

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
JUNE 30, 2006**

Issued August 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 twentieth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending June 30, 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 June 30, 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

Beginning with this report, for the quarter ending June 30, 2006,² and going forward into the extension period of the Consent Decree, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance.³ Based upon this approach, the Monitor examined 24 paragraphs or subparagraphs of the Consent Decree during the current quarter. Of these, the City and the LAPD successfully complied with 16, failed to achieve compliance with seven, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with one paragraph.

The Monitor assessed the Department's compliance with a number of Consent Decree requirements related to Categorical Use of Force (CUOF) investigations, finding the Department in compliance with several of the specific investigative requirements that apply to all CUOF incidents, as well as the requirement to consider an officer's work history when reviewing and/or making recommendations regarding non-disciplinary action as a result of a CUOF. However, the Monitor found the Department in non-compliance with a number of other requirements in this area, including: the requirements that managers analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident and that the analysis be considered in each supervisor's annual personnel performance evaluation; two specific investigative requirements that apply to all CUOF incidents; and the requirement that officers involved in CUOF incidents resulting in death or the substantial possibility of death are precluded from working in the field until consultation with a licensed mental health professional and notification of fitness for duty has occurred.

The Monitor found the Department in compliance with the Decree's requirement that officers collect field data each time they conduct a motor vehicle or pedestrian stop.

Although the Monitor found the Department had complied with requirements regarding the training of Field Training Officers (FTOs), the Department has not complied with the related requirement that FTOs' annual performance evaluations include their competency in completing and implementing their FTO training.

In the audit area, the Monitor concluded that the Department has complied with Consent Decree requirements related to scheduled integrity/ sting audits conducted by its Ethics Enforcement Section, as well as with requirements regarding the LAPD's Annual Audit Plan. Two of three

² The quarter ending June 30, 2006 is also referred to as the "current quarter" throughout this report.

³ Refer to the Focus issue entitled *Extension of the Decree*, below, for further details regarding the extension period and related monitoring efforts.

audits conducted by the LAPD's Audit Division and assessed during the current quarter were found to be compliant (the third audit, an audit of complaint investigations, was found non-compliant). In addition, the Monitor assessed five reviews of audits conducted by the Office of the Inspector General (OIG), concluding that all five were quality reviews. Finally, the Monitor concluded that the OIG's reviews of both CUOF and Non-Categorical Uses of Force (NCUOF) were also compliant.

I. FOCUS ISSUES

A. EXTENSION OF THE DECREE

The Los Angeles Police Department is a different agency than that which was found when the Independent Monitoring team arrived in June of 2001 to begin our assignment. 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 that will be charged with ensuring that the Department 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 LAPD and in other agencies of the City of Los Angeles. Notwithstanding these substantial achievements, as we neared the end of initial five year term of the Consent Decree, all parties recognized that there remained substantial work to be done.

Given the work that remained, on May 15, 2006 Judge Gary Allen Feess ordered that the Consent Decree be extended for an additional three years. Beginning with this report and going forward into the extension period, the Monitor will concentrate its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance. This is not to say that the City can ignore any of the provisions of the Decree. If there is any indication of backslide in any paragraph not being actively monitored, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate.⁴ As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms which have been successfully implemented.

B. ANALYSIS OF FIELD DATA

The Consent Decree, through paragraphs 102-105, attempts to ensure that LAPD officers not engage in any form of biased policing. Specifically the Decree requires that when conducting stops or detentions, or activities following stops or detentions, that race, gender, ethnicity, or national origin of an individual only be taken into consideration when engaging in suspect-specific activity. In order to determine whether there is systemic biased policing occurring in Los Angeles, paragraphs 104 and 105 require that the City collect data with respect to all motor vehicle and pedestrian stops being made by LAPD officers. The collection of the data and the raw numbers resulting from that collection led to significant concerns. The data suggested that blacks and Hispanics were being stopped far more frequently than whites and, moreover, that

⁴ The paragraphs of the Decree that are not currently scheduled for compliance assessments during the extension are described in this report and denoted in the Report Card attached as Appendix A to this report.

intrusive after-stop actions of officers were likewise disparate. The Monitor acknowledged that the disparate treatment reflected in the statistics might be explained other than as an indication of biased policing and that additional analysis was required in order to attempt to explain the disparities.

To facilitate that analysis, the Department selected a vendor, Analysis Group, Inc. (Analysis Group) to analyze the field data. During the current quarter, Analysis Group presented the findings of its analysis.⁵ In short, the analysis performed indicates that while controlling for characteristics of the stop generally reduces the racial disparity in post-stop outcomes, significant disparities remain. Specifically, unexplained racial differences occur most frequently for non-gang officer requests to exit the vehicle, pat-downs/frisks, and higher discretion searches.⁶

In the end, while suggesting that variables not considered by the study could possibly account for such differences, the report ultimately could not fully explain the disparity of the raw numbers or determine to what extent, if any, LAPD police officers were engaging in racial profiling.

In light of these findings, and a belief that it will not be possible for the parties to determine from the raw data the extent to which biased policing may be occurring, the Monitor will continue to discuss both prophylactic and probative measures that could be adopted by the City to both deter and detect biased policing that may be occurring, and will continue to report on the progress of the City in complying with the mandates of paragraphs 102-105.

⁵ Because of inherent problems with the isolation of variables in initial stops, the methodology arrived at in consultation with the parties chose to focus on the after-stop actions of police officers.

⁶ The full report can be viewed under the *Pedestrian and Motor Vehicle Post-Stop Data Analysis Report* at the Consent Decree section of the LAPD's website (http://www.lapdonline.org/consent_decree).

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.⁷ 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,⁸ 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)⁹ and the UOFS. The Monitor continues to await roll-out of the CMS and full roll-out of the RMIS. The Monitor hopes that Department-wide implementation of all systems will be achieved early in 2007.

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 March 31, 2006, DPS has been rolled-out Department-wide and all areas have been utilizing this system for a year now.
- As of June 2006, the City has completely rolled-out the UOFS Department-wide and is now working on making improvements to the system regarding performance and usability.

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

⁸ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports (FDRs) regarding pedestrian and motor vehicle stops.

⁹ 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.

- As described in our Report for the Quarter Ending March 31, 2006, RMIS has made the TEAMS Individual Report available Department-wide and the Department has given instructions to officers for reviewing their own individual TEAMS reports for accuracy. The City is halfway through RMIS training Department-wide; this training includes a review of all RMIS comparison reports. RMIS action items are still scheduled to be activated in August 2006. Full RMIS is still planned to be completed in September 2006.
- As described in our Report for the Quarter Ending March 31, 2006, the City identified some corrections and enhancements that had to be made before CMS Phase 1 could be rolled out. The City has rescheduled the roll-out of Phase 1 for the end of August 2006. CMS Phase 1 is sufficient to satisfy RMIS data requirements. The City is planning to stop entering complaint data into the Professional Standards Bureau's (PSB) complaint databases in August 2006 in order to begin the data conversion into CMS. The Department hopes to roll out the full CMS in the First Quarter of 2007.

The Department has not yet achieved substantial compliance with the majority of Consent Decree requirements related to TEAMS II. As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

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 CUOF¹⁰ is defined by paragraph 13 of the Consent Decree. Any use of force (UOF) that falls under this definition is subject to certain paragraphs of the Consent Decree.¹¹ Administrative investigations of these incidents are the responsibility of the Force Investigation Division (FID). All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.¹² NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department’s compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraphs 62-64. As a result, the Monitor will be assessing the Department’s compliance with these paragraphs during the extension to the Consent Decree. The Monitor also assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

¹⁰ 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.

¹¹ 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.

¹² Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

Paragraph 62 – Analyses of CUOF and Search Warrants

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to CUOF (subparagraph 62a) during the quarter ending March 31, 2006, at which time the Monitor found the LAPD in functional non-compliance.¹³ For a majority of the eight CUOF incidents reviewed the Monitor noted that the evaluations either were insufficient or did not address specific incidents.

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 investigated by the LAPD's FID. In total, 21 such incidents were identified.¹⁴ For three of the 21 incidents, an analysis was not completed for responding supervisors. For five additional incidents, although analyses were completed, the Monitor deemed them insufficient, as they did not address material facts that would have been known at or right after the incident. Lastly, for two additional incidents, although sufficient analyses were completed for all responding supervisors, the analyses were not completed within the mandated seven-day period.

In assessing the LAPD's compliance with subparagraph 62c, the Monitor noted that for three of the 21 incidents reviewed, the supervisor's analysis was not documented on the respective supervisor's filed employee comment card.¹⁵

¹³ 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 was also scheduled to assess compliance with the requirement that any analyses also be considered during the respective supervisor's performance evaluation (subparagraph 62c, as it pertains to the service of search warrants). However, the Monitor elected to defer evaluation of the LAPD's compliance with this requirement until the LAPD has met the seven-day reporting and qualitative content requirements of this subparagraph.

¹⁴ The 21 incidents occurred during the period November 2004 through July 2005 and were subsequently forwarded to the Police Commission for review.

¹⁵ The LAPD utilizes employee comment cards that are filed for each employee to, among other things, document an employee's performance.

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

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

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

Background

The Monitor last assessed compliance with paragraph 63 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. In assessing compliance with this paragraph, the Monitor relied on Audit Division's (AD's) *Categorical Use of Force Systems Audit*, dated March 31, 2005.

Current Assessment of Compliance

During the current quarter, the LAPD's Civil Rights Integrity Division (CRID) compiled and presented information on 11 CUOF incidents selected for review by the Monitor.¹⁶ For five of the 11 incidents, which required the referral of eight officers, CRID was unable to verify that referred officers were assigned to a non-field assignment pending a BSS consultation and notification of fitness for duty.¹⁷ In many cases, officers were assigned to Special Detail; however, further review determined that the officers were actually assigned to a Cruiser Task Force, Area Auto Detective Unit, a footbeat unit or an Area Task Force, all of which constitute working in the field. For one incident, the referred officers' sign-in sheets could not be located for the period selected for review.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 63.

