

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



**REPORT FOR THE QUARTER ENDING
MARCH 31, 2003**

Issued May 15, 2003

Kroll

Office of the Independent Monitor
of the Los Angeles Police Department

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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 Associates 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 Seventh Report, covers the quarter ending March 31, 2003.

EXECUTIVE SUMMARY

During the quarter ending March 31, 2003, the Monitor examined 89 paragraphs or sub-paragraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 32 and failed to achieve compliance with 47. For reasons stated in the body of this report, the Monitor withheld a determination of compliance for 10 of these paragraphs or sub-paragraphs.

The "Report Card" schedule attached as Appendix A to this report summarizes compliance with each substantive paragraph of the Consent Decree for the last four quarters, beginning with the quarter ending June 30, 2002. Although the Monitor assesses 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), the Report Card provides an *overall grade* for compliance with each paragraph or subparagraph. 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 "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, or before the Methodologies were finalized. The quarter in which the evaluation was made is also indicated in Appendix A. Finally, the schedule 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.

The Monitor has included a "Report Card Summary" along with the detailed Report Card. This summary graphically presents the status of the City and the LAPD's compliance with each of the major categories of policing covered by the Consent Decree, as represented in the Report Card's "Status as of Last Evaluation" column for the relevant paragraphs and subparagraphs

Areas of concern identified during the quarter ending March 31, 2003 include:

- Inadequate steps have been taken to analyze the motor vehicle and pedestrian stops data, collected between July 2002 and December 2002.

- The Department's audits continue to be seriously backlogged due to insufficient resources. Some audits are now more than nine months behind. The Monitor is concerned that the LAPD has not been adequately funded to hire sufficient civilian auditors to rectify this problem.
- The Monitor's concerns regarding the daily operations and supervision of the gang units continue. The Monitor's most recent evaluation revealed many of the same deficiencies that were highlighted in the Monitor's Report for the Quarter Ending September 30, 2002
- The Department continues to struggle with timeliness of Internal Affairs Group investigations of complaints, including the Consent Decree mandate that all complaints be forwarded to the IAG for review and investigative assignment within ten days of receipt.
- The right of the public to file complaints against members of LAPD and the requirements that each complaint be freely taken and appropriately adjudicated is a critical requirement of police best practices and the Consent Decree. Apparent instances of non-compliance with this requirement have been identified. This is cause for great concern that is mitigated, but not eliminated, by the fact that LAPD discovered the problem and is quickly moving to handle it.

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

- The Department's handling of Categorical Uses of Force continues to be a strong point, as it has achieved compliance with most of the paragraphs of the Consent Decree that address such uses of force.
- New interactive training exercise incorporated into CEDP Module VI effectively addresses issues of discrimination, retaliation and misconduct.

I. FOCUS ISSUES

A. NON-COMPLIANCE IN THE GANG UNITS

As described in this report in Section IV “Management of Gang Units,” the Monitor’s concerns regarding the daily operations and supervision of the gang units continue. The Monitor’s most recent evaluation revealed many of the same deficiencies that were highlighted in the Monitor’s Report for the Quarter Ending September 30, 2002, including:

- Inadequate chain of command supervision and control;
- Inconsistent and inadequate record keeping in connection with required information, such as supervisor signatures indicating oversight;
- Deficient and inconsistent monthly audits of gang units; and,
- Inadequate periodic audits of gang units’ work product.

In addition, the selection process for Special Enforcement Unit officers is deficient. The Monitor deems the selection process to be a critical component of the Gang Units’ future success. The units’ daily operations, administrative functions and supervisory oversight are all dependent upon the composition of the Special Enforcement Units. Without the right officers, the units will be hard-pressed to achieve reform.

Newly-appointed Deputy Chief Michael Hillmann, Department Gang Coordinator and Commander of Special Operations Bureau, has proposed such reform. His plans for the restructuring of the units appear to adequately address the majority of the Monitor’s concerns. Nevertheless, Hillmann faces an uphill battle. In order to succeed, Hillmann and his team will require the support of the entire Department.

B. CITIZEN COMPLAINT INTAKE

While the Monitor in its first report recognized and reported that reforms to the then-current complaint investigation procedure were required, the unfettered ability of the public to lodge complaints against police officers has always been and remains an extremely important aspect of the Consent Decree. Indeed, many of the reforms recommended have now been adopted and the complaint investigation and adjudication process streamlined. These reforms were never meant, however, to in any way limit the ability of the public to institute complaints in the first instance.

It was therefore with a great degree of concern that the Monitor learned that the Department had uncovered what appears to be serious non-compliance with the mandates of the Consent Decree relative to the taking of public complaints.

While the Department's investigation into this matter is not complete, its reaction has been swift and unequivocal: The Department has indicated that it will not tolerate the failure to take such complaints. This, coupled with the fact that the Department uncovered this conduct itself, is a bright spot in what otherwise is a disappointing revelation. We will continue to closely monitor the Department's investigation and the underlying conduct and will report on additional findings in our next report. The Monitor also intends to independently verify compliance of the complaint process.

C. PROPOSED DEPARTMENT REORGANIZATION PLAN

On February 25, 2003, the Los Angeles Police Commission approved, in concept, Chief Bratton's reorganization plan for the Department. Among other things, the plan elevates day-to-day responsibility for the Consent Decree to the Bureau level, headed by the equivalent of a two-star Chief reporting directly to Chief Bratton. Also elevated in the Department hierarchy is the internal affairs function of the Department, re-constituted as the Professional Standards Bureau. It is recognized that the proposed reorganization would affect a number of Consent Decree provisions. Changes to the Consent Decree language necessitated by the proposed structural changes in the Department are currently under discussion amongst the City and the DOJ.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

Overview

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

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,¹ 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.

During previous quarters, the Monitor assessed the City's progress in developing the TEAMS II design document, which was approved by the DOJ on January 31, 2003.

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

- In order to expedite the development process once approval from the DOJ for the RMIS design document was received, the City released a Request for Proposal (RFP) for the development of the RMIS and UOFS on November 27, 2002. Proposals were due on January 24, 2003. The City received six proposals. The City and the LAPD have dedicated significant resources to the review of these proposals, the vendor interviews, site visits and the subsequent research required to understand the proposals. It is anticipated that a vendor will be chosen by mid-May.
- The City is planning on releasing an RFP for the development of the CMS, which will reflect the tools selected for TEAMS II and the development of the RMIS/UOFS process. It is expected that the RFP will be released in May 2003.

¹ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports regarding pedestrian and motor vehicle stops.

- The MSRP Unit is continuing to carry out its assessment of the legacy systems that will eventually be feeding data to the RMIS. The data collected will not only be used to prioritize source system enhancements, but will also serve as a basis for the Data Input Plan required by paragraph 42.
- In April 2002, the City signed a contract with BearingPoint, Inc. for the restoration and enhancement of the Automated Personnel Records Imaging System (APRIS) and the Integrated Crime and Arrest Records System (ICARS). BearingPoint has been working to improve the scanning capabilities and enable decentralized access so that all 18 Divisions will be able to review data from these two systems. Although this project continues to run behind schedule, the Monitor does not anticipate this delay affecting the TEAMS II project and the City's compliance with the Consent Decree.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

Overview

By mandate of the Consent Decree, LAPD officers are required to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A Categorical Use of Force² (CUOF) 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.³ Administrative investigations of these incidents are the responsibility of the Critical Incident Investigation Division (CIID). All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) or, in the case of dog bites that constitute a CUOF to the K-9 Bite Review Board and ultimately the Police Commission within a defined period of time.

All other UOFs that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.⁴ Non-Categorical Uses of Force (NCUOFs) occur much more frequently than do CUOFs, as officers often encounter resistance while performing their duties. They range from a technique as simple as physical force to control a resisting individual to the use of a taser or a bean-bag shotgun.

In the Monitor’s Report for the Quarter Ending December 31, 2002, the Monitor assessed the LAPD’s compliance with the mandates of the Consent Decree relative to NCUOF and CUOF investigations, including the CIID’s role, supervisory oversight and the required psychological evaluation of officers involved in a deadly CUOF.

During the current quarter, the Monitor focused its efforts on reviewing the procedures and techniques for conducting a CUOF investigation.

The results of our current assessment follow.

² CUOFs include an Officer Involved Shooting with or without a hit, In-Custody Death, Law Enforcement Activity Related Death, Law Enforcement Related Injury requiring hospitalization, Neck Restraint, Head Strike with an impact weapon and a Department canine bite requiring hospitalization.

³ Specifically paragraphs 13, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 84, 136 and 142 as well as certain audit-related paragraphs.

⁴ Specifically paragraphs 38, 65, 66, 68, 69, 81, 82 and 84 as well as certain audit-related paragraphs.

Paragraph 55 – CUOF Investigations / OHB Responsibility

Paragraph 55 requires the LAPD to create a division devoted solely to the administrative investigation of all CUOF incidents, including those incidents previously investigated by the LAPD's Robbery Homicide Division and Detectives Headquarters Division.⁵ All investigators are required to be at the level of Detective, Sergeant or of supervisory rank. Additionally, the Commanding Officer of this new division shall not have direct line supervision for the LAPD's geographic bureaus and investigating officers shall be trained in conducting administrative investigations.

Background

The Monitor last reviewed this paragraph during the quarter ending September 30, 2002, at which time the LAPD was found to be in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed approximately 42 completed CUOF incident investigations.⁶ For all 42 incident investigations reviewed, the Monitor noted that the investigations were managed and completed by CIID investigators ranked as either Detective II or Detective III, as documented in reports.

During its last review, the Monitor conducted a comprehensive analysis of training and reported that CIID investigators regularly receive "Assimilation Training." This training remains in effect. The Monitor also noted that the Commanding Officer of the CIID continues to report directly to the Deputy Chief of the Operations-Headquarters Bureau (OHB) and does not have direct line supervision of any LAPD geographic bureaus.⁷

Based upon the findings described above, the Monitor continues to find the LAPD in compliance with the provisions of paragraph 55.

⁵ The LAPD was required to form this division within six months of the effective date of the Consent Decree. As such, the LAPD formed the CIID prior to the effective date of the Consent Decree, whose Commanding Officer reports directly to the Deputy Chief of the OHB.

⁶ The Monitor considers an investigation completed when it is forwarded to the Office of the Inspector General and the Police Commission for review.

⁷ The proposed reorganization of the Department, referenced in the Executive Summary, would eliminate OHB and place CIID within the new Office of Operations - Detectives Bureau. The deputy chief in charge of CIID would report directly to the Office of Operations commander who would have line command over CIID. The assistant chief in charge of the Office of Operations would have ultimate command over both CIID and the geographic bureaus.

Paragraph 57 – Criminal CUOF Investigations / LAPD Responsibility

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

Background

The Monitor last evaluated paragraph 57 during the quarter ending September 30, 2002. At that time, the LAPD was found to be in compliance. Compliance was based upon reports, separately prepared by the CIID and the Use of Force Review Section (UOFRS), which document CUOF incidents forwarded to the Internal Affairs Group (IAG) for investigation.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the CIID's and UOFRS' reports summarizing CUOF events that occurred during the period July 1, 2002 through December 31, 2002.

The Monitor's review established that for the one CUOF that suggested criminal misconduct, the LAPD was conducting a separate criminal investigation. This matter was referred to the IAG for criminal investigation within six days of the incident occurring. It remains under investigation and, as of this report, is not in jeopardy of exceeding any statutory limitations. The Monitor also noted that one matter dating back to 1990 was slated for re-investigation by the CIID and within approximately 23 days of being re-opened was assigned to the IAG for further investigation.

The Monitor continues to find the LAPD in compliance with paragraph 57.

Paragraph 61 – Separate Statements of Officers Involved in OIS

Paragraph 61 requires that all involved officers and witness officers to an Officer Involved Shooting (OIS) shall be separated and remain separated until they provide a statement.

Background

The Monitor last reviewed this paragraph during the quarter ending September 30, 2002. At that time, the Monitor found the LAPD to be in compliance with this paragraph. However, during the course of review, the Monitor became aware of an LAPD practice that may impact compliance with this Consent Decree requirement:

Following an OIS, the LAPD immediately secures the area in order to prevent any further injury and begins interviewing those involved.⁸ The Monitor and the LAPD have agreed that the importance of eliciting a public safety statement temporarily supersedes the need to immediately separate officers. However, the Monitor noted that the LAPD failed to properly document required policy and procedure relative to the first on-scene supervisor's responsibilities in eliciting a public safety statement.

In response to recommendations made by the Monitor in the Report for the Quarter Ending September 30, 2002, the LAPD has commenced authoring a Special Order addressing the requirement that all officers be separated at the scene, while being transported and at the Division, as well as addressing the public safety statement. It is intended to provide guidance to both supervisors and officers on questions that are appropriate during this phase of an OIS. This Special Order remains a work in progress with no set issue date.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed all OIS incident investigations submitted to the Office of the Inspector General (OIG) and Police Commission during the period July 1, 2002 through December 31, 2002, which totaled 26 incident investigations. In 11 of the 26 incidents, the Monitor noted that involved officers and witness officers were not adequately separated.

In reviewing transcripts, particularly those of responding supervisors, it was evident that officers were aware of the separation requirement. Once officers provided a public safety statement, the responding supervisor instructed that they be separated. However, in 10 of the 11 noted instances of non-compliance, officers were transported together. Although none of the transcripts indicated that there was any discussion among the officers, a public witness could justifiably question the LAPD's adequacy of separation. Once officers arrived at the Division, they were again separated.

One incident involved approximately 18 officers. Although the Monitor recognizes the logistical burden of transporting a large number of officers, in this particular incident, two of the three officers directly involved were transported together. Future incidents reviewed by the Monitor will include a critique of whether or not enough personnel were available to logistically transport involved and witness officers separately and, if not, whether or not supervisors attempted to differentiate between those officers directly involved and peripheral witness officers. Consideration will be given to prioritizing separation at the scene, during transportation, and at the Division until such time as the officers can be interviewed.

⁸ It is the responsibility of the first on-scene supervisor to elicit a "public safety statement" from involved officers of an OIS for the purpose of requesting additional backup, emergency medical technicians and to take control of the scene.

The Monitor noted another incident that involved four officers at a hospital. Subsequent to the CUOF incident, all four officers were grouped into an empty room by the responding supervisor prior to being transported separately to the Division.

The Monitor finds the LAPD to be in non-compliance with paragraph 61.

Proposed Recommendation

Current LAPD policy requires a supervisor to transport involved and witness officers. The LAPD should consider expanding this responsibility to experienced police officers in order to facilitate separate transportation and monitoring at an LAPD facility.

The Monitor recommends that the LAPD issue the Special Order addressing the requirement that all officers be separated at the scene, while being transported and at the Division, as well as addressing the public safety statement, as soon as possible.

Paragraph 64 – Officer History in Disciplinary & Non-Disciplinary Actions

Paragraph 64 requires a manager⁹ to consider an officer's work history, including information contained in the TEAMS II system¹⁰ and the officer's CUOF history, including tactics used in past uses of force, when reviewing and/or making recommendations regarding discipline or non-disciplinary action as a result of a CUOF.

Background

The Monitor last assessed the LAPD's compliance with this provision during the quarter ending September 30, 2002. Inadequate documentation of reviews resulted in the Monitor finding the LAPD to be in non-compliance with this provision of paragraph 64.

As noted in the Monitor's Report for the Quarter Ending September 30, 2002, once the CIID has completed its administrative investigation and the UOFRS has reviewed its report, the involved officer's Commanding Officer is required to present the matter to the UOFRB or, in the case of a dog bite requiring hospitalization, the Canine Bite Review Board. At the conclusion of the presentation, the Commanding Officer provides the UOFRB with a copy of the respective officer's history. The Commanding Officer is questioned as to whether or not his/her review identified a pattern regarding tactics for the officer under review, and also for the Division, to which the officer was, or is, assigned.

⁹ Paragraph 29 of the Consent Decree defines a "manager" as an LAPD supervisor ranked captain or above.

¹⁰ Until the TEAMS II system is developed, the Monitor will base compliance on the LAPD's use of its current TEAMS system.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 42 completed CUOF incident investigations presented to the OIG and the Police Commission. For all but two incidents, the Monitor determined that officer histories, in their entirety, were considered during the review regarding non-disciplinary action. The Monitor based its conclusion on information documented on each Form 1.67.0 (the UOFRB Report) and on notes of UOFRS officers in attendance at the Board.

The Monitor also requested and received a listing of all CUOF incidents adopted by the Police Commission during the period July 1, 2002 through December 31, 2002. In total, 14 incidents were presented to and adopted by the Police Commission, of which eight¹¹ were reviewed by the Monitor:

- One incident was an OIS
- Three incidents were an OIS with no hit
- One incident was a head strike with an impact weapon
- One incident was a canine bite requiring hospitalization
- One incident was a neck restraint
- One incident was a Law Enforcement Related Injury Incident (LERII)

Five of these incidents were ruled as “Administrative Disapproval” for either tactics or UOF by the UOFRB and subsequently adopted as such by the Police Commission. The remaining three were adopted as “In Policy.” For the five ruled as “Administrative Disapproval”, the LAPD commenced complaint investigations. A review of the completed complaint investigations for four of the five incidents yielded documentation of the involved officer’s history and consideration of the officer’s history in recommending disciplinary action. One complaint package was not complete at the time of review. As such, the Monitor was unable to determine whether or not the officer’s history was considered.

Based on the analysis above, the Monitor finds the LAPD to be in compliance with paragraph 64 of the Consent Decree.

Paragraph 67 – OIG & Commission Review of CUOFs

Paragraph 67 requires the LAPD to submit a completed administrative investigation of all CUOF incidents to the OIG and the Police Commission at least 60 days prior to the running of any appropriate statutes.

¹¹ Four incidents involved an Accidental Discharge and two incidents involved the shooting of an animal. As these incidents are not included in the definition of a CUOF as documented in paragraph 13 of the Consent Decree, they were excluded from review.

Background

During its last assessment, the Monitor noted that the LAPD was in full compliance with this requirement of the Consent Decree. Compliance was largely attributable to the LAPD's policy that all CUOF investigations be completed at least 110 days prior to the running of the statute.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed a total of 42 CUOF investigations submitted to the Police Commission and the OIG. All 42 investigations were submitted to the OIG and the Police Commission at least 60 days prior to the running of any statutes. On average, completed investigations were submitted for review by the OIG and the Police Commission approximately 154 days prior to the running of the one year statute.

The Monitor continues to find the LAPD in compliance with paragraph 67 of the Consent Decree.

Paragraph 69(a) – Use of Force Review Board

The first requirement of paragraph 69 is that the LAPD continue its practice of presenting CUOF incidents before the UOFRB.

Background

The Monitor last evaluated compliance for this particular requirement of paragraph 69 during the quarter ending September 30, 2002, at which time, the LAPD was found to be in compliance.

All administrative CUOF investigations are conducted by CIID investigators. Once an investigation is completed and reviewed by CIID management, it is forwarded to the UOFRS and the OIG. The matter is then slated for review by the UOFRB. The UOFRB is comprised of five high-ranking LAPD Chiefs and Commanding Officers.¹²

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 42 completed CUOF incidents that were submitted to the OIG and the Police Commission. The files for each of the 42 incidents included original sheets evidencing that the incident was presented to either the UOFRB or the Canine Bite Review Board. Noted on all sheets reviewed were the names of the involved officers; their

¹² There is one exception for CUOFs. Canine bites requiring hospitalization are not presented to a Board of five individuals. Rather, the incident is presented to the Canine Bite Review Board, consisting of three individuals.

respective years of service and assignments; their respective CUOF histories; and, the original signatures of the Board members who heard the incident.

Based upon the findings described above, the Monitor finds the LAPD to be in compliance with the first requirement of paragraph 69.

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. One such requirement is supervisory review of booking recommendations, supporting arrest paperwork, search warrant applications and execution plans to ensure that they meet the Department's standards for appropriateness and legality.

During the previous quarter, the Monitor assessed the Department's training relative to arrest and booking procedures and evaluated supervisory oversight of arrest packages.

During the current quarter, the Monitor assessed supervisory review of all booking approvals, arrest paperwork, watch commander logs and detention logs for cases involving charges for resisting arrest, delaying a police investigation and assault on a police officer.

The results of our current assessment follow.

Paragraph 70(b) – Supervisory Review of Specified Incidents

Paragraph 70(b) requires supervisors to evaluate each incident in which an individual is charged with resisting arrest, battery on a police officer, interfering with a police investigation and similar charges to determine if the incident raises any issues or concerns regarding training, policy or tactics.

Background

Paragraph 70(b) is a subparagraph of paragraph 70, which requires supervisors to review all booking recommendations and evaluate the recommendations for appropriateness, legality, and conformance to Department policy. Supervisors are expected to review all arrest reports and all supporting documentation for authentic language, inconsistent information and probable cause.

The Monitor first reviewed paragraph 70(b) in the Monitor's Report for the Quarter Ending September 30, 2002. At that time, the Monitor disclosed that the DOJ and the City had divergent opinions as to the interpretation of the word "charged" as it appeared in paragraph 70(b).¹³ The

¹³ The LAPD interpreted the paragraph to mean that supervisors are required to review only the cases where the resisting arrest and/or related charges were the booking charge. LAPD only books on one charge, therefore only one

Monitor made a final determination as to the interpretation of 70(b) at the March 13, 2003 monthly status meeting, concluding that all cases where the facts made out the elements of resisting, interfering, or delaying arrest or battery on a police officer, i.e. where a 70b offense could have been charged, regardless of whether it was the booking charge, should be reviewed by a supervisor for training, policy and tactics issues.

Current Assessment of Compliance

In order to assess primary and secondary compliance with the mandates of this paragraph, the Monitor is required to review all policy and training related to paragraph 70(b). The Monitor reviewed the policy and attended the training related to paragraph 70(b) during the quarter ending September 30, 2002. The policy and the training was organized according to the Department's interpretation of 70(b) whereby Supervisors are only responsible for reviewing cases where resisting, interfering, or delaying arrest or battery on a police officer is the sole booking charge. Neither the policy nor the training has been changed since the Monitor's review during the quarter ending September 30, 2002. Consequently, the policy and training are inadequate under the Monitor's final determination of paragraph 70(b).

During the current quarter, in order to assess functional compliance, the Monitor reviewed the Audit Division's audit report from its "Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest, or Assaulting a Police Officer" dated December 16, 2002.

The Audit Division identified and performed a review of 11 arrest reports where the arrestee was charged with a 70(b) offence¹⁴, and found that the Watch Commander did not perform supervisory oversight on 4 of these arrests. All 4 cases were PC 148.9 arrests.¹⁵ The Monitor's interpretation of 70(b) excludes PC §148.9 charges from the scope of the paragraph; therefore, the supervisors' failure to review said cases does not negatively impact functional compliance.

For the 7 remaining arrest reports where supervisory oversight was performed, the Monitor concluded from the supervisors' log entries that all 7 arrests had been purposefully reviewed for all issues that relate to policy, training and tactics.

In addition to the 11 cases identified by Audit Division during their audit, the Monitor identified 8 cases that the Audit Division should have reviewed because the facts made out elements of

count is entered into the booking system. Officers request additional charges in the body of the arrest report but these additional charges are not input into their booking system. The DOJ interpreted this paragraph to mean that supervisors should review each arrest where the facts of the case have the elements of resisting, interfering, delaying an arrest or battery on a police officer regardless of whether or not it is the booking charge.

14 These arrests were drawn from the Audits Division's September 15, 2002 ABC Reports audit sample of 938 Reports, which comprised a random sample of 602 arrest reports, plus another 336 arrest reports that related to multi-arrests in the random sample of 602. The 938 arrest reports were chosen from a total of 27,155 arrest reports for arrests made during the period October 1, 2001 to December 31, 2001.

¹⁵ PC §148.9 involves providing false identity to an officer.

70(b) charges. In 6 of the 8 cases, despite the fact that a 70(b) charge was not the booking charge, adequate reviews were performed by the supervisors. In 2 of the 8 cases, it was apparent that adequate supervisory review for issues regarding training, policy or tactics had not taken place.

In summary, of the 15 cases in the Monitor's sample that required supervisory review under the mandates of paragraph 70(b), 13 were properly reviewed by a supervisor. The arrest reports for the two remaining cases contained elements of a resisting, interfering, or delaying arrest charge; however, in both instances these charges were not the "booking charge."

Due to the Monitor's recent decision regarding the interpretation of 70b, the Monitor is withholding a determination of compliance on this paragraph. However, in the future, the Monitor will apply its interpretation of the meaning of paragraph 70(b) when assessing compliance.

Proposed Recommendations

In order to avoid confusion in the future as to which charges fall under the scope of 70(b), it is the Monitor's recommendation that Special Order 12, and the revised training, state the actual charges that fall under the umbrella of paragraph 70(b) as well as clearly indicating that in any instance in which such a charge could be appropriately applied, the requirements of 70(b) would need to be met.

In addition, the Monitor recommends that the Department develop a means by which to identify all cases in which a 70(b) offense could be charged. This will enable the Division Supervisors, the Monitor and the Audit Division to better identify cases that fall under the 70(b) umbrella, thereby allowing for a more generous sample to measure compliance.

Paragraphs 71 and 72 – Supervisory Review of Warrants / Warrant Log

Paragraph 71 sets forth the requirements for supervisory review of all search warrants and probable cause arrest warrants.

Paragraph 72 mandates that each Area and specialized Division of the LAPD maintain a log listing of each search warrant; the case file where a copy of such warrant is maintained; the name of the officer who applied for such warrant; and, the names of each supervisor who reviewed the application for such warrant.

Background

The Monitor last assessed compliance with paragraphs 71 and 72 in the quarter ending September 30, 2002 and found the LAPD in primary compliance with all of the provisions of paragraph 71, as well as in secondary and functional compliance with subparagraphs 71(a) and (b). The Monitor found the LAPD in secondary and functional non-compliance with the

requirements of paragraph 71(c), supervisory review of the execution of warrants. The Monitor's evaluation of paragraph 72 established that the LAPD was in non-compliance. This finding was supported by the LAPD Audit Division.

