

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



Kroll

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

**REPORT FOR THE QUARTER ENDING
MARCH 31, 2005**

Issued May 16, 2005

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INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Inc. have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's fifteenth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2005.

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

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or sub-paragraph of the Consent Decree for the last five quarters, beginning with the quarter ending March 31, 2004.¹ The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's Report and Report Card. These estimates are subject to change as information develops and circumstances change.

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

EXECUTIVE SUMMARY

During the quarter ending March 31, 2005, the Monitor examined 29 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 19, failed to achieve compliance with 8, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with the two remaining paragraphs.

Areas of concern identified during the quarter ending March 31, 2005 include:

- As described in a Focus Issue, below, the Monitor is concerned about effectiveness of the discipline imposed in connection with Officer Involved Shootings that are adjudicated as out of policy.
- As described in a second Focus Issue, below, the Monitor is concerned that the Department continues to assign probationary officers to Field Training Officers who do not appear to be qualified to serve as such.

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

- The City and the Department have made substantial successful efforts in educating LAPD personnel about the TEAMS II system in anticipation of its implementation, including creating and distributing a comprehensive videotape describing the various TEAMS II systems, developing an online e-learning training, and planning for a help desk to assist officers in utilizing the system.
- The Monitor attended a Gang Symposium for the Department's gang officers, which covered different gang histories, surveillance, arrest report writing, search warrants, and gun laws. The Monitor found the symposium well-organized and useful.
- The LAPD's Consent Decree Mental Illness Project team developed a new proactive program designed to target those persons who have a high volume or pattern of repeated LAPD calls for service to coordinate their access to available mental health services. At this time, 15 individuals have been identified under the program, three of whom have already been beneficiaries. The other 12 individuals are scheduled to be proactively sought out shortly. It is widely believed that this program will help minimize confrontations with police officers, thus reducing the potential for such confrontations to become violent.
- The LAPD exhibited all of the qualities of a modernized, progressive organization when it recently developed, implemented and successfully trained over 9,000 sworn personnel in six weeks via a web-based e-learning training module covering Consent Decree requirements regarding police integrity training.

- Demonstrating its commitment and willingness to refine the complaint process to the benefit of all involved, the LAPD identified and expeditiously addressed concerns with the tracking of open and out-of-statute complaints, resulting in a significant decline in the number of complaints deemed out-of-statute.

I. FOCUS ISSUES

A. ADJUDICATIONS OF OFFICER INVOLVED SHOOTINGS

Subsequent to the Devin Brown incident on which we reported last quarter, the Monitor undertook an in-depth review of Officer Involved Shootings since the inception of the Consent Decree. Specifically, we began looking at policies, training and discipline in order to determine whether each was designed to reduce the incidence of Officer Involved Shootings to the greatest extent possible, while at the same time providing for officer safety. While the review is not complete, it appears that each of these three was deficient at the time of the shooting, and that the deficiencies may have contributed to the tragedy of that shooting. While policies and training have been addressed in the wake of the shooting, discipline, or the lack thereof, for Officer Involved Shootings deemed to be out of policy will, without significant change, continue to be the weak link in the chain. No issue goes to the heart of the Consent Decree in a more fundamental way.

The Monitor believes that when the judgment of an officer is found to be flawed in the decision of whether to employ deadly physical force, the consequence must be significant enough to both prevent that officer from again exercising poor judgment and to deter other officers from making similar mistakes. In short, officers who fire their weapons when other reasonable, less lethal, alternatives exist should inescapably face the most severe disciplinary consequences available. This message needs to be conveyed clearly and unequivocally to the rank and file.

While the message can and should be conveyed, unlike in most departments, the LAPD's Chief of Police does not have the authority to establish the severity of discipline to be meted out. While the Chief can recommend discipline, any recommendation for any loss of pay may, at the option of the officer, go to a Charter-mandated Board of Rights, and any recommendation for loss of pay in excess of 22 days or for termination must go to the Board of Rights. For a variety of reasons, the Board of Rights has historically undercut discipline recommendations of the Chief of Police. Compounding the problem, officers may and often do secure "insurance" through the Police Protective League, so that any loss of pay actually incurred by an offending officer may be reimbursed, in effect creating paid time off for the offending officer.

The Police Commission, to its credit, has begun a review of the disciplinary process and the effect of the Board of Rights on that process. The Monitor believes that it is time to carefully examine all of the disciplinary options available. This review should include not only the examination of whether the Board of Rights, as currently constituted and administered, continues to serve the purposes of the citizens of the City of Los Angeles, but also whether other administrative remedies, like loss of the right to carry a weapon and badge during periods of suspension, loss of discretionary pay-grade, and other non-charter forms of discipline might serve to curtail out of policy shootings.

We will continue our review of Officer Involved Shootings and will report on additional findings in coming quarters.

B. REVIEW OF FIELD TRAINING OFFICER QUALIFICATIONS BEFORE ASSIGNING PROBATIONARY OFFICERS

Field Training Officers (FTOs)² are a critical component of the LAPD's reform, as they are tasked with molding the practices and attitudes of young officers. As role models, FTOs must possess all of the qualities the LAPD determines are critical to its reform. The Consent Decree goes so far as to specify that these qualities include "analytical skills, demonstrated interpersonal and communications skills, cultural and community sensitivity, diversity, and a commitment to police integrity."³

During the current quarter, the Monitor undertook a review of a current sample of FTOs who had probationary officers assigned to them between June 1, 2004 and December 31, 2004. The review was designed to determine whether these officers possessed the requisite skills and integrity to serve as positive role models for young officers. The Monitor determined that many of the officers serving as FTOs who are actually training probationary officers do not, at least prima facie on paper, possess the requisite skills and integrity that are mandatory for an FTO. The Monitor learned that some of the officers have significant sustained complaint histories that raise legitimate questions about their integrity. Several officers actually committed their offenses in the presence of their respective probationary officers or tried to enlist their probationary officers to cover for them in an effort to evade punishment. The egregiousness of some officers' offenses lead us to question whether they are fit to even serve as officers in the LAPD, let alone train future officers.

It is important to note that most of the officers that fall into the above categories committed their offenses prior to the implementation of the Consent Decree and prior to the current LAPD administration taking office. However, despite the age of some of these complaints, the acts committed, without any documentation of significant rehabilitation, are so significant that the Monitor must assume that these officers are still unqualified to serve as FTOs. While no action was taken to de-select these officers from their positions as P-3s at the time of their respective offenses, and the civil service rules prevent the Department from taking action now, there is nothing in the civil service rules that prevents the Department from not assigning probationers to these officers.

² An FTO is a P-3 with the additional responsibility of training probationary officers at the divisions. A P-3 is a senior police officer whose responsibilities are dictated by his or her assignment. FTO is one of many assignments that a P-3 could hold.

³ Consent Decree paragraph 114.

With fewer recruits, there are fewer officers actually needed to serve as FTOs. Therefore, although these unqualified officers may not be removed from their positions as P-3s, the Monitor believes that Division Supervisors must review, among other things, the personnel file, complaint history, commendation history, and TEAMS report of each FTO before assigning a probationary officer to him or her.

The Department is fully cognizant of the significant role the FTO plays in shaping the future of the Department and achieving reform. The Monitor implores the Department and the City to take action to address this situation.

C. AUDIT DIVISION

This quarter saw the transfer of the Commanding Officer of Audit Division, Captain Ron Sanchez, from Audit Division to the command position in the Hollywood Division. Captain Sanchez was instrumental in standing up Audit Division and in instilling the professionalism with which that unit has operated. Captain Sanchez, along with the City Administrative Officer and Personnel Division, continually reviewed and modified the structure of Audit Division to both ensure the expertise needed to consistently perform quality audits and to stabilize Audit Division staff. These efforts included the process of civilianizing the Division to the greatest extent practicable, establishing a new civil service classification for Police Performance Auditors, and creating an Audit Division structure that provides for internal advancement of staff.

While recognizing the inevitability of transfers of sworn officers within the Department, the Monitor is concerned with the loss of the substantial expertise and talent that Captain Sanchez developed during his time in the unit. The Monitor is pleased to learn about, and fully supports, a proposal that has been put forward by the City to civilianize the commanding officer position within the unit. Clearly, the unit will continue to require a strong sworn presence, but the creation of a civilian command in the audit division will serve to retain specialized talent and provide for ongoing continuity. We wish Captain Sanchez well in his new position and thank him for the important role that he has played in moving LAPD toward full compliance with the Consent Decree.

D. IN-CAR CAMERAS

The Monitor is pleased to learn of, and fully supports, the proposal of the Chief of Police to place state-of-the-art video cameras in patrol vehicles. As noted by the Chief of Police, in-car cameras have the ability not only to deter aberrant behavior by officers, but also to provide an evidentiary record of appropriate behavior in the face of allegations of wrong-doing. Moreover, as much as the cameras may serve to inhibit police misconduct, they will, in many instances, deter citizen misconduct, thereby enhancing the general safety of officers. When coupled with other video-

based solutions, such as license plate and facial recognition, this technology truly has the potential to bring policing in Los Angeles into the 21st century.⁴

E. MODIFICATONS TO THE CONSENT DECREE

The Consent Decree was never meant to be a static document and, in paragraph 180, envisioned and provided for modifications to accommodate changes in circumstances. While modifications to the Decree are left to the parties and the Court, the Independent Monitor was intimately involved in each of the recent proposed modifications and their ultimate resolution and agrees with the parties that they further the Decree's ends. The modifications, which for the most part are not substantive, provide for the following:

- Allowing uniformed officers, under the strict guidelines of the Consent Decree, to utilize informants (Paragraph 108a).
- Removing the necessity for a full roll out of the Force Investigation Division to non-tactical accidental discharges without injury and animal shootings. These incidents would still be strictly reviewed under the terms of the Consent Decree by the Use of Force Review Board, the Office of the Inspector General and the Police Commission (Paragraphs 13, 56, 57, 67 and 69).
- Changing the length of time that the Police Commission has to review the Chief of Police's Discipline Report provided by the Office of the Inspector General from 45 to 75 days (Paragraph 89).
- Clarifying that under paragraph 106h inspections, as opposed to full-fledged audits, are an acceptable form of review, and that full-fledged audits conducted under paragraph 131 may be conducted by Audit Division or the Civil Rights Integrity Division.
- Clarifying when advanced training relative to promotion to supervisory positions must be completed (Paragraph 121).
- Eliminating duplication of effort with regard to audits by the Office of the Inspector General and Audit Division (Paragraph 136).
- Elimination of the media-advisory group (Paragraph 157).

We include, as Appendix C, a copy of the Joint Request to Amend the Consent Decree Pursuant to Paragraph 180 of the Consent Decree as presented to the Court on April 15, 2005.

⁴ City Council has requested a review of in-car videos and directed that the City strive to "identify ways and means of implementing such a program in a timely manner on a Department-wide scale" (August 2002 Motion (Zine-Miscikowski). An in-car video pilot program was initiated in Rampart in February 2004. A report regarding the Rampart in-car video pilot program was released April 29, 2005, and will be scheduled for Public Safety Committee consideration and review in the near future.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices as well as identifying and modifying at-risk behavior.⁵ 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,⁶ and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

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

That being said, the City has made tremendous strides in both Deployment Period System (DPS)⁷ and UOFS, and the Monitor would like to commend City personnel for their achievements. These two systems are now currently being deployed in each Deployment Period (DP) to a different area or bureau throughout the Department, and will continue to do so until Department-wide implementation has been achieved. This is a great milestone for the City and LAPD. The Monitor continues to be cautiously optimistic about the success of these systems.

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

- a. Training on the DPS has been completed for Central, Valley and West Bureaus, and South Bureau is currently receiving this training. This will complete the training for DPS Department-wide, with the exception of a few specialized units and make-ups. The roll-out of DPS began on April 6, 2005 and full-implementation can now be observed in Central

⁵ The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

⁶ 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.

⁷ DPS lies at the heart of TEAMS II, providing information relative to officers' attendance and the command, structure which is utilized for a variety of purposes within the TEAMS II framework.

Bureau. The roll-out of DPS for Valley Bureau, with the exception of West Valley⁸ and Mission⁹ Divisions, began on May 1, 2005. Some areas, such as Valley Traffic, have taken it upon themselves to begin fully utilizing DPS prior to their scheduled roll-out dates. In addition, MSRP is working to initiate DPS roll-out for chain-of-command in the next two weeks. The DPS roll-out will continue to the West and South Bureaus, and Metro, with DPS being fully implemented in the next few months.