¹⁶ For the 11 incidents reviewed, a total of 14 officers required referral to BSS.

¹⁷ CRID's inspection included reviewing and comparing DPS Daily Work Sheets, Vehicle and Equipment Sign Out Sheets and Form 15.2 Interdepartmental Correspondence.

Subparagraph 64b – Officer History Considered for Non-Disciplinary Actions

Paragraph 64 requires a manager¹⁸ to consider an officer's work history, including information contained in the TEAMS II system,¹⁹ 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) reviews the investigation and prepares a form entitled, *Officer Work History Review*.²⁰ At the conclusion of the Board, an involved officer's 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 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 March 31, 2006, at which time the Monitor found the LAPD in functional compliance. The Monitor determined that the involved officers' tactics were deemed out-of-policy in one of eight CUOF incidents that were investigated solely by the FID. The associated complaints were forwarded to the PSB, and evidence of consideration of the involved officers' work histories was sufficiently documented by the CO when recommending disciplinary action. The Monitor also determined that the UOFRB received accurate information for all eight CUOF incidents reviewed.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed 21 CUOF incident investigations that were investigated solely by the FID.

¹⁸ 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.

¹⁹ Until the TEAMS II system is developed, the Monitor will base compliance on the LAPD's use of its current TEAMS system.

²⁰ This form documents disciplinary history, lethal UOF, non-lethal UOF, and other.

*Subparagraph 64b Officer History Considered For Non-Disciplinary Actions*²¹

For all 21 CUOF incidents reviewed, the Monitor reviewed relevant documentation, including TEAMS reports, and determined that the UOFRB received accurate information.

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

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with subparagraphs 70b and c, paragraph 71 and paragraph 72. As a result, the Monitor will be assessing the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree.

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 parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 75-78 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

²¹ The Monitor is scheduled to report on subparagraph 64a during the quarter ending September 30, 2006.

The Department has not yet achieved substantial compliance with paragraph 74. As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree.

D. CONDUCT OF INVESTIGATIONS

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

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 79 and 82 and certain provisions of paragraph 80 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraphs 81, 83 and certain provisions of paragraph 80. As a result, the Monitor will be assessing the Department's compliance with them during the extension to the Consent Decree. The Monitor also assessed compliance with certain provisions of paragraph 80 during the current quarter. The results of our current assessments follow.

Paragraph 80 – Categorical Use of Force Investigations

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

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

- g. Identify and report all inconsistencies in officer and witness interview statements gathered during the investigation.

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

Background

The Monitor last assessed compliance with paragraph 80 as it pertains to CUOF incidents during the quarter ending December 31, 2005, at which time the Monitor found the LAPD in functional compliance with subsections a, b and c and in functional non-compliance with subsections e, f and g.²²

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed 21 CUOF incident investigations that were investigated solely by the FID. The 21 incidents reviewed comprised:

- Twelve OIS incidents, in which the suspect(s) sustained a hit in six incidents.
- Two ICD incidents for which the cause of death did not rule out officer actions.²³
- Two head-strike with an impact weapon incidents. In one incident the officer utilized his baton; a neck restraint was also utilized. In the other incident, the officer utilized his handgun.
- Three incidents involving injuries requiring the hospitalization of the suspect.
- Two incidents involved the use of an upper body control technique.

The Monitor also noted the following:

- For 21 investigations reviewed, all interviews were tape recorded (subsection a). However, for one incident, the recording was inaudible.
- Interviews were conducted at times and locations convenient to the witness in 16 of the 21 investigations reviewed (subsection b). In two investigations, multiple individuals were detained and transported to a Division to ascertain their involvement in the events leading up

²² Subsection d of paragraph 80 is not applicable to CUOF investigations.

²³ It is the Monitor's opinion that both incidents should have been classified as LEARDs (Law Enforcement Activity Related Death), in that both involved a UOF that was not ruled out as the cause of death.

to the UOF and their witnessing of the UOF. Many individuals remained at the Division for several hours prior to their brief interviews. The Monitor is of the opinion that the time and place was not convenient.

- Group interviews did not occur in any of the 21 investigations (subsection c).
- Supervisors responding to the scene were interviewed regarding their conduct in all 21 investigations (subsection e).
- All appropriate evidence was collected in 11 of the 21 investigations (subsection f). The Monitor noted potential witnesses who were not interviewed during the course of seven investigations. The Monitor identified a separate CUOF (head strike with an impact weapon)²⁴ that was not identified or addressed in one investigation. Lastly, the FID's line of questioning did not delve into the officers' actions, or lack thereof, in two investigations.
- Inconsistent statements were identified and addressed during the course of ten of the 21 investigation (subsection g). For the remaining 11 investigations, the following were noted:
 - Inconsistencies in the number of shots heard by witnesses were not identified.
 - Inconsistencies in suspect statements were partially reported for three incidents.
 - Inconsistency in the rate of speed a vehicle was traveling was not reported as indicated by an officer versus a witness. The FID report also indicated that the officers fired in immediate defense of their lives, yet their respective statements indicate that they fired in defense of another officer's life.
 - Inconsistencies in witness statements describing the manner in which a suspect held and motioned a weapon.
 - Inconsistency in officer statements with regard to instructing another officer to request an ambulance for an injured suspect.
 - Inconsistencies in the location the officer intended to strike the suspect with his flashlight and with the number of flashlights possessed by the officer were not reported. Also, the suspect's statements regarding the officer's stance and the suspect's alleged defensive responses were not reported. Lastly, witness' statements regarding the officer's actions also were not reported.
 - Inconsistency between the color of the weapon per the officer versus the actual color was not reported.

²⁴ The Monitor noted a similar occurrence during its review of CUOF investigations as reported in its quarterly report for the period ending December 31, 2005. During that review, the Monitor identified a head strike that went unreported for in excess of three hours.

- Witness statement that the officer used a baby wipe to clean blood from his holster and shoes was not included in the report nor was it addressed.
- Exclusion of inconsistencies in a minor witness' statements that, in the Monitor's opinion, appeared to be coherent.

In prior quarterly reports, the Monitor reported significant deficiencies in the quality, completeness and accuracy of CUOF investigations, including, among other things, leading questions and multiple instances of non-compliance with the requirements of paragraph 80. During the current quarter, in addition to the instances of non-compliance with the requirements of paragraph 80 identified above, the Monitor continued to identify the use of leading questions by FID investigators while conducting interviews that in the Monitor's opinion detracts from the overall quality of the investigation.

Based on the foregoing, the Monitor finds the LAPD in compliance with subsections a, b, c and e and in functional non-compliance with subsections f and g of subparagraph 80i.

E. ADJUDICATING INVESTIGATIONS

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

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 86 and 87 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraphs 84 and 85. As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 88, 89, 91 and 92 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraph 90. As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree.

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 93-96 and 98-101 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraph 97. As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree. The Monitor also assessed compliance with paragraph 97 during the current quarter. The results of our current assessments follow.

Paragraph 97 – Scheduled Integrity/Sting Audits

Paragraph 97 requires the LAPD, via its Ethics Enforcement Section (EES), to develop and initiate a plan for organizing and executing regular, targeted, and random integrity audit checks, or “sting” operations, to identify and investigate officers engaging in at risk behavior, including, but is not limited to: unlawful stops, searches, seizures (including false arrests), uses of excessive force, or discouraging the filing of a complaint or failing to report misconduct or complaints. The LAPD was required to develop and initiate this plan before July 1, 2001.

Background

The Monitor last assessed the LAPD’s compliance with paragraph 97 during the quarter ending December 31, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor expressed concern that the EES dedicated resources to sting audits that were either outside the purview of paragraph 97 or would better have been investigated by another section within PSB. The Monitor also disagreed with the ultimate adjudication of certain EES audits. Lastly, the Monitor noted that undercover officers deviated from the operational plan or appeared to have been compromised during the audit.

Current Assessment of Compliance

In order to assess the LAPD’s compliance with paragraph 97 during the current quarter, the Monitor reviewed the *Office of the Inspector General’s Review of Ethics Enforcement Section Quarterly Report* for the Third and Fourth Quarters of 2005. The OIG reviewed a total of 62 EES sting and observational audits.²⁵ Thirty-nine of the 62 audits reviewed were random and addressed the LAPD’s complaint intake policy and procedures. The remaining 23 audits addressed the following:

- Criminal misconduct
- Unlawful search
- Unlawful seizure
- Complaint Intake
- Other

The OIG concluded that on an overall basis, the EES conducted complete, quality audits and that EES’ findings were adequately supported.

²⁵ The EES completed a total of 119 EES audits during the third and fourth calendar quarters of 2005.

In its meta-audit of the OIG's work, the Monitor randomly selected and reviewed a total of 37 audits. Based on its review, the Monitor elected not to expand the sample for review. In most instances the Monitor agreed with the conclusions reached by the EES. However, the Monitor disagreed with the analysis and conclusions reached by the EES in four audits. For three of these audits, the Monitor concluded that administrative issues should have rendered a lower evaluation.²⁶ For one audit, the Monitor concluded that the EES should have adjudicated the audit as a fail. Due to the confidential nature of the EES' role, the specifics of the Monitor's evaluations have been communicated to the LAPD and the OIG separately.

The Monitor noted that in four audits designed to test the LAPD's intake of complaint allegations, the allegations were not accurately recorded on a complaint face sheet. Similarly, for five complaint intake audits, the underlying allegations were not appropriately classified, thus resulting in an improper assignment for investigative responsibility. The Monitor notes that these issues are not specific to the requirements of paragraph 97 but nonetheless merit mention.²⁷

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 97.

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.

Because of the City has not yet achieved substantial compliance with paragraphs 102-105, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree. The Monitor also assessed the Department's compliance with paragraphs 104 and 105 during the current quarter. The results of our current assessment follow.

