

# **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  
DECEMBER 31, 2005**

**Issued February 15, 2006**

**REPORT CONTENTS:**

**INTRODUCTION.....1**

**EXECUTIVE SUMMARY .....2**

**I. FOCUS ISSUES.....4**

    A. Update on the Investigation of the Devin Brown Incident.....4

    B. Resolution of Failure To Properly Adjudicate Complaints .....4

    C. TEAMS II Progress .....5

**II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY .....6**

    A. TEAMS II [Computer Information System].....6

**III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW.....13**

    A. Use of Force.....13

    B. Search and Arrest Procedures .....16

    C. Initiation of Complaints .....19

    D. Conduct of Investigations .....21

    E. Adjudicating Investigations .....25

    F. Discipline & Non-Disciplinary Action .....26

    G. Professional Standards Bureau .....30

    H. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops.....35

**IV. MANAGEMENT OF GANG UNITS.....36**

**V. CONFIDENTIAL INFORMANTS.....40**

**VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS .....40**

**VII. TRAINING.....41**

    A. Field Training Officers Program.....41

    B. Training Content .....42

C. Supervisory Training .....42

**VIII. INTEGRITY AUDITS .....44**

A. Audit Plan .....46

B. Audits by the LAPD.....46

C. Inspector General Reviews & Audits .....58

**IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR  
GENERAL .....71**

A. Operations of the Police Commission.....71

B. Operations of the Inspector General .....75

C. General.....76

**X. COMMUNITY OUTREACH AND PUBLIC INFORMATION.....79**

**XI. CONCLUSION.....80**

**APPENDICES:**

- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending December 31, 2005
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

## INTRODUCTION

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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 eighteenth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending December 31, 2005.

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

As a tool to assist the reader of this report, the Monitor has attached as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or subparagraph of the Consent Decree for the last five quarters, beginning with the quarter ending December 31, 2004.<sup>1</sup> 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.

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<sup>1</sup> 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

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During the quarter ending December 31, 2005, the Monitor examined 40 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 27, failed to achieve compliance with 11, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with the remaining 2 paragraphs.

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

- Although the City has taken a step towards implementation of the Risk Management Information System by beginning to roll out one of its reports, the Individual TEAMS Report, to two divisions during the month of January, delays continue to impact the implementation of that system and the Complaint Management System, new systems that the City is developing in order to meet Consent Decree requirements relative to the development of the TEAMS II system.
- The LAPD's Ethics Enforcement Section continues to struggle with designing and completing sting audits that address the intent of Consent Decree paragraphs.
- Although the Monitor has noted improvements in Force Investigation Division Categorical Use of Force incident investigations compared to those completed by its predecessor, the Monitor remains concerned about the overall quality and completeness of these investigations.

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 Department is continuing to roll-out the Use of Force System and has completed Department-wide roll-out of the Deployment Period System, new systems that the City is developing in order to meet Consent Decree requirements relative to the development of the TEAMS II system. The Use of Force System has been rolled out to Valley and Central Bureaus, with the exception of Rampart Division, and the City hopes to complete roll-out to Rampart Division and all of West Bureau during the month of January. In addition, the Deployment Period System has been fully implemented Department-wide since September 18, 2005.
- The Office of the Inspector General submitted three quality reviews during this quarter, bringing the total number of quality reviews to eleven, nine of which were performed since the reorganization of the OIG in early 2005. Although the Monitor concluded that the OIG was not in compliance with Consent Decree requirements relative to its review of non-categorical uses of force and its review of the LAPD Ethics Enforcement Section's quarterly reports, the Monitor considers these temporary setbacks due, in part, to work that was

completed before the OIG had achieved its current level of staff resources and delays resulting from either prior staff shortages or factors beyond the OIG's control.

- Although not compliant with all relevant Consent Decree paragraphs that the Monitor assessed during the quarter, Audit Division did address a number of requirements and made significant progress in conducting its analysis and pulling together the results of various audits, particularly in connection with its audit intended to identify patterns of anomalies within the Department.
- The Police Commission achieved compliance with all Consent Decree requirements that the Monitor reviewed during the current quarter; the Commission is currently in compliance with all requirement from the section of the Consent Decree that directly addresses its activities.

## I. FOCUS ISSUES

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### A. UPDATE ON THE INVESTIGATION OF THE DEVIN BROWN INCIDENT

In our Report for the Quarter Ending December 31, 2004, we reported on a shooting that occurred in the early morning hours of February 6, 2005. Two officers on routine patrol observed what they believed to be a potentially drunk driver in a maroon Toyota. Minutes later, the driver of that Toyota, Devin Brown, a thirteen year old with no apparent prior involvement with the police, was dead, having been shot by one of the officers after backing the Toyota into the police cruiser.

At the time of that report we indicated that it appeared that the Force Investigation Division was dedicating appropriate resources to the investigation and that we had every reason to believe that the investigation would be full, fair and unbiased. We have recently reviewed the investigation and commend the Department for fulfilling its investigative role in this tragedy. We likewise commend the Office of the Inspector General for its review and analysis of the incident.

On January 31, 2006, utilizing all of this information, the Police Commission, by a vote of 4-1, found the Devin Brown shooting to be administratively out of policy. The decision of the Commission was notable in that it reversed a finding by the Use of Force Review Board and the Chief of Police, who had both found the shooting to be within Departmental policy. Indeed, the decision points out the fact that reasonable judges of well-investigated facts can differ. In a case that rests largely on attempting to discern the state of mind of the officer at the time he fired the shots, it is not surprising that different results can be reached. Importantly, however, the decision by the Commission shows unequivocally that its civilian oversight of the Department is thoughtful and independent, as envisioned and intended by both the Los Angeles City Charter and the Consent Decree.

After the Commission's decision, the Chief of Police could have imposed punishment of up to 21 days loss of pay; however, he instead sent the matter to a Board of Rights, which will conduct a de novo review of the facts and, if it finds the shooting out of policy, impose a punishment, up to and including termination. We will continue to follow this matter as it reaches the final stage of the review process.

### B. RESOLUTION OF FAILURE TO PROPERLY ADJUDICATE COMPLAINTS

Paragraph 85 of the Consent Decree requires that complaints be adjudicated with one of seven findings: "sustained," "sustained-no penalty," "not resolved," "unfounded," "exonerated," "duplicate," or "no Department employee." As described in our previous quarterly report, the Monitor determined that the Department had significantly deviated from that paragraph's

requirements relative to the adjudication of complaints in situations where there was found to be sufficient evidence to allow for adjudication.

Upon discussing this matter with the Monitor, the Department and the Police Commission took timely action to remedy the situation. We commend the Department and Commission for the alacrity with which the matter was resolved.

### C. TEAMS II PROGRESS

As noted previous quarterly reports, the Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices, as well as identifying and modifying at-risk behavior. The City elected to develop four new systems, one of which, the Risk Management Information System, is really the centerpiece of Consent Decree requirements. As of January 10, 2006, the city began a roll out of this vital component of TEAMS II. Clearly, this is a notable milestone, one that provides encouragement that full deployment of the TEAMS II system is within sight. The Monitor will continue to assess and report on the progress of the TEAMS II project.

## II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

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### 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.<sup>2</sup> 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,<sup>3</sup> and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

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

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

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

- As described in our Report for the Quarter Ending September 30, 2005, DPS has been rolled-out Department-wide and all areas have been utilizing this system for almost four deployment periods (DPs). The City has been working on peer group reconciliations within the DPS, which allow comparisons between the working units, and these reconciliations have been largely cleared up at this time.

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

<sup>3</sup> 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.

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

- As described in our Report for the Quarter Ending September 30, 2005, the City has rolled out the UOFS beyond the Pilot group, beginning with Newton Division on October 20, 2005 and Hollenbeck and Central Traffic Divisions on November 3, 2005. The UOFS has now been rolled out completely to all of Valley and Central Bureaus, with the exception of Rampart Division. The City plans to roll out the UOFS to all of West Bureau and to Rampart Division during the month of January 2006, and then to all of South Bureau during the month of February 2006. The City anticipates having UOFS completely rolled-out Department-wide by the end of February 2006.
- As described in our Report for the Quarter Ending September 30, 2005, the City completed the readiness testing for the RMIS and rolled out the TEAMS Individual Report on January 10, 2006 to West LA Division. The City then rolled-out the TEAMS Individual Report to Northeast Division on January 17, 2006. Other RMIS reports are anticipated to be deployed in February 2006. RMIS action items will be deployed in phases by subject area. Initial RMIS action item deployment is planned for April 2006.
- As described in our Report for the Quarter Ending September 30, 2005, the City finalized the amendment to the CMS Contract to deliver the Phase I CMS in January 2006. The Professional Standards Bureau (PSB) is currently testing Phase I of CMS, which is the centralized data input; PSB has identified very few issues so far. The City is now looking at the data conversion issues for the legacy systems' load of old cases; some discrepancies have been identified, and Bearing Point is currently making changes, hoping to have them completed by mid-February 2006. The City plans to validate those changes by Bearing Point and conduct the data conversion load, and anticipates turning on Phase I of CMS on March 3, 2006. The Department hopes to roll out the full CMS in the second quarter of 2006.

In addition to monitoring the progress made towards the development of the TEAMS II system during the current quarter, the Monitor assessed the Department's compliance with selected provisions of paragraph 51, which requires the LAPD to utilize existing databases, information and documents to make certain key personnel decisions until TEAMS II is implemented. The results of our current assessments follow.

**Paragraph 51 – Use of Existing Databases to Make Certain Decisions until TEAMS II is Implemented**

Paragraph 51 requires the LAPD to utilize existing databases, information and documents to make specified decisions until TEAMS II is implemented.

The decisions specified in paragraph 51 are included in four discrete paragraphs. The Monitor has elected to conduct separate compliance assessments for each paragraph, as follows.

### *Subparagraph 51a – Selection of Officers for Assignment to FID or as IAG Investigators*

Subparagraph 51a requires that whenever an officer is selected for assignment to either the Force Investigation Division (FID) or the Internal Affairs Group (IAG) as an investigator, the LAPD shall review the applicable IAG Form 1.80's, and all pending complaint files for such officers, in conjunction with the officer's TEAMS I record.

### *Background*

The Monitor last assessed compliance with the requirements of subparagraph 51a during the quarter ending December 31, 2004 at which time the Monitor found the LAPD in primary and functional compliance.<sup>5</sup> The Monitor conducted a review of investigators newly assigned to either the FID or the IAG<sup>6</sup> and determined that they were properly vetted prior to their assignments.

### *Current Assessment of Compliance*

In order to assess functional compliance with subparagraph 51a during the current quarter, the Monitor requested and received a listing of all investigators assigned to the PSB during the period October 1, 2004 through November 7, 2005. In total, 44 officers were identified as newly assigned to the IAG and 50 officers were identified as newly assigned to the FID. As noted in prior Monitor reports, the LAPD's practice is to loan investigators to the PSB for a three-month period to determine whether the individuals can perform as needed to conduct criminal and administrative complaint investigations, in the case of IAG investigators, and use of force (UOF)<sup>7</sup> investigations, in the case of FID investigators.

The Monitor reviewed the selection documentation for all 44 officers identified as newly assigned to the IAG. Included in each package was a questionnaire and interview worksheet completed by both reviewers who administered the oral interview. The questions spanned knowledge of LAPD policy and procedure and included testing the applicant's knowledge of the Consent Decree, particularly as it pertains to misconduct investigations. For all packages reviewed, it was noted that worksheets contained comments on the applicant's knowledge, or lack thereof, of policy and the Consent Decree.

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<sup>5</sup> There are no secondary compliance requirements for this subparagraph. The Monitor previously reviewed the following orders noting they met the policy requirements of subparagraph 51a: Special Order 23, "Criteria for Transfers/Loans of Sworn Personnel – Established," published July 10, 2003; Special Order 24, "Selection and Assignment to Professional Standards Bureau," published July 10, 2003; Special Order 25, "Field Training Officer Selection and Deselection-Established," published July 10, 2003; Special Order 27, "Selection and Assignment to Gang Enforcement Details," published July 10, 2003; and Special Order 30, "Selection and Assignment to Critical Incident Investigation Division," published July 25, 2003.

<sup>6</sup> The FID and the IAG are units in the command structure of the PSB.

<sup>7</sup> Throughout this report, the acronym UOF will be used as a substitute for both "use of force" and "uses of force."

For 42 of 44 packages selected for review, the applicants' TEAMS reports and Form 1.80s were included and documented as reviewed.<sup>8</sup> The TEAMS reports for two officers selected included pending investigations with allegations that should have been addressed, but were not. The Monitor could not determine whether the complaint histories of these two officers were reviewed. This translates into a compliance rate of 95.5%.

The Monitor randomly selected a sample of 34 of the 50 officers identified as newly assigned to the FID. The Monitor reviewed the selection documentation for the 34 officers selected. All files demonstrated and documented that TEAMS Reports and Form 1.80s were reviewed.<sup>9</sup> None of the candidates' histories revealed any pending or closed complaints that would preclude their selection to FID.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with subparagraph 51a.

### **Subparagraph 51b – Selection of Officers as Field Training Officers or for Gang Units**

Subparagraph 51b requires that when an officer is selected as a Field Training Officer (FTO) or to a gang unit, the LAPD shall review the officer's applicable TEAMS I record.

### ***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 51b as it pertains to gang officers during the quarter ending September 30, 2005, at which time the Monitor found the LAPD in compliance.

The Monitor last assessed the LAPD's compliance with subparagraph 51b as it pertains to FTOs during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in functional compliance.<sup>10</sup>

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<sup>8</sup> It was noted that for some, but not all applicants, the reviewers made notations regarding the applicant's complaint history during the oral interview. In other packages, a log tracking the progression of the applicant through the process documented the review of TEAMS and CMS. The log also served to document a review of officer histories for compliance with the Consent Decree.

<sup>9</sup> The Monitor noted that the TEAMS reports for three of the 34 officers were not reviewed until after their appointment to the FID.

<sup>10</sup> However, during that quarter, the Monitor found the LAPD in functional non-compliance with subparagraph 51b as it pertains to the selection of gang officers; as a result the Monitor found the LAPD in overall functional non-compliance with subparagraph 51b.

### *Current Assessment of Compliance*

In order to assess the LAPD's functional compliance with subparagraph 51b as it relates to the selection of FTOs during the current quarter, the Monitor requested and reviewed the selection packages of all officers who were selected to serve as FTOs during the period October 1, 2004 through August 31, 2005.<sup>11</sup> All of the FTO selection packages reviewed contained references that indicated TEAMS I reports had been reviewed prior to selection.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with subparagraph 51b as it relates to the selection of FTOs.

### *Subparagraph 51c – Transferred Officers*

Subparagraph 51c requires that when an officer transfers into a new division or area, the Commanding Officer (CO) shall promptly require the Watch Commander or supervisor to review the transferred officer's TEAMS I record.

### *Background*

The Monitor last assessed compliance with subparagraph 51c during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional non-compliance.

### *Current Assessment of Compliance*

In order to assess the LAPD's functional compliance with subparagraph 51c during the current quarter, the Monitor requested and reviewed a list of officers who were transferred to a new division or area during Deployment Periods 7-10, 2005.<sup>12</sup> The total population of officers transferred during this time period was 487. The Monitor then selected a stratified sample of 80 transferred officers from this list and requested and reviewed materials related to Special Order 23,<sup>13</sup> including TEAMS I reports and TEAMS Evaluation Reports (TERs).

The Monitor determined that TERs and TEAMS Reports were included in 100% of the documentation for the transferred officers reviewed. However, the Monitor determined that the documentation, including TERs and TEAMS Reports, for 34 of the 40 (85%) officers reviewed was within ten working days of the transfer, as required by Special Order 23. Specifically:

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<sup>11</sup> Thirty officers were selected as FTOs during the period reviewed.

<sup>12</sup> Deployment Periods 7-10, 2005 covered the period June 26 – October 15, 2005.

<sup>13</sup> Special Order 23, "Criteria for Transfers/Loans of Sworn Personnel – Established," published July 10, 2003.

- For 36 of the 40 (90%) transferred officers reviewed, the TERs were timely approved by supervisors and COs, as evidenced by dates accompanying their signatures that indicated review of the TEAMS I reports.<sup>14</sup>
- For 37 of the 40 (93%) transferred officers reviewed, the TEAMS Reports were dated within ten working days of the transfer.<sup>15</sup>

The Monitor also queried the Use of Force Review Section (UOFRS) and found that the transferred officers reviewed were involved in additional UOF that were not included on the officers' TEAMS I reports. The Monitor again recommends that supervisors query the UOFRS for additional UOF that may not be listed on the transferred officers' TEAMS I reports.<sup>16</sup>

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with subparagraph 51c.

**Subparagraph 51d – Document Consideration of Sustained Administrative Investigations, Adverse Judicial Findings or Discipline**

Subparagraph 51d requires that when an officer is selected to an OHB unit (FID), a gang unit, or assigned as an IAG (PSB) investigator or FTO, supervisors and managers shall document their consideration of any sustained administrative investigation, adverse judicial finding, discipline for excessive force, false arrest or charge, improper search or seizure, sexual harassment, discrimination, or dishonesty.

***Background***

The Monitor last assessed compliance with subparagraph 51d as it relates to the selection of FTOs during the quarter ending June 30, 2004, finding the LAPD in functional non-compliance as it pertains to the selection of FTOs.<sup>17</sup>

The Monitor last assessed the LAPD's compliance with subparagraph 51d as it relates to the selection of gang officers during the quarter ending September 30, 2004, finding the LAPD in compliance.

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<sup>14</sup> Of the four TERs that were not approved on a timely basis, one was four months late and another was five months late.

<sup>15</sup> The three late reports were all more than four months late, with the latest being six months late.