- b. Sierra Systems continued work under the RMIS/UOFS contract. UOFS training has been completed in the Central and Valley Bureaus, and the South and West Bureaus should complete their training in the upcoming months. Readiness testing for UOFS has been completed and the UOFS was prepared for production on April 11, 2005, with in-process non-categorical use of force data entry beginning in the Use of Force Review Division (UOFRD)¹⁰ the week of April 18, 2005. The plan is to roll-out the UOFS to the Central and Northeast Divisions on May 8, 2005, and to the Force Investigation Division (FID) on May 16, 2005. The new UOFS will replace the legacy systems May 29, 2005.
- c. Readiness testing of RMIS is scheduled for May 27, 2005. Sierra Systems has currently received 100,000 historical complaints that were converted from the Personnel Complaint Statistical System (PCSS), which contains all closed complaint information, to prepare for entry into RMIS. This historical complaints data conversion is taking place to make up for the CMS delays described below. The RMIS pilot roll-out is still scheduled for July 2005, with Department-wide roll-out scheduled for October 2005. The meetings regarding the Use Protocols for RMIS are continuing, with the most recent meeting taking place on March 22, 2004.
- d. Bearing Point, which continues to work under the CMS contract, has asked the City for a 6-week delay of the system due to schedule delays and readiness review changes; the City has agreed. The City has also finalized Change Order #3, which includes items deemed necessary by the City, including organizational lists and online assistance with this system. Change Order #3 will cause an additional 4-week delay; as a result, readiness testing is now scheduled to begin on June 10, 2005. In addition, CMS access issues continue to be worked out. Department-wide roll-out of CMS is now currently scheduled for August 2005.
- e. The process of extracting legacy, or historical, data from all current LAPD systems and transferring this information into the new TEAMS II systems continues, with appropriate testing and verification of the data before conversion into the appropriate new system.

⁸ West Valley moved to their new facility starting May 1, 2005 and therefore deployment of DPS was deferred until May 29, 2005.

⁹ The Mission Area is the new 19th Division of LAPD, which first initiated operation on May 1, 2005, and therefore deployment of DPS was deferred until May 29, 2005.

¹⁰ According to LAPD Administrative Order No. 2, dated March 1, 2005 and entitled "Department Reorganization-Revised," the Use of Force Review Division was activated as of January 9, 2005. The UOFRD was formerly known as Use of Force Review Section.

In addition to the status of the TEAMS II systems under development and audits that have been completed, there have been other processes underway to prepare for the TEAMS II system. The LAPD has taken the following additional steps:

- A TEAMS II videotape, entitled “Chief’s Message,” describing the various systems, including UOFS, RMIS, DPS and CMS, and how they would work was distributed Department-wide at roll-call training during DP4. The Monitor, the DOJ and the City were shown this videotape at the City meeting on January 13, 2005. The Monitor noted that the videotape was comprehensive and effective in its description of the processes.
- An article entitled “A Message from Chief Bratton,” which described the various TEAMS II systems and how they would work, was included in the Thin Blue Line, April 2005.
- The LAPD is developing an online e-learning training for the Department, which will help show officers how to obtain their own TEAMS Reports, provide an overview of the TEAMS systems, and include help screens to answer basic questions about these systems.
- The LAPD will have a help desk available to answer questions or refer questions to MSRP when officers throughout the Department need assistance with the TEAMS II systems.

The Monitor commends the LAPD for its impressive efforts in this area.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A Categorical Use of Force (CUOF)¹¹ 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.¹² Administrative investigations of these incidents are the responsibility of the FID.¹³ All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other uses of force¹⁴ that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.¹⁵ Non-Categorical Uses of Force (NCUOF) occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

During the quarter ending December 31 2004, the Monitor assessed the LAPD’s compliance with certain Consent Decree requirements regarding CUOF incident investigations and the execution of search warrants. The Monitor is scheduled to evaluate and report on compliance with requirements regarding NCUOF during the quarter ending September 30, 2005 and CUOF during the quarter ending December 31, 2005.

¹¹ CUOF include an Officer-Involved Shooting with or without a hit, In-Custody Death, Law Enforcement Activity Related Death, Law Enforcement Related Injury requiring hospitalization, Neck Restraint, Head Strike with an impact weapon and a Department canine bite requiring hospitalization.

¹² Specifically paragraphs 13, 38, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 136 and 142 as well as certain audit related paragraphs.

¹³ Prior to September 2004, the Division responsible for conducting CUOF incident investigations was collectively referred to as the Critical Incident Investigation Division (CIID), which was established pursuant to Special Order 39, 2001 – “*Critical Incident Investigation Division – Established*,” approved by the Police Commission, December 11, 2001. Effective August 22, 2004, in a reorganization of the way in which CUOF are handled, CIID responsibilities were transferred to the newly created FID, a unit in the command structure of the Professional Standards Bureau.

¹⁴ Throughout this report, the acronym UOF will be used as a substitute for both “use of force” and “uses of force.”

¹⁵ Specifically paragraphs 13, 38, 65, 66, 68, 69, 81 and 82 as well as certain audit related paragraphs.

B. SEARCH AND ARREST PROCEDURES

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

During the quarter ending March 31, 2004, the Monitor assessed both supervisory review of warrants and supervisory review of warrant logs. During the quarter ending December 31, 2004, the Monitor assessed LAPD compliance with Consent Decree requirements regarding supervisory review of booking recommendations and watch commander inspections of all detainees and arrestees. The Monitor is scheduled to assess the LAPD's compliance with requirements regarding Watch Commanders' inspections and interviews of detainees and arrestees during the quarter ending June 30, 2005; additional requirements from this section of the Consent Decree are scheduled to be assessed during the quarter ending September 30, 2005.

C. INITIATION OF COMPLAINTS

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

During the quarter ending September 30, 2004, the Monitor assessed the LAPD's compliance with Consent Decree requirements regarding the receipt, initiation and maintenance of citizen complaints.¹⁶ During the current quarter, the Monitor assessed the LAPD's compliance with Consent Decree requirements regarding the receipt and maintenance of complaints and the reporting of officer misconduct. The results of our current assessments follow.

Paragraph 74 – Current Assessment of Compliance

Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials and continue the operation of a 24-hour toll free telephone complaint hotline.

Specifically, the Department must continue to provide for the receipt of complaints as follows:

- a. in writing or verbally, in person, by mail, by telephone (or TDD), facsimile transmission, or by electronic mail;
- b. anonymous complaints;

¹⁶ During the quarter ending December 31, 2004, the Monitor reviewed additional information provided by the LAPD in connection with one of the compliance assessments made during quarter ending September 30, 2004.

- c. at LAPD headquarters, any LAPD station or substation, or the offices of the Police Commission or the Inspector General;
- d. distribution of complaint materials and self-addressed postage-paid envelopes in easily accessible City locations throughout the city and in languages utilized by the city in municipal election ballot materials;
- e. distribution of the materials needed to file a complaint upon request to community groups, community centers, and public and private service centers;
- f. the assignment of a case number to each complaint; and
- g. continuation of a 24-hour toll-free telephone complaint hotline. Within six months of the effective date of this Agreement, the Department shall record all calls made on this hotline.
- h. In addition, the Department must prohibit officers from asking or requiring a potential complainant to sign any form that in any manner limits or waives the ability of a civilian to file a police complaint with the LAPD or any other entity. The Department must also prohibit officers, as a condition for filing a misconduct complaint, from asking or requiring a potential complainant to sign a form that limits or waives the ability of a civilian to file a lawsuit in court.

Background

The Monitor last assessed compliance with paragraph 74 during the quarter ending September 30, 2004, at which time the Monitor found the LAPD in functional non-compliance. The finding of non-compliance was based on the results of the LAPD's Ethics Enforcement Section (EES) audits that concluded officers failed to comply in 5 of 32 audits conducted.

Current Assessment of Compliance

During previous quarters, the Monitor reported on the LAPD's overall compliance with paragraph 74. Going forward from the current quarter, the Monitor has elected to separately report on the LAPD's compliance with the various subparagraphs of paragraph 74.¹⁷ During the current quarter, the Monitor is reporting on compliance with subparagraphs 74d, f and g.¹⁸

¹⁷ This change in reporting will also be reflected in the Report Card attached as Appendix A to this report.

¹⁸ The Monitor will assess compliance with the remaining subparagraphs of paragraph 74 in conjunction with its assessment of Audit Division's Complaint Audit. This is currently scheduled for the quarter ending June 30, 2005.

In order to assess compliance with subparagraphs 74d and f during the current quarter, the Monitor partly relied on the LAPD Audit Division's (AD) Complaint Form 1.28 Investigations Audit, Phase I, dated December 15, 2004.¹⁹

For paragraph 74d, regarding the availability of complaint material, AD conducted unannounced visits to virtually all venues one might expect a citizen to seek complaint material. AD determined that 98% of the complaint materials AD searched for were present at locations. Missing forms were identified in four Divisions of three separate Bureaus and the Professional Standards Bureau (PSB). AD conducted follow-up visits and determined that the deficiencies were corrected.

For paragraph 74f, regarding the assignment of case numbers, AD selected a sample of 92 complaints out of a total of 621 initiated during July 2004 and determined that a unique CF number was assigned to each. During its meta-audit, the Monitor selected and reviewed a random sample of 23 initiated complaints and corresponding AD work product. The Monitor concurred with the conclusions reached by AD for each complaint reviewed.

In connection with subparagraph 74g, AD also audited the LAPD's 24-hour Complaint Hotline. AD reviewed timesheets for the period January 2004 through July 2004 in an effort to determine whether the hotline was adequately staffed.²⁰ AD found that with the exception of two days, the hotline was staffed by more than one individual.²¹ AD also made unannounced calls to the hotline on two separate occasions noting operation during and after normal business hours.

AD also selected one day during July 2004 and listened to incoming recordings. AD identified seven separate instances in which the caller initiated a complaint on the day selected. A complaint form 1.28 was not initiated for one of these seven instances. AD referred this matter to the Professional Standards Bureau (PSB) and conducted follow-up in an effort to determine that a complaint was initiated against the officer responsible for the call.²²

¹⁹ AD elected to separate its complaint audit into two separate reports. Phase I addresses Consent Decree requirements relative to complaint investigative resources, complaint administration and public accessibility areas of the complaint cycle. Phase II, slated to be issued during the next reporting period, will address complaint investigation quality. The Monitor conducted a meta-audit of AD's Phase I audit and findings during the current quarter, concluding that the audit was timely, complete, accurate and reached appropriate conclusions. However, as fully explained below, the Monitor was unable to rely on AD's findings in connection its review of the LAPD's Complaint Hotline.

²⁰ Adequately staffed was defined as having at least one person assigned and signed in during all hours.

²¹ For two days, only one person monitored the hotline. The audit working papers did not report whether or not this individual was entitled to breaks, and if so, whether the hotline was monitored by someone else.

²² Despite identifying a deficiency in one of seven instances, AD did not increase its sample or take other steps to determine whether the individual responsible exhibited similar conduct on other days. Although not a specific requirement of subparagraph 74g, it nonetheless would be a prudent additional step.

During deployment period three, the LAPD transitioned responsibility for the 24-hour hotline from the PSB to the Department Command Post (DCP). Currently, the DCP is not capable of recording **all** incoming hotline calls, as required by the Consent Decree. Current protocol is that DCP employees answer calls and once they determine that a call is complaint related, they commence recording the call only after receiving consent from the caller. If the caller specifically requests to contact Internal Affairs, the caller is forwarded to the classification unit within PSB or to DSD, if after hours. The Monitor is concerned that **all** calls are not automatically recorded and reliance must be placed on the DCP employee to record once the specifics of the call are known.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with subparagraphs d and f of paragraph 74 and functional non-compliance with subparagraph g of paragraph 74.

Recommendation

The Monitor recommends that the DCP be equipped to automatically record all incoming calls on the 24-hour Complaint Hotline in order to properly capture all complaint-related contacts with the LAPD.

Paragraph 76 – Civil Lawsuits Alleging Misconduct of LAPD

Paragraph 76 requires the City to notify the LAPD whenever a person serves a civil lawsuit on or files a claim against the City alleging misconduct by an LAPD officer or other employee of the LAPD.