Current Assessment of Compliance

Based upon the findings and recommendations of the Monitor and the LAPD Audit Division, the LAPD has been working towards compliance with paragraphs 71(c) and 72. In order to allow the LAPD sufficient time to implement their reforms, the Monitor has rescheduled its review of paragraphs 71 and 72 until next quarter. Additionally, the Monitor will use this deferment to incorporate the Audit Division's annual Search Warrant Applications and Affidavits Audit, which is to be completed in June 2003, in its assessment of compliance with paragraphs 71 and 72.

C. COMPLAINT INVESTIGATIONS

Overview

A significant portion of the Consent Decree is dedicated to reforming the LAPD's complaint process, from intake through investigation, adjudication and ultimately disposition.

In its initial quarterly report, the Monitor called for an examination of the complaint process. The examination that followed led to the LAPD's issuance of orders and directives aimed at improving the complaint process, including authorizing Commanding Officers to grade a complaint on the seriousness of the allegations raised. Thus, a public complaint of excessive use of force, under the LAPD's criteria, is considered more serious and would therefore generate a more detailed investigation than would a less serious allegation, such as an officer's failure to qualify for shooting a weapon.

The Monitor focused its attention in the previous quarter on the initiation of complaints based upon entries into the City's lawsuit and claims database.

During the current quarter, the Monitor assessed compliance with requirements regarding internal complaint investigations.

The results of our current assessment follow.

Paragraph 74 – Receipt / Maintenance of Complaints

Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials¹⁶ and continue the operation of a 24-hour toll-free telephone complaint hotline.¹⁷ Officers are also prohibited from asking or requiring a complainant to sign a form that in any manner limits or waives certain rights.

Background

The Monitor last reviewed the LAPD's compliance with regard to paragraph 74 during the quarter ending September 30, 2002. At that time, the LAPD was found to be in compliance with the provisions of paragraph 74.

Current Assessment of Compliance

During the current quarter, concurrent with participating in a ride-along, members of the Monitor's team inspected the lobbies at the following Divisions and noted that all appropriate complaint material was maintained in the mandated languages:¹⁸

- West Valley
- Southeast
- Wilshire
- Rampart
- Hollywood
- Pacific
- Central

Upon request, the LAPD made available complete copies of tapes for all calls placed to the toll-free complaint hotline for two days selected during January 2003,¹⁹ along with the corresponding completed complaint forms. A member of the Monitoring team listened to both days' tapes, and noted that the LAPD properly initiated complaint investigations based on the information in the calls received.

¹⁶ The LAPD must be prepared to provide complaint material in seven mandated languages in all of its Divisions and substations. The LAPD must also be prepared, when requested, to provide complaint material to community groups, centers and public and private service centers.

¹⁷ All calls must be recorded.

¹⁸ English, Spanish, Japanese, Korean, Cantonese, Vietnamese and Tagalog.

¹⁹ January 4, 2003 and January 24, 2003 were selected for review.

In response to a document request related to assessing compliance for paragraphs 79 and 93, the LAPD furnished copies of complaint face sheets and attachments for 93 complaint investigations initiated during the period July 1, 2002 through December 31, 2002.²⁰ In the course of reviewing these complaint investigations, members of the Monitoring team determined that all 93 complaint investigations were received by those methods deemed acceptable under paragraph 74. As would be expected, the majority of complaints were received verbally, either in person or telephonically, and subsequently documented by LAPD personnel. However, it was also noted that some complaints were written and received by regular mail or e-mail. Lastly, the team noted several anonymously-filed complaints and one referral from the OIG. For all 93 complaint forms reviewed, there was no evidence that complainants were requested to relinquish any rights as a requirement for lodging a complaint.

However, toward the end of the current quarter, the Monitor was informally advised of results of the most recently completed sting audits. In response to a special request by the Chief of Police²¹, the LAPD's Ethics Enforcement Section (EES) conducted an increased number of sting operations, using more scenarios, Department-wide to determine whether or not complainants are being discouraged from filing a complaint.

The preliminary results of these audits suggest there is a possible pattern of complainants being discouraged and that officers are in non-compliance with paragraph 75.

Based on these findings, the Monitor will withhold its determination of compliance pending a review of the results of EES audits conducted in April 2003.²²

Paragraph 75 – Initiation of Complaint Form 1.28 Investigations

Paragraph 75 requires that a complaint investigation be initiated against any officer who allegedly:

- fails to inform any civilian who indicates a desire to file a complaint of the means by which a complaint may be filed;
- attempts to dissuade a civilian from filing a complaint; or
- refuses to accept a complaint.

²⁰ From a sample of 2,168 complaints, using a confidence level of 95% and error rate of plus or minus 10%.

²¹ This special request was prompted by recently tabulated information that indicated a 37% decrease in the number of complaints initiated during the period January 1, 2003 through February 28, 2003 versus the same time period in 2002.

²² The Monitor is scheduled to conduct its review in May 2003.

Background

The Monitor last evaluated paragraph 75 in the quarter ending December 31, 2002. At that time, the Monitor withheld its determination of compliance for several reasons, the most prominent of which was the Monitor's conclusion that the methodologies adopted by the Monitor, the LAPD and the DOJ were inadequate for testing compliance with this provision.

Current Assessment of Compliance

During the current period of review, the Monitor considered querying the LAPD to produce a listing of complaints wherein officers are alleged to have either refused to document a civilian complaint or to have dissuaded a civilian from filing a complaint. Unfortunately, these complaints are not easily retrieved because they are classified as "neglect of duty" along with multiple unrelated complaint investigations.

Historically, the LAPD's EES conducted sting operations to determine whether or not officers were performing their duties and accepting complaints. The Monitor has reviewed these audits and concluded that in all instances officers properly completed complaint material.

As discussed in paragraph 74, recent events alleging that complainants were discouraged from filing complaints prompts the Monitor to withhold its determination of compliance pending a review of the results of EES audits conducted in April 2003.

D. CONDUCT OF INVESTIGATIONS

Overview

The Consent Decree provides a series of specific instructions relating to the conduct of complaint investigations. These instructions are published in the LAPD Guide for Supervisors dated October 2000. Among other things, the Guide instructs Chain of Command (COC) investigators to interview supervisors with respect to their conduct at the scene of an incident and prohibits the practice of conducting group interviews.

During the quarter ending December 31, 2002, the Monitor assessed for the first time the Department's compliance with requirements for conducting NCUOF investigations.

The Monitor's evaluation during the current quarter entailed a review of completed CUOF, COC, and Collateral Misconduct Investigations.

The results of our current assessment follow.

Paragraph 79 – IAG Review of Complaint Face Sheets

Paragraph 79 requires the LAPD to document and forward all complaints to the IAG for review and investigative assignment, within ten days of receipt, pursuant to paragraphs 93, 94 and 95.

Background

The last assessment of compliance for paragraph 79 occurred during the quarter ending September 30, 2002. At that time, the Monitor reviewed a sample of complaint investigations that were completed during the period July 1, 2001 through June 30, 2002. The population of complaints used to assess compliance was limited due to a computer malfunction. Nevertheless, for those complaints reviewed, the LAPD was found to be in non-compliance with paragraph 79.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received a listing of all complaints initiated during the period July 1, 2002 through December 31, 2002. Information requested included the unique complaint file number, the date reported to the LAPD, the date documented by the LAPD and the date received by the IAG.

The list provided by the LAPD comprised approximately 2,168 complaints received during the period July 1, 2002 and December 31, 2002. A random sample of 93 complaints were selected and submitted to the LAPD for the production of complaint face sheets and attachments, which identified the dates needed for testing compliance.

For the 93 complaint face sheets reviewed for the period July 1, 2002 through December 31, 2002, the LAPD was found to be in compliance with paragraph 79 for only 84 complaints.²³ This translates into a compliance rate of approximately 90%. As such, the LAPD continues to be in non-compliance with paragraph 79.

Paragraph 80i – CUOF Incident Investigations

This paragraph 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;

²³ The Monitor noted 13 preventable traffic collisions, 2 failures to qualify and two CUOF complaint investigations that identified the date of the incident as the reportable date. These dates do not represent the date the matter was referred as a complaint. As such, they were excluded from the calculation of compliance.

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

For reporting purposes, the Monitor has broken paragraph 80 down into two subparagraphs: 80i, which relates to CUOF investigations, and 80ii, which relates to complaint investigations. All subsections apply to CUOF incident investigations except subsection (d).

Background

In the Monitor's Report for the Quarter Ending September 30, 2002, the LAPD was found to be in compliance with sections 80i(b), 80i(c), 80i(e) and 80i(g) and in non-compliance with sections 80i(a) and 80i(f).

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 42 completed CUOF incident investigations submitted to the OIG and the Police Commission. Twenty-six (26) investigations involved OISs, while the remainder consisted of LERIs, In-Custody Deaths (ICDs), Head Strikes with an Impact Weapon, Law Enforcement Activity Related Deaths (LEARs), Neck Restraints and 1 Dog Bite.

The Monitor noted no instances of non-compliance with sections 80i(a), 80i(b) and 80i(c) for the 42 completed CUOF incident investigations.

While reviewing compliance with section 80i(e), the Monitor noted that for two separate incident investigations, interviews of on-scene supervisors were not conducted, despite the fact that they had responded to and remained at the scene. Notwithstanding these two instances, the LAPD remains in compliance with this section of the Consent Decree with regard to CUOF incident investigations.

With regard to sections 80i(f) and 80i(g), the Monitor's review noted that 41 of the 42 incidents reviewed met Consent Decree criteria. For the one non-compliant incident, two officers separately made statements that they immediately recanted. Although the recanted statements

dealt specifically with officers' actions and a suspect's statement regarding a head strike incident, CIID investigators failed to ask additional or follow-up questions.

Despite the isolated instances of non-conformance described above, the Monitor finds the LAPD to be in overall compliance with sections 80i(f) and 80i(g) with regards to CUOF incident investigations.

Paragraph 80ii – Complaint Investigations

This paragraph 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;
- 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 complaint investigations.

Background

Paragraph 80ii was last assessed during the quarter ending September 30, 2002, at which time, the Monitor found the LAPD to be in compliance with sections 80ii(b), 80ii(c), 80ii(e) and 80ii(g) and in non-compliance with sections 80ii(a) and 80ii(f).

Current Assessment of Compliance

During the current quarter, the Monitor requested and received a listing of complaint investigations completed during the period July 1, 2002 through December 31, 2002. In total,

2,459 complaint investigations were noted in which the allegations and subsequent investigation post-dated the Consent Decree.

Using a stratified random sample, the Monitor determined that approximately 21 IAG investigations should be reviewed to assess the LAPD's compliance with paragraph 80ii.²⁴

The Monitor's review determined that the LAPD was in non-compliance with 80ii(a), 80ii(c), 80ii(d) and 80ii(f):

- For 5 of the 21 incidents reviewed, interviews were not taped.²⁵
- For at least 3 of the investigations²⁶, group interviews took place.
- For 4 of the 21 investigations, witnesses were identified who were not interviewed.
- For 11 of the 21 investigations, the Monitor was unable to determine whether or not the involved officers' supervisors were notified of the complaint and pending investigation.

Most of the investigations identified above as non-compliant in one category were also non-compliant in the other categories.

The Monitor identified minimal issues of non-compliance with respect to 80ii(b), 80ii(e), and 80ii(g).

Paragraph 81 – COC and NCUOF Investigations

Paragraph 81 requires that certain IAG investigation guidelines in paragraph 80 must also apply to COC investigations and NCUOF²⁷ administrative investigations. These guidelines include the directives to interview witnesses separately and to properly collect and preserve evidence.

Background

The Monitor last reviewed paragraph 81 with regard to complaint investigations during the quarter ending December 31, 2002. At that time, the Monitor withheld compliance due to the limited number of completed complaint investigations, none of which were completed by COC investigators.

²⁴ A total sample size of 182 investigations was calculated, of which 21 were required to be IAG completed investigations.

²⁵ For one investigation reviewed, the officer against whom the complaint was lodged refused to have his interview taped. He subsequently resigned from the LAPD prior to the adjudication of the completed investigation. For the other four investigations, witness interviews were not taped.

²⁶ For one investigation it was unclear as to whether or not a group interview took place.

²⁷ The Monitor is scheduled to review NCUOF investigations during the quarter ending June 30, 2003.

Current Assessment of Compliance

The Monitor selected 182 completed complaints for review during the current quarter. 161 of these complaints were completed by COC investigators. In reviewing complaint investigations, the Monitor attempted to determine whether or not, based on the information provided, one could reasonably conclude that interviews were conducted separately, evidence was collected and preserved, and witnesses were sought.²⁸

Given these parameters, the Monitor found that at least one requirement of paragraph 81 was not fulfilled in 16 of the 161 completed complaint investigations reviewed. This translates into a compliance rate of 90.1%. For 15 of the 16 investigations, non-compliance was attributed to either evidence not being collected or witnesses not being interviewed, or a combination thereof.

For 3 of the 161 investigations, the Monitor could not determine whether or not group interviews were prohibited. Additionally, a supervisor was present at the scene for 19 of the sample incidents and on 3 of these occasions was not interviewed.

Based on this analysis, the Monitor finds the LAPD to be in non-compliance with paragraph 81.

Paragraph 82 – Collateral Misconduct Investigations

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

Background

The LAPD issued Special Order 39 Section IX(B)(4), dated December 11, 2001, which reiterates the LAPD's policy in compliance with paragraph 82.

In the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor withheld a determination of compliance for paragraph 82 due to the limited number of complaint investigations provided, none of which included the identification of possible additional unrelated misconduct.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received a listing of 2,459 completed complaint investigations that were initiated and investigated since the inception of the Consent

²⁸ The Monitor was cognizant that not every investigator would necessarily document that group interviews were prohibited, or that all avenues were exhausted in locating witnesses. In fact, most investigations did not contain this specific verbiage.

Decree. Using statistical sampling, the Monitor selected a random sample of 182 complaint investigations for review, weighted by Division and the IAG. Of those 182 complaint investigations, two correctly generated additional unrelated complaint investigations. Of the remaining 180 complaint investigations, there was one investigation for which the Monitor determined a separate complaint investigation should have been initiated.²⁹

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

E. ADJUDICATING INVESTIGATIONS

Overview

The Consent Decree mandates that misconduct complaints be adjudicated in a fair, timely and consistent fashion. The adjudication process begins when the Commanding Officer makes a recommendation for appropriate disciplinary action. This recommendation is forwarded to the Bureau Commanding Officer.³⁰ The Bureau Commander reviews the recommended action and forwards the complaint file to the Review and Evaluations Unit (REU) of the IAG and then to the Chief of Police for final determination. At any stage in this process, the complaint may be returned to the field for further investigation.

The Monitor last reviewed this section in its Report for the Quarter Ending September 30, 2002.

During the current quarter, the Monitor reviewed all aspects of the adjudication phase of the complaint process.

The results of our current assessment follow.

Paragraph 84 – Standards for Credibility Determinations

Paragraph 84 requires that when adjudicating a completed complaint investigation, the following apply:

- Use of Standard California Jury Instructions to evaluate credibility;
- Consideration of the accused officer's history and disciplinary records where relevant and appropriate;

²⁹ In this instance, the complaint investigation identified inconsistencies in statements by an officer, unrelated to the basis of the original complaint, which did not prompt an additional complaint investigation despite several levels of review.

³⁰ Complaints investigated by the IAG are referred to the appropriate COC officer for adjudication and ultimately for review within the IAG by the Review and Evaluation Unit.

- Consideration of the civilian's criminal history, where appropriate;
- No automatic preference of an officer's statement over the statement of any other witness, including the complainant;
- No automatic judgment of insufficient information to make a credibility determination when only conflicting statements exist; and,
- No automatic rendering of a witness statement as biased or untruthful given a familial or social relationship.

Background

The Monitor last reviewed paragraph 84 during the quarter ending September 30, 2002, at which time, the LAPD was found in non-compliance. The Monitor's review established that the LAPD had failed to document why civilian criminal histories were not considered during the adjudication phase. The Monitor recommended that complaint investigations include rationale for not considering officer or civilian histories during the adjudication phase.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 182 complaints. The Monitor, based on its independent review concluded that for 4 of the 182 complaints, undue preference was given to the officer against whom the complaint was alleged. Additionally, the civilian's criminal history and the officer's history were not included in 35 and 15 of the investigations, respectively. The Monitor recognizes that verbiage contained in this paragraph requires the LAPD to consider histories, where applicable. However for each of these investigations, the complaint investigations failed to adequately address why the histories were not considered. For these 50 investigations, no pattern of exclusion was identified.

Based on this analysis, the Monitor finds the LAPD in non-compliance with paragraph 84.

Paragraph 85 – Adjudication of Complaint Form 1.28 Investigations

Paragraph 85 requires that all complaints be adjudicated using a preponderance of evidence standard³¹ and, wherever supported by evidence collected, complaints shall be adjudicated as follows:³²

³¹ In the LAPD's *Management Guide to Discipline*, dated January 2002, preponderance is defined using the *Black's Law Dictionary* as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity from knowledge, information possessed, and manner of testifying determines the weight of testimony."

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

No complaint may be closed without a final adjudication.

Background

The Monitor last reviewed paragraph 85 during the quarter ending September 30, 2002. The LAPD was found to be in compliance.

Once a complaint investigation is complete and enters the adjudication stage, it remains subject to review by LAPD management, the REU of the IAG, the Administrative Division of the IAG and the OIG. At any of these levels, the evidence collected may be reviewed and critiqued.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 182 completed complaint investigations to determine whether or not the LAPD remained in compliance with paragraph 85. In doing so, the Monitor used the LAPD's Management Guide to Discipline, dated January 2002, as a reference. Specifically, the Monitor consulted page 55 of this booklet, entitled Adjudicator's Confidential Work Sheet, which contains a grid that permits the adjudicator to list each subject of the investigation. To the right of each subject are boxes that represent each allegation. Within each box, the adjudicator is directed to enter letters that best describe the evidence collected as it relates to each allegation and subject. The letters and their corresponding significance are as follows:

- S – Supports
- TS – Tends to support
- N – Neutral
- R – Refutes

³² The LAPD also adjudicates complaint investigations as "Insufficient Evidence to Adjudicate," "Other Judicial Review" and "Withdrawn by the Chief of Police." These additional dispositions represent a continuation of LAPD policy and new policy released during October 2001.

- TR – Tends to refute
- NP – Not present
- D – Denies
- A – Admits

Also included on the worksheet is the Black's Law Dictionary definition of preponderance of evidence. The worksheet is also provided to aid the investigator in documenting rationale in the Letter of Transmittal incorporated into the complaint investigation package.

For all but five investigations, based on the Monitor's independent evaluation, the accused officer's Commanding Officer was found to have used the preponderance of evidence standard. And for all but 13 investigations³³, the LAPD adjudicated the investigation using one of the seven listed Consent Decree resolutions.³⁴ For instances in which none of the seven listed resolutions were used, no pattern was discernable.

Based upon this analysis, the Monitor finds the LAPD to be in continued compliance with paragraph 85.

Paragraph 86 – Withdrawal/Anonymous Complaint Investigations

Paragraph 86 mandates that where complaints are withdrawn, filed anonymously, filed by a person other than the victim of misconduct, or in cases whereby the complainant is unavailable to make a statement, the LAPD use reasonable efforts to investigate complaints to determine whether they can be corroborated.

Background

The LAPD issued Administrative Order 12, entitled "Investigating a Personnel Complaint and Evaluating Witness Credibility," dated August 29, 2001 and approved September 25, 2002, and Special Order 36, which reiterate the requirements of paragraph 86.

The Monitor last attempted to assess compliance with this paragraph during the quarter ending September 30, 2002. However, determination of compliance was withheld due to a limited population of complaint investigations to review.

³³ For those 13 investigations, the evidence or lack thereof, supported the LAPD's use of the non-favored resolutions.

³⁴ Eight investigations were adjudicated as "Insufficient Evidence to Adjudicate," two were adjudicated as "Other Judicial Review," two were adjudicated as "Policy/Procedure," and one as "Withdrawn by the Chief of Police."

Current Assessment of Compliance

The Monitor selected and reviewed 182 completed complaint investigations from a population of 2,459. Of the 182 selected, paragraph 86 was applicable to approximately 18 completed complaint investigations.

Members of the monitoring team obtained and reviewed all 18 investigations, in their entirety, to determine whether or not the assigned investigator made reasonable efforts to determine whether the complaint could be corroborated. For all but one,³⁵ it was determined that the investigator had completed as thorough an investigation as possible given the circumstances. For all but five³⁶ investigations, the LAPD gathered sufficient information to adjudicate the investigation as required by paragraph 85.

Based upon this analysis, the Monitor finds the LAPD to be in compliance with paragraph 86.

Paragraph 87- Timeliness of Complaint Investigations

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

Background

The methodologies require that greater than 50% of all complaint investigations be completed within at least 150 days. For those complaint investigations that are identified as not particularly complex, the methodologies require that greater than 75% be completed within at least 150 days. The Monitor interprets this to mean that greater than 75% of all COC investigations must be completed within at least 150 days and greater than 25% of all IAG investigations must be completed within at least 150 days.

In the Monitor's Report for the Quarter Ending September 30, 2002, the LAPD was found to be in compliance with paragraph 87. That same report also identified the LAPD's ongoing efforts to identify areas of improvement in the complaint process. During the current quarter, Special Order No. 1, dated January 1, 2003 entitled *Department Complaint Process - Revised* was issued. It is designed to, among other things, "hasten resolution of minor complaints, hasten response to

³⁵ For the one investigation in question, it was determined that verification of the accused officer's statements did not occur even though it was deemed easily accomplished by the Monitor. In this instance, such verification may have influenced the investigation's adjudication.

³⁶ Three were adjudicated as "insufficient evidence to adjudicate," one was "withdrawn" and one is discussed under the previous footnote.

complainants and appropriately and better utilize existing police resources.” However, it postdates the complaints selected for testing during the current quarter.

Current Assessment of Compliance

The Monitor selected and reviewed 182 completed complaint investigations from a population of 2,459. The sample selected was weighted according to the total number of COC investigations in the population versus the total number of IAG investigations. The timeliness of the investigations selected for review is summarized in the following chart:

	<u>COC</u> <u>Investigations</u>	<u>IAG</u> <u>Investigations</u>	<u>Total</u>
Number of Investigations Reviewed	161	21	182
Investigations Conducted within 150 Days	95	10	105
Percentage	59.01%	47.62%	57.69%

The compliance rate for all investigations (COC and IAG combined) exceeded 51%; the compliance rate for IAG investigations exceeded 25% and the compliance rate for COC investigations fell short of 75%. These findings are consistent with internal data generated by the LAPD’s IAG that tracks completed complaint investigations.

As an additional measurement of compliance, the Monitor conducted an analysis of all complaints initiated³⁷ during the period April 1, 2002 through July 31, 2002. The Monitor analyzed this information by first identifying those investigations that were completed in excess of the 150 day requirement, or those that remained open as of the production of information. The Monitor calculated total investigation time in days as the number of days elapsed between the date the complaint was *reported* and the date the investigation was completed.³⁸

In total, 1,888 investigations were listed, of which 993 were completed within 150 days. This translates into an overall compliance rate of approximately 52.60%.

Of the 1,888 complaints initiated, 503 were assigned to IAG and the remaining 1,385 were assigned to COC investigators. Only 127 of the 503 investigations assigned to IAG were completed within 150 days. This translates into a compliance rate of approximately 25.2%. 164

³⁷ As opposed to completed complaint investigations.

³⁸ The Monitor disagrees with the LAPD’s method of calculation, which begins when the complaint face sheet is completed, as opposed to the day the complaint was reported, and encourages the LAPD to adopt the Monitor’s process for calculating compliance.

of the investigations, representing 32.6% of those assigned to IAG, remained open. The Monitor noted that the following Sections are experiencing difficulty in achieving compliance:

<u>Section</u>	<u><150 days</u>	<u>>150 days</u>	<u>Pending</u>	<u>% in Compliance</u>
IAG- Investigations	0	1	1	0.00%
IAG-Central	23	74	39	23.71%
IAG-Family Violence	4	24	10	14.29%
IAG-Special Operations	10	57	34	14.93%
IAG-South	19	63	31	23.17%

A total of 1,385 investigations were assigned to COC investigators during this same time period. A total of 519 were not completed within 150 days of being reported. This translates into a compliance rate of approximately 62.53%. Of the 519 not completed within 150 days, 225 remained open as of the Monitor's analysis. The Monitor noted the following Divisions appear to be experiencing difficulty in achieving compliance:

<u>Division</u>	<u><150 days</u>	<u>>150 days</u>	<u>Pending</u>	<u>% in Compliance</u>
77th	34	41	11	45.33%
Harbor	13	23	14	36.11%
Hollywood	44	44	18	50.00%
Jail	3	11	8	21.43%
Metro	8	11	6	42.11%
Newton	21	22	15	48.84%
PC	3	3	3	42.86%
RHD	4	4	2	50.00%
Southeast	17	24	12	41.46%
Southwest	39	41	23	48.75%
Training	1	2	0	33.33%
Wilshire	42	54	26	43.75%

Based upon the analyses above, specifically the poor completion performance of COC, the Monitor finds the LAPD to be in non-compliance with the provisions of paragraph 87.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

Overview

It is mandated by the Consent Decree that the Chief of Police report to the Police Commission his impositions of discipline during each calendar quarter. It is also required that a copy of the report be forwarded to the Inspector General (IG), who is required to review, analyze and report on each Quarterly Discipline Report (QDR) to the Police Commission. The Police Commission, in turn, is mandated to review the QDR with the Chief of Police and assess the appropriateness of the Chief of Police's actions.

During the preceding and current quarters, the Monitor reported on modifications made by the LAPD to their discipline report database, as well as the IG and Police Commission's review of the QDR.

During the current quarter, the Monitor assessed managers' reviews of Complaint Form 1.28 Investigations, notifications to the complainants of complaint resolutions, and the Department's anti-retaliation policy.

The results of our current assessment follow.