²⁶ Based upon the Monitor's prior assessment of EES audits, the LAPD agreed to expand its classification of sting audits to include the category "Pass – Substandard." This additional classification is intended to acknowledge that although the overall results of the audit indicate compliance with the mandates of paragraph 97, there nonetheless were areas identified requiring CO notification and, in some instances, training.

²⁷ The Monitor has previously reported on the misclassification of complaints leading to improper investigative assignments, most recently in a focus issue and related text included in the Report for the Quarter Ending September 30, 2005.

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

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

Background

The Monitor last assessed the LAPD's compliance with paragraphs 104 and 105 during the quarter ending June 30, 2005, at which time the Monitor found the Department in non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraphs 104 and 105 during the current quarter, the Monitor reviewed and subsequently relied on AD's *Motor Vehicle and Pedestrian Stop Data Collection Audit, Third Quarter, Fiscal Year 2005/2006*, dated March 24, 2006, and related working papers.²⁸ In this audit, AD tested three different samples to measure compliance with subparagraphs 128(4) & 131c-4, among others. AD reviewed a sample of 44 Daily Field Activity Reports (DFARs) and identified 105 discretionary stops that required completion of 104 FDRs, randomly selected based on DFARs.²⁹ AD also reviewed 160 randomly selected FDRs and the associated documents to review for completeness, authenticity, underlying actions, and supervisory oversight. AD also reviewed a stratified random sample of 100 of the 4,129 personnel complaints that were closed during January 1-December 31, 2005. During its meta-audit, the Monitor tested a random sample of 27 DFARs, 42 of the FDRs and 24 of the complaints reviewed by AD.

AD concluded that the LAPD was compliant with several requirements relative to the completion of FDRs,³⁰ including accuracy as it relates to paragraphs 104 and 105. In terms of compliance with paragraphs 104 and 105, the Monitor reviewed the samples for compliance with the requirements of completion of the entire form, accuracy of the information, and completion of an FDR when required. The Monitor concurred with AD's findings.

²⁸ Refer to the Current Assessment of Compliance for subparagraphs 128(4) & 131a, c-4 and e, below, for additional information regarding this audit and the Monitor's meta-audit of it.

²⁹ Certain specialized units, such as Metropolitan Division, must complete a log during the course of their watch, but it is not called a DFAR.

³⁰ As described in the Current Assessment of Compliance for subparagraphs 128(4) & 131a, c-4 and e, AD appropriately concluded that the Department was compliant with the subparagraph 128(4) requirements of authenticity, underlying actions and supervisory oversight (post incident). The LAPD was non-compliant with the completeness (FDRs loaded to the Stop system) and on-scene supervision requirements. AD appropriately concluded that the GED units were non-compliant with the subparagraph 128(4) requirements of authenticity and supervisory oversight (post incident) but compliant with the remaining requirements.

Based on the foregoing, the Monitor finds the Department in compliance with paragraphs 104 and 105.

IV. MANAGEMENT OF GANG UNITS

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into Gang Enforcement Details (GEDs),³¹ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),³² which has responsibility for monitoring gang units Department-wide.

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

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with subparagraphs 106d, e(i), f, g and h and 107a and b. As a result, the Monitor will be assessing the Department's compliance with these subparagraphs during the extension to the Consent Decree.

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 Confidential Informant (CI) information.

³¹ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

³² 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 parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 109 and 110 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraph 108. As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree.

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 parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with all requirements from this section of the Consent Decree (paragraphs 111-113). Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

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 Department has not yet achieved substantial compliance with paragraphs 114-116. As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree. The Monitor also assessed compliance with paragraph 116 during the current quarter. The results of our current assessments follow.

Paragraph 116 – FTO Training Plan

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 116 during the quarter ending September 30, 2005, at which time the Monitor found the Department in non-compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 116 during the current quarter, the Monitor requested and received from the LAPD a list of 298 officers assigned as FTOs as of April 1, 2006. From that list, the Monitor selected a random sample of 73 FTOs and reviewed the training records for 72 officers.³³ The Monitor determined that all 72 FTOs reviewed had completed FTO School and related FTO update training. This resulted in 100% compliance with

³³ Utilizing a one-tailed test with a 95% degree of confidence and a +/- 4% error rate, the sample size required to test 298 officers is 73. The Monitor requested information on 93 officers, 21 of whom were removed from the sample due to promotions, recent selection as an FTO, or transfers to different Divisions. The Monitor reviewed the training records for the remaining 72 officers; the Monitor elected not to select an additional FTO to bring the sample to 73, as the selection would have no impact on the Monitor's finding of non-compliance.

the portion of the paragraph that requires FTOs to receive adequate training and regular and periodic retraining.

The Monitor also reviewed the FTOs' personnel packages to assess whether their annual performance evaluations addressed their competency in successfully completing and implementing their FTO training. Of the 72 officers evaluated, 64 had performance evaluations that sufficiently addressed their FTO training, resulting in a compliance rate of 88.9%.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 116.

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 parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 117, 119 and 120 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with paragraph 118. As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree.

C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.³⁴ 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.

³⁴ 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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with all requirements from this section of the Consent Decree (paragraphs 121-123). Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

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 developing audit standards, which has culminated in the development of an audit charter³⁵ and audit protocol.³⁶ These two documents establish the framework for AD's structure and all of its work.

AD continues to offer the Basic Law Enforcement Performance Auditing Course developed in 2004/2005, which covers all aspects of police performance auditing.³⁷ This course has been offered nine times³⁸ to a variety of LAPD police personnel, as well as officers from other police services, including Minneapolis Police Department, Arizona Peace Officers Standards and

³⁵ The Audit Charter outlines AD's role, the requirement for independence, the requirement to comply with Generally Accepted Government Auditing Standards, and AD's access authorization to records, and defines the audit scope. It was approved by the Police Commission in January 2006.

³⁶ The Audit Protocol sets the standards for LAPD's audits. It outlines the requirements for Audit Staffing, Audit Team Member responsibilities, and the Audit Process. It includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection, and audit reporting.

³⁷ 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.

³⁸ AD has offered the course seven times since it was certified by the California Commission on Peace Officer Standards Training and twice prior to this certification.

Training, San Jose Police Department, Calgary Police Department, and Edmonton Police Department.

AD has most recently developed a course entitled *Guidelines for Writing and Formatting an Audit Report*. Based on the audit protocol, these course materials provide assistance in understanding the purpose of an audit report and how it should be prepared. The Monitor has reviewed this training program and commends AD for its development. The Monitor believes this course would assist any individual who is conducting audits within the Department to prepare a better audit report.

These developments help ensure that the LAPD has a professional audit department, which has now issued a total of 30 quality audits, as set out in the table below. In light of these developments, 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 appropriate, rely on such findings in assessing compliance with that paragraph.³⁹ Instances of such reliance are articulated earlier in this report.

³⁹ 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."

<i>Timing of Monitor's Eval'n</i>	<i>Quantity and Title(s) of "Quality" Audits Completed by the LAPD⁴⁰</i>
Sept 30, 2002	1: Warrant Applications & Affidavits Audit - CD128(1)
Dec 31, 2002	1: ABC Reports Audit - CD128(2)
Sept 30, 2003	1: CI Control Packages Audit - CD128(5)
Dec 31, 2003	2: MV&PS Audit - CD128(4); GED Work Product Audit - CD131a
Mar 31, 2004	1: GED Work Product Audit - CD131a
Jun 30, 2004	5: Warrant Applications & Affidavits Audit - CD128(1); ABC Reports Audit - CD128(2); NCUOF Reports/Investigations Audit - CD128(3) & CD129ii; Complaints Investigations Audit - CD129iii; GED Work Product Audit - CD131a
Sept 30, 2004	2: CI Control Packages Audit - CD128(5) & CD131d; CUOF Systems Audit - CD129i
Dec 31, 2004	7: ABC Reports Audit - CD128(2); MV&PS Audit - CD128(4); CUOF Investigations Audit - CD129i; GED Work Product Audit - CD131a; GED Selection Criteria Audit - CD131b; Supplemental GED Warrants Audit - CD131c-1; Supplemental GED NCUOF Reports Audit - CD131c-3
Mar 31, 2005	1: Complaint Systems Audit - CD129iii
June 30, 2005	3: Warrant Applications and Supporting Affidavits Audit - CD 128(3), 131c-1; Motor Vehicle and Pedestrian Stop Audit - CD128(4), 131c-4; CUOF Systems Audit - CD129i
Sept 30, 2005	2: NCUOF Reports/investigations Audit - CD128(3), CD129ii & CD131c-3; GED Selection Criteria Audit - CD131b
Dec 31, 2005	1: ABC Reports Audit - CD128(2), 131c-2
Mar 31, 2006	1: Complaint Systems Audit - CD129iii
Jun 30, 2006	2: CUOF Systems Audit - CD129i, and Motor Vehicle and Pedestrian Stop Audit - CD128(4), 131c-4;

⁴⁰ 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

The OIG implemented a restructuring plan in early 2005, to address its resource challenges. Its audit section currently has an Assistant IG, five 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.⁴¹ It has four SI IIs in each of the Complaints and the Use of Force sections⁴² and has recently received approval to set up a unit to handle special projects that will consist of an Assistant IG, two SI IIs, two PPA IIIs, one PPA IV, and an administrative person. Additionally the OIG has implemented training and quality control review programs for all staff.

Prior to the addition of these professionals, the OIG submitted audits that were not compliant, as they were either executive overviews that did not include meta-audits or the OIG had not identified key anomalies within the documents they were reviewing. The sixteen meta-audits submitted on a timely basis by the OIG since March 2005 are a reflection of these changes.

Despite these successes described above, the Department has not yet achieved substantial compliance with many of the paragraphs in this section of the Consent Decree. In addition, the parties have agreed that because of the critical role that the audits serve under the Consent Decree, and to the reform process as a whole, the Monitor will be assessing the Department's compliance with most of these paragraphs during the extension to the Consent Decree. As described in each subsection below, the Monitor also assessed compliance with a number of these paragraphs during the current quarter.