Background

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

The Monitor last assessed the LAPD's compliance with paragraph 76 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 76 during the current quarter, the Monitor placed reliance on AD's Complaint Form 1.28 Investigations Audit, Phase I, dated December 15, 2004, and related working papers. During this audit, AD conducted interviews of

personnel from the City Attorney's office, City Clerk's office and LAPD's Risk Management Group (RMG) to determine their policies and procedures for notification and tracking of lawsuits and claims for damages that allege misconduct by LAPD officers or employees.

Additionally, AD received listings of all pending lawsuits and claims for the month of July 2004 from the entities identified above. The City's listing identified a total of 25 lawsuits and 35 claims that were opened during July 2004. For the same time period, AD requested and received from the LAPD its CLIS report. AD reconciled the two reports and determined that all lawsuits and claims were appropriately reported to the Department.

The Monitor reviewed 13 lawsuits and 19 claims, concurring with AD's findings that all reviewed lawsuits and claims for damages were appropriately reported to the Department.

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

Paragraph 77 – Arrest / Litigation Involving Officer

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 77 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 77 during the current quarter, the Monitor requested and received from the LAPD a listing of all officers²³ known to have been arrested during the time period July 1, 2004 through December 31, 2004. The Monitor also requested and received related complaint face sheets that provided a summary of the incidents leading to the officers' arrests and the nature of any allegations. In total, 6 officers and one civilian employee were identified by the LAPD. For all instances in which an officer was

²³ Of the seven complaints reviewed, six were sworn officers and one was a civilian employee. During the complaint investigation of the civilian employee it was determined that she was receiving a medical pension and was not currently listed on the Department's Employment Roster. Subsequently, this complaint was adjudicated as "Not Department Employee."

arrested, PSB concluded that the arrests of the officers were made by the LAPD or the officers identified themselves as LAPD officers, thereby causing the arresting officers or agency to report the arrests to the LAPD. The Monitor reviewed the face sheets for all seven complaints and agreed with all of the classifications.

During its compliance assessment for paragraph 76, above, the Monitor also reviewed a listing of lawsuits and claims that were reviewed by AD during its complaint audit.²⁴ During its review of these listings, the Monitor did not identify any additional instances that should have been taken into consideration pursuant to paragraph 77. Given the reporting requirements pursuant to paragraph 76, the likelihood of a claim or a lawsuit going unreported to the Department is minimal. Normally an officer identified as party to a lawsuit or claim would first learn of it from the PSB.

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

Paragraph 78 – Officer Requirement to Report Misconduct

Paragraph 78 mandates that the Department continue to require officers to report, without delay, any conduct by another officer that reasonably appears to constitute any of the following:

- An excessive use of force or improper threat of force;
- A false arrest or filing of false charges;
- An unlawful search or seizure;
- Invidious discrimination;
- An intentional failure to complete forms required by LAPD policies and in accordance with procedures;
- An act of retaliation for complying with an LAPD policy or procedure;
- An intentional provision of false information in an administrative investigation or in any official report log or electronic transmittal of information.

Officers are required to report such behavior directly to a supervisor or to the PSB. Failure to do so can result in discipline against the non-reporting officer.

²⁴ As described above, AD reviewed all civil lawsuits and claims for damages alleging misconduct by an LAPD officer during July 2004.

Background

The Monitor last assessed the LAPD's compliance with paragraph 78 during the quarter ending September 30, 2004, at which time the Monitor found the LAPD in primary and functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 78 during the current quarter, the Monitor requested for review all sustained complaints containing paragraph 78 allegations that were completed between the period January 1, 2004 and October 31, 2004. According to LAPD reports, 96 such complaints were closed during this time period, of which the Monitor randomly selected 47 for review. The Monitor determined that all 47 investigations it reviewed complied with the provisions of paragraph 78.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with paragraph 78.

D. CONDUCT OF INVESTIGATIONS

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

During quarter ending December 31, 2004, the Monitor assessed compliance with Consent Decree requirements regarding the conduct of CUOF investigations and the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover indications of misconduct unrelated to CUOF incidents under investigation. During the current quarter, the Monitor assessed the LAPD's compliance with Consent Decree requirements regarding the documentation and forwarding of all complaint face sheets to the PSB for review and investigative assignment. The results of our current assessments follow.

Paragraph 79 – PSB Review of Complaint Face Sheets

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 79 during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional compliance. The Monitor requested and received a listing of all complaints initiated during the period June 1,

2004 through August 31, 2004. From this population a sample was selected and reviewed for a compliance determination.²⁵

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 79 during the current quarter, the Monitor reviewed AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004. AD selected and reviewed a stratified sample of 92 complaints initiated during the period July 1 through July 31, 2004. AD determined that 83 of the 92 complaints reviewed were received and classified by the IAG within ten days of receipt by the LAPD. This translates into a compliance rate of approximately 90%.

The Monitor notes that AD's sample period fell within the period previously tested by the Monitor and yielded a slightly different compliance rating.²⁶ Given that the Monitor reviewed a sample of complaints initiated over a broader period of time, the Monitor elects to carry forward from the prior quarter its rating of functional compliance with paragraph 79.

E. ADJUDICATING INVESTIGATIONS

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

The Monitor last assessed the LAPD's compliance with all requirements of this section of the Consent Decree during the quarter ending June 30, 2004. Although the Monitor is scheduled to again assess the requirements in this area during the quarter ending June 30, 2005, during the current quarter the Monitor assessed the LAPD's compliance with Consent Decree requirements regarding the timeliness of complaint investigations. The Monitor also reviewed specific aspects of the adjudication of UOF incidents, including the Board of Rights process and the LAPD's utilization of Settlement Agreements. The results of our current assessments follow.

²⁵ As it has done in the past, the Monitor took into consideration that certain complaints, namely LAPD generated complaints alleging Failure to Qualify (FTQ), Failure to Appear (FTA) or a Preventable Traffic Collision (PTC) were excluded from calculating compliance. These particular complaints were excluded as the LAPD identifies them only after generating monthly reports. Similarly, certain complaints arising out of a UOF investigation were excluded as UOF administrative investigations typically occur over many months before a complaint investigation is initiated.

²⁶ As described in the Background section, above, in assessing compliance during the quarter ending December 31, 2004, the Monitor reviewed a random sample of complaints initiated during the period June 1, 2004 through August 31, 2004.

Adjudication of Officer Involved Shootings / Settlement Agreements

For both UOF incidents²⁷ and citizen complaints, the LAPD is mandated with conducting an investigation pursuant to certain requirements contained within the Consent Decree. At the completion of any of these investigations, the LAPD is tasked with adjudicating the appropriateness of officers' actions.²⁸

As required under the Consent Decree, NCUOF incident investigations are conducted by chain of command, CUOF incident investigations are investigated by the FID, and complaint investigations are conducted by either chain of command or IAG, depending upon the type of complaint. For NCUOF incident investigations and complaint investigations, should the officer's actions constitute misconduct, the matter is referred to the officer's Commanding Officer (CO) for a determination of discipline. For CUOF investigations, FID prepares a report on the investigation and presents it to the UOFRB. This presentation is attended by the FID investigators; the involved officer's (or officers') CO; representatives of the Office of the Inspector General (OIG), the Training Division and the UOFRS;²⁹ and the five-member board tasked with hearing and adjudicating on the officer's tactics, drawing of a weapon, if applicable, and the UOF.

The UOFRB's findings and recommendations are forwarded to the Chief of Police for review and may be adopted by the Chief in totality, or may not. If adopted in totality, the Chief forwards this information to the Police Commission, via the OIG, for review. Should the Chief dissent from the UOFRB's findings and recommendations, two reports are provided to the Police Commission for consideration.

The Police Commission then reviews the matter and either adopts the findings and recommendations of the Chief and/or the UOFRB or adopts its own findings. Should the Commission's findings include an adjudication of administrative disapproval, a complaint investigation is generated and the information is forwarded to the officer's CO for determination of discipline.

For certain misconduct, the CO may, but is not required to, refer the matter to a Board of Rights (BOR).³⁰ For others, a referral is mandatory. For any misconduct investigation resulting in a

²⁷ UOF investigations may be either a CUOF or a NCUOF as defined by paragraph 13 of the Consent Decree.

²⁸ The OIG, on behalf of the Police Commission, reviews CUOF incident investigations and provides input and recommendations. The OIG also reviews complaint investigations and NCUOF investigations. It may, at its discretion, require additional investigation for CUOF, NCUOF and complaint investigations.

²⁹ As previously indicated, the UOFRS is now known as the UOFRD.

³⁰ A BOR is a proceeding wherein the officer, along with representation, and the LAPD present their cases before a Board consisting of two sworn individuals and one civilian. After hearing both parties, the BOR renders a binding decision either finding the officer guilty of the misconduct or not guilty. If guilty, the BOR also has the authority to

sustained adjudication the officer may elect for a BOR. There is considerable cost and time expended by all parties involved in a BOR.

Within the past year, the LAPD has proposed the use of Settlement Agreements (SA) wherein the parties negotiate acceptable terms and the officer does not dispute certain allegations via the BOR process. In return, the officer, or a representative, can negotiate discipline ranging from an Official Reprimand to multiple suspension days. For more egregious allegations, the SA may require that the officer also submit to counseling and sustained periods of compliance with certain terms and conditions.

To date, the LAPD has entered into in excess of 200 such agreements of which five (5) involved a CUOF violation. The remainder involved complaints with a wide range of allegations. During the current quarter, the Monitor reviewed all five (5) SAs involving a CUOF incident, noting that discipline in each case ranged from admonishment to a ten-day suspension without pay.

In the course of discussing the process by which the LAPD and the officer agree on a mutually acceptable discipline, the Monitor learned that officers may and often do secure insurance through the Police Protective League (PPL). Should an officer be suspended for misconduct this insurance reimburses the officer for lost wages. The Monitor contends that this insurance undermines the LAPD's ability to appropriately administer discipline in an effort to positively influence an officer's future behavior for the benefit of the officer, the Department and most importantly the community.

The Monitor encourages a dialogue among the parties regarding this issue. Notwithstanding our call for an examination of disciplinary options and the BOR, we do believe that SAs provide and efficiency that should be examined under any disciplinary system, and encourage their continued use provided the LAPD commits to not wavering from the underlying allegation(s).

Paragraph 87 – Timeliness of Complaint Investigations

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 87 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in compliance. Despite this overall compliance finding, the Monitor expressed concerned that the PSB was not completing

increase or reduce the LAPD recommended discipline. For example, in one matter there may be a CO recommended multiple day suspension, yet the BOR may reduce the discipline to an official reprimand.

investigations more timely. Also of concern was the lag time between the closing of cases and their input into CMS.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 87 during the current quarter, the Monitor relied on AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004.³¹ The LAPD selected a stratified random sample of 132 complaint investigations out of a total of 485 initiated during February 2004. Seventy-eight (78) investigations were completed within five months and two investigations were eliminated from review, as they represented EES sting audits, resulting in a compliance rate of 60% (78 out of 130 investigations).

During its meta-audit, the Monitor randomly selected 27 complaint investigations. The Monitor agreed with the conclusions reached by AD in all instances.³²

In addition to the above analysis, during the current quarter the Monitor completed an analysis of out-of-statute complaints. Toward the latter portion of 2003, the PSB initiated an analysis of complaint investigations that were not yet closed in the LAPD's complaint management system. Approximately 1,400 open complaints were identified, of which approximately 118 were deemed out of statute. The majority of the remaining complaints were indeed completed and adjudicated yet were not marked as closed in the complaint management system.

Concerned that the LAPD was not tracking open complaints as closely as needed, the Chief of the PSB implemented a system whereby Command Staff in all Divisions and Bureaus are responsible for reporting on the status of complaint investigations, particularly those that are within 60, 30 and 10 days of the running of the administrative statute.³³ This analysis identified an additional 45 out-of-statute complaint investigations.

The LAPD provided the Monitor with a listing of the 163 out-of-statute complaints. From this listing the Monitor selected 73 complaint investigations for review and analysis.³⁴ All 73 investigations were reviewed in their entirety. The Monitor determined that 20 of the 73 were

³¹ As described in the Current Assessment of Compliance for paragraph 74, AD elected to separate its complaint audit into two separate reports. The Monitor conducted a meta-audit of AD's Phase I audit and findings during the current quarter, concluding that the audit was timely, complete, accurate and reached appropriate conclusions.

³² In the course of reviewing compliance with the timely completion requirement, the Monitor reviewed a complaint initiated based on a referral from a Deputy Chief. The Monitor reviewed the complaint and disagrees with the rationale used in adjudicating an allegation of retaliation as unfounded. The Monitor concluded that sufficient evidence exists in both interview statements and the results of a Department-ordered workplace assessment to conclude that a senior ranking officer indeed retaliated against a supervisor for questioning changes to work product.

