

**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
MARCH 31, 2006**

Issued May 15, 2006

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INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Inc. have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's nineteenth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2006.

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

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or subparagraph of the Consent Decree for the last five quarters, beginning with the quarter ending March 31, 2005.¹ The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's Report and Report Card. These estimates are subject to change as information develops and circumstances change.

¹ The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department's compliance with the provisions of the Consent Decree.

EXECUTIVE SUMMARY

During the quarter ending March 31, 2006, the Monitor examined 45 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 33, failed to achieve compliance with 10, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with the remaining 2 paragraphs.

Areas of concern identified during the quarter ending March 31, 2006 include:

- The LAPD continues to struggle with the Consent Decree's requirements regarding supervisory oversight of search warrants, and has been non-compliant with several such requirements for the majority of the Consent Decree. Many of the deficiencies in this area were identified by the LAPD's Audit Division in its *Warrant Applications and Supporting Affidavits Audit*.

During the current quarter, the Monitor determined that the LAPD has achieved full compliance or shown significant improvements in the following important areas, each of which is described in further detail in the body of this report:

- Regarding the development of the TEAMS II system, the Use of Force System is now completely rolled out to 90% of the Department; in addition, TEAMS Individual Reports have now been made available Department-wide and twelve of the twenty-two Risk Management Information System comparison reports have been rolled out to the West LA and Northeast Divisions.
- Through the continued efforts of the Department and, especially, the dedication of the Consent Decree Mental Illness Project Commanding Officer and Coordinator and their dedicated staff, the Department has made significant progress in its Mental Illness Project and its response to individuals who may have a mental illness.
- The Office of the Inspector General submitted two more quality reviews of LAPD audits, bringing the total number of quality reviews completed under subparagraph 135b to thirteen. As a result, the Department has been found in compliance with subparagraph 135b for three consecutive quarters. Additionally, the Office of the Inspector General completed its *Complaints Investigations Audit* (pursuant to paragraph 136ii), which had been outstanding for some time. The Monitor also found this audit in compliance.

I. FOCUS ISSUES

A. EXTENSION OF THE CONSENT DECREE

As we near the end of the initial five years of the Consent Decree, we clearly recognize that the Los Angeles Police Department is a different agency than that which we found when we arrived in June of 2001. It is an agency that has made great strides in instituting the reforms that were mandated by the Decree. Moreover, it is an agency in which the Inspector General's Office, the Police Commission and the Audit Division, those institutions which will be charged with ensuring that the LAPD not revert to its former self after the expiration of the Consent Decree, have been significantly strengthened. These reforms were achieved through the hard work and dedication of many in the both the Department and other City agencies. That being said, there remains substantial work to be done. Because of this, the parties and the Monitor have agreed that continued monitoring of those paragraphs that have yet to achieve compliance is in the best interest of the Department, the City and its citizens. Within the next few weeks, the Court will decide how the Decree will be extended. The extension of the Decree, however, should in no way, take away from the significant accomplishments that have been made to date.

B. FINANCIAL DISCLOSURE

During this quarter, the issue of financial disclosure, as required by paragraph 132, came before the Court in the form of a motion filed jointly by the City and DOJ to amend the Decree. That paragraph was subject to the provisions of paragraphs 8 and 184 of the Consent Decree, allowing for the "Meet and Confer" process required by California law. The City indicated that the proposed amendment to the Consent Decree was the product of that Meet and Confer process. The Monitor opposed the amendment because, in the Monitor's judgment, it did not fulfill the intent of the paragraph, which as written represents best practice with the potential of preventing corruption in susceptible positions in ways that the proposed amendment did not. The Court has denied the motion to amend, leaving the paragraph as unfulfilled and in non-compliance. We trust that the parties can, within a reasonable time, reach consensus on an approach to this paragraph that will not only address the concerns of all involved, but will represent best practice and prevent potential corruption in susceptible positions within the Department.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices as well as identifying and modifying at-risk behavior.² In order to meet this requirement, the City is developing four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,³ and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

The ability to conform to the original timeline for completion of the TEAMS II project has, from the inception of the Monitorship, been very much in question. The Monitor has always recognized the numerous challenges presented by the scope of the TEAMS II project; therefore, the failure of the City to meet the deadlines set forth in paragraphs 50c and 50d, while disappointing, is not surprising.

That being said, the City has made strides in both Deployment Period System (DPS)⁴ and the UOFS. The Monitor continues to await rollout of the CMS and full rollout of the RMIS. The Monitor hopes that Department-wide implementation of all systems will be achieved during 2006.

During the current quarter, the City and the LAPD made the following progress towards the implementation of the new system:

- As described in our Report for the Quarter Ending December 31, 2005, DPS has been rolled out Department-wide and all areas have been utilizing this system for almost eight deployment periods (DPs).
- As described in our Report for the Quarter Ending December 31, 2005, the City has rolled out the UOFS beyond the Pilot group, beginning with Newton Division on October 20, 2005 and Hollenbeck and Central Traffic Divisions on November 3, 2005. In addition, the UOFS

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

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

⁴ The DPS lies at the heart of TEAMS II, providing information relative to officers' attendance and the command structure, which is utilized for a variety of purposes within the TEAMS II framework.

has now been rolled out completely to all of Central, Valley West and South Bureaus. The UOFS is now completely rolled out to 90% of the Department. The City has begun to roll out to the remaining divisions, such as Metro, Jail, Narcotics and Vice. The City anticipates having UOFS completely rolled out Department-wide by the end of June 2006.

- As described in our Report for the Quarter Ending December 31, 2005, the City completed the readiness testing for the RMIS and rolled out the TEAMS Individual Report on January 10, 2006 to West LA Division. The City then rolled out the TEAMS Individual Report to Northeast Division on January 17, 2006. TEAMS Individual Reports have now been made available Department-wide. In addition, twelve of the twenty-two RMIS comparison reports have been rolled out to the West LA and Northeast Divisions. RMIS action items are scheduled to be activated in early August 2006. Full RMIS is planned to be completed in early September 2006.
- As described in our Report for the Quarter Ending December 31, 2005, the City was looking at the data conversion issues for the legacy systems' load of old complaint cases; some discrepancies were identified, and Bearing Point finished making changes. The City has now completed validation of those changes and identified fixes needed to be made by Bearing Point. CMS reports are still in the development cycle, as Bearing Point is currently working on them. The City also identified some corrections and enhancements that must be made before CMS can be rolled out; these are currently being addressed. The City has rescheduled the rollout of Phase I in June 2006. The Department still hopes to begin the rollout of the full CMS by the end of 2006.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A Categorical Use of Force (CUOF)⁵ 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.⁶ Administrative investigations of these incidents are the responsibility of the Force Investigation Division (FID).⁷ All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.⁸ Non-Categorical Uses of Force (NCUOF) occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

During the quarter ending June 30, 2005, the Monitor evaluated and reported on the LAPD’s compliance with this section’s requirements regarding CUOF incidents and investigations. In addition, the Monitor continued work with regard to the requirement that supervisory conduct at a CUOF be considered during performance evaluations. During the quarter ending September 30, 2005, the Monitor assessed the LAPD’s compliance with this section’s requirements regarding NCUOF investigations.

During the quarter ending December 31, 2005, the Monitor assessed the LAPD’s compliance with this section’s requirement that LAPD management assess supervisory oversight of the service of search warrants.

During the current quarter, the Monitor again assessed compliance with requirements that LAPD management assess supervisory oversight of CUOF incidents, that officer history be considered by managers when recommending disciplinary and non-disciplinary action in connection with

⁵ 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 Incident (LERII) requiring hospitalization, Neck Restraint, Head Strike with an Impact Weapon and a Canine Bite requiring hospitalization.

⁶ 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.

⁷ As described above, FID is the successor to the CIID.

⁸ Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

CUOF, and that the commission continue its practice of reviewing all CUOF. The results of our current assessments follow.

Paragraph 62 – Analyses of CUOF and Search Warrants

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

For reporting purposes, the Monitor has broken paragraph 62 down into two subparagraphs: 62a, which relates to supervisory oversight of CUOF incidents, and 62b, which relates to supervisory oversight of search warrants.

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to CUOF (subparagraph 62a) during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance.⁹ During its meta-audit of the LAPD Audit Division's (AD) *Categorical Use of Force Systems Audit*, the Monitor concluded that seven of 23 CUOF incidents that occurred during the period October 1 to November 30, 2004 contained analyses that were insufficient, in that they did not adequately address the requirements of this paragraph or the requirements of Special Order 35.

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to search warrants (subparagraph 62b) during the quarter ending December 31, 2005, at which time the Monitor found the LAPD in functional non-compliance.¹⁰

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 62a during the current quarter, the Monitor requested a listing of all completed CUOF incident investigations that were solely

⁹ The Monitor last assessed the LAPD's compliance with subparagraph 62b during the quarter ending December 31, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor also reported it would assess compliance with the requirement that any analyses also be considered during the respective supervisor's performance evaluation. The Monitor has elected to defer evaluation of the LAPD's compliance with this requirement until such time the LAPD has met the seven-day reporting and qualitative content requirements of this subparagraph.

¹⁰ AD audited subparagraph 62b during the current quarter as part of its *Warrant Applications and Supporting Affidavits Audit* and also found the Department in non-compliance.

investigated by the FID.¹¹ In total, eight such incidents were identified. For the eight incidents, 16 supervisors responded and played a significant role. The Monitor reviewed each responding supervisor's annual performance evaluation and determined that for 11 evaluations, the analyses of the supervisors' presence were insufficient. This translates into a compliance rate of 31.3%.¹² In most instances, the evaluations addressed the supervisors' responses to UOF incidents generically as a whole, or did not address any incidents at all.

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

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

Paragraph 64 requires a manager¹³ to consider an officer's work history, including information contained in the TEAMS II system,¹⁴ the officer's CUOF history and prior tactics, when reviewing and/or making recommendations regarding discipline or non-disciplinary action as a result of a CUOF.

Background

Once FID has completed a CUOF investigation, and prior to the UOFRB, the Use of Force Division (UOFD)¹⁵ reviews the investigation and prepares a form entitled, "*Officer Work History Review*."¹⁶ At the conclusion of the Board, an involved officer's Commanding Officer (CO) is questioned as to whether or not his/her review identified a pattern regarding tactics of the involved officer.

As previously identified by AD and the Monitor, TEAMS reports do not accurately reflect officers' UOF work histories other than OIS incidents. On July 9, 2004, the LAPD published a

¹¹ The eight incidents occurred during the period September and October of 2004 and were forwarded to the Police Commission for review during the period July through October 2005. The bulk of the investigations were forwarded during September 2005.

¹² In the LAPD CRID's *Supervisory Performance Evaluations Audit*, forwarded to the Police Commission on March 30, 2006, the LAPD reported a compliance rate of 68.2% and 50% for all Sergeants and Detectives tested, respectively.

¹³ As previously noted, paragraph 29 defines a "manager" as an LAPD supervisor ranked captain or above. In interpreting the requirements of this paragraph, the Monitor noted that although it requires a manager's review, it does not specifically require the involved officer's manager. The UOFRB is comprised of at least 4 participants who qualify as a manager according to the Consent Decree definition.

¹⁴ Until the TEAMS II system is developed, the Monitor will base compliance on the LAPD's use of its current TEAMS system.

¹⁵ The UOFD is the successor to the Use of Force Review Section (UOFRS).

¹⁶ This form documents disciplinary history; lethal UOF, non-lethal UOF, and other.

notice that was sent to all COs that “encouraged” COs to contact the UOFD for information on CUOF incidents that are not reported in TEAMS whenever it was necessary to review an officer’s TEAMS record.

The Monitor last assessed the LAPD’s compliance with paragraph 64 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor conducted a meta-audit of AD’s *Categorical Use of Force Systems Audit*. AD reviewed separate populations in assessing compliance with the requirements of paragraph 64; one of the populations tested consisted of only seven incidents, one of which was non-compliant. The Monitor’s finding of non-compliance was based on the egregiousness of this non-compliant incident.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed eight CUOF incident investigations that were investigated solely by the FID.¹⁷ In assessing compliance with paragraph 64, the Monitor separated this paragraph into the following subparagraphs:

- 64a Officer history considered for disciplinary actions¹⁸
- 64b Officer history considered for non-disciplinary actions

Subparagraph 64a Officer History Considered For Disciplinary Actions

The involved officers’ tactics were deemed out-of-policy in one of the eight CUOF incidents reviewed. The associated complaints were forwarded to the Professional Standards Bureau (PSB), and evidence of consideration of the involved officers’ work histories was sufficiently documented by the CO when recommending disciplinary action. As a result, the Monitor finds the LAPD in functional compliance with subparagraph 64a.

¹⁷ The eight incidents occurred during the period September and October of 2004 and were forwarded to the Police Commission for review during the period July through October 2005. The bulk of the investigations were forwarded during September 2005.

¹⁸ When a CUOF incident is found to be out of policy by the UOFRB, it is considered misconduct and a personnel complaint is initiated by the Department. After the complaint has been investigated by the proper Departmental entity, it is forwarded to the involved officer’s CO for appropriate disciplinary action; the CO completes a Letter of Transmittal articulating the rationale used in determining discipline, and should indicate that the officer’s work history was considered.

Subparagraph 64b Officer History Considered For Non-Disciplinary Actions

For all eight CUOF incidents reviewed, the Monitor reviewed relevant documentation, including TEAMS reports, and determined that the UOFRB received accurate information. As a result, the Monitor finds the LAPD in functional compliance with subparagraph 64b.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 64.

Paragraph 67 – OIG and Commission Review of CUOF

Paragraph 67 requires the LAPD to submit completed administrative investigations of all CUOF incidents¹⁹ to the Office of the Inspector General (OIG) and the Police Commission at least 60 days prior to the running of any appropriate statutes. For any investigation not completed and forwarded within this timeframe, the LAPD must provide the Commission with a copy of the underlying investigative file accumulated to date, along with an explanation for its delay, the necessary investigative steps still to be completed, and a schedule for the completion of the investigation.

Background

The Monitor last assessed the LAPD's compliance with paragraph 67 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The LAPD experienced a significant backlog of investigations resulting from the transition of investigative authority to the FID from the CIID.

Current Assessment of Compliance

During the quarter ending December 31, 2005, in connection with our assessments of subparagraph 69a (UOFRB Review of CUOF), among others, the Monitor reported on its review of eight completed CUOF incident investigations that were investigated solely by the FID and not part of the inherited CIID caseload.²⁰ None of the eight investigations were provided to either the Police Commission or its designee, the OIG, within 60 days of the appropriate statute. However, the LAPD provided the Police Commission with letters for all eight incidents advising of the delays, which were attributed to the backlog of investigations, and indicating the expected completion dates and/or the expected UOFRB presentation dates.

¹⁹ As defined by paragraph 13 of the Consent Decree.

²⁰ The eight incidents occurred during the period September and October of 2004 and were forwarded to the Police Commission for review during the period July through October 2005. The bulk of the investigations were forwarded during September 2005.