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.

Paragraph 124 – Annual Audit Plan & Responsibilities

Paragraph 124 states that by June 1, 2001, and prior to the beginning of each fiscal year thereafter, the Chief of Police is required to submit to the Police Commission, with a copy to the OIG, a listing of all Consent Decree audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits. Paragraph 124 also describes:

⁴¹ The OIG has recently made offers for two more PPA positions.

⁴² 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.

- the primary responsibilities of AD, being the development of the Annual Audit Plan, coordinating, scheduling and conducting audits as required by the Annual Audit Plan and the Chief of Police, and ensuring the timely completion of such audits;
- the requirement to obtain sufficient resources to complete the audits required by the Consent Decree;
- other responsibilities of AD, including serving as a resource to other LAPD audit units, and performing periodic assessments of the quality of audits performed by other units;
- the topics to be addressed in each audit report;
- the topics to be addressed in each quarterly audit report, including the status of the audits listed in the Annual Audit Plan, and any significant results of such audits; and
- the review and approval process for the Annual Audit Plan and quarterly updates thereto, “provided, however, that the Annual Audit Plan shall include the specified audits to be conducted by the LAPD.”

Background

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.

Current Assessment of Compliance

In order to assess the Department’s compliance with paragraph 124 for the fiscal period from July 2006 through June 2007, the Monitor reviewed the following:

- The Annual Audit Plan for fiscal 2006-07⁴³ dated May 19, 2006, approved by the Police Commission on June 6, 2006.
- Formal revisions to the Annual Audit Plan for fiscal 2005-06 dated November 28, 2005, December 14, 2005, December 23, 2005, December 29, 2005, December 30, 2005, January 23, 2006, February 7, 2006, and March 24, 2006 submitted to both the Police Commission, proposing to amend the Annual audit plan to include a *Language Audit*, and revise the

⁴³ Fiscal 2006-07 spans the period July 1, 2006 to June 30, 2007.

submission dates of the *Secret Service Funds Audit*, *Supervisory Performance Evaluations Audit*, *Supervisor and Field Training Officer Audit*, the *GED Selection Criteria Audit* and the *MV&PS Audit*, respectively.

- Quarterly Status Reports on the 2005-06 Annual Audit Plan submitted to the Police Commission and the OIG for the quarters ending September 30, 2005, December 31, 2005, and March 31, 2006.
- All audit reports issued in connection with the 2005-06 Annual Audit Plan and the Consent Decree for paragraphs 128, 129 and 131, as well as the Monitor's reports thereon.
- Selected non-specified and Department-initiated audits.

The Monitor also held discussions with AD representatives in regard to the requirements of paragraph 124. The Monitor's findings are set out below.

Audit Completion Responsibilities

- AD has addressed most of its primary audit responsibilities identified in paragraph 124, including the development of the Annual Audit Plan; coordinating, scheduling and conducting audits as required by the Annual Audit Plan and the Chief of Police; and ensuring the timely completion of the LAPD's audits.
- As discussed earlier, during the 2005-2006 fiscal year AD developed an Audit Charter and Audit Protocol, which define the structure of AD, standards used and work product prepared. Additionally, AD is in the process of developing a procedures manual, which will assist AD's staff when conducting audits. The Monitor commends AD for developing these standards, which enhance the provisions of the Consent Decree.
- AD has also completed 15 *GED Command Accountability Performance Audits (CAPAs)*, which although not required by the Consent Decree have provided immediate feedback to the respective Divisions on the performance of their gang officers in Consent Decree-related areas and on other operational topics. Additionally, AD will include the results from the CAPAs as part of the *GED Work Product Audit*. The Monitor commends AD for initiating these audits.
- AD is also in the process of establishing a unit that provides assistance to other LAPD Departments in conducting audits of their units.
- Under the leadership of Captain Walter Schick, AD met its audit reporting deadlines for 2005-06.

Staffing Assessment

- Based on the timely completion of the audits and the quality of the audits completed during the fiscal year 2005/2006, it appears that AD has a sufficient number of staff members with

the skill set required to conduct these audits. AD has promoted some of the experienced civilian auditors to supervisory positions and identified individuals within the AD to conduct quality control reviews of the audits. Each of these changes will help to insure continuity in the audit expertise within the group.

Audit Quality

- Most of the audits completed in 2005-06 met or exceeded the qualitative standards for Consent Decree audits. However, the first quarter *GED Work Product Audit*, the second quarter *Warrant Application and Supporting Affidavits Audit*, and the third quarter *Complaint Form 1.28 Investigations Audit* were found in non-compliance.⁴⁴
- Each audit report and audit work plan submitted by AD was well written and clearly articulated the audit's methodology, data sources, analysis of the data and conclusions.
- Audit reports prepared by other areas within LAPD contained the audit methodologies, data sources, results of the analyses and conclusions.

Completeness & Content of the Annual Audit Plan

- The Annual Audit Plan for 2006/2007 includes all of the specified audits identified in the Consent Decree, and also includes all other Consent Decree paragraphs that have a secondary requirement for an audit.
- The quarterly audits in the Annual Audit Plan for 2006/2007 are on the same completion schedule as those originally scheduled in the 2005/2006 Annual Audit Plan (prior to amendments that occurred during the past year).
- The Annual Audit Plan indicates that the *GED Work Product Assessment Summary* will be completed to meet the requirements of subparagraphs 131f and g, and the audits completed under paragraph 128 meet the requirements of subparagraph 131a.⁴⁵ However, given that the *GED Work Product Assessment Summary* is the only audit that reviews the gang work product as a whole, the Monitor contends that this audit is also being completed to meet the

⁴⁴ The Monitor found the *GED Work Product Audit* was not complete, as it did not include all gang unit work product; the *Warrant Applications and Supporting Affidavits Audit* failed to identify significant issues within warrant packages; and the *Complaints Form 1.28 Audit* did not identify a number of issues in the complaint investigations.

⁴⁵ The Monitor agrees that the audits completed under paragraph 128 meet the subparagraph 131a requirement to audit the work of any individual officer whose work product contains indicia of untruthfulness, other forms of misconduct or otherwise merits further review, to review for patterns in a particular officer. The Monitor has commended AD in the past for initiating separate audits when AD finds that an individual officer's work product indicates that there is a problem.

requirements of subparagraph 131a. As a result, the Monitor will include this audit when assessing compliance with subparagraph 131a, in addition to subparagraphs 131f and 131g.⁴⁶

Communications to the Police Commission Regarding Audits Scheduled on the Annual Audit Plan

- The Monitor determined that the quarterly report for the first quarter was not submitted.⁴⁷ However, the quarterly audit report issued to the Police Commission for the second quarter of 2005/2006 identified the significant findings from the audits submitted during that quarter and was signed by the Chief of Police one month after the end of the quarter. The quarterly report for the third quarter is in progress; the Monitor understands this will be submitted to the Commission shortly. AD has indicated that the delay in the third quarter report is due to the fact that AD is assessing the format of the report in order to provide additional information that the Commission can use to make decisions. This new format will be used for the fourth quarterly report. AD also indicated that while the third and fourth quarter reports have not been completed, there have been regular updates to the Police Commission on the status of the audits.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 124.

B. AUDITS BY THE LAPD

During this quarter, the Monitor evaluated:

- AD's *Motor Vehicle and Pedestrian Stops Audit* (subparagraphs 128(4), 131a, 131c-1, and 131e).⁴⁸
- AD's *CUOF Systems Audit* (subparagraph 129iii)
- AD's *Complaint Form 1.28 Investigations No 2 Audit* (subparagraph 129).

⁴⁶ In its Reports for the Quarters Ending December 31, 2005 and March 31, 2006, the Monitor noted that the requirements of subparagraphs 131f and g are covered in other paragraph 131 subparagraphs, specifically subparagraph 131a. However, because the Department has indicated that the *GED Work Product Assessment Summary* is being completed to address the requirements of subparagraphs 131f and g, the Monitor will also assess this audit under subparagraph 131f.

⁴⁷ AD did not submit this report as it had just submitted the report for the 4th quarter 2004/2005 in October 2005.

⁴⁸ 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 31, 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.

Subparagraphs 128(4) and 131a, c-4 and e – Motor Vehicle & Pedestrian Stop Audit

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

Paragraph 131 requires the Department to conduct similar audits of a stratified random sample of all gang unit MV&PS.

Background

For the quarters ending September 30, 2002 through June 30, 2003, the Monitor found the Department in non-compliance with paragraphs 128(4) and 131c-4 because the Department had not completed a regular, periodic MV&PS audit as required by these paragraphs. The first audit of this type was not completed until August 2003, because the data collection process was not considered to be reliable enough to warrant an audit. The Monitor reviewed the August 2003 audit, finding it in compliance with the requirements of paragraph 128(4), but in non-compliance with paragraph 131c-4 because the August 2003 audit did not address specific gang unit issues and there were no conclusions articulated relating to gang unit findings. The Monitor reviewed the December 2004 audit, finding it in compliance with the requirements of paragraph 128(4) and 131c-4.

During the quarter ending June 30, 2005, the Monitor completed its review of AD's *MV&PS Data Collection Audit Report* dated March 25, 2005 and found the audit in compliance with paragraphs 128(4) and 131c-4.

Additionally during the quarter ending December 31, 2005, the Monitor found the Department in non-compliance with paragraph 131a, as neither the GED portion of the *MV&PS Audit Report* submitted on March 25, 2005 nor the *GED Work Product Audit* report submitted during the quarter ending December 31, 2005 assessed the gang work product as a whole. The Monitor found the *MV&PS Audit* in compliance with paragraph 131e.

Current Assessment of Compliance

In order to assess the Department's compliance with paragraphs 128(4) & 131c-4 during the current quarter, the Monitor reviewed AD's *MV&PS Data Collection Audit* dated March 24, 2006, the related audit work plan and crib sheet, the Monitor's sample of completed audit matrices and supporting documents relating to the audit population and sample determination.

