

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
SEPTEMBER 30, 2008

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EXECUTIVE SUMMARY

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

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

As described in our Report for the Quarter Ending June 30, 2008, during the previous quarter, as part of an overall reassessment of the Department's compliance with the Consent Decree, the Monitor and the parties revisited the status of compliance with each of the substantive provisions of the Consent Decree. The Monitor reviewed the progress made by the City and the Department over the first two years of the three-year extension period and identified those paragraphs with which the Department achieved substantial compliance during this two-year period. To the Department's credit, the list of such paragraphs was extensive, providing tangible evidence of the significant accomplishments the Department and the City have made.¹ Beginning with the current reporting period (for the quarter ending September 30, 2008), the Monitor is not planning on assessing compliance with these paragraphs.² As always, if there is any indication of backslide in any paragraph not being actively monitored, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate. As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms which have been successfully implemented.

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

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

During the current quarter, the Monitor assessed the LAPD's compliance with various Consent Decree requirements relative to its computer information system (TEAMS II); annual personnel performance evaluations for all LAPD sworn employees; use of force incidents and investigations; search and arrest procedures; the Department's non-discrimination policy and its data collection efforts in connection with the enforcement of that policy; Confidential Informants; training for Field Training Officers; audits by the LAPD's Audit Division (AD); and reviews and audits by the Office of the Inspector General (OIG). In total, the Monitor examined 27 paragraphs or subparagraphs of the Consent Decree during the quarter, of which the City and the LAPD successfully complied with 15 and failed to achieve compliance with 7; in addition, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with 5 paragraphs. Significantly, the Department achieved substantial compliance (compliance for two consecutive years) with two additional paragraphs during the quarter,³ and has now complied with 160 of the 199 paragraphs that the Monitor has assessed during the term of the Consent Decree and the extension period to-date.

In connection with Consent Decree requirements regarding the TEAMS II computer information system, the Monitor assessed the City and LAPD's compliance with the paragraph 46 requirement to develop and implement a protocol for using TEAMS II for purposes of, among other things, annual performance evaluations, data corrections to TEAMS II records, and transfers. The Monitor found the City and LAPD in compliance with the requirements for correcting data errors on TEAMS II records, but found non-compliance with the requirements for annual performance evaluations and transfers.

The Monitor found the Department in non-compliance with the requirement that the Department develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance (paragraph 54). In coming to this conclusion, the Monitor reviewed and relied upon the findings contained in the *Supervisory Performance Evaluations Audit* that was submitted by the LAPD's Civil Rights Integrity Division on June 27, 2008. The audit found the LAPD non-compliant with pertinent Consent Decree requirements and found that many personnel performance evaluations were either not completed on a timely basis or not completed at all.

The Monitor again found the Department in compliance with all specific investigative requirements included in paragraph 80 that apply to Categorical Use of Force (CUOF) incident investigations. However, the Monitor found the Department in continued non-compliance with the requirements that managers analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a) and that supervisors' analyses be considered in their annual personnel performance evaluations (subparagraph 62c). The Monitor reviewed and relied upon the LAPD's Civil Rights Integrity Division's assessment of the sufficiency of Commanding Officer analyses related to a sample of CUOF incidents that

³ Paragraphs 108 and 116.

occurred during the period January 1, 2008 through June 30, 2008. This assessment identified five CUOF incidents, out of 20 reviewed, where the first responding supervisors were different from those either identified by Force Investigation Division or on comment cards, resulting in a compliance rate of 80%. In addition, in 88% of the CUOF incidents reviewed, the Commanding Officer completed an evaluation of the supervisors' presence within the mandated seven-day time period. Lastly, Commanding Officers analyses were documented on the respective supervisors' filed employee comment sheets for 89.4% (42 of 44) of supervisors that responded to a CUOF incident.

The Monitor also found the Department in non-compliance with the requirement that all officers involved in a Categorical Use of Force resulting in death or the substantial possibility of death be referred to the LAPD's Behavioral Science Services for a psychological evaluation (paragraph 63). The Department was previously in compliance with this paragraph. The Department's Civil Right Integrity Division compiled and presented information on 25 CUOF incidents that occurred between January and June 2008. This analysis showed that the LAPD complied with most of the requirements of the paragraph, but was able to verify that 58 of the 64 officers (90.6%) were assigned to non-field assignments pending consultation and notification of fitness for duty, which is less than the required compliance rate of 94% or greater.

In addition, the Monitor is following up with the Department in connection with its compliance with the Consent Decree requirement to canvass scenes to locate witnesses and preserve evidence, in particular in relation to photographs of employees' injuries resulting from a use of force (paragraph 81 / subparagraph 80f). The Monitor has previously concluded that the LAPD was in substantial compliance with this requirement, but AD's *NCUOF Investigations Audit*, dated June 30, 2008, concluded that the Department was not in compliance with the requirement, which is the second audit during the extension period that reached this conclusion.

In the area of search and arrest procedures, the Monitor assessed the Department's compliance with the requirement that managers analyze the circumstances surrounding the presence or absence of a supervisor at the service of a search warrant (subparagraph 62b) and again found the Department in non-compliance. The Monitor reviewed and relied upon the Civil Rights Integrity Division's assessment of the sufficiency of Commanding Officer analyses related to a sample of search warrants executed during June 2008. Although compliance rates improved from the prior assessment, almost 10% of the executed search warrants reviewed contained analyses that did not sufficiently document the supervisors' actions.

The Monitor reviewed the status of the Departments' compliance with Consent Decree requirements relating to the Department's non-discrimination policy and its data collection efforts in connection with the enforcement of that policy (paragraphs 102-105). While the City has made good faith attempts to determine why disparities exist in the treatment of different racial and ethnic groups, as identified in the stop data collected to-date, such analysis is difficult, at best, and these variances remain unexplained. In order to address racial profiling allegations, the City, in conjunction with and with the approval of the DOJ, developed a protocol for investigations of racial profiling allegations, which was implemented by the Internal Affairs

Group (IAG) in November 2007. Since that time, racial profiling cases have not been approved for closeout unless the protocols were followed. Additionally, IAG implemented a number of strategies, including revisions to the Complaint Investigation Checklist, training, designating an auditor to coordinate review of racial profiling cases, and occasional undercover surveillance to probe specific allegations of racial profiling. In addition, the Police Commission dedicated a large part of its August 19, 2008 meeting to the topic of racial profiling and approved a number of recommendations, including: quarterly reporting by the Department to the Commission on complaints of racial profiling received and adjudicated by Bureau and Area; an audit of racial profiling complaints by the Inspector General; a Departmental review of the Digital In-Car Video System, if available, in the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List; and revisions to the Alternative Complaint Resolution process to allow some complaints of racial profiling to be resolved through mediation. The Monitor continues to withhold a determination of the Department's compliance with these paragraphs until the above recommendations have been implemented and evaluated.

As noted in past reports, the City requested that the collection of field data by officers as mandated under the Consent Decree be revisited due to the inability to analyze and draw conclusions from the aggregate data and the significant expense of replacing the data collection devices. The Department has developed and is piloting an automated reporting system at the Area level, which will incorporate the collection of stop data as approved by DOJ and be implemented Department-wide once testing has been completed. Additionally, the City and Department have continued to move toward Department-wide implementation of in-car cameras, which the Monitor has strongly endorsed and recommended. These devices will help protect against biased policing while simultaneously enhancing officer safety and risk management analysis, and mitigating liability claims. The first phase of the project will deploy cameras in South Bureau patrol vehicles, and the Department plans on taking a number of steps once the in-car cameras are in operation, including conducting regular audits of the audio and video; periodic inspections by supervisors; and using data to identify and/or monitor at-risk officers who are subject to the Risk Management Executive Committee's oversight. The Monitor has determined that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, sufficiently satisfy the requirements of the Consent Decree. In the meantime, the Monitor will continue to withhold a determination of the Department's compliance with paragraphs 104 and 105.

In the area of Confidential Informants, the Monitor assessed the LAPD's compliance with Consent Decree requirements to continue to implement and follow procedures for the handling of informants, including the completion of informant control packages and requirements regarding the management of informants. The Monitor found the LAPD in continued compliance with these requirements based on a limited review of the LAPD AD's *Confidential Informant Control Package Audit*, dated June 18, 2008, and related work papers, as well as a review of all informant packages managed by gang officers. The Monitor notes that the LAPD initiated a pilot program for the development of Non-Confidential Informants, which are currently being handled using the same policies and procedures that govern the handling of active Confidential Informants. Instances of non-compliance associated with the handling of

these Non-Confidential Informants were not included in calculations of compliance during the current assessment. However, in future assessments of compliance with paragraph 108, the Monitor will review AD's *Confidential Informant Control Package Audit* and consider findings related to both Non-Confidential Informants and Confidential Informants.

In regards to training, the Monitor determined that the Department was again in compliance with the requirements regarding training for Field Training Officers, including training on LAPD policies and procedures and on how to be an instructor.

The Monitor completed a limited review and evaluation of two audits submitted by the LAPD's AD in June 2008: the *Confidential Informant Control Packages Audit* (subparagraphs 128(5), 131c-5, 131d and 131e) and the *Categorical Use of Force Investigations Audit* (subparagraph 129i). The Monitor found that the quality of the *Confidential Informant Control Packages Audit* had not significantly changed from prior compliant audits of this paragraph; as a result, the Monitor's prior finding of compliance with the pertinent Consent Decree paragraphs remains in effect. The Monitor will continue to conduct limited review of how AD assesses Non-Confidential Informants. In regards to AD's *Categorical Use of Force Investigations Audit*, the Monitor has a number of concerns about interviews conducted by Robbery & Homicide Division (RHD) investigators during CUOF incident investigations and AD's findings in connection with these interviews. Although AD identified and reported possible Miranda issues with RHD interviews in two investigations, AD did not raise any concerns nor did they include any recommendations regarding RHD's generally inappropriate interviewing techniques. In addition, AD did not identify the potential use of leading questions by investigators in one investigation, nor did it identify problems in another investigation where investigators ignored requests for medical attention during the interview of a suspect. In light of these issues, and given the limited scope of the Monitor's review of this audit due to this audit's inactive status, the Monitor is withholding its determination of compliance pending further review.

The Monitor also received AD's *Non-Categorical Use of Force Investigations Audit* submitted in June 2008 to address the requirements of paragraph 128(3), which is not actively monitored.⁴ Although the OIG expressed a difference of opinion relating to certain findings in this audit, the Monitor did not identify anything that suggested that the quality of this audit varied significantly from prior compliant audits of this topic or that this topic should be actively monitored.