Although the Consent Decree requires the LAPD to furnish the Police Commission with a copy of the underlying investigative file, completed to date, the Police Commission, with the agreement of the OIG, elected to forego receipt of partially completed investigations.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 67.

B. SEARCH AND ARREST PROCEDURES

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

During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with requirements regarding supervisory review of warrants and warrant logs. During the quarter ending December 31, 2005, the Monitor assessed the LAPD's compliance with this section's requirements regarding supervisory review of booking recommendations and Watch Commander inspections of all detainees and arrestees.

During the current quarter, the Monitor again assessed requirements regarding the maintenance of search warrant logs and supervisory review of warrants, and assessed for the first time the requirement that the quality of supervisory review of booking recommendations and arrests be taken into account during annual performance evaluations. The results of our current assessments follow.

Subparagraph 70c – Supervisory Review Assessments

Subparagraph 70c requires that the quality of a supervisor's reviews of booking recommendations be taken into consideration during the supervisor's annual performance evaluation.

Background

The Monitor has not previously assessed the LAPD's compliance with subparagraph 70c.

Current Assessment of Compliance

In order to assess the LAPD's compliance with subparagraph 70c during the current quarter, the Monitor requested and received daily activity reports for the period January 1, 2004 through December 31, 2005 for all LAPD Divisions wherein a supervisor²¹ might be required to review

²¹ Paragraph 37 of the Consent Decree defines a supervisor as a police officer with oversight responsibility for other officers that includes managers.

and approve booking recommendations. In total, the Monitor identified and compiled a listing of 555 sworn personnel who were listed as having served the function of either a Watch Commander or Assistant Watch Commander.

From this listing of 555 sworn personnel, the Monitor randomly selected 82 officers and requested the LAPD to provide officer personnel records for review in order to assess compliance.²² As of the end of the reporting period, the Monitor assessed 45 annual performance evaluations.²³ The Monitor determined that the evaluations for 14 of the 45 officers reviewed did not meet the requirements of subparagraph 70c.²⁴ This translates into a 68.9% compliance rate (31 of 45).²⁵

Based on the foregoing the Monitor finds the LAPD in functional non-compliance with subparagraph 70c.

Paragraph 71 – Supervisory Review of Warrants

Paragraph 71 requires supervisory review of all search warrants and probable cause arrest warrants (“Ramey” warrants). The review must include the following:

- a. A review for completeness of the information contained therein and an authenticity review to include an examination for “canned” language, inconsistent information, and lack of articulation of the legal basis for the warrant.
- b. A review of the information on the application and affidavit, where applicable, to determine whether the warrant is appropriate, legal and in conformance with LAPD procedure.
- c. A review of the plan for executing the warrant and a review of the execution of the warrant after it occurs (after-action review). In addition, a supervisor must be present for the execution of the warrant.

²² The Monitor utilized a one-tailed sample computation with a 95% degree of confidence and a +/- 4% error rate.

²³ The Monitor determined that five of the first 50 evaluations reviewed were for officers who were not Watch Commanders. These were excluded from the assessment.

²⁴ Because 14 of the first 45 evaluations reviewed were non-compliant, the City could not achieve compliance even if all remaining evaluations were compliant and the Monitor discontinued its testing at this point.

²⁵ On March 30, 2006, the Chief of Police forwarded the results of the LAPD CRID’s inspections that included an assessment of compliance with paragraph 70, subsection c. In this report, the LAPD reported a compliance rate of 71.6% for all Sergeants reviewed and 93.8% for all Detectives reviewed.

Background

The Monitor last assessed the LAPD's compliance with paragraph 71 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance with subparagraphs 71a, b and c.

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 71 during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report* submitted February 22, 2006. The Monitor conducted a meta-audit of AD's audit and findings, noting that AD included sealed (Hobbs) warrants in this, its fourth *Search Warrant Audit*.

During its audit, AD selected a sample of 109 warrant packages from a total population of 181 warrants that were prepared and/or served Department-wide during Deployment Period No. 7.²⁶ AD reviewed each of the 109 warrant packages for compliance with subparagraphs 71a, b and c, among others, and found the LAPD in compliance with subparagraph 71a and in non-compliance with subparagraphs 71b and c.

In assessing compliance with subparagraph 71a, regarding completeness of the information and an authenticity review for warrants reviewed, AD determined that two packages were non-compliant with the requirement for completeness of information,²⁷ resulting in a compliance rate of 98% (107 of 109) and all 109 warrants reviewed met the authenticity requirement of subparagraph 71a.

In assessing compliance with subparagraph 71b, regarding underlying actions for warrants reviewed, AD determined that thirty packages were non-compliant with the requirements regarding appropriateness and legality, resulting in a compliance rate of 75% (82 of 109)²⁸ and three packages were non-compliant with the requirements regarding conformance with LAPD procedures, resulting in a compliance rate of 79% (15 of 19).²⁹

²⁶ DP7 covers the period June 26, 2005 to July 23, 2005.

²⁷ Two warrants did not include Receipt for Property as required.

²⁸ One of the 109 warrants was not evaluated in connection with certain objectives related to subparagraphs 70b and c, as it was not served. Of the resulting 108 warrants reviewed, twenty-seven were not returned within the required ten days of issuance.

²⁹ In evaluating compliance with this requirement, AD reviewed only those warrants where CIs were used. There were 19 such warrants; of these, the warrant service was not documented in the appropriate CI package in four instances. The Monitor notes that the requirement to document service in CI packages is not a specific Consent Decree requirement; however, it is an internal LAPD requirement, and subparagraph 70b requires conformance with LAPD procedures.

In assessing compliance with subparagraph 71c, regarding supervisory oversight for warrants reviewed, AD determined that seven packages were non-compliant with the requirements regarding supervisory oversight of applicable incidents,³⁰ resulting in a compliance rate of 88% (60 of 68),³¹ and six packages were non-compliant with the post-incident review requirement,³² resulting in a compliance rate of 91% (62 of 68).

As described in further detail under the Current Assessment of Compliance for paragraphs 128(1), 131c-1 and 131e, below, during its meta-audit, the Monitor evaluated AD's findings for a sample of 36 warrants reviewed by AD.³³ The Monitor found nine additional material issues and numerous administrative issues that were not identified by AD. These additional material findings would have further reduced the aforementioned compliance percentages for paragraphs 71a, b and c, but would not have changed the overall compliance findings.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with subparagraph 71a and in functional non-compliance with subparagraphs 71b and c.

Paragraph 72 – Supervisory Review of Warrant Log

Paragraph 72 requires each Area and specialized Division of the LAPD to maintain a log listing:

- each search warrant;
- the case file where a copy of the warrant is maintained;
- the name of the officer who applied for the warrant; and,
- the name of each supervisor who reviewed the application for the warrant.

Background

The Monitor last assessed the LAPD's compliance with paragraph 72 during the quarter ending June 30, 2005, at which time the LAPD was found in functional compliance.

³⁰ Of the seven warrants, three warrants did not contain a Warrant Service/Tactical Plan Report, two warrants did not include documentation indicating review by a supervisor, and two warrants did not document the appropriate supervisory presence during the service of the warrant.

³¹ Of the 109 warrants reviewed, 41 involved third party records, such as telephone records, and were therefore not reviewed for compliance with the supervisory review requirements.

³² The six warrants comprised the three packages that were also non-compliant with the requirements regarding supervisory oversight, as they did not contain a Warrant Service/Tactical Plan Report. Of the three additional warrants, no debriefing was conducted in one warrant and there was no proper document of the debriefing in the remaining two warrants.

³³ The Monitor reviewed random samples of 24 Departmental warrants (of which 6 were Hobbs warrants) and 12 gang-related warrants (of which 5 were Hobbs warrants).

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 72 during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report*, submitted February 22, 2006. As described in the Current Assessment of Compliance for paragraph 71, above, the Monitor conducted a meta-audit of AD's audit and findings, noting that AD included sealed (Hobbs) warrants.

AD selected and reviewed a sample of 109 warrant packages³⁴ and the corresponding warrant tracking log for compliance with paragraph 72 and found the LAPD in non-compliance. AD concluded that twelve warrants were non-compliant with the requirements regarding completeness and accuracy of the Warrant Tracking Log, resulting in a compliance rate of 89% (97 of 109).

As described in detail under the Current Assessment of Compliance for subparagraphs 128(1), 131c-1 and 131e, below, during its meta-audit, the Monitor evaluated AD's findings for a sample of 36 warrants reviewed by AD. The Monitor concurred with AD's findings and conclusions in relation to paragraph 72.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 72.

C. INITIATION OF COMPLAINTS

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

The Monitor assessed the LAPD's compliance with most of this section's requirements during the quarter ending March 31, 2005, and assessed additional requirements during the quarters ending June 30, 2005 and September 30, 2005. During the quarter ending December 31, 2005, the Monitor assessed compliance with this section's requirement that a complaint investigation be initiated against officers who fail to inform civilians of the means by which a complaint may be filed, attempt to dissuade the filing of complaint or refuse to accept a complaint.

The Monitor again assessed the LAPD's compliance with this section's requirement that the City notify the LAPD whenever a claim is filed against the City alleging misconduct by an LAPD officer or other employee of the LAPD and that the LAPD continue to require all officers to notify the LAPD whenever the officer is arrested, criminally charged, named as a party in a civil suit involving conduct while on duty or otherwise while acting in an official capacity, or named

³⁴ Refer to the Current Assessment of Compliance for paragraph 71 for information regarding the audit population and sample.

as a defendant in a successful civil suit complaining of off-duty physical violence, threats of physical violence, or domestic violence by the officer. The results of our current assessments follow.

Paragraph 76 – Civil Lawsuits Alleging Misconduct of LAPD

Pursuant to Paragraph 76, the City of Los Angeles is required to notify the LAPD whenever a person serves a civil lawsuit on or files a claim against the City alleging misconduct by an LAPD officer or other employee of the LAPD.

Background

The LAPD's Risk Management Division (RMD) regularly receives Initial Litigation Reports, Quarterly Reports, and Final Reports from the City of Los Angeles' Attorney's Office for lawsuits filed with the City against the LAPD. The RMD also receives notification on all newly filed claims from the City Attorney's Office. The lawsuit and claim information is entered into the RMD's Claim/Lawsuit Information System (CLIS) database. The RMD forwards a report weekly to PSB, listing all claims and lawsuits for the generation of complaint investigations.

The Monitor last assessed the LAPD's compliance with paragraph 76 during the quarter ended March 31, 2005, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

During the current quarter the Monitor requested and received from the City its Claim Detail Report, which is a listing of all pending lawsuits and claims, for the period July 1, 2005 through December 31, 2005. The City's report identified a total of 102 lawsuits and 214 separate claims applicable to the LAPD.³⁵ Included in the City's report were several lawsuits with classifications³⁶ that did not allege any misconduct and were, therefore, not subject to paragraph 76.

The Monitor also requested and received from the LAPD its CLIS report for the same time period. The Monitor met with RMD personnel as part of its reconciliation of the RMD's CLIS with the City's report and concluded that all lawsuits and claims included in the City's report

³⁵ The City usually receives notification of all lawsuits and claims for damages from the City Clerk's Office. Upon receipt the City Clerk enters the information in the Omega Pyramid System database to track the cases and to generate the "Open Police Department Cases for Police Litigation Unit" and "Four Line Claim Detail."

³⁶ These classifications include traffic, disability and medical related lawsuits.

were captured by the LAPD. Additionally, the Monitor noted that RMD's CLIS report included several claims that were not listed on the City's Claim Detail Report.³⁷

As with our previous assessment, the Monitor found personnel from the RMD's Legal Unit and Claims Unit to be cooperative; the work and documentation provided to the Monitor from this unit is always complete and concise.

Based on the foregoing, the Monitor finds the LAPD in continued functional compliance with paragraph 76.

Paragraph 77 – Arrest / Litigation Involving Officer

Paragraph 77 requires that the LAPD continue to require all officers to notify without delay the LAPD whenever the officer is arrested or criminally charged for any conduct, or the officer is named as a party in any civil suit involving his or her conduct while on duty or otherwise while acting in an official capacity. Additionally, the LAPD shall require notification from any officer who is named as a defendant in any civil suit that results in a temporary, preliminary, or final adjudication on the merits in favor of a plaintiff complaining of off-duty physical violence, threats of physical violence, or domestic violence by the officer.

Background

The Monitor last assessed the LAPD's compliance with paragraph 77 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 77 during the current quarter, the Monitor requested and received from the LAPD a listing of all officers known to have been arrested during the time period January 1, 2005 through December 31, 2005. The Monitor also requested and received related complaint face sheets and, if applicable, completed investigations that provided a summary of the incident leading to the officer's arrest and the nature of any allegation(s). In total, 24 officers were identified by the LAPD. For 23 of the 24 instances in which an officer was arrested, the arrest of the officer was made either directly by the LAPD or the outside arresting agency that made the arrest directly notified the LAPD. For the remaining instance, the officer's arrest, which occurred outside of the LAPD's territory, went unreported for approximately four days.

³⁷ According to RMD personnel, the CLIS lists the date the LAPD receives notification of the claim from the City, which may be different from the date listed on the City's Claim Detail Report. The Monitor is confident that all claims and lawsuits were captured in the LAPD's database.

In addition to reviewing the listing of all officers who were arrested and related documentation, the Monitor requested and reviewed a listing of lawsuits and claims pursuant to Paragraph 76. Through the review of these listings, the Monitor did not identify any additional instances that should have been considered as reportable under paragraph 77. Given the reporting requirements pursuant to paragraph 76, the likelihood of a claim or a lawsuit going unreported to the Department is minimal. Normally, an officer identified as party to a lawsuit or claim would first learn of it from the PSB.

Based on the foregoing, the Monitor finds the LAPD in continued functional compliance with paragraph 77.

D. CONDUCT OF INVESTIGATIONS

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

During the quarter ending September 30, 2005, the Monitor assessed the LAPD's compliance with the requirements relative to the conduct of NCUOF investigations by Chain of Command (COC), as well as the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover indications of misconduct unrelated to NCUOF incidents under investigation.³⁸

During the quarter ending December 31, 2005, the Monitor assessed compliance with this section's requirements regarding the conduct of CUOF investigations and the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover indications of misconduct unrelated to CUOF incidents under investigation.

During the current quarter, the Monitor again assessed the LAPD's compliance with this section's requirements regarding the documentation and forwarding of all complaint face sheets to the PSB for review and investigative assignment and the conduct of complaint investigations by both the PSB and COC, as well as the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover information of misconduct unrelated to incidents under investigation as well as the investigative requirements that apply to administrative complaint investigations. The results of our current assessments follow.

³⁸ In its Report for the Quarter Ending September 30, 2005, the Monitor reported on work completed in connection with complaint investigations adjudicated as Other Judicial Review and certain investigations of officers at the rank of Sergeant or higher, excluding the Chief of Police. Although deficiencies were noted and reported to the City and the LAPD, they were not used to form an assessment on any particular Consent Decree paragraph requirement.

Paragraph 79 – PSB Review of Complaint Face Sheets

Paragraph 79 requires the LAPD to document and forward all complaints to the PSB for review and investigative assignment within ten days of receipt to determine whether or not criteria as defined in paragraphs 93, 94 and 95 apply.