³³ Typically the administrative statute is a one-year period commencing on the date the complaint is reported to the LAPD.

³⁴ Those selected originated at or near the effective date of the Consent Decree and were subject to all of the requirements of the Consent Decree.

simply not investigated. Twelve of these 20 were attributed to three Divisions alone; the remaining eight were distributed throughout the rest of the Department. Nineteen were initiated either during the last half of 2001 or in calendar year 2002; one was initiated during 2003. In short, no pattern or practice was identified with regard to the types of allegations permitted to run the statute, the accused officers, or the assigned investigators. Furthermore, it appears that in several instances a thorough and timely investigation was completed and provided to management for review but, for reasons unknown, there was no further action taken. Again, no pattern was discerned. Finally, for some investigations, the recommended adjudication was “sustained” and for others the adjudications recommended were either “unfounded” or “exonerated.” The Bureau level of management appeared to be most likely to lose track of completed or substantially completed complaints.

Of the 73 investigations reviewed, 30 were initiated during the six month period ended December 31, 2001, representing 41.1% of the population. Another 37, or 50.7% of the population, were initiated during calendar year 2002. And three complaints, or 4.1% of the population, were initiated during each of calendar year 2003 and the first sixth months of calendar year 2004. This analysis indicates that over time, and particularly since the implementation of a tracking system, the number of complaints deemed out of statute has declined significantly and remains at a low level.

The Monitor commends the LAPD for identifying an area of weakness and addressing it expeditiously. The current downward trend evidences the Department’s commitment and willingness to refine the complaint process to the benefit of all involved.

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

F. DISCIPLINE & NON-DISCIPLINARY ACTION

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

During the quarter ending September 30, 2004, the Monitor assessed compliance with requirements relative to the Chief of Police’s discipline report and the IG’s and Commission’s reviews of said report. During the current quarter, the Monitor assessed the LAPD’s compliance with Consent Decree requirements regarding the Department’s anti-retaliation policy, as well as those relative to the discipline reports. The results of our current assessments 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 each quarter, no later than 45 days following the end of the quarter.

Background

The Monitor last assessed the LAPD's compliance with paragraph 88 during the quarter ending September 30, 2004, at which time the LAPD was found in secondary and functional compliance.

Current Assessment of Compliance

During the current quarter, the Monitor received and reviewed the Quarterly Discipline Reports (QDRs) for the third and fourth quarters of 2004, dated November 12, 2004 and February 11, 2005, respectively. The Monitor determined that the QDR for the third quarter was submitted to the Police Commission, with a copy to the IG, on November 15, 2004 and the QDR for the fourth quarter was submitted to the Police Commission, with a copy to the IG, on February 14, 2005. Accordingly, the LAPD provided the Police Commission with both QDRs exactly 45 days after the end of each quarter, which complies with the 45-day requirement of this paragraph.

As the Monitor has indicated in previous quarterly reports, in order for the Police Commission and the OIG to utilize these QDRs to their fullest extent, the reports should be user-friendly and provide appropriate statistical data to reflect the outcome of discipline imposed during the relevant quarter. The Monitor reviewed the QDRs for the third and fourth quarters to determine whether they accurately captured and reported on relevant information. The Monitor found that they provide appropriate statistical data to reflect the outcome of the discipline imposed during the respective quarter and are adequate in their current format.

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

Paragraph 89 – IG and Police Commission Review of QDR

Paragraph 89 requires the IG to review, analyze and report to the Police Commission on each QDR. The Police Commission shall review the QDR no later than 45 days after its receipt and assess the appropriateness of the Chief of Police's actions, specifically with respect to CUOF. Such assessment must be considered as part of the Chief's annual evaluation as provided in paragraph 144.

For ease of reporting, the Monitor has split its reporting on paragraph 89 into three components:³⁵

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

Background

The Monitor last assessed the LAPD's compliance with subparagraphs 89a and b during the quarter ending September 30, 2004 at which time the LAPD was found in functional compliance.

The Monitor last assessed the LAPD's compliance with subparagraph 89c during the quarter ending December 31, 2003, at which time the LAPD was found in functional compliance.³⁶

Current Assessment of Compliance

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

During the current quarter, the Monitor received and reviewed the IG's review of the QDRs for the third and fourth quarters of 2004, dated December 9, 2004 and March 23, 2005, respectively. The Monitor determined that the IG's reviews were thorough and analytical concerning discipline issues.

The Police Commission received the IG's review and assessment of the QDR for the third quarter of 2004 on December 9, 2004, 24 days after the QDR was received by the IG and the Commission. The Police Commission approved the QDR on December 14, 2004. The Police Commission received the IG's review and assessment of the QDR for the fourth quarter of 2004 on March 24, 2005, 38 days after the IG and the Commission received the report. The Police Commission approved the QDR for the fourth quarter on April 12, 2005, 57 days after receiving the report. The fourth quarter report was approved after the 45-day requirement because the Police Commission requested clarification on an item; after receiving a written response, the Commission then approved the QDR. The Monitor believes that such clarification does not

³⁵ The Monitor has split its reporting since there are three distinct activities required under this paragraph and it is possible that the Department could be in compliance with one or two, but not all three.

³⁶ The Monitor revisited the LAPD's compliance with Subparagraph 89c during the quarter ending September 30, 2004. During that quarter, the Police Commission informed the Monitor that the annual review of the Chief of Police had not yet been completed. As a result, the Monitor withheld a determination of compliance with subparagraph 89c. The Monitor is currently reviewing the Police Commission's evaluation of the Chief of Police to determine compliance with this subparagraph. The Monitor's findings will be included in the Report for the Quarter Ending June 30, 2005.

interfere with the fact that the Police Commission received, reviewed and assessed the report within the 45-day requirement, despite the later approval date. As such, the Police Commission's actions comply with the 45-day requirement of this paragraph.

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

Paragraph 92 – Review of Anti-Retaliation Policy

Paragraph 92 requires the City and the LAPD to 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 last assessed the LAPD's compliance with paragraph 92 during the quarter ending September 30, 2004, at which time the Monitor found the Department in non-compliance but noted that the Department had made strides in achieving compliance.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received the IG's February 11, 2005 memorandum report entitled "Office of the Inspector General's Annual Retaliation Policy Review." This was the Second Report submitted by the OIG pursuant to paragraph 92; the First Report was submitted on February 12, 2004. The second report covers retaliation complaint investigations closed between the third quarters of 2003 and 2004.

The purpose of the OIG review is to assist the Police Commission in its annual review of the anti-retaliation policy. The report submitted by the OIG commented on the past year's reassignment of compliance responsibility to PSB, as well as the Department's ongoing efforts to overhaul its retaliation policy. The OIG's report, however, primarily focused on the Department's accomplishments and problems with respect to the handling and investigation of retaliation complaints

Using information captured in the Complaint Information System (CIS), the OIG initially identified 37 cases involving retaliation allegations during this time period. This initial population was subsequently reduced as follows:

- Five (5) cases were excluded because they were previously reviewed in connection with the OIG's First Report.

- Six (6) cases were excluded when cursory review revealed the complainant was a citizen rather than a former or current Department employee.
- Four (4) cases were closed by Department as Out of Statute.³⁷
- Eight (8) cases generated in response to litigation were closed by the Department under “Non-Disciplinary” (ND) classifications after litigation ended (e.g. settled or dismissed). Six of these cases were actually ND, while the other two were “Withdrawn by the Chief of Police.”³⁸
- Four (4) cases were excluded when reviews revealed that the employees’ allegations, if true, would not constitute “retaliation” as currently defined by the Department.
- Three (3) cases were referred to Ombuds for review. However, for these cases, adequate investigations were not conducted to determine if the allegations were appropriate subjects for Ombuds’ review.

Based on its review of the remaining seven (7) retaliation complaint investigations, the OIG concluded that only two (2) were “properly conducted.” The other five (5) investigations were discussed in detail, and included deficiencies such as:

- Failure to frame at least four clear allegations of retaliation made in a single complaint.
- Failure to thoroughly interview witnesses or accused employees.
- Failure to assign a retaliation investigation to IAG, as required.
- Complaint lost or misplaced without being investigated, and ultimately being cancelled as Out of Statute.
- Failure to address “workplace issues” raised by the investigation.

The OIG also identified a concern shared with the City’s Equal Employment Opportunity (EEO) office regarding how to better coordinate retaliation investigations being conducted by the City EEO office and the Department / PSB. Of particular concern was the ineffective sharing of information between the two entities. This issue is being addressed by the Working Group.

The Monitor also met with PSB staff regarding the status of the Department’s overhaul of its retaliation policy. Although the revised policy has been approved by the Chief of Police and has been submitted to the Police Commission, it is still awaiting approval by the Commission.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 92.

³⁷ All of these complaints were “older” cases inherited by the current administration.

³⁸ The OIG did not identify evidence of any complaint investigations for these complaints.

G. PROFESSIONAL STANDARDS BUREAU

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

During the quarter ending September 30, 2004, the Monitor assessed the LAPD's compliance with the Consent Decree requirements relative to integrity/sting audits. During the quarter ending December 31, 2004, the Monitor assessed the LAPD's compliance with Consent Decree requirements relative to staffing and personnel management within PSB and the hiring criteria for PSB investigators. During the current quarter, the Monitor assessed the LAPD's compliance with Consent Decree requirements regarding the assignment of complaint investigation responsibility, including complaints filed against the Chief of Police; the assignment of investigator positions; and the reappointment of personnel within the PSB. The results of our current assessments follow.

Paragraphs 93 and 94 – Complaint Investigations Handled by PSB; Additional Complaint Investigations Handled by the PSB

Paragraph 93 requires the City to reallocate investigative responsibility from Chain of Command (COC) supervisors to the PSB for the following misconduct investigations:

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

- Any act of retaliation or retribution against an officer or civilian.

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

- a. 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;
- b. 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. The LAPD shall request that all prosecuting agencies provide them with written notification whenever the prosecuting agency has determined that any of the above has occurred;
- c. 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 misdemeanors shall be investigated by chain-of-command supervisors; and,
- d. 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 such judge or prosecutor has been involved

Background

The Monitor last assessed the LAPD's compliance with paragraphs 93 and 94 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in primary, secondary and functional compliance with both. However, the Monitor expressed concern that two complaints clearly alleging "racial profiling" or "invidious discrimination" were misclassified and erroneously assigned to the COC.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraphs 93 and 94 during the current quarter, the Monitor relied on AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004.³⁹ In its audit, AD selected a sample of 82 complaints out of a total of 621 initiated

³⁹ As described in the Current Assessment of Compliance for paragraph 74, AD elected to separate its complaint audit into two separate reports. The Monitor conducted a meta-audit of AD's Phase I audit and findings during the current quarter, concluding that the audit was timely, complete, accurate and reached appropriate conclusions.

during July 2004, reviewed information contained therein, and concluded on whether the complaint was appropriately classified by the PSB. AD concluded that in all instances the LAPD properly classified complaint investigation responsibility.

During its meta-audit, the Monitor randomly selected and reviewed 23 complaints and corresponding AD work product. The Monitor agreed with the conclusions reached by AD in all instances.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraphs 93 and 94.

Paragraph 95 – PSB Investigator Positions

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 95 during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional compliance. However, the Monitor expressed concern that the LAPD's ability to complete timely and accurate investigations might erode.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 95 during the current quarter, the Monitor reviewed AD's *Complaint Form 1.28 Investigations Audit, Phase I*, dated December 15, 2004. In its audit, AD evaluated actual investigator staffing levels within the LAPD, as compared to targeted staffing levels, and concluded that the LAPD was not meeting the requirements of paragraph 95

Consistent with the Methodologies, the Monitor's assessment of compliance is based on the PSB's ability to complete more complaint investigations than it receives and to complete complaint investigations on a timely basis. It is the Monitor's position that the LAPD has demonstrated its ability and commitment to appropriately staff the PSB if these two objectives are met. As described in our Report for the Quarter Ending December 31, 2004, for the period January 1, 2004 through October 31, 2004, the PSB completed 98% of its investigations within the statutory period. As a result, despite falling short of targeted staffing levels, the LAPD is currently staffed so that it can adequately meet the requirements of paragraph 95.

The Monitor elects to carry forward from the prior quarter its rating of functional compliance with paragraph 95.