AD's sample comprised 44 randomly selected DFARs⁴⁹ and 160 randomly selected FDRs from a total population of 75,305 for patrol and gang units from the 19 areas, as well as the four Traffic Divisions and Metropolitan Division for 3 dates in Deployment Period 9, 2006.⁵⁰ Discretionary stops that required the completion of an FDR were identified on each unit's DFARs, resulting in 105 discretionary stops that required completion of 104 FDRs. AD also reviewed a stratified random sample of 100 personnel complaints from a total population of 4,929 that were completed and closed during January 1-December 31, 2005 in order to determine whether FDRs were completed when required, and whether they were properly posted to the STOP database.

The Monitor tested a random sample of 27 DFARs, 42 FDRs and 24 complaints reviewed by AD.⁵¹ The Monitor's findings, which have been discussed with AD, are highlighted below:

- AD appropriately concluded that the Department was compliant with the paragraph 104 and 105 requirements for FDRs to be completed when required and to be completed correctly, as well as the paragraph 128(4) requirements of authenticity, underlying actions and supervisory oversight (post incident), but out of compliance with the completeness (FDRs loaded to Stop system) and on-scene supervision requirements. AD appropriately concluded that the GED units were non-compliant with the paragraph 128(4) requirements of authenticity, and supervisory oversight (post incident) and compliant with the remaining requirements.
- The Monitor noted that AD assessed and reported compliance with the objectives of authenticity, underlying actions and supervisory oversight based on the specific attributes tested for each objective, rather than assessing compliance for each objective as a whole. As in prior audits, AD staff used attribute testing to assist them in assessing compliance with some of their objectives, rather than the total number of FDRs. The Monitor concurs with that approach for this audit.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 128(4), 131c-4, and 131e. The Monitor withholds a determination of compliance with subparagraph 131a pending its review of AD's Phase II of the *GED Work Product Assessment*.

Proposed Recommendations

The Monitor recommends that when AD reviews an FDR-mandated activity on a DFAR in which that particular unit is the backup unit, that AD obtain the initiating unit's DFAR to ensure consistency and review underlying action and reason for initial stop. AD has indicated that it concurs with this recommendation and has agreed to do this going forward.

⁴⁹ AD randomly selected one watch and one unit within each watch for 19 divisions

⁵⁰ Deployment Period 9, 2006 covers August 21-September 17, 2006.

⁵¹ The Monitor selected and reviewed the same sample selected by the OIG during its review of this audit, after reviewing the sample for appropriateness. This sample was selected based on a 95% confidence interval and an error rate of +/-7% and included GED stops.

The Monitor recommends that when AD reviews the action of the supervisor on-scene, that they also pull the Supervisor's Daily Report for comparison of the actions on the scene.

Paragraph 129i – Categorical Use of Force Systems Audit

Paragraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the investigations. Paragraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, 82 and 83; in addition, AD's audit has considered paragraphs 51 a and d, 55, 56, 58, 59 and 61, 62 a, 63, 64 and 65 relating to CUOF investigations. These further paragraphs are not specifically required to be included in paragraph 129i audits.

Background

Commencing in the 2003/2004 fiscal year AD split its CUOF investigations review into two separate audit reports in order to address the requirements of paragraph 129i: an interim audit report covering those paragraphs that largely address specific process issues and a final audit report that will cover quality of investigation requirements.⁵²

For reporting purposes, the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations.⁵³

For the quarters ended September 30, 2004, December 31, 2004 and June 2005, the Monitor determined that AD's *CUOF Systems Audit Report* dated August 1 2004, June 9, 2005 and *CUOF Investigations Audit Report* dated August 13, 2004 were compliant with paragraph 129i requirements.

Current Assessment of Compliance

For the current quarter's evaluation of paragraph 129i, the Monitor reviewed AD's *CUOF Systems Audit Report* dated March 23, 2006, as well as supporting CUOF audit working papers and electronic files.

⁵² The CUOF interim systems audit report assessed the requirements of 14 paragraphs: 51 a/d, 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83 and 147. Additionally, it assessed portions of paragraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively. The CUOF final investigations audit report assessed the requirements of paragraphs 57, 80 and 82 and the remaining requirements of 128(3) and 129i.

⁵³ In the attached Report Card (Appendix B), the historical assessments for CD129i have been applied to both evaluations of the CD129i audits.

AD's primary population comprised all 11 CUOF incidents that occurred during the deployment period September 1 through October 31 2005.⁵⁴ For additional audit objectives, AD selected three other audit populations of CUOF incidents.⁵⁵ As the audit populations were small, AD reviewed the entire population. AD also reviewed files for FID officers during DP 9-11.⁵⁶ Based on this review, AD found the Department to be in compliance with the requirements of 10 of the 14 paragraphs reviewed. The Department was found to be non-compliant with the requirements of the following 4 paragraphs:

Paragraph 55(4)	Investigators shall be trained on CD 80 (34 of 47 or 72% compliance).
Paragraph 56(2)	Immediate Notification of Chief of Police, FID and the IG (10 of 11 or 90% compliance)
Paragraph 62(a)	Seven-Day Review of Supervisory Response (9 of 11 or 82% compliance)
Paragraph 67	Submission of completed investigation or status report to Commission within 60 days of statute (5 of 19 or 26% compliance)

The Monitor reviewed 100% of the CUOF incidents and a random sample of the officers' selection packages and personnel records in the FID unit⁵⁷ and all related work papers.

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

- The audit report presented its audit findings in a clear manner and working papers contained evidence of appropriate planning and conduct of the audit processes and adequate documentary support of audit findings.
- Although not a requirement of paragraph 129i, and similar to previous reviews, AD further expanded the scope of its audit to assess the requirements of paragraphs 51a and d, 55, 56, 57, 59 and 61 to 65 as they relate to CUOF investigations. The Monitor commends AD for including these additional paragraphs.

⁵⁴ Used to assess paragraphs 56, 58, 59, 61, 62a, 63, 65 and 147.

⁵⁵ To assess subparagraph 64a, AD selected all 13 out-of-policy CUOF incidents that were initiated in 2004, and closed in 2005. For paragraphs 64b and 69, AD included all 22 CUOF incident investigations presented to the UOFRB September 1 through October 31 2005. For paragraph 67, the audit population comprised 19 CUOF incidents occurring January 1 to March 31, 2005.

⁵⁶ Selected to assess subparagraphs 51a and d and paragraphs 55 and 83.

⁵⁷ After assessing for appropriateness, the Monitor used the OIG's samples, which were selected using a one-tailed test with +/- 7% error rate and a 95% confidence interval.

- The Monitor commends AD for implementing the suggestions made by the Monitor in its report for the quarter ending June 2005.

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

Recommendation

In the Report for the Quarter Ending June 30, 2005, the Monitor recommended that AD evaluate whether or not the paragraph 62 assessment of the supervisors' actions was sufficiently specific to support the COs' evaluations. During the current audit, AD did not report on their assessment of the quality of the reviews; however, this was not critical, as AD found the Department out of compliance based on the fact that two assessments were not completed. The Monitor recommends that in future audits, particularly when the Department is compliant with the requirement to complete the reviews on a timely basis, AD also reports on the quality of these reviews.

As part of its review, AD assessed subparagraphs 51a and d regarding the mandatory review of pending complaints and TEAMS information and the documentation of review and consideration of specific pending and sustained complaints for FID applicants. Where pending complaints result in a sustained adjudication, an FID de-selection process may result. The Monitor recommends that AD review the de-selection process in future audits to ensure candidates are de-selected from FID where warranted.

Paragraph 129iii – Audit of Complaint Form 1.28 Investigations

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,⁵⁸ the completeness of the investigation file, the accuracy of the investigator's statement summaries, the adequacy⁵⁹ of the investigation, and the appropriateness of PSB's determinations relative to who shall conduct the investigation.⁶⁰

Background

For the quarter ending June 30, 2004, the Monitor determined that LAPD's *Complaint Form 1.28 Investigation Audit* dated March 30, 2004 and subsequent clarification dated June 22, 2004 were compliant with paragraph 129iii.

⁵⁸ As required by paragraph 87 (most complaint investigations to be completed in five months).

⁵⁹ As required by paragraphs 80-86.

⁶⁰ As required by paragraphs 79 (PSB to receive Complaint Form 1.28 face sheets and classify as to investigating entity within 10 days) and 93-95.

In 2004, AD decided to split the requirements of paragraph 129iii into two audits: an interim audit that assessed systems-related issues and a final audit that assessed the quality of complaint investigations. AD's systems-related *Interim Complaint Form 1.28 Investigations Audit* dated December 22, 2004 was compliant with paragraph 129iii.⁶¹ The Monitor reviewed AD's *Final Complaint Form 1.28 Investigations Audit* submitted March 31, 2005⁶² and found the audit non-compliant with the requirements of paragraph 129iii. Finally, the Monitor reviewed AD's *Complaint Form 1.28 Systems Audit* report submitted December 27, 2005 and found the audit in compliance with the systems-related requirements of paragraph 129iii.

Current Assessment of Compliance

In order to assess the Department's compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's *Final Complaint Form 1.28 Investigations Audit* submitted dated March 30, 2006 and supporting working papers, including its audit work plan, crib sheet and selected matrices, complaint investigation packages and taped interviews.

The audit population and samples used by AD and the Monitor were stratified as follows:

<i>Audit Population</i>	<i>Audit Objective(s)</i>	<i>Population Size</i>	<i>AD's Sample Size⁶³</i>	<i>Monitor's Sample Size⁶⁴</i>
All Complaint Form 1.28 investigations (excluding FTA/FTQ/PTCs ⁶⁵) closed July 2005	Completeness, accuracy and adequacy of the investigation, appropriate adjudication and follow-up	IAG: 238 COC: <u>219</u> Total: <u>457</u>	IAG: 69 COC: <u>67</u> Total: <u>136</u>	IAG: 16 COC: <u>10</u> Total: <u>26</u>

Although AD's sample was stratified by investigating entity, namely the Internal Affairs Group (IAG) and Chain of Command (COC), its findings were reported based on the method of sampling, as required by the *Methodologies*.