Background

The Monitor assessed the LAPD's compliance with paragraph during the quarter ending September 30, 2004, at which time the Monitor found the LAPD in functional compliance based on its review of a sample of complaints initiated during the period June 1, 2004 August 31, 2004.

The Monitor again assessed compliance with paragraph 79 during the quarter ending March 31, 2005. The Monitor reviewed AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004, in which AD reviewed a stratified sample of complaints initiated during the period July 1 through July 31, 2004 and calculated a compliance rate of approximately 90%. Despite AD's finding, the Monitor elected to carry forward from the prior quarter its rating of functional compliance with paragraph 79, as the Monitor reviewed a sample of complaints initiated over a broader period (AD's sample period fell within the period previously tested).

Current Assessment of Compliance

During the current quarter the Monitor requested and received a listing of all complaints initiated during the period July 1, 2005 through December 31, 2005. A total of 2,894 complaints were identified. The information provided included the date the complaint was reported to the LAPD, the date the complaint face sheet was completed and the date the face sheet was received by the PSB for review and classification. For 192 of the 2,894 complaints listed, the face sheets were provided to the LAPD's PSB in excess of ten days of receipt. This translates into an overall compliance rate of 93.4%.

As it has done in the past, the Monitor took into consideration that certain complaints, namely LAPD-generated complaints alleging Failure to Qualify, Failure to Appear or a Preventable Traffic Collision were excluded from calculating compliance. These particular complaints were excluded because the LAPD identifies them only after generating monthly reports. Similarly, certain complaints arising out of a UOF investigation were excluded, as UOF administrative investigations typically occur over many months before a complaint investigation is initiated.

Notwithstanding the slight shortfall in the overall compliance rate and under the totality of the circumstances, the Monitor finds the LAPD in functional compliance with paragraph 79.

Subparagraph 80ii – Complaint Investigations

Paragraph 80 defines specific investigative requirements that apply to all CUOF incident investigations and all administrative complaint investigations in which the underlying alleged

misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven subparagraphs 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
- g. Identify and report all inconsistencies in officer and witness interview statements gathered during the investigation

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 80ii³⁹ during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional compliance with subsections a through e and g of the subparagraph, but in functional non-compliance with subsection f of the subparagraph.

Current Assessment of Compliance

In order to assess compliance with subparagraph 80ii during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁴⁰

³⁹ Subparagraph 80i was not scheduled for assessment during the current quarter. The Monitor last assessed compliance with subparagraph 80i during the quarter ending December 31, 2005.

⁴⁰ In selecting investigations for review, a minimum random sample of 91 was calculated utilizing a 95% degree of confidence with a +/- 4% error rate. The Monitor elected to expand its population to 116 in order to capture a sufficient number of COC and Internal Affairs Group (IAG) investigations on which to assess compliance. A total of 44 investigations were completed by the IAG and were the basis for assessing compliance with subparagraph 80ii. The remaining 72 investigations, completed by COC, were the basis for assessing compliance with

Forty-four of the 116 investigations were applicable to paragraph 80ii. For these investigations, the Monitor noted the following:

- For 41, or 93.2%, of the 44 investigations reviewed, the Monitor noted that interviews of witnesses, including sworn and non-sworn LAPD personnel, were taped, where required (subsection a). For two investigations, two individuals, both key to the investigation, were not taped and for a third investigation the tape recorder malfunctioned.⁴¹
- For 42, or 95.5%, of the 44 investigations reviewed, the Monitor concluded that interviews were conducted at times and places convenient to the witness (subsection b). For the remaining two investigations, no indication of convenience was referenced.
- For 43, or 97.5%, of the 44 investigations reviewed, the Monitor concluded that the LAPD correctly prohibited group interviews (subsection c). For the remaining investigation, two individuals were interviewed together, and management review identified and addressed the deviation from policy.
- For all 44 investigations reviewed, the Monitor concluded that the LAPD notified the involved officers and their respective supervisors of the pending complaint investigation (subsection d).
- The Monitor determined that the requirements of subparagraph e were applicable to four of the 44 investigations reviewed. The supervisor was interviewed with regard to his/her conduct at the scene in all four investigations.
- For 36, or 81.8%, of the 44 investigations reviewed, the Monitor concluded that the LAPD adequately collected and preserved all evidence relevant to the investigation (subsection f). For the remaining eight investigations, the Monitor noted that the investigations did not include referenced tapes or referenced paperwork, witnesses identified were not interviewed, or photographs of injuries (or the lack thereof) were not obtained.
- For 40, or 90.9%, of the 44 investigations reviewed, the Monitor concluded that inconsistent witness statements were adequately addressed (subsection g).

Based on the foregoing, the Monitor finds the Department in functional compliance with subsections a-e and g, despite the slight shortfall in the overall compliance rates for subsections a and g, but in functional non-compliance with subsection f of subparagraph 80ii.

subparagraph 81ii. All 116 investigations were the basis for assessing compliance with paragraphs 82, 84, 85, 86, 87, 90 and 91.

⁴¹ The Monitor noted instances in which a witness either refused to be tape recorded or a complainant refused to cooperate with the investigation. These instances were not assessed as non-compliant.

Paragraph 81 – COC Investigations of Complaints

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 81 as it relates to COC complaint investigations during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance largely due to the LAPD's failure to preserve and maintain evidence.

The Monitor last assessed the LAPD's compliance with paragraph 81 as it relates to NCUOF investigations during the quarter ending September 30, 2005, at which time the Monitor found the LAPD in primary, secondary and functional compliance.

Current Assessment of Compliance

In order to assess compliance with paragraph 81 as it relates to COC administrative complaint investigations during the current quarter,⁴² the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁴³ Seventy-two of the 116 investigations were applicable to paragraph 81ii. For these investigations, the Monitor noted the following:

- For 68, or 94.4%, of the 72 investigations reviewed, there were no group interviews. A witness was interviewed in the presence of either another witness or a third party in two separate investigations and the Monitor could not determine whether group interviews were prohibited in two investigations.
- The Monitor determined that the requirements of subparagraph e were applicable to ten of the 72 investigations reviewed. The supervisor was interviewed with regard to his/her conduct at the scene during all ten investigations.
- For 67, or 93.1%, of the 72 investigations reviewed, the Monitor concluded that the LAPD adequately collected and preserved all evidence relevant to the investigation. Three investigations did not contain relevant witness interviews, another investigation did not include evidence that the scene was canvassed, and yet another did not include photographs of injuries.

⁴² An assessment of compliance with paragraph 81 as it relates to NCUOF administrative investigations was not scheduled for the current quarter.

⁴³ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 81 as it relates to COC administrative complaint investigations.

Paragraph 82 – Collateral Misconduct Investigations

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 82 with respect to misconduct investigations during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor's evaluation of compliance was based on its meta-audit of the AD's *Complaint Form 1.28 Investigations Audit*, dated March 31, 2005, and related working papers.

Current Assessment of Compliance

In order to assess compliance with paragraph 82 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁴⁴

For 111, or 95.7%, of the 116 investigations reviewed, the Monitor concluded that the requirements of paragraph 82 were either not applicable, or a separate complaint investigation was initiated. For five investigations, the Monitor concluded that a separate complaint should have been initiated.⁴⁵

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 82.

E. ADJUDICATING INVESTIGATIONS

The Consent Decree requires that misconduct complaints be adjudicated in a fair, timely and consistent fashion. The Consent Decree also provides specific requirements relative to the

⁴⁴ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

⁴⁵ Additional allegations included planting of evidence; neglect of duty for failing to safeguard LAPD property; failure to report misconduct by a supervisor; failure to address a report of a previous complaint; and false/misleading statements.

adjudication process, including standards for credibility determination and categories for final adjudication.

During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with all requirements of this section, except for requirements regarding the timeliness of complaint investigations, which were last assessed during the quarter ending March 31, 2005. During the quarter ending September 30, 2005, the Monitor assessed the LAPD's compliance with this section's requirements that all complaints be adjudicated using a preponderance of the evidence standard and utilizing specified classifications of adjudication; in addition, the Monitor conducted a review of and reported on completed complaints adjudicated as "Other Judicial Review" (OJR),⁴⁶ which was described in a Focus Issue in the Monitor's Report for the Quarter Ending September 30, 2005.

During the current quarter, the Monitor again assessed the LAPD's compliance with all of the requirements of this section of the Consent Decree. The results of our current assessments follow.

Paragraph 84 – Standards for Credibility Determinations

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 84 during the quarter ending June 30, 2005, at which time the LAPD was found in continued functional non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 84 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890

⁴⁶ The OJR classification was implemented to address two types of complaints. One involves criminal matters where the facts have already been adjudicated in court. The other pertains to civil matters not involving duty-related activity where no finding of criminal or civil misconduct against the employee has been made, such as an alleged violation of a temporary restraining or child custody order.

completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁴⁷

The Monitor concluded that the rationale used to evaluate the credibility of complainant, officer and witness statements was sufficient and unbiased in 110, or 94.8%, of the 116 investigations reviewed. For the remaining six investigations, the Monitor concluded that sufficient information existed in the rationale for a reasonable individual to conclude an automatic judgment in favor of the accused officer.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 84.

Paragraph 85 – Preponderance of the Evidence

Paragraph 85 requires that all complaints be adjudicated using a preponderance of the evidence standard⁴⁸ and, wherever supported by evidence, collected complaints shall be adjudicated as follows:⁴⁹

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

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

⁴⁷ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

⁴⁸ Per the LAPD's *Management Guide to Discipline*, dated January 2002, preponderance is defined using the *Black's Law Dictionary* as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity from knowledge, information possessed, and manner of testifying determines the weight of testimony."

⁴⁹ The LAPD also adjudicates complaint investigations as "Insufficient Evidence to Adjudicate," "Other Judicial Review" and "Withdrawn by the Chief of Police." These additional dispositions represent a continuation of LAPD policy and new policy released in October 2001.

Background

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

The Monitor assessed the LAPD's compliance with paragraph 85 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor placed reliance on the LAPD's AD's *Complaint Form 1.28 Investigations Audit*, dated March 31, 2005, and related working papers, which identified investigations wherein the preponderance of the evidence standard was not applied.

During the quarter ending September 30, 2005, the Monitor undertook a review of completed complaints adjudicated as OJR. The Monitor determined that the utilization of OJR as an adjudicative category contravenes the provisions of paragraph 85. As a result, the Monitor again concluded that the LAPD was in non-compliance with paragraph 85.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 85 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁵⁰

The Monitor concluded that the LAPD applied a preponderance of the evidence standard in 106, or 91.4%, of the 116 investigations. The Monitor noted the following regarding the nine investigations in which the LAPD failed to apply the appropriate standard:

- For an investigation of an allegation of the loss of a firearm, the Monitor found that the adjudication occurred before the completion of the investigation. Information contained within the investigation file, specifically the officer's statement, should have yielded additional allegations and, at a minimum, an adjudication of Not Resolved, rather than Unfounded-No Misconduct.
- For two separate investigations of allegations of misuse of an LAPD vehicle, the Monitor found that the circumstances should have resulted in a Sustained adjudication, rather than No Misconduct - Actions Could Have Been Different.

⁵⁰ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

- For an investigation of an allegation involving an officer's credibility while in court, the Monitor found that the adjudication should have been Sustained, rather than No Misconduct - Actions Could Have Been Different.
- The Monitor noted the LAPD incorrectly adjudicated a complaint via Alternative Complaint Resolution (ACR).⁵¹ This particular investigation included allegations that would have required a complete investigation, notwithstanding the involved parties' willingness to resolve otherwise under Special Order No. 1.
- For an investigation of an allegation involving officers failing to take appropriate action, the Monitor noted that the original adjudication was Not Resolved; however, a subsequent military endorsement changed it to Unfounded. Based on the investigation, the Monitor found that the original adjudication was correct.
- For an investigation of an allegation involving false arrest, the Monitor found that the appropriate adjudication was either Unfounded or Not Resolved, rather than Other Judicial Review.
- For an investigation of allegations involving discourtesy and retaliation, the Monitor found that the appropriate adjudication was Not Resolved, rather than Unfounded.
- For an investigation of an allegation of failing to report misconduct involving allegations of sexual misconduct, the Monitor found that the appropriate adjudication was Sustained, rather than Not Resolved.
- For an investigation of an allegation involving an improper pursuit, the Monitor found the appropriate adjudication was Sustained – No Penalty, with training, rather than No Misconduct - Actions Could Have Been Different.

Notwithstanding the slight shortfall in the overall compliance rate and under the totality of the circumstances, the Monitor finds the LAPD in functional compliance with paragraph 85.

Paragraph 86 – Complaint Withdrawal, Unavailability of Complainant, Anonymous Complaint and Third Party Complaints

Paragraph 86 requires the LAPD to use reasonable efforts to investigate complaints to determine whether they can be corroborated in instances where complaints are withdrawn, the complainant is unavailable to make a statement, or the complaint was filed anonymously or by a person other than the victim of misconduct. Such circumstances shall not be a basis for adjudicating a complaint without further investigation.

⁵¹ ACR is utilized at the option of the complainant and the accused officer(s) for certain minor allegations wherein the complainant and the accused officer(s) meet, in confidentiality, to discuss the allegations. The content of their meeting is not memorialized.

Background

The Monitor last assessed the LAPD's compliance with paragraph 86 during the quarter ending June 30, 2005, at which time the LAPD was found in primary⁵² and functional compliance. The Monitor reviewed and placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*, dated March 31, 2005, and related working papers.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 86 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁵³

For 115, or 99.1%, of the 116 investigations reviewed, the Monitor concluded that the requirements of paragraph 86 were either not applicable or the Department made reasonable efforts to investigate the complaints.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 86.

Paragraph 87 – Timeliness of Complaint Investigations

Paragraph 87 defines the time period in which most investigations must be completed. Taking into consideration the complexity of an investigation, the availability of evidence or other extenuating circumstances, the LAPD is required to complete most investigations within five months.

Background

The Monitor last assessed the LAPD's compliance with paragraph 87 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance.

⁵² The following policy specifically addresses and meets the requirements of paragraph 86: Administrative Order 12, "Investigating a Personnel Complaint," approved by the Commission September 25, 2001; Special Order 36, "Complaint Reporting Procedures – Revised," approved by Police Commission November 13, 2001.

⁵³ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 87 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁵⁴ The Monitor determined that 60 of the 116 complaint investigations reviewed were completed within 150 days. This translates into a completion rate of 51.7%, meaning that the majority of investigations were completed within the mandated 150-day period.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 87.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

The Consent Decree provides specific requirements regarding the imposition and reporting of disciplinary and non-disciplinary action. The Chief of Police must report to the Police Commission his imposition of discipline during each calendar quarter. The Inspector General (IG) must review, analyze and report to the Police Commission on the Chief's actions, and the Police Commission must assess the appropriateness of his actions.

During the quarter ending September 30, 2005, the Monitor assessed the Department's compliance with requirements relative to the Department's anti-retaliation policy, as well as the Chief of Police's discipline report and the IG's and Commission's reviews of that report. During the quarter ending December 31, 2005, the Monitor again assessed compliance with requirements relative to the Department's anti-retaliation policy and evaluated whether the Police Commission's assessment of the appropriateness of discipline imposed by the Chief of Police was considered as part of the Chief's annual evaluation.

