decree.

Background

The Monitor last assessed compliance with paragraph 144 during the quarter ending December 31, 2003, at which time the Monitor found the Department in compliance. During the quarter ending September 30, 2004, the Monitor attempted to assess compliance with this paragraph but withheld a determination of compliance pending the completion of the Police Commission's evaluation of the Chief of Police.

Current Assessment of Compliance

During the current quarter, the Police Commission completed its annual review of the Chief of Police. The review covered the period July 1 2003, through June 30, 2004.

Due to the fact that the annual review was not conducted until December 2004, the Monitor has not yet had an opportunity to complete its assessment of compliance with this paragraph.

Based on the foregoing, the Monitor continues to withhold a determination of the Department's functional compliance with paragraph 144. During the quarter ending March 31, 2005, the Monitor, or his Deputy, will undertake a review to determine compliance with this paragraph.

Paragraph 146 – Approval of LAPD Budget

Background

The Monitor last assessed the LAPD's compliance with paragraph 146 during the quarter ending December 31, 2003, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 146 during the current quarter, the Monitor met with the Police Commission staff and determined that the Department's 2005/2006 budget request was reviewed and approved by the Commission and forwarded to the City on October 26, 2004. The Department's proposed budget of \$1,231,506,629 in total direct costs represents an increase of 19.7% over the current budget.

The proposed budget includes obligatory salary increases of \$65,602,842, and assumes a sworn hiring plan of 720 new recruits. Additionally, 69 sworn and 225 civilian positions are requested. Included in the civilian requests are 91 Police Service Representatives to be assigned to the Communications Division, 48 Detention Officer and 12 Senior Detention Officer positions.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 146.

B. OPERATIONS OF THE INSPECTOR GENERAL

The Consent Decree affirms that the OIG shall review and evaluate all CUOF incidents and provides that he shall be notified of all such incidents in a timely manner. In addition, he may observe all CUOF “roll outs” and may attend UOF Review Board meetings. The IG’s observations, reviews and evaluations are reported to the Police Commission for consideration. In addition, the IG shall accept complaints from LAPD officers and review all complaint intake information to ensure that they are being received in a manner that complies with LAPD policies and procedures, and the terms of the Consent Decree.

During the quarter ending June 30, 2004, the Monitor assessed the Department’s compliance with the majority of Consent Decree provisions regarding the operations of the IG. During the quarter ending September 30, 2004, the Monitor assessed compliance with the Consent Decree requirements that the LAPD provide the IG with complaint intake information on a timely basis and that the IG review complaints for compliance with LAPD policies and procedures and the terms of the Consent Decree. The Monitor is scheduled to again assess compliance with a majority of the requirements regarding the operations of the IG during the quarter ending June 30, 2005.

C. GENERAL

The Consent Decree requires the City and the Department 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.

In previous quarters, the Monitor assessed the Department’s progress in tracking recommendations and their implementation, and whether appropriate, timely and reasonable steps have been undertaken to implement recommendations and remedy deficiencies emanating from LAPD and OIG audits. During the quarter ending September 30, 2004, the Monitor reviewed the LAPD’s recent recommendation status report.

During the current quarter, the Monitor reviewed the recent *Audit Recommendations Tracking Report, Third Quarter* and the process in place to track specified audit and non-audit recommendations. The results of our current assessment follow.

Paragraph 154 – Recommendations to Improve Deficiencies

Paragraph 154 requires the City and the Department to take appropriate, timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the IG, and the Department under the Consent Decree.

Although the City disagrees that this paragraph requires any action by the LAPD, the LAPD's Civil Rights Integrity Division (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.

Background

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor reported that there were numerous recurring deficiencies identified in successive audits that were not yet addressed, and neither the City nor the Department had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree. Accordingly, the Monitor concluded that the City and LAPD were in non-compliance with paragraph 154.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor reported that the LAPD had developed a system to track recommendations to correct deficiencies identified in the LAPD's audits, but this process was incomplete, as there was not yet a process to track the OIG's audit recommendations and actions thereon. Accordingly, the Monitor concluded that the City and LAPD were in continued non-compliance with paragraph 154.

During the quarter ended September 30, 2004 the Monitor reviewed CRID's *Audit Recommendations Status Report* dated June 1, 2004, which covered the period ending March 31, 2004, and concluded that it contained all of Audit Division's recommendations and most of the OIG's recommendations, but it did not include other non-audit related LAPD or OIG recommendations. Because the Monitor was informed that non-audit recommendations were being tracked separately, the Monitor deferred evaluating this process until the current quarter.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the *Audit Recommendations Tracking Report, Third Quarter* dated December 23, 2004¹⁰² and compared it to the *Audit Recommendations Status Report* dated June 1, 2004, the LAPD's Annual Audit plan and the Monitor's Report for the Quarter Ending September 30, 2004. The Monitor also held discussions with representatives

¹⁰² This report includes recommendations from Audit Division's audit reports and the OIG's reviews issued up to October 8, 2004, as well as the Annual Retaliation report, The Mental Illness Audit and the OIG's paragraph 136 NCUOF reports and Complaint Investigation Form 1.28 reports.

of CRID and the OIG to review the process in place to track specified audit and non-audit recommendations.¹⁰³