<sup>16</sup> This Monitor has discussed this issue and provided this recommendation in previous reports.

<sup>17</sup> During that quarter, the Monitor found the LAPD in functional compliance with subparagraph 51d as it pertains to the selection of gang officers; however, the Monitor found the LAPD in overall functional non-compliance with subparagraph 51d given the finding of non-compliance with subparagraph 51d as it pertains to the selection of gang officers.

The Monitor last<sup>18</sup> assessed compliance with subparagraph 51d, as it relates to the selection of IAG/PSB investigators, during the quarter ending December 31, 2003, at which time the Monitor found the LAPD in primary and functional compliance. At that time, none of the officers assigned to the IAG had any sustained complaints requiring consideration. The Monitor also reviewed the Special Orders described in the Background section of subparagraph 51a, as well as Special Order 41, “*Training Evaluation and Management System/Personnel History Management Policy*,” and determined that they reasonably and substantially address the requirements of subparagraph 51d.

### *Current Assessment of Compliance*

There were no policy changes related to subparagraph 51d since the Monitor’s last assessment of the subparagraph. As such, the LAPD remains in primary compliance with subparagraph 51d.

In order to assess the LAPD’s functional compliance with subparagraph 51d as it relates to the selection of IAG/PSB investigators during the current quarter, the Monitor requested and received a listing of all investigators newly assigned to the IAG during the period October 1, 2004 through November 7, 2005. In total, 44 officers were identified. The Monitor reviewed the selection packages for these officers and determined that one officer selected had a sustained complaint for an administrative neglect of duty issue that was addressed during the selection process. None of the remaining 43 officers had a sustained administrative investigation, adverse judicial finding or instance of discipline that fit the requirements of this subparagraph.<sup>19</sup>

As described in the Current Assessment of Compliance for subparagraph 51b, above, the Monitor also requested and reviewed the selection packages of all 30 officers who were selected to serve as FTOs during the period October 1, 2004 through August 31, 2005. The Monitor determined that the LAPD documented the consideration of sustained administrative investigations, adverse judicial findings and instances of discipline that fit the requirements of this subparagraph. None of the officers selected as FTOs during the period reviewed had a sustained administrative investigation, adverse judicial finding or instance of discipline that fit the requirements of this subparagraph.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with subparagraph 51d.

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<sup>18</sup> In addition, the Monitor assessed the LAPD’s compliance with subparagraph 51a during the quarter ending December 31, 2004. Although subparagraph 51d was not separately assessed at that time, the Current Assessment of Compliance for subparagraph 51a indicates that the LAPD had complied with subparagraph 51d’s requirements as they relate to the IAG (PSB) and CIID (FID).

<sup>19</sup> The Monitor noted five officers with complaints alleging serious misconduct adjudicated either as not resolved or other judicial review. These complaints were not, nor were they required to be, commented on during the selection process. However, the Monitor recommends that in the future, the LAPD evaluate on a case-by-case basis whether or not the seriousness of the underlying allegations should be considered.

### III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

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#### 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)<sup>20</sup> is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.<sup>21</sup> Administrative investigations of these incidents are the responsibility of the FID.<sup>22</sup> All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.<sup>23</sup> Non-Categorical Uses of Force (NCUOF) occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

During the quarter ending June 30, 2005, the Monitor evaluated and reported on the LAPD’s compliance with this section’s requirements regarding CUOF incidents and investigations. In addition, the Monitor continued work with regard to the requirement that supervisory conduct at a CUOF be considered during performance evaluations.<sup>24</sup> During the quarter ending September 30, 2005, the Monitor assessed the LAPD’s compliance with this section’s requirements regarding NCUOF investigations.

During the current quarter, the Monitor assessed the LAPD’s compliance with this section’s requirement that LAPD management assess supervisory oversight of the service of search warrants. The results of our current assessment follow.

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<sup>20</sup> CUOF include an Officer-Involved Shooting (OIS) with or without a hit, In-Custody Death (ICD), Law Enforcement Activity Related Death (LEARD), Law Enforcement Related Injury Incident (LERII) requiring hospitalization, Neck Restraint, Head Strike with an Impact Weapon and a Canine Bite requiring hospitalization.

<sup>21</sup> 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.

<sup>22</sup> As described above, FID is the successor to the CIID.

<sup>23</sup> Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

<sup>24</sup> This work was related to the Monitor’s assessment of subparagraph 62a-ii, for which the Monitor withheld a determination of compliance during the quarter ending June 30, 2005.

### Paragraph 62 – Analyses of Search Warrants

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

### *Background*

The Monitor last assessed the LAPD's compliance with subparagraph 62b during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional non-compliance,<sup>25</sup> as it continued to struggle with the paragraph's seven day reporting requirement.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 62b during the current quarter, the Monitor requested a listing of all search warrants executed during the period June 1, 2005 through November 1, 2005. The LAPD provided a listing of 594 searches. The Monitor selected a random sample of 87 of the 594 searches and reviewed their supporting documentation.<sup>26</sup>

The Monitor determined that for nine search warrants executed, the required analysis was not performed within the mandated seven-day period.<sup>27</sup> Additionally, for six warrants selected, there was insufficient information from which to make a compliance assessment.<sup>28</sup> This, in and of itself, translates into a compliance rate of 82.8% (72 of 87).

In addition, the Monitor reviewed and analyzed the substance of the analyses provided for the 87 searches executed. The Monitor concluded that 38 of the 87 analyses were substandard and did not meet the paragraph's minimum requirements.

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<sup>25</sup> The Monitor last assessed the LAPD's compliance with subparagraph 62a during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor placed reliance on AD's *Categorical Use of Force Systems Audit*. The Monitor also reported it would assess compliance with this subparagraph's requirement that any analyses also be considered during the respective supervisor's performance evaluation. The Monitor has elected to defer evaluation of the LAPD's compliance with this requirement until the LAPD has met the seven-day reporting and qualitative content requirements of this subparagraph. The Monitor is scheduled to again assess compliance with this subparagraph during the quarter ending June 30, 2006.

<sup>26</sup> The Monitor utilized a one-tailed test with a 95% degree of confidence and a +/- 4% error rate.

<sup>27</sup> Two were one day late, one was two days late, two were six days late, one was eight days late, one was 11 days late, one was 13 days late and one was 33 days late.

<sup>28</sup> For five warrants executed, the information provided did not include the date of execution. For one analysis, the date of the analysis was not documented.

Base on the foregoing, the Monitor finds the LAPD in functional non-compliance with subparagraph 62b.<sup>29</sup>

### *Subparagraph 69(a) – UOFRB Review of CUOF*

The first requirement of paragraph 69 requires that the LAPD continue its practice of presenting all CUOF incident investigations to the UOFRB.<sup>30</sup>

### *Background*

The Division CO of an officer involved in a CUOF is required to present an overview of the incident to the Board. Each member of the Board receives a copy of the FID report prior to the Board and theoretically should have read it in its entirety for familiarity. During the presentation, Board members may ask the CO questions regarding the incident, what was on the involved officer's mind, and knowledge of any facts that may not have been included in the FID investigation. Although involved officers may attend the Board, they are not permitted to speak.

After the presentation and after all questions have been answered, the Board, in a closed session, discusses the incident and renders its decision. The majority determines the outcome of the incident for all categories reviewed.<sup>31</sup>

The Monitor last assessed the LAPD's compliance with this requirement of paragraph 69 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in continued functional compliance. In assessing compliance, the Monitor placed reliance on the LAPD Audit Division's (AD) *Categorical Use of Force Systems Audit Report*, dated March 31, 2005.

### *Current Assessment of Compliance*

During the current quarter the Monitor requested and received access to review all CUOF investigations completed by the FID since its inception and presented to the UOFRB. In total, 11 investigations were identified, of which eight fell within the definition of a CUOF according to paragraph 13 of the Consent Decree. For all eight investigations, the Monitor noted that the CUOF investigation was presented to the UOFRB.

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<sup>29</sup> The Monitor has elected to defer an evaluation of compliance with the requirement that any analyses also be considered during the respective supervisor's performance evaluation until the LAPD has met the seven-day reporting and qualitative content requirements of this paragraph.

<sup>30</sup> The methodologies require that this paragraph be evaluated only for functional compliance. Primary and secondary compliance are not applicable.

<sup>31</sup> An OIS investigation is reviewed for three categories: 1) Tactics, 2) Drawing of the weapon, and 3) UOF. A LERII investigation typically is reviewed for 1) Tactics and 2) UOF. However, on occasion, the officer may have drawn a weapon, in which case this is evaluated as well.

Based on the foregoing, the Monitor finds the LAPD in continued functional compliance with the provision of paragraph 69 that requires the LAPD to continue its practice of presenting all CUOF incident investigations to the UOFRB.

## B. SEARCH AND ARREST PROCEDURES

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

During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with requirements regarding supervisory review of warrants and warrant logs. The Monitor is scheduled to again assess the LAPD's compliance with these requirements during the quarter ending March 31, 2006.

During the current quarter, the Monitor assessed the LAPD's compliance with this section's requirements regarding supervisory review of booking recommendations and Watch Commander inspections of all detainees and arrestees. The results of our current assessments follow.

### *Paragraph 70 – Review and Approval of Booking Recommendations/Arrest Reports*

Paragraph 70 requires supervisors to review all booking recommendations and evaluate the recommendations for appropriateness, legality, and conformance with Department policy. Supervisors must review all arrest reports and supporting documentation for appropriateness, legality, and conformance with Department policy in light of the booking recommendation. Paragraph 70 has three subparagraphs:

- Subparagraph 70a requires that such reviews include a review for completeness of the information contained on the applicable forms and an authenticity review, comprising an examination for "canned" language, inconsistent information, lack of articulation of the legal basis for the action or other indicia that the information on the forms is not authentic or correct.<sup>32</sup>
- Subparagraph 70b requires that supervisors evaluate each incident in which a person is charged with interfering with a police officer (California Penal Code § 148), resisting arrest, or assault on an officer to determine whether it raises any issue or concern regarding training, policy, or tactics.
- Subparagraph 70c requires that the quality of the supervisory reviews be taken into account in the supervisor's annual performance evaluations.

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<sup>32</sup> In assessing the LAPD's compliance with paragraph 70, the Monitor considers subparagraph 70a to include all of the supervisory review requirements of the paragraph other than the specific requirements related to the charges delineated in subparagraph 70b.

## *Background*

The Monitor last assessed compliance with subparagraphs 70a and b during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in compliance with subparagraph 70a but in non-compliance with subparagraph 70b. The Monitor relied on the findings from AD's *Arrest, Booking and Charging Reports Audit*, dated October 8, 2004.<sup>33</sup> In this audit, AD found the LAPD in compliance with the requirements of paragraph 70 and subparagraph 70a,<sup>34</sup> and in non-compliance with the requirements of subparagraph 70b.<sup>35</sup>

The Monitor has not previously assessed compliance with subparagraph 70c, which was previously a "meet and confer" item, nor did the Monitor do so during the current quarter. The Monitor is currently developing an assessment methodology and will evaluate compliance with subparagraph 70c for the first time during the quarter ending March 31, 2006.

## *Current Assessment of Compliance*

In order to assess functional compliance with subparagraphs 70a and 70b during the current quarter, the Monitor reviewed and subsequently relied on AD's *Arrest, Booking and Charging (ABC) Reports Audit*, dated September 27, 2005.<sup>36</sup> In this audit, AD found the LAPD in compliance with the requirements of paragraph 70 and subparagraphs 70a<sup>37</sup> and 70b.<sup>38</sup>

During its meta-audit, which is more fully described under the Current Assessment of Compliance for subparagraph 128(2), the Monitor randomly selected a sample of 56 arrest packages and extended its scope to review all 6 arrest packages from AD's sample that contained a 70b event. The Monitor notes that AD used a sample of high risk arrests,<sup>39</sup> which did not

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<sup>33</sup> The Monitor conducted a meta-audit of AD's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to paragraph 70, subparagraph 70a and subparagraph 70b. This was described in the Monitor's Current Assessment of Compliance for subparagraph 128(2) in the Report for the Quarter Ending December 31, 2004.

<sup>34</sup> As reported by AD, all 260 of the arrest packages examined address the mandates of paragraphs 70 and 70a.

<sup>35</sup> As reported by AD, of the 260 arrest packages reviewed, 16 had elements relative to paragraph 70b. Of these, AD concluded that 13 were in compliance with the requirements of the Consent Decree. In addition to the reviews conducted during its meta-audit, the Monitor reviewed 10 arrest packages involving 19 arrestees, concluding that that five of the 19 were in non-compliance due to deficient or missing Watch Commander evaluations.

<sup>36</sup> The Monitor conducted a meta-audit of AD's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to paragraph 70, subparagraph 70a and subparagraph 70b. See the Monitor's Current Assessment of Compliance for paragraph 128(2), below.

<sup>37</sup> AD concluded that all 473 arrest packages examined addressed the mandates of paragraph 70 and subparagraph 70a.

<sup>38</sup> AD reported that of the 473 arrest packages reviewed, 6 had elements relative to subparagraph 70b. AD concluded that all six were in compliance with the requirements of the Consent Decree.

<sup>39</sup> See Current Assessment of Compliance for subparagraph 128(2), below, for details.

include arrests where there are specific charges that are laid as a result of a paragraph 70b event. The Monitor believes that AD should have included these arrests as part of its population, given they were assessing paragraph 70b.<sup>40</sup> Although the Monitor has concerns about the specialized sample utilized, the Monitor concurred with AD's findings in connection with subparagraphs 70a and b

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 70a and 70b.

### **Paragraph 73 – Watch Commander Inspection and Interview of Detainees and Arrestees**

Paragraph 73 mandates the inspection and interview by the Watch Commander of all detainees and arrestees brought into the division. If the arrest situation prevents an inspection and interview of the detainee/arrestee, a supervisor, other than the arresting officer, must inspect and interview the detainee/arrestee. According to the Consent Decree, the off-site inspection must be documented in the booking documentation.

### ***Background***

The genesis of this mandate stems from allegations of officers abusing or falsely arresting individuals. This review gives supervisors an opportunity to view all individuals brought into police custody.

As discussed in the Monitor's first report, dated November 15, 2001, the Department issued Special Order 13 entitled, "Booking Approval Procedure - Revised," which requires the Watch Commander, or an independent supervisor designated by the Watch Commander, to ask all detainees and arrestees brought into the division the following questions:

- Do you understand why you were detained/arrested?
- Are you sick, ill, or injured?
- Do you have any questions or concerns?

A division supervisor must conduct this interview, even if the arrestee is not brought directly to the division. This order also reiterates many of the mandates of Special Order 12 regarding booking approval and arrest report review, although not the specific review required for cases involving resisting arrest, interfering with a police investigation and battery on a police officer.

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<sup>40</sup> In AD's supplemental audit of subparagraph 70b conducted in March 2003, AD only looked at arrests where there was a charge under California Penal Code §§ 148 and 243. The Monitor withheld a compliance determination in connection with this audit and proposed that all arrests be reviewed for possible California Penal Code § 148 events. In the audit conducted during the quarter ended June 2004, AD conducted a specialized audit that did not include any subparagraph 70b events; however, the Monitor did not assess compliance with subparagraph 70b.

On December 13, 2001, the Department issued Special Order 42, entitled “Detention Logs-Revised,” which describes the procedures required for completing the newly revised detention logs.

The Monitor last assessed the LAPD’s compliance with the requirements of paragraph 73 during the quarter ending September 30, 2002, at which time the Monitor found the Department in primary compliance but in secondary and functional non-compliance. In its report for that quarter, the Monitor recommended that the Department reconsider how interviews and inspections are conducted, including having an officer not involved in the arrest process bring the defendant before the Watch Commander.

### *Current Assessment of Compliance*

In order to assess functional compliance with paragraph 73 during the current quarter, the Monitor reviewed and subsequently relied on<sup>41</sup> AD’s *Arrest, Booking and Charging (ABC) Reports Audit*, dated September 27, 2005. The Monitor’s meta-audit included an assessment of arrest reports and supporting documentation, including the booking approval, and detention logs for each case. AD found the LAPD in compliance with the requirements of paragraph 73 for 470 of 472 packages reviewed. During its meta-audit, which is more fully described under the Current Assessment of Compliance for subparagraph 128(2), the Monitor randomly selected a sample of 56 arrest packages and concurred with AD’s findings in connection with paragraph 73.<sup>42</sup>

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 73.

## **C. INITIATION OF COMPLAINTS**

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

The Monitor assessed the LAPD’s compliance with most of this section’s requirements during the quarter ending March 31, 2005, and assessed additional requirements during the quarter ending June 30, 2005 and September 30, 2005. The Monitor is scheduled to again assess the

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<sup>41</sup> The Monitor conducted a meta-audit of AD’s audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to paragraph 73. See the Monitor’s Current Assessment of Compliance for subparagraph 128(2), below.

<sup>42</sup> The Monitor noted one instance in which AD identified that the supervisor who signed the detention log was not an independent supervisor. See related recommendation included in the Current Assessment of Compliance for subparagraph 128(2)

LAPD's compliance with most of the requirements of this section of the Consent Decree during the quarter ending March 31, 2006.

During the current quarter, the Monitor assessed compliance with this section's requirement that a complaint investigation be initiated against officers who fail inform civilians of the means by which a complaint may be filed, attempt to dissuade the filing of complaint or refuse to accept a complaint. The results of our current assessment follow.

