

REPORT OF THE INDEPENDENT MONITOR
FOR THE
LOS ANGELES POLICE DEPARTMENT



KROLL

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

REPORT FOR THE QUARTER ENDING
MARCH 31, 2007

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EXECUTIVE SUMMARY

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 original term of the Consent Decree expired on June 15, 2006. On May 15, 2006, Judge Gary Allen Feess ordered that the Consent Decree be extended for an additional three years, commencing on July 1, 2006.

This, the Monitor's twenty-third report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2007 and is the third report issued during the three-year extension period. As described in our Report for the Quarter Ending June 30, 2006, the City and the DOJ agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a significant number of paragraphs of the Consent Decree, and the Monitor would not actively monitor or report on the Department's compliance with these paragraphs during the three-year extension period. Rather, during the extension period, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Decree with which the City has failed to achieve substantial compliance. Based upon this approach, the Monitor examined 33 paragraphs or subparagraphs of the Consent Decree during the current quarter. Of these, the City and the LAPD successfully complied with 19, failed to achieve compliance with 10, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with 4 subparagraphs.

During the quarter ending March 31, 2007 (the current quarter), the Monitor assessed the Department's compliance with the following provisions of the Consent Decree.

For the first time, the Monitor assessed the City and Department's compliance with several Consent Decree requirements relative to its early warning system, termed TEAMS II:

- The Monitor found the Department in compliance with requirements regarding data analysis capabilities of the system and access to the system by investigators.
- The Monitor found that access to the system by the Police Commission, Inspector General and Chief of Police complied with Consent Decree requirements; however, the Monitor withheld a determination of the Department's compliance with the paragraph governing this access, pending the review and approval of required policy outlining access requirements.
- The Monitor reviewed compliance with data capture and retention requirements, but withheld a determination of compliance pending the selection by TEAMS II staff of a larger sample to enable statistically valid conclusions to be drawn.
- The Monitor reviewed the working papers of the TEAMS II staff that is currently reviewing the presence and accuracy rates of the Risk Management Information System (RMIS) data elements. The TEAMS II staff continues to pull samples of records and is preparing a new build for RMIS to be deployed during the month of May. The Monitor withheld a determination of the Department's compliance with these related requirements until it can

review the working papers for the remaining subparagraphs and confirm the success of the latest RMIS deployment.

The Monitor assessed compliance with Consent Decree requirements relative to supervisory review of search warrants and the utilization of a search warrant tracking log. As identified by both the LAPD's Audit Division and the Monitor, the Department continues to struggle with documentation requirements, as search warrant packages -- in varying degrees -- continue to fail to comply with documentation requirements regarding completeness, authenticity, and the appropriateness and legality of officers' actions,¹ as well as requirements regarding supervisory oversight of applicable incidents and post-incident reviews and the completeness and accuracy of the Warrant Tracking Log.

The Monitor assessed the Department's compliance with several Consent Decree requirements related to complaint receipt, maintenance and investigation, again finding the Department in compliance with almost all requirements reviewed. Specifically, the Department achieved compliance with all but two requirements relative to the receipt and maintenance of complaints, and with all specific requirements relative to the investigation of complaints, as well as requirements regarding the standards for credibility determinations to be used in complaint investigations, the adjudication of complaint investigations, and manager review of complaint investigations.

In regards to the management of gang units, the Monitor assessed the Department's compliance with Consent Decree requirements that Area managers ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations, as well as the requirements governing the daily activities of gang unit supervisors, including providing a daily field presence and maintaining an active role in unit operations. Utilizing a new methodology proposed by the City and accepted by the Monitor in October 2006, the Monitor evaluated supervisory oversight reported in several audits completed by the LAPD's Audit Division, and reviewed daily supervisor logs and an inspection conducted by the LAPD's Civil Rights Integrity Division. Based upon these reviews, the Monitor concluded that the Department has not yet achieved compliance with these requirements.

In regards to training, the Monitor determined that the Department complied with the Consent Decree's requirement to train members of the public scheduled to serve on the Board of Rights in police practices and procedures (paragraph 118), and withheld a determination of the Department's compliance with the requirement regarding the de-selection of Field Training Officers, pending additional review that will occur during the quarter ending June 30, 2007.

The Monitor completed its review and evaluation of three audits submitted by the LAPD's Audit Division: the *Warrant Applications and Supporting Affidavits Audit*, the *Motor Vehicle and*

¹ The Monitor notes that although there were concerns in relation to the documentation of the officers' actions, AD concluded that the Department was in 100% compliance with the articulation of the legal basis for the warrants.