⁶¹ This audit assessed the following provisions: 74d,f, g, 76, 79/129iii(e), 83, 87/129iii(a), 93, 94, 95 and 152 relating to investigative resources, public accessibility and administrative processes for the complaint review process.

⁶² This audit primarily addressed the following 14 provisions: 74h, 75, 77, 78, 80a-g/81, 82, 84-86, 90, 91, 101, 102 and 129b-d, all of which relate to the quality of the complaint investigations.

⁶³ AD's sample was randomly selected based on a one-tail test, a 95% confidence interval, a 94% success rate factor and +/-4% error rate.

⁶⁴ After reviewing for appropriateness, the Monitor utilized the sample selected by the OIG for its paragraph 135b review of AD's *Complaint Form 1.28 Investigations Audit* report. The OIG determined a statistically based sample size, and then randomly picked the complaint investigations to be reviewed on an interval basis.

⁶⁵ Department-generated complaints arising from non-compliance with administrative policy were appropriately deselected: These comprised FTA: Failure to Appear; FTQ: Failure to Qualify; and PTC: Preventable Traffic Collisions.

The Monitor’s findings, which have been discussed with AD, are as followings:

- AD concluded that the Department was compliant with 23 provisions of the Consent Decree, and non-compliant with 2 provisions. The following table identifies AD’s two non-compliant findings:

<i>Paragraph Ref.</i>	<i>Paragraph Description</i>	<i>Instances Where Department Non-Compliance Exceeded 5%</i>
80(a)	Tape Recording /Video Taping of Interviews	7 of the 69 (10%) IAG complaint investigations had tapes that could not be located
80(b)	Canvassing and Interviewing of Witnesses/Complainants	4 of 69 (6%) IAG investigations identified witnesses who may have significantly contributed to the investigation but were not interviewed.

- AD increased its sample size from 53 complaints last year to 136 complaints this year. The Monitor commends AD for significantly increasing the size of its sample in order to obtain better representation and coverage of the Department than it had in prior audits.
- AD selected its sample from the population of complaints that closed during the month of July 2005. AD then conducted its review and issued its report on March 30, 2006, six months later and eight months after the closed complaint investigations. While the Monitor recognizes that it takes time to collect the documents, the Monitor believes that since AD sampled from closed investigations, AD could have chosen complaint investigations closed in a month more current to the reporting deadline. This would have shortened the time period between the closed complaint investigation dates and the report issuance date, which would provide the Department with more current findings.
- In one of AD’s complaint investigations, the Monitor identified a number of issues that were not identified by AD. The complaint selected in AD’s sample arose from an incident for which an earlier complaint had been alleged; this earlier complaint was included in AD’s sample. The Monitor believes that AD should have included this earlier complaint in its population due to the correlation between these two complaints and the fact both complaint investigations had to be reviewed in order to adequately assess the second complaint investigation. Furthermore, the earlier complaint was investigated by COC rather than IAG despite the fact that the face sheet clearly alleges that the officers used excessive force. The second complaint, the one included in AD’s sample, involved discourtesy and was investigated by IAG. The Monitor questions why this investigation was completed by IAG given that discourtesy complaints are normally investigated by COC. The Monitor had additional concerns over the adequacy of each of the investigations.⁶⁶ Lastly, in the second

⁶⁶ No attempt to interview the complainant after the complaint was received; inadequate canvassing of the scene for additional witnesses; no photos taken of the complainant of the areas that were alleged to be injured by officers.

complaint, the complainant alleged that officers were “racist,” yet this was neither investigated nor included as an additional allegation.

- In a complaint investigation in which there were tapes missing from the evidence, AD captured this anomaly under subparagraph 80a only.⁶⁷ In addition, AD identified six other complaint investigations for which tapes could not be located. While the Monitor commends AD for identifying that the tapes were missing and withholding compliance under paragraph 80, the Monitor believes that AD should also have identified concerns regarding the completeness of the complaint packages, as required under subparagraph 129b.⁶⁸
- In another complaint investigation, the complainant indicated that there were women at the scene but nothing was mentioned in the investigator’s report. During the taped interview of the complainant, the interviewer tried to end the interview and the complainant said he wasn’t done and continued about the women present at the scene. In addition, none of those interviewed were asked if there were women present at the scene. The Monitor believes that this should have been addressed in both the other interviewees’ interviews as well as in the final investigator’s report.
- In one complaint investigation, in a taped interview, the complainant made reference to the arresting police officers stopping the car and a potential UOF occurring during the stop. However, this information was not included in the investigation file. The Monitor believes that this should have been further addressed.
- In another complaint, the Monitor noted that one of the detectives was re-interviewed regarding his observations. The re-interview was short and the detective changed his position on just one matter, the officer’s UOF on the complainant. Although the Monitor agrees that witnesses can be re-interviewed at any time, the Monitor believes this second interview should also have addressed why there was an inconsistency in the detective’s two statements..

Based on the foregoing, in light of the impact of the Monitor’s findings on AD’s ultimate conclusions of compliance for this audit, the Monitor finds this audit non-compliant with the requirements of paragraph 129iii.

⁶⁷ The Monitor believes that AD should have held the Department out of compliance with subparagraph 80f rather than subparagraph 80a, as subparagraph 80a only requires that a taped interview be conducted and these taped interviews were clearly completed. Subparagraph 80f requires that the LAPD collect and preserve all appropriate evidence.

⁶⁸ Subparagraph 129b requires an assessment of the completeness of the investigation file, including appropriate evidence and documentation.

Recommendations

The Monitor addressed concerns with the AD regarding the classification of complaint allegations. Although it was brought to the Monitor's attention that the classification captured on the face sheet at the beginning of a complaint is only for statistical purposes and that it is the allegations, which may be modified during the investigation, that determine whether the investigation is completed by COC or IAG, the Monitor believes that classification at the beginning of the investigation is equally important to ensuring that the correct allegations at the end of the investigation are entered into TEAMS. Therefore, the Monitor suggests that in future audits, AD also considers whether the complaint has been appropriately classified.

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 its February 3, 2006 and May 8, 2006 reviews of the *EES's Sting Audit Reports* for the quarters ending September 30, 2005 and December 31, 2005, respectively; its May 8, 2006 *Supplemental Report on EES Third and Fourth Quarter 2005 Complaint Intake Audits*; its April 10, 2006 review of AD's *Warrant Applications and Supporting Affidavits Audit* (subparagraph 128(1)); and its April 4, 2006 review of AD's *Complaint Form 1.28 Investigations Phase I Audit* (subparagraph 129iii).
- the timeliness and quality of OIG's review of all CUOF Investigations (paragraph 136) and
- the quality of the OIG's *NCUOF Audit* (subparagraph 136i).

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 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 June 30, 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>EES 1st Quarterly Report 2006</i>	May 1, 2006	May 8, 2006	7 ✓
CD128(3) CD129(ii)	<i>Non-Categorical Use of Force Investigation</i>	June 30, 2006	July 5, 2006	5 ✓
CD 128(5)	<i>Confidential Informant Control Packages Audit</i>	June 29, 2006	July 5, 2006	6 ✓
CD 129i	<i>Categorical Use of Force Investigations Audit</i>	June 26, 2006	July 5, 2006	9 ✗
CD 131b	<i>GED Selection Criteria/Eligibility Audit</i>	June 30, 2006	July 5, 2006	5 ✓

✓ = Compliant ✗ = Non-Compliant

While one of the reports was provided to the OIG two days late, the Monitor notes this was provided to the PC on a timely basis and then provided to the OIG at the same time as the three other AD reports. Given these circumstances, the Monitor finds the Department in 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,⁶⁹ the Monitor continued to find the OIG’s reviews to be non-compliant. The assessments of non-compliance resulted either from failure of the OIG to present its reviews in a timely manner to the Police Commission, or there were shortcomings in the quality of the OIG’s reviews as they did not assess the quality, completeness and findings of the underlying audits either because they were only executive level reviews and failed to include a meta-audit or they did not identify and summarize all the key findings⁷⁰.

The Monitor has found the OIG in compliance with the requirements of subparagraph 135b since the quarter ending September 30, 2005. To date, the OIG has completed a total of 18 quality reviews, as set out in the table below:

⁶⁹ 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.

⁷⁰ 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); CUOF Reports Audit – CD 129i
June 30, 2006	5: EES Sting Audit 3 rd Quarter 2005, EES Sting Audit 4 th Quarter 2005 and Supplemental EES 3 rd and 4 th Quarter 2005 Complaint Intake Audits – CD 97, 127; Warrant Applications and Supporting Affidavits Audit – CD 128(1), 131c-1, Complaint Form 1.28 Investigations Audit Phase I – CD 129iii.

Current Assessment of Compliance

For the quarter ending March 31, 2006, the OIG prepared timely review reports of the following Department audits:⁷¹

⁷¹ 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.

CD ¶	Audit Description	OIG received date	OIG report date	# Months to Completion
CD97, 127	EES's 3 rd Q Sting Audit Report – dated October 28, 2005	Nov 3, 2005	Feb 3, 2005	= 3 ✓
CD97, 127	EES's 4 th Q Sting Audit Report – dated January 31, 2006	Feb 8, 2006	May 8, 2006	= 3 ✓
CD97, 127	Supplemental Report on EES 3 rd and 4 th Quarter 2005 Complaint Intake Audits OIG initiated audit	N/A	May 8, 2006	N/A
CD128(2) 131c-2	Complaint, Form 1.28 Investigations Audit Phase - dated December 27, 2005,	Jan 4, 2006	April 4, 2006	= 3 ✓
CD129i	CUOF Reports Audit , dated Dec 28, 2005	Jan 10, 2006	Apr 10, 2006	= 3 ✓

✓ = Submitted on a timely basis X = Not submitted on a timely basis

The OIG's Review of the EES's Quarterly Report for the Third Quarter of 2005 (paragraphs 97 & 127)

The Monitor reviewed the OIG's report dated February 3, 2006 on its review of the *EES Sting Audit Report* dated October 28, 2005 for the third quarter of 2005 (quarter ending September 30, 2005), and the related audit working papers. The Monitor also reviewed a random sample of 19⁷² of the 32 EES sting audit reports examined by the OIG.