During the current quarter, the Monitor conducted a limited review of the OIG's June 2008 review of the *Ethics Enforcement Section's Quarterly Report First Quarter 2008* and the OIG's June 2008 reviews of three audits performed by AD: the *Categorical Use of Force Systems Audit* (subparagraphs 129i), the *Complaint Form 1.28 Investigations Audit* (subparagraph 129iii), and the *GED Selection Criteria Audit* (subparagraph 131b). The Monitor concluded that the OIG's review of each of these audits did not identify any issues that suggest that subparagraph 135b

⁴ The Monitor's review of audits that have previously been determined to be in substantial compliance and are classified as inactive consists of reviewing only the audit report to identify any significant changes.

should be actively monitored or that the quality of these reviews varied significantly from prior compliant reviews of these topics.

The Monitor reviewed the OIG's June 2008 *TEAMS II Audit – Phase II* and found this review to be a quality review. As a result, the Monitor found the Department in compliance with paragraph 137. Lastly, the Monitor initiated its review of the OIG's approach to paragraph 138, and is withholding its determination of compliance with paragraph 138 until the OIG has finalized its methodology and completed a review pursuant to the paragraph.

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I. INTRODUCTION

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

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

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

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

subparagraph of the Consent Decree.⁵ The “Most Recent Evaluation” column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which that evaluation was made is also indicated. Those paragraphs that the Monitor is planning on actively Monitoring during the remaining term of the extension are denoted with an asterisk and bolding. The Report Card also identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance with these paragraphs. This is an estimate based on available information at the date of issuance of this Monitor’s Report and Report Card. These estimates are subject to change as information develops and circumstances change.

⁵ The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department’s compliance with the provisions of the Consent Decree.

II. FOCUS ISSUES

A. BIASED POLICING

The Consent Decree, through paragraphs 102-105, attempts to ensure that LAPD officers do not engage in any form of biased policing. Specifically, the Decree requires that when conducting stops or detentions, or activities following stops or detentions, race, gender, ethnicity, or national origin of an individual only be taken into consideration when engaging in suspect-specific activity. In order to determine whether there is systemic biased policing occurring in Los Angeles, paragraphs 104 and 105 require that the City collect data with respect to all motor vehicle and pedestrian stops being made by LAPD officers. The collection of the data and the raw numbers resulting from that collection led to significant concerns. The data suggested that African-Americans and Hispanics were being stopped far more frequently than whites and, moreover, that intrusive after-stop actions of officers were likewise disparate. At the time that the initial data was released, the Monitor acknowledged that the disparate treatment reflected in the statistics might be explained other than as an indication of biased policing and that additional analysis was required in order to attempt to explain the disparities.

In June of 2006 a report commissioned by the City and authored by The Analysis Group was released which, unfortunately, could not fully explain the disparity of the raw numbers or determine to what extent, if any, LAPD police officers were engaging in biased policing. The report examined data collected between July 1, 2003 and June 30, 2004.

As a result of The Analysis Group report, the Monitor indicated that compliance with paragraphs 102-105 would be determined by the extent to which the City adopted all reasonable measures to ensure that officers do not engage in biased policing. The City has, in fact, adopted many procedures aimed at eradicating any biased policing that might be occurring. Among other measures, the City is in the process of installing in-car video recording equipment in its patrol vehicles, has updated its training curriculum relative to biased policing and has established new protocols for the investigation of complaints alleging biased policing.

During the current quarter, a report sponsored by the ACLU and authored by Yale Law School Professor Ian Ayers was published. The Ayers report questioned the methodology and conclusions of The Analysis Group report. Using the same data used by The Analysis Group, the Ayers report concludes that the data clearly indicates that during the applicable time frame “African-Americans and Hispanics [were] over-stopped, over-frisked, over-searched, and over-arrested” when compared to whites.

The Monitor has asked the City to provide a response to Ayers report, explaining whether the City agrees with the report’s conclusions and if not, why, from a statistical or methodological view, the Ayers approach is incorrect. In the meantime, and ultimately irrespective of whether the City agrees or disagrees with the Ayers report’s conclusions, there are recommendations

contained in the report and fully detailed by the ACLU that the Monitor has asked the City to review for possible incorporation into its overall approach to biased policing.

The Monitor will continue to follow the implementation of all of the LAPD's efforts to combat biased policing and to comply with the mandates of paragraphs 102-105.

III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

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

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices, as well as identifying and modifying at-risk behavior.⁶ In order to meet this requirement, the City developed four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,⁷ and the Risk Management Information System (RMIS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

Although the original timeline for completion of the TEAMS II project was not met due to the numerous challenges presented by the scope of the TEAMS II project, the City and Department achieved Department-wide implementation of all four systems as of the quarter ending March 31, 2007. The TEAMS II systems are fully functioning, with updates researched and made as required. TEAMS II staff and the Risk Analysis Section (RAS) of the Risk Management Group (RMG) continue to monitor and assess system-generated action items to identify what types of action items are being triggered and whether those being triggered, and the frequency of the triggers, are appropriate. In addition, the City continues to assess the RMIS peer groups and thresholds, as it appears that more system-generated action items⁸ are being generated than originally projected. The City will present any proposed modifications to the DOJ and Monitor once this review is complete.

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

⁶ The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

⁷ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports (FDRs) regarding pedestrian and motor vehicle stops.

⁸ Action Items are automated or supervisor-generated notifications that identify employees whose performance may indicate a need for monitoring. Automated action items are generated when performance-related data such as uses of force is compared to stops or arrests and specific individual performance thresholds are exceeded. Supervisor-generated notifications are used to conduct periodic performance monitoring, such as annual performance evaluations or assignment to specialized units.

Department achieved substantial compliance with most of these paragraphs;⁹ the Monitor does not plan to actively monitor these paragraphs during the remainder of the extension period. Paragraph 46 is the sole paragraph from this section of the Consent Decree that the Monitor will continue to actively monitor during the remainder of the extension period.¹⁰

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

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

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

Protocols required to be implemented by paragraph 46 include subparagraph 47i, which requires that manager and supervisor performance in implementing the provisions of the TEAMS II protocol shall be taken into account in their annual personnel performance evaluations.

Background

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

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 46 as it relates to the implementation of protocols covering the requirements of subparagraphs 47i, the Monitor requested and received a list of system-generated action items that had been completed in connection with the provisions of subparagraph 47i from June 22-August 16, 2008.¹¹ In total, there were 81 such action items; of these, the Monitor selected 45 and reviewed them to ensure manager and supervisor

⁹ The Department achieved substantial compliance with paragraphs 39-44, 47-49, 52, 53 and 83, as well as subparagraphs 50d, 50e, 51b and 51d. It should be noted that substantial compliance with paragraphs 40, 48, 52, 53 and 83 was achieved during the current quarter. Compliance assessments related to these paragraphs are included in this report.

¹⁰ The Department has not yet achieved substantial compliance with sub paragraph 51c; however, compliance with the requirements of that subparagraph will be assessed under paragraph 46 during the remainder of the extension.

¹¹ This time period consists of DP 7 and 8, 2008.

performance in implementing the provisions of the TEAMS II protocol was taken into account in their annual performance evaluations.

The Monitor found the following for the 45 packages reviewed:

- Thirty-nine (87%) of the 45 packages reviewed were completed within the Department's 60-day requirement from the date of the supervisors' or managers' anniversary date.
- Twenty-four (53%) of the 45 packages included assessments of the supervisors' or managers' performance in implementing the provisions of the TEAMS II protocol in their annual performance evaluations.

Based on these results, the Monitor concluded that the requirements of subparagraph 47i are not being fully addressed in these annual performance evaluations, nor are the action items related to these annual performance evaluations being completed in a timely manner.

The Department has indicated that these new TEAMS II requirements for the annual performance evaluations related to subparagraph 47i will be emphasized in the supervisor's upcoming training courses and in ongoing COMPSTAT meetings in order to ensure that these provisions are adhered to for future reviews. To ensure that the implementation of the provisions of the TEAMS II protocol is assessed when evaluating supervisors or managers, TEAMS II has included instructions in the Performance Evaluations Report (PER) to prompt the reviewer to provide a response to this requirement.

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

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

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

Protocols required to be implemented by paragraph 46 include subparagraph 47j, which requires that each officer be able to review on a regular basis all personally-identifiable data about him or her in TEAMS II in order to ensure the accuracy of that data. There must be procedures for correcting data errors discovered by officers in their review of the TEAMS II data.

Background

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

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 46 as it relates to the implementation of protocols covering the requirements of subparagraphs 47j, the Monitor requested and received a list of requests for corrections to TEAMS II records related to the provisions of subparagraph 47j¹² from January 1-June 30, 2008. In total, 12 such correction requests were completed during the time period; the Monitor reviewed all 12 requests to ensure such requests were properly researched for accuracy and procedures for correcting such errors were completed.

The 12 requests for TEAMS II data corrections included seven requests in the area of use of force, four requests in the area of complaints and one request in the area of arrests. There were no requests during the time period selected for the areas of pursuits and collisions. The Monitor found 100% compliance with the provisions of this subparagraph. All 12 data requests for TEAMS II corrections in the areas of use of force, complaints and arrests were thoroughly researched and the proper corrections, where necessary, were made.

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

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

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

Protocols required to be implemented by paragraph 46 include subparagraph 47m, which requires that whenever an officer transfers into a new Division or Area, the Commanding Officer (CO) of such new Division or Area shall promptly cause the transferred officer's TEAMS II record to be reviewed by the transferred officer's watch commander or supervisor.

¹² The Monitor requested corrections involving information related to arrests, uses of force, complaints, pursuits and collisions.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 46 as it relates to subparagraph 47m.¹³

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 46 as it relates to the implementation of protocols covering the requirements of subparagraph 47m, the Monitor requested and received a list of system-generated action items that had been completed in connection with the provisions of subparagraph 47m regarding transfers from June 22-August 16, 2008.¹⁴ In total, there were 724 such action items; of these, the Monitor selected a random sample of 85 and reviewed them to ensure that the supervisor or manager of the new Area promptly reviewed the transferred officer's or supervisor's TEAMS II record. Specifically, the Monitor reviewed the transferred officer's or supervisor's TAI, TEAMS Evaluation Report (TER), and TEAMS II record to ensure all requirements outlined in Special Order 22, "Duty to Conduct and Document Individual Performance Assessments," dated July 12, 2007, and Special Order 23, "Criteria For Transfers/Loans of Sworn Personnel Established," dated July 10, 2003, were met.