### *Paragraph 75 – Initiation of Complaint Form 1.28 Investigations*

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

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

### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 75 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional compliance.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 75 during the current quarter, the Monitor reviewed *The Office of the Inspector General's Review of Ethics Enforcement Section Quarterly Report* for the First and Second Quarters of 2005. During the quarters ending March 31, 2005 and June 30, 2005, the LAPD's Ethics Enforcement Section (EES) finalized reports on 63 random or targeted audits assessing the compliance of LAPD officers with the requirements of paragraph 75. Of the 63 completed audits, the EES concluded that in four instances officers either failed to take a complaint or attempted to dissuade the undercover officer from filing a complaint. For all four instances the LAPD's EES appropriately initiated a complaint investigation against the involved officers.

The Office of the Inspector General (OIG) reviewed a total of 39 of the 63 completed random or targeted EES audits designed to assess complaint intake, concurring with the EES's findings. Although the Monitor determined that the OIG's review was non-compliant with the requirements of subparagraph 135b,<sup>43</sup> the Monitor determined that reliance could be placed on

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<sup>43</sup> Please refer to the Current Assessment of Compliance for paragraph 135b, below.

the conclusions reached by the OIG regarding whether LAPD officers complied with paragraph 75 requirements.<sup>44</sup>

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 75.

#### D. CONDUCT OF INVESTIGATIONS

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

During the quarter ending March 31, 2005, the Monitor assessed the LAPD's compliance with this section of the Consent Decree's requirements regarding the documentation and forwarding of all complaint face sheets to the PSB for review and investigative assignment. During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with requirements relative to the conduct of complaint investigations by both the PSB and by Chain of Command (COC), as well as the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover information of misconduct unrelated to incidents under investigation.<sup>45</sup> During the quarter ending September 30, 2005, the Monitor assessed the LAPD's compliance with the requirements relative to the conduct of NCUOF investigations by COC, as well as the requirement that investigators immediately notify a supervisor and commence a separate complaint investigation if they uncover indications of misconduct unrelated to NCUOF incidents under investigation.

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

#### *Paragraph 80 – Categorical Use of Force Investigations*

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

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<sup>44</sup> In placing reliance on the OIG's conclusions, the Monitor, in its meta-audit, selected and reviewed 21 of the 39 audits in their entirety.

<sup>45</sup> In its Report for the Quarter Ending September 30, 2005, the Monitor reported on work completed in connection with complaint investigations adjudicated as Other Judicial Review and certain investigations of officers at the rank of Sergeant or higher, excluding the Chief of Police. Although deficiencies were noted and reported to the City and the LAPD, they were not used to form an assessment on any particular Consent Decree paragraph requirement.

misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven subsections requiring conformance as follows:

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

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

### *Background*

The Monitor last assessed compliance with paragraph 80 as it pertains to CUOF incidents during the quarter ending December 31, 2004,<sup>46</sup> at which time the Monitor found the LAPD in functional non-compliance with subsections a, c, f and g and in functional compliance with subsections b and e.<sup>47</sup>

### *Current Assessment of Compliance*

During the current quarter, the Monitor, at the request of the LAPD, agreed to review only those CUOF incident investigations for which the FID maintained full investigative authority.<sup>48</sup> A

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<sup>46</sup> The Monitor last assessed the LAPD's compliance with paragraph 80 as it pertains to administrative compliant investigations during the quarter ending June 30, 2005. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

<sup>47</sup> Subsection d of paragraph 80 is not required for CUOF investigations.

<sup>48</sup> Full investigative authority is defined as responding to the scene of the incident, conducting all interviews, collecting all evidence and summarizing the investigation into a final report.

total of 11 investigations were identified, of which the Monitor reviewed eight in their entirety.<sup>49</sup> The eight incidents comprised:

- Five OIS incidents. For four of the incidents, the suspect sustained a hit.
- One ICD incident, for which the cause of death was determined not to be directly related to any officer actions.
- One head-strike with an LAPD issued radio.
- One incident involving a neck restraint.

In prior quarterly reports, the Monitor reported significant deficiencies in the quality, completeness and accuracy of CUOF investigations, including, among other things, omitted witness statements, wrongly portrayed witness statements, misplaced evidence, leading questions and multiple instances of non-compliance with the requirements of paragraph 80.

During the review conducted during the current quarter, the Monitor did not identify deficiencies rising to the level found in past reviews. However, the Monitor reiterates its concern regarding leading questions, as in one investigation leading questions were used to interrogate the witness about the events leading up to the UOF and not the UOF in and of itself. Furthermore, during the course of another investigation, the Monitor noted that the responding supervisor failed to identify that the UOF (a head strike) constituted a CUOF for approximately three and one-half hours.

The Monitor identified the following regarding the specific requirements of paragraph 80:

- For seven of the eight investigations reviewed, all interviews were tape-recorded. For one incident, the recording commenced mid-interview and was explained as an equipment malfunction. Based on the content of the taped portion of the interview, it appears that the investigator identified the malfunction almost immediately and concluded the interview with information normally contained in the preamble.
- For seven of the eight investigations reviewed, interviews were conducted at times and locations convenient to the witness. For one investigation, the Monitor could not assess compliance, as all interviews were not included in the investigation.
- For all eight investigations, group interviews were prohibited. In one investigation, a witness was interviewed at a place of business that did not provide optimum privacy. An individual heard in the background was deemed to be an acquaintance who also was witness to the use of force. A review of the transcript determined that to the extent the second individual was overheard, it did not constitute a group interview.

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<sup>49</sup> Three of the eleven incidents involved an animal shooting, which falls outside the definition of a CUOF per paragraph 13 of the Consent Decree.

- For seven of eight investigations, supervisors responding to the scene were interviewed regarding their conduct.
- For three of eight investigations, all appropriate evidence was collected. For two investigations, there were no photographs and/or medical reports included, nor were explanations for their absence provided. For one other investigation, two witnesses were referenced in the course of reviewing statements but were either not interviewed or, if interviewed, their statements were not included in the investigation. For the remaining two investigations, there were obvious questions that went unasked of witnesses regarding the types of force used and the officers who allegedly used force.
- For three of eight investigations, inconsistent statements were identified and addressed during the course of the investigation. In one incident, the difference in the extent of injuries described in officer statements compared to witness statements was not reported. In another investigation, differences in whether the recipient of force was complying were not identified. In yet another incident, differences in the direction in which the officer's shotgun was pointed were not identified. Finally, for another incident, inconsistencies in the amount of pressure used were not identified or addressed by the investigation.

Although, as noted above, the quality and completeness of these investigations has improved over investigations reviewed in the past, for the reasons noted above, the Monitor remains concerned that investigators continue in their failure to meet basic CUOF investigation requirements.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with the requirements of subsections a, b and c and in functional non-compliance with subsections e, f and g of paragraph 80 as it pertains to CUOF incidents.

### **Paragraph 82 – Collateral Misconduct Investigations**

Paragraph 82 requires an investigator to immediately notify a supervisor and commence a separate complaint investigation if he or she uncovers information of misconduct unrelated to the incident under investigation.<sup>50</sup>

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<sup>50</sup> Policy specifically addressing the requirements of paragraph 82 is as follows: LAPD Manual Section 3/810.20 and 3/810.30; Special Order 8, 2000, "Complaint Reporting Procedures- Revised," February 24, 2000; Special Order 30, 2001, "Duty to Report Misconduct," approved by the Police Commission September 6, 2001; Special Order 39, "Critical Incident Investigation Division – Established," approved by the Police Commission December 11, 2000; Administrative Order 12, "Investigating a Personnel Complaint and Evaluating Witness Credibility," approved by Police Commission, September 25, 2001. This policy meets the primary compliance requirements of paragraph 82.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 82 as it pertains to CUOF incident investigations during the quarter ending December 31, 2004. At that time, the Monitor found the LAPD in primary and functional compliance. The Monitor's assessment of compliance was based on its reliance on AD's *Categorical Use of Force Investigations Final Audit Report*, dated August 15, 2004.

## *Current Assessment of Compliance*

During the current quarter, the Monitor, at the request of the LAPD, agreed to review only those CUOF incident investigations for which the FID maintained full investigative authority.<sup>51</sup> A total of 11 investigations were identified, of which the Monitor reviewed eight in their entirety.<sup>52</sup>

The Monitor determined that the LAPD appropriately initiated complaint investigations for alleged misconduct unrelated to the incident under investigation for seven of the eight investigations reviewed. For one investigation, for which no medical records or pictures were included, the recipient of the UOF alleged being "roughed up" yet no complaint investigation was initiated.

Notwithstanding this, the Monitor finds the LAPD in primary and functional compliance with the requirements of paragraph 82.

## **E. ADJUDICATING INVESTIGATIONS**

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

During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with all requirements of this section, except for requirements regarding the timeliness of complaint investigations, which were last assessed during the quarter ending March 31, 2005. During the quarter ending September 30, 2005, the Monitor assessed the LAPD's compliance with this section's requirements that all complaints be adjudicated using a preponderance of the evidence standard and utilizing specified classifications of adjudication; in addition, the Monitor

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<sup>51</sup> Full investigative authority is defined as responding to the scene of the incident, conducting all interviews, collecting all evidence and summarizing the investigation into a final report. Refer to the Current Assessment of Compliance for paragraph 80 for further information on the investigations reviewed.

<sup>52</sup> Three of the eleven incidents fell outside the definition of a CUOF per paragraph 13 of the Consent Decree, as they involved animal shootings.

conducted a review of and reported on completed complaints adjudicated as “Other Judicial Review” (OJR),<sup>53</sup> which was described in a Focus Issue in the Monitor’s Report for the Quarter Ending September 30, 2005.

The Monitor is scheduled to again assess the LAPD’s compliance with the requirements of this section during the quarters ending March 31, 2006 and June 30, 2006.

## 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 June 30, 2005, the Monitor assessed the Department’s compliance with requirements relative to managers’ evaluations of complaint investigations and notifications to complainants regarding complaint dispositions; the Monitor also evaluated whether the Police Commission’s assessment of the appropriateness of discipline imposed by the Chief of Police was considered as part of the Chief’s annual evaluation. During the quarter ending September 30, 2005, the Monitor assessed the Department’s compliance with requirements relative to the Department’s anti-retaliation policy, as well as the Chief of Police’s discipline report and the IG’s and Commission’s reviews of that report.

During the current quarter, the Monitor again assessed compliance with requirements relative to the Department’s anti-retaliation policy and evaluated whether the Police Commission’s assessment of the appropriateness of discipline imposed by the Chief of Police was considered as part of the Chief’s annual evaluation. The results of our current assessments follow.

### *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 Quarterly Discipline Report (QDR). The Police Commission shall review the QDR no later than 75 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.

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<sup>53</sup> The OJR classification was implemented to address two types of complaints. One involves criminal matters where the facts have already been adjudicated in court. The other pertains to civil matters not involving duty-related activity where no finding of criminal or civil misconduct against the employee has been made, such as an alleged violation of a temporary restraining or child custody order.

For ease of reporting, the Monitor has split its reporting on paragraph 89 into three components:<sup>54</sup>

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

### *Background*

The Monitor last assessed the LAPD's compliance with subparagraphs 89a and b during the quarter ending September 30, 2005, at which time the Monitor found the LAPD in functional compliance with each.<sup>55</sup>

The Monitor last assessed the LAPD's compliance with subparagraph 89c during the quarter ending December 31, 2003, at which time the Monitor found the LAPD in functional compliance. The Monitor revisited the LAPD's compliance with subparagraph 89c during the quarter ending September 30, 2004, at which time the Monitor withheld a determination of compliance pending the Police Commission's completion of the Chief's evaluation. The Monitor again revisited the LAPD's compliance with this subparagraph during the quarter ending June 30, 2005, at which time the Monitor again withheld a determination of the Department's compliance pending review of the Police Commission's next evaluation of the Chief of Police.<sup>56</sup>

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<sup>54</sup> 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.

<sup>55</sup> The Monitor is scheduled to again assess the Department's compliance with subparagraphs 89a and b during the quarter ending March 31, 2006.

<sup>56</sup> The Monitor reviewed the Police Commission's annual review of the Chief of Police for the period July 1, 2003 through June 30, 2004. Although the evaluation generally addressed the requirements of the Consent Decree, as required by paragraph 144, there was no specific indication that the Police Commission had considered its assessment of the appropriateness of discipline imposed by the Chief in its evaluation. This deficiency was brought to the attention of the Executive Director of the Police Commission, who indicated that he believed that the Chief's evaluation included consideration of the Commission's assessment of the appropriateness of discipline imposed by the Chief, even if it was not specifically declared in its written evaluation. The Monitor was assured that the Commission would take all necessary steps to make certain that its written evaluation of the Chief for the July 1, 2004 through June 30, 2005 period specifically recited all areas that were considered by the Commission in rendering its evaluation.

## *Current Assessment of Compliance*

### *Subparagraph 89c, Commission's Assessment Considered Part of Chief's Annual Review*

During the current quarter, the Monitor reviewed the Police Commission's annual review of the Chief of Police for the period July 1, 2004 through June 30, 2005. The review specifically addressed the QDRs and appropriateness of the Chief of Police's disciplinary actions.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 89c.

### *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 Department's compliance with paragraph 92 during the quarter ending September 30, 2005, at which time the Monitor withheld a determination of the Department's compliance given that the revised anti-retaliation policy had only recently been approved and distributed, and related training was under development.

## *Current Assessment of Compliance*

In order to assess the Department's compliance with paragraph 92 during the current quarter, the Monitor contacted the LAPD's Civil Rights Integrity Division (CRID) to receive an update on the status of the Department's revised Retaliation Policy and related matter. The Monitor also contacted OIG personnel to discuss the IG's upcoming Annual Retaliation Report.

### *Retaliation Policy*

The revised retaliation policy approved by the Police Commission has been distributed to the Department via hard copy and the Department's Intranet.

### *Retaliation Training*

A one and one-half hour instructional program entitled "Retaliation Training for Staff Officers" was incorporated into the Command Staff training held on November 22, 2005. The training session was also videotaped for future use by non-command staff.

The Monitor reviewed the lesson plan and case studies used to provide the retaliation training. The training materials were designed to explain the new retaliation policy and to emphasize the importance of documenting counseling and training, in addition to the consistent and fair enforcement of policies and procedures. The Department has worked with the Monitor to develop more detailed case studies.

The quarterly Supervisor Training, which will include retaliation training, will begin in mid-January 2006 and end approximately in March 2006.

E-learning retaliation training is expected to be rolled out in mid-January 2006.

### *Retaliation Investigations*

For approximately the past four months, retaliation complaint investigations have been handled by the “Work Place Investigations Unit” of Internal Affairs. This newly created unit focuses not only on retaliation complaints, but also on other classifications of complaints that may be disguised or potential retaliation complaints, including:

- improper remarks;
- gender related;
- sexual harassment;
- ethnic remarks; and
- discrimination.

The Risk Management Group (RMG) is tracking retaliation complaints. In order to ensure that employees/officers who come forward, or supported witnesses, are not being retaliated against, RMG will separately track complainants and witnesses to see if ratings or reviews suddenly and inexplicably “go from good to bad.”

### *Annual Retaliation Report*

The Monitor was approached by OIG personnel regarding the value in conducting case reviews as part of its upcoming 2006 Annual Retaliation Report in light of the Department’s recent adoption of a new retaliation policy. Given the fact that there will be no completed investigations under the new retaliation policy (adopted July 2005) for the time period reviewed by the OIG (October 1, 2004 – September 30, 2005), the Monitor agreed that the OIG did not need to conduct case reviews in connection with this report, with the understanding that such reviews would again be conducted and incorporated into the 2007 Report.

The Monitor commends the Department for its efforts in connection with paragraph 92, in particular its response to the recommendations put forth in the Annual Retaliation Reports filed by the Inspector General. However, the Monitor withholds a determination of the Department’s

compliance with paragraph 92 pending the release of the OIG's next Annual Retaliation Report, which is scheduled to be issued in February 2006.

## 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 March 31, 2005, the Monitor assessed the LAPD's compliance with 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 IAG. During the quarter ending June 30, 2005, the Monitor assessed the LAPD's compliance with requirements relative to integrity/sting audits. During the quarter ending September 30, 2005, the Monitor assessed compliance with the requirement that the LAPD appropriately refer to prosecutorial authorities all incidents involving LAPD officers with facts indicating criminal conduct; the Monitor also undertook a review of Gang Enforcement Detail (GED) complaints investigated solely by COC officers.<sup>57</sup>

During the current quarter, the Monitor assessed compliance with requirements relative to integrity/sting audits and the hiring criteria for and evaluation and training of IAG investigators. The results of our current assessments follow.

### Paragraph 97 – Scheduled Integrity/Sting Audits

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

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<sup>57</sup> During the course of meeting with and reviewing material provided by the OIG with regard to OJR investigations, the Monitor noted an instance in which a GED manager rightfully requested the re-assignment of investigative responsibility to IAG. The IAG Review and Classifications Unit rejected the request, indicating that the Consent Decree was not applicable to GED complaint investigations.

## *Background*

The LAPD established the EES in order to fulfill the requirements of paragraph 97. The EES falls under the management of the CO of the LAPD's PSB. The purpose of the EES is to either identify, through research or referrals, officers who may exhibit tendencies of at-risk behavior. Once identified, the EES must make a determination as to whether or not the behavior constitutes a violation of paragraph 97, and if it does, whether or not a staged scenario is necessary to confirm the officer's at-risk behavior.

The Monitor last assessed the LAPD's compliance with paragraph 97 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional non-compliance. The Monitor expressed concern that the EES dedicated resources to sting audits that were either outside the purview of paragraph 97 or would better have been investigated by another section within PSB. The Monitor also disagreed with the ultimate adjudication of certain EES audits.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 97 during the current quarter, the Monitor reviewed the *Office of the Inspector General's Review of Ethics Enforcement Section Quarterly Report* for the First and Second Quarters of 2005. The OIG reviewed a total of 60 EES sting and observational audits.<sup>58</sup> Of those, 21 audits addressed the following:

- Criminal misconduct;
- Unlawful search;
- Unlawful seizure;
- Complaint intake; and
- Other.