Paragraph 88 – Chief of Police Report on Discipline

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

Background

As described in previous quarterly reports³⁹, both the Monitor and the DOJ have expressed concerns about the timeliness of information presented in the QDR and the manner in which discipline imposed was broken down [paragraph 88(a)]. The Monitor has had ongoing discussions with LAPD personnel concerning the timeliness issue. In addition, the DOJ has expressed concern that the monthly reports on Administration of Internal Discipline, which are attached to the QDRs, did not contain the level of detail required by the Consent Decree.

During the quarter ending September 30, 2002 the Department revised the QDR to include more detail concerning the manner in which discipline imposed was broken down. During the quarter ending December 31, 2002, the LAPD made significant improvements to the discipline report

³⁹ The Monitor's Reports for the Quarters Ending March 31, 2002 and September 30, 2002.

database permitting the entry of complaint summaries and the capture of this information to allow for more detailed reporting in future QDRs.

Current Assessment of Compliance

Timeliness

During the current quarter, the Monitor continued its discussions with LAPD personnel concerning the timeliness of the information included in the QDR.

As of February 19, 2003, 4,606 open complaint cases were being tracked by the Department's Complaint Information System (CIS). The status of 2,384 of those cases was "open/pending investigations." 747 cases were at the OIG pending review. A total of 815 cases were in various stages of review. 363 cases were at the Advocate Office. A total of 297 cases were "kicked back" for Skelly hearings, supplemental investigation, reply letters, et al.

The Monitor determined that as the status of complaint cases change, a chronology maintained in the CIS for each case as it progresses through the complaint process is updated. However, only status change information is tracked during the process. Penalty information is not entered until the case is closed.

When complaint investigations are completed, they are forwarded to IAG by the respective Bureau Chiefs with recommendations as to disposition and any penalty recommendations, if appropriate. The CIS chronology for each case is updated by the Administrative Records Section (ARS) to reflect a status change from "investigation" to "review" and the cases are sent to the REU for review. Although penalty information for sustained complaints is available, this information is not input at this time.

Complaint cases involving sustained complaints and penalty recommendations of Official Reprimand or more severe are forwarded by the REU to the Chief of Police for his review. Complaint cases involving sustained complaints and penalty recommendations of Admonishment or less severe are not forwarded by the REU to the Chief of Police unless the REU disputes the recommendations of a Bureau Chief. For each case forwarded to the Chief of Police, the REU makes recommendations concerning whether to adopt the findings and penalties recommended by the Bureau Chief.

After review by the Chief of Police, complaint cases are returned to the REU and the CIS chronology for each case is updated by ARS. ARS inputs the date the case was returned and the Chief's recommendation as to further disposition. If the Chief agrees with the recommendations of the REU for a particular case, the chronology for that case is updated to show "to REU for closeout." Although penalty information is available, this information is not input at this time. If the Chief of Police does not concur with the recommendations of the REU for a particular case, the chronology for that case is updated to show the Chief of Police's concerns and recommendations as to further action.

Paragraph 88 is clear that discipline should be captured for reporting purposes in the quarter in which it is imposed. However, as the CIS is currently configured, penalty information is not captured until the complaint case is closed, even though such is available during the complaint process. Accordingly, the Monitor's previously-stated concerns regarding the timeliness of information presented in the QDR remain unresolved.

As a result of the Monitor's current review of the CIS, potential modifications to the system need to be studied to enhance timely reporting of discipline. Additionally, the Monitor is studying the impact that cases pending review at the OIG have on the Department's timely reporting of discipline.

Narrative Summaries

The QDR for the 4th quarter of 2002 was prepared and forwarded to the Police Commission during the current quarter. The monthly reports on Administration of Internal Discipline attached to the Report contained complaint summaries for all sustained complaints closed during the months of October, November, and December 2002, excluding Failure to Qualify, Failure to Appear, Preventable Traffic Accident, and complaints against unknown employees.

The Monitor finds the Department in compliance with the provision of paragraph 88 that requires the same level of detail as "included in the August 1999" Report on Administration of Internal Discipline. Although the LAPD is moving closer towards compliance with all of the requirements of paragraph 88, at this time the Monitor finds the LAPD in functional non-compliance regarding the timeliness of information presented in the QDR.

Proposed Recommendations

The Executive Summary in the QDR for the 4th quarter of 2002 contained a table showing "Complaints Received" during the quarter equal to 1,699. To maintain consistency, this should be restated to say "Complaints Closed" since IAG is reporting complaints closed during the quarter and not complaints received during the quarter.

The Executive Summary also contained a table showing employees having sustained allegations totaling 613. However, the report showed a figure of 615. A similar discrepancy was noted for sustained allegation totals in the 2nd Quarter 2002 Discipline Report. It is recommended that the Department review future reports for these types of discrepancies.

Paragraph 89 – Inspector General and Police Commission Review

Paragraph 89 requires the IG to review, analyze, and report to the Police Commission on each QDR. The Police Commission must review the QDR with the Chief of Police and make an assessment of the appropriateness of the Chief of Police's actions, specifically with respect to CUOFs.

Background

As reported in the Monitor's Reports for the Quarters Ending September 30, 2002 and December 31, 2002, the Monitor has found lacking the Police Commission's written assessments of the discipline imposed by the Chief of Police pertaining to CUOF cases. Consequently, the Police Commission has been in functional non-compliance with this provision of the Consent Decree.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the IG's review of the fourth quarter 2002 Discipline Report. In addition to his normal review, the IG focused on comparing sustained rates for those employees at the rank of Lieutenant or above with sustained rates for those employees below the rank of Lieutenant. The report noted that the sustained rate for employees at the rank of Lieutenant and above was nominal when compared to the sustained rate for employees below the rank of Lieutenant. However, the report also noted that the discrepancy in sustained rates could be due to the different types of responsibilities imposed on different ranks and the frequency and differing types of contacts with the public.

Each quarter, the Police Commission discusses discipline issues with the Chief of Police in closed session and prepares a written summary of the discussions. Included in the summary is the Police Commission's assessment of the appropriateness of the disciplinary actions taken by the Chief of Police. The assessments are used in the annual evaluation of the Chief of Police.

Discussion of the Department's Discipline Report and the IG's review of that report was scheduled for the Police Commission meeting on March 25, 2003. The Monitor has not had the opportunity to review the Commission's written assessment of that meeting.

The Monitor finds the IG in functional compliance with the provisions of paragraph 89 concerning review, analysis, and reporting to the Police Commission. However, the Monitor withholds determination of compliance with the provisions of this paragraph concerning the Police Commission's review and written assessments of the discipline imposed by the Chief of Police.

Paragraph 90 – Manager Review of Complaint Form 1.28 Investigations

The LAPD is required to continue its practice of having managers⁴⁰ evaluate all complaint investigations and identify any underlying problems and/or training needs. Recommendations or actions, if any, shall be implemented by the manager or referred to the appropriate entity for implementation.

⁴⁰ Paragraph 29 of the Consent Decree defines a manager as an LAPD supervisor at the rank of captain or above.

Background

The Monitor last assessed the LAPD's compliance with this paragraph during the quarter ending September 30, 2002. At that time, the LAPD was found to be in compliance with paragraph 90.

Current Assessment of Compliance

During the current quarter, the Monitor selected 182 complaint packages for review. Complaint investigations were reviewed in their entirety for indications that a manager had evaluated the packages. For all but six investigations, the Monitor was able to conclude that a manager, at a minimum, signed as having reviewed the investigation and in some instances documented actions or recommendations. Although not contained in every package, some investigations included handwritten notes either requesting additional procedures or amending adjudication.

The Monitor noted that for a significant number⁴¹ of investigations in the sample reviewed, the manager failed to identify deficiencies. Specifically, managers failed to identify:

- Officers who were not interviewed during the course of an investigation;
- Notification letters to complainants that did not contain all required information;
- Certain interviews were not tape recorded, as required;
- Group interviews were permitted;
- All evidence was not collected; and,
- Untimely investigations.

These instances of non-compliance are described in the Complaint section of this report.

Based upon the analysis above, the Monitor finds the LAPD to be in non-compliance with paragraph 90.

Paragraph 91 – Complaint Resolution Notification

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

Background

The Monitor last reviewed paragraph 91 during the quarter ending September 30 2002. At that time, the Monitor found the LAPD to be in non-compliance with paragraph 91.

⁴¹ See write-ups for paragraphs 80, 81, 87 and 91.

Current Assessment of Compliance

The Monitor selected and reviewed 182 completed complaint investigations from a population of 2,459. Complaint packages were reviewed in their entirety in order to understand the exact complaint, significant dates of the investigation, investigative steps undertaken by either COC investigators or IAG investigators and, finally, the disposition. Once these steps were completed, correspondence⁴² with complainants was reviewed and assessed for adequacy.⁴³

For 45 of the 182 complaint investigation packages reviewed, the Monitor determined that at least one requirement of paragraph 91 was not satisfied. In most of these instances more than one requirement was not satisfied. The areas where non-compliance was most prevalent were failing to document all significant dates of the investigation and failing to adequately document the general allegations of the complaint.

Based upon this analysis, the Monitor finds the LAPD to be in continued non-compliance with paragraph 91.

Paragraph 92 – Review of Anti-Retaliation Policy

Paragraph 92 states that the City and the LAPD shall prohibit retaliation against any employee for reporting misconduct. The Police Commission is required to annually review the Department's anti-retaliation policy and its implementation. The Commission is required to make modifications as appropriate to protect officers from reprisals for reporting misconduct. The Commission's review of such policy and its implementation shall consider the discipline imposed for retaliation and supervisors' performance in addressing and preventing retaliation.

Background

The Monitor has previously reviewed the Department's Anti-Retaliation Policy and related documentation provided to the Police Commission but has not assessed compliance with paragraph 92 until the current quarter. The Department provided the Commission with a detailed report on the Department's anti-retaliation policy, training, disciplinary investigations and final dispositions. The Department committed to providing this information annually in March of each year and to include "supervisory insights regarding the identification and prevention of workplace retaliation." A draft notice regarding supervisory performance in addressing and preventing retaliation was begun.

⁴² Correspondence with complainants generally involved the mailing of a letter. In some instances, letters were mailed return receipt.

⁴³ For "Department" initiated complaint investigations, paragraph 91 was deemed not applicable. However, if a specific Department employee initiated the complaint, paragraph 91 was deemed applicable.

Current Assessment of Compliance

On February 26, 2003, the LAPD submitted to the Police Commission its annual report regarding its review of the Department's Anti-Retaliation Policy. The Police Commission requested more information concerning supervisory performance in addressing and preventing retaliation. The report was re-considered at the Police Commission meeting on March 18, 2003 and referred to the IG for review and comment. The IG's report is expected to be discussed at the April 15, 2003 meeting of the Police Commission.

The Monitor withholds determination of functional compliance with the provisions of Paragraph 92 pending the IG's report and the Police Commission's action.

G. INTERNAL AFFAIRS GROUP

Overview

The IAG has oversight responsibility to manage all complaints filed against LAPD officers. Historically, the overwhelming majority of the complaints filed were investigated by COC supervisors. While this is still true under the Consent Decree, the Decree mandates that certain categories of cases -- including unauthorized use of force; unlawful search or seizure; dishonesty; domestic violence; and discrimination -- be handled directly by IAG.

The Consent Decree also outlines certain best practices with respect to complaint procedures and provides for a transition period to accomplish the reassignment of personnel to IAG. The Department has made progress in filling its vacancies and anticipates that all authorized positions will be filled by the end of 2003.

For the quarter ending December 31, 2002, the Monitor focused attention on administrative requirements of the Consent Decree relative to complaint investigations, namely the staffing, training and evaluation requirements of the Internal Affairs Division (IAD). The Monitor also reviewed the LAPD's EES, which is responsible for conducting Sting Audits of officers identified as potentially high risk.

During the current quarter, the Monitor assessed compliance with the Consent Decree requirement that complaint investigations be reallocated between IAG and COC supervisors, as well as the requirement that certain misconduct complaints be completed solely by IAG.

The results of our current assessment follow.

Paragraph 93 – Complaint Investigations Handled by IAG

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

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

Background

The Monitor last reviewed compliance with paragraph 93 during the quarter ending September 30, 2002. At that time, the Monitor found the LAPD to be in compliance with this provision of the Consent Decree.

As of December 31, 2002, the LAPD was required, pursuant to paragraph 95, to have transitioned all of the above categories from COC investigative responsibility to the IAG.

Current Assessment of Compliance

The Monitor requested and received a listing of all complaints initiated during the period July 1, 2002 and December 31, 2002. Information requested included the unique complaint file number, the date reported to the LAPD and the date received by the IAG.

The LAPD provided a listing of approximately 2,168 complaints. A random sample of 93 complaints were selected and submitted to the LAPD for the production of complaint face sheets and attachments, which identified the assignment of the complaint to either COC investigators or the IAG.

The complaints and attachments were reviewed for proper assignment pursuant to the LAPD's transition plan. Eighty-nine of the 93 complaint face sheets and attachments were in compliance with the provisions of paragraph 93.⁴⁴

⁴⁴ Two of the four complaints not properly assigned alleged unlawful arrest and the remaining two alleged retaliation.

Based upon this analysis, the Monitor finds the LAPD to be in compliance with paragraph 93.

Paragraph 94 – Additional Complaint Investigations Handled by IAG

Paragraph 94 requires that IAG, and not COC supervisors, investigate the following:

1. All incidents in which both a civilian is charged by an officer with interfering with a police officer, resisting arrest, or disorderly conduct, and the prosecutor's office notifies the LAPD either that it is dismissing the charge based upon officer credibility or a judge dismissed the charge based upon officer credibility;
2. All incidents in which the LAPD has received written notification from a prosecuting agency in a criminal case that there has been an order suppressing evidence because of any constitutional violation involving potential misconduct by an LAPD officer, any other judicial finding of officer misconduct made in the course of a judicial proceeding or any request by a federal or state judge or magistrate that a misconduct investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate;
3. All incidents in which an officer is arrested or charged with a crime other than low grade misdemeanors, as defined in the LAPD manual, which shall be investigated by COC supervisors; and,
4. Any request by a judge or prosecutor that a misconduct investigation be initiated pursuant to information developed during the course of an official proceeding in which said judge or prosecutor has been involved.

Background

The Monitor attempted to assess the LAPD's compliance with this provision for the first time during the quarter ending September 30, 2002. Due to the limited number of complaint investigations that qualified for consideration, the Monitor withheld a determination of compliance.

Current Assessment of Compliance

During the current quarter, the Monitor requested that the LAPD provide a listing of all complaints initiated during the period July 1, 2002 through December 31, 2002 that alleged any of the criteria stipulated in paragraph 94. The LAPD responded that a query of its CMS database determined that no complaints were initiated during this period for criteria delineated for items 1, 2 and 4 above.

The LAPD did provide a listing of three complaint investigations initiated during the prescribed time period that met the criteria as defined under number 3 above. The Monitor noted, via a

review of the pending investigations' chronological investigation logs, that all three investigations were assigned to and were being investigated by supervisors assigned to the IAG.

Based upon the analysis described above, the Monitor finds the LAPD to be in compliance with the provisions of paragraph 94.

Paragraph 101 – Referral of Criminal Conduct

Paragraph 101 requires the LAPD to refer all incidents involving LAPD officers with facts indicating criminal conduct to appropriate criminal prosecutorial authorities.

Background

As of the implementation of the Consent Decree the Los Angeles District Attorney's Office had established a documented protocol for referral of alleged criminal misconduct by law enforcement personnel.⁴⁵ As documented in the protocol, the Justice System Integrity Division was established with the responsibility of reviewing all allegations of criminal misconduct.

The LAPD contended that its current practice was to refer to the appropriate criminal prosecutorial authorities all incidents involving LAPD officers with facts indicating criminal conduct and that it would also issue additional policy that would be based upon the District Attorney's protocol.⁴⁶

Historically, the LAPD referred complaint investigations that were "sustained" and contained prima facie evidence of criminal misconduct. During mid-2000 the IG raised concern over this referral policy and questioned whether or not a complaint that was adjudicated as not resolved should still be referred to a prosecutorial authority. In response, during the last six months of 2002 the LAPD commenced referring both "sustained" and "not resolved" completed complaint investigations containing prima facie evidence to the District Attorney. The LAPD anticipates issuing a Special Order that specifically addresses referrals to prosecutorial authorities in the very near future.

Current Assessment of Compliance

During the quarter ending March 31, 2002, the LAPD was requested to produce a listing of all completed complaint investigations for the period July 1, 2002 through December 31, 2002.

⁴⁵ *Protocol for the Referral of Allegations of Criminal Misconduct by Law Enforcement Personnel to the Los Angeles County District Attorney*

⁴⁶ LAPD Manual Section 2/214.22

This listing included 2,459 complaint file numbers⁴⁷ of which a sample of 182 was statistically calculated and randomly selected.⁴⁸ These investigations were produced for the Monitor's review. The sample yielded 59 sustained complaint investigations of which none, appropriately, were referred to the Los Angeles County District Attorney.⁴⁹

The LAPD was requested to produce a listing of all cases submitted to Prosecutors for the period July 1, 2002 through December 31, 2002. In total, 50 cases were submitted to the Los Angeles County District Attorney of which 42 were rejected, 1 was filed and 7 were pending a decision. 25 of the 42 rejected matters were rejected due to insufficient evidence;⁵⁰ 3 were rejected for lack of corpus; 10 were rejected for other; 3 were rejected and referred to the City Attorney for misdemeanor consideration; and 1 was rejected in the interest of justice.

18 of these 50 complaint investigations were judgmentally requested for review along with printouts of notes as entered into the Complaint Tracking system.⁵¹ 2 matters were rejected by the District Attorney due to the expiration of the criminal statute. In both instances, the complaint was reported to the LAPD after the criminal statute expired. However, administratively both matters were adjudicated as sustained – one with no penalty and the other with an official reprimand. 15 matters were rejected due to insufficient evidence, and 1 was rejected in the interest of justice.

The Monitor finds the LAPD to be in compliance with paragraph 101.

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

Overview

The LAPD broadly prohibits discriminatory conduct. In particular, LAPD officers may not make pedestrian or vehicle stops based on race, color ethnicity or national origin, except when

⁴⁷ The Monitor excluded from the population those complaints that were initiated prior to the implementation of the Consent Decree.

⁴⁸ Weighted by assignment to a Division or the IAG.

⁴⁹ The majority of referrals are to the District Attorney's office, which may reject the referral yet forward it to the City Attorney's Office for additional consideration. During the period July 1, 2002 through December 31, 2002, approximately 50 matters were referred to the District Attorney's Office of which 5 were rejected and referred to the City Attorney's Office. 3 matters were rejected by the City Attorney and two resulted in Hearings. A Hearing is a forum in which a mediator, typically an attorney, hears both sides of the complaint investigation for disposition.

⁵⁰ These 24 matters involved a total of 33 officers. At least one involved officer was known to have resigned based on the results of the complaint investigation.

⁵¹ Notes entered into this system sometimes include a summary of the District Attorney's Office rationale for rejecting a case.

searching for a specifically described individual. The Consent Decree requires the LAPD to enforce these policies and mandates data collection as part of an effort that LAPD must undertake to determine whether racially biased stops are being made.

In previous quarters, the Monitor's main focus has been on the City's difficulty in its data collection efforts. The City has made great progress in this area, though we have withheld a determination of compliance pending a more extensive audit of the reliability of the data.

During the quarter ending December 31, 2002, the Monitor reviewed the first tranche of collected field data released under the Consent Decree and assessed the Department's enforcement of its non-discrimination policy through a review of completed racial profiling, gender bias and discrimination complaint investigations.

During the current quarter, the Monitor continued its assessment of the Department's non-discrimination policy, as well as the requirement that officers complete a written or electronic report each time they conduct a motor vehicle or pedestrian stop. In addition, the Monitor assessed the LAPD's efforts at analyzing the stop data. The lack of analysis of the data collected results in a finding of non-compliance with the non-discrimination requirement.

The results of our current assessment follow.

Paragraphs 102 and 103- Non-Discrimination Policy

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

Background

In previous quarters, the Monitor reviewed the LAPD's orders related to its non-discrimination policy and found the LAPD to be in primary compliance with the Consent Decree. The Monitor also reviewed the Department's training curriculum related to paragraphs 102 and 103⁵², and recommended that the LAPD incorporate interactive problem solving exercises.⁵³

⁵² Training on the non-discrimination policy is incorporated into the STOP database training, the Department's eight core curriculum classes, which include the Continuing Education Development Plan modules ("CEDP"), and Tools for Tolerance I and II.

⁵³ As reported in the Monitor's Report for the Quarter Ending December 31, 2002, based on a review of the written curriculum for CEDP Module V "Ethical Decision Making," the Monitor believes that the LAPD has satisfied this requirement. The Monitor will attend CEDP Module V training when it is next offered.

Current Assessment of Compliance

During the current quarter, the Monitor attended both CEDP Module VI, “Weapons of Mass Destruction”, and Tools for Tolerance II⁵⁴ training. Both training sessions included interactive problem solving exercises that thoroughly addressed issues involving discrimination with a particular emphasis on race. The Module VI training demonstrated to the Monitor that the LAPD is capable of creating and properly executing training that sufficiently instructs officers about biased policing and the Department’s commitment to prevent such practices.

Also during the current quarter, the Department released 6 months of field data collected from July 1, 2002 to December 31, 2002.⁵⁵ The data showed that African American and Hispanic drivers were more than three times as likely to be required to exit their vehicles by LAPD officers as were white drivers. It showed that African Americans were more than four times, and Hispanics more than three times as likely to be patted down by LAPD officers as Whites. The data also showed that Black drivers were almost six times, and Hispanic drivers more than 5 times as likely to be asked to submit to a search as white drivers.

The Monitor has previously stated his belief that the Consent Decree requires the City to attempt to analyze the stop data it received to determine whether the data indicate a violation of the Consent Decree’s non-discrimination provisions.

The City and the Department stated during a press conference following the release of the data on January 6, 2003 that they intended to contract with outside experts to analyze the data and determine what, if any, valid conclusions can be drawn from the data. In addition, they committed to dedicating internal resources to examine the data to try to understand the disparity in treatment. Despite these representations, the City has not, as of this date, released an RFP for data analysis nor have any other efforts to understand the discrepancies regarding treatment after the stop been made known to the Monitor.

Due to the City’s failure to attempt to analyze the stop data, the Monitor finds the Department in secondary non-compliance with paragraphs 102 and 103.

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 a pedestrian stop.

⁵⁴ Tools for Tolerance II, entitled “Racial Profiling Training,” is taught by the Museum of Tolerance. Every member of the Department is mandated by the State of California to attend this training by June 2004.

⁵⁵ The field data is collected from written reports filled out each time a motor vehicle or pedestrian stop occurs. The reports record, inter alia, the following information: the driver, occupant, or pedestrians’ apparent race, ethnicity or national origin; gender and age; reason for the stop; whether the driver or occupants of the car were required to exit; whether they were patted down or searched, the basis of the search, the outcome of the stop and results of the search.

Background

The Monitor last assessed compliance with paragraphs 104 and 105 in the quarter ending December 31, 2002, at which time, the LAPD was found to be in secondary and functional non-compliance.

Since the last quarterly report, the LAPD awarded the contract to develop and produce the electronic handheld field data capture device ("PODD") to Vytech. The City anticipates that officers will be utilizing the PODDs by the end of 2003.⁵⁶

Current Assessment of Compliance

Secondary compliance requires the Department to conduct an audit to measure whether officers are collecting the requisite field data and to ensure that the collected data accurately reflects field activity. Because no motor vehicle/pedestrian stop audit has been conducted, the Department remains in secondary non-compliance with paragraphs 104 and 105. The Monitor will assess training on the new field data report, another component of secondary compliance, in the Monitor's Report for the Quarter Ending June 30, 2003⁵⁷

To assess functional compliance, the Monitor conducted an audit of the field data report database, consisting of data collected from November 1, 2001 through December 31, 2002. As reported in the Monitor's Report for the Quarter Ending December 30 2002, approximately 180,000 reports completed between November 1, 2001 and June 30, 2002 have not been entered into the database; the Department would be required to expend extraordinary resources to identify the reports and scan them into the database. As a result of this fundamental flaw in the database, the Monitor's audit revealed an overall error rate of 9%.

Subsequent to this audit, the Police Commission approved the LAPD's proposal to forgo identifying, correcting and entering the 180,000 outstanding field data reports into the main database.⁵⁸ The Monitor concurs with the LAPD's decision.⁵⁹ The LAPD's statistics indicate

⁵⁶ The electronic capture of data is not a Consent Decree mandate. The City and the Department have initiated this effort to facilitate data collection.

⁵⁷ The Department developed a new format for the field data report, which will be implemented by July 1, 2003. Two independent working groups of officers and field training officers provided insight to simplify the form and facilitate its use.

⁵⁸ A feasibility study conducted by the LAPD estimated the cost to the Department to input the outstanding data at approximately \$200,000. In addition, the LAPD expressed reservations, given the passage of time, about whether officers could accurately recollect the details of the stops.

⁵⁹ In a letter dated March 26, 2003 from DOJ to members of the City family, DOJ requested assurances that the paper and electronic data would be maintained by the City but otherwise did not oppose the Department's proposal not to correct and post the data collected prior to July 1, 2002.

that the database now contains 783,256 field data reports with an error rate of 2%. The Monitor will conduct an audit of the viable database in the quarter ending June 30, 2003.

In order to assess whether the data collection is accurate, the Monitor compared field data reports from a sample of complaints reviewed under paragraph 74,⁶⁰ involving motor vehicle and pedestrian stops, with the collateral paperwork, consisting of complaint investigation or arrest paperwork. Of the 13 identified complaints involving motor vehicle and pedestrian stops, 2 were filed prior to November 1, 2001⁶¹ and 2 did not require field data reports to be completed⁶². For the remaining 9 complaints, 5 of the field data reports were inconsistent with the collateral paperwork.⁶³ Despite this finding, the limited number of complaints available for review in the sample drawn under the current selection methodology prevents the Monitor from making general conclusions regarding the accuracy of data collected.