Pedestrian Stops Audit and the *Complaint Form 1.28 Investigations Audit, Phase I*. The Monitor found the *Motor Vehicle and Pedestrian Stops Audit* and the *Complaint Form 1.28 Investigations Audit, Phase I* in compliance. The Monitor found the *Warrant Applications and Supporting Affidavits Audit* non-compliant based on AD's failure to identify a number of material issues; however, the Monitor concurred with the audit's conclusions that the Department was non-compliant with at least one aspect of each of the seven objectives tested.

Lastly, the Office of the Inspector General (OIG) continues its exceptional oversight, producing thorough, high-quality reviews that improve each quarter. During the current quarter, the Monitor assessed reviews conducted by the OIG of three Audit Division audits -- the *Arrest, Booking and Charging Reports Audit*, the *Supplemental Non-Categorical Use of Force Reports Audit*, and the *Gang Enforcement Detail Work Product Assessment Summary* -- concluding that all three were quality reviews. The Monitor also assessed the OIG's review of all Categorical Use of Force investigations, which are required to be provided to the Police Commission. The Monitor reviewed reports presented by the OIG to the Police Commission in the months June 2006 to December 2006, finding the reviews to be organized, thorough and clear, and in compliance with Consent Decree requirements. Finally, the Monitor reviewed OIG's *Complaint Investigations Audit*, dated December 28, 2006, finding that it complied with Consent Decree requirements that the OIG continue to assess the quality and completeness of complaint investigations.

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- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending March 31, 2007
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

I. INTRODUCTION

The City of Los Angeles (the City) 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. The original term of the Consent Decree expired on June 15, 2006. On May 15, 2006, Judge Gary Allen Feess ordered that the Consent Decree be extended for an additional three years, commencing on July 1, 2006.

This, the Monitor's twenty-third report, covers the results of the Monitor's compliance assessments conducted during the quarter ending March 31, 2007. As described in our Report for the Quarter Ending June 30, 2006, during the three-year extension to the Consent Decree, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the Consent Decree with which the City has failed to achieve substantial compliance during its original term. As further described in that report, the City and the DOJ (the parties) agreed, and the Monitor concurred, that the Department had achieved substantial compliance with a substantial number of paragraphs of the Consent Decree, and the Monitor would not be actively monitoring or reporting on the Department's compliance with these paragraphs. This is not to say that the City can ignore any of the provisions of the Decree. If there is any indication of backslide in any paragraph not being actively monitored, the Monitor will notify the parties and determine whether renewed active monitoring of such paragraph is appropriate. As such, the City continues to be bound not only to reforming those areas in which reform has not yet been completed, but also to maintaining those reforms that have been successfully implemented.

The introduction sections to each of the substantive areas reviewed in the remainder of this report include the specific paragraphs upon which the Monitor will be reporting during the extension period i.e. those paragraphs of the Decree with which the City has failed to achieve substantial compliance. For informational purposes, also included in footnotes under each introduction section are those paragraphs for which the City has achieved substantial compliance.²

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

² The Department has also achieved substantial compliance with several paragraphs that are not referred to in the footnotes in the introduction sections of this report, as the pertinent sections of the Consent Decree, in their entirety, are no longer being actively monitored and reported on. These are: paragraphs 111-113 (Development of Program for Responding to Persons with Mental Illness) and paragraphs 155-156 (Community Outreach and Public Information).

the Consent Decree for the last five quarters, beginning with the quarter ending March 31, 2006.³ 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.⁴ 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.

³ 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.

⁴ The Report Card included as Appendix A to the Report for the Quarter Ending June 30, 2006 contains a comprehensive listing of all Consent Decree paragraphs; the comments section of that Report Card identifies those paragraphs which are not scheduled to be actively monitored and reported on during the three-year extension of the Consent Decree. Subsequent Report Cards i.e. those issued during the three-year extension, include only those paragraphs that are being actively monitored and reported on during the extension period.

II. FOCUS ISSUES

A. THE EVENTS OF MAY 1

On May 1, 2007, what had been by all accounts a peaceful demonstration by thousands of pro-immigration demonstrators in and around MacArthur Park turned violent when a relatively small group of demonstrators began throwing objects at police. The police responded by deploying the Metropolitan Division of the Department, who forcefully cleared the park.

While the details of exactly what occurred and why have yet to be determined, the police actions that occurred on May 1, 2007 have raised many questions. Los Angeles residents and visitors deserve, and rightfully demand, that the LAPD respect and uphold the law, protect them from harm when possible and never needlessly use force. Clearly, a full and thorough investigation of the events of that day is necessary; however, at the same time, we should not allow the incident to obscure the significant progress that has otherwise been made by the Department for almost six years, since June 2001.