Paragraph 96 – 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 as set forth in paragraph 145.

Background

The Monitor last evaluated paragraph 96 during the quarter ending June 30, 2004, at which time the Department was found in functional compliance.

Current Assessment of Compliance

In order to assess compliance during the current quarter, the Monitor interviewed PSB personnel and verified that the PSB had not conducted any investigations of misconduct against the Chief of Police for the time period July 1, 2004 through December 31, 2004.⁴⁰ It was further represented that, given the coding of complaints, it was not technically possible to run an automated database search to further verify the absence of such complaints.

Based on the forgoing, the Monitor finds the Department in functional compliance with paragraph 96.

Paragraph 99 – PSB Terms of Duty

Paragraph 99 requires the LAPD to establish a term of duty of up to three years for PSB Sergeants, Detectives and Lieutenants responsible for conducting investigations. The LAPD may reappoint an officer to a new term of duty only if that officer has performed in a competent manner. Such PSB investigators may be removed during their term of duty for acts or behaviors that would disqualify them from selection to PSB or under other personnel authority available to the Department.⁴¹

⁴⁰ Please refer to paragraph 145 for information regarding the Commission's investigation of complaints against the Chief.

⁴¹ Disqualifying behavior is defined in Consent Decree paragraphs 93 and 94.

Background

The Monitor last assessed the LAPD's compliance with paragraph 99 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 99 during the current quarter, the Monitor requested and received a listing of all PSB investigators re-assigned to an additional tour of duty after having already served three years in an investigatory capacity. In total 15 investigators were reassigned, of which the Monitor randomly selected 14 for review.

For all 14 investigators selected, the Monitor reviewed the investigators' performance evaluations and TEAMS reports contained within their personnel files relative to the reappointment. The Monitor noted that for each of the 14 investigators a complete review was documented that concluded on the investigator's proficiency; none of the investigators had a complaint history containing sustained complaints in the categories that require further documentation.

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

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

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

The Monitor assessed the LAPD's non-discrimination policy and its compliance with the Consent Decree requirement to collect field data each time its officers conduct a motor vehicle or a pedestrian stop during the quarter ending June 30, 2004. During the quarters ending September 30, 2004 and December 31, 2004, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy. The Monitor is scheduled to again assess the Department's compliance with its non-discrimination policy and Consent Decree requirements relative to the collection of field data during the quarter ending June 30, 2005.

IV. MANAGEMENT OF GANG UNITS

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into Gang Enforcement Details (GED),⁴² report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),⁴³ which has responsibility for monitoring gang units Department-wide.

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

During the quarter ending September 30, 2004, the Monitor assessed compliance with Consent Decree requirements regarding the eligibility criteria for and the selection process of GED officers, tour of duty limitations, and supervisory review of sustained complaint or adverse judicial findings during an officer's assignment tour in the GED. During the quarter ending December 31, 2004, the Monitor assessed the LAPD's compliance with all Consent Decree requirements regarding the management of gang units that were not assessed during the prior quarter, although the Monitor withheld its determination of compliance with requirements related to gang unit procedures.

During the current quarter, the Monitor followed up on its compliance assessment related to gang unit procedures and also assessed compliance with requirements related to the monitoring and assessment of gang units by BGCs. In addition, on February 28th and March 1st, 2005 the Monitor attended a Gang Symposium given by SOSD. This symposium was attended by one-half of the Department's gang officers; the other half attended the same symposium on March 14th and 15th, 2005. This symposium covered different gang histories, surveillance, arrest report writing, search warrants, and gun laws. The Monitor found the information well-presented and quite useful for the gang officers.

The results of our current assessments follow.

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

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

Paragraph 106e(i) – Gang Unit Procedures

Paragraph 106e(i) mandates that unit supervisors and non-supervisory officers continue to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees.

Background

The Monitor assessed the LAPD's compliance with paragraph 106e(i) during the quarter ending June 30, 2004, at which time the LAPD was found in secondary and functional compliance. During the quarter ending December 31, 2004, the Monitor reviewed the AD's *ABC Reports Audit*, dated October 8, 2004, and related audit working papers.⁴⁴ If the Monitor elected to place reliance on this audit in assessing compliance, the Monitor would have found the LAPD in non-compliance.⁴⁵ However, the LAPD informed the Monitor that recent BGC inspections reviewing GED and CLEAR arrests during October 2004, including two inspections completed on November 29, 2004 and December 6, 2004, indicated that the Department is in compliance with this paragraph. Because these inspections involved a review of more recent samples than that contained in the *ABC Reports Audit*, the Monitor withheld a determination of the LAPD's compliance with paragraph 106e(i) pending a review of the inspections to confirm the conclusions reached.⁴⁶

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 106e(i) during the current quarter, the Monitor reviewed BGC Inspection 19 "Evidence Documentation," dated November 29, 2004, and BGC Inspection 20, "Arrest Quality," dated December 6, 2004. As previously mentioned, both of these inspections reviewed GED and CLEAR arrests during October 2004, using gang officers' self-reported monthly Bureau Arrest Summaries, and found that the Department was in compliance with this paragraph. For all BGC inspections, including these two reviewed, SOSD gathers the total population for review, determines the sample to review,

⁴⁴ The Monitor conducted a meta-audit of AD's audit and findings and concluded that it was complete, accurate and reached appropriate conclusions relative to paragraph 106e(i). See the Monitor's Current Assessment of Compliance for paragraph 128(2) in the Report for the Quarter Ending December 31, 2004.

⁴⁵ As described in the Report for the Quarter Ending December 31, 2004, the audit found the following GED arrests compliance levels: completeness 99%, authenticity reviews 98%, underlying actions 81%, and supervisory oversight 72%.

⁴⁶ Given the retrospective nature of audits and the time required in their review processes, the Monitor acknowledges that there will be instances in which more recent information may become available that contradicts the findings contained in the audits. Where AD has concluded non-compliance based upon its audit(s) but the Department believes it has reliable data that shows current compliance based on more current data, the Monitor will examine the data and related findings and take them into account in assessing compliance. The Monitor notes that the Department has the affirmative duty to inform the Monitor of such instances.

and provides each bureau with a list of its sample, including grading sheets, methodology, instructions and a reporting template.

The Monitor reviewed the sampling and methodology used to review these GED and CLEAR arrests, including a meeting with SOSD on March 31, 2005. The Monitor found that there was bias in both the total population and the sampling methodology, which significantly affected the outcome of these reviews. The Monitor identified the following deficiencies in the completeness of the total population, sampling and methodology:

- The Bureau Arrests Summaries reported 818 total gang arrests for October 2004. From this list, a population of 370 was hand-selected by looking through each area and each arrest, and determining the probability of each charge having booked evidence and numbering those selected. This was done for BGC Inspection 19 and then, for time and efficiency, this same hand-selected sample was used for BGC 20. This methodology of hand-selecting arrest introduced bias into the selection process and excluded a significant portion of the population that should have been included when drawing a random sample for review of arrest report quality.
- The selection process used the arbitrary number of five arrests per area; as a result, some areas with larger populations were not properly sampled. Reporting the findings of each area requires stratification across all areas for a proper representation in comparing results.
- For BGC Inspection 19, GED arrests were not included for two areas.⁴⁷
- For BGC Inspection 19, the bureaus were instructed that if after reviewing an arrest report they determined that the booked evidence did not have “evidential value,” they may review an alternate arrest report.⁴⁸ There is no requirement for limiting evidence to that as defined as having “evidential value;” paragraph 106e(i) requires the review and assessment of all gang arrests processes, including detention, transportation and booking. By including the “evidential value” instruction, the LAPD required reviewers to make their own assessments as to evidence’s value, creating an arbitrary de-selection process. In addition, this limited the review of arrest report quality since the same selection sample was used for BGC Inspection 20.
- Both inspections have hand-written notes for the random numbers selected, which were written directly on the pages of the Bureau Arrest Summaries, thereby not allowing validation for the random numbers generated during the sampling process. In addition, only three alternate numbers were selected per area, and when more alternates were needed, the bureau would call SOSD and remaining numbers not selected previously were reshuffled,

⁴⁷ For these areas, GED and CLEAR arrests were listed on separate pages, and the GED arrests were simply overlooked during the selection process.

⁴⁸ “Evidential value” is defined by the LAPD Manual as “items which are or may be related to a crime, or which may either implicate or exonerate a person.”

invalidating the first selection process. When these calls occurred to obtain alternate numbers, these numbers were only given verbally; no documentation or working papers are available to validate which random numbers were selected.

Due to the deficiencies in the sampling and selection processes for these inspection, which could bias their results, the Monitor cannot rely on their work product in assessing compliance with paragraph 106e(i). As a result, the Monitor finds the LAPD in non-compliance with paragraph 106e(i) based on the Monitor's findings described in its Report for the Quarter Ending December 31, 2004 in connection with the Monitor's review of AD's *ABC Reports Audit*, dated October 8, 2004. The Monitor will review compliance with this paragraph during its evaluation of the next scheduled *ABC Reports Audit* or after future inspections have been corrected to address the deficiencies identified.⁴⁹

Paragraph 106h – Bureau Gang Coordinator Inspections

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 106h during the quarter ending December 31, 2004, at which time the LAPD was found in functional compliance.

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 106h during the current quarter, the Monitor requested and reviewed the BGC Inspection 19, "Evidence Documentation," dated November 29, 2004, and BGC Inspection 20, "Arrest Quality," dated December 6, 2004. The Monitor reviewed these inspections in order to determine GED's compliance with paragraph 106e(i) regarding detention, transportation, arrest, processing and booking of arrestees for gang units. As described in detail above, in connection with the Monitor's assessment of compliance with paragraph 106e(i), the Monitor determined that there were deficiencies in the sampling and selection processes of both inspections reviewed, which significantly affected the outcome of the reviews for determining compliance with paragraph 106e(i). The LAPD acknowledged the deficiencies identified by the Monitor during various meetings. In addition, its internal BGC inspection review process identified some of the BGC Inspection 19 and 20 deficiencies identified by the Monitor, as well as deficiencies in other BGC inspections completed over the

⁴⁹ The Monitor notes that after meetings among the Monitor, the LAPD's Civil Rights Integrity Division (CRID), AD and SOSD to discuss the deficiencies identified in these inspections, SOSD has already taken steps to correct such deficiencies for future inspections.

past quarter. The issues identified by the LAPD and the Monitor are in the process of being remedied by LAPD.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 106h. However, the Monitor again commends the LAPD for the great strides made in these inspections and the accountability process at COMSTAT meetings.⁵⁰ Despite the sampling methodology deficiencies identified in the BGC inspections assessed during the current quarter, the Monitor found that the quality of the inspections continues to improve. The Monitor acknowledges the initiative taken by the LAPD to hold its supervisors accountable for deficiencies.

Proposed Recommendation

The Monitor recommends that when BGC inspections are being conducted, that SOSD confer with AD regarding the sampling methodology prior to sending out samples to the bureaus. Although AD conducts audits that are much more extensive than the BGC inspections, SOSD can use AD as a resource to ensure that the methodology is appropriate and sampling is performed in a manner that is representative of the rest of the population.⁵¹

V. CONFIDENTIAL INFORMANTS

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

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

⁵⁰ The Monitor originally noted the progress made by the LAPD in this area in its Report for the Quarter Ending June 30, 2004.

⁵¹ As noted in the Current Assessment of Compliance with paragraph 106e(i), the SOSD has already taken steps to correct deficiencies for future inspections.

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

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

During the quarter ending September 30, 2004, the Monitor evaluated the Department's progress with its Mental Illness Program, and evaluated the Department's *Audit of Police Contact with the Mentally Ill*. During the current quarter, the Monitor again evaluated the Department's progress with its Mental Illness Program.

Paragraph 112 – Report on Proposed Police Contact with Mentally Ill

Paragraph 112 requires the Department to prepare a report for the Police Commission detailing the results of an evaluation of successful programs in other law enforcement agencies across the United States dealing with police contacts with persons who may 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 must make appropriate recommendations concerning changes in policies, procedures, and training methods regarding police contact with persons who may be mentally ill. The recommendations must include a proposal on potential methods for tracking calls and incidents dealing with persons who may appear to be mentally ill.

Background

The Monitor last assessed compliance with paragraph 112 during the quarter ending September 30, 2004, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor again reviewed the status of the Department's compliance efforts, including conducting meetings with the Consent Decree Mental Illness Project (CDMIP) Coordinator. A summary of the status of various initiatives follows.