The remaining 39 audits were random and addressed the following:

- Complaint intake and
- Unlawful search.

The OIG disagreed with the EES's classification of one sting audit conducted during the first quarter and two sting audits conducted during the second quarter, identified issues with the planning and execution of certain sting audits, and made recommendations to address the issues identified. However, the OIG concluded that the EES audits were complete and conducted in a quality manner.

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<sup>58</sup> The EES completed a total of 85 EES audits during the first and second calendar quarters of 2005.

In its meta-audit of the OIG's work, the Monitor randomly selected and reviewed a total of 32 audits. Based on its review, the Monitor elected not to expand the sample for review. In most instances, the Monitor agreed with the conclusions reached by the EES. However, in two audits, the Monitor disagreed with the analysis and conclusions reached. For these two targeted audits, the undercover officers' roles and performance were crucial in order for the audits to reach reasonable conclusions. In both audits, the undercover officers substantially deviated from the plan and the deviations were not addressed by the EES during post-incident review. Due to the confidential nature of the EES's role, the specifics of the Monitor's evaluation have been communicated to the LAPD and the OIG separately.

The Monitor is also concerned that EES resources, which are limited, are not necessarily being utilized to adequately address the requirements of the Consent Decree. Specifically, in its sample, the Monitor selected and reviewed seven audits wherein the alleged misconduct, to which substantial resources were devoted, consisted of neglect of duty issues not specifically mandated by paragraph 97. The Monitor contends that these audits should have been assigned to other units within the PSB.<sup>59</sup> This should not suggest that the remainder of EES audits and its resources are not being utilized inappropriately. Indeed, information contained in EES and OIG reports indicate that in many audits, the EES is addressing the requirements of paragraph 97.

In addition, for certain targeted audits, the actions of officers as viewed on videotapes and the statements overheard on audiotapes suggest that the audits were compromised. In some instances, the issue was briefly incorporated into the EES report. In others, it was not.

Finally, for one targeted audit, the EES report failed to incorporate officer comments and actions that no doubt rise to the level of misconduct.

At the onset of the Consent Decree and during the initial establishment of the EES, it was the Monitor's understanding that the EES would create its own database, in lieu of an operable TEAMS II system, from which to identify high risk officers as potential targets of sting operations. To date, this database has not evolved.

During the current reporting period, a new CO was assigned to manage the EES. Based upon initial meetings, the Monitor is confident that the CO is well aware of the deficiencies and is committed to addressing them as quickly as possible.

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

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<sup>59</sup> For one audit, resources were committed to completing an audit on an officer whose first name, only, was known. For another audit, the officer's name was not known and an attempt was made to recreate the complainant's contact.

### *Recommendation*

The LAPD's EES should establish a documented protocol when receiving, reviewing and responding to referrals received from either COs or other LAPD Divisions. This protocol should be designed to evaluate whether the underlying conduct in question is well documented and systematic, and best suited for follow-up by the EES, as opposed to another PSB section, prior to committing resources. The EES should also implement a more formal review process for individual audits to ensure the final product captures all relevant information and reaches the appropriate conclusions.

### *Paragraph 98 – Hiring of PSB Investigators/Supervisors*

Paragraph 98 requires that when hiring an individual for service as an IAG investigator, the CO must consider investigative experience as desirable criterion, but not a required one. In addition, a candidate whose work history includes any sustained complaint investigation or discipline received for the use of excessive force, a false arrest or charge, an improper search or seizure, sexual harassment, discrimination or dishonesty must be disqualified as a candidate for service in the IAG unless the CO justifies the candidate's hiring in writing.

### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 98 during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in primary and functional compliance.<sup>60</sup>

### *Current Assessment of Compliance*

In order to assess functional compliance with paragraph 98 during the current quarter, the Monitor requested and received a listing of all investigators and supervisors assigned to the IAG during the period October 1, 2004 through November 7, 2005. In total, 44 individuals were newly assigned to the IAG during the period.

The Monitor reviewed each candidate's selection package in its entirety, including his or her respective TEAMS and CMS histories. None of the candidates' histories contained sustained complaint investigations that might preclude their selection to the IAG as outlined in paragraph 98.

The candidates' selection packages included thoroughly documented interview worksheets and interview questionnaires. The current procedure is for two interviewers to ask the same questions of each candidate. Additional questions may be asked as warranted. The interviewers

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<sup>60</sup> There are no secondary compliance requirements for this paragraph.

rate each candidate in five areas and then provide an overall rating. The worksheet provides for written comments, as well. The overall rating for all candidates in contention for a position determines their ranking and ultimately their selection.

Each candidate considered for permanent assignment to the IAG was first required to conduct complaint investigations over a three-month loan period. At the end of this period, the candidates were also rated. This rating form was also provided to the reviewers.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with paragraph 98.

### **Paragraph 100 – IAG Evaluations**

Paragraph 100 requires the CO of PSB to evaluate investigators based on their competency in following the policies and procedures for Complaint Form 1.28 investigations. The PSB must provide regular periodic re-training and re-evaluation on topics relevant to their duties as investigators.

### ***Background***

The Monitor last assessed the LAPD's compliance with paragraph 100 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in secondary and functional compliance.

### ***Current Assessment of Compliance***

In order to assess the LAPD's compliance with paragraph 100 during the current quarter, the Monitor requested a listing of all IAG officers requiring an annual evaluation based on their competency in completing Complaint Form 1.28 investigations, along with their last evaluations. The request covered the review periods for all of calendar year 2005.

In total, 76 investigators were required to be reviewed.<sup>61</sup> The Monitor reviewed the evaluations of all 76 and determined that 71 were thorough and timely.<sup>62</sup> For two of the five remaining officers, although the reviews appeared to be completed timely and were signed by the officers' respective supervisors, the reviews were not signed by the officers for several months.<sup>63</sup> For

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<sup>61</sup> Investigators were at or above the rank Sergeant I or Detective II.

<sup>62</sup> For the 71 reviewed that were considered timely, the Monitor considered the majority of reviews to be very thorough and exceeding the requirements of the Consent Decree.

<sup>63</sup> It appears that in these instances, queries from the Monitor for additional supporting documentation prompted the LAPD to finalize certain reviews.

three officers, the most recent evaluations on file and provided for review, were not for the current rating period; as a result, they were considered not completed.<sup>64</sup>

Based on the foregoing, the Monitor finds the LAPD in functional compliance with the requirements of paragraph 100.

## 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 is currently scheduled to assess the Department's compliance with its non-discrimination policy (paragraphs 102 and 103) during the quarter ending March 31, 2006, at which time the City's analysis of stop data collected in the field will be available.<sup>65</sup>

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

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<sup>64</sup> The LAPD historically evaluated all Sergeants and Detectives during either November or December of each evaluation year. However, during 2005, the LAPD opted to commence evaluating investigators on the anniversary of their hire dates. This change of policy, however, did not impact the five evaluations deemed not completed.

<sup>65</sup> As described in prior Monitor reports, the Analysis Group, Inc. was selected by the Department to develop a methodology to analyze the field data in order to determine if disparate treatment reflected in the stop data can be explained and, if so, what those explanations are.

#### IV. MANAGEMENT OF GANG UNITS

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In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into GEDs,<sup>66</sup> report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),<sup>67</sup> which has responsibility for monitoring gang units Department-wide.

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

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

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

During the current quarter, the Monitor assessed compliance with requirements that subject gang unit supervisors and non-supervisory officers to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees and prohibit them from holding arrestees or interviewing witnesses at off-site locations at night. The results of our current assessments follow.<sup>68</sup>

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<sup>66</sup> GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

<sup>67</sup> 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.

<sup>68</sup> The Monitor will assess the requirements of this section that were not assessed during recent quarters, including various requirements pertaining to supervisors and non-supervisory officers and the monitoring and assessment of gang units by BGCs, during the quarter ending March 31, 2006.

### Subparagraph 106e(i) – Gang Unit Procedures

Subparagraph 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 last assessed the LAPD's compliance with subparagraph 106e(i) during the quarter ending March 30, 2005, at which time the Monitor found the LAPD in functional non-compliance.

### *Current Assessment of Compliance*

In order to assess functional compliance with subparagraph 106e(i) during the current quarter, the Monitor reviewed and subsequently placed reliance on the AD's *ABC Reports Audit*, dated September 27, 2005, and related audit working papers.<sup>69</sup>

In its *ABC Reports Audit*, AD reviewed a sample of 174<sup>70</sup> GED arrests during the period March 1 to April 30, 2005. In total, 721 GED arrests were made during that period. AD determined that GED officers were in 95% compliance with completeness requirements, which pertain to the inclusion of required documents in an arrest package, and in 99% compliance with authenticity requirements, which pertain to canned language, inconsistent information, articulation of legal basis and other indicia that information is not authentic or correct. In addition, AD determined that the LAPD was in 99% compliance with the requirements for supervisory oversight at the incident and 90% compliance with the post-incident review requirement.

During its meta-audit, the Monitor reviewed a sample of 27 GED arrest report packages to determine if officers were subject to existing procedures regarding detention, transportation, arrest processing and booking of arrestees. The Monitor concurred with AD's findings, including its overall assessment that the Department was in non-compliance with the post-incident supervisory review requirement and the other identified anomalies.

AD appropriately identified instances of non-compliance with the requirement that supervisors and non-supervisory personnel continue to be subject to existing procedures for uniformed patrol officers regarding detention, transportation, arrest, processing and booking of arrestees and other

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<sup>69</sup> The Monitor conducted a meta-audit of AD's audit and elected to rely on its findings after concluding that it was complete, accurate and reached appropriate findings relative to GED arrest, transportation and detention procedures. See the Monitor's Current Assessment of Compliance for paragraph 128(2), below.

<sup>70</sup> Detailed information regarding the population and sample selection criteria is included in the Current Assessment of Compliance for subparagraph 128(2).

persons (underlying actions and conformance with Department procedures).<sup>71</sup> However, AD concluded that the non-compliant instances only impacted supervisory oversight requirements, as supervisors failed to identify the issues in their reviews. As a result, AD concluded that that GED officers were in 99% compliance with the requirement regarding evaluation of underlying actions for appropriateness and conformance with Department procedures. The Monitor contends that because the officers were responsible for these anomalies in regards to these arrest, detention and transportation procedures prior to supervisory review, these non-compliant instances also impact compliance with subparagraph 106e(i)'s requirements regarding underlying actions and conformance with Department procedures.<sup>72</sup> As a result, the Monitor the Monitor disagrees with AD's conclusion that that GED officers were in 99% compliance with this requirement and, instead, computed a compliance rate of 91%.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with subparagraph 106e(i).

### **Subparagraph 106e(vii) – Area Station Activities**

Subparagraph 106e(vii) mandates that unit supervisors and non-supervisory officers not hold arrestees or interview witnesses at off-site locations at night.

### ***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 106e(vii) during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional compliance.

### ***Current Assessment of Compliance***

In order to assess functional compliance with subparagraph 106e(vii) during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *ABC Reports Audit* and related audit working papers, as described in the Current Assessment of Compliance for subparagraph 106e(i), above.<sup>73</sup>

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<sup>71</sup> The instances of non-compliance resulted from officers' failure to document arrestees' responses to Miranda in the arrest packages, failure to adequately document that a UOF investigation occurred, and failure to include required documentation in arrest packages.

<sup>72</sup> The Monitor contends that these instances were clearly examples of arrest, booking and charging procedures that are not being followed properly.

<sup>73</sup> The Monitor conducted a meta-audit of AD's audit and findings and elected to rely on the audit after concluding that it was complete, accurate and reached appropriate conclusions relative to subparagraph 106e(vii). See the Monitor's Current Assessment of Compliance for subparagraph 128(2), below.

In its *ABC Reports Audit*, AD determined that GED supervisors and officers were in 100% compliance with the requirements of subparagraph 106e(vii). AD determined that none of the arrest packages reviewed revealed that the arrestees and witnesses were inappropriately transported to any location other than the primary Area station for interviews.

During its meta-audit, the Monitor reviewed a sample of 25 GED arrest report packages to determine if GED supervisors and officers held arrestees or interviewed witnesses at off-site locations at night. The Monitor concurred with AD's findings and with its overall assessment that the Department was in compliance with procedures regarding interviews of arrestees and witnesses.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with subparagraph 106e(vii).

## V. CONFIDENTIAL INFORMANTS

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

The Monitor last assessed compliance with the Consent Decree's requirements regarding Confidential Informants (CIs) during the quarter ending September 30, 2005. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

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

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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.

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

## VII. TRAINING

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### A. FIELD TRAINING OFFICERS PROGRAM

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

The Monitor last assessed the LAPD's compliance with the requirements relative to the FTO de-selection process during the quarter ending March 31, 2005. The Monitor is scheduled to again assess the LAPD's compliance with these requirements during the quarter ending March 31, 2006.

The Monitor last assessed the LAPD's compliance with the Consent Decree requirements relative to the training of FTOs and attempted to assess requirements pertaining to eligibility criteria for FTOs during the quarter ending September 30, 2005.

During the current quarter, the Monitor again assessed compliance with requirements pertaining to eligibility criteria for FTOs. The results of our current assessment follow.

#### **Paragraph 114 – Eligibility Criteria for FTOs**

Paragraph 114 requires the Department to continue implementing formal eligibility criteria during the FTO selection process. The candidate must demonstrate analytical skills, interpersonal and communication skills, cultural and community sensitivity, diversity and commitment to police integrity.

#### ***Background***

The Monitor last assessed the Department's compliance with paragraph 114 during the quarter ending September 30, 2004, at which time the Monitor found the Department in non-compliance based on the Monitor's finding that 1 of 4 officers selected as FTOs during the period October 1 through December 31, 2003 had a sustained complaint for "neglect of duty" and "filing a false report." The Monitor concluded that although the complaint was reviewed, the decision to select the officer was clearly faulty.

The Monitor attempted to assess compliance with the paragraph during the quarter ending September 30, 2005 but withheld a determination of compliance pending the LAPD's review of its administration of the FTO program, including potential revisions to the system it utilizes to

manage it. Prior to the last report, the Department was unable to identify the officers selected to serve as FTOs for the period requested.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 114 during the current quarter, the Monitor reviewed the selection packages for all 30 officers who were selected to serve as FTOs during the period October 1, 2004 through August 31, 2005. The Monitor concluded that all of the officers reviewed were qualified to serve as training officers.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 114.

## **B. TRAINING CONTENT**

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

The Monitor last assessed the LAPD's compliance with requirements regarding police integrity training for all LAPD personnel during the quarter ending March 31, 2005. The Monitor is scheduled to again assess the LAPD's compliance with these requirements during the quarter ending March 31, 2006.

The Monitor last assessed the LAPD's compliance with requirements related to the communication of training ideas to the LAPD Training Group and requirements regarding the training curriculum for the public members of the Board of Rights during the quarter ending September 30, 2005. The Monitor is scheduled to again assess compliance with these requirements during the quarter ending June 30, 2006.

## **C. SUPERVISORY TRAINING**

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.<sup>74</sup> 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.

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<sup>74</sup> 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.



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

REPORT OF THE INDEPENDENT MONITOR  
FOR THE QUARTER ENDING December 31, 2005  
Issued February 15, 2006

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

## VIII. INTEGRITY AUDITS

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

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

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

### *The Success of LAPD's AD*

In the first two years of the Consent Decree, the LAPD struggled with the requirement to complete timely, quality audits. Since then, the Department has made significant progress relative to staff resources and learning the required audit standards which has culminated in the development of a Basic Law Enforcement Performance Auditing Course covering all aspects of police performance auditing.<sup>75</sup>

These developments have resulted in the completion of a total of 27 quality audits, as set out in the table below. In light of the recognition granted to LAPD's Law Enforcement Performance Auditing Course, and the quality of the work performed by AD since 2004, in those instances in which the scope of an AD audit directly addresses the requirements of a given Consent Decree paragraph, the Monitor elected to perform meta-audits of AD's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.<sup>76</sup> Instances of such reliance are articulated earlier in this report.

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<sup>75</sup> This course, which was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005, covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process.