Change is difficult. It is particularly difficult in large organizations, and it is not unusual or unexpected that vestiges of pre-change behavior may, at times, be revealed. The challenge for the Department is how to respond when this occurs.

In the aftermath of May 1, 2007 we are encouraged by the investigations that have been launched by the Department and Police Commission and the personnel actions that have been taken thus far. And while, at this point, there are many more questions than answers, from our conversations with the Chief of Police and the Inspector General we believe that the answers to those questions will be obtained.

Specifically, with regard to the incident itself, the questions of command, control, strategy and tactics at the scene, as well as deviation from Departmental policies and procedures relative to permissible uses of force, must be fully examined. Likewise, questions relative to the composition, training and readiness of the Metropolitan Division must be answered. We will be following these investigations closely in order to ensure that answers are obtained, and that appropriate remedial actions undertaken and discipline imposed in order to make certain that the events of May 1 are never repeated.

B. FINANCIAL DISCLOSURE

During this quarter, the issue of financial disclosure as required by paragraph 132 has again become an area of concern. In our Report for the Quarter Ending March 31, 2006, we advised that the Court had denied a motion to amend the Consent Decree, and had ordered that the Financial Disclosure requirement contained in the Decree be implemented. At the time, we

indicated our hope that the parties could address the Court's concerns with alacrity and come up with a policy that represented best practice. Unfortunately, the City has been unable to reach an agreement with the Police Protective League on the appropriate parameters of financial disclosure. The Monitor continues to believe that it is in the best interests of the parties and the citizens of the City of Los Angeles that an agreement implementing appropriate financial disclosure be reached.

Paragraph 132 requires the following:

The LAPD shall require regular and periodic financial disclosures by all LAPD officers and other LAPD employees who routinely handle valuable contraband or cash. The LAPD shall periodically audit a random sample of such disclosures to ensure their accuracy. When necessary, the LAPD shall require the necessary waivers from such officers.

The purpose of financial disclosure as a prerequisite for positions of trust is five-fold. First, to potentially detect officers and employees engaging in wrongdoing through disclosure or through the process of verifying unexplained wealth. Second, to detect potential conflicts of interest. Third, to detect officers and employees who are in financial difficulty in order to identify those who, because of their financial situation, might be susceptible to the temptations that routine handling of valuable cash or contraband poses. Fourth, to determine whether a particular officer who may have evidenced irresponsibility in the handling of his or her financial matters is responsible enough to handle valuable contraband or cash. And lastly, to serve as a potential deterrent to those in the affected units who, because of the disclosure (and verification) procedures, would refrain from engaging in conduct which they otherwise might.

Today, in order to join the Los Angeles Police Department, potential recruits must complete financial disclosure forms and authorize the examination of their credit reports for the purpose of evaluating their suitability for the position of police officer. Moreover, many officers who serve in joint federal task forces, including the Joint Terrorist Task Force and various drug task forces, must likewise complete financial disclosure forms and authorize an examination of their credit reports, understanding that there will be periodic reinvestigations of their financial situations for as long as they remain on the task force. In fact, all federal law enforcement officers, regardless of whether they handle cash or contraband, are required to submit to such scrutiny.

Indeed, financial disclosure is made by many of us every day in every day situations. When we want a retail store to allow us credit, we provide financial disclosure and authorize the examination of our credit reports, upon which that retail store bases its decision of whether we are responsible enough to be accorded the privilege of credit. The Monitor believes that the decision of whether to appoint a police officer to a position in which they will be handling valuable cash or contraband is no less important a decision, and that every available means to determine suitability for such a position should be utilized. We also firmly believe, as has been the case with financial disclosure material from police department applicants and those officers who serve on joint federal task forces, that all information contained on such disclosures must be held in the strictest of confidence, inaccessible through ordinary Pitchess Motions or routine

discovery. We again express our hope that this matter can be resolved quickly, with appropriate safeguards, in order to best serve the people of Los Angeles.

III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

A. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY – TEAMS II [COMPUTER INFORMATION SYSTEM]

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

The Monitor and the City have recognized that the original timeline for completion of the TEAMS II project has not been met; however, the City has continued to work on and roll-out the TEAMS II system throughout the term of the Consent Decree and the extension. The Monitor has always recognized the numerous challenges presented by the scope of the TEAMS II project and commends the City for the strides taken to meet these challenges.