The Monitor found the following for the 85 transfers reviewed:

- Seventy-five (88%) of the 85 transfer packages reviewed included action items that were completed within the 10-working day requirement from the transfer date.
- Seventy-nine (93%) of the 85 transfer packages reviewed included TERs that were completed within the 10-working day requirement from the transfer date.
- Seventy-eight (92%) of the 85 transfer packages reviewed included a watch commander's or supervisor's approval signature on the TER.
- Eighty-one (95%) of the 85 transfer packages reviewed included a CO's approval signature on the TER.
- Sixty-eight (80%) of the 85 transfer packages reviewed included adequate reviews of the officers' sustained complaints.

¹³ The Monitor has previously assessed the requirements for reviewing transferred officer's TEAMS reports under subparagraph 51c, which was mandated by the Methodologies until such time as TEAMS II was implemented. The last assessment of subparagraph 51c was during the quarter ending September 30, 2006, at which time the Monitor found the Department in non-compliance. Now that TEAMS II has been implemented, the Monitor is assessing these requirements under subparagraph 47m.

¹⁴ This time period consists of DP 7 and 8, 2008.

- Seventy-six (89%) of the 85 transfer packages reviewed included timely TEAMS II reports in the reviews of the transferred officers.

The Monitor also found that three different types of TEAMS II reports were being utilized in the 85 transfer packages reviewed. The Monitor concluded that this issue was administrative in nature, given that all reports contained the minimum amount of necessary information to review a transferred officer or supervisor.¹⁵ However, in order to ensure uniformity, TEAMS II staff have revised the TER to require only the review of the “Final Selection Process/Transfer Process” TEAMS report for all regular transfers.

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

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

Paragraph 54 is the only paragraph included in this subsection of the Consent Decree. The LAPD has not yet achieved substantial compliance with the requirements of this paragraph. The Monitor’s current assessment of compliance with the paragraphs follows.

Paragraph 54 – Performance Evaluations

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

Background

The Monitor first assessed the LAPD’s compliance with paragraph 54 during the quarter ending June 30, 2007, finding the Department in non-compliance. The Department indicated at the time

¹⁵ The three different types of TEAMS II report found during the Monitor’s review included Promotion/Paygrade, Final Selection Process/Transfer Process and Supervisory/Management Review.

that a performance evaluation rating form and related instruction and training were under development in an effort to comply with the requirements of the paragraph.

The Monitor again assessed the LAPD's compliance with paragraph 54 during the quarter ending June 30, 2008, at which time the Monitor withheld a compliance determination pending review of the *Supervisory Performance Evaluations Audit*, dated June 27, 2008, which was to be conducted by the LAPD's Civil Rights Integrity Division (CRID).

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 54 during the current quarter, the Monitor requested the *Supervisory Performance Evaluations Audit*, dated June 27, 2008, which was completed by CRID and approved by the Police Commission on July 8, 2008. The audit consisted of two inspections: *Inspection of Sergeant/Detective Supervisors' Performance Evaluations* and *Inspection of Supervisor Performance Evaluations – Specialized Entities*. The audit found the LAPD non-compliant with the requirements of subparagraphs 54a-d, as well as those of subparagraphs 62a and b, 70c, and 108i.¹⁶ The audit also found that many evaluations were either not completed on a timely basis or not completed at all.

Additionally, the Monitor inquired regarding the status of the new performance evaluation rating form and related instruction and training. The LAPD provided the Monitor with a draft version of the new Standards Based Assessment and related instructions and stated that these documents are still under development. The Monitor will assess the new performance evaluation system, as well as the inclusion of TEAMS II action items for the areas covered by the above audit, and report on the Department's progress in future quarters.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 54.

C. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used with a determination as to whether that force is "Categorical" (CUOF) or "Non-Categorical" (NCUOF). A CUOF¹⁷ is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.¹⁸ Administrative investigations

¹⁶ Subparagraphs 62a and b, 70c, and 108i, pertain to performance evaluation requirements relative to supervisor responses to categorical uses of force (CUOF), search warrant services, arrests and detentions (A&D), and confidential informant (CI) oversight, respectively.

¹⁷ CUOF include an Officer-Involved Shooting (OIS) with or without a hit; In-Custody Death (ICD); Law Enforcement Activity Related Death (LEARD); Law Enforcement Related Injury (LERI) requiring hospitalization; Neck Restraint; Head Strike with an Impact Weapon; and a Canine Bite requiring hospitalization.

¹⁸ 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.

of these incidents are the responsibility of the Force Investigation Division (FID). All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered NCUOF, which are also subject to certain paragraphs.¹⁹ NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

Prior to the extension, the Department had achieved substantial compliance with all Consent Decree provisions relating to uses of force except those requiring managers to analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a); the referral of all officers involved in a CUOF resulting in death or the substantial possibility of death to the LAPD's Behavioral Science Services (BSS) for a psychological evaluation (paragraph 63); and managers' consideration of the officer's work history, including information contained in the TEAMS II system and that officer's CUOF histories when reviewing and making recommendations regarding discipline or non-disciplinary action as a result of a CUOF (paragraph 64). In addition, the Department had not yet achieved substantial compliance with several Consent Decree provisions regarding UOF investigations (paragraph 80i) and access to information contained in TEAMS II for those units conducting CUOF investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above). As a result, the Monitor continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.²⁰

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

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 62 and 63 and paragraph 80i. In addition, the Monitor is providing a Status Update regarding paragraph 81, which the Monitor is no longer actively monitoring. The Status Update and the results of our current assessments follow.

¹⁹ Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

²⁰ Prior to the extension, the Department achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. In addition, many of the paragraphs included in Section D. Complaints, below, are related to this section of the Consent Decree.

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.²¹ The review and analysis is required to occur within seven calendar days of the occurrence of the incident or service to determine if the supervisor's response to the incident or service was appropriate. Paragraph 62 also requires (c) the consideration of the analysis in each supervisor's annual personnel performance evaluation.

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to CUOF (subparagraph 62a) during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in non-compliance.

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to employee comment cards (subparagraph 62c) during the quarter ending March 31, 2008, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

Subparagraph 62a CUOF Incidents

During the current quarter, CRID conducted an assessment of the sufficiency of CO analyses related to a sample of CUOF incidents that occurred during the period January 1, 2008 through June 30, 2008.²² The Monitor reviewed and relied upon CRID's assessment of the analyses, noting that CRID's review of the analyses completed by applicable supervisors found five CUOF incidents where the first responding supervisors were different from those either identified by FID or on comment cards. This translates into a compliance rate of 80.0% (20 of 25). The Monitor noted that for 22 of the 25 (88.0%) CUOF incidents reviewed, the CO completed an evaluation of the supervisors' presence within the mandated seven-day time period.

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

²¹ The Monitor assessment of the LAPD's compliance with paragraph 62 as it relates to the service of search warrants (subparagraph 62b) is included in section D., Search and Arrest Procedures, below.

²² In total, 61 CUOF incidents occurred during the inspection period. CRID randomly sampled 25 of the incidents for review.

Subparagraph 62c Employee Comments Cards

In reviewing CRID's assessment of the LAPD's compliance with subparagraph 62c, the Monitor noted that for 42 of the 47 (89.4%) supervisors that responded to a CUOF incident, the COs' analyses were documented on the respective supervisors' filed employee comment sheets.

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

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

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

Background

The Monitor last assessed compliance with paragraph 63 during the quarter ending March 31, 2008, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

During the current quarter, CRID compiled and presented information on 25 CUOF incidents²³ that occurred between January and June 2008, which involved a total of 64 officers requiring referral to BSS. The Monitor reviewed CRID's analysis and noted that 63 of 64 officers were scheduled for an appointment with BSS within 48 hours of the incident and all 64 officers underwent a psychological examination. Similarly, the respective COs of all officers consulted with the BSS regarding the involved officers' readiness to return to field duty. CRID was able to verify that 58 of the 64 officers were assigned to non-field assignments pending BSS consultation and notification of fitness for duty.²⁴ This translates into an overall compliance rate of 90.6%.

For the period under review, CRID noted that BSS was staffed with 16 psychologists, 13 of whom completed officer psychological evaluations related to incidents in CRID's sample. All

²³ The incidents reviewed were the same as those that CRID evaluated in connection with its assessment of subparagraph 62a. Refer to the Current Assessment of Compliance for subparagraph 62a, above, for additional information.

²⁴ CRID's inspection included reviewing and comparing DPS Daily Work Sheets, Official Divisional Time Books, Detective Daily Sign In/Sign Out Sheets and Form 15.2 Interdepartmental Correspondence.

psychologists maintained current mental health licensing with the State of California Department of Consumer Affairs, Board of Psychology.

CRID noted that the CUOF cases reviewed for this inspection occurred prior to the Consent Decree Bureau Notice, "Deployment Planning System (DPS) Enhancement for Categorical Use of Force Incidents," dated August 6, 2008. The Notice discusses a DPS enhancement that prevents "non-field certified" employees from being deployed in the field until otherwise advised by the CO of return to field status. The Monitor will track compliance with paragraph 63 in future quarters in order to determine the effectiveness of the enhancement.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 63.²⁵

Paragraph 80 – Categorical Use of Force Investigations

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

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

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

²⁵ Although all doctors were licensed and nearly all officers were referred within 48 hours, the overall finding of non-compliance is based on the 90.6% compliance rate with the requirement to determine and officer's fitness for duty prior to field deployment. The Monitor considers this requirement, which deals directly with officer and community safety, of paramount importance.

Background

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

The Monitor last assessed compliance with paragraph 80 as it pertains to CUOF incidents (subparagraph 80i) during the quarter ending June 30, 2008, at which time the Monitor found the LAPD in compliance with all pertinent subsections of the paragraph. The Monitor reviewed 13 CUOF incident investigations that were investigated solely by the FID. Although the Monitor identified instances of non-compliance in some investigations, after considering the merits of the 13 CUOF incident investigations as a whole, the Monitor concluded that the items of non-compliance did not impact the investigations' overall quality and the ability of a reviewer to properly adjudicate officer actions.

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 80i during the current quarter, the Monitor reviewed 17 CUOF incident investigations that occurred during the period September 2006 through March 2007. The 17 incidents comprised:

- Eleven OIS incidents; the suspect(s) sustained a hit(s) in all 11 incidents.
- Five ICD incidents for which the cause of death was not attributed to officer actions.²⁶
- One incident in which the officer utilized a neck restraint.

The Monitor noted the following:

- For all 17 investigations reviewed, all interviews were tape-recorded (subsection a).
- Interviews were conducted at times and locations convenient to witnesses in 16 of 17 investigations (subsection b). For one investigation, the interviewing detectives did not establish whether the times and places of interviews were convenient for witnesses.
- Group interviews did not occur in any of the 17 investigations (subsection c).