During the current quarter, the Monitor again assessed the Department's compliance with requirements relative to the Chief of Police's discipline report and the IG's and Commission's reviews of that report, as well as the requirements relative to managers' evaluations of complaint investigations and notifications to complainants regarding complaint dispositions. The results of our current assessments follow.

⁵⁴ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

Paragraph 88 – Chief of Police Report on Discipline

Paragraph 88 requires the Chief of Police to report to the Police Commission, with a copy to the IG, on the imposition of discipline during each quarter, no later than 45 days following the end of the quarter.

Background

The Monitor last assessed the LAPD's compliance with paragraph 88 during the quarter ending September 30, 2005, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

During the current quarter, the Monitor received and reviewed the Quarterly Discipline Reports (QDR) for the third quarter and fourth quarters of 2005.

The third quarter QDR was dated November 3, 2005 and submitted to the Police Commission on November 10, 2005, with a copy to the IG provided on November 16, 2005. Accordingly, the LAPD provided the Police Commission with this QDR for the third quarter 41 days after the end of the quarter, which complies with the 45-day requirement of this paragraph.

The fourth quarter QDR was dated February 14, 2006 and submitted to the Police Commission on February 15, 2006, with a copy to the IG provided on February 16, 2006. Accordingly, the LAPD provided the Police Commission with this QDR 46 days after the end of the quarter.

The Monitor reviewed the QDRs to determine whether they accurately captured and reported on relevant information. The Monitor found that they provide appropriate statistical data to reflect the outcome of the discipline imposed during the respective quarters and are adequate in their current format.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 88.

Paragraph 89 – IG and Police Commission Review of QDR

Paragraph 89 requires the IG to review, analyze and report to the Police Commission on each QDR. The Police Commission shall review the QDR no later than 75 days⁵⁵ after its receipt and assess the appropriateness of the Chief of Police's actions, specifically with respect to CUOF.

⁵⁵ Paragraph 89 originally had a 45-day requirement; this requirement was changed to 75 days after the Court approved the City and DOJ's Joint Request to Amend the Consent Decree Pursuant to Paragraph 180 of the Consent Decree on June 2, 2005.

Such assessment must be considered as part of the Chief's annual evaluation as provided in paragraph 144.

For ease of reporting, the Monitor has split its reporting on paragraph 89 into three components:

- Subparagraph 89a, IG Review of QDR
- Subparagraph 89b, Commission Review/Assessment of QDR
- Subparagraph 89c, Commission's Assessment Considered Part of Chief's Annual Review

Background

The Monitor last assessed the LAPD's compliance with subparagraphs 89a and b during the quarter ending September 30, 2005 at which time the Monitor found the LAPD in functional compliance.⁵⁶

Current Assessment of Compliance

Subparagraphs 89a, IG Review of QDR, and 89b, Police Commission Assessment of QDR

During the current quarter, the Monitor received and reviewed the IG's reviews of the QDRs for the third and fourth quarters of 2005.

The IG's review of the QDR for the third quarter of 2005 was dated January 19, 2005. The Police Commission received and approved the IG's review of this QDR on January 24, 2005, 75 days after the QDR was received by the IG and within the 75-day requirement.

The IG's review of the QDR for the fourth quarter of 2005 was dated April 18, 2006. The Police Commission received and approved the IG's review of this QDR on April 25, 2006, 69 days after the QDR was received by the IG and within the 75-day requirement.

Based on the foregoing, the Monitor finds the Department in functional compliance with subparagraphs 89a and b.

Paragraph 90 – Manager Review of Complaint Form 1.28 Investigations

The LAPD is required to continue its practice of having managers evaluate all complaint

⁵⁶ The Monitor last assessed the Department's compliance with subparagraph 89c during the quarter ending December 31, 2005, at which time the Monitor found the Department in compliance. Subparagraph 89c was not scheduled for assessment during the current quarter.

investigations and identify any underlying problems and/or training needs. Recommendations or actions, if any, shall be implemented by the manager or referred to the appropriate entity for implementation.

Background

The Monitor last assessed the LAPD's compliance with paragraph 90 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*, dated March 31, 2005, and related working papers.

Current Assessment of Compliance

In order to assess compliance with paragraph 90 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁵⁷

The Monitor determined that six of the 116 completed investigations reviewed lacked sufficient management review that otherwise should have identified underlying inconsistencies, additional investigation and/or training needs.⁵⁸ This translates into a compliance rate of 94.8%.

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

Paragraph 91 – Complaint Resolution Notification

Paragraph 91 requires that once a complaint investigation is completed, the LAPD must inform the complainant, in writing, of the investigation's significant dates, general allegations and disposition.

Background

The Monitor last assessed the LAPD's compliance with paragraph 91 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional compliance.

⁵⁷ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

⁵⁸ Those investigations indicating underlying inconsistencies, additional investigation and/or training needs included an allegation of a lost firearm; a sustained complaint against unknown officers, although at least one officer was known; discourtesy wherein officer interviews were directed yet not included; failure to take a complaint; false arrest; and incomplete search incident to arrest.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 90 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁵⁹ For all 92 complaints to which paragraph 91 was applicable,⁶⁰ the Monitor reviewed letters from the LAPD to complainants that were transmitted upon completion of the investigations. In these letters, the LAPD sufficiently notified the complainants of the completion of the investigation, adequately referencing the initial allegations and reporting the adjudications.

The Monitor has noticed a continued marked improvement in the accuracy and quality of communications to complainants. Furthermore, of its own accord, the LAPD has implemented a requirement that for those complaints not completed within a five-month period, a communication must be forwarded to the complainant advising them that the complaint investigation remains ongoing.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 91.

G. PROFESSIONAL STANDARDS BUREAU

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

During the quarter ending September 30, 2005, the Monitor assessed compliance with this section's requirement that the LAPD appropriately refer to prosecutorial authorities all incidents involving LAPD officers with facts indicating criminal conduct; the Monitor also undertook a review of Gang Enforcement Detail (GED) complaints investigated solely by COC officers.⁶¹

⁵⁹ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

⁶⁰ The requirements of paragraph 91 are not applicable to complaints initiated by the LAPD. In total, 24 such complaints were identified. The complaint investigation files for these complaints did not contain a letter to the complainant.

⁶¹ During the course of meeting with and reviewing material provided by the OIG with regard to OJR investigations, the Monitor noted an instance in which a GED manager rightfully requested the re-assignment of investigative

During the quarter ending December 31, 2005, the Monitor assessed compliance with requirements relative to integrity/sting audits and the hiring criteria for and evaluation and training of IAG investigators.

During the current quarter, the Monitor assessed the LAPD's compliance with certain requirements regarding the assignment of complaint investigation responsibility and the assignment of investigator positions. The results of our current assessments follow.

Paragraphs 93 – Complaint Investigations Handled by PSB

Paragraph 93 requires the City to reallocate investigative responsibility from COC supervisors to the PSB for the following misconduct investigations:

- Civil suits or claims for damages involving on duty conduct by LAPD officers or civil suits and claims involving off-duty conduct required to be reported under paragraph 77;
- Unauthorized UOF, other than administrative CUOF investigations;
- Invidious discrimination including improper ethnic remarks and gender bias;
- Unlawful search;
- Unlawful seizure;
- Dishonesty;
- Domestic violence;
- Improper behavior involving narcotics or drugs;
- Sexual misconduct;
- Theft; or
- Any act of retaliation or retribution against an officer or civilian.

Background

The Monitor last assessed the LAPD's compliance with paragraph 93 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance. The Monitor placed reliance on AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004.

responsibility to IAG. The IAG Review and Classifications Unit rejected the request, indicating that the Consent Decree was not applicable to GED complaint investigations.

Current Assessment of Compliance

In order to assess compliance with paragraph 93 during the current quarter, the Monitor requested and received a listing of all complaints generated during the period July 1, 2005 through December 31, 2005. In total, the LAPD accepted 2,894 complaints. The Monitor randomly selected and reviewed complaint face sheets for 105 complaints. For 102 of the 105 complaint face sheets reviewed, the Monitor concluded that the LAPD properly categorized and assigned the investigation.⁶² This translates into a compliance rate of 97.1%.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 93.

Paragraph 95 – PSB Investigator Positions

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 95 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

In order to assess compliance with paragraph 95 during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the period September 1 through December 31, 2005. The LAPD identified a total of 1,890 completed complaint investigations, of which the Monitor randomly selected and reviewed a total of 116.⁶³ Of the 116 investigations selected, 44 were completed by the PSB.

The Monitor determined that the LAPD completed 16 of the 44 investigations within 150 days. The LAPD completed the remaining 28 investigations in excess of 150 days, ranging from 158

⁶² For one complaint, allegations clearly indicated excessive use of force; for another complaint, the allegations included unlawful detention; and for a third complaint the allegations included dishonesty. All three complaints were assigned to COC but should have been investigated by the PSB.

⁶³ Refer to the Current Assessment of Compliance for subparagraph 80ii for additional information regarding the population and sample utilized to assess compliance with this and other related paragraphs.

days to 426 days. Consistent with the Methodologies, the Monitor's assessment of compliance is based on the PSB's ability to complete more complaint investigations than it receives and to complete complaint investigations on a timely basis.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 95.

Paragraph 99 – PSB Terms of Duty

Paragraph 99 requires the LAPD to establish a term of duty of up to three years for PSB Sergeants, Detectives and Lieutenants responsible for conducting investigations. The LAPD may reappoint an officer to a new term of duty only if that officer has performed in a competent manner. Such PSB investigators may be removed during their term of duty for acts or behaviors that would disqualify them from selection to PSB or under other personnel authority available to the Department.⁶⁴

Background

The Monitor last assessed the LAPD's compliance with paragraph 99 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 99 during the current quarter, the Monitor requested and received a listing of all PSB investigators reassigned to an additional tour of duty after having already served three years in an investigatory capacity at any time during the period January 1, 2005 through December 31, 2005. In total 26 investigators were reassigned.

For all 26 investigators, the Monitor reviewed the investigators' performance evaluations and Teams reports contained within their personnel files relative to the reappointment. The Monitor noted that for 25 investigators a complete review was documented that concluded on the investigator's proficiency; one officer's personnel file did not contain a comment card regarding a complaint adjudication. None of the investigators had a complaint history containing disqualifying behavior.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 99.

⁶⁴ Disqualifying behavior is defined in Consent Decree paragraphs 93 and 94.

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

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

During the quarter ending June 30, 2005, the Monitor assessed the LAPD's data collection processes and its compliance with Consent Decree requirements relative to the collection of field data. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

During the current quarter, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy (paragraphs 102 and 103). 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 December 31, 2004, at which time the Monitor withheld a determination of functional compliance with the provisions of the paragraphs pending further analysis of field data collected. In previous reports, the Monitor noted that until the propriety of the stops being made by LAPD is adequately determined, it remains difficult for the Monitor to fully assess compliance with these paragraphs.

Current Assessment of Compliance

As reported in the Monitor's previous quarterly reports, data collected in the field and posted on the LAPD website for the periods July 1, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005 and July 1, 2005 through December 31, 2005 indicates that African Americans and Hispanics are more likely than Caucasians to be patted down and subjected to a

search after being stopped. The Monitor continues to acknowledge that the disparate treatment reflected in the statistics is not necessarily indicative of biased policing and additional analysis is required.

The City, with assistance from the Analysis Group, Inc.⁶⁵ prepared and released the “Final Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated December 8, 2005. In developing these methodologies, the City reviewed the “Proposed Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated January 19, 2005, public comments on that report, and responses to the public comments received. The City also posted the Report on its website.⁶⁶

During the current quarter the Monitor reviewed the “Final Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report.” The City decided not to implement an internal benchmark study (i.e. officer to officer comparisons) of pedestrian and motor vehicle stops and post-stop activity recommended in the proposed methodology. It will instead incorporate a similar type of benchmark review into the LAPD’s RMIS component of TEAMS II, which is currently under development. Through peer group comparison reports that specifically include statistics for post-stop activities by age and race, managers can scrutinize officer activity patterns that may warrant closer review. The City also decided not to implement the recommended external benchmark of pedestrian stops after concluding that the race of criminal suspects is not a sufficiently reliable standard. The recommended study of post-stop activities will investigate whether different demographic groups are subjected to disproportionate sanctions following a stop, after controlling for legitimate factors that may affect police decision-making. Although this analysis has limitations, the City believes that this effort will yield important insights into LAPD post-stop activities and further inform its ongoing efforts to promote nondiscriminatory policing.

The Monitor is pleased with the steps being taken by the City to better understand the stop data. Nevertheless, the Monitor recognizes that analysis of the data has inherent limitations and additional steps must be taken to evaluate the data.

As in previous quarters, the Monitor withholds a determination of functional compliance with paragraphs 102 and 103 pending further analysis of the field data. The Monitor will report on the next project deliverables during the quarter ending June 30, 2006.

⁶⁵ As described in prior Monitor reports, the Analysis Group, Inc. is the vendor selected by the Department to develop a methodology to analyze the field data in order to determine if the disparity can be explained and, if so, what those explanations are.

⁶⁶ The Report can be viewed at www.lacity.org/lapdstops.

IV. MANAGEMENT OF GANG UNITS

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into GEDs,⁶⁷ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),⁶⁸ which has responsibility for monitoring gang units Department-wide.

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

During the quarters ending September 30, 2004 and December 31, 2004, the Monitor assessed the LAPD's compliance with all Consent Decree requirements regarding the management of gang units. During the quarter ending March 31, 2005, the Monitor followed up on its compliance assessment related to gang unit procedures and also assessed compliance with requirements related to the monitoring and assessment of gang units by Bureau Gang Coordinators (BGCs). In addition, the Monitor attended a Gang Symposium given by SOSD, which covered different gang histories, surveillance, arrest report writing, search warrants, and gun laws.

During the quarter ending September 30, 2005, the Monitor again assessed compliance with many of this section's requirements, including the eligibility criteria for and the selection process of GED officers and supervisors; tour of duty limitations; and supervisory review of sustained complaint or adverse judicial findings during an officer's assignment tour in the GED.

During the quarter ending December 31, 2005, the Monitor assessed compliance with requirements that subject gang unit supervisors and non-supervisory officers to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees and prohibit them from holding arrestees or interviewing witnesses at off-site locations at night.

During the current quarter, the Monitor evaluated the LAPD's Civil Rights Integrity Division (CRID) inspection regarding gang supervisors' field time. As explained below, although this evaluation did not amount to a compliance assessment, the Monitor is including a summary of

⁶⁷ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

⁶⁸ SOSD was formerly known as Detective Support Division (DSD). Under a March 2003 Department reorganization, SOSD was mandated to assume many of DSD's responsibilities.

the results of the evaluation to provide feedback to CRID and guidance to BGCs when they conduct their reviews.