Based on the foregoing, the Monitor finds the LAPD in secondary non-compliance and withholds a determination of functional compliance with paragraphs 104 and 105. The Monitor will review compliance with these paragraphs during the quarter ending June 30, 2003 utilizing an alternate sampling methodology.

⁶⁰ The total sample consisted of 182 cases and the Monitor identified 9 relevant cases that involved motor vehicle and pedestrian stops.

⁶¹ November 1, 2001 is the date the Consent Decree requires officers to begin collecting data.

⁶² Both were "Calls for Service" for Assault with a Deadly Weapon.

⁶³ Two of the field data reports failed to document that field interview cards were completed. There was no documentation on one of the reports that a container had been searched. Another report failed to document that counterfeit money was recovered during a search. And one report indicated that property was recovered although it was not mentioned on the correlating arrest report.

IV. MANAGEMENT OF GANG UNITS

Overview

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. The new units are called Special Enforcement Units (SEUs). The SEU gang units report to the command staff in the stations where they are assigned, and receive support from the Detective Support Division (DSD),⁶⁴ which has responsibility for monitoring gang units Department-wide.

The Department also established new monitoring procedures and instituted minimum eligibility requirements for SEU personnel. The Consent Decree directs the LAPD to continue these practices and provides for the adoption of additional requirements in the selection of SEU personnel. These requirements were adopted by Administrative Order 3, dated March 6, 2000, even before the Consent Decree was finalized or adopted.

The Monitor last assessed the LAPD's management of gang units in the quarter ending September 30, 2002. At that time, the Monitor expressed concern regarding the demonstrated lack of supervision of the gang units.

During the current quarter, the Monitor again reviewed supervisory oversight, daily operations, the monthly audits of the gang units, as well as the selection process of SEU officers.

The results of our current assessment follow.

Paragraphs 106(a) and 106(h) – Gang Coordination

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

Paragraph 106(h) requires Bureau Gang Coordinators to monitor and assess the operation of all units in their respective bureaus that address gang activity.

⁶⁴ In March 2003, the Department initiated a reorganization in an effort to improve its management of the gang units. This reorganization resulted in the creation of a Special Operations Support Division (SOSD) that was mandated to assume many of the DSD's responsibilities. The Monitor generally refers to the DSD throughout this report; where appropriate (i.e. when addressing current and ongoing responsibilities), the SOSD should be substituted.

Background

The Monitor's Report for the Quarter Ending September 30, 2002 assessed the LAPD's deployment of gang units for Deployment Periods 4, 5, and 6, 2002 and the Bureau Gang Coordinator audits for April and May 2002. The LAPD was found to be in non-compliance with the secondary and functional requirements of paragraphs 106(a) and (h).

Current Assessment of Compliance

From the time of the Monitor's last evaluation of paragraphs 106(a) and (h), the newly assigned Department Gang Coordinator and Commander of Special Operations Bureau, Deputy Chief Hillmann, has initiated steps to improve the LAPD's management of gang units and move the LAPD closer to compliance with the Consent Decree.⁶⁵

Most significantly, the LAPD is improving the supervisory function of the gang units, one of the deficiencies noted by the Monitor in the Report for the Quarter Ending September 30, 2002. The Department Gang Coordinator plans to introduce a Gang Impact Team, whose function will be to reorganize the gang units to model the federally funded Community Law Enforcement and Recovery (CLEAR) operations. In addition, the Department Gang Coordinator intends to introduce a Community Safety Operations Plan, which will put more supervisors into the field to oversee their gang officers and assist them "hands on" with enforcement.

In line with the restructuring of the gang units, Deputy Chief Hillmann and his command staff are drafting correspondence to Bureau Commanding Officers and their respective Bureau Coordinators, which will more clearly define their duties, functions and responsibilities, thereby promoting accountability and compliance with the Consent Decree. It will include specific criteria for Gang Unit deployment and field supervision.

In addition, a number of steps are being taken to improve the gang units' audit function. Firstly, the Bureau Gang Coordinators are implementing the June 3, 2002 Interdepartmental Correspondence issued by the DSD. This document outlines the procedures to be used for the bureau gang audits and will be used as a guideline for all related audits going forward. To further aid the Bureau Coordinators, the Department Gang Coordinator has put forth the following recommendations:

- Audit Division to assist in the development of audit plans and methodologies;
- DSD to review completed audits and provide feedback; and,

⁶⁵ As Department Gang Coordinator and Commander of Special Operations Bureau, Deputy Chief Hillmann will oversee and direct all Department SEU and Gang Units and will exercise functional supervision over Bureau Gang Coordinators.

- Bureau Gang Coordinators to follow-up with Area Commanding Officers regarding problems identified in monthly gang audits.

Gang unit training is currently being modified to reflect the changes put in place since the signing of the Consent Decree. A 40-hour gang training course for the units is being developed by the Administrative Unit. The curriculum is expected to be finalized in March and the training should be offered beginning in May 2003. In addition, a 1-2 day training seminar is being developed for Gang Impact Team supervisors. It has also been proposed that the Bureau Gang Coordinators be trained on the requirements of Administrative Order 3, dated March 6, 2000. It is anticipated that this training will occur after full implementation of the proposed Gang Impact Teams within each operation's command.

The Monitor commends the command staff for their efforts at improving the gang units, as evidenced by the proposals outlined above. However, the LAPD will continue to be found in non-compliance for paragraphs 106(a) and 106(h) until the initiatives described above are successfully implemented.

Paragraph 106(b) – Non-Supervisory Gang Officer Eligibility Criteria

Paragraph 106(b) of the Consent Decree provides eligibility criteria for the selection of non-supervisory officers.

Background

The LAPD was found to be in primary compliance with the provisions of paragraph 106(b) in the Monitor's Report for the Quarter Ending September 31, 2002. Based on a review of SEU selection and personnel packages from April 1, 2002 to June 30, 2002, the Monitor concluded in the same report that the LAPD was in functional and secondary non-compliance with the requirements of this paragraph.

Current Assessment of Compliance

In order to assess secondary and functional compliance, the Monitor requested and reviewed the selection and personnel packages for SEU non-supervisory officers selected during the period October 20, 2002 to December 15, 2002. In total, the Monitor reviewed 25 non-supervisory officers' selection and personnel packages. A statistical sample was selected from a total population of 50 packages, consisting of 7 supervisory packages and 43 non-supervisory packages. In assessing compliance with the selection criteria, the Monitor found the following:

Three of the 25 non-supervisory officers' personnel packages could not be located at the time of our review.⁶⁶ Therefore, the Monitor was unable to verify that these personnel packages were reviewed for the eligibility criteria at the time of the officers' selection to SEU.

None of the 25 selection packages contained any indication or documentation that the eligibility criteria outlined in this paragraph were considered or that the personnel packages were reviewed during the selection process.

Based upon the analysis described above, the Monitor finds the LAPD in non-compliance with the secondary and functional requirements of paragraph 106(b) of the Consent Decree.

Proposed Recommendations

In the Report for the Quarter Ending September 30, 2002, the Monitor found the LAPD in primary compliance with paragraph 106(b) based upon the minimum eligibility requirements established for all SEU personnel as set out in Administrative Order 3 dated March 6, 2002. Upon further review of the selection process, the Monitor has determined that the criteria set out in Administrative Order 3 could be expanded upon to help standardize the selection process. The Monitor urges the LAPD to give consideration to elaborating the selection criteria.

The Monitor proposes the following recommendations, which support the Department Gang Coordinator's objective of creating a standardized SEU selection process and establishing training on SEU eligibility criteria:

- Department-wide standardization and uniformity of selection packages, including proper documentation, required forms and appropriate signatures;
- Elaboration of the selection criteria for: proficiency in law enforcement activities; interpersonal and administrative skills; cultural and community sensitivity; and commitment to police integrity; and,
- Establishment of training on the SEU eligibility selection criteria.

Paragraph 106(c) – Gang Supervisor Eligibility Criteria

Paragraph 106(c) of the Consent Decree establishes the eligibility criteria for selection of a supervisor in a gang unit.

⁶⁶ Since that time, all 3 packages have been found.

Background

The LAPD was found to be in primary compliance with the provisions of paragraph 106(c) in the Monitor's Report for the Quarter Ending September 31, 2002. However, based on a review of SEU selection and personnel packages from April 1, 2002 to June 30, 2002, the Monitor concluded in the same report that the LAPD was in functional and secondary non-compliance with the requirements of this paragraph.

Current Assessment of Compliance

In order to assess secondary and functional compliance, the Monitor requested and reviewed the SEU supervisors' selection and personnel packages from October 20, 2002 to December 15, 2002. The Monitor reviewed a total of 6 supervisors' selection and personnel packages. Using a 95% confidence interval, this sample was selected from a total population of 50 packages, consisting of 7 supervisory packages and 43 non-supervisory packages.

As with the non-supervisory officers' selection packages, none of the 6 supervisory officers' selection packages contained any indication or documentation that the eligibility criteria outlined in this paragraph were considered.

Based upon the analysis described above, the Monitor finds the LAPD to be in non-compliance with the secondary and functional requirements of paragraph 106(c) of the Consent Decree.

Proposed Recommendations

Recommendations made by the Monitor for paragraph 106(b) are applicable to 106(c) and should be considered in the selection process of all staff to SEU.

Paragraph 106(d) – Gang Unit Tour of Duty Limitations

Paragraph 106(d) provides mandated limitations on the amount of time that officers can spend working in the SEUs.

Background

The time limitations mandated by the Consent Decree on an officer's assignment to a SEU were expected to cause a staffing crisis for the LAPD in the summer of 2003, when a significant number of officers are required to be rotated out of these units. Based upon a recommendation made by the Monitor to institute staggered deployment periods, the LAPD established the Special Enforcement Units Transition Plan for reassignment of these gang officers, ensuring coverage during the transition period, while adequately addressing the requirements of paragraph 106(d).

In its Report for the Quarter Ending September 30, 2002, the Monitor found the LAPD to be in compliance with the requirements of paragraph 106(d).

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the policies and procedures that demarcate the tour assignment of current SEU officers, the reassignment schedule for SEU officers, and current SEU rosters.

Officers' tour assignments in the SEUs are not to exceed 39 LAPD Deployment Periods. An extension of 3 Deployment Periods may be granted upon the written approval of the Bureau commanding officer and any longer extension shall be permitted upon written approval of the Chief of Police. During the review of the reassignment schedule and current SEU rosters, dated April 10, 2003, the Monitor determined that of the 9 SEU officers required to be reassigned in March 2003, only 1 (or 11%) was transferred out of their current assignment. As of the date of this report, the remaining officers were still awaiting approval for either a three-deployment period extension by the Bureau Commanding Officer or a transfer out of their current assignment.

The Monitor finds the LAPD to be in functional non-compliance with the provisions of paragraph 106(d). The Monitor understands the need for continuity of gang enforcement and will discuss with all the parties the issues raised by required rotation.

Paragraph 106(e [j]) – Gang Unit Procedures

Paragraph 106 sets forth a series of requirements for officers who work within the SEU units. Paragraph 106(e[i]) mandates that unit supervisors and non-supervisory officers continue to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees.

Background

In the Monitor's Report for the Quarter Ending June 30, 2002, the LAPD was found to be in primary compliance, but in secondary and functional non-compliance with the requirements of paragraph 106(e[i]).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(e) during the current quarter, the Monitor requested and received materials from a stratified sample

of dates from Deployment Periods 11 and 12, 2002,⁶⁷ related to gang unit activities, including Daily Worksheets, Daily Field Activity Reports, Sergeants' Logs, Vehicle & Equipment Assignment Sheets, and Adult and Juvenile Detention Logs.

The Monitor's review was hindered by a lack of documentation, which made it impossible to identify the total number of arrestees and/or detainees in the sample reviewed. As a result, the Monitor was unable to calculate the Inspection Rate⁶⁸ as required by the "Methodologies to aid in Determination of Consent Decree Compliance."

Of the sample deployment days reviewed, 27% of the Detention Logs and 7% of the Daily Field Activity Reports were missing. Only 67% of the arrestees found on the Daily Field Activity Reports were also on the corresponding Detention Logs. In addition, 13% of entries on the Detention Logs did not include the time of the Watch Commander or supervisors' inspections; only the date was listed. Finally, there was a discrepancy between a Sergeant's Log and the corresponding Detention Log regarding injuries to an arrestee resulting in a UOF investigation.

Based upon this analysis, the Monitor finds the LAPD to be in secondary and functional non-compliance with the provisions of paragraph 106(e[i]).

Paragraph 106(e[ii, iii]) – Gang Unit Uniforms / Vehicles

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

Background

In the Monitor's Report for the Quarter Ending June 30, 2002, the LAPD was found to be in primary, secondary and functional compliance with the requirements of paragraph 106(e[ii, iii]).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(e) during the current quarter, the Monitor requested and received the materials described in paragraph 106 (e [i]) from a stratified sample of dates from Deployment Periods 11 and 12, 2002.

⁶⁷ Deployment Periods 11 and 12, 2002 consist of October through December of 2002.

⁶⁸ The Inspection Rate is number of arrestees/detainees inspected as required in paragraph 73 [1-4]/number of arrestees/detainees identified in the sample.

The Monitor reviewed Sergeants' Logs and Daily Field Activity Reports for language indicating whether the SEU officers were in uniform and using marked police vehicles for all activities. The evaluation established that the SEU officers were in compliance 100% of the time.

Based upon this analysis, the Monitor finds the LAPD to be in secondary and functional compliance with the provisions of paragraph 106(e [ii, iii]).

Paragraph 106(e [iv]) – Gang Unit Kit Room

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

Background

In the Monitor's Report for the Quarter Ending September 30, 2002, the LAPD was found to be in primary compliance, but in secondary and functional non-compliance with the provisions of paragraph 106(e [iv]).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(e) during the current quarter, the Monitor requested and received the materials described in paragraph 106 (e[i]) from a stratified sample of dates from Deployment Periods 11 and 12, 2002.

From the sample of deployment days reviewed, 13% of the Vehicle & Equipment Assignment Sheets were missing. Of the sheets reviewed, none included the time the equipment was checked out and returned, thereby making it impossible to determine if the equipment was returned by the end of the watch.

In addition, the Monitor's review determined that the manner by which field equipment is checked out and returned is inconsistent. Only 38% of the Vehicle and Equipment Assignment Sheets available for review included the employee's signature and only 23% contained a supervisor's signature. To signify that equipment had been returned, 31% of the sheets had equipment numbers crossed out, 15% were circled, while 54% of the sheets contained no indication that the equipment had been returned.

Based upon this analysis, the Monitor finds the LAPD to be in secondary and functional non-compliance with the provisions of paragraph 106(e [iv]).

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

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

Background

In the Monitor's Report for the Quarter Ending June 30, 2002, the LAPD was found to be in primary, secondary and functional compliance with the requirements of paragraph 106(e [v]).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(e) during the current quarter, the Monitor requested and received the materials described in paragraph 106(e [i]) from a stratified sample of dates from Deployment Periods 11 and 12, 2002.

A review of the Daily Field Activity Reports and Sergeants' Logs established that 100% of SEU officers attended scheduled patrol roll calls or received approval from appropriate managers for any deviation from this requirement.

Based upon this analysis, the Monitor finds the LAPD to be in secondary and functional compliance with the provisions of paragraph 106(e [v]).

Paragraph 106(e [vi, vii]) – Gang Units / Area Station Activities

Paragraph 106(e[vi,vii]) mandates that unit supervisors and non-supervisory officers continue to base unit activities out of Area stations and not to hold arrestees or interview witnesses at off-site locations at night.

Background

In the Monitor's Report for the Quarter Ending June 30, 2002, the LAPD was found to be in primary, secondary and functional compliance with the requirements of paragraph 106(e[vi,vii]).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(e) during the current quarter, the Monitor requested and received the materials described in paragraph 106(e[i]) from a stratified sample of dates from Deployment Periods 11 and 12, 2002.

A review of Daily Field Activity Reports and Sergeants' Logs determined that 100% of the SEU officers based their unit activities out of the concerned Area stations and did not hold arrestees or interview witnesses at off-site locations at night during the reviewed Deployment Periods.

Based upon this analysis, the Monitor finds the LAPD to be in secondary and functional compliance with the provisions of paragraph 106(e[vi,vii]).

Paragraph 106(f) and 106(g) – Role of Gang Unit Supervisors and Area Managers

Paragraph 106(f) addresses the daily activities of gang unit supervisors, including providing a daily field presence and maintaining an active role in unit operations. Paragraph 106(g) requires Area managers to ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations.

Background

In the Monitor's Report for the Quarter Ending September 30, 2002, the LAPD was found to be in primary compliance, but in secondary and functional non-compliance with the requirements of paragraph 106(f) and 106(g).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(f) and 106(g) during the current quarter, the Monitor requested and received the materials described in paragraph 106(e[i]) from a stratified sample of dates from Deployment Periods 11 and 12, 2002.

The Monitor found the following regarding the daily activities of gang unit supervisors:

Material Issues

- Supervisors provided a field presence in 64% of the deployment days reviewed.⁶⁹
- Total supervisor field presence time was 14% of the possible field presence time reviewed.
- 21% of the entries by gang officers for activities listed on Daily Field Activity Reports were written as “gang suppression” or “did so” without any specific details.⁷⁰
- Supervisors provided the required signature for the end of watch on 50% of the Daily Field Activity Reports reviewed.

⁶⁹ 7% of the Daily Field Activity Reports and 7% of the Sergeants' Logs requested were missing from the sample received.

⁷⁰ The blanket categorization of time as “gang suppression” or “did so” raises concern about officer accountability. The Monitor made note of this issue in the Monitor's Report for the Quarter Ending September 30, 2002.

Administrative Issues

- Only 50% of the pedestrian stops recorded on the Daily Field Activity Reports listed the corresponding field data report number. There were some instances when gang officers listed the field data report numbers in the booking number field, failing to distinguish between the two.
- 93% of the arrests or citations recorded on the Daily Field Activity Reports listed the corresponding name, booking number or citation number as required.
- In 57% of the Daily Field Activity Reports, officers initialed the last entry as required.
- 86% of the Sergeants' Logs contained the required supervisory signatures.
- 64% of the Daily Field Activity Reports reconciled with the corresponding Sergeants' Logs with regard to the amount of time supervisors spent in the field.

Based on this analysis, the Monitor finds the LAPD to be in secondary and functional non-compliance with the requirements of paragraph 106(f) and 106(g).

Paragraphs 107(a) and 107(c) – Gang Unit Eligibility Criteria

Paragraph 107(a) of the Consent Decree mandates that eligibility for selection of an officer into the gang units shall require a positive evaluation of the officer's TEAMS II record. Supervisors shall be required to document in writing their consideration of any sustained complaint, adverse judicial finding, discipline for use of excessive force, false arrest or charge, improper search and seizure, sexual harassment, discrimination, and/or dishonesty in determining selection of an officer in these units.

Paragraph 107(c) of the Consent Decree mandates that during an officer's assignment in the gang units, any sustained complaint or adverse judicial finding for use of excessive force, a false arrest or charge, an unreasonable search or seizure, sexual harassment, discrimination, or dishonesty, shall result in supervisory review of the incident and a written determination as to whether or not the officer should remain in the unit.

Background

The Monitor last reviewed paragraphs 107(a) and (c) in the Report for the Quarter Ending September 30, 2002. Since they are "meet and confer" items, the Monitor did not assess the LAPD's compliance with these paragraphs in the report.

Current Assessment

As stated above, paragraph 107(a) and (c) are "meet and confer" items. Accordingly, the Monitor is not assessing the LAPD's compliance with these paragraphs.

However, as previously noted, the Monitor reviewed personnel and selection packages of twenty-five non-supervisory officers and six supervisors who were selected to a gang unit between October 20, 2002 and December 15, 2002. The following observations made during these reviews pertain to the requirements of paragraphs 107(a) and (c):

- As previously noted, 3 of the 25 non-supervisory officers' personnel packages could not be located at the time of our review.⁷¹ Therefore, the Monitor was unable to verify that these personnel packages were reviewed for the eligibility criteria at the time of the officers' selection to SEU.
- None of the 25 selection packages contain any indication or documentation that the eligibility criteria outlined in this paragraph was considered or that the personnel packages were reviewed during the selection process.

Proposed Recommendations

The Monitor's recommendations relative to paragraphs 106(b) and (c) apply to paragraphs 107(a) and (c).

Paragraph 107(b) – Selection Process for Gang Unit Personnel

Paragraph 107(b) of the Consent Decree mandates that the procedures for the selection of all officers to the gang units shall include a formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations to assist in evaluating the application.

Background

In the Monitor's Report for the Quarter Ending September 30, 2002, the LAPD was found to be in non-compliance with the primary, secondary and functional requirements of paragraph 107(b). In the September report, the Monitor noted that an Interdepartmental Correspondence dated October 15, 2001 attempted to establish standardization of the SEU selection process and compliance with the Consent Decree relative to paragraph 107(b). However, at the time of the Report, the procedures outlined in the Correspondence were not being implemented.

Current Assessment of Compliance

The Monitor reviewed selection and personnel packages of 25 non-supervisory officers and 6 supervisors that were selected to a gang unit from October 20, 2002 to December 15, 2002. The Monitor established that while all of the packages contained TEAMS II printouts, only 2 of the

⁷¹ Since that time, all 3 packages have been found.

31 selection packages reviewed included documentation of an oral interview of the applicant. For other requirements of paragraph 107(b), the Monitor's review incorporated an assessment of the LAPD's compliance with its SEU Selection Procedure, dated October 15, 2001.⁷² The Monitor's evaluation identified the following issues:

- 11 of the 31 selection packages reviewed included the required approval signatures of Area Commanding Officers.
- 2 of the 31 selection packages reviewed included the required approval signatures of Bureau Commanding Officers.
- 7 of 31 selection packages reviewed indicated that there was a review of the applicant's UOF History.
- 5 of 31 selection packages reviewed indicated that there was a review of the applicant's Departmental and Divisional personnel packages.

Based upon the fact that only 2 of the 31 selection packages included documentation of an oral interview of the applicant, the Monitor finds the LAPD in non-compliance with the primary, secondary and functional requirements of paragraph 107(b).⁷³

Proposed Recommendations

The Monitor proposes the following recommendations in order to assist the LAPD in meeting compliance with paragraph 107(b):

- Provide interview questions and/or format for the applicant's interview to allow standardization and proper documentation of applicant process.
- Provide appropriate form or procedure for reviewing criteria such as UOF patterns, performance evaluations, and consideration for pending complaints to allow standardization and proper documentation of applicant process.

⁷² The Selection Procedure includes a number of specific requirements that, although not delineated in the Consent Decree, are currently the only means by which the Department can demonstrate compliance with some of the provisions of paragraph 107(b). For example, although approval signatures on selection packages are not required under paragraph 107(b), a formal, written application process is. Also, a review of an applicant's UOF history is not specifically required by paragraph 107(b), but a review of TEAMS II information is. Accordingly, the Monitor deems the Selection Procedure a critical component of achieving and measuring compliance.

⁷³ The instances, described above, in which the LAPD failed to follow Selection Procedure requirements are further indications of non-compliance with the requirements of paragraph 107(b).

V. CONFIDENTIAL INFORMANTS

Overview

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

The Department published an Informant Manual on February 26, 2002, which expands and defines the procedures for identifying and utilizing informants.

In its Report for the Quarter Ending December 31, 2002, the Monitor assessed the Department's management of confidential informants. The Monitor is scheduled to assess such issues again in its Report for the Quarter Ending June 30, 2003.

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

Overview

The Consent Decree mandates that the Department evaluate successful programs in other law enforcement agencies across the United States for responding to persons who may be mentally ill and evaluate LAPD training, policies, and procedures for dealing with persons who may be mentally ill. The Consent Decree required this evaluation be conducted within one year of the effective date of the agreement. On December 10, 2001, the Department hired Lodestar Management/Research to conduct the evaluations and make recommendations. During the first and second quarters of 2002, Lodestar submitted three interim reports and a final report containing its findings and recommendations.

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

During the preceding and current quarters, the Monitor continued its efforts at tracking the progress being made relative to the Department's Mental Illness Program.

The results of our current assessment follow.

Paragraph 112 – Report on Proposed Police Contact with Mentally Ill

The Department is required to prepare a report for the Police Commission detailing the results of an evaluation of successful programs in other law enforcement agencies across the United States dealing with police contacts with persons who may be mentally ill, as well as an evaluation of LAPD training, policies and procedures for dealing with persons who may be mentally ill. The report shall make appropriate recommendations concerning changes in policies, procedures, and training methods regarding police contact with persons who may be mentally ill. The recommendations shall include a proposal on potential methods for tracking calls and incidents dealing with persons who may appear to be mentally ill.

Background

The LAPD's report to the Police Commission concerning the Mental Illness Project was submitted timely by July 15, 2002. The Department made a number of recommendations to the Police Commission and submitted a supplemental report to the Police Commission indicating that an additional \$1.9 million would be needed to implement recommendations concerning the Mental Illness Project. The initial and supplemental reports and funding requests were approved by the Police Commission and forwarded to the City. The City Council requested that the Chief Legislative Analyst and the City Administrative Officer review the Department's recommendations and determine potential funding sources.

The Monitor last evaluated paragraph 112 during the quarter ending December 31, 2002. At that time, the Monitor noted the initiatives underway to improve police contact with persons who may be mentally ill, but withheld a determination of compliance pending final City action on concerns raised by the Monitor and the DOJ.

Current Assessment of Compliance

During the current quarter, the Monitor learned that the Department is in the process of developing a matrix of Mental Illness Project recommendations and their status (Implementation Plan). However, the Department's request for \$1.9 million, which was approved by the Police Commission and forwarded to the City, was not included in the Mayor's proposed budget for 2004. This could impact the Implementation Plan.

As of February 9, 2003, the Crisis Intervention Team (CIT) Program training has been completed and the CIT program has been expanded to include Central, Van Nuys, Harbor, and West Los Angeles areas. Pursuant to a supplemental agreement with the LAPD, Lodestar Management/Research submitted evaluation criteria (Evaluation Tool) for the CIT Expansion Project.