²⁶ Special Order No. 34, dated October 12, 2005, *In-Custody Deaths Terminology – Revised*, amended Sections 2/101, 2/140.02, 4/409.2, 3/794.1 and 4/238.55 of the Department Manual. It deactivated the categorization formerly referred to as LEARD. All incidents involving a person who dies have since been and will be categorized as ICDs. This Special Order revised policy to conform to California/Federal DOJ and other statewide municipal agencies.

- Supervisors responding to the scene were interviewed regarding their conduct in all 17 investigations (subsection e).
- All appropriate evidence was collected in 16 of 17 investigations (subsection f). For one investigation, a witness, although identified, was not interviewed and might have provided additional information relative to the use of force.
- All materially inconsistent statements were identified and addressed during the course of 15 of the 17 investigations (subsection g). For one investigation, a discrepancy involving officer tactics was not addressed during the course of the investigation, and should have been a consideration at the time of adjudication. For another investigation, disparities in accounts of officer actions were not addressed.

Finally, the Monitor considered the merits of each CUOF incident investigation as a whole, and whether or not individual items of non-compliance impacted the investigation's overall quality and the ability of a reviewer to properly adjudicate officer actions. Although certain investigations were notably superiorly conducted and reported, 16 of 17 investigations provided adequate information to ultimately render a decision. The Monitor noted that in two investigations, certain interviews of witnesses were not conducted by FID investigators. Rather, RHD conducted these interviews. For one investigation, RHD questions were leading in nature and were tailored more toward eliciting a statement from the suspect for possible crimes committed rather than accumulating information to opine on the appropriateness of the use of force. These issues, among others, were also identified by the LAPD's Audit Division (AD) and the OIG. FID management identified this issue and took corrective measures to ensure FID investigators conduct suspect and witness interviews in future incident investigations.

In another investigation, the supervisor responding to the scene did not readily recognize that a CUOF incident occurred. The LAPD identified and appropriately addressed the issue during the investigation and review process.

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

Paragraph 81 – Non-Categorical Uses of Force

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

Background

The LAPD achieved substantial compliance with paragraph 81 as it relates to NCUOF prior to the extension of the Consent Decree. The LAPD achieved substantial compliance with paragraph 81 as it relates to COC complaint investigations during the quarter ending June 30, 2008. As a result, the Monitor was not planning on actively monitoring compliance with paragraph 81 during the remainder of the extension period.

Status Update

As described in the Current Assessment of Compliance for subparagraph 128(3), below, during the current quarter, the Monitor received and conducted a limited review of AD's *NCUOF Investigations Audit* dated June 30, 2008. In the report, AD concluded that the Department was not in compliance with paragraphs 80e requirements regarding interviewing all supervisors at the scene and 80f requirements regarding canvassing the area to locate witnesses and preserving evidence, in particular in relation to including photographs of employees' injuries resulting from a UOF.²⁷ This is the second assessment during the extension period in which AD has concluded that the Department was non-compliant with this subparagraph.²⁸ Given that the Monitor has previously concluded that the LAPD was in substantial compliance with the pertinent Consent Decree requirements, the Monitor is following up with the Department regarding how it plans to address these areas of non-compliance and will request CRID to conduct additional reviews in this area.

D. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. Although the Department had achieved substantial compliance with a number of requirements related to search and arrest procedures prior to the

²⁷ AD concluded the Department was at 95% compliance with the collection and preservation of evidence requirement of subparagraph 80f, as AD identified that four of 82 investigations had concerns; three investigations indicated evidence was not collected and handled properly and one investigation documented that employees involved in the incident canvassed for evidence rather than the supervisor. This is in addition to the 26 investigations AD reported separately that did not meet the standards, as they did not include photographs of employee's injuries. In its audit, AD also assessed, among other things, the collection and analysis of witness interviews under paragraph 68, finding the Department in non-compliance. Historically, the Monitor included the collection and analysis of relevant documents and witness interviews only under subparagraph 80f and paragraph 81.

²⁸ AD concluded in its *Non-categorical Use of Force Investigations Audit* dated June 28, 2007 that the Department had achieved 88% compliance with the requirement to collect and preserve evidence and 86% compliance with the requirement to canvas the area to locate witnesses.

extension,²⁹ it had not achieved substantial compliance with the requirement related to supervisory presence at and review of the service of search warrants (subparagraphs 62b, 70b, 70c and paragraph 71) and the search warrant log (paragraph 72). The Monitor continued to assess the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree. Because substantial compliance with these provisions was not achieved during the first two years of the extension, the monitoring of these provisions will continue during the remainder of the extension period.³⁰ The Monitor assessed the LAPD's compliance with subparagraph 62b during the current quarter. The results of our current assessment follow.

Paragraph 62 – Analyses of CUOF and Search Warrants

Paragraph 62 requires that managers shall analyze the circumstances surrounding the presence or absence of a supervisor at (a) a CUOF incident, and (b) the service of a search warrant. The review and analysis is required to occur within seven calendar days of the occurrence of the incident or service to determine if the supervisor's response to the incident or service was appropriate. Paragraph 62 also requires (c) the consideration of the analysis in each supervisor's annual personnel performance evaluation.³¹

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to search warrants (subparagraph 62b) during the quarter ending March 31, 2008, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

Subparagraph 62b Service of Search Warrants

During the current quarter, CRID conducted an assessment of the sufficiency of CO analyses related to a sample of search warrants executed during June 2008.³² The Monitor reviewed and

²⁹ Prior to the extension, the Department achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. As a result, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs during the extension period.

³⁰ However, compliance with the requirements of subparagraph 70c will be assessed under paragraph 46 during the remainder of the extension.

³¹ The Monitor assessments of the LAPD's compliance with paragraph 62 as it relates to the CUOF incidents (subparagraph 62a) and annual personnel performance evaluations (subparagraph 62c) is included in section C., Use of Force, above.

³² In total, 136 warrants were identified, of which CRID randomly sampled 76, from all 19 Areas, for review and analysis.

relied upon CRID's assessment of the CO analyses, noting that for 72 of the 76 (94.7%) search warrants reviewed, the CO completed an evaluation of the supervisors' presence within the mandated seven-day time period.³³ The Monitor also noted that for 69 of the 76 (90.8%) search warrants reviewed, the analyses conducted by the CO sufficiently documented the supervisors' actions.

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

E. COMPLAINTS

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

Prior to the extension, the Department had achieved substantial compliance with many of the Consent Decree's requirements relative to complaint intake, investigation, adjudication and reporting.³⁴ However, the Department had not yet achieved substantial compliance with Decree requirements relative to the receipt and maintenance of complaints (paragraph 74); the investigation of complaints (certain subsections of subparagraph 80ii and paragraph 81³⁵); access to information contained in TEAMS II for those units conducting specified complaint investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above); standards for credibility determinations (paragraph 84); adjudication of complaint investigations (paragraph 85); and manager review of complaint investigations (paragraph 90). As a result, the Monitor continued to assess the Department's compliance with these paragraphs during the extension to the Consent Decree.

³³ CRID used a standard of seven business days to assess subparagraph 62b. Ten of the 72 analyses completed within the mandated seven-day time period would be non-compliant if a standard of seven calendar days was used; this results in a compliance rate of 81.6% (62 of 76) using the calendar day standard.

³⁴ The Department achieved substantial compliance with paragraphs 75-78, 79, certain provisions of paragraph 80, and paragraphs 82, 86-89, 91-96 and 98-101 from this section of the Consent Decree.

³⁵ The parties agreed that during the extension the Monitor will assess paragraph 80ii, subparagraphs a and f, and paragraph 81 as it relates to subparagraph 80ii, subsection f.

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

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

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

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

Paragraphs 102 and 103 – Non-Discrimination Policy

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

Background

The Monitor last assessed the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2007, at which time the Monitor withheld a determination of the Department's compliance with the provisions of the paragraphs.

Current Assessment of Compliance

The stop data collected to date has consistently shown that disparate treatment exists among different racial and ethnic groups for both stops and after-stop actions. While the City has made good faith attempts to determine why these disparities exist, such analysis is difficult, at best, and these variances remain unexplained.

In order to address racial profiling allegations, the City developed a protocol for investigations of racial profiling allegations, which was implemented by the Internal Affairs Group (IAG) in November 2007. Since that time, racial profiling cases have not been approved for closeout unless the protocols were followed. Additionally, IAG implemented the following strategies:

- Amended the Complaint Investigation Checklist to include fields that query whether the protocols were followed and whether the Racial Profiling Checklist was included.
- Conducted four Internal Investigations courses, which include a four-hour block of instruction on investigating racial profiling allegations.
- Designated an auditor to coordinate review of racial profiling cases to ensure consistency and adherence to the protocols. This individual also compiles information in an ad hoc database to further evaluate racial profiling investigations.
- Occasional undercover surveillance to probe specific allegations of racial profiling.

Furthermore, the Police Commission dedicated a large part of its August 19, 2008 meeting to the topic of racial profiling, with presentations made by the LAPD's Professional Standards Bureau (PSB) command staff, the Police Commission Executive Director, and an expert on racial profiling. The Commission concluded that disparate treatment exists among different racial and ethnic groups nationwide for both stops and after-stop actions. The Commission noted that law enforcement agencies across the country reported no sustainable profiling complaints, primarily because they are virtually impossible to prove.

The Commission agreed that it would be incorrect to believe that racial profiling is not occurring. Based on that conclusion, the Commission approved the following recommendations:

- That the Department provide a quarterly report to the Commission on complaints of racial profiling received and adjudicated by Bureau and Area.
- That the Inspector General prepare an audit of racial profiling complaints that have been investigated and adjudicated since training has been provided to all Internal Affairs Investigators on the utilization of the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- That the Department include a review of the Digital In-Car Video System (DICVS)³⁶, if available, in the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- That the Department revise the Alternative Complaint Resolution (ACR) process to allow some complaints of racial profiling to be resolved through mediation.

³⁶ Refer to the Current Assessment of Compliance for paragraphs 104-105 in this report for a more in-depth discussion of the DICVS.

- That the Department change the term from “Racial Profiling,” to “Biased Policing,” to be more inclusive of other biases including religion and sexual orientation. Also, that the Department refine complaints of Discourtesy to the specific nature of the misconduct alleged.

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

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

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

Background

The Monitor last assessed the LAPD’s compliance with paragraphs 104 and 105 during the quarter ending March 31, 2008. At that time the Monitor withheld a determination of the Department’s compliance with the provisions of the paragraphs.