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

- CRID has implemented a database that tracks the progress on recommendations from each specified audit. This database is supported by a well-organized file system that incorporates separate files for each specified audit.¹⁰⁴ This system is updated regularly based on correspondence following up on each recommendation. CRID uses the Annual Audit Plan to identify the audit reports that need to be reviewed for potential recommendations and follow-up within the database.
- Due to the confidentiality of the audits, the OIG maintains a system for tracking recommendations that originate from EES sting audits or the OIG's review of such sting audits.
- Recommendations identified in non-specified audits and Department-initiated audits (non-Consent Decree) are tracked by Audit Division.¹⁰⁵
- Recommendations from the *Rand Training Audit* dated August 21, 2003, *Professional Standards Bureau Quarterly Discipline Reports* for the period 2000-2004 and the *PSB Annual Discipline Report* for 2001-2003 are tracked by CRID within its database; however, the *Audit Recommendations Tracking Report* dated December 23, 2004 did not include the recommendations from these reports.¹⁰⁶
- CRID has not tracked any recommendations for the IG Audits of Teams II under paragraph 137, Police Commission-Imposed Department Audits under paragraph 140, or Police Commission-Imposed IG audits under paragraph 140 as they understand that none of these audits have been conducted.¹⁰⁷

¹⁰³ The specified audits that are tracked are detailed in Directive 1-04 from CRID, dated April 15, 2004, which lists Consent Decree-mandated Department Audits as well as certain other specified audits.

¹⁰⁴ Each file is set up with copies of Audit Division's report, the related OIG's review of Audit Division's report, any Monitor/IG correspondence in relation to the audit and a copy of the audit work plan maintained on the left side. Copies of the recommendations tracking log database for the particular section, copies of the specific recommendations for each audit and correspondence detailing progress in assessing the recommendations are on the right side of the file.

¹⁰⁵ Historically, recommendations for non-specified audits are reviewed when the subsequent audit is conducted. Audit Division is currently updating and implementing a database to formally track the progress on recommendations from the non-specified audits.

¹⁰⁶ The Monitor understands from CRID that recommendations from these reports will be included in the next quarterly Audit Recommendations Tracking Report.

¹⁰⁷ As discussed in paragraph 140, there has been some confusion as to whether or not the Foreign Language Audits represent paragraph 140 audits. It is the Monitor's position that the *Foreign Language Audit* dated March 2003 represents a paragraph 140 audit. It is the Monitor's expectation that CRID will include recommendations from this audit in its tracking system in the future.

- The IG has established a separate database and filing system that tracks recommendations from the OIG reviews of the EES audits dating back to 2001.¹⁰⁸ It currently includes all but one of the recommendations¹⁰⁹ from the OIG's review. The OIG is in the process of updating its database with information regarding how these recommendations have been implemented.

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

¹⁰⁸ The Monitor reviewed each of the EES reports and noted that none of these contained any recommendations.

¹⁰⁹ Recommendation #3 from the OIG's review of the first quarterly report was not included in the database.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

The Consent Decree includes provisions intended to enhance the interaction between officers and community members in daily policing activities. One such requirement is for the LAPD to conduct a Community Outreach program for each LAPD geographic area, including one meeting in each area on a quarterly basis the first year of the Consent Decree, and one meeting in each Area annually thereafter.

The Consent Decree also mandates that the LAPD prepare and publish on its website semiannual public reports that include aggregate statistics broken down by each LAPD geographic area and for the Operations Headquarters Bureau, and broken down by the race/ethnicity/national origin of the citizens involved, for arrests, and UOF.

In the Monitor's Report for the Quarter Ending June 30, 2004, the Monitor reviewed the LAPD's compliance with the Consent Decree requirement to hold annual meetings in each Area to inform the public about the provisions of the Consent Decree and the various methods of filing a complaint against an officer. The Monitor is scheduled to again assess compliance with this requirement during the quarter ending June 30, 2005. During the current quarter, the Monitor again assessed compliance with the requirement that the LAPD prepare and post certain semiannual reports on its website. The results of our current assessment follow.

Paragraph 156 – Website Reports

Paragraph 156 requires the LAPD to prepare and publish certain semi-annual reports on its website.

Background

The Monitor last assessed compliance with paragraph 156 during the quarter ending December 31, 2003, at which time the LAPD was found in compliance.

Current Assessment of Compliance

In order to assess compliance with paragraph 156 during the current quarter, the Monitor reviewed the semi-annual report for the period January 1, 2004 through June 30, 2004, which is posted on the LAPD's website. As required by the Consent Decree, the semi-annual report includes the pedestrian and traffic stop data for the period January 1, 2004 through June 30, 2004; a summary of all discipline imposed during this period; reports of audits completed during this period; and new policies or changes in policies made by the Department during the period to address Consent Decree requirements.



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

REPORT OF THE INDEPENDENT MONITOR
FOR THE QUARTER ENDING December 31, 2004
Issued February 15, 2005

Based on the foregoing, the Monitor finds the Department in functional compliance with paragraph 156.

XI. CONCLUSION

The Monitor continues to be generally pleased with the LAPD's movement toward substantial compliance. We have, however, highlighted in one of our Focus Issues this quarter, one weak spot of compliance: TEAMS II deployment. We have done so, not because of timelines that have been missed or the potential need for an extension of the Consent Decree, but rather because of the role that early identification of at-risk officers can potentially play in reducing inappropriate, even if legally justifiable, uses of force. While we are extremely confident that LAPD can now superbly investigate Officer-Involved Shootings, LAPD must do all it can to ensure that uses of deadly physical force are undertaken by officers only as a last resort.