During the current quarter, the Monitor met with Department personnel to discuss methods for tracking calls and incidents involving persons who may be mentally ill. The Mental Evaluation Unit's (MEU) new database for tracking calls and incidents involving CIT personnel was demonstrated. The database is based on Mental Health Incident Reports that CIT personnel are required to file with MEU. Non-CIT patrol personnel who encounter persons who may be mentally ill will be assisted by communication center personnel to prepare the report for input into the MEU database.

The Department is studying the need for an expanded database to track Department-wide calls and incidents involving persons who may be mentally ill. Currently, at least four systems have information that may be utilized for tracking purposes:

- a) Use of Force Reporting System
- b) Consolidated Crime Analysis Database (C-CAD)

c) SMART/MEU Database

d) Dispatch System

The Department is evaluating whether it can continue to rely on these systems for future analysis or if it needs to develop a new expanded database. Department personnel have indicated far-reaching analytical goals, ranging from applying analysis to deployment issues to identifying the need for outreach efforts.⁷⁴

Due to the Monitor's continued concerns regarding how calls and incidents will be tracked in the future, as well as the elapsed time it has taken to address funding and implementation of many of the Mental Illness Project recommendations, the Monitor withholds determination of functional compliance with the provisions of paragraph 112.⁷⁵

⁷⁴ Although Department personnel have indicated a number of analytical goals, the Monitor is concerned that the Department has not settled on its objectives for analysis of the current data and/or future data. Until this is done, modifications to existing systems or the development of new systems to capture data elements for analysis could be delayed.

⁷⁵ These issues are critical in view of the requirements of Consent Decree paragraph 113, which is scheduled for completion in February 2004.

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

Overview

The Consent Decree requires the LAPD to continue to implement formal training and establish eligibility criteria for Field Training Officers (FTOs). FTOs are police officers at the rank of PIII (senior police officer rank) who are assigned to work with a PI officer (a probationary officer out of the academy). FTOs work with their probationary officer on a daily basis throughout the PI's probationary period. They are responsible for their field training and are required to evaluate the PI's performance on a daily basis.

The Consent Decree is intended to ensure that the officers chosen to be FTOs, who are essentially responsible for the professionalism, skill and quality of the future Department, are themselves qualified and appropriately trained to educate newer members of the LAPD.

In the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor assessed the LAPD's selection process for FTOs and the quality of the training provided to them.

During the current quarter, the Monitor again evaluated the LAPD's FTO selection process.

The results of our current assessment follow.

Paragraph 115 – FTO De-Selection

Paragraph 115 instructs that the Department may remove a FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.⁷⁶

Background

The impetus behind the FTO eligibility criteria is to ensure that the Department is continuously reevaluating its FTOs to make certain that the PIs are receiving the best field training available.

This is the first time the Monitor is attempting to assess compliance with paragraph 115.

⁷⁶ Under paragraph 114, the required eligibility criteria includes demonstrated analytical skills; demonstrated interpersonal and communication skills; cultural and community sensitivity; diversity; and, commitment to police integrity.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the personnel packages for the officers removed from service as FTOs during 2002. Two of the 768 officers serving as FTOs were deselected during the year.

The limited number of officers deselected did not provide a sufficient basis for assessing compliance with paragraph 115. Accordingly, the Monitor is withholding a determination of compliance with this paragraph pending additional testing that will be conducted during the quarter ending June30, 2003.

B. TRAINING CONTENT

Overview

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.

In the quarter ending December 31, 2002, the Monitor reviewed the Department's police integrity training, specifically as it relates to recruit training.

During the current quarter, the Monitor continued its assessment of the Department's police integrity training and its tuition reimbursement program.

The results of our current assessment follow.

Paragraph 117 – Police Integrity Training Requirements

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

- The duty to report misconduct and facts relevant to misconduct;
- What constitutes retaliation for misconduct, the prohibition against retaliation for reporting misconduct, and the protections available to officers from retaliation;
- Cultural diversity, which shall include training on interactions with persons of different races, ethnicities, religious groups, sexual orientations, persons of the opposite sex, and persons with disabilities, and community policing;

- The role of accurately completing written reports in assuring police integrity, and the proper completion of such reports;
- Fourth amendment and other constitutional requirements, and the requirements of the Department's non-discrimination policy, governing police actions in conducting stops, searches, seizures, making arrests and using force; and
- Examples of ethical dilemmas faced by LAPD officers and, where practicable given the location, type, and duration of the training, interactive exercises for resolving ethical dilemmas shall be utilized.

Background

The Monitor reviewed police integrity training for both in-service officers and recruits in the Monitor's Reports for the Quarters Ending September 30, 2002 and December 31, 2002, respectively. Neither in-service nor recruit training were sufficient to find the Department in compliance. The training failed to adequately address duty to report misconduct; what constitutes retaliation; protection afforded to those that report misconduct; and, interactive exercises involving ethical dilemmas.

Current Assessment⁷⁷

Although the compliance review for this paragraph is not scheduled until September 2003, the Monitor has opted to report on the efforts made by the Department since the last reporting period. In response to the Monitor's prior evaluations regarding 'police integrity' training, the Department developed an interactive learning exercise that adequately addresses misconduct, the duty to report misconduct and the protections afforded to those who report misconduct and incorporated this exercise in CEDP Module VI, entitled "Weapons of Mass Destruction".⁷⁸ The Monitor reviewed the curriculum and 'on paper' the exercise appeared to adequately cover the subject matter. However, due to the sensitivity of this material, the Monitor believed it was critical to observe the actual training and view firsthand how officers were educated on Department policy.

The Monitor has previously noted a lack of consistency among the trainers, making the written curriculum, and adherence to it, so important. The exercise, which involved a car stop based on nationality, required the class to break into small discussion groups to discuss the following:

- Legality of the stop;

⁷⁷ As explained below, the Monitor is reporting upon recent Department efforts in connection with paragraph 117; an assessment of compliance was not performed.

⁷⁸ See Paragraph 102-103 review- this same interactive exercise also satisfied the Monitor's concerns regarding the necessity for interactive learning exercises on issues of discrimination.

- Did the stop violate the Department's non-discrimination policy;
- Misconduct;
- Department policy prohibiting racial profiling;
- Duty to report misconduct;
- Retaliation; and
- Protections afforded to those that report misconduct.

Upon conclusion of the breakout discussions, the instructors went through the same topics with the entire class, ensuring that each officer left the room clear on the law and the Department's policy on the relevant topics.⁷⁹

The Monitor commends the Department for their effort in the creation of this particular exercise and the skill in which it was taught.

Paragraph 119 – Tuition Reimbursement

Paragraph 119 states that the City may establish a plan to provide tuition reimbursement for continuing education for LAPD officers in subjects that are relevant to the Consent Decree, including subjects that promote police integrity and professionalism. The Department has chosen to create and implement such a program.

Background

The Monitor last reviewed paragraph 119 in the quarter ending March 31, 2002. At that time, the LAPD was found to be in compliance with the paragraph.⁸⁰

Current Assessment of Compliance

In order to assess compliance, the Monitor reviewed all requests for tuition reimbursement during the year 2002. The Department received 116 requests for reimbursement from January 1, 2002 through December 31, 2002. Of the 116 requests received, 104 requests were approved. The remaining requests were denied for appropriate reasons.

⁷⁹ It is particularly significant to note that when the instructors asked all of the officers in the class to raise their hands if they knew that the Department had a written non-discrimination policy, not a single officer raised their hand.

⁸⁰ Although the Monitor has chosen to review paragraph 119 this quarter, it is permissive and Monitor review is not required.

Based on this analysis, the Monitor finds the LAPD in compliance with paragraph 119.

C. SUPERVISORY TRAINING

Overview

The Consent Decree mandates that all officers promoted to supervisory positions, up to and including the rank of Captain, receive training prior to assuming their new responsibilities.⁸¹ Once promoted, supervisors should continue to receive regular training on key issues, including incident control, UOF Investigations, Complaint Investigations, and ethical decision-making.

The Monitor's most recent evaluation of the supervisory training requirements was reported on in the Monitor's Report for the Quarter Ending March 31, 2002.

During the current quarter, the Monitor again focused on the training requirements for all officers, up to and including the rank of Captain, promoted to supervisory positions.

The results of our current assessment follow.

Paragraph 121 – Supervisory Training Requirements

Paragraph 121 requires the LAPD to provide all officers promoted to supervisory positions⁸², up to and including the rank of Captain, with training to perform the duties and responsibilities of such positions. Officers are to receive this training prior to assuming their new supervisory positions, except for those officers promoted to the rank of Captain, who shall have at least commenced command development training before they assume their new positions.

Background

The Monitor last assessed compliance with paragraph 121 during the quarter ending March 31, 2002, at which time the Monitor found the LAPD to be in non-compliance with this paragraph.

⁸¹ Those officers promoted to the rank of Captain must at least begin their Command Development training before they assume their new positions.

⁸² For the purposes of paragraph 121 of the Consent Decree, supervisors are defined as Detective II, Sergeant I and above.

Current Assessment of Compliance

The Monitor reviewed the training of 204 officers promoted between January 1, 2002 and December 31, 2002, the entire population of promoted officers. Of those 204 officers, a total of 27 did not receive training or received training only after they assumed their new posts. This represents a compliance rate of 87%.

Of the 27 officers identified above, 14 did not receive any training. All 14 officers were being promoted to Detective II. The 13 remaining officers received training only after they were promoted. Eleven of these 13 officers were being promoted to Detective II and 2 were being promoted to Sergeant I.

Based on the above analysis, the Monitor finds the LAPD in functional non-compliance with paragraph 121.

VIII. INTEGRITY AUDITS

Overview

The audit processes of the LAPD and the IG are important components in the reform process for the entire Department. The Consent Decree mandates that the LAPD and IG perform audits and reviews of numerous aspects of policing, including search warrants, arrests, uses of force, racial profiling, confidential informants, complaints, gang units, financial disclosure, police training, and skeletal fractures on a regular and periodic basis.

Each of these audits examines a variety of issues, but a common theme among them all is the requirement to assess and report on incidents suggestive of inappropriate police behavior, and the related lack of supervisory oversight. As the LAPD and IG improve in their abilities to identify and rectify such incidents, as well as the underlying concerns, the effectiveness of these audits also improves.

During the preceding and current quarters, the Monitor continued its assessment of the audits recently completed by the LAPD and IG. For this quarter, the Monitor evaluates the two audits recently completed by the LAPD, and comments on the status of other audits that are currently overdue.

A. AUDIT PLAN

Overview

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 the Consent Decree. The Consent Decree mandates that prior to the beginning of each fiscal year, the Chief of Police is required to submit to the Police Commission, with a copy to the IG, a listing of all scheduled audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits.

The Audit Plan was last evaluated in the Monitor's Report for the Quarter Ending September 30, 2002. At that time, the Monitor assessed the content and submission of the Annual Audit Plan for 2002-03, the review and approval of this Annual Audit Plan and the Quarterly Updates for 2001-02, the role of the LAPD's Audit Division and the sufficiency of its resources, and the content of the LAPD's audit reports.

For the current quarter, the Monitor assessed the LAPD's progress relative to its 2002-03 Annual Audit Plan.

Paragraph 124 – 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 IG, a listing of all scheduled audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits. Paragraph 124 also describes:

- the review and approval process for this Annual Audit Plan and the Quarterly Updates thereto;
- the primary responsibilities of the Audit Division, 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 manner of obtaining the resources required by the Audit Division to complete such audits;
- the role of the LAPD's Audit Division relative to the conduct of such audits; and
- how such audits are to be documented.

Background

In early 2001, the Audit Division of the LAPD was formed with a mandate to conduct audits as required by the Consent Decree, as well as other audits considered necessary for integrity assurance by the Chief of Police and/or his designates. In May 2001, an ambitious Annual Audit Plan was submitted to the Board of Police Commissioners for the period July 2001 to June 2002⁸³ – this scheduled the completion of 12 audits required by the Consent Decree⁸⁴, and 12 operational audits in areas that were historically problematic. Including audits that were scheduled for more than once per annum, there were 38 audits in total on this Annual Audit Plan. Many of these audits were not completed due to resource constraints, and there were quality deficiencies with most of the audits that were completed.

In the Monitor's Reports for the Quarters Ending March 31, 2002 and September 30, 2002, the Monitor concluded that the LAPD was in functional non-compliance due primarily to a lack of suitable resources.

Current Assessment of Compliance

In order to assess compliance with paragraph 124 for the current quarter, the Monitor requested, received and reviewed the following:

⁸³ This was submitted before June 1, 2001 as required by CD ¶124.

⁸⁴ Some of these audits were scheduled to be completed more than once per annum.

- the Annual Audit Plan for fiscal 2002-03 (namely the period July 2002 to June 2003) as submitted to the OIG and the Police Commission on June 25, 2002;
- the Quarterly Updates on the 2002-03 Annual Audit Plan as submitted to the Police Commission for the quarters ending September 30, 2002, December 31, 2002 and March 31, 2003; and
- several of the audit reports issued throughout the year.

The Monitor also held discussions with representatives of the LAPD Audit Division and the SOSD (DSD).

The Monitor's findings relative to its assessment of paragraph 124 are set out below:

- Although the Annual Audit Plan for 2002-03 was submitted to both the OIG and the Police Commission by July 1, 2002 as required by paragraph 124, and was approved by the Police Commission on July 10, 2002, this Annual Audit Plan lacked specificity relative to both the type of and responsibility for the Gang Unit Work Product audits required by paragraph 131. The Monitor believes that this lack of specificity contributed to the Gang Unit Audits not being performed on a timely basis.
- The Audit Division submitted a Quarterly Update to the Police Commission regarding its progress relative to its Annual Audit Plan for the quarters ending September 30, 2002, December 31, 2002 and March 31, 2003. In each of these updates, a similar picture emerged: the Audit Division and DSD were falling further behind relative to their completion of the audits required by the Consent Decree. The common reason provided was the lack of audit resources in both the Audit Division and the SOSD (DSD), both of which were caused by City-wide hiring freezes during this period.
- Although the Citywide hiring freezes have recently been lifted for Audit Division, the 'unfreezing process' has taken time to resolve. Accordingly, although Audit Division has expanded its resources and hired personnel with relevant experience and expertise in auditing, statistical sampling and report writing, and its personnel have taken suitable training programs, the Audit Division is still unable to ensure the timely completion of the audits required by the Consent Decree, as the Audit Division is currently understaffed by approximately 1/3 of its original requirements.
- As reported in the Monitor's Report for the Quarter Ending December 31, 2002, there were significant resource issues that were facing the DSD that affected its willingness/ability to accept responsibility for the gang unit audits, notwithstanding that paragraph 131 mandated such responsibility to the DSD. As an interim measure, the audits that are similar to the Department-wide audits required by paragraph 128 were unofficially reassigned to the Audit Division, however the Audit Division's approved hiring levels were not increased to enable Audit Division to take on this added responsibility.

- The gang unit audits that remain the responsibility of the SOSD (DSD) also continue to be under-resourced, with the result being that such audits are also not being completed on a timely basis.

On a positive note, the Audit Division has accepted responsibility for all the Consent Decree audits required of the Audit Division as articulated in paragraphs 128 and 129 of the Consent Decree. In addition, the Audit Division has acted in a consulting/supportive role to provide guidance on the audits that remain the responsibility of the SOSD (DSD).

In summary, the Department's continued lack of audit resources, both at the Audit Division and the SOSD (DSD), are preventing the timely completion of numerous audits required by the Consent Decree. Accordingly, the Monitor finds the Department is in functional non-compliance with the requirements of paragraph 124.

B. AUDITS BY THE LAPD

Overview

During this quarter, the Monitor assessed the quality and timeliness of the following audits that are required to be completed by the LAPD:

- Paragraph 128(2)-70(b) – Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest, or Assaulting a Police Officer
- Paragraphs 128(3),(4) and 129(ii),(iii) – Audits Not Yet Completed by Audit Division
- Paragraph 130 – Annual Report on Complaints and Disposition
- Paragraphs 131(a),(b) – Gang Unit Audits Not Yet Completed by the SOSD (DSD)
- Paragraphs 131(c-1),(c-3),(c-4),(c-5) – Other Gang Unit Audits to be Completed by Audit Division
- Paragraph 134 – Skeletal Fractures During Use of Force Audit

Paragraph 128(2)-70(b) – Audit of Supervisory Evaluation of 70b Arrests

Paragraph 128(2) requires the Department to complete a regular, periodic audit of all Arrest, Booking and Charging (ABC) Reports, and further specifies the qualitative factors that should be assessed in such audits, including completeness, authenticity and consistency of the information contained; appropriateness, legality and conformance with Department policies; and supervisory oversight of the applicable incident or post-incident review. Paragraph 70(b) requires the evaluation of supervisory oversight of incidents where a person is charged with interfering, resisting arrest, or assaulting a police officer, to determine if there are any issues or concerns regarding training, policy, or tactics.

Background

On September 15, 2002, the Audit Division completed its third audit of paragraph 128(2) and was found to be in functional compliance for the first time by the Monitor as reported in the Monitor's Report for the Quarter Ending December 31, 2002. The scope of that audit did not specifically address the supervisory oversight requirements of paragraph 128(2) as related to paragraph 70(b) arrests; such requirements were deferred to a supplemental audit that was completed on December 16, 2002.

During the current quarter, the Monitor assessed the Audit Division's supplemental audit of paragraph 128(2)-70(b).

Current Assessment of Compliance

In assessing compliance with the requirements of paragraph 128(2) and 70(b), the Monitor reviewed the Audit Division's audit report on their "Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest, or Assault on a Police Officer" dated December 16, 2002, and several of the arrest reports that were evaluated as part of this audit and/or the ABC Reports audit dated September 15, 2002. In addition, the Monitor reviewed Special Order (S.O.) No. 12, dated June 30, 2001, which outlines the Watch Commander's supervisory responsibility when performing a pre-booking evaluation involving charges of interfering, resisting arrest, or assault on a police officer.

The Audit Division evaluated 28 arrests in its paragraph 128(2)-70(b) supplemental audit. These arrests were drawn from the Audit Division's September 15, 2002 ABC Reports audit sample of 938 arrest reports⁸⁵ because the arrestee was charged with obstructing or interfering with an officer in the performance of their duties, resisting, delaying or obstructing an officer, assaulting a police officer, or providing a false identity to an officer⁸⁶; or the probable cause to arrest, although not the ultimate booking charge, was based on "elements of" such charges; or an additional filing request was made that involved an element of such charges.

The following is a breakdown of the 28 arrest reports examined by Audit Division:

⁸⁵ The sample selected by Audit Division in its September 15, 2002 ABC Reports audit comprised a random sample of 602 arrest reports, plus another 336 arrest reports that related to multi-arrests in the random sample of 602. The 938 arrest reports were chosen from a total of 27,155 arrest reports relating to arrests during the period October 1, 2001 to December 31, 2001.

⁸⁶ The California Penal Code (CPC) sections used to select the arrest reports for this audit were: CPC 69, 148(a)(1), 148(b), 148(c), 148(d), 148.9, 241(b), 243(b), 243(c), 244.5(c), 245(c), and 245(d). It is the Monitor's view that CPC 148.9 – providing false identity to a peace officer – does not need to be examined in this audit, as it is not necessarily a 70(b) charge.

	<u>70(b) Charges</u>	<u>Elements of 70(b) Charges</u>	<u>False Identity Charges</u>	<u>Total</u>
Arrests with CPC148 charge	7	0	4	11
Arrests where the probable cause to arrest was based on "elements of" a CPC148 charge or additional filing request made	<u>0</u>	<u>5</u>	<u>12</u>	<u>17</u>
Total	<u>7</u>	<u>5</u>	<u>16</u>	<u>28</u>

The Monitor agrees that this audit should address the above arrests; however, the Monitor's opinion⁸⁷ is that Watch Commanders should review for training, policy and tactics for all arrests where the arrest report articulates elements of obstructing or interfering with an officer in the performance of their duties, resisting arrest, delaying or obstructing an officer, assaulting a police officer, or challenging a police officer to a fight. Accordingly, the Monitor's opinion is that this paragraph 128(2)-70b audit should go beyond evaluating arrests where such charges were actually made or the probable cause to arrest was based on such charges.

Completeness Assessment

In order to test the completeness of the Audit Division's supplemental 128(2)-70(b) audit, the Monitor reviewed the narratives from its sample of 147 of the 938 arrest reports included in the Audit Division's September 15, 2002 ABC Reports audit⁸⁸. This process revealed the following 8 arrests that were excluded from the Audit Division's supplemental 128(2)-70(b) audit:

- 6 arrests that included elements of a CPC 148 charge⁸⁹ whereby the suspects ran away from the officers, used profanity and threatened the officers, and failed to obey the officers' commands, and
- 2 other arrest reports that included elements of a CPC 148 charge whereby the suspects ran away from the officers who had ordered them to put their hands up, for which the probable cause for the arrest was another offence.

⁸⁷ This opinion was formally articulated at the March 13, 2003 monthly status meeting, and is also outlined in section 70b of this Monitor's Quarterly Report.

⁸⁸ The Monitor's findings from its review of this audit are described in the Monitor's report for the quarter ending December 31, 2002.

⁸⁹ These 6 arrests were part of a multi-arrest of 13 individuals involved in the same incident. The descriptions used in the arrest reports for these 6 arrests were similar to the descriptions for 2 of the 13 arrests where the suspects were charged with CPC 148.

Based on the Monitor's recently articulated interpretation of what should be subjected to supervisory oversight, the Monitor's view is that it would have been preferable for the Audit Division's 128(2)-70(b) audit to evaluate such arrests.

As regards the process for identifying all the arrests that should be included in the scope of this audit, the Monitor noted that arrest reports do not list all the charges that could be applied in a particular arrest; instead, the ultimate booking charge is identified, and in some cases, an additional filing request is identified. As a result of this lack of delineation, it is necessary to read the narrative of each arrest report in order to ascertain which arrests should be subjected to paragraph 70b oversight; accordingly, neither the Audit Division (nor the Monitor) can readily ensure the completeness of this audit⁹⁰.

Assessment of Training, Policy & Tactics and the Quality of the Watch Commanders' Supervisory Oversight

The Audit Division identified 11 arrest reports whereby the arrestee was charged with a 70b offense, 4 of which were not reviewed by a Watch Commander because they related to providing false identity to an officer⁹¹. The remaining 7 arrests *were* reviewed by the Audit Division; however, they failed to evaluate the quality of the Watch Commander's supervisory oversight of these 7 arrests, as required by paragraph 128(2) of the Consent Decree; instead, the Audit Division only evaluated whether or not such a review was performed.

The Audit Division identified and reviewed 17 arrest reports having "elements of" a CPC 148 charge that were not reviewed by a Watch Commander, 12 of which involved elements of a false identity charge, 5 of which did not. For the 5 arrest reports involving elements of a CPC 148 charge that the Audit Division included in the scope of its audit, the Audit Division's report does not evaluate the Watch Commanders' oversight of such arrests for training, policy or tactical issues.

The results from the Monitor's assessment of these particular arrests for training, policy and tactical issues, as well as the Monitor's assessment of the quality of the Watch Commander's supervisory oversight are addressed in Section 70(b) of this report.

Assessment of Audit Division's Audit Methodology

The Audit Division considered this audit to be an extension of their paragraph 128(2) ABC Reports audit dated September 15, 2002. Accordingly, they did not complete a separate workplan and matrix while planning their 128(2)-70(b) audit⁹². If a workplan and matrix had

⁹⁰ Using either the Audit Division's definition for the scope of this audit, or the Monitor's expanded definition.

⁹¹ Accordingly, paragraph 70(b) of the Consent Decree is not applicable for these arrests.

⁹² In all the audits completed by the Audit Division in the last year, the Audit Division has understood the need to prepare a workplan and matrix.

been prepared and provided to the Monitor in advance of completing this audit, such tools could have been used to facilitate discussions regarding several of the evaluation issues addressed above.

Based on the extent of the interpretational issues identified above, the Monitor is withholding a determination of compliance with the requirements of paragraph 128(2) relative to the Audit Division's audit of 70(b) arrests.

Proposed Recommendations

The Monitor recommends that Section 4/216.22 of the Department's manual (or S.O. No. 12) be amended to specify which charges/elements of charges should be subjected to supervisory review for training, policy and tactics. As stated above, the Monitor's opinion is that Watch Commanders should review for training, policy and tactics for all arrests where the arrest report articulates elements of obstructing or interfering with an officer in the performance of his or her duties, resisting arrest⁹³, delaying or obstructing an officer, assaulting a police officer, or challenging a police officer to a fight.

The format of the Department's arrest reports should be amended to enable the approving supervisor to list the additional charges that requested, not just the ultimate booking charge that was identified by the officer at the time of the arrest. This would enable increased scrutiny of arrests where the elements of a 70b charge are applicable, and would:

- facilitate the review process for the Watch Commander by identifying which arrest reports should be subjected to supervisory review for training, policy and tactics as required by paragraph 70b of the Consent Decree, and
- facilitate the audit and review process for the Audit Division, OIG and Monitor by identifying which arrest reports require paragraph 70b supervisory oversight.

The Watch Commander's review of training, policy and tactics should be specifically documented on the Watch Commander's log, and any concerns should be documented according to Department policy and referenced separately; in other words, the Watch Commander should specifically document whether there were (or were not) any such issues, but should do so in a way that is in conformance with applicable state laws.

All audits performed by Audit Division (supplemental or otherwise), should use an audit workplan and matrix.

⁹³ Resisting arrest, in the Monitor's opinion, would include instances where the suspect runs away from the officer, and causes a substantive delay in the performance of the officer's duties.

Paragraphs 128(3),(4) and 129(ii)&(iii) –Audits Not Yet Completed by Audit Division

Paragraph 128 enumerates the areas where the Department must conduct regular, periodic audits and describes the qualitative factors that should be assessed in such audits. Paragraph 128(3) mandates an audit of UOF Reports, and paragraph 128(4) mandates an audit of Motor Vehicle and Pedestrian Stops.