<sup>76</sup> This is consistent with paragraph 162 of the Consent Decree, which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

<i>Timing of Monitor's Eval'n</i>	<i>Quantity and Title(s) of "Quality" Audits Completed by the LAPD<sup>77</sup></i>
Sept 30, 2002	1: Warrant Applications & Affidavits Audit - CD128(1)
Dec 31, 2002	1: ABC Reports Audit - CD128(2)
Sept 30, 2003	1: CI Control Packages Audit - CD128(5)
Dec 31, 2003	2: MV&PS Audit - CD128(4); GED Work Product Audit - CD131a
Mar 31, 2004	1: GED Work Product Audit - CD131a
Jun 30, 2004	5: Warrant Applications & Affidavits Audit - CD128(1); ABC Reports Audit - CD128(2); NCUOF Reports/Investigations Audit - CD128(3) & CD129ii; Complaints Investigations Audit - CD129iii; GED Work Product Audit - CD131a
Sept 30, 2004	2: CI Control Packages Audit - CD128(5) & CD131d; CUOF Systems Audit - CD129i
Dec 31, 2004	7: ABC Reports Audit - CD128(2); MV&PS Audit - CD128(4); CUOF Investigations Audit - CD129i; GED Work Product Audit - CD131a; GED Selection Criteria Audit - CD131b; Supplemental GED Warrants Audit - CD131c-1; Supplemental GED NCUOF Reports Audit - CD131c-3
Mar 31, 2005	1: Complaint Systems Audit - CD129iii
June 30, 2005	3: Warrant Applications and Supporting Affidavits Audit - CD 128(3), 131c-1; Motor Vehicle and Pedestrian Stop Audit - CD128(4), 131c-4; CUOF Systems Audit - CD129i
Sept 30, 2005	2: NCUOF Reports/investigations Audit - CD128(3), CD129ii & CD131c-3; GED Selection Criteria Audit - CD131b
Dec 31, 2005	1: ABC Reports Audit - CD128(2), 131c-2

*The OIG's Oversight of the LAPD*

Beginning in March 2003, the Monitor expressed concerns regarding the OIG's resource constraints, which were hampering its ability to effectively oversee the LAPD. During the quarter ending September 30, 2004, the Monitor highlighted in a focus issue, its concerns about the timeliness and quality of the OIG's reviews and audits. Since then, the OIG has implemented a restructuring plan to address its resource challenges and has largely completed its staff hiring,

<sup>77</sup> Although the GED Audits listed in this table were quality audits, the Monitor concluded they were non-compliant during the quarters ending December 31, 2003 through June 30, 2004 because they were performed by AD rather than the SOSD. The Monitor noted that until the Consent Decree was amended to allow AD to conduct these audits, the Monitor would continue to find the Department in non-compliance for such audits. As described in the Monitor's Report for the Quarter Ending September 30, 2004, the City and the DOJ agreed upon such a modification. As a result, beginning in that quarter, the Monitor disregarded the fact that AD conducted GED audits and ultimately concluded (during the quarter ending December 31, 2004) that the GED audits listed in this table for that quarter were compliant.

with the addition of an Assistant IG and four new Police Performance Auditors, each of whom have the expertise needed to consistently perform quality and timely audits/reviews. The OIG has also added new staff in the Complaints and the Use of Force sections.<sup>78</sup>

Additionally, since August 2005, the OIG has developed and implemented new reporting templates, standardized work plans, training bulletins, and a quality control review process, all of which have contributed to an improvement in the quality of the OIG's reviews.

The Monitor commends the OIG for these changes in its staffing and the programs it has implemented. The Monitor believes these procedures, along with the revised management oversight, establish a suitable structure that will enable the OIG to meet the requirements of the Consent Decree. The nine reviews completed since May 2005, which were submitted on a timely basis and included meta-audits, are a reflection of these changes.

## A. AUDIT PLAN

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

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

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

## B. AUDITS BY THE LAPD

During this quarter, the Monitor evaluated:

- EES's Compliance with the Sting Audit Reporting Protocol (paragraph 127);
- AD's *Audit of Arrest Booking & Charging Reports* (subparagraphs 128(2), 131a, c-2, e);

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<sup>78</sup> The OIG is continuing its search for two additional Police Performance Auditor ("PPA") IIIs and one investigator to reach a full complement of staff.

- AD's *Audit of Categorical Uses of Force* (subparagraph 129i);
- AD's *Audit of GED Work Product Assessment Summary* (subparagraphs 131a, f, g); and
- AD's assessment of compliance by GED officers with supervisory oversight requirements, as contained in six audit reports previously submitted by AD<sup>79</sup> (subparagraph 131e).

### **Paragraph 127 – Sting Audit Reporting Protocol**

Under paragraph 127, sting audits conducted by the EES shall not be reported in the Quarterly Audit Report. Rather, results of all sting audits shall be reported to the Police Commission and the IG by the Chief of Police within two weeks of the Chief's receipt of each sting audit report.

### ***Background***

The Monitor last assessed the LAPD's compliance with paragraph 127 during the quarter ending June 30, 2005, at which time the Monitor found the LAPD in functional compliance.<sup>80</sup>

### ***Current Assessment of Compliance***

During the current reporting period, the EES issued two quarterly reports summarizing the results of sting integrity audits conducted during the quarters ending March 31, 2005 and June 30, 2005, respectively. The Monitor confirmed that these reports were provided to the OIG and the Police Commission within two weeks, defined as 14 calendar days, of the Chief of Police's receipt of such reports. As the Monitor reported in previous quarterly reports, the Chief of Police is verbally apprised of any audits that result in a failure, typically within 24 hours of such occurrence. Similar verbal notification to the OIG and the Police Commission also occurs.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 127.

### **Subparagraphs 128(2) and 131c-2, Department-Wide and GED Arrest Booking & Charging Reports Audit**

Subparagraph 128(2) requires the Department to conduct regular, periodic audits of stratified random samples of Arrest Booking and Charging (ABC) reports. Paragraph 128 further requires

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<sup>79</sup> The six audit reports are: AD's *MV&PS Data Collection Audit Report* dated March 28, 2005; *Warrant Applications and Supporting Affidavits Audit* dated February 28, 2005; *Amendment to Warrant Applications and Supporting Affidavits Audit* dated May 25, 2005; *Audit of Confidential Informant Control Packages* dated June 29, 2005; *NCUOF Reports Audit* dated June 30, 2005; and *Arrest Booking and Charging Reports Audit* dated September 27, 2005.

<sup>80</sup> There are no primary or secondary compliance requirements for this paragraph.

that such audits include a review for completeness, authenticity and consistency of the information contained; appropriateness, legality and conformance with Department policies; and supervisory oversight of the applicable incident or any post-incident review.

Subparagraph 131c-2 requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit arrest booking and charging reports. This subparagraph requires assessment of the same qualitative factors that are required in subparagraph 128(2).

### *Background*

AD completed its first and second Department-wide *ABC Reports Audits* in June and December of 2001, both of which were found non-compliant.

The Monitor concluded that the third Department-wide *ABC Reports Audit*, completed in September of 2002, was compliant.<sup>81</sup> The Monitor withheld determination of compliance regarding a supplemental audit completed by AD in December of 2002 to specifically address supervisory oversight in relation to 70b arrests.

The Monitor concluded that AD's fourth Department-wide primary and second Department-wide supplemental<sup>82</sup> *ABC Reports Audits*, completed in March and June of 2004, respectively, were compliant.

The Monitor concluded that AD's fifth Department-wide *ABC Reports Audit (Juvenile Detention Procedures Included)*, completed in October of 2004, was also compliant.

### *Current Assessment of Compliance*

In order to assess compliance with subparagraphs 128(2) and 131c-2 during the current quarter, the Monitor reviewed AD's *ABC Reports Audit* dated September 27, 2005, the audit work plan, and cribsheet, as well as selected arrest reports, completed matrices and related detention logs.

For this audit, AD selected arrests that occurred during the period March 1, 2005 to April 30, 2005. However, in determining its population for purposes of selecting a sample for review, AD confined its population to those arrests which were considered "high risk".<sup>83</sup> This selection

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<sup>81</sup> Notwithstanding the fact that the scope of the audit did not specifically address the supervisory oversight requirements of subparagraph 128(2), as related to paragraph 70b arrests.

<sup>82</sup> This supplemental *ABC Reports Audit*, dated June 24, 2004, was relative to Form 10.10, Receipts for Property Taken into Custody.

<sup>83</sup> "High risk" arrests were considered to be those represented by 18 specific California penal and health and safety codes. This methodology and the selection of penal and health and safety codes had been discussed with and agreed to by the Monitor prior to the commencement of the audit. A query by the Monitor of the LAPD's arrest databases for the period reviewed identified a total of 28,971 arrests.

method yielded a population of 5,189<sup>84</sup> arrests for the period under review. The arrest population was then bifurcated into Department-wide<sup>85</sup> and GED<sup>86</sup> populations and a minimum number of reports was identified in each stratum to achieve a 95 percent confidence level. In addition, wherever the number of reports so determined in a particular stratum was less than five, the number of reports reviewed was increased to a minimum of five.<sup>87</sup> On this basis, AD randomly selected a total of 473 arrest packages for review, 299 of which were Department-wide and 174<sup>88</sup> of which were GED.

AD concluded that the Department was not in overall compliance with the objectives tested via subparagraph 128(2) with respect to the completeness and post-incident supervisory review objectives, and in compliance with the remaining audit objectives, including authenticity, underlying actions and on-scene supervisory oversight. Additionally, AD concluded the Department was in compliance in relation to subparagraphs 70b (review of California Penal Code §148 incidents)<sup>89</sup> and 106e(vii) (off site locations). As in previous audits, the main areas of concern continue to be the failure of supervisors to identify and correct errors and omissions identified in the arrest reports, the issuance of receipts for property taken into custody and the articulation of Miranda Admonitions / Responses.

In order to assess AD's audit findings, the Monitor randomly selected a sample of 56 arrest packages, including multiple arrests.<sup>90</sup> The 56 arrest packages consisted of 29 Department-wide arrests and 27 GED arrests. In addition, the Monitor decided to extend its scope and review all six arrest packages from AD's sample that contained a 70b event.<sup>91</sup> This decision resulted in the additional review of two Department-wide arrest packages and three GED arrest packages.<sup>92</sup>

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<sup>84</sup> Of the population of 5,189 identified, 134 arrests were excluded because they were made by outside agencies and non-LAPD personnel (132) or because they had duplicate booking numbers (2).

<sup>85</sup> The Department-wide population included arrests made by personnel in Operations Central, South, Valley and West Bureaus, all Geographic Areas and all Traffic, Anti-Terrorist, Detective Support, Juvenile Narcotics, Major Crimes, Metropolitan, Narcotics, Robbery-Homicide and Vice Divisions.

<sup>86</sup> The GED population included arrests made by personnel in Operations-South Bureau and all Geographic Areas.

<sup>87</sup> This resulted in the review by AD of a substantially greater number of arrests than has historically been done.

<sup>88</sup> The original number selected for review for the GED population was 176, but two of these reports were unable to be located; as such, no review could be conducted.

<sup>89</sup> AD assessed subparagraph 70a, which requires the Watch Commander to review all booking recommendations; however, this was reviewed and reported on as part of the paragraph 128 objectives for authenticity and underlying actions, rather than as a separate objective.

<sup>90</sup> This sample size was determined using a +/- 7% error rate, as this particular audit is considered to be a "critical" audit by the Monitor and therefore requires greater than a +/-10% level of scrutiny.

<sup>91</sup> Under subparagraph 70b, supervisors must evaluate each incident when a person is charged with interfering with a police officer (California Penal Code § 148), resisting arrest, or assault on an officer to determine whether it raised any issue or concern regarding training, policy and tactics.

<sup>92</sup> The original sample included one arrest package that contained a 70b event.

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

- The Monitor concurs with AD's conclusions.
- The Monitor commends AD for its detailed reporting of findings for each of the two samples identified, as well as for its reporting of the combined results for the overall Department. In addition, the findings for each audit objective were concisely and appropriately reported and the related percentages were clearly presented in summary tables included within the report with the exception noted in the next bullet.
- AD indicated that the compliance ratings for subparagraph 106e(i)<sup>93</sup> are reported in the table summarizing the results for all GED personnel. In the instances where AD found concerns in connection with officers failing to follow policies and procedures, it chose to hold out these instances of non-compliance under the supervisory oversight requirement. The Monitor believes that these instances should also have been classified as non-compliant with the underlying actions requirements of paragraph 106e(i), as they relate to officers' conduct prior to supervisory review.
- AD's audit population determination and sample selection processes were appropriate, based on our understanding that audits conducted for each alternate period would encompass the entire population for the two month period under review. See related recommendation below.
- The audit matrix currently consists of 52 questions, which, either alone or in a variety of combinations, are considered in determining compliance with respect to the required objectives. Currently, while there is an audit trail to track the AD's manual tie-in of the matrix results to the objectives, there is no specific working paper support to directly tie these results into the compliance tables and other information within the report. As a result, the Monitor must re-create the manual steps used by AD in order to determine compliance for each objective. See related recommendation below.
- AD assessed compliance with paragraph 73 based on information contained within the arrest packages. The Monitor noted one instance identified by AD in which the supervisor who signed the detention log was not an independent supervisor. See related recommendation below.
- For one arrest, the Monitor noted a discrepancy between the narrative account of the arrest and facts provided in two other reports included in the package.<sup>94</sup> AD concurred that the discrepancy in the reporting of events should have been noted.<sup>95</sup>

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<sup>93</sup> Subparagraph 106e(i) states that unit supervisors and non-supervisory personnel under paragraph 106 will "continue to be subject to existing procedures for uniformed patrol officers regarding detention, transportation, arrest, processing and booking of arrestees and other persons."

<sup>94</sup> The narrative account of the pat down search indicated that the subject spontaneously stated "I have a knife in my pocket" as it was being removed from his pocket. The Juvenile Arrest and Juvenile Hall Entrance Records, which

- The Monitor noted that the two recommendations made by AD in its prior report have been addressed and were implemented during the first deployment period for 2005.

Based on the foregoing, the Monitor finds this audit in compliance with the requirements of subparagraphs 128(2) and 131c-2.

### *Proposed Recommendations*

In future audits of “high risk” arrests, the Monitor recommends that AD consider expanding its population to include those California Penal Codes relating to rape, kidnapping, manslaughter, felony assault and attempted murder. Additionally, if AD chooses its sample from a specified type of arrest, the Monitor recommends that AD test to see if results for the remaining population were significantly different from those in the chosen sample by randomly selecting a small sample from the balance of the excluded population and comparing the compliance results.<sup>96</sup>

AD should develop an audit step and subsequently incorporate a question within future matrices to test and conclude on whether the Watch Commander who signs off on the detention log has not otherwise been involved in the arrest itself.<sup>97</sup>

AD should design and include appropriate documentation<sup>98</sup> for future audits to provide for a direct tie-in of matrix results in the Access Database to the compliance tables and conclusions reached in the final report.

### *Subparagraph 129i – Categorical Use of Force Investigations Audit*

Subparagraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the investigations. Subparagraph 129i also requires the Department to evaluate compliance with

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were written by a different officer, both indicated that the subject had been asked if he had any weapons (to which the subject responded “Yes, I have a knife in my pocket”); there is no mention of a search on these two latter reports.

<sup>95</sup> AD staff indicated that officers often ask a question like “Do you have anything in your pocket?” simultaneous with commencing a pat down search, and the three reports would have been completed concurrently by the two officers involved (which could have lead to the minor discrepancy in relating the timing of events).

<sup>96</sup> This sample would only need to be tested to +/-10% in order for AD to test if results were significantly different.

<sup>97</sup> The Monitor tested the independence of the Watch Commander by reviewing the available detention logs to see if there were changes in who reviewed the detention log suggesting the possibility the supervisor might not be independent. Alternatively AD could review other documentation such as Watch Commander logs to confirm the individual approving the detention log was either the assigned Watch Commander or an independent supervisor.

<sup>98</sup> An excel spreadsheet, for example.

paragraphs 67, 69, 80, and 82 to 83; in addition, paragraphs 55 to 59 and 61 to 65 are related to this audit.

### *Background*

For the fiscal year 2003/04, AD decided to split CUOF investigations into two audits: an interim audit report that assessed systems-related issues and a final audit report that assessed the quality of the CUOF investigations. For reporting purposes, the Monitor has similarly split its evaluation of subparagraph 129i into two separate evaluations as follows:

- 129i - CUOF Interim Systems Audit<sup>99</sup> and
- 129i - CUOF Investigations Audit.<sup>100</sup>

During the quarters ending September 30, 2004 and June 30, 2005, the Monitor assessed AD's *CUOF Interim Systems Audit Report* dated June 9, 2004, and AD's *CUOF Systems Audit Report*, dated March 31, 2005, respectively, and concluded that they were compliant with the systems-related elements of subparagraph 129i.

During the quarter ending December 31, 2004, the Monitor assessed AD's *CUOF Final Investigations Audit Report*, dated August 14, 2004, and determined that it was complete, accurate and reliable for most objectives tested and incorporated insightful planning, suitable training of auditors, appropriate follow-up procedures, excellent fieldwork and practical recommendations. Accordingly, the Monitor concluded that it was a compliant audit.

### *Current Assessment of Compliance*

In order to assess the Department's compliance with subparagraphs 128(3), 129i and 131c-3, the Monitor reviewed AD's *CUOF Investigations Audit Report* dated September 29, 2005, the related work plan, cribsheet and the Monitor's sample of completed matrices and supporting documents related to the restricted audit population and sample determination.

AD's sample consisted of the only three FID cases that were completed during the time of the audit period, August 22, 2004 to June 25, 2005. AD evaluated the three sample items based on Consent Decree criteria and determined that no conclusion could be drawn regarding Department compliance with the Consent Decree, as the population was too small. The Monitor concurs with this conclusion.

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<sup>99</sup> The *CUOF Interim Systems Audit Report* assessed the requirements of 13 paragraphs: 55, 56, 58, 59, 61 – 65, 67, 69, 83 and 147. Additionally, it assessed portions of subparagraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively.

<sup>100</sup> The *CUOF Final Investigations Audit Report* assessed the requirements of paragraphs 57, 80 and 82 and the remaining requirements of subparagraphs 128(3) and 129i, including authenticity and supervisory oversight.

The Monitor reviewed the three FID investigations. Our findings, which have been discussed with AD, are highlighted below:

- AD provided well-developed matrices, including responses available in electronic format.
- For one investigation, an ICD, a canvass of the scene at the time of the detainee's arrest was documented, but it was not documented whether a canvass of the scene was completed at the station, where the detainee was transferred from the police car to an ambulance and transported to the hospital by attending paramedics.
- Regarding the same ICD investigation, the Monitor identified a possible UOF<sup>101</sup> that was not appropriately identified, documented or investigated.
- Although AD noted that photographs of a suspect's injuries were not taken during one of the investigations (an OIS), AD did not consider the missing photographs in its assessment of the Department's compliance with the completeness of evidence requirements of paragraph 129 or subparagraph 80f (collect and preserve evidence).<sup>102</sup>

As a result of the limited sample size reviewed and the above-noted matters, the Monitor is withholding a determination of compliance until a full review of CUOF investigations is completed.