Subparagraph 106h – Bureau Gang Coordinator Inspections

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

Background

The Monitor last assessed the LAPD's compliance with subparagraph 106h during the quarter ending March 31, 2005, at which time the LAPD was found in functional non-compliance. The Monitor reviewed two BGC inspections⁶⁹ and identified deficiencies in their sampling and selection processes, which significantly affected the outcome of the reviews for determining compliance with subparagraph 106e(i). The LAPD acknowledged the deficiencies and its internal BGC inspection review process identified some of those deficiencies identified by the Monitor, as well as deficiencies in other BGC inspections completed over the past quarter. The issues identified by the LAPD and the Monitor were in the process of being remedied by LAPD. The Monitor also commended the LAPD for strides made in these inspections and the accountability process at COMSTAT meetings.⁷⁰ Despite the sampling methodology deficiencies identified, the Monitor found that the quality of the inspections continued to improve and acknowledged the initiative taken by the LAPD to hold its supervisors accountable for deficiencies.

Current Assessment

Although the Monitor is not assessing compliance with subparagraph 106h during the current quarter, CRID requested the Monitor to review its Inspection entitled *Consent Decree Paragraph 106ef*, dated November 21, 2005. This was an inspection conducted regarding gang supervisors' field time, as CRID sought to provide guidelines to the BGCs for assessing supervisory field time in future inspections. Since CRID Inspections are not conducted by BGCs, this review by the Monitor is not considered an assessment of compliance with subparagraph 106h, but it being reported here due to the similarities between the two types of inspections. In addition, although the Monitor identified some sampling methodology deficiencies and other discrepancies, as described below, the Monitor believes this inspection will be a useful guide for the BGCs when

⁶⁹ BGC Inspection 19, "Evidence Documentation," dated November 29, 2004, and BGC Inspection 20, "Arrest Quality," dated December 6, 2004.

⁷⁰ The Monitor originally noted the progress made by the LAPD in this area in its Report for the Quarter Ending June 30, 2004.

preparing for and conducting their own inspections related to supervisory oversight and field presence going forward.

The objective of this inspection was for CRID to gain a working knowledge of supervisory field presence. CRID randomly selected eight out of nineteen geographic Areas for review and looked at all GED supervisors for Deployment Periods 8 and 9, 2005. The Monitor reviewed the inspection report and related work papers, and also requested and reviewed Supervisor's Daily Reports (SDRs), Watch Commander's Daily Reports and Daily Field Activity Reports (DFARs) for a stratified random sample of dates from Deployment Periods 8 and 9, 2005. The Monitor concluded that there were a few deficiencies in the inspection but, overall, it was a good quality inspection.⁷¹

The Monitor commends CRID for its initiative in seeking to improve the quality of future BGC inspection and believes that the inspection methodology, with a few improvements, can serve that function. The Monitor also acknowledges the initiative taken by CRID to hold supervisors accountable for deficiencies, as apparent in CRID's inspection recommendations.

Proposed Recommendations

The Monitor recommends the following in regard to future inspections, either by CRID or the BGCs, related to supervisory field presence:

- The inspection should cover all 19 Areas either through a stratified random sample of all Areas in one inspection or via multiple inspections that each cover a smaller number of Areas but in the aggregate cover all 19 Areas.
- Standardize classifications for time blocks and include the description of such classifications in an instruction sheet to ensure uniformity when accounting for supervisors' time.
- Include and review Area Kit Room Logs to assess paragraph 106e(iv), regarding checking out and returning field equipment, as originally intended.

⁷¹ The Monitor recognizes that this is an inspection and does not necessarily require statistical sampling. However, the Monitor is concerned that by only selecting eight of nineteen geographic Areas and not obtaining a statistically valid sample, CRID may not have obtained an accurate representation of supervisory field presence Department-wide. Another issue identified included the fact that some of the supervisors' time could be counted under a number of different time classifications depending on how the inspector viewed that time (For example, a search warrant briefing could be included under either the "administrative-specific," "total time at incidents," or "total field time outside of incidents" time classifications depending on where the debriefing was held and the judgment call of the inspector.) Finally, CRID stated in its methodology that subparagraphs 106e(ii), (iii) and (iv) were included in this inspection. The Monitor determined that subparagraph 106e(iv), regarding the check-out and return of field equipment from Area kit rooms, was not included.

V. CONFIDENTIAL INFORMANTS

The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of informant information.

The Monitor last assessed compliance with the Consent Decree's requirements regarding Confidential Informants (CIs) during the quarter ending September 30, 2005. AD expects to submit its next audit of CIs during the quarter ending June 30, 2006.

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

The Consent Decree mandates that the Department evaluate successful programs in other law enforcement agencies across the United States for responding to persons who may have a mental illness. The Department is also required to evaluate LAPD training, policies, and procedures for dealing with persons who may have a mental illness. The Consent Decree further mandates that the Department prepare a report for the Police Commission detailing its findings and recommending changes in policies, procedures, and training relative to police contact with persons who may have a mental illness. The Police Commission, in turn, is to forward its reports and actions regarding new or revised policies, practices, or training to the City Council and Mayor. In addition, the Department is expected to complete an audit of the LAPD's handling of calls and incidents involving persons who appear to have a mental illness, no more than 32 months after the effective date of the Consent Decree.

The Monitor evaluated the Department's *Audit of Police Contact with the Mentally Ill* during the quarter ending September 30, 2004. During the quarter ending September 30, 2005 the Monitor provided an update to that assessment, in which the Monitor found the Department in compliance with the intent of the paragraph.

During the current quarter, the Monitor again evaluated the Department's ongoing efforts and progress made in connection with its Mental Illness Program.

Paragraph 112 – Report to Police Commission on Police Contact with Mentally Ill

Paragraph 112 requires the Department to prepare a report for the Police Commission detailing the results of an evaluation of successful programs in other law enforcement agencies across the United States dealing with police contacts with persons who may have a mental illness, as well as an evaluation of LAPD training, policies and procedures for dealing with persons who may have a mental illness. The report must make appropriate recommendations concerning changes in policies, procedures, and training methods regarding police contact with persons who may

have a mental illness. The recommendations must include a proposal on potential methods for tracking calls and incidents dealing with persons who may have a mental illness.

Background

The Monitor last assessed compliance with paragraph 112 during quarter ending March 31, 2005, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the ongoing status of the Department's compliance efforts, which included meeting with the Consent Decree Mental Illness Project (CDMIP) Coordinator as well as reviewing the *Consent Decree Mental Illness Project Status Report, Fourth Quarter 2005*, which was submitted to the Police Commission on April 7, 2006. A summary of the status of various initiatives follows.

Expansion of the Mental Health Evaluation Unit (MEU) and the System-wide Assessment Response Team (SMART)

On May 10, 2004, the Board of Police Commissioners directed the Department to expand MEU/SMART to provide coverage 20 hours a day, seven days a week⁷². Beginning in November of 2005, the MEU developed a SMART Pilot Program in which a SMART Unit⁷³ was assigned to Central Division three days a week during the hours of 7:00 a.m. to 3:00 p.m. The program's goal is to provide assistance to Central Division's Patrol⁷⁴ in its daily encounters with persons who may have a mental illness. When such a person is identified, the SMART Unit conducts an assessment of the individual and then seeks appropriate care.⁷⁵

The CO of Central Area and the CDMIP Coordinator have fully committed themselves to making the program work and to increase the effectiveness of the Pilot Program. Training has been provided to field personnel and detectives from Central Area, and modifications have been made in the screening procedures to ensure the effective use of the program.

⁷² The MEU/SMART does not have coverage between 0200 and 0600.

⁷³ SMART Units include both LAPD and Los Angeles County Department of Mental Health (LACDMH) personnel.

⁷⁴ Central Division was selected since it has the highest number of calls for service that involve persons suffering from mental illness.

⁷⁵ This may include either a hold pursuant to Section 5150 of the Welfare and Institutions Code, or personnel from the LACDMH or the Veteran's Administration identifying services available and obtaining placement at a facility.

Recommendations for the Expansion of MEU/SMART

As indicated in the *Consent Decree Mental Illness Project Status Report*, the MEU/SMART was expanded in June of 2004 to provide coverage 20 hours a day, seven days a week. However, the report also indicates that in 2005 there were 499 involuntary holds on individuals with suspected mental illness during the hours where SMART coverage was not provided.

The *Status Report* recommends that in order to provide coverage 24/7, MEU/SMART would need to expand by 10 police officers and 2 supervisors.

Enhancement of Computer Systems for Tracking Mental Illness

The *Status Report* indicated that in the recent audit of Police Contacts with Persons with Suspected Mental Illnesses, it was determined that the current MEU database would be more effective if there was an expansion of search capabilities, rather than only the last name of the subject, which is currently used.

On December 22, 2005, the Mental Health Response Program Coordinator (MHCRP) requested the Information Technology Division to modify the current MEU database to allow for better tracking and retrieval of information.

Enhancement of Training Programs

MEU and Training Division personnel are developing a new course based on the Crisis Intervention Team model. The course is currently being reviewed to ensure that it meets the standards used in the mental health field. The training is anticipated to be available in May 2006.

For the first part of the course, three lesson plans were developed by the Department that address Use of Force, Crisis Communications and a Mental Illness Update for all personnel that attended a 4-hour Mental Illness course in 2003. These courses will be provided to all patrol personnel via e-learning⁷⁶ starting with Field Training Officers (FTOs).⁷⁷ The second of the three-part course is scheduled for release to patrol personnel in May 2006.

Mental Illness Audit

The Detective Support Division (DSD) completed an audit of the Mental Illness Project (MIP) for the period of July 1, 2004 through June 30, 2005. This audit was conducted to evaluate the

⁷⁶ The e-learning modules can be easily tracked and the number of personnel that have successfully completed the course can be immediately retrieved. Additionally, this method of delivery appears to be more efficient in that the officer can learn at their own pace without taking personnel out of the field to travel to a central location for training.

⁷⁷ The first course training for field personnel began in May 2005. As of September 30, 2005, 5,288 officers and supervisors had completed the first course.

effectiveness of the changes that were completed in accordance with Paragraph 112 and the recommendations of Paragraph 113. The Final Draft of the audit was reviewed by AD in March 2006. The audit will be submitted to the Police Commission upon completion.

Case Management Program

In January 2005, the CDMIP Coordinator conducted an initial review of the MEU database. This review identified 67 individuals who have been placed in at least six 5150 WIC holds.⁷⁸ These individuals have also been the subject of numerous arrests and/or radio calls, which has resulted in a significant drain on patrol resources. The initial estimate indicated that these individuals represented 5,000 hours of lost patrol resources.

The Department anticipates that by developing the Crisis Assessment and Management Program (CAMP), which would address the needs of these individuals, the Department could work to create a system to better track these individuals and direct them to the appropriate mental health services instead of the criminal justice system.

The CAMP began operating as a Pilot Program on September 18, 2005 for the purpose of identifying “high utilizers” or those individuals who, as a result of their suspected mental illnesses, were using significant amounts of police resources or generating multiple responses from emergency services. Initially there was one Detective assigned to the Pilot Program. Currently it has been expanded to 2 Detectives, two police officers, and one psychiatric nurse from LACDMH. The Pilot Program has handled several persons that have generated repeat calls for service who would have previously been handled by patrol officers, thus saving a significant number of hours for patrol officers. Currently there is one Detective II vacancy within the CAMP Program. LACDMH has committed to expand its personnel assigned to CAMP by four additional nurses/social workers to meet the LAPD’s proposed expansion.

The most significant success of the CAMP Program has been the reduction of time spent by patrol officers handling repeat calls for service involving persons with suspected mental illnesses. The Department anticipates that with the continued expansion of the MEU/SMART, along with the CAMP Program, the LAPD will provide better service to those suffering with mental illnesses and the community as a whole.

⁷⁸ Under the California Penal Code, Welfare and Institutions Code § 5150, “When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designed by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.”

SMART Team

In discussing the programs of the Mental Illness Project with its Coordinator, the Monitor learned that SMART is considered a Mental Health Crisis Response Team by the LACDMH. In that capacity, SMART responds to mental health crisis calls for service. As recently as two years ago, SMART would arrive at the scene of crisis calls, such as suicides in progress or a barricaded suspect, and would be dismissed by the Incident Commander as “not needed.” As the program has evolved, Watch Commanders and Incident Commanders learned the value of SMART Teams, and SMART personnel are now requested at these types of incidents. SMART teams have proven to be a critical and invaluable tool for providing information and helping to develop strategies for reducing the potential for violent encounters between law enforcement and persons with suspected mental illnesses.

SMART personnel also monitor police radios, and often respond to calls for service involving persons with suspected mental illnesses without being requested. This provides SMART the ability to assist patrol personnel and Incident Commanders at the early stages of critical incidents, with the goal of achieving a successful outcome in which an individual is taken into custody without injury and then linked with the appropriate mental health services, as opposed to being incarcerated.

Monitor’s Findings

As discussed in the meeting with the CDMIP Coordinator, the MEU has made significant advances in its program during the last two years. In order to continue these successes, the Coordinator has made a number of requests for additional personnel and equipment. The Monitor fully supports these requests and commends the tremendous progress made by and continued efforts of the Department and, especially, the dedication of the CDMIP CO and Coordinator and their dedicated staff.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 112.

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

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

The Monitor last assessed the LAPD's compliance with this section's requirements relative to the FTO de-selection process during the quarter ending March 31, 2005. The Monitor last assessed compliance with requirements relative to the training of FTOs during the quarter ending September 30, 2005 and with requirements pertaining to eligibility criteria for FTOs during the quarter ending December 31, 2005.

During the current quarter, the Monitor again assessed compliance with the requirements relative to the FTO de-selection process. The results of our current assessment follow.

Paragraph 115 – FTO De-selection

Paragraph 115 instructs that the Department may remove a FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.⁷⁹

Background

The Monitor last assessed the LAPD's compliance with paragraph 115 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in non-compliance. The Monitor determined that eleven FTOs out of a sample of 80 selected for review should not have been training probationary officers, which translated into a compliance rate of 86%.

Current Assessment of Compliance

As described in the Report for the Quarter Ending March 31, 2005, the Monitor reviewed a sample of 80 FTO personnel files, including TEAMS reports, for sufficiency of annual evaluations and the FTO eligibility criteria outlined in paragraph 114. The Monitor determined

⁷⁹ Under paragraph 114, the required eligibility criteria includes demonstrated analytical skills; demonstrated interpersonal and communication skills; cultural and community sensitivity; diversity; and, commitment to police integrity.

that eleven FTOs selected for review should not have been training probationary officers. During the current quarter, the Monitor conducted additional reviews in connection with this assessment based upon information provided by the LAPD in response to additional document requests. The LAPD identified that three of the officers in question were not FTOs and should not have been included in the sample. Of the remaining eight officers, all of whom were FTOs, four had sufficiently rehabilitated their work performance to a satisfactory level, and were qualified to perform as FTOs. The remaining four officers have been prohibited from serving as FTOs through internal Departmental processes.

In addition, the LAPD has created a centralized FTO Unit at the Training Academy, commanded by a Lieutenant. This centralization of selection, training, and record keeping of FTOs is a major step forward in management of the FTO Program. The Monitor commends the Department for this progressive effort.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 115.