Establishment of Central Authority for Mental Illness Program

The CDMIP Coordinator has continued his oversight of the Mental Evaluation Unit (MEU) and system-wide Mental Assessment Response Teams (SMART) units. The CDMIP Coordinator has also continued to conduct monthly audits of all UOF investigations, prepare quarterly status reports to the Police Commission (monthly to CRIB), and hold quarterly meetings with stakeholders.

Expansion of SMART

The expansion is continuing. Although the program was fully staffed (18 teams) in October 2004, recent transfers and retirements from the Department of Mental Health and the LAPD have reduced the number of SMART units to less than a full complement (now approximately 16 teams). The CDMIP Coordinator, through the Department, has requested an exemption from the Mayor's hiring freeze so as to fill these positions (at least from the Department's end), and the Chief Legislative Analyst's office has made a similar recommendation.

Expansion of the MEU

This expansion was completed on July 27, 2004. However, with the retirement of the Officer in Charge (OIC) in October 2004 and the retirement of the Detective III in January 2005, the CDMIP Coordinator has had to temporarily fill in as the OIC.

Enhancement of Training Programs

This remains a budget issue. In order to fund the new e-learning program, the CDMIP Coordinator had to use "Homeland Security" monies. As such, the first e-learning programs were required to deal with Homeland Security issues (e.g. HazMat matters, etc.), but the next round of scheduled e-learning will cover Mental Illness.

Improvement of Tracking and Documentation Systems

This continues to be a vendor-driven delay. The newest target "on-line" date is May 2005.

Development of a New Program

The Department should be commended for the CDMIP team's development of a new proactive program designed to identify and deal with those persons who have a high volume or pattern of repeated LAPD calls for service, to coordinate their access to available mental health services. The Department of Mental Health, District Attorney, City Attorney, and other entities have been involved in this program.

Once these individuals have been identified, the various Departments and agencies engage in a "full court press" to proactively seek out and get help for them, including getting the person confined for treatment. At this time, 15 individuals have been identified, and three have already

been beneficiaries of this program. The other individuals are scheduled to be proactively sought out shortly. It is widely believed that this program will minimize confrontations with police officers, thus reducing the potential for such confrontations to become violent. In addition, it will maximize LAPD field resources and facilitate the delivery of the most appropriate public services to individuals, so as to benefit them and the community at large.

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

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

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

During the quarter ending September 30, 2004, the Monitor assessed the LAPD's eligibility criteria for FTOs and attempted to assess the training of FTOs and the process for their de-selection. The Monitor was scheduled to again assess compliance with these requirements during the quarter ending December 31, 2004; however, the Monitor's assessment was postponed again pending the receipt of information requested from the LAPD. The Monitor received the information requested and, during the current quarter, assessed the LAPD's compliance with the requirements relative to the FTO de-selection process. The results of our current assessment follow.

Paragraph 115 – FTO De-selection

Paragraph 115 instructs that the Department may remove a FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.⁵²

Background

The Monitor last assessed compliance with paragraph 115 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in non-compliance. Of the 116 FTOs who served from July 1, 2002 through June 30, 2003, the Monitor identified five who should not be training probationary officers and three for whom personnel evaluations had not been conducted since 1998.

In the Monitor's Report for the Quarter Ending September 30, 2004, the Monitor explained that the review of this paragraph would be delayed due to the Department's inability to identify the sample of FTOs that were actually training recruits. The Department's inability to identify this group was not due to lack of effort or will on the Department's behalf. Rather, with fewer

⁵² 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.

recruits, there are fewer officers actually serving as FTOs who are training probationary officers. Therefore, the Department had to survey the divisions 'by hand' and gather a list of the names of officers that had actually trained probationers during the designated time period. At no time did the Monitor mean to imply that the Department was uncooperative or unresponsive to the Monitor's request.

Current Assessment of Compliance

During the current quarter, the Monitor continued reviewing a sample of CUOF and NCUOF incidents, as well as FTO personnel files, including TEAMS reports.⁵³ In all, the Monitor reviewed a sample of 80 FTO personnel files⁵⁴ for sufficiency of annual evaluations and the FTO eligibility criteria outlined in paragraph 114.

The Monitor determined that at least eleven FTOs should not have been training probationary officers. The eleven officers in question were found administratively responsible for, among other things:

- fraud, multiple personnel complaints;
- domestic violence;
- releasing confidential information;
- attending a movie with other officers while on duty and lying about it to supervisors;
- inappropriate touching of a co-worker;
- inappropriate use of position for personal gain;
- false statement, firearm discharge; and,
- enlisting a probationary officer to lie in an investigation.

Some of the above-mentioned offenses resulted in significant suspensions, including 60 days and 88 days. In addition, the Monitor learned that at least two of the officers in the sample had never attended the 40-hour FTO school, which is a mandatory California Commission on Peace Officer Standards & Training (POST) requirement before serving as an FTO.

⁵³ The Monitor requested all non-Officer Involved Shooting CUOF incidents from the UOFRS/UOFRD.

⁵⁴ Using a 95% confidence rate and +/- 4% error rate, the Monitor selected personnel files for 80 FTOs out of a total population of 486 FTOs who served in this capacity from June 1, 2004 through December 31, 2004. 486 represents the total number of FTOs who were actually working with a probationer for at least one DP during the relevant time period.

Eleven instances of non-compliance out of a total sample size of 80 translates into a compliance rate of 86%. As a result, the Monitor finds the LAPD in non-compliance with paragraph 115.

B. TRAINING CONTENT

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

During the quarter ending June 30, 2004, the Monitor assessed the training curriculum for the public members of the BOR. The Monitor is scheduled to again assess compliance with this requirement, as well as requirements related to the communication of training ideas, during the quarter ending September 30, 2005. During the current quarter, the Monitor assessed the LAPD's compliance with Consent Decree requirements related to police integrity training for all LAPD personnel. The results of our current assessment follow.

Paragraph 117 – Police Integrity Training Requirements

Paragraph 117 requires the LAPD to continue to train, on a regular and periodic basis,⁵⁵ all sworn members of the Department in the following areas:

- the duty to report misconduct and facts relevant to such 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 also community policing;
- the role of accurately completing written reports in assuring policy integrity, and the proper completion of such reports;
- Fourth Amendment and other Constitutional requirements, and the requirement of the Department's nondiscrimination policy, governing police reactions in conducting stops, searches, seizures, making arrests and using force; and

⁵⁵ The Monitor has defined "regular and periodic" to mean "annually" for paragraph 117 and every 24 months for the remaining training paragraphs.

- examples of ethical dilemmas faced by LAPD officers and, where practicable given the location, type, and duration of the training, interactive exercises for resolving ethical dilemmas shall be utilized.

Background

The Monitor last assessed the LAPD's compliance with paragraph 117 during the quarter ending March 31, 2004, at which time the Monitor found the Department in compliance.

Current Assessment of Compliance

The Consent Decree requires that the Department effectively teach the principles of paragraph 117 on an annual basis because its mandates are central to the Department's reform. However, because the Department's normal training cycle is a 24-month cycle, rather than 12 months, the Department had to take an innovative approach to designing a flexible training module to accomplish this task. To that end, on a very small budget and often using their personal equipment, members of the Quality Assurance Unit (QAU) within the Training Group developed a 90-minute web-based e-learning training module on police integrity.⁵⁶

Realizing that officers do not often have 90-minute blocks of time to sit down and complete a training exercise, QAU staff divided the module into three 30-minute segments that can be completed all together or independent from each other. This allows officers to take 30 minutes to complete a portion of the training and ultimately complete the entire program in a piecemeal fashion. Officers must successfully complete a test at the end of each 30-minute segment.

This training module also takes into consideration the omnipresent demand for officers to be in the field. Because it is web-based, officers can log on from anywhere that they have an internet connection, rather than having to travel to a training facility, which would result in at least six hours out of the field. As a result of these measures, and due to the creativity and dedication of the QAU staff, the Department was able to train greater than 95% of its personnel in six weeks.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 117. The Monitor commends the Department for this extraordinary effort.

⁵⁶ The training group envisions that this e-learning module will complement both the classroom and the field training on the same topic and does not serve as stand-alone training year after year.

C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.⁵⁷ Once promoted, supervisors should continue to receive regular training on key issues, including report review, incident control, ethical decision-making, UOF and complaint investigations. The Consent Decree also requires the Department to ensure that supervisors who conduct investigations receive relevant training.

During the quarter ending June 30, 2004, the Monitor reviewed the Department's compliance with supervisory investigations training requirements. During the quarter ending September 30, 2004, the Monitor focused on the curricula for supervisory training. The Monitor is scheduled to again assess compliance with Consent Decree requirements regarding supervisory training during the quarters ending June 30, 2005 and September 30, 2005.

⁵⁷ This requirement pertains to all promoted officers, except for those officers promoted to the rank of Captain, who must at least begin their Command Development training before they assume their new positions.

VIII. INTEGRITY AUDITS

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

Charting the Success of LAPD's Audit Division

In the first two years of the Consent Decree, the LAPD struggled with the requirement to complete quality audits on a timely basis. This was caused by the following two issues: LAPD's AD faced a steep learning curve regarding the standards required for the conduct of audits and it was under-resourced. Since then, the Department has made significant progress in both of these issues, and has now completed a total of 21 quality audits as set out below:

<i>Timing of Monitor's Eval'n</i>	<i>Quantity and Title(s) of "Quality" Audits Completed by the LAPD⁵⁸</i>
Sept 30, 2002	1: <i>Warrant Applications & Affidavits Audit - CD128(1)</i>
Dec 31, 2002	1: <i>ABC Reports Audit - CD128(2)</i>
Sept 30, 2003	1: <i>CI Control Packages Audit - CD128(5)</i>
Dec 31, 2003	2: <i>MV&PS Audit - CD128(4); GED Work Product Audit - CD131a</i>
Mar 31, 2004	1: <i>GED Work Product Audit - CD131a</i>
Jun 30, 2004	5: <i>Warrant Applications & Affidavits Audit - CD128(1); ABC Reports Audit - CD128(2); NCUOF Reports/Investigations Audit - CD128(3) & CD129ii; Complaints Investigations Audit - CD129iii; GED Work Product Audit - CD131a</i>
Sept 30, 2004	2: <i>CI Control Packages Audit - CD128(5) & CD131d; CUOF Systems Audit - CD129i</i>
Dec 31, 2004	7: <i>ABC Reports Audit - CD128(2); MV&PS Audit - CD128(4); CUOF Investigations Audit - CD129i; GED Work Product Audit - CD131a; GED Selection Criteria Audit - CD131b; Supplemental GED Warrants Audit - CD131c-1; Supplemental GED NCUOF Reports Audit - CD131c-3</i>
Mar 31, 2005	1: <i>Complaint Systems Audit - CD129iii</i>

During the quarter ending September 30, 2004, AD developed and presented its first Basic Law Enforcement Performance Auditing Course covering all aspects of police performance auditing, including auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process. This 4-day course has been taught on several occasions since then, and was certified by POST and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005. The Monitor considers the success of this course to be another milestone in AD's development.

In light of the recognition granted to LAPD's Law Enforcement Performance Auditing Course, and the quality of the work recently performed by AD, in those instances in which the scope of an AD audit directly addresses the requirements of a given paragraph, the Monitor has elected to perform meta-audits of AD's audit work and findings and, if appropriate, rely on such findings in

⁵⁸ Although the GED Audits listed in the table above were quality audits, they were assessed as non-compliant during the quarters ending December 31, 2003 through June 30, 2004 because they were performed by AD rather than by the SOSD. The Monitor noted that until the Consent Decree was amended to reflect the fact that AD may conduct these audits, the Monitor would continue to find the Department in non-compliance for such audits. As noted in the Monitor's Report for the Quarter Ending September 30, 2004 and in a Focus Issue in this report, the City and the DOJ agreed upon such a modification. As a result, beginning with the quarter ending September 30, 2004, the fact that AD conducts GED audits has no bearing on compliance. However, during that quarter, the Monitor considered the two GED audits to be quality audits, but ultimately withheld a determination of compliance because the Monitor's sample sizes were insufficient to conclude on compliance. During the quarter ending December 31, 2004, the Monitor expanded its sample sizes, as requested by the City, and completed its evaluation, concluding that these were compliant audits.

assessing compliance with that paragraph.⁵⁹ Instances of such reliance have been articulated earlier in this report.