### *Subparagraphs 131a, 131f and 131g – GED Work Product Assessment Audit*

Subparagraph 131a requires the Department<sup>103</sup> to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review.

Subparagraph 131f requires the Department to conduct regular, periodic audits of a stratified random sample of all gang units by reviewing incidents requiring supervisory review pursuant to paragraphs 62, 64, 68, 70 and 71, assessing the supervisor's response and examining the relationships of particular officers working together or under a particular supervisor in such incidents to determine whether additional investigation is needed to identify at-risk practices.

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<sup>101</sup> Officers used a towel to apply pressure to the detainee's forehead to restraint him.

<sup>102</sup> It is the Monitor's understanding that the Department's policy is to exclude photographs and cassette tape interviews as evidence under subparagraph 80f. As indicated in prior reports, the Monitor disagrees with this policy and considers the evidence essential to the investigation.

<sup>103</sup> The Consent Decree originally called for DSD/SOSD to conduct these audits. As reported in the Monitor's Report for the Quarter Ending September 30, 2004, by agreement of the parties, the Consent Decree was amended to allow AD to assume the responsibility for conducting the audits.

Subparagraph 131g requires the audit to draw conclusions regarding adherence of the unit to the law, LAPD policies and procedures and the Consent Decree and shall recommend a course of action to correct any deficiencies found.

### *Background*

For the quarters ending June 30, 2002 through June 30, 2003, the Monitor concluded that the Department was in non-compliance with the subparagraph 131a requirement to conduct regular periodic audits of this topic, as an audit of the gang unit work product had not been completed during that time period.<sup>104</sup>

For the quarters ending September 30, 2003 through March 31, 2004, although the Department completed three successive high-quality audits<sup>105</sup> in connection with subparagraph 131a, the Monitor continued to find the Department in non-compliance due to the fact that the audits had been conducted by AD rather than by the SOSD.<sup>106</sup>

Additionally, during the quarter ending December 31, 2003 the Monitor indicated that paragraph 131 requires that audits are to be completed for subparagraphs 131a through 131e. The Monitor stated in its quarterly report that “the remaining provisions<sup>107</sup> of paragraph 131 articulate the qualitative standards for the conduct of each of these audits.” The Monitor also stated that subparagraph 131a includes “an audit of the work product of the gang units as a whole, and an audit of the work of any individual officers whose work product merits further review.”

During the quarter ending December 31, 2004, the Monitor completed its review of AD’s *GED Work Product Audit Report* dated June 24, 2004 and the two supplemental *GED Work Product Patterns Audits* dated September 28, 2004 and September 17, 2004 and found the Department in compliance with subparagraphs 131a and 131c-2. The Monitor understood at that time that the results of the four *GED Work Product Audits* would be accumulated at the end of the year to enable a review of patterns for the Department and a review of the work product as a whole. This final report was not issued. Instead, at the of 2004, the Monitor was informed that AD would be instituting a new audit entitled the *GED Command Accountability Performance Audits*

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<sup>104</sup> The Monitor’s Reports for the Quarters Ending March 31, 2003 and June 30, 2003 state that there are three aspects to this audit that must be completed to meet the standards of the Consent Decree: BGCs must perform the audits required by subparagraph 106h; the Department must review and evaluate the substance of these audits for any risk management issues and a summary must be prepared thereof; and lastly, the Department must conduct a meta-audit to assess the quality of the subparagraph 106h audits.

<sup>105</sup> These audits were completed on October 3, 2003, December 26, 2003 and March 30, 2004. Each of these audits reviewed all of the work product for one month for four or five Divisions, resulting in all of the Divisions being covered by the end of the year.

<sup>106</sup> As noted above, the Consent Decree was amended to allow AD to assume the responsibility for conducting the audits. As a result, this issue no longer impacted compliance beginning with the quarter ending September 30, 2004.

<sup>107</sup> Subparagraphs 131f and 131g.

(CAPAs), which would be detailed audits of two Divisions at a time, covering all Divisions over a two year period.<sup>108</sup>

### *Current Assessment of Compliance*

In order to assess the Department's compliance with subparagraph 131a, the Monitor reviewed AD's *Gang Enforcement Detail Work Product Assessment Summary*<sup>109</sup> report dated September 29, 2005, the related work plan, the five paragraph 128 audits completed between October 2004 and June 2005,<sup>110</sup> the four CAPAs completed between March 2005 and August 2005,<sup>111</sup> and supporting working papers. The Monitor also reviewed AD's database which contains each of the anomalies identified in the audits pursuant to paragraph 128 and the CAPAs.

Our findings, which have been discussed with AD are highlighted below:

- During the current quarter, AD was required to report on subparagraph 131a; as indicated in the Background section, above, this requires that AD review the work product of the gang units as a whole.<sup>112</sup> The *GED Work Product Assessment Summary* summarizes the anomalies identified in AD's 2004/2005 audits completed pursuant to subparagraphs 131c-1 to 131 c-5 and the CAPAs. The Monitor is encouraged that AD is taking a step towards looking at the work product of the gang units as a whole.

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<sup>108</sup> While these were not meant to be Consent Decree audits that were to be reviewed by the Monitor or the OIG, they were designed to be a management tool to provide timely and useful feedback to COs regarding an Area's GED work products, supervision, deployment, gang intelligence gathering and rejected case filings. The Monitor reviewed copies of the Master Audit Work Plan and the Audit Matrices for the CAPA audits and noted that many of the matrices used for the CAPAs were also used for the paragraph 128 audits (the ABC audit, NCUOF audit and Search Warrant audit).

<sup>109</sup> AD's *GED Work Product Assessment Summary* Report states that it was completed to meet the requirements of subparagraphs 131f and g. As described in the Background section, above, and in prior quarterly reports, the Monitor has indicated that subparagraphs 131f and g articulate the qualitative standards for conducting the audits required by subparagraphs 131a through e, and do not require separate audit reports. As a result, the Monitor is not separately assessing compliance with subparagraphs 131f and g.

<sup>110</sup> These audits, which have been previously reviewed by the Monitor as part of paragraph 128 and subparagraph 131c, include the *Audit of Arrest Booking and Charging Reports* dated October 12, 2004, *Motor Vehicle and Pedestrian Stop Data Collection Audit* dated March 28, 2005, the *Warrants Application and Supporting Affidavits Audit* dated February 28, 2005, *Audit of Confidential Informant Control Packages* dated June 29, 2005, and the *Non-Categorical Use of Force Reports Audit* dated June 30, 2005.

<sup>111</sup> These four CAPA reports covered Newton, West Los Angeles, Wilshire and Hollywood.

<sup>112</sup> The Monitor notes that during 2004/2005, AD submitted audits that reviewed the gang unit work product under subparagraphs 131c-1 to 131c-5. According to the Annual Audit Plan, the paragraph 128 *Warrants Application Audit*, *ABC Audit* and *NCUOF Audit* were meant to address the requirements of subparagraphs 131a, c, e and f and the *MV&PS Audit* and the *Confidential Informant Audit* were meant to address subparagraphs 131a, c and e. However, the Monitor identified that the *Search Warrants Audit* report only referenced subparagraph 131c and the *Confidential Informants Audit* report only referenced subparagraph 131d and therefore did not report on subparagraph 131a. Additionally none of these audits reviewed the work product of the gang unit as a whole.

- AD did not include in its analysis either the anomalies identified in the BGC audits/inspections or the problems encountered in its review of the BGC audits/inspections.<sup>113</sup> While the Monitor understands that AD has valid concerns regarding the BGC audits/inspections, the failure to include the anomalies identified in them or the problems identified during their review<sup>114</sup> limited AD's ability to identify patterns of misconduct or concerns related to the gang units as a whole.<sup>115</sup>
- AD identified the number of instances in which anomalies occurred between certain officers/supervisors for each audit objective within each audit. However, this report does not provide any information on relationships between officers/supervisors for the reports as a whole or the gang unit as a whole. Additionally, the report does not identify whether these patterns are training issues or serious risk management issues.
- In its report, AD indicated that the *GED Work Product Assessment Summary* was not an audit and that the scope was restricted to a summary and analysis of GED-related findings within the specified audit reports. The report was to examine relationships of particular officers working together or under a particular supervisor to determine whether additional review is necessary to identify at-risk practices. This scope only addresses the second part of subparagraph 131f.<sup>116</sup>
- AD indicated that it was unable to provide a more detailed analysis and that further review of the data and a more comprehensive audit of GED work product is warranted. The Monitor concurs with this assessment.

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<sup>113</sup> The Monitor has identified in prior quarterly reports, that gang work product includes but is not limited to the audit of the BGCs. Refer to the Monitor's Reports for the Quarters Ending December 31, 2002, March 31, 2003 and June 30, 2003. Additionally, the Monitor met with AD in the summer of 2005 and outlined that AD should include the work of the BGCs in this audit.

<sup>114</sup> These concerns included inconsistent methodologies, problems with sampling, findings that were significantly inconsistent with AD's audit findings and a lack of supporting work papers.

<sup>115</sup> As described above, the Monitor has previously indicated that the BGC inspections are considered part of the gang work product and the Department must review and evaluate their substance for any risk management issues, prepare a summary of these issues, and assess the quality of the subparagraph 106h audits. Additionally, as noted above, the CAPAs have only covered four divisions, while the BGC inspections cover the entire Department.

<sup>116</sup> That is, this *Gang Enforcement Detail Work Product Assessment Summary* covered the subparagraph 131f requirement to examine "the relationships of particular officers working together or under a particular supervisor in such incidents to determine whether additional investigation is needed to identify at-risk practices," but did not cover the requirement that "the Department conduct regular, periodic audits of a stratified random sample of all gang units by reviewing incidents requiring supervisory review pursuant to paragraphs 62, 64, 68, 70 and 71" and "assess the supervisor's response." While AD has assessed some of these requirements as part of the 131c audits, it has not assessed all of the requirements.

- The Monitor commends AD for its development of a database and the extensive analysis that summarizes the anomalies from each of the paragraph 128 audits and the CAPAs.<sup>117</sup> The Monitor also commends AD for including not just those anomalies that were related to the Consent Decree, but also anomalies that were “other related matters.”

The Monitor commends AD for the progress it has made in conducting this analysis and pulling the results of these audits together and is looking forward to seeing the completed analysis. However, based on the foregoing, the Monitor finds the Department in non-compliance with subparagraph 131a.

### *Subparagraph 131e – Audit of Gang Unit Supervisors*

Subparagraph 131e requires the Department<sup>118</sup> to conduct regular, periodic audits of the roles and conduct of supervisors of gang units covered by paragraph 106.

### *Background*

In the Monitor’s Reports for the Quarters Ending December 31, 2002 and June 30, 2003, the Monitor reported its understanding that the audits submitted for subparagraph 131a would include an evaluation of supervisory oversight of the gang units covered by subparagraph 106h; accordingly, subparagraph 131e was not identified as a paragraph requiring separate evaluation. Subsequent subparagraph 131a audits did not evaluate supervisory oversight issues; instead, the Department performed a *Bureau Gang Coordinator Audit* dated July 16, 2003. The Monitor evaluated this audit in its report for the quarter ending December 31, 2003, concluding that it was non-compliant with the requirements of subparagraph 131e, as it did not test or comment on the quality of the inspections performed by the BGCs, but instead, represented a summary of their work.<sup>119</sup>

Pursuant to revisions to the Methodologies agreed upon by the Monitor, the City and the DOJ, the audits of BGC inspections required under this paragraph will no longer be necessary. Instead, future gang unit work product audits conducted pursuant to subparagraph 131a audits of the work of the gang unit as a whole must specifically evaluate and comment on the roles and

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<sup>117</sup> The Monitor understands that AD has continued to develop the database, and that it now includes the anomalies from 11 CAPAs.

<sup>118</sup> As noted above, the Consent Decree was amended to allow AD to assume the responsibility for conducting the audits. As a result, this issue no longer impacted compliance beginning with the quarter ending September 30, 2004.

<sup>119</sup> In the Monitor’s Report for the Quarter Ending December 31, 2003, the Monitor also issued a correction indicating that as a result of discussions with AD, the Monitor concluded that subparagraph 131e has two requirements: one is to conduct a substantive audit of the gang unit supervisory oversight relative to paragraph 106 and the other is to evaluate supervisory oversight as a component of each of the other paragraph 131 audits. Beginning with that report, the Monitor commenced assessing subparagraph 131e separately, and subparagraph 131a was to be interpreted as referring to only the work product of the individual officers and the gang unit as a whole.

conduct of gang unit supervisors. This paragraph will be assessed as part of the other paragraph 131 audits, specifically subparagraph 131c. The Monitor notes that this approach is consistent with the Monitor's original understanding as articulated in its Report for the Quarter Ending December 31, 2002.<sup>120</sup>

### *Current Assessment of Compliance*

In order to assess the Department's compliance with subparagraph 131e, the Monitor reviewed AD's:

- *MV&PS Data Collection Audit Report*, dated March 28, 2005;
- *Warrant Applications and Supporting Affidavits Audit Report*, dated February 28, 2005;
- *Amendment to Warrant Applications and Supporting Affidavits Audit*, dated May 25, 2005;
- *Audit of Confidential Informant Control Packages Report*, dated June 29, 2005;
- *NCUOF Reports Audit Report*, dated June 30, 2005; and
- *Arrest Booking and Charging Reports Audit*, dated September 27, 2005.

The Monitor found that the *MV&PS Data Collection Audit*, *Warrant Applications and Supporting Affidavits Audit*, *NCUOF Reports Audit*, and *Arrest Booking and Charging Reports Audit* assessed compliance by the GED officers with supervisory oversight requirements both at the scene of the incident and during post-incident review.<sup>121</sup>

In its *Audit of Confidential Informant Control Packages*, AD concluded that only non-uniform gang personnel maintained CIs, and their packages were maintained in accordance with Department policy, as required by subparagraph 131d.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 131e. In future reports, the Monitor will assess the Department's compliance with the corresponding paragraph 128 and subparagraphs 131c and d audits.

## C. INSPECTOR GENERAL REVIEWS & AUDITS

During this quarter, the Monitor assessed:

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<sup>120</sup> The Monitor understands that the BGCs monthly inspections and AD's non-Consent Decree CAPAs will address subparagraph 131e objectives; however, the Monitor has agreed with the LAPD that such evaluations are not meant to be assessed by the Monitor for compliance with subparagraph 131e.

<sup>121</sup> The Monitor's findings for these audits have been reported in prior quarterly reports, except for the *Arrest Booking and Charging Reports Audit*, which is reported on in this report.

- the timeliness of transmittal of LAPD's audits to the OIG (subparagraph 135a);
- the timeliness and quality of the OIG's audit review process in general and of its reviews of specific Department audits, including AD's *EES Sting Audits* (paragraphs 97 and 127), *NCUOF Audit* (subparagraph 128(3)), *Confidential Informant Audit* (subparagraph 128(5)) and *GED Selection Criteria Audit* (subparagraph 131b); and,
- the timeliness of the OIG's *NCUOF Audit* and *Audit of Complaint Form 1.28 Investigations* (subparagraphs 136i and 136ii).

### **Paragraph 135 – OIG Evaluation of LAPD Audits**

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

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

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

#### ***Background***

The Monitor first assessed the timeliness of the audits received by the OIG during the quarter ending December 31, 2002, at which time the Monitor found the Department in non-compliance with the requirement to transmit Departmental audits to the OIG within one week of their completion. With the exception of the quarter ending March 31, 2004, the Monitor continued to find the Department in non-compliance until the quarter ending June 30, 2005, during which the Monitor found the Department in compliance. The Monitor again found the Department in compliance during the quarter ending September 30, 2005, which was the most recent assessment.

#### ***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 December 31, 2005, as listed in the table below, and communicated directly with the OIG to confirm the dates of receipt.

<i>CD ¶</i>	<i>Audit Description</i>	<i>Date of Approval of Audit Report by Chief of Police</i>	<i>Date Audit Report Received by OIG</i>	<i># Days to OIG Receipt</i>
CD127	<i>Ethics Enforcement Section 3rd Quarterly Report 2005</i>	Oct 28, 2005	Nov 3, 2005	6 ✓
CD128(5)	<i>Complaint Form 1.28 Investigations Audit - Phase 1, Second Quarter</i>	Dec 27, 2005	Jan 5, 2006	9 ✗
CD129i	<i>Warrant Applications and Supporting Affidavits Audit</i>	Dec 27, 2005	Jan 10, 2006	14 ✗

✓ = 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 one week of their completion.

### **Paragraph 135b – Evaluation of the OIG's Reviews of LAPD's Audits**

#### **Background**

During the quarter ending March 31, 2002, the Monitor first assessed compliance with this subparagraph, finding the OIG in non-compliance with its requirements. With few exceptions,<sup>122</sup> the Monitor has continued to find the OIG's reviews to be non-compliant. The assessments of non-compliance resulted either from shortcomings in the quality of the OIG's reviews or the failure of the OIG to present its reviews in a timely manner to the Police Commission.

For the quarters ending December 31, 2004<sup>123</sup> to June 30, 2005, the Monitor generally restricted the scope of its review of OIG's subparagraph 135b reviews to assessing the timeliness of the completion of the reviews and determining whether they included meta-audits or were instead executive level reviews that did not assess the quality, completeness and findings of the underlying audits.<sup>124</sup> The exceptions to this limited review were the Monitor's assessment of the

<sup>122</sup> 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.

<sup>123</sup> Prior to the quarter ending September 30, 2004, it was the Monitor's process to conduct a detailed evaluation of the quality of each of the OIG's reviews of Department audits during the previous quarter.