Paragraph 129 similarly enumerates further areas where the Department must conduct regular periodic audits and describes the qualitative factors that should be assessed in such audits. Paragraph 129(ii) mandates an audit of all NCUOF Investigations, and paragraph 129(iii) mandates an audit of all Complaint Form 1.28 Investigations.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, these audits are required to be completed by the LAPD's Audit Division on a "regular periodic" basis. The Monitor interprets this to mean that these audits must be completed on at least an annual basis.⁹⁴

As stipulated in paragraph 128(3), the UOF Reports audit required by paragraph 128(3) was required to be completed by November 1, 2002. For the other three audits discussed in this section, since the Consent Decree was entered into effective June 2001, the Monitor expected that the audits required by paragraphs 128(4), 129(ii) and 129(iii) would be completed within one year, i.e. by June 30, 2002.⁹⁵ For the last three quarters, the LAPD has been found in non-compliance with these paragraphs, because these four audits were not completed on a "regular, periodic basis."

Current Assessment of Compliance

Although the Audit Division has made progress on these four audits, they remained incomplete as of March 31, 2002. The following table and text summarizes the current deadlines and progress for these four overdue audits:

⁹⁴ The LAPD and the DOJ concur with this interpretation of this phrase – not only for this audit, but also for other audits required to be completed on a "regular periodic" basis as discussed later in this report.

⁹⁵ These audits were also listed on the 2001-02 Annual Audit Plan for completion by June 30, 2002.

	<u>Current Due Dates</u>	<u>Status</u>
128(3) – Use of Force Reports Audit	Nov. 1, 2002 Nov. 1, 2003	Overdue > 5 months Upcoming
129(ii) – Non-Categorical Use of Force Investigations Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming
128(4) – Motor Vehicle and Pedestrian Stops Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming
129(iii) – Complaint Form 1.28 Investigations Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming

The UOF Reports Audit and NCUOF Investigations Audit (paragraphs 128(3) & 129(ii)) were combined, and the fieldwork and reporting on this combined audit was considered complete, however it was ‘kicked back’ during the Audit Division’s internal quality control process so that certain audit procedures could be re-performed and the report updated. This combined audit is now expected to be completed during the quarter ending June 30, 2003.

The Motor Vehicle and Pedestrian Stops Audit (paragraph 128(4)) was originally due by June 30, 2002, but was deferred until the database stabilized. Improvements have now been made relative to the data collection issues, reliability testing is currently in progress, and the planning for this audit is in progress, but there are some unresolved issues with the data analysis as described above in paragraphs 104-105 of this Report. This audit is therefore not likely to be completed until some time in fiscal 2003/04⁹⁶, which means that this audit will be more than one year late.

The Complaint Form 1.28 Investigations Audit (paragraph 129(iii)) was nearing completion, but this audit was also ‘kicked back’ due to quality deficiencies identified during the Audit Division’s internal quality control process. However, rather than re-performing certain aspects of this audit on a stale audit population, and due to the recent revisions to the Department’s complaint system, the Audit Division plans to issue a report that summarizes the findings from the audit as conducted. This is expected to be issued during the quarter ending June 30, 2003.

Until the above four audits are completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of paragraphs 128(3), (4) and 129(ii), (iii) of the Consent Decree. When these audits are completed, the Monitor will re-evaluate this assessment.

⁹⁶ During the fiscal year ending June 30, 2004.

Paragraph 130 – Annual Report on Complaints and Disposition

Paragraph 130 requires the LAPD to report annually to the Police Commission on the type of complaint allegations it receives and the disposition and discipline imposed for each type of allegation.

Background

During the Quarter Ending March 31, 2002, the Department submitted its annual report to the Police Commission. The Monitor deferred its assessment of the report pending resolution of issues concerning the QDRs. The Monitor considered the Department in substantial compliance with the provisions of paragraph 130 for submitting the report and for addressing many of the requirements of that paragraph.

Current Assessment of Compliance

During the current quarter, the Department submitted its report, entitled “Annual Complaint Report – Year 2002.” The report contained complaint information for complaints closed during the year 2002 and pointed out that the information did not “depict the number of complaints received ... during the report year.”

Complaint information was broken down by allegation type and disposition (including sustained) and by allegation type and discipline imposed. The report attempted to summarize aggregate complaint information by bureau, rank, and type of assignment. However, only “Top Allegations” were shown and, in many cases, no allegations were shown at all in those tables reporting complaint information by bureau, rank, and type of assignment.

Collateral misconduct discovered during complaint investigations was not discussed in the report. However, the Monitor determined that when collateral misconduct is discovered, the complaint file is either updated or a separate complaint is initiated. In either case, the complaint information is captured when the case is closed.

Timeliness issues affecting the QDRs continue to hinder the Monitor’s ability to adequately assess the Department’s compliance with the provisions of paragraph 130. The Monitor withholds determination of the Department’s functional compliance with the provisions of paragraph 130 pending resolution of the timeliness issues.

Proposed Recommendations

All allegations should be shown in tables reporting aggregate complaint information by bureau, rank, and type of assignment.

The table in the “Analysis” Section of the Executive Summary of the Department’s Annual Complaint Report shows “Complaints Received” totaling 9,053. The Analysis Section states that

the information is based on closed cases and does not depict the number of complaints received during the year. To eliminate possible confusion, it is recommended that in the future this line in the table be re-named “Complaints Closed.”

This recommendation should also be applied to the appropriate sections of Tables D, F, and H.

Paragraph 131 – Gang Unit Audits

Paragraph 131 mandates that the DSD⁹⁷ conduct regular periodic audits of the work product of all gang units covered by paragraph 106. There are basically two types of audits that are required to be completed by the provisions of paragraph 131:

- Those that are specific to the work product of the gangs that are required to assess compliance with paragraph 106, 107 and 108 – namely the audits required by paragraphs 131(a)⁹⁸ and (b).
- Those that are similar to the Department-wide audits conducted for paragraph 128 – namely the audits required by paragraph 131(c-1), (c-2), (c-3), (c-4) and (c-5), and 131(d).

The Monitor considers that the remaining provisions of paragraph 131 articulate the qualitative standards for the conduct of each of these audits.

Paragraph 131(a)&(b) – Gang Unit Audits Not Yet Completed by the SOSD (DSD)

Background

As stated in the Monitor’s Reports for the Quarters Ending September 30 and December 31, 2002, the Monitor found the Department to be in functional non-compliance with paragraphs 131(a)⁹⁹ and (b), as there has been no Department-wide gang unit audit since the last audit was completed in June 2001.¹⁰⁰

In its Report for the Quarter Ending September 30, 2002, the Monitor also reported that there were significant resource issues facing the DSD which led to the untenable situation whereby the DSD was unwilling/unable to accept responsibility for these audits, notwithstanding that

⁹⁷ As previously noted, under the Department’s proposed March 2003 reorganization, the SOSD would be mandated to assume many of the DSD’s responsibilities.

⁹⁸ For ease of reference, the Monitor hereinafter refers to the general work product audit specified in paragraph 131 as a paragraph 131(a) audit. This audit includes (but is not limited to) the meta-audit of the Bureau Gang Coordinator audits required by paragraph 106(h).

⁹⁹ See the preceding footnote.

¹⁰⁰ This audit was reported upon in the Monitor’s report for the Quarter Ending December 31, 2001 in connection with paragraph 125(d).

paragraph 131 of the Consent Decree mandated such responsibility to the DSD. By December 31, 2002, this situation was alleviated somewhat when certain audits that were technically the responsibility of the DSD were unofficially reassigned to the Audit Division, thereby limiting the audit-related responsibilities of the DSD to only those audits that are specific to the work of the gang units.

Current Assessment of Compliance

Under the proposed March 2003 reorganization, the paragraph 131(a) and (b) audits are among those DSD responsibilities that would be assumed by the newly-created SOSD. Although some progress was made on the gang unit audits required by paragraphs 131(a) and (b) while the reorganizations were being implemented, these audits remained incomplete as of March 31, 2002. The following table and text summarizes the current deadlines and progress for the overdue gang unit audits:

	<u>Current Due Dates</u>	<u>Status</u>
131(a) – Gang Unit Work Product Audit	June 30, 2002	Overdue > 9 months
	June 30, 2003	Upcoming
131(b) – Gang Unit Selection Criteria Compliance Audit	June 30, 2002	Overdue > 9 months
	June 30, 2003	Upcoming

The Gang Unit Work Product audit (paragraph 131(a)) was originally due by June 30, 2002. There are three aspects to this audit that need to be completed:

- i) the Bureau Gang Coordinators need to perform the audits required by paragraph 106(h) of the Consent Decree;
- ii) the SOSD (DSD) needs to review and evaluate the substance of these audits for any risk management issues and a summary needs to be prepared thereof; and
- iii) a meta-audit needs to be performed to assess the quality of the 106(h) audits.

As expressed in section 106(h) of this Monitor’s Quarterly Report, a number of steps have been undertaken to improve the 106(h) audits described above. In addition, the Audit Division has provided input to the Bureau Gang Coordinators regarding their audit methodologies, with the result that the 106(h) audits are nearing completion for Deployment Period 3. The evaluations and meta-audit required by ii) and iii) above are not yet completed, and are not likely to be completed until the quarter ending September 30, 2003, which means that this audit will likely be more than one year late.

The Gang Unit Selection Criteria Compliance audit (paragraph 131(b)) was originally due by June 30, 2002. The methodology for this audit is currently being developed, however this audit is not likely to be completed until the quarter ending September 30, 2003, which means that this audit will likely be more than one year late.

Until the above 131(a) and (b) audits are completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of paragraphs 131(a) and (b) of the Consent Decree. When these audits are completed, the Monitor will re-evaluate this assessment.

Paragraph 131(c-1),(c-3),(c-4)&(c-5) – Other Gang Unit Audits to be Completed by Audit Division

As described above, paragraph 131 mandates the DSD to conduct regular periodic audits of the work product of all gang units covered by paragraph 106. Paragraphs 131(c) and (d) identify the audits that are similar to the Department-wide audits conducted by the Audit Division as required by paragraph 128.

Background

For the last three quarters, the LAPD has been found in functional non-compliance with the Consent Decree requirement to conduct audits for paragraphs 131(c-1), (c-4) and c-5) on a “regular, periodic basis.”

The audit required by paragraph 131(c-3) was required to be completed by November 1, 2002; this audit was also incomplete by December 31, 2002, so the Monitor found the Department in functional non-compliance for this audit.

As expressed above, the Monitor reported previously that there were significant resource issues facing the DSD that affected the DSD’s willingness/ability to accept responsibility for the gang unit audits, notwithstanding that paragraph 131 mandated such responsibility to the DSD. By December 31, 2002, the paragraph 131(c) audits were unofficially reassigned to Audit Division so that such audits would be addressed in a separate sample, but otherwise included with the Department-wide audits required by paragraph 128 of the Consent Decree.

Current Assessment of Compliance

While some progress has been made on the four outstanding gang unit audits required by paragraphs 131(c-1), (c-3), (c-4) and (c-5), these audits remained incomplete as of March 31, 2002. The following table and text summarizes the current deadlines and progress for these four overdue gang unit audits:

	<u>Current Due Dates</u>	<u>Status</u>
131(c-1) – Gang Unit Warrant Applications & Affidavits Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming
131(c-3) – Gang Unit Use of Force Reports Audit	Nov. 1, 2002 Nov. 1, 2003	Overdue > 5 months Upcoming
131(c-4) – Gang Unit Motor Vehicle & Pedestrian Stops Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming
131(c-5) – Gang Unit Informant Control Packages Audit	June 30, 2002 June 30, 2003	Overdue > 9 months Upcoming

- A Department-wide Search Warrants and Affidavits audit was completed and assessed in the Monitor's report for the quarter ending September 30, 2002, but that audit did not address the special needs of a gang-related audit as required by paragraph 131(c-1). The next Department-wide Search Warrants and Affidavits Audit expected to do so, and is due to be completed during the quarter ending September 30, 2003, which is more than one year late.
- The Department-wide UOF Reports audit is currently being revisited for quality issues, and is expected to be completed in the quarter ending June 30, 2003; this audit includes SEU incidents but does not address the special needs of a gang-related audit. As stated in the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor suggests that it would be preferable to address the needs of a gang unit UOF Reports audit in this quarter, rather than waiting another year to conduct this audit. The Monitor understands that this is not being done, and instead, the special needs of a gang-related UOF audit are likely to be deferred to the quarter ending September 30, 2003, almost one year late.
- Planning is currently in progress for a Department-wide Motor Vehicle & Pedestrian Stops Audit. The Audit Division will include the special needs of a gang-related audit in its planning, as required by paragraph 131(c-4); however, this audit is not expected to be completed until fiscal 2003/2004, which is more than one year late.
- A Department-wide Confidential Informants Control Packages Audit was recently completed as reported in the Monitor's Report for the Quarter Ending December 31, 2002, but that audit did not address the special needs of a gang-related audit as required by paragraph 131(c-5). The next Department-wide Confidential Informants Control Packages Audit is expected to do so. This audit is scheduled to be submitted during the quarter ending June 30, 2003, which will be between 9-12 months late.

Until the above 131(c-1), (c-3), (c-4) and (c-5) audits are completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of these paragraphs of the

Consent Decree. When these audits are completed¹⁰¹, the Monitor will re-evaluate this assessment.

Paragraph 134 –Skeletal Fractures During UOF Audit

Paragraph 134 requires the Department to complete an audit of all known UOFs resulting in skeletal fractures within 18 months of the effective date of the Consent Decree. The audit must review and evaluate the frequency of occurrence of skeletal fractures by officers and groups of officers, the types of force that produced such fractures, the medical care provided, the COC investigation, and any patterns related to complaints. The audit must also analyze the circumstances giving rise to the UOF and resulting fractures and the responsiveness of the Department to such injuries, and must recommend potential reforms to minimize and promptly treat such fractures.

Background

The Consent Decree became effective on June 15, 2001 triggering the requirements of this paragraph to be completed by December 15, 2002.

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor addressed the timeliness of this audit. In light of the expansion in scope of this audit as requested by the DOJ, the Monitor withheld a determination of compliance relative to timeliness. This quarter, the Monitor assessed the quality of this audit.

Current Assessment of Compliance

In order to assess compliance with paragraph 134 relative to the quality of this audit, the Monitor reviewed the Audit Division's UOF-Skeletal Fractures (UOF-SF) audit report dated January 8, 2003, that was issued to the Police Commission on January 15, 2003, as well as the underlying UOF reports and audit working papers that were the basis for this audit. The Monitor also reviewed an amendment report that was provided to the Police Commission on February 25, 2003, which reflects revisions to the January 8, 2003 audit report¹⁰² that were not received until after the submission of that audit.

¹⁰¹ The Consent Decree specifically requires that the DSD perform these audits. Accordingly, unless the Consent Decree is amended, even if Audit Division were to complete these audits on a timely basis, the Department would not be in compliance with the Consent Decree. Although the Monitor and the DOJ are amenable to a proposal to change the Consent Decree to shift responsibility for these audits, such a proposal has not yet been made.

¹⁰² The revisions were based on additional records requested from the Los Angeles Fire Department regarding the timeliness of emergency medical care.

Although requested, the Monitor was not provided tape-recorded witness interviews in time to listen to them and assess their contents for the purpose of this report. The Monitor will listen to such tapes and report its findings in the Monitor's next quarterly report.

The Monitor's findings from its review of this audit are as follows:

- The Audit Division identified and reviewed 13¹⁰³ completed UOF investigations that involved a skeletal fracture that occurred from September 1, 2001 to August 31, 2002; 7 were investigated as a CUOF, and 6 were investigated as a NCUOF.
- The Audit Division performed appropriate steps to ensure that all completed UOF-SF investigations were included in the scope of this audit; however, this audit was meant to address "all" known UOFs resulting in a skeletal fracture, and was not meant to be limited to only "completed investigations" of known skeletal fractures. While the Audit Division noted that any incomplete UOF-SF investigations would be addressed in a supplemental audit, the Audit Division did not address the underlying cause of this restriction or its impact on the completeness of their findings as expressed in its audit report dated January 8, 2003. The Monitor is aware of at least two additional UOF-SFs that will be included in this supplemental audit.
- The Audit Division prepared a matrix¹⁰⁴ to provide guidance to its auditors prior to commencing this audit. This matrix addressed the majority of the substantive/risk management issues required by paragraph 134 of the Consent Decree; however, it did not fully address the quality and timeliness of the COC investigations as discussed below.
- The Audit Division evaluated the quality, thoroughness and disposition of the COC¹⁰⁵ investigations, and ultimately concluded that the COC investigations failed to meet the quality and thoroughness objectives. However, the Audit Division failed to identify that the COC investigations did not resolve certain inconsistencies between the witness statements and the types of force used. The Audit Division advised that they recognized these deficiencies in their audit after submission of their audit report to the Police Commission, and that they planned to re-evaluate these objectives in their supplemental audit.
- The Audit Division concluded that the COC investigations were not completed on a timely basis by all the supervisors assigned to complete such NCUOF investigations, but failed to evaluate the timeliness of 4 of the Commanding Officers' reviews and all 6 of the bureau

¹⁰³ The Audit Division initially identified 14 incidents. However, one of the CUOF-SF reports originally included in the audit population was appropriately excluded, as it was determined by the UOFRB that the skeletal fracture did not result from a UOF, but was instead caused by a fall.

¹⁰⁴ Unlike recent audits conducted by the Audit Division, a "crib sheet" (which provides explanations relating to criteria being evaluated in the matrix) was not prepared for this audit, as the two auditors conducting this audit worked together to clarify the matrix prior to conducting their fieldwork.

¹⁰⁵ COC investigations are only performed for NCUOFs, whereas CUOFs are investigated by CIID and reviewed by the UOFRB.

commanding officers' reviews of such investigations as required by paragraph 69 of the Consent Decree.

- The Audit Division correctly identified 7 incidents whereby the Watch Commander's interview and inspection of arrestees was not documented in accordance with Department policy and paragraph 73 of the Consent Decree; however, the Audit Division did not follow up with the divisions regarding 3 of these incidents until after the Monitor and IG commenced their evaluations of this audit.
- The Audit Division correctly identified that the tactics in CUOF investigations appeared to have been scrutinized more closely than in NCUOF investigations; however the Audit Division failed to consider whether the scrutiny of NCUOF investigations involving skeletal fractures should be further improved/documentated.
- The Audit Division correctly concluded that medical care was provided on a timely basis to individuals who sustained a skeletal fracture resulting from a UOF; however, the Audit Division made certain estimates¹⁰⁶ to evaluate the timeliness of such care, when such estimates were not necessary based on the information available.
- The Monitor agrees with the Audit Division's conclusion that the current criterion of hospitalization should remain as the determining factor between CUOFs and NCUOFs; however, the Audit Division did not conclude whether NCUOF-SF should be subjected to any further examination beyond the scope ordinarily required for a NCUOF investigation, nor did they conclude whether an additional NCUOF-SF audit should be performed.

Based on the foregoing, the Monitor concludes that this audit did not address all of the requirements of paragraph 134 of the Consent Decree. Accordingly, the Monitor finds that this audit is in functional non-compliance with the requirements of paragraph 134.

Proposed Recommendations

In light of the deficiencies identified in the quality of the COC investigations of NCUOFs-SF, and the lack of compliance with the requirement for a Watch Commander to inspect all arrestees who have sustained a skeletal fracture from a UOF, the Monitor recommends:

- The Department should increase its scrutiny of NCUOFs resulting in skeletal fractures.¹⁰⁷
- Future UOF audits¹⁰⁸ should include, as a separate stratum, an examination of 100% of all UOFs that resulted in a skeletal fracture during the period of the audit.

¹⁰⁶ Where records were incomplete or illegible, Audit Division made certain assumptions regarding the time of the incident and/or EMT response time.

¹⁰⁷ The Monitor understands that the Department is currently revising Special Order 27. The Monitor suggests that the revisions to Special Order 27 address this.

¹⁰⁸ Required by paragraph 128(3) of the Consent Decree.

- The scope of future UOF audits should be expanded to adequately evaluate¹⁰⁹ the quality, thoroughness, disposition and timeliness of all NCUOF investigations involving skeletal fractures, as well as compliance with paragraph 73 of the Consent Decree.

In order to ensure that all NCUOFs, including those involving skeletal fractures, are adequately scrutinized on a timely basis:

- The Monitor reiterates its recommendation that a UOF tracking number should be assigned when the UOF Report is approved by the Watch Commander,¹¹⁰ instead of being tracked by the UOFRS only after the NCUOF has gone through the entire COC investigation process.
- A standardized Department-wide tracking system should be implemented at the divisional¹¹¹ level that notifies the commanding officer of a NCUOF incident/investigation. The Monitor is aware of only a few divisions that currently track such information.

The Monitor also recommends the following improvements to the Audit Division's audit processes:

- Future UOF audits should include all UOFs that occurred during the period under review, regardless of whether the investigations are completed. For investigations in process, the Audit Division should ascertain reasons for delays, if any, in conducting such investigations, and specifically consider if there are any substantive findings that impact the audit conclusions.
- The Audit Division should consider alternative approaches to evaluating their objectives, particularly if shortcomings in the Department's practices would otherwise preclude addressing such objectives.¹¹² Where assumptions are made, these should be clearly documented.
- The Audit Division should follow up with the Department, preferably in writing, regarding any deficiencies/substantive findings identified during an audit, and should refer to such follow-up in its audit report. In addition, the Audit Division should attempt to ascertain the underlying reasons for and report on possible recommendations to improve such deficiencies.

¹⁰⁹ Appropriate planning materials should also be prepared, including revising the matrix and developing a cribsheet.

¹¹⁰ The Monitor's Report for the Quarter Ending December 31, 2002 included this recommendation as well as steps to implement it.

¹¹¹ Including the 18 Geographic divisions, as well as Traffic, Jail and Transit divisions.

¹¹² For example, the Audit Division did not evaluate timeliness of commanding officers' reviews of NCUOF investigations because certain divisions were using old forms that did not capture the appropriate information relating to the review and approval of those investigations; the Monitor made certain reasonable assumptions relating to those old forms that the Audit Division could have made in order to evaluate the timeliness objective.

C. INSPECTOR GENERAL AUDITS

Overview

During this quarter, the Monitor assessed the timeliness and quality of the IG's role in the audit process:

- Paragraph 135a – Timeliness of Transmittal of LAPD Audits to the OIG
- Paragraph 135b – OIG Evaluation of LAPD Audits
- Paragraph 136(ii) – OIG Audit of Complaint Form 1.28 Investigations
- Paragraph 139 – OIG Retaliation Complaint Protocols

Paragraph 135 – OIG Evaluation of LAPD Audits

Paragraph 135 requires the Department to provide the IG with copies of specific audit reports within seven (7) days of completion, so they may evaluate all such audits to assess their quality, completeness, and findings. For ease of reporting, the Monitor has split its reporting on paragraph 135 into two components:

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

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

Background

During the quarter ending December 31, 2002, the Monitor assessed the timeliness of the audits received by the OIG for the first time, and found the Department to be in functional non-compliance with regards to the timeliness of transmittal of the paragraph 128(1), 128(2), 128(5), and 131(d) audits, respectively.

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 for the current quarter, the Monitor reviewed copies of the following reports and related correspondence that documented when such reports were transmitted from the Department to the OIG:

- Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Office (CD70(b)).
- Audit Division's UOF-SF Audit (CD134).

The following table summarizes the timing of the transmittal of the two reports described above:

	<u>CD 70b</u>	<u>CD 134</u>
Date of Audit Report	December 16, 2002	January 8, 2003
Date Approved by Chief of Police	January 3, 2003	January 15, 2003
Date Received by Police Commission	January 3, 2003	January 15, 2003
Date Received by OIG	January 13, 2003	January 21, 2003
# of Days from Date of Audit Report to Date Rec'd by the OIG	28	13
Assessment of Compliance	X	X

X = Non-Compliant

Based on the foregoing, the Monitor finds the Department to be in functional non-compliance with regards to the transmittal of the above two reports to the OIG, since neither was transmitted within 7 days of completion.¹¹³

Paragraph 135(b) –Evaluation of the IG’s Reviews of the LAPD’s Audits

Background

In the Monitor’s Reports for the Quarters Ending March 31, 2002 and September 30, 2002, the Monitor found the OIG to be in non-compliance with the requirements of paragraph 135 because it did not adequately assess the quality, completeness and findings of certain audits completed by the LAPD. For the Quarter Ending December 31, 2002, the Monitor noted improvements to the quality of the OIG’s review processes, and found the OIG to be in compliance.

Current Assessment of Compliance

The Monitor did not receive the OIG’s review of the Audit Division’s ABC Reports Audit (as required by paragraph 128(2)) with sufficient time to review it during the current quarter.¹¹⁴ In addition, as of the date of this report, the Monitor had not received the OIG’s review of the following audits:

¹¹³ The “Methodologies to Aid in Determination of Consent Decree Compliance” define the date of completion to be the date of the audit report.

¹¹⁴ The OIG received this audit on October 29, 2002, and completed its review on March 13, 2003.

- Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Office (as required by paragraph 128(2) and 70(b)), which was received by the OIG on January 13, 2003; and
- Audit Division's UOF-SF Audit (as required by paragraph 134), which was received by the OIG on January 21, 2003.

Although the OIG has a working deadline of two months for the completion of each of its paragraph 135 reviews:

- the OIG's review of the ABC Reports Audit took 4½ months to complete, and
- the OIG's reviews of the 70(b) and Skeletal Fractures Audits are not yet complete, which means that these audits will take in excess of 3 months to complete.

As the OIG's review of the Department's audits is an integral step in the process of implementing the recommendations emanating from such audits¹¹⁵, any delays in the OIG's reviews cause a similar delay in the reform process. In order to remedy this, the Monitor suggests that the OIG's resource constraints are addressed.

In light of the fact that the OIG did not complete any of its reviews as required by paragraph 135 of the Consent Decree, the Monitor concludes that the OIG is in non-compliance with paragraph 135 for this quarter. The Monitor will report its findings relating to the quality of the above reviews in its next quarterly report.