Resource Challenges Hampering the OIG's Oversight of the LAPD

For more than two years,⁶⁰ the Monitor has expressed concerns regarding the OIG's resource constraints that were hampering its ability to effectively oversee the LAPD. Although the OIG and the City have worked since the inception of the Consent Decree to address these issues, financial and other constraints have impeded the OIG's progress in this regard. In early 2004, the OIG stepped up its efforts to address the Monitor's concerns regarding the timeliness and quality of its audits and independent reviews; however, this effort was short-lived, with the result that the OIG fell behind in meeting its deadlines, and concerns over the quality of the OIG's audits/reviews persist. During the quarter ending September 30, 2004, the Monitor highlighted these concerns as a focus issue. Since then, the OIG has implemented a restructuring plan to address its resource challenges and is making progress in this area, most notably with the addition of an Assistant IG who is focusing on improving the quality and timeliness of the OIG's audits and audit reviews. In addition, the OIG is making a transition to personnel with the expertise needed to consistently perform quality and timely audits/reviews. The Monitor commends these efforts but recognizes that it will take time for the OIG to fully address the Monitor's concerns.

A. AUDIT PLAN

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

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

⁵⁹ This is consistent with paragraph 162 of the Consent Decree which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

⁶⁰ Since the quarter ending March 31, 2003.

B. AUDITS BY THE LAPD

During this quarter, the Monitor evaluated AD's paragraph 129iii *Interim Complaint Systems Audit*. In addition, the Monitor reviewed the "Annual Complaint Report-Year 2004," dated February 16, 2005, prepared pursuant to paragraph 130. Finally, the Monitor performed an evaluation relative to paragraph 134 of the Department's oversight of skeletal fractures arising from NCUOF incidents.

Paragraph 129iii – Audit of Complaint Form 1.28 Investigations

Paragraph 129iii requires the Department to conduct regular, periodic audits of random samples of all Complaint Form 1.28 investigations. This paragraph also describes the qualitative factors that should be assessed in such audits, including the requirement to assess the timeliness of completing the investigation,⁶¹ the completeness of the investigation file, the accuracy of the investigator's statement summaries, the adequacy⁶² of the investigation, and the appropriateness of PSB's determinations relative to who shall conduct the investigation.⁶³

Background

The Monitor last assessed compliance with paragraph 129iii during the quarter ending June 30, 2004, finding AD's Complaint Form 1.28 Investigation Audit dated March 30, 2004 and subsequent clarification dated June 22, 2004 compliant with paragraph 129iii.

Current Assessment of Compliance

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

- 129iii – Complaint Form 1.28 Interim Systems Audit,⁶⁴ and
- 129iii – Complaint Form 1.28 Investigations Audit.⁶⁵

⁶¹ As required by paragraph 87 (most complaint investigations to be completed in five months).

⁶² As required by paragraphs 80-86.

⁶³ As required by paragraphs 79 (PSB to receive Complaint Form 1.28 face sheets and classify as to investigating entity within 10 days) and 93-95.

⁶⁴ AD's December 22, 2004 audit assessed paragraphs 74d, f, and g; 76; 79; 83; 87; 93; 94; 95; 129iii(a) and (e); and 152, which relate to investigative resources, public accessibility and administrative processes for the complaint review process.

In order to assess compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's Complaint Form 1.28 Systems Audit report submitted December 22, 2004 and supporting working papers, including its audit workplan, selected matrices and complaint investigation packages. The scope of this audit addressed paragraph 129iii and linked paragraphs 79 and 87, as well as several other paragraphs that are not specifically required by paragraph 129iii. The Monitor's review focused on only the systems-related requirements of paragraph 129iii i.e. the requirement to assess the timeliness of completing the investigation as required by paragraphs 79 and 87.

AD selected two separate audit populations for this audit. The following table identifies the two audit populations and sample sizes used by AD and the Monitor relative to this audit:

<i>Para No.</i>	<i>Audit Population⁶⁶</i>	<i>Audit Objective(s)</i>	<i>Population Size</i>	<i>AD Sample Size⁶⁷</i>	<i>Monitor's Sample Size⁶⁸</i>
Para 87	Complaints ⁶⁹ initiated Feb 2004	Timeliness of completion of investigation ⁷⁰	418 ⁷¹	132 ⁷²	25
Para 79	Complaints ⁷³ initiated Jul 2004	Assignment of investigating entity and timely forwarding of face sheets to IAG	547	<u>82</u>	<u>21</u>
				<u>214</u>	<u>46</u>

The Monitor determined that AD's workplan provided the appropriate framework to meet the requirements of paragraphs 79 and 87, and further confirmed the accuracy of AD's findings:

- 21 of 21 complaints were found to have been assigned to the appropriate investigative entity and classified in the number of days as reported by AD.

⁶⁵ AD's March 31, 2005 Complaint Investigations Audit assessed paragraphs 64, 74h, 75, 77, 78, 80a-g, 81, 82, 84, 85, 86, 90, 91, 101, 102 and 129b-d, which relate to the quality of the complaint investigations. The Monitor will assess AD's Complaint Form 1.28 Investigations Audit during the quarter ending June 30, 2005.

⁶⁶ Audit populations were drawn based on AD's queries to the CIS database maintained by the PSB's Analytical Audit Unit.

⁶⁷ All AD samples were randomly selected based on a one-tail test, a 95% confidence interval, a 94% success rate factor and +/-4% error rate.

⁶⁸ The Monitor's samples were randomly selected from AD's two samples based on a +/-7% error rate.

⁶⁹ Excluding complaints classified as FTA, FTQ, and PTC.

⁷⁰ This audit objective assessed whether greater than 51% of complaint investigations were completed within 5 months.

⁷¹ Sample comprises 211 IAG investigations and 207 COC investigations.

⁷² Sample comprises 66 IAG investigations and 66 COC investigations.

⁷³ Excluding FTAs, FTQs and PTCs.

- 25 of 25 complaint investigations were found to have been completed in the time period reported by AD.

AD performed appropriate follow-up procedures to identify the reasons why some Complaint Form 1.28 face sheets were not being forwarded to PSB on a timely basis.

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

Paragraph 130 – Annual Complaint Report

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 130 during the quarter ending March 30, 2004, at which time the LAPD was found in functional compliance.

Current Assessment of Compliance

During the current quarter, the LAPD submitted its "Annual Complaint Report-Year 2004," dated February 16, 2005. The Monitor reviewed this report and determined that the complaint information was broken down by allegation type, disposition and discipline imposed, as required by this paragraph. The report was submitted to the Police Commission on March 16, 2005 and a copy was provided to the IG on March 18, 2005.

As with the Monitor's review of QDRs,⁷⁴ the Monitor reviewed the annual complaint report and determined that it accurately captured and reported on relevant information regarding complaints and discipline. The Monitor commends the Chief of Police for recommending that the Board of Police Commissioners review and approve the Annual Complaint Report for 2004 in the same manner as has been occurring with the QDRs.

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

⁷⁴ Refer to paragraph 88, above.

Paragraph 134 – Skeletal Fractures Audit

Paragraph 134 required the Department to complete a one-time audit of all known UOF resulting in skeletal fractures within 18 months of the effective date of the Consent Decree. The audit was required to review and evaluate the frequency of skeletal fractures, the circumstances and types of force that led to such fractures, the timeliness and suitability of the medical care provided, the adequacy of the COC investigation, and any patterns related to complaints.

Background

During the quarter ending March 31, 2003, the Monitor assessed the quality of the skeletal fractures audit completed on January 8, 2003, finding the Department in non-compliance as the audit did not address all of the requirements of paragraph 134. Areas of concern included the following:

- The audit scope did not include all “known” UOF resulting in a skeletal fracture (UOF-SF), but was instead restricted to only “completed investigations” of UOF-SF.
- AD did not adequately evaluate NCUOF-SF investigations for scrutiny of tactics, the quality and timeliness of such investigations, the timeliness of the CO reviews thereof, and inconsistencies between the witness statements and types of force used.

The Monitor also recommended that AD include skeletal fractures as a separate stratum in a future NCUOF audit.

Current Assessment of Compliance

As requested by the DOJ, the Monitor conducted a review of all skeletal fractures that occurred between September 1, 2002 and December 31, 2004⁷⁵ in order to determine if skeletal fractures that occurred as a result of NCUOF are subjected to sufficient oversight by the Department. The Monitor specifically assessed the quality of the UOF investigation in relation to inconsistencies between witness statements and type of force used; the timeliness of the CO and Bureau CO’s review; and timeliness of medical care, and otherwise reviewed for any areas of concern and the effectiveness of Special Order No. 13 (SO13).⁷⁶

⁷⁵ This is the timeframe subsequent to that covered in the last skeletal fractures audit.

⁷⁶ SO13, *Non-Categorical UOF Reporting-Revised*, was issued May 26, 2004. It segregates NCUOF incidents into two levels. Level I NCUOF incidents include those incidents where the force used results in serious injuries, including skeletal fractures and dislocations, that do not require hospitalization. Level II incidents include all remaining UOF incidents. Interviews of witnesses of Level I NCUOF incidents are required to be tape-recorded; interviews are not required to be tape-recorded for Level II incidents.

Thirty-one (31) skeletal fractures occurred between September 1, 2002 and December 31, 2004 and were investigated as NCUOF. The Monitor reviewed 30 of these,⁷⁷ 7 of which occurred after the issuance of SO13 on May 26, 2004.

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

- The Monitor has concerns with 9 of these incidents, 2 of which relate to incidents arising after the issuance of SO13:

	<i>Pre SO13</i>	<i>Post SO13</i>	<i>Total</i>
Number of Skeletal Fractures	23	7	30
UOF Investigations with Concerns	7	2	9
Percent	30.4%	28.5%	

- For 5 pre-SO13 incidents, the Monitor questioned the thoroughness of the NCUOF investigation given the limited or non-existent medical records contained in the files.⁷⁸
- The Monitor has concerns about the credibility of the investigation related to 2 pre-SO13 incidents. In one incident the UOF report indicates the investigating supervisor canvassed the area for witnesses; however, there were no statements from non-Department witnesses, notwithstanding that the suspect's girlfriend was present during the UOF, and the UOF occurred in a crowded place. In another incident, there is an inconsistency between the UOF report that states the officer was treated at 77th jail, and documentation within the report that indicates the officer was treated by a rescue ambulance on scene, while a suspect who complained of a broken arm was not treated until 6 hours later.
- There was 1 post-SO13 incident that should have been investigated as a CUOF rather than a NCUOF investigation. AD identified concerns with this incident during its interim NCUOF audit and followed up as appropriate on this matter. This should have resulted in a complaint against the officers responsible for the decision to investigate this incident as a NCUOF.

In light of the relatively small number of incidents that occurred after the issuance of SO13, it is difficult to conclude whether the underlying requirements of paragraph 134 were adequately addressed via the implementation of SO13.

⁷⁷ One NCUOF investigation with a skeletal fracture was not available as it had been sent back to the Division for further follow-up.

⁷⁸ For 3 incidents, signed releases of medical information authorization forms were included but there were no medical records contained in 2 of the UOF packages and there were limited medical records in the third. For 2 other incidents, the UOF packages did not contain any medical records, and there was no apparent reason for excluding such records from the UOF package.

Based on the foregoing, the Monitor is withholding a determination of the Department's compliance with the underlying requirements of paragraph 134.

C. INSPECTOR GENERAL REVIEWS & AUDITS

During this quarter, the Monitor assessed:

- the timeliness of transmittal of LAPD's audits to the OIG (paragraph 135a);
- the timeliness and quality of the OIG's audit review process in general, and the OIG's January 13, 2005 review of AD's *ABC Reports Audit* dated October 13, 2004 (paragraph 135b); and
- the OIG's review of CUOF Investigations (paragraph 136).

Paragraph 135 – OIG Evaluation of LAPD Audits

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

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

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

Background

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

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 during the current quarter, the Monitor reviewed details of the timing of the Department's transmittal of the audits issued during the quarter ending March 31, 2005, as listed in the table below, and communicated directly with the OIG to confirm the dates of receipt.