B. TRAINING CONTENT

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

The Monitor last assessed the LAPD's compliance with requirements regarding police integrity training for all LAPD personnel during the quarter ending March 31, 2005. The Monitor last assessed the LAPD's compliance with requirements relative to the communication of training ideas to the LAPD Training Group and requirements regarding the training curriculum for the public members of the Board of Rights during the quarter ending September 30, 2005.

During the current quarter, the Monitor again assessed compliance with requirements regarding police integrity training for all LAPD personnel. The results of our current assessment follow.

Paragraph 117 – Police Integrity Training Requirements

Paragraph 117 requires the LAPD to continue to train, on a regular and periodic basis,⁸⁰ all sworn members of the Department in the following areas:

- the duty to report misconduct and facts relevant to such misconduct;

⁸⁰ The Monitor has defined "regular and periodic" to mean "annually" for paragraph 117 and every 24 months for the remaining training paragraphs.

- what constitutes retaliation for misconduct, the prohibition against retaliation for reporting misconduct, and the protections available to officers from retaliation;
- cultural diversity, which shall include training on interactions with persons of different races, ethnicities, religious groups, sexual orientations, persons of the opposite sex, and persons with disabilities, and also community policing;
- the role of accurately completing written reports in assuring policy integrity, and the proper completion of such reports;
- Fourth Amendment and other Constitutional requirements, and the requirement of the Department's nondiscrimination policy, governing police reactions in conducting stops, searches, seizures, making arrests and using force; and
- examples of ethical dilemmas faced by LAPD officers and, where practicable given the location, type, and duration of the training, interactive exercises for resolving ethical dilemmas shall be utilized.

Background

The Monitor last assessed the LAPD's compliance with paragraph 117 during the quarter ending March 31, 2005, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

The Consent Decree requires that the Department effectively teach the principles of paragraph 117 on an annual basis because its mandates are central to the Department's reform. However, because the Department's normal training cycle is a 24-month cycle, rather than 12 months, the Department had to take an innovative approach to designing a flexible training module to accomplish this task. To that end, as described in the Monitor's Report for the Quarter Ending March 31, 2005, the Training Group developed a 90-minute web-based e-learning training module on police integrity.⁸¹

The Department has also continued to schedule field, supervisory, and command staff for a number of in-service training modules that include portions of or all of the mandates of paragraph 117, including:

- Workplace Discrimination and Retaliation Prevention Course
- Command Civil Liabilities Training 8-hour Course

⁸¹ The training group envisions that this e-learning module will complement both the classroom and the field training on the same topic and does not serve as stand-alone training year after year.

- Risk Management/Civil Liabilities 3-hour Course
- Firearms Glock Transition
- Vehicle Stops
- End of Pursuit Tactics
- Pedestrian Stops.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 117.

C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.⁸² Once promoted, supervisors should continue to receive regular training on key issues, including report review, incident control, ethical decision-making, UOF and complaint investigations. The Consent Decree also requires the Department to ensure that supervisors who conduct investigations receive relevant training.

The Monitor last assessed the LAPD's compliance with all of the requirements of this section of the Consent Decree during the quarter ending September 30, 2005, and focused on implementation of supervisory training to ensure that supervisors required to be given training received it on a timely and, when required, regular and periodic basis. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

⁸² This requirement pertains to all promoted officers, except for those officers promoted to the rank of Captain, who must at least begin their Command Development training before they assume their new positions.

VIII. INTEGRITY AUDITS

The audit processes of both the LAPD and the OIG are important cornerstones in the reform process for the entire Department.

The Consent Decree mandates that the LAPD perform regular, periodic audits of numerous aspects of policing, including warrants, arrests, UOF, stops, CIs, complaints, gang units, financial disclosure, and police training. Each audit examines a variety of issues, but a common theme among all the audits is the requirement to assess and report on compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight.

The Consent Decree also mandates that the OIG assess the quality, completeness and findings of such audits, and that the OIG perform independent audits of certain topics, namely UOF incidents and complaints.

The Success of LAPD's AD

In the first two years of the Consent Decree, the LAPD struggled with the requirement to complete timely, quality audits. Since then, the Department has made significant progress relative to staff resources and learning the required audit standards which culminated in the development of a Basic Law Enforcement Performance Auditing Course covering all aspects of police performance auditing.⁸³ This course has been offered seven times to a variety of LAPD police personnel as well as officers from other police services, including Minneapolis Police Department, Arizona Peace Officers Standards and Training, San Jose Police Department, Calgary Police Department, and Edmonton Police Department.⁸⁴

These developments resulted in the completion of a total of 28 quality audits, as set out in the table below. In light of the recognition granted to LAPD's Law Enforcement Performance Auditing Course, and the quality of the work performed by AD since 2004, in those instances in which the scope of an AD audit directly addresses the requirements of a given Consent Decree paragraph, the Monitor elected to perform meta-audits of AD's audit work and findings and, if

⁸³ 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.

⁸⁴ AD has also developed a course entitled *Guidelines for Writing and Formatting an Audit Report*, and has requested that the Monitor review it. The Monitor will conduct this review during the quarter ending June 30, 2006.

appropriate, rely on such findings in assessing compliance with that paragraph.⁸⁵ Instances of such reliance are articulated earlier in this report.

<i>Timing of Monitor's Eval'n</i>	<i>Quantity and Title(s) of "Quality" Audits Completed by the LAPD⁸⁶</i>
Sept 30, 2002	1: <i>Warrant Applications & Affidavits Audit</i> - CD128(1)
Dec 31, 2002	1: <i>ABC Reports Audit</i> - CD128(2)
Sept 30, 2003	1: <i>CI Control Packages Audit</i> - CD128(5)
Dec 31, 2003	2: <i>MV&PS Audit</i> - CD128(4); <i>GED Work Product Audit</i> - CD131a
Mar 31, 2004	1: <i>GED Work Product Audit</i> - CD131a
Jun 30, 2004	5: <i>Warrant Applications & Affidavits Audit</i> - CD128(1); <i>ABC Reports Audit</i> - CD128(2); <i>NCUOF Reports/Investigations Audit</i> - CD128(3) & CD129ii; <i>Complaints Investigations Audit</i> - CD129iii; <i>GED Work Product Audit</i> - CD131a
Sept 30, 2004	2: <i>CI Control Packages Audit</i> - CD128(5) & CD131d; <i>CUOF Systems Audit</i> - CD129i
Dec 31, 2004	7: <i>ABC Reports Audit</i> - CD128(2); <i>MV&PS Audit</i> - CD128(4); <i>CUOF Investigations Audit</i> - CD129i; <i>GED Work Product Audit</i> - CD131a; <i>GED Selection Criteria Audit</i> - CD131b; <i>Supplemental GED Warrants Audit</i> - CD131c-1; <i>Supplemental GED NCUOF Reports Audit</i> - CD131c-3
Mar 31, 2005	1: <i>Complaint Systems Audit</i> - CD129iii
June 30, 2005	3: <i>Warrant Applications and Supporting Affidavits Audit</i> - CD 128(3), 131c-1; <i>Motor Vehicle and Pedestrian Stop Audit</i> - CD128(4), 131c-4; <i>CUOF Systems Audit</i> - CD129i
Sept 30, 2005	2: <i>NCUOF Reports/Investigations Audit</i> - CD128(3), CD129ii & CD131c-3; <i>GED Selection Criteria Audit</i> - CD131b
Dec 31, 2005	1: <i>ABC Reports Audit</i> - CD128(2), 131c-2
Mar 31, 2006	1: <i>Complaint Systems Audit</i> - CD129iii

⁸⁵ 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."

⁸⁶ Although the GED Audits listed in this table were quality audits, the Monitor concluded they were non-compliant during the quarters ending December 31, 2003 through June 30, 2004 because they were performed by AD rather than the SOSD. The Monitor noted that until the Consent Decree was amended to allow AD to conduct these audits, the Monitor would continue to find the Department in non-compliance for such audits. As described in the Monitor's Report for the Quarter Ending September 30, 2004, the City and the DOJ agreed upon such a modification. As a result, beginning in that quarter, the Monitor disregarded the fact that AD conducted GED audits and ultimately concluded (during the quarter ending December 31, 2004) that the GED audits listed in this table for that quarter were compliant.

The OIG's Oversight of the LAPD

Beginning in March 2003, the Monitor expressed concerns regarding the OIG's resource constraints, which were hampering its ability to effectively oversee the LAPD. During the quarter ending September 30, 2004, the Monitor highlighted in a focus issue, its concerns about the timeliness and quality of the OIG's reviews and audits. Since then, the OIG implemented a restructuring plan to address its resource challenges and largely completed its staff hiring. The OIG audit section currently has an Assistant IG, five new Police Performance Auditors (PPAs), and one Special Investigator (SI) II, each of whom has the expertise needed to consistently perform quality and timely audits/reviews. The OIG has also added new staff in the Complaints and the Use of Force sections.⁸⁷

The Monitor commends the OIG for the changes in its staffing, as well as the additional training and quality control review programs it has implemented. The Monitor believes these changes have strengthened the OIG so that it is positioned to meet the Consent Decree requirements. The eleven meta-audits submitted on a timely basis by the OIG since May 2005, are a reflection of these changes.

A. AUDIT PLAN

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

During the quarters ending September 30, 2002, September 30, 2003 and September 30, 2004, the Monitor evaluated the Department's Annual Audit Plans for the fiscal years ended June 30, 2003, 2004 and 2005, respectively, and assessed the LAPD's progress relative to each of the prior years' plans. In each instance, although the Monitor noted progress relative to the requirements of paragraph 124, the Monitor ultimately concluded that the Department was in non-compliance with the paragraph. During the quarter ending September 30, 2005, the Monitor reviewed the Department's Annual Audit Plan for the fiscal year ended June 30, 2006 and found the Department in compliance with the requirements of paragraph 124.

The Annual Audit plan for the fiscal year ending June 30, 2007 is due by June 30, 2006.

⁸⁷ The OIG hired an SI for the complaint section and transferred a special investigator from the complaint section will move to the UOF section. The OIG is continuing to search for additional PPA IIIs.

B. AUDITS BY THE LAPD

During this quarter, the Monitor evaluated:

- AD's *Audit of Warrant Applications and Supporting Affidavits* (subparagraphs 128(1), 131a, 131c-1, and 131e).⁸⁸
- AD's *Complaint Form 1.28 Investigations Audit, Phase I* (subparagraph 129iii).

*Subparagraphs 128(1) & 131a, 131c-1, 131e – Warrant Applications and Supporting Affidavits Audit*⁸⁹

Subparagraph 128(1) requires the Department to complete a regular, periodic audit of stratified random samples of warrant applications and supporting affidavits. Paragraph 128 requires that this audit assess such documents for completeness, authenticity, appropriateness of action taken, compliance with the law, conformity with Department procedures and an evaluation of supervisory oversight.

Subparagraphs 131c and 131e requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit warrant applications and supporting affidavits. Subparagraph 131c-1 requires an assessment of the same qualitative factors that are required in paragraph 128(1). Paragraph 131e requires the Department to audit the roles and conduct of supervisors of these units.

Background

On June 21, 2001, Criminal Intelligence Group completed a Department-wide audit of warrants and supporting affidavits, which the Monitor concluded was deficient and was therefore non-compliant with the requirements of paragraph 128(1) of the Consent Decree. AD completed another *Warrants and Supporting Affidavits Audit* in July 2002, which the Monitor concluded was a compliant audit. This was AD's first compliant audit.

Subsequent to this, the Monitor found the Department in non-compliance with paragraph 128(1) for two consecutive quarters from September 30, 2003 to December 31, 2003, because the

⁸⁸ AD submitted this audit to meet the requirement of subparagraph 131a, among others. As discussed in the Monitor's Report for the Quarter Ending December 2005, subparagraph 131a requires the Department to look at the gang work product as whole, as well as auditing the work of any individual officers whose product the auditor has observed contains indicia of untruthfulness or other forms of misconduct, or otherwise merits further review. The Monitor understands that AD will issue Phase II of the GED work product assessment, which is being prepared to meet the requirements of subparagraph 131a, and will assess compliance with the subparagraph when this report has been issued.

⁸⁹ Refer to preceding footnote for information regarding the Monitor's assessment of this audit as it pertains to subparagraph 131a.

Department did not complete another warrants audit until March 26, 2004. The Monitor later found this audit and subsequent audits in compliance during the quarters ending June 2004 and June 2005.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraphs 128(1), 131a, 131c-1 and 131e during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report*, submitted February 22, 2006.⁹⁰ The Monitor also reviewed selected AD working papers, including work plans, crib sheets, matrices and related documents.

AD selected a stratified random sample of 109 LAPD warrants from a total of 181 warrants that were issued in DP7 (June 26, 2005 to July 23, 2005). The sample of 109 warrants selected comprised 91 Departmental warrants and 18 gang (GED) warrants. AD reviewed 100% of the GED warrants included in the population. Also within the total sample of 109, were 18 warrants identified as Hobbs warrants (14 from the Departmental warrant population and four from the GED warrant population).⁹¹

The Monitor obtained and reviewed a random sample of 24 of the Departmental warrants and a random sample of 12 GED warrants.⁹² Within the Monitor's sample were 11 Hobbs warrants, six of which were from the general population and five of which were from the GED population.

AD reported its findings for each of the two populations as well as for the combined population. For both the Departmental warrants and the GED warrants, AD concluded that the Department was in compliance with the completeness and authenticity objectives, (the requirements of subparagraph 71a)⁹³ and in non-compliance with the remaining objectives.⁹⁴

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

- As with prior *Warrants* audits, due to the absence of an automated tracking system, AD continues to be challenged by the inability to confirm with certainty the completeness of the

⁹⁰ AD's original report was dated and submitted December 27, 2005, but was amended prior to the Monitor's review and resubmitted on February 22, 2006.

⁹¹ Hobbs warrants include those warrants that are sealed pursuant to *People v. Hobbs (1994) 7 Cal.4th 948*, where the California Supreme Court held that all or part of the information in a search warrant provided by an informant (whose only relevance is supplying cause) may be sealed to protect the informant's identify.

⁹² The random samples were selected using a 95% confidence interval and an error rate of +/- 7%.

⁹³ For which AD reported compliance rates of 98% and 100% respectively.