Paragraph 136(ii) – OIG Audit of Complaint Form 1.28 Investigations.

Paragraph 136(ii) requires the OIG to conduct a regular periodic audit and review of a stratified random sample of all Complaint Form 1.28 investigations. In its review, the OIG shall assess the quality, completeness, and findings of the investigations and whether they were completed in a timely manner and properly adjudicated. These findings are to be reported promptly in writing to the Police Commission.

Background

As reported in the Monitor's Reports for the Quarters Ending June 30, 2002, September 30, 2002, and December 31, 2002, the OIG had not completed its first complaints audit; accordingly, for each of these quarters, the Monitor found the OIG to be in non-compliance with the Consent Decree requirement to conduct this audit on a "regular, periodic" basis.

¹¹⁵ This is further discussed in paragraph 143 of this Monitor's Report.

Current Assessment of Compliance

Although the OIG has made progress on the Complaint Form 1.28 Investigations Audit (paragraph 136(ii)) including planning the audit, selecting a suitable sample, identifying the type of issues to be subjected to an audit, and completing some of the fieldwork, the audit remains incomplete as of March 31, 2002 due to resource constraints. Until this audit is completed, the Monitor will continue to find the OIG in functional non-compliance with the requirements of paragraph 136(ii).

Paragraph 139 – Recording and Investigating Retaliation Complaints by OIG

The OIG may receive retaliation complaints from LAPD employees and is required by paragraph 139 to investigate these complaints if the IG “determines that such complaints indicate possible retaliation in the Police Department’s handling of complaints.” The IG is required to record and track these allegations and report to the Police Commission.

The Police Commission shall work with the IG to develop and implement retaliation complaint investigation protocols that protect the identity of complainants

Background

During the quarter ending December 31, 2002, the Monitor found that the OIG continued to be in functional compliance with the provision of paragraph 139 concerning investigation of retaliation complaints. However, the Monitor found the Police Commission in functional non-compliance with the provision of paragraph 139 requiring the development and implementation of complaint investigation protocols to protect the identity of complainants.¹¹⁶

Current Assessment of Compliance

During the current quarter, the Monitor determined that the protocols concerning the handling of retaliation complaints and ensuring the confidentiality of the identity of the person reporting retaliation were still not acted upon by the Police Commission. The Commission is still deferring the matter pending the selection of a new IG.

¹¹⁶ The IG developed the protocols and forwarded them to the Police Commission for consideration and approval during the quarter ending September 30, 2002.

The Monitor finds the Police Commission in functional non-compliance with the provision of paragraph 139 requiring the development and implementation of complaint investigation protocols to protect the identity of complainants.¹¹⁷

¹¹⁷ Although the Police Commission has not approved the protocols submitted by the OIG, it was represented to the Monitor by the interim IG that the procedures articulated in the protocols were being followed by his staff, particularly as they pertain to ensuring the confidentiality of complainants.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

Overview

The Consent Decree requires that the Police Commission review and evaluate all CUOFs and determine whether an officer's conduct conforms to LAPD policies, procedures, and the requirements of the Consent Decree.

Additionally, the Police Commission is charged with reviewing various audits, as outlined in the Consent Decree, to determine whether any changes in LAPD policies are necessary. If any changes to LAPD policies are required, 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.

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor completed its review of CUOF investigations submitted to and reviewed by the Police Commission.

During the current quarter, the Monitor assessed the Police Commission's review of audits and new LAPD policies and procedures, as well as the Commission's investigation of misconduct complaints filed against the Chief of Police.

The results of our current assessment follow.

Paragraph 143 – Police Commission Review of Audits and Review/Approval of LAPD Policies and Procedures

Paragraph 143 requires the Police Commission and the IG to review various audits required under the Consent Decree to determine whether any changes or modifications to LAPD policies are necessary. The paragraph also requires the Police Commission to consider the results of such audits in its annual evaluation of the Chief of Police. Additionally, the paragraph requires Police Commission review and approval of all new LAPD policies and procedures, as well as changes to existing policies and procedures.

Background

As reported in the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor found that the Police Commission lacked a system to track audits to ensure that they were completed and provided to the Police Commission on a timely basis. Because of this, as well as additional problems noted in the Report, the Monitor found the Police Commission in functional non-compliance with the provisions of paragraph 143 that pertain to review of audits.

Review of the provision requiring the Commission to consider the results of audits in its annual evaluation of the Chief of Police was postponed until the Quarter Ending September 30, 2003 to coincide with the Monitor's review of paragraph 144, which pertains to the Chief's annual evaluation. The Monitor's evaluation of the Police Commission's review and approval of all new LAPD policies and procedures was scheduled for the current quarter.

Current Assessment of Compliance

In order to assess compliance for the current quarter, the Monitor met Police Commission staff to discuss the provisions of this paragraph, and reviewed the Police Commission's records related to audits submitted by the LAPD and the Inspector General to the Police Commission since July 1, 2002, including:

- the Police Commission's copies of audits submitted to them;
- agendas for the Police Commissioners' meetings at which the above audits were intended to be discussed; and
- transcripts from the above Police Commissioners' meetings.

In addition, the Monitor examined a listing of all new policies and procedures and changes in existing policies and procedures presented to the Police Commission by the Department from July 1 to December 31, 2002.

Police Commission Review of Audits

From July 1, 2002 to March 31, 2003, the following Consent Decree audits were received by the Police Commission:

		<i>Date Rec'd by PC</i>	<i>Date Reviewed by PC</i>
1. LAPD's Gang Unit Use of Confidential Informants Audit	CD131(d)	July 9, 2002	Sept 3, 2002
2. LAPD's Search Warrant Applications & Supporting Affidavits Audit	CD128(1)	Aug 16, 2002	Nov 26, 2002
3. IG's Non-Categorical Use of Force Reports Audit	CD136i	Aug 2002	tbd
4. LAPD's Confidential Informant Control Packages Audit	CD128(5)	Sept 9, 2002	Dec 17, 2002
5. LAPD's Arrest Booking & Charging Reports Audit	CD128(2)	Oct 25, 2002	Mar 2003
6. LAPD's Supplemental Audit of Arrests Requiring Supervisory Evaluation	CD128(2)-70b	Jan 3, 2003	Apr 29, 2003
7. LAPD's Uses of Force Involving Skeletal Fractures Audit	CD134	Jan 15, 2003	Apr 22, 2003

The Monitor reviewed the Police Commission's audit tracking log and meeting agendas to determine when (and if) the above audits were reviewed by the Police Commission. Based on this review, the Monitor determined that the Police Commission is not reviewing the LAPD's audits on a timely basis. Further particulars are as follows:

- Six of the above audits (#1, 2, 4, 5, 6 and 7) were not reviewed on a timely basis by the Police Commission. In all six instances, the Police Commission deferred reviewing and approving them for 2-5 months until they had received and reviewed the IG's evaluation of said audits. For the two most recent audits (#6 and 7), both of which were placed on the Police Commission's agenda within a month of receipt, the Police Commission elected to defer its review, notwithstanding a recommendation by the IG that they do otherwise. Consequently, the effectiveness of all six of these audits was delayed and diminished, since action could not be taken to remedy the issues identified in these audits until several months after they were completed.
- The IG's audit (#3) was not listed on the Police Commission's audit tracking log, so it was difficult to determine whether this audit was, indeed, reviewed by the Police Commission and to assess the timeliness of that review.

While reviewing the audit tracking log and meeting agendas, the Monitor noted several other issues:

- the system used by Police Commission staff to track the disposition of audits, although updated to February 20, 2003, did not mention the audits received in January 2003 (#6 and 7 above) that were initially considered at the Police Commission meeting on January 28, 2002, and then deferred until after the IG completed its review thereof; and
- the agendas for the April 2003 meetings incorrectly suggested that the audits received in January 2003 (#6 and 7) were discussed, reviewed and approved at the meeting of January 28, 2003; instead, a question was raised about one of the audits, and the review of these audits was deferred.

In order to ascertain the outcome of the Police Commission's review of the audits listed above, specifically, whether the Police Commission determined that any changes or modifications to the LAPD policies were necessary, the Monitor attempted to examine the minutes from the above meetings. As of March 31, 2003, the Police Commission staff was at least seven months behind in preparing such minutes due to staffing shortages; accordingly, none of these minutes had been prepared.

In the absence of any minutes, the Monitor examined the transcripts from two of the above meetings (#1 and 2). Based on this review, although the Police Commissioners discussed certain of the findings from these audits, they did not formally approve such audits, nor did they approve the recommendations of either the LAPD or the IG.

Based on the foregoing, the Monitor finds the Police Commission in non-compliance with the provisions of paragraph 143 pertaining to the Police Commission's requirement to review all audits in order to determine whether any changes to LAPD policies are necessary.

Police Commission Review and Approval of All New LAPD Policies & Procedures

From July 1 to December 31, 2002, based on a listing provided to the Monitor by the Police Commission staff, there were six special orders, describing new and amended procedures that were provided to the Police Commission for their review and approval. Four of these special orders were reviewed and approved by the Police Commission within 14 days of receipt, and the other two took several months to review and approve.

Based on the foregoing, the Monitor finds the Police Commission in non-compliance with the provisions of paragraph 143 as it pertains to the Police Commission's requirement to review and approve. Disapprove or require modification of all new and amended LAPD procedures within 14 days of the date of action by the Chief or designee, and within 14 days of receipt.

Proposed Recommendations

As soon as an audit report is received from either the LAPD or the IG, Police Commission staff should include such reports on the next Police Commission agenda, and the Police Commission should review such audits and take action, rather than waiting until the IG's review and

evaluation of such audits is completed. A suitable representative of the LAPD should attend such Police Commission meetings in order to address any questions or concerns raised by the Commissioners about such audits.

Police Commission staff should improve their audit tracking process to ensure that all audits received are heard by the Police Commission on a timely basis, and to identify and track the disposition thereof.

While the Monitor acknowledges the efforts of the Police Commission staff to remedy the backlog in preparing the Police Commission meeting minutes, the Monitor suggests that the minutes for all future meetings are prepared within, say, one week of such meetings, so that such minutes can be reviewed on a timely basis at the next or a subsequent Police Commission meeting.

Paragraphs 96 and 145 – Misconduct Complaints Filed Against the Chief of Police

Paragraph 96 states that investigative duties mandated in paragraphs 93 and 94 shall not apply to investigations of misconduct complaints lodged against the Chief of Police and that such investigations shall be directed by the Police Commission. Paragraph 145 states that the Police Commission shall investigate all misconduct complaints against the Chief of Police and may use its staff, the IG, or authorized contractors to conduct such investigations.

Background

During the quarter ending December 31, 2002, the Monitor met with OIG staff and obtained updated information concerning misconduct complaints filed against the Chief of Police since March 2002. In addition, the Deputy Primary Monitor contacted the Police Commission's Executive Director and learned that all misconduct complaints filed against the Chief of Police are referred by the Police Commission to the OIG for investigation. However, there existed no tracking system at the Police Commission evidencing the receipt of complaints and their referral to the OIG.

In its Report for the Quarter Ending December 31, 2002, the Monitor recommended that a record keeping system be put in place at the Police Commission to track all misconduct complaints filed against the Chief of Police. This would allow for comparison with records maintained by the IG and contained on the Chief's TEAMS Report.

Current Assessment of Compliance

During the current quarter, the TEAMS Report for the Chief of Police was made available to the Deputy Monitor. In addition, the Monitor conducted a review of the investigation files maintained by the OIG concerning complaints filed against the Chief of Police for the years 2001

and 2002. Finally, the Monitor requested and received database information from the IAG concerning its records of complaints filed against the Chief of Police.

The Police Commission also established a log for the purpose of tracking complaints filed with the Commission against the Chief of Police, as previously recommended by the Monitor.

During the review of the OIG complaint investigation files, the Monitor found that in one case, documentation showing that the Police Commission adopted the recommendation of the IG was missing from the complaint case file. In six instances, reply letters were not sent to complainants. In four instances, complaint file numbers were not timely obtained.¹¹⁸

In addition, a number of discrepancies were noted between the Chief of Police's TEAMS Report for the years 2001 and 2002 and the information obtained from the OIG and IAG:

- Complaints filed against the Chief of Police and shown on his TEAMS Report also appeared in the database information provided to the Monitor by IAG. However, the IAG database contained three additional complaints that did not appear on the TEAMS report.
- Complaints filed against the Chief of Police and shown on his TEAMS report also appeared in the database information provided to the Monitor by OIG. However, the OIG database contained three additional complaints that were not shown on the TEAMS report.

These discrepancies are currently being followed up by the Monitor.

The Monitor withholds determination of functional compliance with the provisions of paragraphs 96 and 145 pending resolution of the discrepancies found and additional follow-up work at the OIG.

Paragraph 146 – Approval of LAPD Budget

Paragraph 146 requires the Police Commission continue to review and approve LAPD budget requests.

Background

The Monitor previously reported on this paragraph in the Report for the Quarter Ending December 31, 2002 and found that the Police Commission was reviewing and approving LAPD budget requests before submission to the City.

¹¹⁸ OIG staff assured the Monitor that this has been corrected and complaint file numbers are currently being obtained in a timely manner. The Monitor will follow up in future quarters.

Current Assessment of Compliance

The Monitor reviewed LAPD supplemental budget requests submitted to the Police Commission between March 1, 2002 and March 1, 2003. The Monitor's review established that each supplemental budget request submitted by the Chief of Police was reviewed by the Police Commission prior to its approval of the request and subsequent submission to the City.

One of the requests included the revised final reorganization plan and revised interim budget submitted by Chief Bratton and approved by the Commission on February 25, 2003. Both the reorganization plan and interim budget request are awaiting review and approval by the City.

The Monitor continues to find the Police Commission in functional compliance with the provisions of paragraph 146.

B. OPERATIONS OF THE INSPECTOR GENERAL

Overview

The Consent Decree affirms that the IG shall review and evaluate all CUOF incidents and provides that he shall be notified of all such incidents in a timely manner. In addition, he may observe all CUOF "roll outs" and may attend UOFRB meetings. The IG's observations, reviews and evaluations are reported to the Police Commission for consideration.

In its Report for the Quarter Ending December 31, 2002, the Monitor assessed the IG's conformance with the dictates of the Consent Decree. The Monitor is scheduled to assess such issues again, in its Report for the Quarter Ending June 30, 2003.

C. GENERAL

Overview

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

The Monitor first assessed the Department's progress in implementing recommendations in the quarter ending September 30, 2002 and will continue to assess the Department's progress each quarter going forward.

Paragraph 154 – Recommendations to Improve Deficiencies

Paragraph 154 requires the City and the Department to take appropriate, timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the IG, and the Department under the Consent Decree.¹¹⁹

Background

In its Report for the Quarter Ending December 31, 2002, the Monitor assessed the Department's overall implementation of recommendations made in connection with successive audits, and examined the processes in place to track such recommendations, as well as recommendations emanating from other reviews and reports required by the Consent Decree.

The Monitor concluded that although the Department had made some progress, there were numerous recurring deficiencies and recommendations emanating from successive audits that were not yet implemented.

In addition, the Monitor concluded that neither the City nor the Department, including the Audit Division, IG and the Police Commission, or any other group performing audits, had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree. The Monitor therefore found the City and LAPD to be in non-compliance with paragraph 154.

Current Assessment of Compliance

Processes to Track Audit-Related Recommendations

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor reiterated its recommendation from a prior Quarterly Report that "each successive audit report should include a section [that] discusses the progress on recommendations and issues identified for follow-up in prior audit report(s)." No successive audits have been completed since September 2002.

Implementation of Recommendations Emanating from Successive Audits

Although several audits were scheduled for completion, there have been no successive audits completed since September 2002 by Audit Division, the IG or any other party conducting audits.

¹¹⁹ The Monitor notes that the City's position is that paragraph 154 is not required to be monitored; the Monitor's view is that this paragraph requires monitoring.

Processes to Track Recommendations Emanating from Other Reviews and Reports Required by the Consent Decree

On March 12, 2003, members of the Monitor staff met with members of the LAPD, the Chief Legislative Analyst, the City, and the DOJ to discuss the requirement to track and implement recommendations emanating from other reviews and reports required by the Consent Decree. As a result of the meeting, the LAPD committed to tracking recommendations to correct deficiencies and is in the process of developing a matrix to aid in this process.¹²⁰

Implementation of Recommendations Emanating from Other Reviews and Reports Required by the Consent Decree

As described above, the Department has not yet implemented a system to track recommendations to correct deficiencies emanating from non-audit reviews and reports, required by the Consent Decree and is, therefore, not in a position to determine whether deficiencies noted therein are being remedied.

In summary, the Department has yet to implement a system to adequately track recommendations to correct deficiencies in reviews, reports or audits required under the Consent Decree. Without such a tracking system, the Department is unable to show that it is taking appropriate, timely and reasonable steps to remedy such deficiencies, as required by paragraph 154.

The Monitor finds the City and the LAPD to be in continued non-compliance with paragraph 154.

¹²⁰ The Monitor notes that the City committed to this position even though it holds the position that the monitoring of paragraph 154 is not mandated by the Consent Decree. As stated earlier, the Monitor maintains that it is required to monitor the paragraph; accordingly, compliance is being assessed consistent with that position.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

Overview

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 for the first year of the Consent Decree, and one meeting in each Area annually thereafter.

The Consent Decree also mandates that the LAPD prepare and publish on its website semiannual public reports that include aggregate statistics broken down by each LAPD geographic area and for the Operations Headquarters Bureau, and broken down by the race/ethnicity/national origin of the citizens involved, for arrests, pedestrian and traffic stops, and UOFs. Additionally, the Consent Decree mandates the establishment of a media advisory group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles.

During the preceding and current quarters, the Monitor reviewed the LAPD's compliance with the Consent Decree mandate to publish certain semi-annual reports on its website. In addition, the Monitor evaluated the effectiveness of the LAPD's Media Advisory Group.

The results of our current assessment follow.

Paragraph 156 – Website Reports

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

Background

The Monitor last evaluated compliance with this paragraph in the Monitor's Report for the Quarter Ending December 31, 2002, at which time the LAPD was found to be in non-compliance with the requirements of paragraph 156.

Current Assessment of Compliance

In order to assess compliance, the Monitor reviewed the semi-annual report for the period July 1, 2002 through December 31, 2002, which is posted on the LAPD's website.

The semi-annual report for this time period includes, as mandated by the Consent Decree, the pedestrian and traffic stop data for July 1, 2002 through December 31, 2002; reports of audits

completed during the sixth month period; and a summary of all discipline imposed in the period. The LAPD is also required to post any new policies or changes in policies made by the Department to address the Consent Decree. The LAPD failed to post 4 directives¹²¹ that were issued during the period July 1, 2002 through December 31, 2002.

As a result of the LAPD's failure to post all of the directives issued for this time period, the Monitor finds the LAPD in non-compliance with paragraph 156.

Paragraph 157 – Meeting with Community Advisory Groups

Paragraph 157 requires the LAPD to establish a media advisory group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles. This group is required to meet quarterly.

Background

The LAPD has been found in compliance with paragraph 157 for three consecutive quarters, beginning with the quarter ending June 30, 2002.

Current Assessment of Compliance

In order to assess compliance with paragraph 157 for the current quarter, the Monitor requested and reviewed all paperwork leading up to and resulting from the Media Advisory Group's February 27, 2003 quarterly meeting, including the meeting's attendance list and notes.

Attendance at the meeting had increased slightly from the previous quarterly meeting and was comprised of representatives from City Council District 9, 4 media groups, and the LAPD. Despite letters sent by the LAPD to each of the City Council Members aimed at bolstering support for the Media Advisory Work Group, only 1 out of 15 Council Districts was represented at the meeting. Without the involvement of the Council offices, it will be difficult for the Media Advisory Group to successfully achieve their goals. The meeting's notes indicate a plan to further publicize the Consent Decree Meetings through a combination of posting information on the various media groups' websites and the creation of a public service announcement. In addition, representatives from City Council District 9 agreed to make meeting information available at their offices.

¹²¹ The four directives that were not included in the Semi-Annual Report for the period July 1, 2002 to Dec. 31, 2002 are: Administrative Order No. 7, "Independent Monitor and the United States Department of Justice; Access and Identification" (dated 10/2/02); Office of the Chief of Police Notice, Re: Compliance with Consent Decree Provisions Governing Search Warrant Procedures (dated 10/9/02); Intra-departmental Correspondence, pertaining to Interim Special Enforcement Unit Selection Procedure (dated October 15, 2001); and Human Resources Bureau Notice, "Digital Cameras for Non-Categorical Use of Force Investigations" (dated 10/25/02).



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

REPORT OF THE INDEPENDENT MONITOR
FOR THE QUARTER ENDING MARCH 31, 2003
Issued May 15, 2003

The Monitor finds the LAPD in continued compliance with paragraph 157.

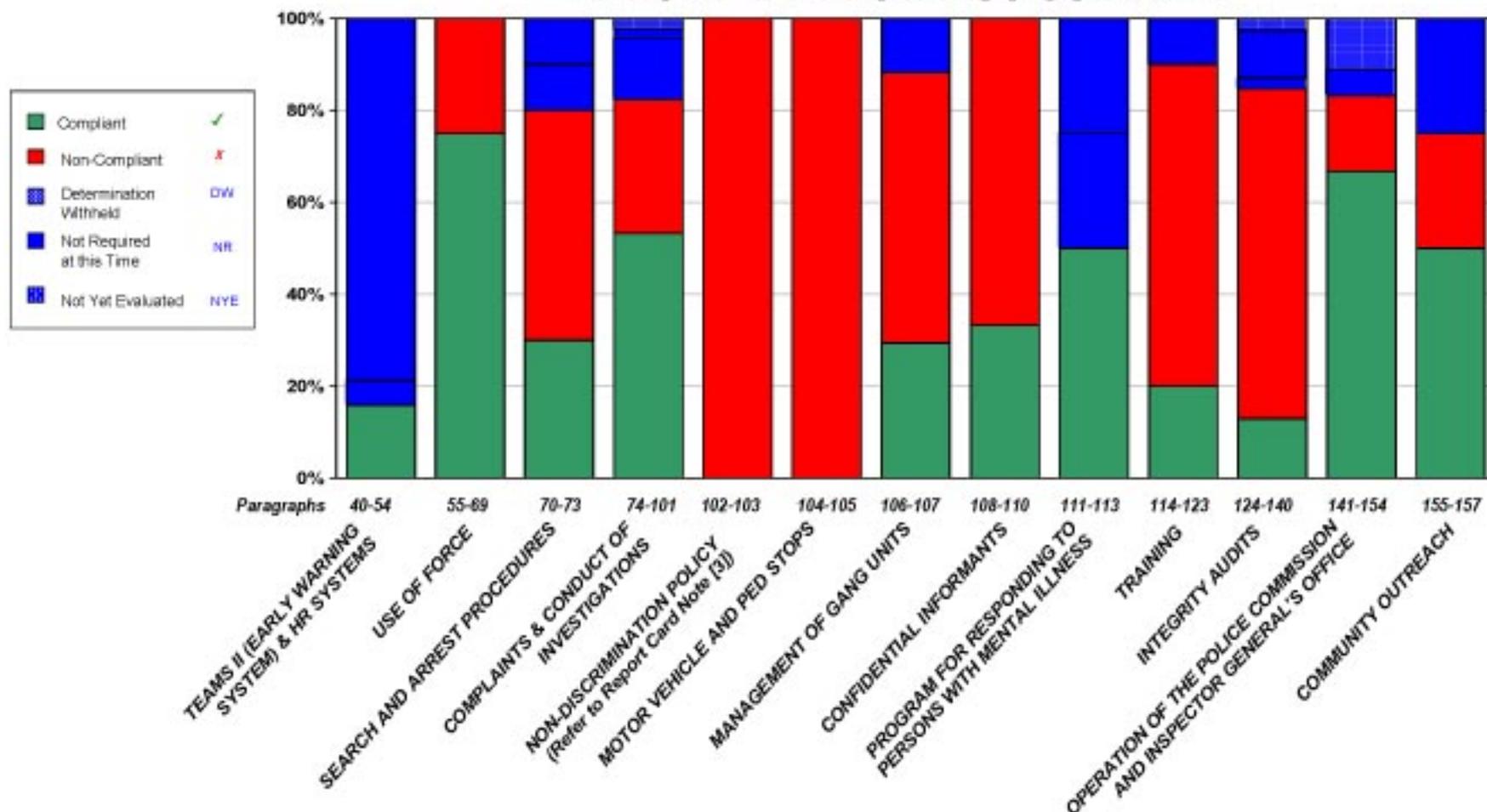
CONCLUSION

The Monitor believes the LAPD is making steady progress toward achieving compliance with the Consent Decree. There remain areas of serious concern, which could delay successful and timely compliance. In this, the seventh Quarterly Report, we reiterate our concern about: Inadequate steps taken to analyze the motor vehicle and pedestrian stops data collected between July 2002 and December 2002; audits continue to be seriously backlogged due to insufficient resources; the daily operations and supervision of the gang units; timeliness of Internal Affairs Group investigations of complaints; and, the requirements that each complaint be freely taken and appropriately adjudicated. We also have an on going concern with the timely implementation of Teams II.

The Monitor sees strong evidence that LAPD and the City are intent on working toward timely compliance. However, we are concerned that adequate and timely resources need to be provided to accomplish all our goals. Failure to provide timely resources or failure to maintain a high level of commitment could prevent timely compliance and be, in the long term, expensive to the City.

"Report Card" Summarizing the Monitor's Evaluation of Compliance
 With the Consent Decree as of the Quarter Ending March 31, 2003

REPORT CARD STATUS SUMMARY*



Office of the Independent Monitor
 of the Los Angeles Police Department

* This chart summarizes the current grades assigned to the paragraphs listed, including subparagraphs where applicable, as reflected in the Status as of Last Evaluation Column in the accompanying detailed Report Card. Please refer to Report Card Note [1] for additional information regarding compliance grading.