CD #	Audit Description	Date of Approval of Audit Report by Chief of Police	Date Audit Report Received by OIG	# Days to OIG Receipt
CD127	Ethics Enforcement Section 4 th Quarterly Report	Feb 8, 2005	Feb 9, 2005	1 ✓
CD128(1), CD131c-1	Warrant Applications and Supporting Affidavits Audit	Feb 10, 2005	Feb 23, 2005	13 ✗
CD128(3), CD129ii	Non-Categorical Use of Force Reports Interim Audit	Mar 3, 2005	Mar 9, 2005	6 ✓
CD128(4), CD131c-4	Motor Vehicle and Pedestrian Stop Data Collection Audit	Mar 25, 2005	Mar 30, 2005	5 ✓
CD129i	Categorical Use of Force Systems Audit	Mar 30, 2005	Mar 30, 2005	0 ✓
CD129iii	Complaint Form 1.28 Investigations Audit	Mar 31, 2005	Mar 31, 2005	0 ✓
CD131a	GED Command Accountability Performance Audit – Wilshire Area	Mar 21, 2005	Mar 23, 2005	2 ✓
CD131a	GED Command Accountability Performance Audit – Newton Area	Mar 21, 2005	Mar 23, 2005	2 ✓

✓ = Compliant ✗ = Non-Compliant

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

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

Background

For most of the last three years of the Consent Decree, with few exceptions,⁷⁹ the Monitor found the OIG’s reviews of specified and other audits to be non-compliant with the requirements of paragraph 135b. The assessments of non-compliance resulted either from shortcomings in the quality of OIG’s reviews or the failure of the OIG to present its reviews in a timely manner to the Police Commission.

⁷⁹ The Monitor did not assess compliance during the quarter ending June 30, 2002, found the OIG in compliance during the quarter ending December 31, 2002, and withheld a determination of compliance during the quarter ending June 30, 2003.

Current Assessment of Compliance

For the current quarter, in light of the staffing shortages at the OIG and the limitations that this places on the OIG's ability to conduct quality reviews on a timely basis, rather than performing a detailed evaluation of the quality of each of the OIG's reviews,⁸⁰ the Monitor instead evaluated the timeliness of the OIG's reviews that were outstanding at the end of the previous quarter. In addition, the Monitor assessed the quality and timeliness of the OIG's report dated January 13, 2005 on its review of AD's *ABC Reports Audit* dated October 13, 2004 (CD128(2)).

<i>Audit Name</i>	<i>CD Paragraph</i>	<i>Audit Completion Date</i>	<i>Date of OIG Report</i>	<i># Months to Completion</i>
<i>GED Work Product Audit</i>	CD131a	Jun 2004	Feb 2005	> 7
<i>Supplemental GED Warrant Applications Audit</i>	CD131c-1	Jun 2004	Feb 2005	> 7
<i>AD's MV&PS Audit</i>	CD128(4), 131c-4	Jun 2004	Feb 2005	> 7
<i>AD's CUOF Investigations Audit</i>	CD129i	Aug 2004	Mar 2005	> 6
<i>Supplemental GED Work Product Patterns Audit</i>	CD131a	Sept 2004	Feb 2005	> 4
<i>Supplemental GED Work Product Patterns Audit</i>	CD131a	Sept 2004	Feb 2005	> 4
<i>Arrest Booking and Charging Reports Audit</i>	CD128(2), 131c-2	Oct 2004	Jan 2005	> 3
<i>EES's Sting Audit Report</i>	CD97, 127	Oct 2004	Mar 2005	> 4

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

- with the exception of the review of the OIG's review of the *ABC Reports Audit* completed in January 2005, none of the OIG's reviews were issued to the Police Commission within approximately 3 months of the date of issuance of the audit;⁸¹ and
- most of the OIG's reviews completed in February 2005 did not include a meta-audit, and were instead 'executive level reviews' of the respective audit reports and planning

⁸⁰ This is the process that the Monitor followed until September 2004 for previous evaluations of the OIG's reviews.

⁸¹ The OIG acknowledges that reviews issued more than 3 months after the date of an audit will cause the findings from such audit(s) to be stale.

documents; accordingly, such reviews did not adequately evaluate the quality, completeness and findings of such audits.

The OIG's Review of AD's ABC Reports Audit (CD128(2))

In order to provide feedback on the quality of a recent OIG review, the Monitor reviewed the OIG's report dated January 13, 2005 on its review of AD's *ABC Reports Audit* dated October 13, 2004 as well as the OIG's working papers related to its review of a random sample of 20 of the arrest reports included in AD's audit. The Monitor's findings, which have been discussed with the OIG, are as follows:

- The OIG's review appropriately utilized AD's audit matrix questionnaire, cribsheet and audit workplan to guide its assessment of the quality, completeness and findings of AD's audit.
- The OIG's review was thorough and accurate.
- The OIG held appropriate follow-up discussions with AD personnel on the anomalies identified during the OIG's review. The notes from these meetings were well-documented and clearly indicated how each anomaly was resolved or handled. The Monitor concurs with each of the OIG's conclusions.

Based on the foregoing, although the OIG's review of LAPD's *ABC Reports Audit* was well done, the OIG's other reviews completed during this quarter were either stale or did not adequately evaluate the quality, completeness and findings of such audits.

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

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

In October 2004, the parties agreed to proposed revisions to the Consent Decree, including revisions to the requirements of paragraph 136. Under the proposed revisions, the OIG is required to continue its practice of reviewing all CUOF investigations and to promptly provide its written findings on each of its reviews to the Police Commission. Such reviews shall assess areas of concern identified by the IG, and at least one of the following three issues related to the quality and/or outcome of the investigations:

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

Under the current version of the Consent Decree, the OIG is required to assess each of the above three issues, as well as the timeliness, quality, completeness and findings of each investigation; the current version does not specifically require the OIG to address any areas of concern.

Background

The Monitor assessed the OIG's review of CUOF investigations during the quarters ending December 31, 2002 and March 31, 2004, and found the OIG to be non-compliant with the current requirements for paragraph 136 in both instances. The Monitor determined that the quality of the OIG's analyses were deficient, as the OIG's reports did not directly address the requirements of paragraph 136. Little or no improvement was made between these dates.

Current Assessment of Compliance

In order to assess compliance with paragraph 136 for the current quarter, the Monitor randomly selected a sample of 11 CUOF investigations from the OIG's population of 31 CUOF investigation review reports presented by the OIG to the Police Commission in the months December 2004 to February 2005.⁸² The Monitor considered the OIG's reports, matrix responses and other working papers and the relevant CUOF investigation package, including the report of the Chief of Police, TEAMS extracts and UOFRB notes.

Based on the results of the Monitor's evaluation of the first three of such reviews, and by further substantiation from discussions with OIG personnel, the Monitor determined that its previous concerns about the OIG's inadequate reporting had not been addressed. In addition, the Monitor identified several deficiencies with the OIG's evaluations of these 3 CUOF investigations, including the following:

- an instance where two witness officers were not appropriately separated was not reported;
- an instance where inadequate supervisory oversight was not reported nor identified as a training issue;
- matrix questionnaire responses were entered subsequent to the report's preparation and were incomplete; and
- an equipment compliance issue was not identified.

The OIG's personnel acknowledged the above findings, but requested that the Monitor also assess some more recent reviews. The Monitor agreed and selected 2 such reviews. The Monitor's findings, which have been discussed with the OIG and his staff, are as follows:

- These reviews were more thorough and insightful than the three reviews described above.
- The reports for these reviews better addressed the reporting requirements of paragraph 136.
- For one Officer Involved Shooting linked to a murder investigation, the OIG's report included excellent analysis and an appropriate request that FID conduct a supplemental

⁸²The Monitor's sample was based on a random selection using a +/-10% error rate.

investigation regarding issues omitted from the initial CUOF investigation. The OIG's report appropriately challenged the CUOF investigation and advised the Police Commission that certain witness statements and physical evidence did not support the findings and adjudication of the CUOF investigation.

Subsequent to the Monitor's review, the OIG made further improvements to its report template and the database recently developed to standardize its analyses of CUOF investigations. The Monitor is pleased with such improvements, and looks forward to assessing future CUOF investigations that have been evaluated using this improved process.

For this quarter, however, based on the Monitor's findings from the sample evaluated above, the Monitor finds the OIG in non-compliance with paragraph 136.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

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

During the quarter ending September 30, 2004, the Monitor assessed the Police Commission's review of audits and its investigation of misconduct complaints filed against the Chief. During the current quarter, the Monitor assessed compliance with the requirements regarding the Commission's review of the LAPD budget and its review and approval of LAPD policies and procedures. The Monitor was also scheduled to address requirements relating to the Commission's annual review of the Chief of Police but deferred its assessment due to the fact that the review was not conducted until just prior to the end of the quarter. During the current quarter, the Monitor assessed the Department's compliance with Consent Decree requirements relative to the Police Commission's review of misconduct complaints against the Chief of Police and its evaluation of the Chief.

Paragraph 144 – Police Commission Annual Review of Chief of Police

Paragraph 144 requires the Police Commission, while conducting its annual review of the Chief of Police, to consider the Chief's responses to UOF incidents and complaints of officer misconduct, assessment and imposition of discipline and those matters described in paragraphs 67, 88, 89, 106, 124, 127, and 143 of the Consent Decree.

Background

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

Current Assessment of Compliance

In December 2004, the Police Commission completed its annual review of the Chief of Police, covering the period July 1 2003, through June 30, 2004. The Deputy Monitor is in the process of assessing the review. The Monitor will report on this assessment in the Report for the Quarter Ending June 30, 2005.

Paragraph 145 – Police Commission Investigation of Misconduct Complaints Filed Against the Chief of Police

Paragraph 145 states that the Police Commission shall investigate all misconduct complaints against the Chief of Police and may use its staff, the OIG, or authorized contractors to conduct such investigations.

Background

The Monitor last assessed compliance with paragraph 145 during the quarter ending September 30, 2004, at which time the Department was found in non-compliance.

Current Assessment of Compliance

Due to the potentially sensitive nature of complaints filed against the Chief of Police, the City only provides documentation directly to the Chief Monitor or his Deputy. During this quarter, the OIG identified eight open misconduct complaints filed against the current Chief of Police. The “CF” numbers for these eight complaints will be compiled by the OIG, and provided to the Deputy Monitor for review. Due to a pending change in the OIG’s review protocol, the Deputy Monitor will evaluate these misconduct complaints during the quarter ending June 30, 2005.

Based on the foregoing, the Monitor withholds a determination of the Department’s compliance with paragraph 145.

B. OPERATIONS OF THE INSPECTOR GENERAL

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

During the quarter ending June 30, 2004, the Monitor assessed the Department’s compliance with the majority of Consent Decree provisions regarding the operations of the IG. During the

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

C. GENERAL

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

In previous quarters, the Monitor assessed the Department's progress in tracking recommendations and their implementation, and whether appropriate, timely and reasonable steps have been undertaken to implement recommendations and remedy deficiencies emanating from LAPD and OIG audits. During the quarter ending September 30, 2004, the Monitor reviewed the LAPD's recent recommendation status report. During the quarter ending December 31, 2004, the Monitor reviewed the recent *Audit Recommendations Tracking Report, Third Quarter* and the process in place to track specified audit and non-audit recommendations. The Monitor is scheduled to next review the LAPD's compliance with the requirements of this section during the quarter ending December 31, 2005.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

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

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

In the Monitor's Report for the Quarter Ending June 30, 2004, the Monitor reviewed the LAPD's compliance with the Consent Decree requirement to hold annual meetings in each Area to inform the public about the provisions of the Consent Decree and the various methods of filing a complaint against an officer. The Monitor is scheduled to again assess compliance with this requirement during the quarter ending June 30, 2005. During the quarter ending December 31, 2004, the Monitor again assessed compliance with the requirement that the LAPD prepare and post certain semiannual reports on its website. The Monitor is scheduled to again assess compliance with this requirement during the quarter ending September 30, 2005.

XI. CONCLUSION

We continue to be generally pleased with the progress of the Department in achieving compliance in most areas. We are, however, concerned with some bigger picture items, which we have highlighted in the report. Chief among those is the use of deadly physical force during and after car chases. We believe belated progress has been made in the areas of policy and training relative to such incidents. The disciplinary system relative to such incidents, however, likewise needs to be reviewed and reformed to prevent unnecessary tragedy. We reiterate our position that the firing of a weapon by a police officer should be the choice of last resort, only to be employed when the safety of the officer or others leaves no alternative. We have also opined relative to the issues of civilianization of the Audit Division and in-car cameras primarily because of our belief that each can play an important role in meeting the ends and intent of the Consent Decree. In the coming quarters, we will continue to attempt to ensure that not only the individual paragraphs of the Decree are “ticked and tied” for compliance, but that the ends and intent of the Consent Decree are enforced, as well.