⁹⁴ AD reported overall compliance rates of 72% with objectives related to subparagraph 71b (appropriateness and legality of the warrant and conformance with LAPD procedures); 88% with the objective related to subparagraph 71c (supervisory oversight); 89% for the objective related to paragraph 72 (warrant tracking log); and 71% for the objective related to paragraph 62 (CO's analysis).

warrant population. However, the Monitor commends AD for the procedures it undertook in an attempt to determine, to the highest degree possible, the completeness of the population.⁹⁵

- In relation to subparagraph 71a, the Monitor identified one package that did not contain documentation in the affidavit to support a search being completed at one of eight residences.
- With respect to the objectives related to subparagraph 71b (the appropriateness and legality of the warrant and conformance with LAPD procedures), the Monitor identified two instances in which the CI files either contained no documentation or insufficient documentation of the results of the warrant service / investigation.
- With respect to the objective related to subparagraph 71c, the Monitor identified two packages that had issues in relation to supervisory oversight – post incident review⁹⁵. In one package it was documented that the debriefing took place prior to the warrant service, the debriefing memo contained a typed signature and was not signed, the date on the debriefing memo was 37 days after the warrant service, and the CO's comments had a printed name that contains the word "for" before a serial number and was not dated. Additionally the supervisor on the scene according to the warrant log is different from the supervisor on the scene according to the debriefing memo. In the second package, the CO's comments originally appeared to be signed on one date and then changed to a date that was within the required 7-day period.
- Additionally, the Monitor noted four packages containing material issues with respect to paragraph 62 (the CO's analysis). In two packages, the CO's analysis referenced individuals as supervisors at the scene, but this information was not supported by the tactical plan. In two packages, the CO's analyses were not signed by the CO.
- The Monitor identified numerous administrative errors that AD should also have identified, such as the search warrant return indicating that the served date was prior to the issue date, the search warrant issue date before the date of the judge's signature on the warrant application, additional unrelated pages included in the warrant package, and the failure to identify that third party records were returned after extension dates.
- The Monitor noted that AD did not identify any separate issues related to the sealed warrants. As with the prior year's audit, the Monitor identified several issues that, while directly related to Consent Decree requirements, represent risk management issues. Specifically, the Monitor noted that one of the warrants identified as a sealed warrant did not contain any information that indicated it was sealed. Additionally, several sealed warrants, while maintained in a separate location, were neither properly identifiable as sealed warrants on the exterior of the envelope nor sealed.

⁹⁵ These procedures included sending correspondence to all divisions to obtain the warrant tracking logs, and testing whether warrants identified in previous audits (e.g., the recent *ABC Reports Audit*) were captured in the warrant tracking logs. These procedures identified additional warrants for inclusion in the audit beyond those listed on the divisional warrant tracking logs.

As described above, the Monitor identified several instances of non-compliance that were not identified by AD. While the Monitor's additional findings of non-compliance did not impact the overall compliance findings reported by AD, the Monitor is concerned about the number and significance of the unreported issues. As a result, the Monitor finds this audit in non-compliance with subparagraph 128(1), 131c-1, and 131e.

Recommendations

- The Monitor identified several packages in which the supervisor who initially reviewed and approved the warrant service tactical plan was also the supervisor on the scene at the time of warrant service and who conducted the debriefing and then reviewed the debriefing memo. For many of these same packages, the CO's analysis was superficial. In such circumstances, the CO's analysis is the only independent review of the search warrant. Therefore, greater reliance is placed upon this analysis, and it should adequately address all areas of the search warrant's service.
- The Monitor recommends that AD's audit matrix be revised to include a question that addresses whether or not the writing and review of the tactical plan, briefing of service, debriefing critique and CO's analysis all occur in the proper chronological order.
- The Monitor recommends that AD pay particular attention to the adequacy and relevance of the CO's analysis, particularly in those instances where the supervising officer has played a greater role in the design, implementation and approval of the warrant service. Additionally, AD needs to identify instances in which the CO's signature is either typed or missing.

Paragraphs 129iii – Complaint Form 1.28 Investigations Phase I Audit

Paragraph 129iii requires the Department to conduct regular, periodic audits of random samples of all Complaint Form 1.28 investigations. This paragraph also describes the qualitative factors that should be assessed in such audits, including the requirement to assess the timeliness of completing the investigation, the completeness of the investigation file, the accuracy of the investigators statement summaries, the adequacy of the investigation, and the appropriateness of PSB's determinations relative to who shall conduct the investigation.

During the fiscal year 2004/2005, AD decided to split the requirements for a Complaint Form 1.28 investigations audit into two audits: an interim audit that assessed systems-related issues and a final audit that assessed the quality of the complaint investigations. For reporting purposes, the Monitor has similarly split its assessment of paragraph 129iii into two separate evaluations:

- 129iii Complaint Form 1.28 Interim Systems Audit
- 129iii Complaint Form 1.28 Investigations Audit

Background

The Monitor last assessed the LAPD's compliance with paragraph 129iii during the quarter ending March 31, 2005, finding the LAPD in compliance with the systems related requirement of paragraph 129iii based on AD's *Complaint Form 1.28 Interim Systems Audit* dated December 22, 2004.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's *Complaint Form 1.28 Systems Audit Report* submitted December 27, 2005 and supporting working papers, including its audit work plan, selected matrices and complaint investigation packages.

The audit addressed paragraph 129iii, and its scope included paragraphs 79 and 87, and also included paragraphs 51a and d, 74d, f, and g, 76, 83, 93, 94, 95 and 152. Several of these paragraphs are not specifically required by subparagraph 129iii.⁹⁶

AD identified several audit populations and selected several samples for this audit. AD found the Department compliant with all objectives except for subparagraph 74g, the continuation of a 24-hour toll-free recorded complaint hot line, for which AD found the Department non-compliant, and paragraph 87, timeliness of complaint investigations, for which AD withheld a determination of compliance.

The Monitor completed reviews of eight objectives involving statistical and judgmental samples as follows:

⁹⁶ Paragraphs 51, 74 and 152 are not covered by subparagraph 129iii. The Monitor did not assess paragraph 74 as AD's results were for only a specific point in time. While not required, the Monitor did assess paragraphs 51 and 152

Para No	Audit Population	Audit Objective	Population Size	AD Sample	Monitor's Sample ⁹⁷
Subparagraphs 51 a and d	Personnel on loan or assigned to PSB who conduct complaint investigations	Determine if TEAMS was used for Officer Selection and Assignment to PSB	81	46	19
Paragraph 76	All lawsuits alleging misconduct of an officer or employee during the month of July 2005	Evaluate City Notification to LAPD of Civil Lawsuits Alleging Misconduct of an Officer or Employee	69	69	69
Paragraph 79	Complaints initiated June 1- August 31/05	Evaluate assignment of Investigating Entity and timely forwarding of face sheets to IAG	1554 ⁹⁸	90	24
Paragraph 83	PSB Roster of Investigators for DP8	Evaluate Roster to Ensure all PSB Investigators have Access to TEAMS	201	201	19
Paragraph 87	Complaints initiated ⁹⁹ in March 2005	Evaluate timeliness of completion of investigation	286 PSB <u>216</u> COC <u>502</u>	72 <u>67</u> <u>139</u>	22
Paragraphs 93 and 94	Complaints initiated in March 2005	Evaluate the assignment of complaints	286 PSB <u>216</u> COC <u>502</u>	72 <u>67</u> <u>139</u>	22
Paragraph 95	Staffing of Internal Affairs Group Investigator Positions	Evaluate actual staffing to authorized staffing	207	207	207
Paragraph 152	Complaints initiated in March 2005	Evaluate the Notification of Complaint Intake to the OIG within One Week	139	30	22

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

⁹⁷ The samples for paragraphs 51, 79, 83, 93 and 94 were chosen using a one-tail test, a 95% confidence interval, and +/-7% error factor. For the remaining objectives, either judgmental samples were tested (paragraph 152) or 100% of the population was tested (paragraphs 76 and 95).

⁹⁸ Complaints alleging failure to appear (FTA), failure to qualify (FTQ) and preventable traffic collisions (PTC), which are Department-generated complaints arising from non-compliance with administrative policies, were excluded from the sample.

⁹⁹ FTA, FTQ and PTC complaints were excluded.

- The Monitor determined that the AD's workplan provided the appropriate framework to meet the objectives and Consent Decree paragraphs noted in the table above.
- The Monitor observed that AD reported an incorrect month (August) in connection with one objective. AD was aware of this error.
- AD tested for paragraph 95 and found that 96% of the positions were filled; the Monitor concurred with this finding, although the number had decreased to 90% at the time of the Monitor's review.
- The Monitor noted some inconsistencies in reconciling the list of lawsuits on the City Attorney's Office Claim Detail Report to the CLIS maintained by LAPD's RMD and PSB. The AD provided additional information that enabled the Monitor to complete the reconciliation.
- The Monitor concurred with AD's findings for the seven objectives that were tested, as outlined above.

Based on the foregoing, the Monitor finds the audit in compliance with the systems-related requirements of paragraph 129iii.

Paragraph 130 – Annual Complaint Report

Paragraph 130 requires the LAPD to annually report to the Police Commission, with a copy to the IG, on the type of complaint allegations it receives and the disposition and discipline or lack of discipline resulting from each type of allegation.

Background

The Monitor last assessed the LAPD's compliance with paragraph 130 during the quarter ending March 31, 2005, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

During the current quarter, the LAPD submitted its "Annual Complaint Report-Year 2005," dated February 15, 2006. The Monitor reviewed this report and determined that the complaint information was broken down by allegation type, disposition and discipline imposed, as required by this paragraph. The report was submitted to the Police Commission on February 15, 2006 and a copy was provided to the IG on February 21, 2006.

As with the Monitor's review of QDRs,¹⁰⁰ the Monitor reviewed the annual complaint report and determined that it accurately captured and reported on relevant information regarding complaints and discipline.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 130.

C. INSPECTOR GENERAL REVIEWS & AUDITS

During this quarter, the Monitor assessed:

- the timeliness of transmittal of LAPD's audits to the OIG (subparagraph 135a);
- the timeliness and quality of the OIG's audit review process in general and of its reviews of specific Department audits, including AD's *ABC Audits Report* (subparagraph 128(2)), *CUOF Audit* (subparagraph 129i), and *GED Work Product Assessment Review* (subparagraph 131a);
- the timeliness of the OIG's *NCUOF Audit* (subparagraph 135a); and
- the quality of OIG's *Audit of Complaint Form 1.28 Investigations* (subparagraphs 136i and 136ii).

Paragraph 135 – OIG Evaluation of LAPD Audits

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

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

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

Background

The Monitor first assessed the timeliness of the audits received by the OIG during the quarter ending December 31, 2002, at which time the Monitor found the Department in non-compliance with the requirement to transmit Departmental audits to the OIG within one week of their

¹⁰⁰ Refer to Current Assessment of Compliance for paragraph 88, above.

completion. The Monitor continued to find the Department in non compliance with this paragraph for each quarter, with the exception of the quarters ending March 31, 2004, June 30, 2005 and September 30, 2005

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 during the current quarter, the Monitor reviewed details of the timing of the Department’s transmittal of the audits issued during the quarter ending March 31, 2006, as listed in the table below, and communicated directly with the OIG to confirm the dates of receipt.

<i>CD ¶</i>	<i>Audit Description</i>	<i>Date of Approval of Audit Report by Chief of Police</i>	<i>Date Audit Report Received by OIG</i>	<i># Days to OIG Receipt</i>
CD127	<i>Ethics Enforcement Section 4th Quarterly Report 2005</i>	Jan 31, 2006	Feb 8, 2005	8 X
CD128(1)	<i>Amended Warrant Applications and Supporting Affidavits Audit</i>	Feb 22, 2006	March 1, 2006	7 ✓
CD 128(4)	<i>Motor Vehicle and Pedestrian Stop Data Collections Audit</i>	Mar 24, 2006	April 5, 2006	12 X
CD 129i	<i>Categorical Use of Force Systems Audit</i>	Mar 23, 2006	Mar 29, 2006	6 ✓
CD 129iii	<i>Complaint Form 1.28 Investigations Audit, Phase I</i>	Mar 30, 2006	April 5, 2006	6 ✓

✓ = Compliant X = Non-Compliant

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

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

Background

During the quarter ending March 31, 2002, the Monitor first assessed compliance with this subparagraph, finding the OIG in non-compliance with its requirements. With few exceptions,¹⁰¹ the Monitor continued to find the OIG’s reviews to be non-compliant. The assessments of non-compliance resulted either from shortcomings in the quality of the OIG’s reviews or the failure of the OIG to present its reviews in a timely manner to the Police Commission.

For the quarters ending December 31, 2004¹⁰² to June 30, 2005, the Monitor generally restricted the scope of its review of OIG’s subparagraph 135b reviews to assessing the timeliness of the completion of the reviews and determining whether they included meta-audits or were instead executive level reviews that did not assess the quality, completeness and findings of the underlying audits.¹⁰³ The OIG advised the Monitor that subsequent to May 2005, its subparagraph 135b reviews of Department audits would include meta-audits suitable for the Monitor to perform its required assessment.

The Monitor first found the OIG in compliance with the requirements of subparagraph 135b during the quarter ending September 30, 2005. In the Monitor’s report for the quarter ending December 31, 2005, the Monitor indicated the OIG was not in compliance with paragraph 135b. As noted in the correction at the end of this report, the Monitor reassessed its evaluation for paragraph 135b for the quarter ending December 31, 2005 and found the Department in compliance with this paragraph. Since the OIG’s reorganization in early 2005, the OIG has had an increasing number of quality reviews in each quarter. To date, the OIG has completed a total of 13 quality reviews, as set out in the table below:

¹⁰¹ The Monitor did not assess compliance during the quarter ending June 30, 2002, found the OIG in compliance during the quarter ending December 31, 2002, and withheld a determination of compliance during the quarter ending June 30, 2003.

¹⁰² Prior to the quarter ending September 30, 2004, it was the Monitor’s process to conduct a detailed evaluation of the quality of each of the OIG’s reviews of Department audits during the previous quarter.

¹⁰³ Throughout this period, the OIG experienced staff reorganization and shortages that limited the OIG’s ability to conduct quality reviews on a timely basis as required by subparagraph 135b.

<i>Timing of OIG's Evaluation</i>	<i>Quantity and Title(s) of "Quality" Reviews Completed by the OIG Under 135b</i>
Dec 31, 2002	1: ABC Reports Audit – CD 128(2)
March 2004	1: SOSD's Gang Officer Selection Criteria Audit – CD 131b
Mar 31, 2005	1: ABC Reports Audit – CD 128(2)
June 30, 2005	2: EES Sting Audit 3 rd Quarter 2004, EES Sting Audit 4 th Quarter 2004 – CD 97, 127
Sept 30, 2005	3: Warrant Applications and Supporting Affidavits Audit – CD 128(1), 131c-1; Motor Vehicle and Pedestrian Stop Audit – CD 128(4), 131c-4; Categorical Use of Force Systems Audit – CD129i
Dec 31, 2005	3: NCUOF Audit – CD128(3), 131c-3; Confidential Informant Audit – CD 128(5), 131c-5; GED Selection Criteria Audit – CD 131b
March 31, 2006	2: ABC Reports Audit – CD 128(2) and CUOF Reports Audit (129i)

Current Assessment of Compliance

During the quarter ending December 31, 2005, the OIG prepared timely review reports of the following Department audits:

<i>CD ¶</i>	<i>Audit Description</i>
CD128(2) 131c-2	ABC Reports Audit, dated December 28, 2005
CD129i	CUOF Reports Audit, dated Dec 28, 2005
CD131a	GED Work Product Audit, dated Dec 28, 2005

The OIG's Review of AD's ABC Reports Audit, (subparagraphs 135b, 128(2), 131a, 131c-2 and 131e)

The Monitor reviewed the OIG's report dated December 28, 2005 and related audit working papers for its review of the AD's ABC Report Audit dated September 27, 2005 and noted the following:

- The OIG appropriately found that AD had conducted a complete and quality audit and that the audit's findings were adequately supported.
- The Monitor commends the OIG for identifying seven additional supervisors who should have been included in AD's GED Supervisor Roster and for identifying that AD duplicated its review of two multiple-arrest packages.