Current Assessment of Compliance

As noted in past reports, the City requested that the collection of field data by officers as mandated under the Consent Decree be revisited. This was due to the inability to analyze and draw conclusions from the aggregate data and the significant expense of replacing the data collection devices, or PODDS.³⁷ Although data collection capability has diminished due to the degradation of the existing hardware, the Department has continued to collect stop data. In order to achieve compliance, the Department has developed and is piloting an automated reporting system at the Area level. This will incorporate the collection of stop data as approved by DOJ and be implemented Department-wide once testing has been completed.

Additionally, the City and Department have continued to move toward Department-wide implementation of in-car cameras, also known as the Digital In-Car Video System (DICVS), which the Monitor has strongly endorsed and recommended. These devices will help protect against biased policing while simultaneously enhancing officer safety and risk management analysis, and mitigating liability claims. The first phase of the project will deploy cameras in South Bureau patrol vehicles.³⁸ The Department plans on taking the following steps once the DICVS is in operation:

³⁷ AD did not conduct a Motor Vehicle and Pedestrian Stop Audit during Fiscal Year 2007-08 due to the City’s request and does not plan on conducting one until the 4th Quarter of Fiscal Year 2008-09.

³⁸ The LAPD advises that three hundred in-car camera units have been ordered. Installation at South Bureau's Southeast and Southwest Divisions is complete and has proceeded to 77th, Harbor, and South Traffic Divisions. All South Bureau installations are expected to be completed by November 2008. Although the next phase of the project

- Conduct regular audits of the audio and video, in addition to periodic inspections by supervisors.
- Bookmark and review the DICVS data from any incident involving vehicle pursuits, uses of force, incidents resulting in personnel complaints or other significant events.
- Review DICVS data relative to lawsuits or claims for damages.
- Conduct quality of service audits.
- Use DICVS data to identify and/or monitor at-risk officers who are subject to the Risk Management Executive Committee's oversight.
- Afford the OIG unfettered access to the DICVS data.

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

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

G. MANAGEMENT OF GANG UNITS

In the wake of the Rampart scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units. The Special Enforcement Units, which were subsequently reorganized into Gang Enforcement Divisions (GEDs),³⁹ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD), which has responsibility for monitoring gang units Department-wide.

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

involves installing cameras in patrol cars in the Central Bureau, a timeline for installation in the other patrol bureaus has not yet been established.

³⁹ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

Prior to the extension, the Department had achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.⁴⁰ However, it had not achieved substantial compliance with the requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d); detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)); the roles of gang unit supervisors, Gang Area Managers and Bureau Gang Coordinators (BGCs) (subparagraphs 106f, g and h); and eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). As a result, the Monitor continued to assess the Department's compliance with these subparagraphs during the extension.

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

H. CONFIDENTIAL INFORMANTS

The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of Confidential Informant (CI) information. The Department has not yet achieved substantial compliance with the Consent Decree's requirements relative to procedures for the handling of informants (paragraph 108).⁴¹ As a result, the Monitor continues to assess the Department's compliance with this paragraph during the extension to the Consent Decree. The Monitor conducted such an assessment during the current quarter, the results of which follow.

Paragraph 108 – Procedures for the Handling of Confidential Informants

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

⁴⁰ The Department achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree.

⁴¹ The Department achieved substantial compliance with paragraphs 109-110 from this section of the Consent Decree. The Department was found compliant with paragraph 108 during the quarter ending December 31, 2007. However, the Department has not achieved substantial compliance with this paragraph, as compliance has not been achieved for two consecutive years.

Background

The Monitor last assessed the LAPD's compliance with paragraph 108 during the quarter ending December 31, 2007, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 108 during the current quarter, the Monitor conducted a limited review of AD's *Confidential Informant Control Package Audit*, dated June 18, 2008 and the related work papers.⁴² During the limited review, the Monitor determined that AD used the same methodology and arrived at similar conclusions as it had in the previous audit of this topic.⁴³ The Monitor also reviewed 100% of the informant packages managed by gang officers and concurred with AD's assessment of these packages and the overall findings for this paragraph.

In its review of active informant packages, AD found anomalies related to seven objectives: Completeness, Underlying Actions, Supervisory Oversight, Prior Approval for End of Watch Package Retention, Updating Reactivated Informants, Documenting Contacts with Informants, and Documenting Information and the Results of the Investigation in the Package. AD found the Department in non-compliance with two objectives, Underlying Actions and Updating Reactivated Informants, as anomalies associated with these objectives were identified in different packages. However, only a few of those packages had two or more anomalies.⁴⁴ As a result, the Monitor concluded that 97% of the active informant packages complied with Consent Decree requirements.⁴⁵

Based on its review, the Monitor concurs with AD's conclusion that many of the anomalies were the result of Narcotics Division (ND) using three different informant manuals during the time period covered by the audit. However, the newly revised CI Manual was approved in March 2008, which should mitigate this concern going forward.

In addition to the active informant packages discussed above, the Department has implemented a pilot program in the 77th Street Area allowing the development of Non-Confidential Informants (NCIs), which are currently being handled using the same policies and procedures that the active CIs are required to adhere to. Both AD and the Monitor conducted a review of the NCI packages

⁴² Refer to the Current Assessment of Compliance for subparagraphs 128(5), 131c-5, and 131d, below, for additional information regarding the *Confidential Informant Control Package Audit* and the Monitor's review of it.

⁴³ AD's *Confidential Informant Control Package Audit*, dated September 25, 2007.

⁴⁴ These non-compliant packages contained anomalies associated with Underlying Actions, Updating Reactivated Informants and Documenting Contacts with Informants. Specifically, these anomalies involved not updating records and package forms upon reactivation and not documenting the deactivation of a package.

⁴⁵ Historically, based on methodologies for paragraph 108, the Monitor finds a CI package in non-compliance only when there are two substantive errors in a particular CI package.

currently active in this pilot program. In reviewing AD's results, the Monitor determined that a few of the packages contained two or more anomalies that failed to comply with the Consent Decree requirements, and the Monitor concurred with AD's findings. However, AD chose not to include its findings related to these NCIs in its calculation of compliance with paragraph 108 and, instead, reported them as an "Other Related Matter." Given that both NCIs and CIs are being handled using the same policies and procedures, presumably because they present the same risks, going forward, the Monitor will assess findings of both NCIs and CIs together in determining compliance with this paragraph. Noteworthy is that even if the active CI and NCI packages were combined, the LAPD's compliance rate would be 93%.

Based on the foregoing, the Monitor finds the LAPD in continued compliance with paragraph 108. The Department has now achieved substantial compliance with paragraph 108, as it has been compliant with its requirements for two consecutive years. The Monitor will continue to conduct limited reviews to ensure that NCIs are appropriately managed.

I. TRAINING

The Consent Decree training requirements center largely on Field Training Officers (FTOs), supervisory training, and training content, including periodic training on police integrity.

Prior to the extension, the Department had achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content⁴⁶ but had not achieved substantial compliance with Consent Decree requirements to train members of the public scheduled to serve on the Board of Rights (BOR) in police practices and procedures, (paragraph 118), nor had the Department complied with training requirements relative to FTO eligibility criteria (paragraph 114), FTO de-selection (paragraph 115), and an FTO Training Plan (paragraph 116).

During the first two years of the extension, the Department achieved substantial compliance with the training requirements relative to paragraphs 114, 115 and 118. As a result, the Monitor is not planning on actively monitoring compliance with these paragraphs during the remainder of the extension period. The Monitor will continue to assess the Department's compliance with paragraph 116.⁴⁷ The Monitor conducted such an assessment during the current quarter, the results of which follow.

⁴⁶ The Department achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree.

⁴⁷ The Department was found compliant with paragraph 116 during the quarters ending September 30, 2007 and March 31, 2008; however, the Department has not achieved substantial compliance with this paragraph, as compliance has not been achieved for two consecutive years.

Paragraph 116 – FTO Training Plan

Paragraph 116 requires FTOs to receive adequate training in LAPD policies and procedures, training on how to be an instructor, and regular and periodic re-training on these topics. An FTO's annual performance evaluation shall specifically include notation of completion and implementation of their FTO training.⁴⁸

Background

The Monitor last assessed the LAPD's compliance with paragraph 116 during the quarter ending March 31, 2008, finding the Department in compliance with this paragraph. At that time, the Monitor reviewed training records and TEAMS II reports of a random sample of 85 officers assigned as FTOs during the period April 1, 2007 through December 31, 2007. The Monitor determined that 83 of the 85 had completed FTO School and related FTO update training.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 116 during the current quarter, the Monitor requested and received from the LAPD a list of officers assigned as FTOs during the period January 1, 2008 through June 30, 2008. The LAPD provided a list of 715 officers, from which the Monitor selected a random sample of 85 FTOs⁴⁹ and reviewed their training records and TEAMS II reports to verify that they had completed FTO School and related FTO update training. The Monitor determined that 84 of the 85 FTOs reviewed had completed FTO School and related FTO update training, resulting in a 98.8% compliance rate.

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

⁴⁸ As mentioned in the Monitor's Report for the Quarter Ending June 30, 2007, the Monitor no longer reviews the FTOs' personnel packages to assess whether their annual performance evaluations addressed their competency in successfully completing and implementing their FTO training. This requirement is now assessed as part of paragraph 54.

⁴⁹ Utilizing a one-tailed test with a 95% degree of confidence and a +/- 4% error rate, the sample size required to test 715 field training officers is 85.

IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

A. INTEGRITY AUDITS & INTERNAL AUDIT OVERSIGHT

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

At the inception of the Consent Decree, the Department established an audit division composed of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,⁵⁰ an audit protocol,⁵¹ and submitted annual audit plans which outline the audits to be completed in each coming year as required by paragraph 124. AD has also developed and run a Basic Law Enforcement Performance Auditing Course, which covers all aspects of police performance auditing.⁵² This course, offered on a quarterly basis, has been offered 19 times and has been attended by police professionals from the US and Canada. Additionally, AD offered an Intermediate Law Enforcement Auditing Course in 2007.

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

⁵⁰ The Audit Charter outlines AD's role, the requirement for independence, the goal of complying with Generally Accepted Government Auditing Standards (GAGAS), AD's access authorization to records, and the scope of audits. It was originally approved by the Police Commission in January 2006, then was updated and re-approved on October 1, 2007.

⁵¹ The Audit Protocol sets the standards for LAPD's audits. It outlines the requirements for audit staffing, audit team member responsibilities, and the audit process. It includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection, and audit reporting.

⁵² This course, which was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005, covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process.

work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.⁵³ Instances of such reliance are clearly indicated in our reports.