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

- The OIG utilized a matrix with appropriate questions designed to evaluate the completeness, quality and findings of each sting audit.
- The OIG's report was well-organized and contained clearly reported findings. The OIG also included a follow-up assessment on complaints that were initiated as a result of previous EES audits that were classified as a fail
- The OIG found that the audit packages were generally complete,⁷³ of good quality,⁷⁴ and contained appropriate and supportable findings.⁷⁵ The Monitor concurred with these

⁷² A one tailed test with an error rate of +/- 7% and a 95% confidence interval required a sample of 17. The Monitor looked at two additional sting audits.

⁷³ The OIG identified the following issues in relation to completeness: 3 targeted sting audit packages did not contain a TEAMS report or indicate a TEAMS report had been reviewed, 2 walk-in complaint intake audit packages did not contain an operational plan or a summary from the undercover of what happened during the audit, and one complaint intake audit used surveillance equipment but did not have an approved surveillance authorization form (it was also unclear why surveillance equipment was needed).

findings. The Monitor identified one additional quality concern that was not addressed by the OIG.⁷⁶

- The Monitor disagreed with the complaint classification assigned in two sting audits and believes one complaint should also included an allegation of racism and another should have been classified as invidious discrimination. The OIG has indicated that they will be reviewing classifications in the future. .

Based on the foregoing, the Monitor concludes that the OIG's *Review of the EES's Quarterly Report for the Third Quarter of 2005* was a quality review.

The OIG's Review of the EES's Quarterly Report for the Fourth Quarter of 2005 (paragraphs 97 &127)

The Monitor reviewed the OIG's report dated May 8, 2006 on its review of the *EES Sting Audit Report* dated January 31, 2006 for the fourth quarter of 2005 (quarter ending December 31, 2005), and related audit working papers. The Monitor also reviewed a random sample of 18⁷⁷ of the 29 EES sting audit reports examined by the OIG.

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

- As with the OIG's review of the EES's Third Quarter Sting Audit Report, the OIG's report was well-organized., contained clearly reported findings, additional information on other related matters, and a 2005 year end statistical data relating to the number of audits completed per quarter, audit coverage and complaint adjudication.
- The OIG found that the audit packages were generally complete,⁷⁸ of good quality,⁷⁹ and contained appropriate and supportable findings.⁸⁰ The Monitor concurred with these

⁷⁴ The OIG had concerns with the quality of one of the thirty-three audits reviewed. This involved a specific sting undertaken to determine whether a targeted officer would conduct an unlawful search. The sting was conducted in front of a busy convenience store. The OIG expressed concerns related to the location of the audit as they believed a quieter, less public location was more suitable.

⁷⁵ The OIG believed that the classification for three sting audits should have been "Inconclusive," rather than "Pass" and the classification for one sting audit and three complaint intake audits should have been "Pass-Substandard," rather than "Pass."

⁷⁶ Certain details of the allegations made by the undercover relating to the behavior of the officers were omitted from a complaint face sheet.

⁷⁷ A one tailed test with an error rate of +/- 7% and a 95% confidence interval required a sample of 16. The Monitor reviewed two additional sting audits.

⁷⁸ One exception to this was noted in connection with an audit for which the supporting document related to the pre and post audit weight of narcotics used during the audit was not provided.

⁷⁹ The OIG had quality concerns with respect to two of the 29 audits reviewed. The first related to an observational audit for which surveillance equipment had not been used and no explanation was provided. The second related to a specific sting undertaken to determine whether a targeted officer would use excessive force that was conducted on a

findings. The Monitor identified two additional quality concerns that were not addressed by the OIG.⁸¹

- The Monitor noted two additional packages for which it would have classified the audit as “Pass-Substandard,” rather than “Pass.” The Monitor and the OIG agree that the determination of factors that would lead to this lower classification can be a matter of interpretation. Furthermore, this issue was addressed in the supplemental audit
- The Monitor disagreed with the complaint classifications for a number of audits. The OIG indicated that it had not addressed this issue to-date, but plans on doing so, commencing with the first quarter of 2006.

Based on the foregoing, the Monitor concludes that the OIG’s *Review of the EES’s Quarterly Report for the Fourth Quarter of 2005* was a quality review.

The OIG’s Supplemental Report on EES Third and Fourth Quarter 2005 Complaint Intake Audits (paragraphs 97 & 127)

The Monitor reviewed the OIG’s *Supplemental Report on the EES’s Third and Fourth Quarter Complaint Intake Audits*, dated May 8, 2006 and a random sample of 25⁸² of the 96 complaint intake audits reviewed by the OIG for the third and fourth quarters of 2005. The OIG initiated this audit as a result of anomalies identified in prior reviews in connection with the accuracy/completeness of complaint face sheets.

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

- The OIG reviewed 100% of the 96⁸³ complaint intake audits completed in the third and fourth quarters of 2005, utilizing a matrix with appropriate questions designed to evaluate the consistency, accuracy and completeness of information contained in the complaint face sheet as compared to the information provided to the audited employees by the EES undercover officers. In its review, the OIG found inconsistencies in 16% of the audits.

congested street with numerous pedestrians and vehicles. The OIG expressed concerns related to the location of the audit as they believed a quieter, less public location was more suitable.

⁸⁰ The OIG believed that the classification for one particular sting should have been “Inconclusive,” rather than “Pass,” given that the undercover officer had very little interaction with the targeted officer.

⁸¹ In one sting, certain details were omitted from the complaint face sheet. In another, it was not possible to determine whether a supervisor had approved the operational plan prior to the execution of the audit, since both occurred on the same day and the time of the signatures was not provided.

⁸² A one tailed test with an error rate of +/- 7% and a 95% confidence interval requires a sample of 24. The Monitor looked at one additional complaint intake audit.

⁸³ The 96 complaint intake audits comprised 47 third quarter audits and 49 fourth quarter audits.

- The OIG's report was well-organized and contained clearly reported results that identified inaccuracies in the complaint face sheets. Additionally the OIG addressed concerns related to the possible discouraging of the initiation of a complaint⁸⁴ and the quality of front desk service.⁸⁵ The OIG recommended that EES personnel address these concerns by indicating in their Final Report whether an audited employee attempts to discourage the filing of a complaint and by having the Department re-emphasize the importance of providing quality service to the public and notify its employees that additional assessments of this nature are now being performed. The Monitor agrees with these recommendations and commends the OIG for bringing them forward.
- The Monitor agrees with the OIG's decision to continue to assess all future complaint intake audits for the accuracy and completeness of face sheets and the quality of service being provided during the complaint intake process.

Based on the foregoing, the Monitor concludes that the OIG's *Supplemental Report on EES Third and Fourth Quarter 2005 Complaint Intake Audits* was a quality review. The Monitor commends the OIG on its decision to prepare a supplemental report to address previously noted concerns relating to the accuracy and completeness of face sheets and the issue of quality of service provided.

The OIG's April 10, 2006 Review of AD's Warrant Applications and Affidavits Audit (CD128(1))

The Monitor reviewed the OIG's report dated April 10, 2006 on its review of the AD's *Search Warrants and Affidavits Audit* dated January 10, 2006, and related audit working papers.

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

- The OIG's review was thorough and identified a number of additional quality concerns relating to the Consent Decree⁸⁶ that were not otherwise identified in AD's report.
- The Monitor commends the OIG for identifying additional quality concerns that were either unrelated to the Consent Decree or were recommendations for areas for AD to examine in the future.⁸⁷

⁸⁴ The OIG noted two instances where it appeared that the undercover officer had to go to great lengths for the complaint to be generated.

⁸⁵ The OIG noted numerous incidents where there was a concern regarding the quality of service when the undercover contacted the police station to file a complaint, including an instance in which the undercover was placed on hold and transferred to another officer while in the middle of his explanation and another instance in which the audited supervisor appeared to get frustrated, placed the undercover on hold, and then told him that another supervisor would take his complaint.

⁸⁶ These addressed the objectives of completeness, authenticity, underlying actions, supervisory oversight and CO's Analysis.

⁸⁷ These concerns addressed matters such as combining property reports; information to be contained in sealed warrants; recommendations that AD examine in its next audit whether or not documented photographs of the

- The OIG found the audit to be complete but addressed concerns related to the quality and findings of the audit. The Monitor concurs with this finding and had also assessed that it was a non-compliant audit.
- The Monitor suggested that in future reviews of this audit the OIG should assess the quality aspect of the CO's analysis in addition verifying its actual existence.
- The Monitor commends the OIG for identifying three other related matters, two of which involved documents missing that had been present during AD's review⁸⁸ and a recommendation that AD include reviewing the procedures for storing sealed warrants in the next audit

Based on the foregoing, the Monitor concludes that the OIG's *Review of AD's Warrant Applications and Affidavits Audit* was a quality review.

The OIG's April 4, 2006 Review of AD's Complaint Form 1.28 Investigation Phase I Audit

The Monitor reviewed the OIG's report dated April 4, 2006 on its review of *AD's Complaint Form 1.28 Investigation Phase I Audit*, which was received by the OIG on January 4, 2006 and the related work papers.