- The OIG did not address if there was sufficient information in the arrest package alone to assess whether or not the supervisor reviewing the detention log was an independent supervisor. Additionally, the OIG did not note any concerns related to the size of the populations used by AD to assess paragraph 70b. In its Report for the Quarter Ending December 31, 2005, the Monitor recommended that in future audits, AD consider incorporating measures to assess the independence of the CO signing detention logs.

Based on the foregoing, the Monitor concludes that the OIG's review of AD's *ABC Reports Audit* was a quality review.

The OIG's Review of AD's CUOF Investigations Audit (subparagraphs 135b and 129i)

The Monitor reviewed the OIG's report dated December 28, 2005 on its review of AD's *CUOF Investigations Audit*, which was received by the OIG on September 30, 2005, and noted the following:

- The OIG reviewed AD's audit report and appropriately found that AD had conducted a complete and quality audit and that the audit's findings were well supported.
- In addition to concurring with AD's findings, the OIG appropriately identified two compliance-related issues that were not identified by AD: off-tape comments regarding FID investigations (subparagraph 80a) and questions regarding the adequacy of an investigation, as FID did not identify the presence of a gun (subparagraph 129d).
- The OIG also appropriately identified as "Other Related Matters" (non-Consent Decree issues) an undated FID report, numerous inaudible words/phrases, and two taped interviews conducted using a non-certified translator. Recommendations were made where appropriate.
- As part of its review of AD's report, the Monitor identified concerns regarding an investigation of an ICD that involved a potential UOF and a potential failure to canvass a police station parking lot. After reviewing documents provided by the OIG, the Monitor determined that the OIG had appropriately reviewed these issues.

Based on the foregoing, the Monitor concludes that the OIG's review of AD's *CUOF Investigations Audit* was a quality review.

The OIG's Review of AD's GED Work Product Assessment Audit (subparagraphs 131a, 141f, and 131g)

The Monitor reviewed the OIG's report dated December 28, 2005 on its review of AD's *GED Work Product Assessment Audit Report*, which was received by the OIG on September 29, 2005, and noted the following:

- The OIG conducted an executive level review of this report and withheld a determination of compliance, concluding that it would be more appropriate to complete a detailed review once AD issued the second phase of the GED Work Product report.

- The OIG appropriately identified that AD's report should have clarified that one Area's Command Accountability Performance Audit (CAPA) cannot be compared to another Area's CAPA because the audit programs, scopes and test months could be different.
- The OIG made a few recommendations for presenting the results for each of the Areas where the results from CAPAs and paragraph 128 audits overlap, as well as recommending that the report could have provided a better description of what a more detailed analysis would include. However, the Monitor believes the OIG could have further assessed whether or not AD's method of quantifying the results was an effective way to review the gang work product as a whole.
- The OIG failed to identify that the audit did not look at all gang work product due to the fact that the results for only four CAPAs were included or that the audit did not include information on the BGC inspections or an assessment of these inspections.

The Monitor acknowledges that while the OIG's approach of waiting to assess AD's Work Product report is different from the approach taken by the Monitor, the Monitor believes that this is a valid approach. Therefore, the Monitor will defer its evaluation of the OIG's review until it has issued its final assessment after AD issues Phase II of the *GED Work Product Assessment Audit*.

In summary, the Monitor found that two OIG review reports were well-written, concise and responsive to the subparagraph 135b requirements to assess the completeness, quality and findings of each of the Department's audits. Each review report followed a structured format that added to the report's clarity, included an assessment of the timeliness of receipt from AD and was submitted to the Police Commission on a timely basis.¹⁰⁴ Each review was based on findings resulting from the OIG's appropriate meta-audit of a random sample of the related matrix responses.

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

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

Subparagraph 136i, as amended, requires the OIG to conduct regular, periodic reviews¹⁰⁵ of a random sample of all NCUOF investigations, and issue its reports thereon to the Police Commission. Such reviews are required to assess any areas of concern identified by the OIG, and at least one of the following issues related to the quality and/or outcome of the

¹⁰⁴ All OIG reviews were completed and submitted to the Police Commission within three months of the date of completion of the Department audit. The OIG acknowledges that reviews submitted more than three months after the audit completion date will generally be found to be stale.

¹⁰⁵ Before the Consent Decree was amended, the OIG was required to submit an audit under this subparagraph.

investigations: the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, or whether the investigation was properly adjudicated.

Background

The OIG submitted Department wide audits for the quarters ending September 30, 2002, September 30, 2003 and March 31, 2004 which the Monitor found in non-compliance either because the methodology, fieldwork and/or reporting were deficient, or because they were not submitted on a timely basis.

The OIG was required to submit its next regular periodic audit as of March 31, 2005. However, as a result of resource constraints at the OIG and understanding that there were to be changes to this paragraph the OIG did not submit an audit at this time. As of April 15, 2005 the OIG was required by paragraph 136i to submit a review rather than an audit. The OIG did not submit this review until March 31, 2006.

As a result, the Monitor found the Department in non-compliance with the requirements of subparagraph 136i for these quarters.

Current Assessment of Compliance

The OIG submitted a report on its review of NCUOF to the Police Commission on March 31, 2006, the last day of the quarter. The Monitor will assess the quality of this review during the quarter ending June 30, 2006; timeliness will not be evaluated at that time.

Subparagraph 136ii – OIG’s Complaint Form 1.28 Investigations Audit

Subparagraph 136ii, originally required the OIG to conduct a regular, periodic review¹⁰⁶ of a stratified random sample of Complaint Form 1.28 investigations to assess the quality, completeness and findings of the investigations, including determining whether the investigations were completed in a timely manner, statement summaries accurately reflected the audio recorded witness statements, all evidence was considered, and the adjudication process was proper. The amended subparagraph 136ii review must include at least one of the following issues related to the quality and/or outcome of the investigations: whether the summarized and transcribed statements accurately match the recorded statements; whether all available evidence was properly collected and analyzed, and/or whether the investigation was properly adjudicated.¹⁰⁷

¹⁰⁶ Before the Consent Decree was amended, the OIG was required to submit an audit under this subparagraph.

¹⁰⁷ This additional requirement was added as a result of the April 15, 2005 amendment to the Consent Decree.

Background

The Monitor first assessed the Department's compliance with subparagraph 136ii during the quarter ending March 31, 2004, at which time the Monitor found the Department in non-compliance primarily due to the staleness and lack of timeliness of the OIG's first audit.

During the quarter ending September 30, 2004, the Monitor found the Department in non-compliance with the requirements of this subparagraph due to problems with sampling interview tapes and insufficient analysis of information within the tapes, as well as numerous clerical discrepancies within the report and six substantive issues that the OIG failed to find.

Given that the OIG completed its last review on September 27, 2004, the Monitor found the Department in non-compliance with subparagraph 136ii since the quarter ending September 2005.

Current Assessment of Compliance

On January 11, 2006 the Monitor received the OIG's most recent report on its review of Complaint Form 1.28 investigations, dated December 28, 2005. The OIG evaluated a sample of 46 higher-risk complaint investigations, handled by the IAG, that were initiated on or before January 1, 2004 and closed in June 2005. The Monitor reviewed a random sample of 19 of these complaints.¹⁰⁸ In addition the Monitor reviewed a sample of 18 of 41 tapes included in the OIG's sample. The Monitor's findings, which have been discussed with the OIG, are as follows:

- The OIG completed a thorough review of the complaints, using both the matrix questions and additional criteria as a result of the April 15, 2005 amendment, which resulted in the OIG including the following four additional objectives: 1) significant concerns with the adequacy of investigations; 2) whether all significant complainants, witnesses and accused department employees were interviewed; 3) proper framing of allegations; and 4) addressing all significant allegations.¹⁰⁹
- The OIG appropriately excluded lower risk complaints such as failure to appear, failure to qualify and preventable traffic collisions. The OIG also excluded 22 complaints involving neglect of duty, unbecoming conduct and discourtesy. While the Monitor understands that the OIG was trying to focus on high risk complaints, the Monitor believes that the OIG should have tested some of the 22 excluded complaints to ensure they were appropriately classified, given concerns identified in prior quarterly reports regarding incorrect classifications of complaints.

¹⁰⁸ Based on a 95% confidence level and a +/-7% error rate.

¹⁰⁹ In addition to the audit report issued, the OIG also prepared a report of less significant issues (LSI), which was provided to the CO of the PSB for review and follow up. The Monitor commends the OIG for this effort.

- The OIG appropriately identified concerns related to adequacy of the investigation for 13 investigations, 6 investigations that lacked an interview, 2 investigations that included allegations that were improperly framed, and 10 investigations that included one or more significant allegations not framed or adjudicated correctly.
- The Monitor noted that information captured on the face sheet of a complaint form 1.28 regarding the classification of complaint category does not always agree with the final adjudication classifications. As a result, the Monitor identified a risk that a complaint may be classified as unbecoming conduct and investigated through COC instead of through the PSB and / or IAG. The Monitor recommends that the OIG consider this risk in planning future complaint audits and reviews.
- The Monitor noted that one investigation in the sample was assessed by PSB as OJR. The complainant, who served 58 months of a 72-month sentence, was incarcerated during the period of the Rampart investigation and related concerns. However, the charges were dismissed and the individual was released through a Writ of Habeas Corpus. While the OIG completed some follow-up on this complaint, it did not provide sufficient follow-up on the details of the dismissal. Given historical concerns regarding complaints classified as OJR, the Monitor believes further follow-up should have been conducted..
- For another investigation, while the OIG indicated that all other relevant officers involved in the investigation were interviewed, the Monitor observed that an officer who potentially had information was not available to be interviewed because he was on leave with an unknown return date.¹¹⁰ The Monitor recommends that protocols regarding interviewing employees on leave with knowledge of a complaint investigation be established to ensure that all information is collected and preserved.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 136ii.

Recommendations

In the future, the City will be relying upon the findings from the OIG's investigations and reviews. While the OIG identified significant concerns related to this audit, the Monitor believes it would have been helpful if the OIG had also made recommendations to address these issues.

¹¹⁰ Paragraph 80 requires that complaint investigations tape record or video tape interviews of complainants, involved officers and witnesses and collect and preserve all appropriate evidence, including canvassing the scene to locate witnesses where appropriate, with the burden for such collection on the LAPD, not the complainant.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

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.

During the quarter ending June 30, 2005, the Monitor assessed compliance with requirements relative to the Commission's annual review of the Chief of Police and misconduct complaints filed against the Chief. During the quarter ending September 30, 2005, the Monitor assessed the Police Commission's compliance with requirements relative to the review of and reporting on CUOF, and commenced its assessment of the Commission's compliance with requirements relative to the review of audits. During the quarter ending December 31, 2005, the Monitor completed its assessment of the Police Commission's compliance with requirements relative to its review of audits, and assessed compliance with requirements regarding its review of the Chief of Police, including the requirement that audit results be considered in evaluations of the Chief. The Monitor also assessed compliance with this section's requirements regarding the Commission's review of the LAPD budget and its review and approval of LAPD policies and procedures.

The Monitor is scheduled to again assess compliance with this section's requirements relative to the Commission's review of and reporting on CUOF and its review of misconduct complaints filed against the Chief during the quarter ending June 30, 2006.

B. OPERATIONS OF THE INSPECTOR GENERAL

The Consent Decree requires the OIG to review and evaluate all CUOF incidents and provides that the IG shall be notified of all such incidents in a timely manner. In addition, the IG may observe all CUOF "rollouts" and may attend UOFRB meetings. The IG's observations, reviews and evaluations are reported to the Police Commission for consideration. In addition, the IG shall accept complaints from LAPD officers and review all complaint intake information to ensure that they are being received in a manner that complies with LAPD policies and procedures, and the terms of the Consent Decree.

During quarter ending June 30, 2005, the Monitor assessed compliance with a number of requirements relative to the role of the IG, including the Department's timely notification to the

IG of all CUOF incidents, the IG's attendance at CUOF rollouts, the IG's attendance at UOFRB meetings, and the IG's acceptance of complaints from LAPD officers. During the quarter ending September 30, 2005, the Monitor assessed compliance with the Consent Decree requirements that the LAPD provide the IG with complaint intake information on a timely basis and that the IG review complaints for compliance with LAPD policies and procedures and the terms of the Consent Decree.

The Monitor is scheduled to again assess compliance with the requirements of this section of the Consent Decree during the quarter ending June 30, 2006.

C. GENERAL

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

The Monitor most recently assessed the LAPD's compliance with the requirements of this section during quarter ending December 31, 2005.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

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

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

During the quarter ending June 30, 2005, the Monitor reviewed the LAPD's compliance with the Consent Decree requirement to hold annual meetings in each Area to inform the public about the provisions of the Consent Decree and the various methods of filing a complaint against an officer. During the quarter ending September 30, 2005, the Monitor assessed compliance with the requirement that the LAPD prepare and post certain semiannual reports on its website. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORTS

The Monitor issues the following correction to the Monitor's previous quarterly reports.

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

Background

Subparagraph 135b requires the Monitor to assess the timeliness and quality of the OIG's reviews of LAPD audits submitted to the OIG. In its Report for the Quarter Ending December 31, 2005, the OIG conducted 5 reviews, including two reviews of quarterly EES Sting Audit Reports. In its report, the Monitor found the Department in non-compliance with subparagraph 135b, based on the fact that the OIG reviewed the EES Sting Audits and found the quality, completeness and findings of the audits to be satisfactory. The Monitor found that, in fact, the quality, completeness and findings of the two EES audit reports were unsatisfactory, when considered in the aggregate.

Given the fact that there is room for reasonable disagreement over many of the issues that arose in connection with the reviews of the EES audits, and given the high quality of the OIG's other three reviews conducted during the quarter (*NCUOF Audit – CD128(3), 131c-3; Confidential Informant Audit – CD 128(5), 131c-5; GED Selection Criteria Audit – CD 131b*), upon further review, the Monitor has changed its original assessment and now concludes that the OIG is in compliance with subparagraph 135b.

Correction

The Monitor's Report and Report Card for the Quarter Ending December 31, 2005 have been amended to reflect that the Department was in overall compliance with subparagraph 135b.

XII. CONCLUSION

As we enter the last quarter of the initial term of the Consent Decree, we continue to be generally pleased with the overall progress of the Department in achieving compliance in most areas of the Decree. As noted in our focus issue relative to the extension of the Decree, the progress to date has been achieved through the hard work and dedication of the LAPD, the Police Commission, and the Inspector General's Office with the support of many other City entities. Yet, all of the parties recognize that there continues to be much work to be done and, as such, all have petitioned the Court seeking some degree of extension of the Decree. We await the Court's decision on what form the extension of the Decree will take and will report next quarter on the Court's decision, as well as on plans for the continued monitoring of the implementation of the Decree.