Given these advancements, beginning in the quarter ending September 30, 2006, the Monitor revised its methodology for those areas/audits that were in substantial compliance for two consecutive years prior to the June 2006 extension. As described in more detail in our Report for the Quarter Ending June 30, 2006, under the revised methodology, the Monitor generally reviews the quality of the audits to gain assurance that the underlying areas being audited do not require active monitoring and that the quality of the audit has been maintained. Further, as explained in the Monitor's Report for the Quarter Ending June 30, 2008, the Monitor completed a review of the Department's compliance with the Consent Decree after two years under the extension and determined that AD had achieved substantial compliance with many of the audit paragraphs. As a result, during the remainder of the extension, there are a number of audit-related paragraphs that the Monitor is no longer actively monitoring,⁵⁴ as well as a number of additional paragraphs for which the Monitor will conduct only limited reviews.⁵⁵

The Monitor commends AD for continuing to submit quality audits during the extension of the Consent Decree to the quarter ending June 30, 2008.⁵⁶

Monitor's Review of LAPD Audits

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

⁵³ 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."

⁵⁴ The Monitor plans to treat the following paragraphs as inactive paragraphs: paragraph 124 Annual Audit Plan, subparagraph 128(3) Use of Force audit, subparagraph 129i Categorical Use of Force Systems audit, subparagraph 129ii Complaint Form 1.28 Systems audit, paragraph 136 OIG's review of Categorical Use of Force Investigations, subparagraph 136i OIG's Non-Categorical Use of Force review and subparagraph 136ii OIG's Complaint Form 1.28 Investigations review.

⁵⁵ Although the Department has achieved substantial compliance with these paragraphs, for a variety of reasons, the Monitor concluded that some degree of review of the related audits is required. Among the reasons for this are the facts that an audit paragraph reviews a critical part of the Consent Decree or significant changes in the Department are expected that may affect the audit findings or how the audit is conducted in the future. The Monitor plans to conduct limited reviews of the following audits conducted by AD: subparagraph 128(2) Arrest Booking and Charging audit, subparagraph 129i Categorical Use of Force Investigations audit, subparagraph 129iii Complaint Form 1.28 Investigations audit, and subparagraph 131b GED Selection Criteria audit. The Monitor plans to conduct limited reviews of the following reviews conducted by the OIG: subparagraph 135b OIG's review of AD's paragraph 128 audits and EES paragraph 97 audits. Additionally the Monitor will be conducting a limited review of the reports prepared to address paragraph 154.

⁵⁶ AD has submitted only two non-compliant audits during the extension period: the *Warrants Application Affidavits Audit* dated December 27, 2006 and the *GED Work Product Assessment Summary* dated September 28, 2007.

- AD's *Confidential Informant Control Package Audit* (subparagraphs 128(5), 131c-5, 131d and 131e) dated June 18, 2008 and
- AD's *Categorical Use of Force Investigations Audit* (subparagraph 129i) dated June 25, 2008.

The Monitor also received AD's *Non-Categorical Use of Force Investigations Audit* (subparagraph 128(3), 129ii, 131c-3, 131e) dated June 30, 2008 and reviewed AD's report but did not review any of the underlying working papers or supporting documents.

Subparagraphs 128(3), 129ii, 131c-3 and 131e Non-Categorical Use of Force Investigations Audit

Subparagraphs 128(3) and 129ii require the Department to complete a regular, periodic audit of stratified random samples of all NCUOF reports and investigations. Paragraph 128 requires that this audit assess such reports for completeness, authenticity, appropriateness of action taken, compliance with the law, conformity with Department procedures and an evaluation of supervisory oversight. Paragraph 129ii requires the audit to assess the timeliness, completeness, adequacy and appropriateness of the investigations. Subparagraph 131c-3 also requires the Department to conduct similar audits of a stratified random sample of all gang unit NCUOF reports. Subparagraph 131e requires an audit of the roles and conduct of supervisors of GED units.

Background

During the quarters ending September 2006 and 2007, the Monitor conducted only limited reviews of AD's *NCUOF Audit reports* issued by the LAPD, as the *NCUOF Audit reports* issued in 2005 and 2006 were in compliance and many of the paragraphs it reviewed were also found to be in compliance. The Monitor did not identify in its limited review of these audits anything that would suggest that paragraphs 128(3) and 131c-3 should be actively monitored or that the quality of such audits varied significantly from prior compliant NCUOF audits. Consequently, the Monitor concluded this audit did not need to be actively monitored and the Monitor would review the audit report only to ensure there had been no significant changes in AD's findings.

Status Update

During the current quarter, the Monitor received AD's paragraph 128(3) *Non-Categorical Use of Force Investigations Audit*. The Monitor reviewed the report to identify if there were any significant changes in findings from prior compliant audits of this topic. AD concluded the Department is not in compliance with paragraph 68, which was previously in compliance. Additionally, AD concluded the Department continues to fail to achieve compliance with subparagraphs 80e and 80f, and the supervisory oversight objectives required by paragraph 128. As noted above in relation to paragraph 81 (which assesses compliance with subparagraphs 80c,

e, and f), the Monitor is reviewing to consider if these substantive paragraphs should be actively monitored.

The OIG's review of AD's *Non-Categorical use of Force Reports Audit* dated October 1, 2008 concluded that the audit was properly planned, conducted and supervised, used a complete population, reported all relevant issues and addressed all of the required Consent Decree paragraphs. Despite a few instances where the OIG differed with AD on how findings should be reported,⁵⁷ the OIG's report supports the overall finding that this was a quality audit.

Based on our limited review, the Monitor did not identify any issues to suggest that the quality of this audit varied significantly from prior compliant audits of this topic or that subparagraphs 128(3) or 131c-3 should be actively monitored. As a result, the Monitor concludes that its prior findings of compliance with each of the aforementioned paragraphs stand.

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

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

Background

The Monitor found AD's last two audits of CI control packages, submitted June 29, 2006 and September 25, 2007, in compliance with subparagraphs 128(5), 131c-5 and 131d. Although the previous two audits were in compliance, and both audits concluded that the Department was in compliance with the substantive paragraphs assessed in the audits, given the critical role of CIs in the Consent Decree and the fact that a new group of informants was recently introduced to the Department, the Monitor opted to conduct a limited review of the CI audits issued during the extension period.

⁵⁷ The OIG concluded that AD should not have reported on three findings, which, if incorporated, would change AD's compliance rates for two objectives from non-compliant to compliant. The two objectives are paragraph 82 Reporting Allegations of Misconduct and subparagraph 129(d) Adjudicating the Force Used.

Results of the Monitor's Limited Review

During the current quarter, the Monitor conducted a limited review of AD's *CI Control Packages Audit Report* dated June 18, 2008 and the related work plan and audit matrix. The main purpose of the Monitor's review was to determine if AD used the same methodology as it had in prior compliant CI Control Package audits and if AD arrived at similar conclusions in relation to the Department's compliance with the Consent Decree. Additionally the Monitor reviewed 100% of the informant packages for the NCIs and informants managed by gang officers to assess how the Department and AD are handling the NCIs and informants managed by gang officers.⁵⁸

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

- In the *CI Control Packages Audit*, AD tested compliance with the same 20 objectives used in the prior audit, and reviewed all of the same areas using the same methodology and a similar matrix as in the prior audits. However, this year, AD did not find the Department in compliance with all objectives, instead concluding that the Department was not in compliance with the Underlying Actions objective (87% compliance) and the Updating Reactivated Informants objective (84% compliance). Based on its limited review, the Monitor concurs with AD's findings and with AD's conclusion that many of the anomalies that led to the Department being in non-compliance with these two objectives were the result of ND using three different informant manuals during the time period covered by the audit.⁵⁹
- AD reported the results of its review of the NCI packages as "Other Related Matters," rather than as part of its compliance assessments for paragraphs 108 or 128.⁶⁰ At the time of the audit, the policies and procedures for handling NCIs had not been finalized.⁶¹ Accordingly, although the Monitor disagrees with AD's reason for not including the NCIs in its compliance assessment and the Monitor would have preferred that these anomalies were

⁵⁸ The Monitor focused on these two groups because the NCIs are a new group of informants used by the Department, introduced last year, and the gang officers have restrictions on the use of CIs.

⁵⁹ The CI Manual was redrafted during the audit period; the three different versions utilized were dated January 17, 2007, September 2007 and March 2008. The version dated March 2008 has now been approved by the Chief of Police and the Police Commission. Therefore, the Monitor does not expect AD to identify the same number of anomalies in these two objectives next year.

⁶⁰ The City's position is that this new program does not fall under the Consent Decree since it was introduced in 2006 and the Consent Decree was drafted in 2001. The Monitor's position is that paragraph 108 applies to the City's use of informants by ND, whether or not they are confidential informants or part of a later program. Therefore, the NCIs should be taken into consideration when assessing the Department's compliance with the Consent Decree, either by expressing the findings relative to all informants or by separating the CI findings from the NCI findings.

⁶¹ As a precautionary measure, while the Department was finalizing its policies for NCIs, ND managed the NCIs using LAPD's standards for CIs. NCIs are now addressed in ND's Informant Manual issued March 2008. As discussed in paragraph 108, the Monitor will be evaluating the Department's use of NCIs in its next evaluation of this paragraph.

addressed in the main body of AD's report, because the policies were not finalized, the approach of including these anomalies as "Other Related Matters" was not unreasonable. However, now that the policies and procedures for handling NCIs have been developed, if AD identifies anomalies for the NCIs that do not meet the requirements of paragraph 128 or 108 in future audits, these anomalies should be addressed in AD's assessments of compliance with these paragraphs.⁶²

- In relation to the NCIs, AD reported that four NCI files were missing the required documentation to support cash withdrawals from the Supplemental Police Account (SPA) but did not report that this was due to ND devising a system of controls to ensure smaller payments, required by the new NCI program introduced in 2007 and not anticipated in the policy drafted in 2005, were reconciled to a previously approved larger amount withdrawn from the SPA account.⁶³ These smaller payments to multiple informants and the corresponding controls are now formally recognized in ND Policy No. 2 dated February 8, 2008.
- As with the two prior audit reports, the audit working papers addressed all of the Consent Decree requirements regarding gang officers' handling of CIs (subparagraphs 131c-5, 131d, and 131e) and the audit report identified the objectives where the Department met each standard. AD also reported the one anomaly found and indicated the Department did not meet the objective for supervisory oversight but did not specifically state the Department's compliance or non-compliance with paragraphs 131c-5, 131d and 131e.
- AD appears to have applied a literal interpretation of the CI Manual throughout the audit. The Monitor identified several instances in relation to the CIs where AD concluded the Department was non-compliant for anomalies that appeared to be administrative errors that were mitigated by the availability of other information and one instance in relation to the NCIs where AD identified a concern.⁶⁴ The Monitor does not believe the packages with these administrative errors were non-compliant.