<sup>124</sup> Throughout this period, the OIG experienced staff reorganization and shortages that limited the OIG's ability to conduct quality reviews on a timely basis as required by subparagraph 135b. Most of the OIG reviews did not include a meta-audit: the OIG reviews encompassed an 'executive level' review of only the audit report and

OIG's reviews of AD's *Warrant Applications and Affidavits Audit* (subparagraphs 128(1) and 131c-1) dated March 30, 2004, AD's *ABC Reports Audit* (subparagraph 128(2)) dated October 13, 2004 and two *EES Sting Audit Reports* (paragraphs 97 & 127) dated December 8, 2004 and February 8, 2005. The Monitor determined that the OIG's review of AD's *Warrant Applications and Affidavits Audit* was not performed on a timely basis and contained several problems with the quality of the review. The Monitor found the OIG's review of AD's *ABC Reports Audit* and the two *EES Sting Audit Reports* to be thorough reviews.

The OIG advised the Monitor that subsequent to May 2005, its subparagraph 135b reviews of Department audits would include meta-audits suitable for the Monitor to perform its required assessment. During the quarter ending September 30, 2005, the Monitor found the OIG in compliance with the requirements of subparagraph 135b.

Since the OIG's reorganization in early 2005, the OIG has had an increasing number of quality reviews in each quarter. To date, the OIG has completed a total of 11 quality reviews, as set out in the table below:

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

### ***Current Assessment of Compliance***

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

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planning documents. Such reviews did not adequately evaluate the quality, completeness and findings of such audits. This finding alone caused the OIG to be non-compliant with the requirements of subparagraph 135b.

<i>CD ¶</i>	<i>Audit Description</i>
CD 97, 127	<i>EES Sting Audit – 1<sup>st</sup> Quarter 2005, dated May 11, 2005</i>
CD 97, 127	<i>EES Sting – 2<sup>nd</sup> Quarter 2005, dated August 4, 2005</i>
CD128(3) 131c-3	<i>NCUOF Audit, dated June 30, 2005</i>
CD128(5) 131c-5	<i>Confidential Informant Audit, dated June 29, 2005</i>
CD131b	<i>GED Selection Criteria Audit, dated June 22, 2005</i>

*The OIG’s Review of the EES’s Sting Audit Report for the First Quarter of 2005 (paragraphs 97 & 127)*

The Monitor reviewed the OIG’s report dated July 27, 2005 and related audit working papers for its review of the *EES Sting Audit Report* dated May 11, 2005 for the first quarter of 2005 (quarter ending March 31, 2005) and a random sample of 16 of the 30 EES sting audit reports examined by the OIG.

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

- The OIG submitted the review on a timely basis.
- The OIG reviewed 100% of the audit packages for the sting audits undertaken, utilizing a matrix with appropriate questions designed to evaluate the completeness, quality and findings of each sting audit.
- The OIG’s report was well-organized and contained clearly reported findings and additional information on other related matters. The OIG appropriately noted that certain documents were not included in two targeted sting audit packages (impacting the overall assessment of completeness),<sup>125</sup> identified a number of deficiencies in the quality of the audits undertaken,<sup>126</sup> and noted that it did not concur with the findings of the EES in one instance.<sup>127</sup> However, the OIG concluded that the completeness, quality and findings of the first quarter sting audits were sufficient. The Monitor believes that the OIG should have concluded that the EES was non-compliant based on the deficiencies that the OIG alone identified in its review.

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<sup>125</sup> Specifically, TEAMS reports that would have been useful in assessing an officer in a targeted sting audit

<sup>126</sup> The OIG noted one significant deviation from an approved Operational Plan, two audit packages that contained audio / video tapes that were not write-protected, one audit package that contained a Final Report that was approved outside the 45 day requirement, a few minor discrepancies with respect to accuracy of reports and one failure to document why the EES decided against notifying the officer’s COC.

<sup>127</sup> The OIG concluded “Inconclusive” for an audit awarded a “Pass” classification by the EES.

- In addition to the above point, although the Monitor agreed with many of the OIG's findings, as well as its recommendation that the EES better document justifications for out-of-policy deviations and procedural failures, the Monitor disagreed with the OIG's classifications for three<sup>128</sup> of the 16 sting audit packages reviewed. Factors that the Monitor considered in arriving at its conclusions included the appropriateness of the Operational Plan's design in eliciting the desired response; whether or not the Operational Plan was followed or the scenario was allowed to play out fully; whether the audit had been somehow compromised; and whether the manner in which a complaint was taken by the officer was appropriate. For these three audits, the Monitor identified deficiencies in connection with these factors that called into question the quality of the audits and led the Monitor to conclude that the "Pass" classifications reached by the OIG were neither appropriate nor supportable.
- Finally, although the OIG identified a number of missing documents and discrepancies with respect to report accuracy, the Monitor found that the OIG either overlooked or failed to satisfactorily address a number of other critical issues and recommendations. These included two additional incidents of inaccuracy / omission that were not identified by the OIG.<sup>129</sup> The Monitor also identified certain instances,<sup>130</sup> not identified by the OIG, in which the complaint intake process was not facilitated by the personnel taking the complaint or where it could even be viewed that the filing of a complaint was being discouraged. In cases such as this, where the complaint was eventually taken, the OIG classified the sting as a "Pass." The Monitor believes that the manner in which the complaint is taken should also be a factor in assessing compliance and accordingly, an "Inconclusive" or "Fail" classification would be more appropriate for audits in which the complaint intake process is made unduly lengthy, arduous or otherwise difficult for the complainant.<sup>131</sup>

Based upon the findings described above, the Monitor concludes that the OIG's review of the *EES's Sting Audit Report* for the First Quarter of 2005 was not a compliant review.

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<sup>128</sup> The Monitor concluded "Inconclusive" rather than "Pass" for two audits and "Fail" rather than "Pass" for the third audit.

<sup>129</sup> In one incident, the OIG failed to identify the improper capture of the wording of the actual complaint; in the second incident, many comments of the targeted officer were not reflected in the report.

<sup>130</sup> For example, in one sting audit, the undercover complainant was given three options with respect to how the complaint could be followed up (make a formal complaint by responding to the police department; call in a complaint to the hotline; or place faith in the sergeant taking the complaint that he would identify, locate and inform the officers involved in the alleged incident that their behavior was inappropriate). In another, the sergeant taking the call kept repeating to the undercover complainant to "slow down, slow down," seemed overly questioning with respect to the statements that the complainant was making and generally displayed behavior consistent with discouraging the complaint.

<sup>131</sup> This issue was discussed with the newly appointed CO of the EES, who indicated to the Monitor that the LAPD has since initiated a complaint against a particular officer for displaying behavior such as this.

*The OIG's Review of the EES's Sting Audit Report for the Second Quarter of 2005 (paragraphs 97 & 127)*

The Monitor reviewed the OIG's report dated November 14, 2005 and related audit working papers for its review of the *EES Sting Audit Report* dated August 4, 2005 for the second quarter of 2005 (quarter ending June 30, 2005), and a random sample of 16 of the 30 EES sting audit reports examined by the OIG.

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

- The OIG submitted the review on a timely basis.
- The OIG reviewed 55% of the audit packages related to the second quarter EES sting audits undertaken, utilizing a matrix with appropriate questions designed to evaluate the completeness, quality and findings of each sting audit.
- The OIG's report was well-organized report, contained clearly reported findings, a "focus points" section, additional information on other related matters, and three specific recommendations. The Monitor notes that the focus points and recommendation sections, which were additions to this report, improved the quality of the overall report.
- The OIG made a number of excellent suggestions in connection with each of the audit objectives, and further noted specific instances of inaccuracy / omission, for which it offered specific recommendations to address the issues identified.
- The OIG appropriately noted significant inaccuracies and omissions contained in the complaint sheets completed by the audited officers in three separate complaint intake audits, six packages that did not contain all required evidence,<sup>132</sup> several factors affecting the overall quality of the audits,<sup>133</sup> and two instances in which it disagreed with the findings of the EES.<sup>134</sup> However, the OIG found the second quarter sting audits to be complete and of good quality, and the reported findings generally accurate and adequately supported. The Monitor believes that the OIG should have concluded that the EES was non-compliant based on the deficiencies that the OIG alone identified in its review.<sup>135</sup>

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<sup>132</sup> One package did not contain an approved Operational Plan; one package was missing an audio tape; and three specific sting audit packages did not contain a copy of the targeted officer's TEAMS report.

<sup>133</sup> Except for minor discrepancies, reports and supporting documents were completed accurately; in two cases, the audit package did not contain the required authorization for surveillance equipment or any evidence that surveillance equipment was used (despite the indication of the intent to use); five audit packages were approved outside of the 45 day limit, with four of them not providing any justification for the delay; one package contained a typographical error in the date; and there were two audits for which the OIG had concerns relating to their execution.

<sup>134</sup> The OIG classified as "Inconclusive" two audits for which EES had concluded "Pass".

<sup>135</sup> As the OIG articulated in its report, "inaccurate and omitted information on a complaint face sheet can serve to undermine the spirit of EES's audits and / or be used to question the complainant's credibility."

- In addition to the above point, although the Monitor agreed with many of the OIG's findings and recommendations, the Monitor disagreed with the OIG's classifications of two<sup>136</sup> of the 16 sting audit packages reviewed in the second quarter. Factors that the Monitor considered in arriving at its conclusions included: the accuracy and completeness of the documents included in the package; whether there was follow-up / specific recommendations made in situations requiring clarity; and whether the complaint was appropriately taken on the first attempt.<sup>137</sup> For these two audits, the Monitor identified deficiencies in connection with these factors that called into question the quality of the audits and led the Monitor to conclude that the "Pass" classifications reached by the OIG were neither appropriate nor supportable.
- Finally, although the OIG identified a number of inaccuracies / omissions in the reports,<sup>138</sup> the Monitor found that the OIG failed to satisfactorily address other critical issues. This included one instance, not identified by the OIG, in which the complaint intake process was not properly handled on the first three attempts and had to be reattempted another day.<sup>139</sup>

Although the OIG's review of the *EES's Sting Audit Report* for the Second Quarter of 2005 was well-organized, clearly reported the OIG's findings and appropriately identified a number of deficiencies in the EES sting audits, based upon the findings described above, the Monitor concludes that it was not a compliant review.

*The OIG's Review of AD's Non-Categorical Use of Force Report (subparagraphs 128(3) and 131c-3)*

The Monitor reviewed the OIG's report dated September 29, 2005 on its review of *AD's Non-Categorical Use of Force Report*, which was received by the OIG on July 1, 2005, and noted the following:

- The OIG appropriately found that AD had conducted a complete and quality audit and the audit's findings were well supported.
- The OIG correctly identified that AD did not specifically test for or explain the lack of specific test work for compliance with Consent Decree paragraph 65 (an officer's self reporting of a Use of Force).

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<sup>136</sup> The Monitor concluded "Inconclusive" rather than "Pass" for each of the two audits.

<sup>137</sup> In one incident, the report did not accurately capture the fact that the undercover had made previous calls to the station that had gone unanswered; that she was put on hold indefinitely when she finally got through; and that on the third attempt, she was transferred to an extension but did not record it for purposes of follow up. In the second incident, there was no audio tape provided to support any conclusion, nor was it possible to determine the source of the handwritten notes (whether they were the undercover's or the supervisor's).

<sup>138</sup> The OIG indicated that three of the second quarter complaint intake audits contained inaccuracies / omissions that were significant in number.

<sup>139</sup> The undercover complainant had to make a second call to the station on an alternate day (and was then put on hold for a lengthy period of time) before the complaint was taken.

- The OIG appropriately identified some anomalies regarding two Post-Incident Supervisory Review policies that should have been included in AD's calculation of relevant compliance percentages.
- The Monitor commends the OIG for identifying a lack of clarity in the instructions included with the NCUOF report form relating to documenting inconsistencies in NCUOF Level II investigations between Department and non-Department employee statements and the details of the incidents as depicted in related reports.

Based on the foregoing, the Monitor concludes that the OIG's review of the NCUOF audit was a quality review.

*The OIG's Review of AD's Confidential Informant Audit (subparagraphs 128(5) and 131c-5)*

The Monitor reviewed the OIG's report dated September 30, 2005 on its review of AD's *Confidential Informant Audit* dated June 29, 2005, and noted the following:

- The OIG concluded that the audit's reported findings were incomplete due to significant quality deficiencies within the audit.<sup>140</sup>
- The Monitor commends the OIG for identifying anomalies that AD could not have detected, as they occurred after AD conducted its fieldwork at Narcotics Division, and segregating these from anomalies AD could detect. The Monitor also commends the OIG for identifying a number of global concerns related to CI management, especially given that the Department is planning to expand its use of CIs.<sup>141</sup>
- While the Monitor concurs with the OIG's concern that payments for CIs may be split to avoid obtaining the appropriate level of supervisory approval, the Monitor also agrees with the OIG's conclusion that this was not a problem for the packages reviewed. As a result, the Monitor believes it would have been more appropriate for the OIG to raise this as a recommendation.
- The Monitor commends the OIG for identifying one individual who had two different CI numbers. Additionally, the Monitor concurs with OIG's finding that in one file, the photo was not current.
- The Monitor further commends the OIG for identifying one file in which the CO approved the use of the CI four days prior to the checks for undesirable informants.<sup>142</sup>

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<sup>140</sup> The Monitor also found this report out of compliance.

<sup>141</sup> However, as it is written, the Executive Summary of the OIG's report appears to erroneously indicate that AD missed each of these issues. The Monitor believes the OIG should have indicated in the "Significant Issues and Concerns" section of the Executive Summary that of the four areas of concern, two of them related to incidents that AD could not have identified and in the fourth area of concern, AD had made a similar recommendation.

<sup>142</sup> AD identified that the CI was not used prior to the completion of the undesirable informant check.

Based on the foregoing, the Monitor concludes that the OIG's review of the *Confidential Informant Audit* was a quality review.

*The OIG's Review of AD's GED Selection Audit (subparagraph 131b)*

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

- The OIG concluded that the audit was complete, conducted in a quality manner and that the audit's findings were adequately supported and properly presented.
- The OIG noted that AD found four selection packages for one area that had the same detailed ten-sentence oral interview narrative written by the same lieutenant. Although AD took corrective action by sending Intradepartmental Correspondence to the Area, the OIG believes this issue should have been disclosed in AD's report. The Monitor agrees with the OIG that the authenticity and accuracy of these narratives are questionable and that this issue should have been disclosed in the report.<sup>143</sup>
- The OIG conducted a review of the GED roster as of August 29, 2005 to identify officers who had worked beyond the 65 DPs limitation included in Special Order 27, dated July 10, 2003. The OIG identified four officers who had worked in a GED beyond the 65 DP maximum, and had recently been approved for 13 DP extensions, which, if served in their entirety, would result in these four officers serving 78 DPs, or six years, continuously in a GED. The Monitor commends the OIG for conducting this review and agrees with this finding, which reveals that the LAPD is not in conformance with Department policy regarding GED tour limitations.
- The current version of TEAMS, TEAMS 1.5, only provides CUOF information relating to OIS. During its review, the OIG found that nine of 66 GED officers sampled had a CUOF history that involved force other than an OIS. Of these nine, the OIG noted that three contained no evidence that the GED officer's entire CUOF history was considered for eligibility into the GED. The OIG noted that the Monitor has commented on this issue in previous reports, and commended the recently approved Special Order 25, which requires evaluating supervisors to contact the Use of Force Review Division to obtain officers' entire CUOF histories until such time as TEAMS II is implemented. The Monitor concurs with the OIG's assessment and also commends the Department for Special Order 25, which will require that this issue be addressed in future GED selections.
- AD replaced two GED selection packages from its sample because they were unable to be located. Although AD took corrective action by sending Intradepartmental Correspondence

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<sup>143</sup> The Monitor has identified this same issue in past reviews and stated that the use of canned language in oral interview narratives is inappropriate and non-compliant with the requirements of subparagraph 107b.

to the Bureau, the OIG did not comment on this issue in its report. Given the importance of the GED selection criteria eligibility requirements and selection package procedures, and the fact that GED selection packages cannot be recreated, the Monitor believes this issue should have been addressed by the OIG in its report.

In summary, the Monitor found all five of the OIG review reports to be well-written, concise and generally responsive to the subparagraph 135b requirements to assess the completeness, quality and findings of each of the Department audits. Each review report followed a structured format that added to the report's clarity, included an assessment of the timeliness of receipt from AD and was submitted to the Police Commission on a timely basis.<sup>144</sup> Each review was based on findings resulting from the OIG's appropriate meta-audit of a random sample of the related matrix responses, except the Q1 EES audit, in which the OIG reviewed 100% of the population.

However, based on the OIG's failure to identify several deficiencies in the EES's Sting Audit Reports for the First and Second Quarters of 2005, and its failure to appropriately classify several sting audits as "Inconclusive" or "Fail," the Monitor finds the OIG in non-compliance with subparagraph 135b.<sup>145</sup>

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

Subparagraph 136i, as amended, requires the OIG to conduct regular, periodic reviews<sup>146</sup> of a random sample of all NCUOF investigations, and issue its reports thereon to the Police Commission. Such reviews are required to assess any areas of concern identified by the OIG, and at least one of the following issues related to the quality and/or outcome of the investigations: the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, or whether the investigation was properly adjudicated.

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<sup>144</sup> All OIG reviews were completed and submitted to the Police Commission within three months of the date of completion of the Department audit. The OIG acknowledges that reviews submitted more than three months after the audit completion date will generally be found to be stale.

<sup>145</sup> During the previous quarter, the Monitor assessed the OIG's reviews of four audits and concluded that the OIG was in compliance with subparagraph 135b. Although the OIG had failed to identify deficiencies in connection with the proper adjudication of complaint allegations in the Complaints audit, this was the only major deficiency identified and the OIG had otherwise completed a quality review of all four audits. During the current quarter, the Monitor assessed five OIG reviews. As described above, the Monitor found that inaccuracies, omissions and operational flaws contained in the two EES audits did not support many of the classifications reached by the OIG, and these deficiencies were significantly serious to result in non-compliance with subparagraph 135b, despite the Monitor's concluding that three of five OIG reviews were quality reviews.