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

- The OIG appropriately concluded that AD's audit was complete as it assessed all applicable paragraphs, conducted in a quality manner and the findings were adequately supported.
- The OIG agreed with AD's findings that the Department was in compliance with all paragraphs except subparagraph 74g, for which AD concluded that the Department was in non-compliance, and paragraph 87, for which AD withheld a determination of compliance due to the unavailability of 67 complaints investigations. The OIG expressed some additional concerns regarding the 67 unavailable files and suggested that AD monitor and ensure that the completion date is documented in all complaint investigations.
- The OIG identified errors in the presentation of the results of the review regarding paragraph 83, complaint investigator access to TEAMS.

warrant service are part of the warrant package and assess if description of the property seized agrees with warrant application; supervisor's initials on the warrant application and affidavit; and the Department's used of warrant tracking logs.

⁸⁸ OIG identified one instance where a contact sheet was not present when they reviewed the sealed warrant packages but was present when AD reviewed the file. Additionally the OIG identified that employee comment sheets that were available at a Division at the time of AD's review were not available when they reviewed the warrant.

- The OIG also appropriately noted that AD selected a second sample of 20 items in testing for paragraph 87, bringing the total sample to 159 and not the 139 that AD reported. AD reported compliance percentages based on a sample of 139 and not the correct sample of 159.

Based on the foregoing, the Monitor concludes that the OIG's *Review of AD's Complaint Form 1.28 Investigation Phase I Audit* was a quality review.

In summary, the Monitor found that the five OIG review reports were well-written, concise and responsive to the subparagraph 135b requirements to assess the completeness, quality and findings for each of the Department's audits. They were based on meta-audits of random samples selected by the OIG, and each report appropriately identified any deficiencies in the respective review.

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

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

Paragraph 136, as amended,⁸⁹ requires the OIG to continue its practice of reviewing all CUOF investigations and to promptly provide its written findings on each of its reviews to the Police Commission. Such reviews shall assess areas of concern identified by the IG, and at least one of the following three issues related to the quality and/or outcome of the investigations:

- whether the summarized and transcribed statements accurately matched recorded statements;
- whether all available evidence was properly collected and analyzed; and
- whether the investigation was properly adjudicated.

Background

The Monitor assessed the OIG's review of CUOF investigations during the quarters ending December 31, 2002 and March 31, 2004, finding the OIG non-compliant with the original requirements of paragraph 136. The Monitor determined that the quality of the OIG's analyses were deficient, as the OIG's reports did not directly address the requirements of paragraph 136. The Monitor last assessed the OIG's review of CUOF investigations during the quarter ending March 31, 2005; while the Monitor found the Department in non-compliance, the Monitor noted an improvement, as the reviews were more thorough and insightful, the reports better addressed

⁸⁹ On June 2, 2005, the Court approved proposed modifications to this paragraph, which are reflected the requirements described here.

the reporting requirements, and the OIG had improved its report template and developed a database to assist in standardizing the findings from its CUOF investigations. .

Current Assessment of Compliance

In order to assess compliance with paragraph 136 during the current quarter, the Monitor judgmentally selected a sample of 14 CUOF investigations from the OIG's population of 24 CUOF review reports presented by the OIG to the Police Commission in the months March 2006 to June 2006⁹⁰ and 3 additional OIG CUOF reviews that were presented to the Police Commission between November 8 and November 22, 2005. The Monitor considered the OIG's reports, matrix responses, database and other working papers, as well as the relevant CUOF investigation package, including the report of the Chief of Police, TEAMS extracts and UOFRB notes.

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

- Reports, files and database were well organized, easy to follow and supported the OIG's findings.
- The OIG appropriately assessed the timeliness of investigations i.e. whether or not they were submitted to the Police Commission at least 60 days before the statute date. .
- The Monitor noted that in most incidents, the OIG's response time for completing and submitting its report to the Police Commission was within a few days of receiving the UOFRB's and the Chief of Police's reports on the incident, and the OIG's report incorporated and assessed the findings from each.
- The Monitor commends the OIG for the thoroughness, organization and clarity of its reports to the Police Commission and the way the reports highlight key issues for the Commission to address.
- The Monitor identified issues related to the OIG's review of one CUOF incident. At the beginning of the suspect's interview, the investigator did not give the suspect his/her Miranda Rights, yet the FID report states that Miranda Rights were waived by suspect. The FID investigator indicated to the suspect that it was simply an "informal" interview, to get some simple questions answered, yet when transcribed the interview was 95 pages long with two different interviews of unknown start and stop times. Additionally, the suspect may have had mental illness issues, as indicated by his /her asking for an interpreter, spouse, parent and child numerous times; despite this, the FID investigator still continued to push the interview. The investigator's report then stated that the suspect gave no straightforward answer. Lastly,

⁹⁰The Monitor's sample was based on a selection using a one-tailed test with a +/-7% error rate and 95% confidence interval. The incidents were judgmentally selected choosing those OIG completed CUOF investigations that were presented to the Police Commission and overlapped with CUOF investigations reviewed by the Monitor during its substantive assessment of paragraphs 80, 64 and 62.

the interviewers did not ask the suspect any questions regarding the UOF, which should have been the main focus of the interview. It is the Monitor's opinion that these issues should have been identified and addressed by the OIG.

- The Monitor identified one investigation in which an officer asked for a baby wipe and wiped the blood off of his holster and his shoe. While the officer admitted he struck the suspect on the head, the Monitor is concerned about the public perception of the officer's actions, had they been observed by a member of the public. Additionally, the officer claimed the suspect was reaching for his holster. By wiping the holster, the officer could have wiped any fingerprint evidence. The Monitor believes this should have been pursued further. This was not identified by the OIG.

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

Recommendations

Currently, the OIG reviews whether an assessment of the presence or absence of a supervisor at the scene of a CUOF is completed and whether it the assessment is made on a timely basis. Additionally, OIG staff indicated that they have identified deficiencies in the assessments of the supervisors' actions and have included their observations regarding the assessment in their reports to the Police Commission; however, the Monitor noted at least one instance in which the OIG could have identified issues in the assessment of the supervisor's response. The Monitor recommends that the OIG continue to be vigilant in reviewing the assessments of the supervisors' actions to ensure that any deficiencies are addressed.

The Monitor recommends that in future reviews the OIG assess whether or not all major issues identified in the investigating officers' notes are addressed in the FID reports.

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

Subparagraph 136i, as amended, requires the OIG to conduct regular, periodic reviews 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 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 the requirements of the paragraph were to going to be modified, 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

In order to assess the Department's compliance with subparagraph 136i during the current quarter, the Monitor reviewed OIG's *Non-Categorical Use of Force Investigations Audit Report*, dated March 31, 2006.⁹¹ The Monitor also reviewed selected the OIG working papers, including the audit work plan, crib sheet, matrices⁹² and related documents.

The OIG reviewed 19 (100%) of the Level I incidents that occurred on or after January 1, 2005 and were closed in October 2005. Additionally, the OIG reviewed 3 Level I incidents that occurred on or after May 1, 2005 and were closed as of November 18, 2005 that involved investigating supervisors who were identified in AD's *NCUOF Reports Audit* as having significant anomalies in their NCUOF investigations. The Monitor selected a random sample of 13 of the 19 Level I incidents and reviewed each of the three additional Level I incidents.

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

- During this audit the OIG assessed how the Department handled excessive force allegations, and the overall adequacy of the investigation. In assessing the adequacy of the investigation, the OIG used a detailed matrix that allowed the OIG to assess numerous areas of the investigation, including whether or not the summarized statements accurately matched the recorded statements, specifically for subject or public witnesses. This is one of the areas the OIG is required to review under subparagraph 136i. The Monitor commends the OIG for focusing its review on excessive force allegations and accuracy of summarized statements..
- The OIG appropriately identified that 12 of the 19 investigations contained allegations of excessive force that were not identified as requiring the completion of a Department-initiated complaint during the NCUOF investigation.
- The OIG appropriately identified eight investigations where there were inaccuracies identified between the taped interview and the summarized statements. Additionally the OIG identified three investigations where a witness was not thoroughly interviewed and two investigations where at least one pertinent witnessing employee was not interviewed.

⁹¹ The Monitor assessed the quality of this report during this quarter; previous findings of non-compliance were based on the fact that the report was not completed on a timely basis.

⁹² The OIG used two matrices, one that assessed the investigation and one designed specifically to assess the taped interviews and subsequent transcription of these interviews.

- The OIG identified several other key issues, including attempts to discredit the subject's allegation of excessive force; dissuasion by the investigator regarding the filing of a complaint; inconsistency between information in a medical statement and the investigation's summary of the incident; lack of canvassing for evidence; an investigation conducted by a supervisor who directed the NCUOF; and approval of follow-up reports by the investigating supervisor. The Monitor commends the OIG for identifying these additional deficiencies in the investigations.
- The OIG made five recommendations in its audit report; the Monitor believes these recommendations would help to improve the quality of UOF investigations.

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

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 142a, 143b and 143c and with paragraphs 144, 145 and 146 from this section of the Consent Decree. Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

The Department has not yet achieved substantial compliance with subparagraphs 142b and 143a. As a result, the Monitor will be assessing the Department's compliance with these subparagraphs during the extension to the Consent Decree.

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with all requirements from this section of the Consent Decree (paragraphs 147-153). Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of

compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

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 Department has not yet achieved substantial compliance with the requirements of this section (paragraph 154). As a result, the Monitor will be assessing the Department's compliance with paragraph 154 during the extension to the Consent Decree.

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.

The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with all requirements from this section of the Consent Decree (paragraphs 155-157). Pursuant to the methodology described in the Focus Issues section, above, the Monitor did not assess the Department's compliance with these paragraphs during the current quarter, nor has the Monitor scheduled assessments of compliance with these paragraphs during the extension to the Consent Decree. Should there be any indication of backslide of these paragraphs in terms of compliance, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraphs is warranted.

XII. CONCLUSION

As we enter into the extension period of the Consent Decree, we again acknowledge and applaud the great progress that has been made 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. As all parties have recognized, there does, however, remain significant work to be done. As described fully in the report, the Monitor will concentrate its efforts going forward on ensuring that the reforms that need to yet be accomplished are, indeed, accomplished and those reforms that have been achieved to-date continue.