⁶² As discussed above in relation to paragraph 108, the Monitor will similarly be including NCIs in its evaluation of compliance with paragraph 108.

⁶³ The approved policy, ND Order No. 5, May 9, 2005, requires that all withdrawals from the SPA account, no matter how small, must be pre-approved by the CO of ND. Generally these are one-time requests and payments. However, beginning in the spring of 2007 with the introduction of the NCI program, the Narcotics Abatement Unit requested and obtained funds that were appropriately pre-approved by the ND CO for a larger amount. This amount was subsequently used to fund multiple purchases by and payments to the NCIs. After withdrawing a larger preapproved amount from the SPA account, ND followed protocols for the Secret Service Funds (SSF), which generally relate to approval of smaller amounts. This allows ND to reconcile these smaller withdrawals from funds to the original amount withdrawn from the SPA account.

⁶⁴ These instances included reporting two packages in which a payment chit was missing information in relation to the date and time or the CI number (this information could have been established through other information provided on the payment chit) and a checkbox was not marked to identify that a search warrant was pending (the attached payment chit provided this information). For the NCI, AD identified a document that was missing a date, as information from a background check was cut and pasted into a word document rather than printed to show the date.

- The OIG concluded that this audit was complete, performed in a quality manner and the findings were well supported.

Based upon our limited review and the foregoing findings, the Monitor did not identify any issues that suggested that subparagraphs 128(5), 131c-5, 131d or 131e should be actively monitored or that the quality of this audit varied significantly from the prior two audits of the topic. As a result, the Monitor concludes that its prior findings of compliance with each of the aforementioned paragraphs stand.

Subparagraph 129i – Categorical Use of Force Investigations Audit

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

Background

Commencing in the 2003/2004 fiscal year, AD split its CUOF investigations review into two separate audit reports in order to address the requirements of paragraph 129i: an audit report covering specific systems-related and process issues and a separate audit report covering the qualitative requirements for CUOF investigations.⁶⁵ For reporting purposes, the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations.

The Monitor determined that AD's *CUOF Systems Audits* have been in compliance with the requirements of the Consent Decree since the quarter ending September 30, 2004. AD's *CUOF Investigations Audits* have been in compliance during the quarters ending September 30, 2006 and September 30, 2007.⁶⁶ As a result, the Department has achieved substantial compliance with the Consent Decree requirements addressed by both the *CUOF Systems Audit* and the *CUOF Investigations Audit*. Given this compliance assessment and the lower risk associated with the *CUOF Systems Audits*, the Monitor classified the *CUOF Systems Audits* as inactive during the balance of the extension.

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

⁶⁶ The OIG also concluded that AD's *CUOF Systems Audit Reports* and *CUOF Investigations Audit Reports* issued in 2006 and 2007 were complete, performed in a quality manner, and the findings were supported.

Although the Department achieved substantial compliance with the requirements addressed by the *CUOF Investigations Audits*, because the investigation of uses of force by Department personnel is a critical element of the Consent Decree, the Monitor concluded that limited reviews of AD's *CUOF Investigations Audits* are required during the balance of the extension.

Results of Monitor's Limited Review

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

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

- AD made various changes to the form of the audit report, work plan and matrix. These changes, which were not substantive in nature, made the audit work plan more concise and improved the organization of the matrix questions so that they are reviewed in order of the audit objectives. The methodology employed was similar to prior compliant *CUOF Investigations Audits*.
- AD's findings in the recent *CUOF Investigations Audit Report* were consistent with the findings in the prior *CUOF Investigations Audit Report* dated June 28, 2007, with the exception of one objective, Adequacy of the Investigation, with which AD reported compliance rates of 100% in the current report and 81% in the prior report. Additionally, AD's findings for the paragraph 80 objectives were consistent with the Monitor's findings during the quarter ending June 30, 2008.
- AD identified and reported as "Other Related Matters" potential problems with interviews conducted by RHD in two CUOF incidents. Specifically, AD reported possible Miranda Admonition issues in each incident. In one incident, the RHD detectives were asking accusatory questions and there was no evidence of Miranda Admonitions; in the other incident, the arrestee twice asked to see his mother and an attorney, but the questioning continued without addressing the request for counsel. Although AD reported that FID was

contacted regarding the possible Miranda issues,⁶⁷ no further action was taken in relation to these RHD interviews. AD should have made a recommendation that the Department further investigate the RHD's conduct of interviews in general, rather than just following up to determine that FID was reviewing the interviews in question.

- The Monitor identified additional concerns with RHD interviews in two CUOF investigations that were not identified by AD. One investigation involved the use of leading questions by RHD investigators and in the other investigation, RHD investigators specifically ignored requests for medical attention during the interview of a suspect.⁶⁸
- Seven of the CUOF incidents in AD's sample were also reviewed by the Monitor's subject matter experts as part of their assessment of the Department's compliance with paragraph 80. AD's findings were generally consistent with the Monitor's findings, except for the concerns relating to Robbery Homicide Division's interviews, as discussed above, and AD did not identify or report a witness who FID identified, but did not interview.⁶⁹
- The OIG concluded that a thorough analysis of the CUOF investigations was conducted and the audit was complete, its findings were supported, and it was a quality audit.⁷⁰ The OIG did not report any concerns in relation to how AD reported the incidents involving interviews conducted by RHD.
- In the current audit, AD completed its assessment of paragraph 62, which it has previously assessed as part of the *CUOF Systems Audit*. By doing so, AD was able to review the supervisor's analysis in context with all the other information related to each investigation. The Monitor commends AD for assessing this paragraph during this phase.⁷¹ However, it was not apparent in reviewing the matrix questions associated with AD's assessment of

⁶⁷ FID informed AD that there were "on-going discussions at the command level regarding investigative and consent decree issues arising out of RHD interviews, Assistant Inspector General was telephonically apprised of the circumstances."

⁶⁸ The OIG alerted the Monitor about its concerns regarding the suspect's requests for medical attention, and the Monitor reviewed the specific interview. Eventually the interview was halted until the suspect was provided such medical attention. Additionally, RHD alluded to the accused being able to go home or do whatever he wanted to do, once he provided a statement.

⁶⁹ This witness might have provided additional information relative to the use of force. AD agrees that this witness should have been interviewed.

⁷⁰ The OIG identified a few additional concerns that did not significantly impact the overall reported findings, and identified a concern regarding leading questions and a concern regarding the use of a diagram in an interview. The OIG concluded that these latter two concerns should have been reported as "Other indicia that information is not authentic or correct". If the OIG's findings were included, the Department's compliance rate would be 94% (29/31), rather than 100% (31/31) for this objective. The Monitor will further review the OIG's assessment of this audit in the next quarter.

⁷¹ AD has included this additional paragraph to provide feedback to the Department but is not required by paragraph 129 to review paragraph 62, as such this concern was not taken into consideration in assessing this audit's compliance with Consent Decree requirements.

paragraph 62 that AD had evaluated the sufficiency of the supervisors' analyses. The Monitor recommends that AD include a question requiring them to assess the sufficiency of the supervisor's review. This will enable AD to provide timely and useful feedback to the Department in its attempts to comply with the requirements of paragraph 62.

The Monitor has concerns about the issues that AD did not identify and AD's failure to specifically recommend Departmental follow-up regarding RHD interviews. However, given the limited scope of our review, the Monitor cannot evaluate the relative significance of these and other issues in relation to the quality of the rest of the audit. Accordingly the Monitor is withholding its determination of compliance with subparagraph 129i, and will revisit its evaluation of this audit during the quarter ending December 31, 2008.

B. INSPECTOR GENERAL REVIEWS & AUDITS

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

During the first five years of the Consent Decree, the OIG developed a professional audit team that includes police performance auditors and special investigators who have the expertise to ensure the OIG meets its mandate. During the first two years of the extension, the OIG made significant strides in successfully implementing its role by completing 33 timely and effective meta-audits up to the quarter ending June 30, 2008 that evaluated the quality, completeness and findings of the audits completed by AD and the Ethics Enforcement Section (EES) during this period.⁷² Additionally during this same period, the OIG conducted four independent reviews of complaints and NCUOF investigations that the Monitor concluded were quality reviews. Lastly, based on the quality reviews the OIG was providing to the Police Commission, the Monitor found the OIG in compliance with paragraph 136 requirements to review CUOF incidents and report to the Police Commission since the quarter ending June 2006.⁷³ Each of these reviews provided insightful comments, conclusions and recommendations to the Police Commission.

Based on the OIG's achievement in conducting quality reviews of AD and EES audits, NCUOF investigations, complaints, and FID's CUOF investigations, the Monitor concluded in July 2008, that the Department is in substantial compliance with paragraphs 135b and 136, and these paragraphs no longer required active monitoring. The Monitor believes that if the quality of the OIG's reviews continues, the OIG will be in the position to step into the Monitor's role in June 2009 and serve as the primary oversight body of the LAPD. Consequently, the Monitor will be

⁷² In the five-year period prior to June 30, 2006, the OIG issued 18 quality reviews.

⁷³ The Monitor has conducted four reviews of this paragraph, one every 6 months, since June 2006.

conducting limited reviews of the Department's compliance with this subparagraph 135b and paragraph 136 during the remainder of the extension period, to keep abreast of any changes in AD's and EES' reports, and the Departments' complaint and use of force investigations.

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

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

Background

The Monitor has found the OIG in compliance with the requirements of subparagraph 135b since the quarter ending September 30, 2005. Since the inception of the Consent Decree, the OIG has completed a total of 51 quality reviews as of the quarter ending June 30, 2008.⁷⁴

Results of Monitor's Limited Review

The Monitor conducted a limited review of the following OIG reports:

- OIG's May 1, 2008 review of *EES's Quarterly Report for the First Quarter 2008* (paragraphs 97 and 127);
- OIG's June 25, 2008 review of AD's *Categorical Use of Force System Audit* (subparagraphs 129i);
- OIG's June 19, 2008 review of AD's *Complaint Form 1.28 Investigations Audit* (subparagraph 129iii); and
- OIG's June 27, 2008 review of AD's *GED Selection Criteria Audit* (subparagraph 131b).

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

- The OIG reviewed 27 EES audit packages (13 "integrity" and 14 "complaint intake") of the 36 audits that were included in the *EES's Quarterly Report for the First Quarter 2008* and concluded that EES' classifications were well-supported and the audits were complete, as they contained all of the necessary information to review the sting, and were conducted in a quality manner. The OIG identified only one sting in which a re-audit of the subject was warranted. The Monitor reviewed 100% of the 13 integrity audits and concurs with the OIG's findings.