"Report Card" Summarizing the Monitor's Evaluation of Compliance
With the Consent Decree as of the Quarter Ending March 31, 2003

		ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					EVALUATION TIMING			
		Jan- Mar 2003	Oct- Dec 2002	Jul- Sep 2002	Apr- Jun 2002	Jan- Mar 2002	Status as of Last Eval'n	Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	Comments
[2]										
I. INTRODUCTION										
1 to 38	General Provisions and Definitions									No task
II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY										
A. TEAMS II [Computer Information System]										
39	New Training Evaluation and Management System (TEAMS II)									No task
II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY										
A. TEAMS II [Computer Information System]										
40	Access by Police Commission, Inspector General & Chief of Police						NR			Pending further development of TEAMS II
41	Information to be Contained in TEAMS II (Design Assessment)						NR			Pending further development of TEAMS II
42	Input of Historical Data into TEAMS II						NR			Pending further development of TEAMS II
43	Data Analysis Capabilities						NR			Pending further development of TEAMS II
44	Linking and Cross-Referencing of Data						NR			Pending further development of TEAMS II
45	Approved Design Document		✓	DW			✓	Dec-02		
46	Protocol for Using TEAMS II (Incl. for Supervision & Audit Purposes)						NR			Pending further development of TEAMS II
47	Protocol Requirements						NR			Pending further development of TEAMS II
48	Training (re: Use of TEAMS II and Protocol Implementation)						NR			Pending further development of TEAMS II
49	Data Capture & Retention						NR			Pending further development of TEAMS II
50	a) TEAMS II Design Approved 30 Days after Submission to DOJ		✓	X			✓	Dec-02		
	b) Approval of Use Protocols 15 Months after Approval of Design						NR			Pending further development of TEAMS II
	c) Beta of TEAMS II Available 12 Months after Approval of Design						NR			Pending further development of TEAMS II
	d) Computer Program and Hardware Operational for Beta of TEAMS II						NR			Pending further development of TEAMS II
	e) TEAMS II Fully Implemented 21 Months after Approval of Design						NR			Pending further development of TEAMS II
51	Use of TEAMS I Data for Decision Making		DW				DW	Dec-02	Jun-03	
52	TEAMS II Modifications Process						NR			Pending further development of TEAMS II
B. Management and Coordination of Risk Assessment Responsibilities										
53	Human Resources Bureau Responsibilities re: Risk Assessments						✓	Sep-01		
C. Performance Evaluation System										
54	Annual Performance Evaluation System Developed & Implemented						NR			
III. INCIDENTS, PROCEDURES, DOCUMENTATION, INVESTIGATION, AND REVIEW										
A. Use of Force										
55	OHB Conduct all Categorical Use of Force Admin. Investigations	✓		✓			✓	Mar-03	Oct-03	

✓ = Compliant, X = Non-Compliant

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REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT

"Report Card" Summarizing the Monitor's Evaluation of Compliance
With the Consent Decree as of the Quarter Ending March 31, 2003

		ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					EVALUATION TIMING		Comments
		Jan-Mar 2003	Oct-Dec 2002	Jul-Sep 2002	Apr-Jun 2002	Jan-Mar 2002	Status as of Last Eval'n	Last Eval'n Quarter Ending	
		[2]							
56	OHB Attend all Categorical Use of Force Incidents		✓		✓	✓	Dec-02	Jun-03	
	i) Notify Chief, OHB, Commission and IG		✗		✓	✗	Dec-02	Jun-03	
	ii) OHB Investigation		✓		✓	✓	Dec-02	Jun-03	
	iii) Senior OHB Command at Scene		✓		✓	✓	Dec-02	Jun-03	
57	LAPD Conduct Criminal Categorical Use of Force Investigations	✓		✓		✓	Mar-03	Oct-03	
58	LAPD Notify DA of Shooting Incident or Death in Police Custody		✓		✓	✓	Dec-02	Jun-03	
59	LAPD Cooperate with DA at Scene of Incident		✓		✓	✓	Dec-02	Jun-03	
60	Individual Attorneys for Officers Involved in OIS Incidents				✓	✓	Jun-02		Next evaluation date undetermined
61	Separate Statements of Officers Involved in OIS	✗		✓		✗	Mar-03	Oct-03	
62	Supervisory Oversight for Categorical UOF Incidents & Search Warrants		✗	✗		✗	Dec-02	Jun-03	
63	Confidential Psychological Evaluation for Officers in Deadly Categorical UOF Incident		✓		✗	✓	Dec-02	Jun-03	
64	a) Officer History Considered for Non-Disciplinary Action in CUOF	✓		✗		✓	Mar-03	Oct-03	
	b) Officer History Considered for Disciplinary Action in CUOF	✓		✓		✓	Mar-03	Oct-03	
65	Requirement to Report Non-Categorical Uses of Force		✗		✗	✗	Dec-02	Jun-03	
66	UOF Report Revised				✓	✓	Jun-02		Next evaluation date undetermined
67	Commission Review Categorical UOF	✓		✓		✓	Mar-03	Oct-03	
68	Non-Categorical Use of Force Investigations		✓			✓	Dec-02	Jun-03	
69	a) Review of Categorical UOF by Review Board	✓		✓		✓	Mar-03	Oct-03	
	b) Non-Categorical UOF Review		✗			✗	Dec-02	Jun-03	
B. Search and Arrest Procedures									
70	a) Review & Approval of Booking Recommendations/Arrests by WC for Completeness and Authenticity		✗			✗	Dec-02	Jun-03	
	b) Evaluation of Penal Code 148 et.al. Incidents	DW		✗		DW	Mar-03	Sep-03	
	c) Supervisor's Performance Evaluations Consider Quality of Supervisory Review					NR			Meet and confer item
71	Supervisory Review of Search Warrants and Ramey Warrants			✓		✓	Sep-02	Jun-03	Assessed for training; awaiting warrant audit for further review
	a) Review for Completeness and authenticity			✓		✓	Sep-02	Jun-03	
	b) Appropriate, Legal and in Conformance with Policy			✓		✓	Sep-02	Jun-03	
	c) Supervisory Review			✗		✗	Sep-02	Jun-03	
72	Search Warrant Log			✗		✗	Sep-02	Jun-03	
73	WC Inspection & Interview of Detainees & Arrestees			✗		✗	Sep-02	Dec-03	
C. Complaint Investigations									

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						[2]				
74	Receipt/Maintenance of Complaints	DW		✓			DW	Mar-03	Jun-03	
	i) Record Calls on 24 Hour Complaint Hotline	✓		✓			✓	Mar-03	Oct-03	
75	Initiation of Complaint Form 1.28	DW		DW			DW	Mar-03	Jun-03	
76	Civil Lawsuits Alleging Misconduct of LAPD		✓		✓		✓	Dec-02	Jun-03	
77	Arrest/Litigation Involving Officer				✓		✓	Jun-02	Jun-03	
78	Requirement to Report Officer Misconduct		DW				DW	Dec-02	Jun-03	
D. Conduct of Investigations										
79	IAG Review of Complaints "Face Sheet"	X		X			X	Mar-03	Oct-03	
80i	CUOF Investigations									
	a) Tape-Record / Videotape Interviews for CUOF Investigations	✓		X			✓	Mar-03	Oct-03	
	b) Canvassing and Interviewing of Witnesses / Complainants to CUOF Investigations	✓		✓			✓	Mar-03	Oct-03	
	c) Group Interviews Prohibited for CUOF Inv'ns	✓		✓			✓	Mar-03	Oct-03	
	d) Not applicable									
	e) Interview All Supervisors for CUOF Investigations	✓		✓			✓	Mar-03	Oct-03	
	f) Collect and Preserve Evidence for CUOF Investigations	✓		X			✓	Mar-03	Oct-03	
	g) Identify and Report All Inconsistencies for CUOF Inv'ns	✓		✓			✓	Mar-03	Oct-03	
80ii	Complaint Investigations									
	a) Tape-Record / Videotape Interviews for Complaint Investigations	X		X			X	Mar-03	Oct-03	
	b) Canvassing and Interviewing of Witnesses / Complainants to Complaint Investigations	✓		✓			✓	Mar-03	Oct-03	
	c) Group Interviews Prohibited for Complaint Inv'ns	X		✓			X	Mar-03	Oct-03	
	d) Notify Involved Officers & their Supervisors Regarding Complaint Investigations	X		✓			X	Mar-03	Oct-03	
	e) Interview All Supervisors for Complaint Investigations	✓		✓			✓	Mar-03	Oct-03	
	f) Collect and Preserve Evidence for Complaint Investigations	X		X			X	Mar-03	Oct-03	
	g) Identify and Report All Inconsistencies for Complaint Inv'ns	✓		✓			✓	Mar-03	Oct-03	
81	a) Chain of Command Investigations of Complaints	X		DW			X	Mar-03	Oct-03	
	b) Non-Categorical Uses of Force Investigations		X				X	Dec-02	Jun-03	
82	Collateral Misconduct Investigations	✓		DW			✓	Mar-03	Oct-03	
83	TEAMS II Access						NR			Pending further development of TEAMS II
E. Adjudicating Investigations										
84	Standards for Credibility Determinations	X		X			X	Mar-03	Oct-03	
85	Adjudication of Complaint Form 1.28 Investigations	✓		✓			✓	Mar-03	Oct-03	

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		ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					EVALUATION TIMING			
		Jan-Mar 2003	Oct-Dec 2002	Jul-Sep 2002	Apr-Jun 2002	Jan-Mar 2002	Status as of Last Eval'n	Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	Comments
		[2]								
86	Withdrawal/Anonymous Complaint Investigations	✓		DW			✓	Mar-03	Oct-03	
87	Timely Complaint Investigations	✗		✓			✗	Mar-03	Oct-03	
F. Discipline & Non-Disciplinary Action										
88	Chief's Discipline Report to Commission and IG	✗	✗	✗	✗		✗	Mar-03	Jun-03	
89	a) IG Review Discipline Report	✓	✓	✓	✓		✓	Mar-03	Jun-03	
	b) Commission Review/Assess Discipline Report	DW	✗	✗			DW	Mar-03	Jun-03	
	c) PC Assessment Considered Part of COP Annual Review						NYE		Sep-03	
90	Manager Review Complaint Form 1.28 Investigations	✗		✓			✗	Mar-03	Oct-03	
91	Complaint Resolution Notification	✗		✗			✗	Mar-03	Oct-03	
92	Anti-Retaliation Policy	DW					DW	Mar-03	Jun-03	
G. Internal Affairs Group										
93	Complaint Investigations	✓		✓			✓	Mar-03	Oct-03	
94	Reallocate Investigations from Chain-of-Command Supervisors	✓		DW			✓	Mar-03	Oct-03	
95	Filling Investigator Positions		✓		✗		✓	Dec-02	Oct-03	
96	Chief Misconduct Complaints	DW	DW				DW	Mar-03	Jun-03	Refer to paragraph 96 / 145 section of report
97	Scheduled Integrity/Sting Audits		✓		✓		✓	Dec-02	Jun-03	
98	Hiring of IAG Investigators/Supervisors		✓		✓		✓	Dec-02	Jun-03	
99	IAG Terms of Duty				✓		✓	Jun-02	Jun-03	
100	IAG Evaluations		✓				✓	Dec-02	Jun-03	
101	Referral of Criminal Conduct	✓					✓	Mar-03	Oct-03	
H. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops										
102	Non-Discriminatory Policy and Assessment of Discrimination in Motor Vehicle & Pedestrian Stops	✗	✗	✗	✗		✗	Mar-03	Jun-03	Failure to publish RFP for analysis and develop internal audit [3]
103	Use of Discrimination in Stops/Detention	✗	✗	✗	✗		✗	Mar-03	Jun-03	Failure to publish RFP for analysis and develop internal audit [3]
104	Motor Vehicle Stop Reports	✗	✗	✗	✗		✗	Mar-03	Jun-03	Determination Withheld regarding functional compliance but in secondary non-compliance
105	Pedestrian Stop Reports	✗	✗	✗	✗		✗	Mar-03	Jun-03	Determination Withheld regarding functional compliance but in secondary non-compliance
IV. MANAGEMENT OF GANG UNITS										
106	a) Gang Coordination	✗		✗			✗	Mar-03	Sep-03	
	b) Eligibility Criteria for Selection of Gang Non-Supervisory Officers	✗		✗			✗	Mar-03	Sep-03	
	c) Eligibility Criteria for Selection of Gang Supervisors	✗		✗			✗	Mar-03	Sep-03	
	d) Tour of Duty Limitations for Gang Supervisors and Officers	✗		✓			✗	Mar-03	Sep-03	
	e) i) Detention, Transportation, Arrest, Booking and Charging of Gang Arrestees	✗			✗		✗	Mar-03	Sep-03	

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REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT

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	Jan- Mar 2003	Oct- Dec 2002	Jul- Sep 2002	Apr- Jun 2002	Jan- Mar 2002		Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	
						[2]			
ii) Class A or C Uniforms for Gang Officers	✓			✓		✓	Mar-03	Sep-03	
iii) Marked Police Vehicles for Gang Officers	✓			✓		✓	Mar-03	Sep-03	
iv) Gang Officers Check Out and Return Field Equipment from Area Kit Room	✗			✗		✗	Mar-03	Sep-03	
v) Gang Officers Attendance for Patrol Roll Calls	✓			✓		✓	Mar-03	Sep-03	
vi) Gang Unit Activities Out of Area Station	✓			✓		✓	Mar-03	Sep-03	
vii) Gang Arrestees/Witness Interviewed at Night at Primary Area Station	✓			✓		✓	Mar-03	Sep-03	
f) Role of Gang Unit Supervisor	✗		✗			✗	Mar-03	Sep-03	
g) Role of Gang Area Managers	✗		✗			✗	Mar-03	Sep-03	
h) Role of Bureau Gang Coordinator	✗		✗			✗	Mar-03	Sep-03	
107 a) Eligibility Criteria for Work in Gang Units						NR			Meet and confer
b) Selection Process for Gang Unit Personnel	✗		✗			✗	Mar-03	Sep-03	
c) Supervisory Review of Incidents & Impact on Eligibility to Remain in Gang Unit						NR			Meet and confer
V. CONFIDENTIAL INFORMANTS									
108 Procedures for the Handling of Informants		✗		✗		✗	Dec-02	Jun-03	
109 Confidential Informants Database		✓		✗		✓	Dec-02	Jun-03	
110 Confidential Informant Manual		✗		✗		✗	Dec-02	Jun-03	
VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS									
111 Evaluation of Other Successful Programs				✓		✓	Jun-02		
112 a) Report to Police Commission on Police Contact with Mentally III	DW	DW	DW			DW	Mar-03	Jun-03	Pending resolution of Monitor concerns
b) Report to City Council and Mayor on Police Contact with Mentally III		✓				✓	Dec-02		
113 Audit of Police Contact with Mentally III						NR			February 2004 deadline
VII. TRAINING									
A. Field Training Officers Program									
114 Eligibility Criteria for FTO			✗			✗	Sep-02	Sep-03	
115 FTO De-selection	DW					DW	Mar-03	Jun-03	Unable to assess compliance due to limited population to sample
116 FTO Training Plan			✗			✗	Sep-02	Jun-03	
B. Training Content									
117 Police Integrity Training Requirements		✗	✗			✗	Dec-02	Sep-03	
118 Public Members on Board of Rights			✗			✗	Sep-02	Jun-03	
119 Tuition Reimbursement	✓					✓	Mar-03	Mar-04	

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	Jan- Mar 2003	Oct- Dec 2002	Jul- Sep 2002	Apr- Jun 2002	Jan- Mar 2002		Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	
120 Communication of Training Suggestions		✓		✓	[2]	✓	Dec-02	Jun-03	
C. Supervisory Training									
121 Supervisory Training Requirements	✗			✗		✗	Mar-03	Sep-03	
122 Who to be Trained re: Supervisory Training						✗	Sep-02	Sep-03	
123 Supervisory Investigations Training						✗	Sep-02	Sep-03	
VIII. INTEGRITY AUDITS									
A. Audit Plan									
124 Audit Plan & Responsibilities	✗		✗			✗	Mar-03	Sep-03	Inadequate audit resources & inability to ensure timely audits
B. Audits by the LAPD									
125 a) Warrant Applications & Affidavits Audit						✗	Dec-01	-	Deficient quality
b) Arrest, Booking & Charging Reports Audit						✗	Dec-01	-	Deficient quality
c) Confidential Informant Control Packages Audit						✗	Dec-01	-	Deficient quality
d) Gang Unit Work Product Audit						✗	Dec-01	-	Deficient quality
126 Use of Force Reports Audit						✗	Mar-02	-	Deficient quality
127 Sting Audits Reporting Protocol		✓		✓		✓	Dec-02	Jun-03	
128 1) Warrant Applications & Affidavits Audit			✓	✗		✓	Sep-02	Sep-03	Significant improvement in quality
2) Arrest, Booking & Charging Reports Audit	DW	✓				DW	Mar-03	Sep-03	Audit scope of Supplemental paragraph 70b audit subject to interpretation
3) Use of Force Reports Audit	✗	✗				✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
4) Motor Vehicle & Pedestrian Stops Audit	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
5) Confidential Informant Control Packages Audit		✗		✗		✗	Dec-02	Jun-03	Deficient quality
129 i) Categorical Use of Force Investigations Audit						NYE		Jun-03	Audit population re: Apr-02 audit not sufficient
ii) Non-Categorical Use of Force Investigations Audit	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
iii) Complaint Form 1.28 Investigations	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
130 Annual Report on Complaints & Disposition	✓					✓	Mar-03	Mar-04	
131 a) Gang Unit Work Product Audit	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
b) Gang Unit Selection Criteria Compliance Audit	✗	✗				✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
c-1) Gang Unit Warrant Applications & Affidavits Audit	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
c-2) Gang Unit Arrest, Booking & Charging Reports Audits				✗		✗	Jun-02	Sep-03	Deficient quality
c-3) Gang Unit Use of Force Reports Audit	✗	✗				✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
c-4) Gang Unit Motor Vehicle & Pedestrian Stops Audit	✗	✗	✗	✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
c-5) Gang Unit Informant Control Packages Audit	✗	✗		✗		✗	Mar-03	Jun-03	"Regular, periodic audit" not conducted
d) Gang Unit Use of Confidential Informants Audit		✗				✗	Dec-02	Jun-03	Deficient quality

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"Report Card" Summarizing the Monitor's Evaluation of Compliance
With the Consent Decree as of the Quarter Ending March 31, 2003

	ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					Status as of Last Eval'n	EVALUATION TIMING		Comments
	Jan- Mar 2003	Oct- Dec 2002	Jul- Sep 2002	Apr- Jun 2002	Jan- Mar 2002		Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	
132 Financial Disclosure Requirements & Audits					[2]	NR			Meet and confer
133 Police Training Audit		X				X	Dec-02	Sep-03	Missed December 2002 deadline
134 Skeletal Fractures During UOF Audit	X	DW				X	Mar-03	Jun-03	Deficient quality
C. Inspector General Audits									
135 a) Timeliness of Transmittal of LAPD Audits to OIG	X	X				X	Mar-03	Jun-03	Transmittal not timely
b) Evaluation of IG's Reviews of LAPD's Audits	X	✓	X			X	Mar-03	Jun-03	Evaluation not timely
136 IG Review of Categorical UOF Investigations		X				X	Dec-02	Jun-03	Reporting requirements not met
i) IG Audit of Non-Categorical Uses of Force		X		X		X	Dec-02	Dec-03	Deficient quality
ii) IG Audit of Complaint Form 1.28 Investigations	X	X	X	X		X	Mar-03	Jun-03	"Regular, periodic audit" not conducted
137 IG Audit of LAPD's Use of TEAMS II Protocol (as per CD47)						NR			Pending further development of TEAMS II
138 IG to Use TEAMS II to Conduct Audits and Review LAPD Audits for At Risk Behavior, Practices or Procedures						NR			Pending further development of TEAMS II
139 a) IG's Recording and Tracking of Retaliation Complaints			✓			✓	Sep-02	Jun-03	
b) IG's Investigation of Retaliation Complaints		✓	✓			✓	Dec-02	Jun-03	
c) Development and Implementation of Complaint Investigation Protocols to Protect Identity of Complainant	X	X	✓			X	Mar-03	Jun-03	
140 Audits Initiated by the Police Commission (to be Conducted by the LAPD or IG) and Audits Initiated by the IG						NR		Jun-03	No audits initiated by the Police Commission or Inspector General
IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL									
A. Police Commission									
141 Obligations of Commission/IG/Chief									No task
142 a) Commission/IG Review of All Categorical UOF		✓		✓		✓	Dec-02	Jun-03	
b) Annual CUOF Report Detailing Commission's Findings			✓	✓		✓	Sep-02	Jun-03	
143 a) Police Commission Review of Audits	X	X				X	Mar-03	Jun-03	Some audits not reviewed on a timely basis
b) Consider Audit Results in Evaluation of COP						NYE		Sep-03	Refer to postponement explanation in Report for the Quarter Ending December 31, 2002
c) Review and Approval of All New LAPD Policies & Procedures	X					X	Mar-03	Jun-03	Review not done on a timely basis
144 Review of Chief						NYE		Sep-03	Refer to postponement explanation in Report for the Quarter Ending December 31, 2002
145 Chief Misconduct Complaints	DW	DW				DW	Mar-03	Jun-03	Refer to paragraph 96 / 145 section of report
146 Approval of LAPD Budget	✓	✓				✓	Mar-03	Dec-03	
B. Inspector General									
147 a) Notification and Observation of CUOF "Roll-outs"			✓			✓	Sep-02	Jun-03	
b) Notification to the PC of Non-Conformance		✓				✓	Dec-02	Jun-03	
148 UOF Review Board Meetings		✓				✓	Dec-02	Dec-03	
149 Promptly Providing Documents & Information to IG		✓				✓	Dec-02	Dec-03	

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"Report Card" Summarizing the Monitor's Evaluation of Compliance
With the Consent Decree as of the Quarter Ending March 31, 2003

	ASSESSMENT OF COMPLIANCE [1] (for last 5 Quarters)					Status as of Last Eval'n	EVALUATION TIMING		Comments
	Jan- Mar 2003	Oct- Dec 2002	Jul- Sep 2002	Apr- Jun 2002	Jan- Mar 2002		Last Eval'n Quarter Ending	Next Expected Eval'n Q/E	
150 a) IG Acceptance of Complaints from LAPD Officers			✓		[2]	✓	Sep-02	Sep-03	
b) Disclosure of Complainant's Identity			✓			✓	Sep-02	Sep-03	
151 Officer Obligations to Investigate									No task
152 a) Complaint Intake Information Provided to IG within One Week of IAG's Receipt			✓			✓	Sep-02	Jun-03	
b) Complaint Intake Information Consistent with LAPD Policies and Procedures			✓			✓	Sep-02	Jun-03	
153 Informing the Police Commission of Pending Investigations & Audits		✓				✓	Dec-02	Dec-03	
C. General									
154 Recommendations Implemented to Improve Deficiencies	✗	✗	✗			✗	Mar-03	Jun-03	Recommendations not fully tracked and implemented; deficiencies continue
X. COMMUNITY OUTREACH AND PUBLIC INFORMATION									
155 i) Public Meeting in First Year of CD			✓			✓	Jun-02		
ii) Public Meetings Annually						NR		Jun-03	
156 Website Reports	✗	✗	✗	✗		✗	Mar-03	Jun-03	Failure to post Paragraph 104/105 data on website
157 Meeting with Community Advisory Groups	✓	✓		✓		✓	Mar-03	Jun-03	

Notes:

- [1] As described in the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor assesses primary, secondary, and functional compliance with the requirements of the Consent Decree. This Report Card provides an overall grade for compliance with each paragraph or subparagraph - 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.
- [2] Assessment of the Department's compliance with Consent Decree paragraphs utilizing the *Methodologies to Aid in Determination of Consent Decree Compliance* did not commence until the quarter ending June 30, 2002. Report Card "grades" were not assigned in prior quarters, although compliance assessments made in prior quarters may be included in the "Status of Last Evaluation" column.
- [3] The finding of non-compliance relative to paragraphs 102 and 103 results from the Department's failure to adequately analyze data from motor vehicle and pedestrian stops; this finding in no way implies that the Department is not enforcing its anti-discrimination policies or is otherwise engaging in discriminatory conduct.

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**APPENDIX B: Acronyms Frequently Utilized in Quarterly Reports Issued by
the Independent Monitor**

This Appendix provides a listing of acronyms utilized by the Independent Monitor in the main body of the current report, as well as prior reports.

ACRONYM	DEFINITION
ABC	Arrest, Booking and Charging
APRIS	Automated Personnel Records Imaging System
CDSDT	Consent Decree Source Document Training
CED	Continuing Education Division
CEDP	Continuing Education Delivery Plan
CIG	Criminal Intelligence Group
CIID	Critical Incident Investigation Division
CIT	Crisis Intervention Team
CITSD	Confidential Informant Tracking System Database
CLIS	Claim/Litigation Information System
CMS	Complaint Management System
COC	Chain of Command
CPC	California Penal Code
CUOF	Categorical Use of Force
DCP	Department Command Post

DOJ	Department of Justice
DSD	Detective Support Division
EES	Ethics Enforcement Section
FDR	Field Data Report
FTO	Field Training Officer
IAD	Internal Affairs Division
IAG	Internal Affairs Group
ICARS	Integrated Crime & Arrest Records System
ICD	In-Custody Death
IG	Inspector General
LEARD	Law Enforcement Activity Related Death
LERII	Law Enforcement Related Injury Incident
NCUOF	Non-Categorical Use of Force
OHB	Operations Headquarters Bureau
OIG	Office of the Inspector General
OIS	Officer-Involved Shooting
QDR	Quarterly Discipline Report
REU	Review and Evaluations Unit (of the IAG)
RFP	Request for Proposal
RMD	Risk Management Division
RMIS	Risk Management Information System

SEU	Special Enforcement Unit
SOSD	Special Operations Support Division
TEAMS	Training Evaluation & Management System
TEAMS II	Successor System to TEAMS
UOF	Use of Force
UOFRB	Use of Force Review Board
UOFRS	Use of Force Review Section
UOF-SF	Use of Force – Skeletal Fracture
UOFS	Use of Force System