<sup>146</sup> Before the Consent Decree was amended, the OIG was required to submit an audit under this subparagraph.

## *Background*

On August 15, 2002, the OIG completed its first Department-wide audit of NCUOF. In its Report for the Quarter Ending December 31, 2002, the Monitor found this audit in non-compliance with the requirements of subparagraph 136i, as the OIG's methodology, fieldwork and reporting were all deficient.

In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor found the OIG in non-compliance with the requirements of subparagraph 136i due to the OIG's failure to complete this audit on a "regular, periodic" basis by August 15, 2003.

The Monitor evaluated the OIG's next audit, dated March 24, 2004, which was submitted approximately seven months late, in its Report for the Quarter Ending June 30, 2004. The Monitor again found the OIG in non-compliance, as the audit did not adequately address the quality, completeness and findings of the NCUOF investigations included in the scope of the audit. In addition, the audit failed to identify certain substantive issues and did not have a viable audit trail to allow for assessment by the Monitor.

In order to meet subparagraph 136i's requirement to complete "regular, periodic" reviews of this topic, the OIG must complete its reviews on at least an annual basis. Given that the OIG completed its last review on March 24, 2004, the next review was due by March 24, 2005. The OIG did not meet this deadline, nor did it conduct the review during the quarters ending June 30, 2005 and September 30, 2005. As a result, the Monitor found the Department in non-compliance with the requirements of subparagraph 136i for these quarters.

## *Current Assessment of Compliance*

The OIG had not conducted its review of NCUOF as of the end of the current quarter. The Monitor understands that the OIG anticipates completing this review in March of 2006.

Until this review is completed, the Monitor will continue to find the Department in non-compliance with the requirements of subparagraph 136i. When completed, the Monitor will evaluate the review's quality; timeliness will not be evaluated at that time.

## *Subparagraph 136ii – OIG's Complaint Form 1.28 Investigations Audit*

Paragraph 136ii requires the OIG to conduct a regular, periodic review<sup>147</sup> of a stratified random sample of Complaint Form 1.28 investigations to assess the quality, completeness and findings of the investigations, including determining whether the investigations were completed in a timely manner, statement summaries accurately reflected the audio recorded witness statements, all evidence was considered, and the adjudication process was proper.

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<sup>147</sup> Before the Consent Decree was amended, the OIG was required to submit an audit under this subparagraph.

## *Background*

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

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

In order to meet subparagraph 136ii's requirement to complete "regular, periodic" reviews of this topic, the OIG must complete its reviews on at least an annual basis. Given that the OIG completed its last review on September 27, 2004, the next review was due by September 27, 2005. Because the OIG did not complete its review as of the quarter ending September 30, 2005, the Monitor found the Department in non-compliance with subparagraph 136ii for that quarter.

## *Current Assessment of Compliance*

On January 11, 2006 the Monitor received a copy of the OIG's most recent report on its review of Complaint Form 1.28 investigations, dated December 28, 2005. As this review is now completed, but was received at the end of the quarter, the Monitor will assess its quality during the quarter ending March 31, 2006; timeliness will not be evaluated at that time.

## IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

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### A. OPERATIONS OF THE POLICE COMMISSION

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

During the quarter ending June 30, 2005, the Monitor assessed compliance with requirements relative to the Commission's annual review of the Chief of Police and misconduct complaints filed against the Chief Monitor. During the quarter ending September 30, 2005, the Monitor assessed the Police Commission's compliance with requirements relative to the review of and reporting on CUOF, and commenced its assessment of the Police Commission's compliance with requirements relative to the review of audits.

During the current quarter, the Monitor completed its assessment of the Police Commission's compliance with requirements relative to the review of audits, and assessed compliance with requirements regarding the review of the Chief of Police, including the requirement that audit results be considered in evaluations of the Chief. The Monitor also assessed compliance with this section's requirements regarding the Commission's review of the LAPD budget and its review and approval of LAPD policies and procedures. The results of our current assessments follow.

#### **Paragraph 143 – Police Commission Review of Audits, Policies & Procedures**

Paragraph 143 requires the Police Commission and the IG to review certain Consent Decree audits, to consider the results of such audits in its annual evaluation of the Chief of Police, and to review and approve all new or changed LAPD policies and procedures. For ease of reference, the Monitor has split its reporting on paragraph 143 into three components:

- Subparagraph 143a assesses the Police Commission's review of the Consent Decree audits;
- Subparagraph 143b assesses the Police Commission's inclusion of audit results in its evaluation of the Chief of Police; and
- Subparagraph 143c assesses the Police Commission's review and approval of new/changed policies and procedures.

### *Subparagraph 143a – Police Commission Review of Audits*

Subparagraph 143a requires the Police Commission and the IG to review the specified audit reports, the sting audit reports, and the audits required by paragraphs 111, 113, 125, 126, 133, and to determine whether any changes or modifications in LAPD policies are necessary.

#### *Background*

During the quarters ending December 31, 2002, March 31, 2003, and September 30, 2003, the Monitor found the Department in non-compliance with subparagraph 143a because the Police Commission had not yet developed a process to track the LAPD's and OIG's audits and reviews. During the quarter ending September 30, 2003, the Monitor provided guidance to the Police Commission's staff to assist them in developing a spreadsheet to address this issue.

During the quarter ending September 30, 2004, the Monitor determined that the Police Commission had developed a spreadsheet for audits expected to be issued from April 1, 2004 through June 30, 2005. However, the analysis was incomplete,<sup>148</sup> with the result being that the Police Commission and its staff were unaware of the status of many of the audits/reviews expected to be issued by the LAPD and/or OIG. As a result, the Monitor again found the Department in non-compliance.

During the quarter ending September 30, 2005, the Monitor determined that the Police Commission had developed a system for tracking the audits that contains most of the required information. However, the Monitor withheld a determination of the Department's compliance with subparagraph 143a pending a full assessment of the Police Commission's use of the information provided through this tracking system to determine if modifications to LAPD policies are necessary.

#### *Current Assessment of Compliance*

During the current quarter, the Monitor met with staff from the Police Commission and continued its review, commenced during the previous quarter, of documentation within the Police Commission minutes, correspondence and audit reports/reviews issued by AD, the OIG and other LAPD Departments in connection with a random sample<sup>149</sup> of 17 reports listed in the Commission's spreadsheet for tracking the specified audits.

- In addition to the findings related to the tracking system that are identified in the Monitor's Report for the Quarter Ending September 30, 2005,<sup>150</sup> the Monitor noted that the Police

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<sup>148</sup> Several LAPD audits, OIG audits and OIG reviews were missing from this analysis.

<sup>149</sup> The Monitor's sample size was selected using a 95% confidence interval and an error rate of +/- 7%.

<sup>150</sup> These findings have been discussed with the staff of the Police Commission.

Commission approved AD's reports and/or the OIG's reports when they were submitted, without exception. In addition, for most of the 17 reports submitted to the Police Commission, at least one aspect of the report was discussed in detail by the Commission.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 143a.

**Subparagraph 143b – Police Commission Consideration of Audit Results in Evaluation of Chief of Police**

Subparagraph 143b states that the Police Commission shall consider the results of specified audit reports, the sting audit reports, and the audits required by paragraphs 111, 113, 125, 126, 133, and 134 in its annual evaluation of the Chief of Police.

***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 143b during the quarter ending June 30, 2005, at which time the Monitor withheld a determination of the Department's compliance pending review of the Police Commission's next evaluation of the Chief of Police.<sup>151</sup>

***Current Assessment of Compliance***

During the current quarter, the Monitor reviewed the Police Commission's annual review of the Chief of Police for the period July 1, 2004 through June 30, 2005. The review specifically considered the results of the sting audit reports, and the audits required by paragraphs 111, 113, 125, 126, 133, and 134.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 143b.

**Subparagraph 143c – Police Commission Review of Audits, Policies and Procedures**

Subparagraph 143c requires the Police Commission to review and approve all new LAPD policies and procedures, as well as changes to existing policies and procedures that are made to address the requirements of the Consent Decree.

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<sup>151</sup> The Monitor reviewed the Police Commission's annual review of the Chief of Police for the period July 1, 2003 through June 30, 2004. Although the evaluation generally addressed the requirements of the Consent Decree as required by paragraph 144, there was no specific indication that the Police Commission had considered the results of the enumerated audits in its evaluation. Refer to the Current Assessment of Compliance for subparagraph 89c for additional information.

### *Background*

The Monitor last assessed the Department's compliance with subparagraph 143c during the quarter ending December 31, 2004, at which time the Monitor found the Department in compliance.

### *Current Assessment of Compliance*

During the current quarter, the Monitor reviewed information received from the Department relating to new policies and procedures presented to the Police Commission under the provisions of this paragraph. The information provided by the Department revealed that between September 1, 2004 and September 30, 2005, the Department established two new policies/procedures and made eight changes to existing policies/procedures. The Monitor found that the Department's records were consistent with the records of the Police Commission.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 143c.

### *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 the Department's compliance with paragraph 144 during the quarter ending June 30, 2005, at which time the Monitor found the Department in functional compliance with the paragraph.

### *Current Assessment of Compliance*

During the current quarter, the Monitor reviewed the Police Commission's annual review of the Chief of Police for the period July 1, 2004 through June 30, 2005. The review specifically considered 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

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 144.

### Paragraph 146 – Approval of LAPD Budget

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

### *Background*

The Monitor last assessed the Department's compliance with paragraph 146 during the quarter ending December 31, 2004, at which time the Monitor found the Department in compliance.

### *Current Assessment of Compliance*

During the current quarter, the Monitor met with Police Commission staff and determined that the Department's 2006/2007 budget request was reviewed and approved by the Commission and forwarded the City on November 8, 2005. The Department's proposed budget of \$1,334,859,113 in total direct costs represents an increase of 20% over the 2005 adopted budget.

The proposed budget includes salary increases of \$80,928,741. The proposed hiring plan is for 780 new recruits; a total of 229 sworn and 377 civilian positions is requested. Included in these hiring requests are 119 sworn and 12 civilian positions related to Homeland Security staffing requirements.

The proposed budget also includes 164 civilian Detention Officer positions needed to address workload issues and DNA testing mandated by California Proposition 69.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 146.

## **B. OPERATIONS OF THE INSPECTOR GENERAL**

The Consent Decree requires the OIG to review and evaluate all CUOF incidents and provides that the IG shall be notified of all such incidents in a timely manner. In addition, the IG may observe all CUOF "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 quarter ending June 30, 2005, the Monitor assessed compliance with a number of requirements relative to the role of the IG, including the Department's timely notification to the IG of all CUOF incidents, the IG's attendance at CUOF roll outs, the IG's attendance at UOFRB meetings, and the IG's acceptance of complaints from LAPD officers. During the quarter ending September 30, 2005, the Monitor assessed compliance with the Consent Decree requirements that the LAPD provide the IG with complaint intake information on a timely basis and that the

IG review complaints for compliance with LAPD policies and procedures and the terms of the Consent Decree.

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

## C. GENERAL

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

The Monitor most recently assessed the LAPD's compliance with the requirements of this section during quarters ending September 30, 2004 and December 31, 2004. The Monitor again assessed compliance with the requirements of this section during the current quarter.

### *Paragraph 154 – Recommendations to Improve Deficiencies*

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

Although the City disagrees that this paragraph requires any action by the LAPD, CRID has developed a Recommendations Tracking System (RTS), which is used to generate an *Audit Recommendations Status Report* for the Police Commission. This report lists the recommendations from recent LAPD audits and reviews, and tracks the steps undertaken to address such recommendations. Additionally, the OIG implemented a system in early 2005 to track the audit recommendations made from their review of the EES quarterly reports.

### *Background*

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor reported that there were numerous recurring deficiencies identified in successive audits that were not yet addressed, and neither the City nor the Department had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree. Accordingly, the Monitor concluded that the City and LAPD were in non-compliance with paragraph 154.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor reported that the LAPD had developed a system to track recommendations to correct deficiencies identified in the LAPD's audits, but this process was incomplete, as there was not yet a process to track the

OIG's audit recommendations and actions thereon. Accordingly, the Monitor concluded that the City and LAPD were in continued non-compliance with paragraph 154.

During the quarter ended September 30, 2004 the Monitor reviewed CRID's *Audit Recommendations Status Report* dated June 1, 2004, which covered the period ending March 31, 2004, and determined that it included all of AD's recommendations and most of the OIG's recommendations, but it did not include other non-audit related LAPD or OIG recommendations. Because the Monitor was informed that non-audit recommendations were being tracked separately, the Monitor deferred evaluating this process.

During the quarter ended December 31, 2004, the Monitor reviewed CRID's *Audit Recommendations Tracking Report, Third Quarter* dated December 23, 2004<sup>152</sup> and a printout from the OIG's recommendations tracking system for the EES audits and concluded that the Department was in compliance with this paragraph.

### *Current Assessment of Compliance*

During the current quarter, the Monitor reviewed four *Audit Recommendations Tracking Reports*, dated March 23, 2005, June 22, 2005, September 21, 2005 and December 22, 2005 and compared them to the *Audit Recommendations Status Report - Third Quarter* dated December 23, 2004, the LAPD's Annual Audit plans for 2004/2005 and 2005/2006 and the Monitor's Report for the Quarter Ending September 30, 2005. The Monitor also held discussions with representatives of CRID and the OIG to review the process in place to track specified audit and non-audit recommendations.<sup>153</sup>

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

- The Monitor commends CRID for significantly updating the system used to track the audit reports and their corresponding recommendations. Since the Monitor's assessment of paragraph 154 during the quarter ended December 31, 2004, CRID further developed the ACCESS database used to track the recommendations. Additionally, all reports, memos, and tracking forms are scanned by CRID onto its server. Copies of the scanned reports and the database were provided to the Monitor.
- Due to the confidentiality of the audits, the OIG maintains a system for tracking recommendations that originate from EES sting audits or the OIG's review of such sting

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<sup>152</sup> This report included recommendations from AD's audit reports and the OIG's reviews issued up to October 8, 2004, as well as the Annual Retaliation report, *The Mental Illness Audit* and the OIG's paragraph 136 NCUOF reports and Complaint Investigation Form 1.28 reports.

<sup>153</sup> The specified audits that are tracked are detailed in Directive 1-04 from CRID, dated April 15, 2004, which lists Consent Decree-mandated Department audits as well as certain other specified audits.

audits. The Monitor reviewed the system and determined that the database includes all OIG recommendations from its reviews of the EES audits and the status of the recommendations.

- The Monitor identified that CRID is now tracking recommendations from the *RAND Training Audit* dated August 21, 2003; the *Complaints Form Investigation Audit*, dated December 22, 2004; the *Use of Teams Data Audit* dated December 29, 2004; and PSB's *Quarterly Discipline Reports 2002-2004*. These were not previously included in the December 23, 2004 audit recommendations status report.
- The Monitor confirmed that all of the completed specified audits listed in the Annual Audit Plan 2004/2005 were included in the *Audit Recommendations Tracking Reports*, except the BGC Inspections (subparagraph 106h),<sup>154</sup> the *GED Work Product Assessment* (did not include any recommendations) and the *Employee Financial Disclosure Records Audit* (not required to be completed as of January 2006). Additionally, the IG's *Annual Retaliation Policy Review* dated February 11, 2005 was added to the *Audit Recommendations Tracking Report*.
- In our previous assessment of this paragraph, the Monitor understood that AD would be implementing a system to track recommendations identified in non-specified Consent Decree related audits and Department-initiated audits (non-Consent Decree). AD has not yet implemented a system to track these recommendations; while this is not required by the Consent Decree, as these are not specified audits, the Monitor recommends that a system be implemented to track these recommendations.<sup>155</sup>
- CRID has not tracked any recommendations for the OIG Audits of Teams II under paragraphs 137 and 138, as Teams II has not been implemented and as such, the OIG has not conducted the audit.
- The Monitor identified seven instances in which a new audit report and its corresponding recommendations or updates to the status of the recommendations were delayed by one quarter and thus, were not added on a timely basis to the *Audit Recommendations Status Reports*.<sup>156</sup>

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<sup>154</sup> Because recommendations from the BGC inspections are not forwarded to the Commission, they are not tracked as part of CRID's system, which tracks recommendations reviewed by the Police Commission. The recommendations from the BGC inspections are forwarded to the Department Gang Coordinators and tracked through COMSTAT.

<sup>155</sup> In its report for the Quarter Ending December 31, 2004, the Monitor indicated that it understood that the ASK LAPD audit and the Foreign Language audit were Department initiated audits and that the recommendations from these reports would be tracked by CRID.

<sup>156</sup> The *NCUOF Interim Audits Report, Second Quarter, Fiscal Year 2004/2005* dated February 16, 2005 and its recommendations were not included in the *Audit Recommendations Report* dated March 23, 2005, but were included in the June 22, 2005 *Audit Recommendations Report*.

Notwithstanding the issues noted above, the Monitor finds the LAPD in compliance with paragraph 154.

## **X. COMMUNITY OUTREACH AND PUBLIC INFORMATION**

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

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

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

## XI. CONCLUSION

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We continue to be generally pleased with the Department's overall progress in achieving compliance with most areas of the Consent Decree. We are particularly pleased with the independence and commitment that the new Police Commission and its Inspector General have shown. As we have noted previously, it is the Police Commission, the Inspector General and the LAPD's Audit Division that will ultimately stand in the Monitor's shoes in order to assure the LAPD's compliance with best police practices.