⁷⁴ Eighteen quality reviews were completed in the first five years of the Consent Decree, and 33 quality reviews were completed during the first two years of the extension of the Consent Decree.

- The OIG concluded that AD's paragraph 129i Department's *Categorical Use of Force Systems Audit*; AD's paragraph 129iii *Complaint Form 1.28 Investigations Audit- Phase II*, AD's subparagraph 131b *Review of the Department's Gang Enforcement Detail Selection Criteria Audit* were complete, conducted in a quality manner and the findings were adequately supported. The Monitor concurs with the OIG's findings. The Monitor did not identify any areas of concern in these reviews.

Based on our limited review and the foregoing findings, the Monitor did not identify any issues that suggest that subparagraph 135b should be actively monitored or that the quality of these reviews varied significantly from prior compliant reviews of these topics. The Monitor commends the OIG for issuing a total of 37 timely and effective meta-audits of the Department's audits since the beginning of the Consent Decree extension in July 2006.

Paragraph 137 – OIG Audit of the Use of TEAMS II

Paragraph 137 requires the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform the tasks identified in paragraph 47 relating to supervising and auditing the performance of specific officers, supervisor, managers and LAPD units as well as the LAPD as a whole.

Background

Commencing in the quarter ending September 30, 2007, the OIG split its paragraph 137 audit into two reports based on the type of action items expected at the time the first audit report was completed. These consist of a report entitled *TEAMS II, Phase I* dated November 6, 2007,⁷⁵ which audited higher risk threshold activated system-generated action items (TAIs), the Department's handling of disputed data corrections in TEAMS II, and employees' access to TEAMS II. The OIG issued a second report entitled *TEAMS II, Phase II*, which audited supervisor-generated action items (SAIs).⁷⁶

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

⁷⁵ Although this report was dated after September 30, 2007, the Monitor reviewed and reported on it with the reports that were issued during the quarter ending September 30, 2007.

⁷⁶ During the period when the OIG was working on this Phase II audit, TEAMS II Bureau recognized, as did the OIG, that supervisors were not generating the action items associated with performance evaluations, promotions and transfers. Consequently, the TEAMS II Bureau automated TEAMS II so that action items generated by performance evaluations, promotions and transfers became system-generated action items, rather than supervisor-generated action items. These action items are routine and involve less risk than those generated as a result of an officer exceeding a threshold. These lower risk system generated action items will be assessed by the OIG in the next *TEAMS II, Phase II Audit*, along with any supervisor-generated action items. The threshold system generated action items will continue to be reviewed in OIG's *TEAMS II, Phase I Audit*

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

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

Current Assessment of Compliance

In order to assess the Department's compliance with paragraph 137 during the current quarter, the Monitor reviewed the *OIG's TEAMS II, Phase II SAI Audit* report dated June 6, 2008, audit work plan and supporting work papers, as well as 100% of the *OIG's* work papers for two objectives that reviewed the system and reports within the system and a sample of SAIs for two objectives that assessed the quality of the review of the SAIs, specifically the SAIs' dispositions and the reviews of the SAIs with the employees.⁷⁷

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

- The *OIG's* work papers and supporting documentation were accessible, well-organized and had sufficient detail, and the audit report was well-written.
- The *OIG* appropriately concluded that supervisors were not generating the expected number of SAIs,⁷⁸ and for those SAIs that were generated, the supervisors did not adequately justify their disposition.⁷⁹ In addition, although the prescribed follow-up actions were taking place, a majority of the SAIs did not include documentary evidence showing that supervisors met with the employees. Lastly, for the open SAIs at the time of the *OIG's* review, 9% of the supervisors were not completing their reviews of the SAIs on a timely basis. The Monitor concurs with the *OIG's* findings.
- The Monitor commends the *OIG* for its additional review of the officers' *TEAMS II* reports to try to identify potential patterns or at-risk behavior suggesting that a SAI was warranted. The *OIG* did not identify any significant concerns. The Monitor concurs with the *OIG's* finding.

⁷⁷ The Monitor's samples for the two objectives were selected using a one-tailed test, a 95% confidence interval and a +/-4% error rate.

⁷⁸ The *OIG* compared the expected SAIs to the SAIs actually generated and determined for performance evaluations only 19% of the expected SAIs were generated, for the pay-grade changes and transfers only 7% of the expected SAIs were generated and for the employee promotions only 43% of the expected SAIs were generated.

⁷⁹ It should be noted that based on this finding alone, the *OIG* could have stopped the audit and waited to conduct another audit of this paragraph after the Department addressed this problem; however, the *OIG* continued the audit to provide the Department with feedback on those supervisor-generated actions items that were completed.

- The Monitor notes that the OIG did not review PERs as required by subparagraph 47i when they reviewed the disposition of SAIs associated with performance appraisals during the review of subparagraphs 47b and 47h. While this step was not necessary during the current audit, as the Department was already out of compliance with these objectives, it will be required during the OIG's next review of this paragraph to ensure the use of TEAMS II by the supervisor has been addressed in their performance appraisal.
- The Monitor identified that the OIG did not review TERs and other documentation related to TAIs as mandated by Special Order No. 23, *Criteria for Transfers/Loans of Sworn Personnel Established*, dated July 10, 2003 as required by subparagraph 47m. While this step was not necessary during the current audit, as the Department was already out of compliance with these objectives, it will be required during the OIG's next review of this paragraph to ensure the OIG has tested that supervisors have reviewed the required documentation.
- The Monitor identified in reviewing the disposition for one SAI that the actual disposition preceded the date of the SAI and the date that the TEAMS report was reviewed. In discussing this with OIG personnel, they indicated that they identified and reported the same problem in the next audit, *TEAMS II Audit, Phase I* issued October 2, 2008, where supervisors issued SAIs for dispositions that were previously recorded on the TEAMS II report.
- The Monitor identified that the OIG has not addressed all of the requirements of subparagraphs 47f, 47g, 47i 47k and 47m in its first two TEAMS II audits, primarily due to changes in the system and findings of non-compliance in many areas; however, now that the system has been updated to address the problems identified by this audit and by the TEAMS II Development Bureau, these requirements should be addressed in the OIG's next round of TEAMS II audits.⁸⁰

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

Paragraph 138 – OIG Use of TEAMS II

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

- a. examine and identify officers demonstrating at-risk behavior as determined by their history of administrative investigations, misconduct complaints, discipline, uses of forces, criminal or civil charges or lawsuits, searches and seizures, racial bias, or any other matter requested by the Policy Commission, or subject to Charter section 573, any other improper conduct or at-risk behavior the OIG has reason to believe exists or

⁸⁰ In discussions with the Monitor regarding these subparagraphs, the OIG has agreed to address these areas.

- b. examine and identify at-risk practices or procedures as determined by trends within a unit or between and among units using the criteria in subparagraph 138a.

Background

The Monitor has not previously reviewed any audits or reviews of audits completed pursuant to the requirements of this paragraph.

Current Assessment of Compliance

To initiate its review of this paragraph, the Monitor met with the OIG and discussed its proposed methodology for meeting the requirements of paragraph 138. The Monitor also conducted a limited review⁸¹ of the OIG's work papers from its reviews of six AD audits and two OIG reviews for potential patterns of at-risk behavior.

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

- The OIG's current methodology includes reviewing the findings from its own subparagraph 135b meta-audits of AD's reports and its own paragraph 136 audits of NCUOF and complaint investigations to identify any officers with at-risk complaints or uses of force, as well as the subsequent review of the officers' TEAMS II and other reports to identify if these concerns suggest any potential patterns. The OIG's review of judgmentally selected samples based on the its assessment of the risk of patterns occurring for six AD paragraph 128 audits and two OIG paragraph 136 audits did not identify any patterns. While the Monitor generally concurred with the areas the OIG reviewed, the Monitor identified that the OIG did not review to determine whether or not there were any patterns with the supervisors' actions, nor did the OIG use any other reports generated by TEAMS II in their review.
- The OIG's proposed methodology to meet the requirements of paragraph 138 also includes: assessing the quality of the supervisors' reviews of system-generated and supervisor-generated action items; using TEAMS II information to evaluate the Department's sting audits; using TEAMS II information in the day-to-day activities of the OIG's complaint and CUOF sections; and evaluating whether any potential at risk behavior is present involving significant racial profiling. The OIG is further developing its methodology and how it will document its review of these elements.
- The Monitor suggests that the OIG meet with TEAMS II Development Bureau to identify other reports from TEAMS II that could be used by the OIG to develop its own audits of the LAPD, rather than relying solely on reviewing other audits to potentially identify areas of at-risk behavior.

⁸¹ The Monitor reviewed the OIG's work papers for reasonableness but did not reconcile the OIG's pattern assessments to the underlying work papers for each audit.

- The Monitor suggests the OIG incorporate reviewing for patterns among units or between units.⁸²

The Monitor commends the OIG for its proposed methodology to meet the requirements of this paragraph and the reviews it has conducted to date. The Monitor will continue to assess this paragraph over the next three quarters. Based on the foregoing, the Monitor is withholding a determination of compliance until the OIG has completed all of the steps included in its proposed methodology.

C. POLICE COMMISSION OVERSIGHT

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

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

D. GENERAL

Paragraph 154 is the sole paragraph in this section of the Consent Decree. The paragraph requires the City and the Department to take appropriate timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Commission, the IG, and the Department under the Consent Decree. Since the implementation of the Consent Decree, numerous reports have been issued that identify recommendations to correct deficiencies at various levels within the LAPD. The Monitor plans on conducting a limited review of the Department's compliance with the requirements of paragraph 154 during the remainder of the extension period; the next such assessment is scheduled for the quarter ending December 31, 2008.

⁸² The OIG concurred and identified that TEAMS II has just started conducting audits of a unit or group of units within the LAPD.

V. CONCLUSION

We continue to be generally pleased with the progress being made to achieve substantial compliance with those paragraphs that have not yet achieved that status. Because the Consent Decree is now well into the last year of its three-year extension, in the coming quarter, in meetings with the Department of Justice and the City, we will be conducting an analysis of the gap that remains between that which the Consent Decree set out to achieve some eight years ago and that which has been achieved to date. These meetings will be conducted not only with the hope of developing a strategy to bridge the gap that remains, but also with the hope of developing a plan which best ensures that the reforms achieved to date do not erode. Our collective goals are to make certain that the Consent Decree has been truly transformative in nature and that LAPD remains the model for how a police department can be changed to achieve better regard for the rights of its citizens while at the same time dramatically and effectively reducing crime.