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

- RMIS continues to make TEAMS Individual Reports available Department-wide and the Department has given instructions to officers for reviewing their own individual TEAMS reports for accuracy. A presentation of RMIS was made to Command Staff on December 12, 2006 to refresh their training. The Department began the roll-out of RMIS Action Items⁷ on February 15, 2007 and all action items were completely rolled out by March 12, 2007. RMIS is now implemented Department-wide.
- The City rolled-out Phase 1 of CMS to the Internal Affairs Group (IAG) and the Professional Standards Bureau (PSB) during the week of November 13, 2006. CMS Phase 1 is sufficient

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

⁶ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports (FDRs) regarding pedestrian and motor vehicle stops.

⁷ Action Items are automated or supervisor-generated notifications that identify employees whose performance may indicate a need for monitoring. Automated action items are generated when performance-related data such as uses of force is compared to stops or arrests and specific individual performance thresholds are exceeded. Supervisor-generated notifications are used to conduct periodic performance monitoring, such as annual performance evaluations or assignment to specialized units.

to satisfy RMIS data requirements. The City no longer enters complaint data into the PSB complaint databases; all complaints are now entered into CMS. All 1.28 complaint forms are now completed on the spot and a confirmation letter is handed to the complainant immediately. This new, streamlined process is a significant improvement over past practice, where it would take as long as one week for a confirmation letter to be generated. The Department will deploy CMS Phase I to all geographic areas by the end of April 2007. The Department hopes to roll out the full CMS, which includes some additional functionalities but is not a requirement for Consent Decree compliance, in the second quarter of 2007.

The Department has not yet achieved substantial compliance with the majority of Consent Decree requirements related to TEAMS II (paragraphs 39-44, 46-49, 50d and e, 51b-e, 52-54, and 83).⁸ Although the Monitor was originally scheduled to assess some of those paragraphs during the quarter ending December 31, 2006, at the City's request, the Monitor agreed to postpone such review until next quarter in order to appropriately review RMIS and CMS. Now that all four TEAMS II systems are completed and rolled-out Department-wide as of the first quarter of 2007, the Monitor will be assessing the Department's compliance with these paragraphs during upcoming quarters.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 40, 41, 43, 49 and 83. The results of our current assessments follow.

Paragraph 40 – Police Commission, Inspector General and Chief of Police Access to TEAMS II

Paragraph 40 requires that the Police Commission, the Inspector General (IG), and the Chief of Police shall each have equal and full access to TEAMS II and the Department shall establish a policy with respect to granting or limiting access to TEAMS II by all other persons, including the staff of the Commission and the IG.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 40.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 40 during the current quarter, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of the Department policy, the TEAMS II Access Control Matrix, and TEAMS II User Access Profiles

⁸ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 50a-c and 51a from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

for the Police Commission, the IG and the Chief of Police, as well as their staff. The Monitor also interviewed various persons in these entities to verify their access to TEAMS II and to demonstrate its capabilities. The Access Control Matrix and User Access Profiles for the Police Commission, the IG and the Chief of Police indicate that each have equal and full access to TEAMS II, as required by paragraph 40.

The OIG will handle all TEAMS II information requests by the five Commissioners; such requests will be forwarded to the OIG through the Executive Director of the Commission. The IG and his staff have full and equal access to TEAMS II, except for confidential employees.⁹ Confidential employees are flagged while they are on special assignment; when they leave the Department, their TEAMS information is accessible. The TEAMS II staff found one staff member of the OIG who could not access one terminated confidential employee because the flag was not removed; TEAMS II staff has since fixed this issue.

The TEAMS II staff conducted an audit on peer groups and found 17 employees, mostly civilians, without peer groups. As such, these employees could not access their own TEAMS report. This issue has since been resolved, so that the TEAMS reports of these employees are now available to them.

The Monitor reviewed the TEAMS II staff's working papers, including the Access Control Matrix and User Access Profiles for the Police Commission, the OIG, the Chief of Police, and their staffs and concurs with the findings of the TEAMS II staff.

Lastly, the TEAMS II staff has drafted a policy that outlines the requirements of paragraph 40, including granting or limiting access to TEAMS II by all other persons, including the staff of the Commission and the IG. This policy is currently in the review and approval process. Once this policy is published and distributed to the Department, TEAMS II and the Department will have addressed the requirements of paragraph 40.

Based on the foregoing, the Monitor withholds a determination of the Department's compliance with paragraph 40.

Paragraph 41 – Information to be Contained in TEAMS II

Paragraph 41 requires that TEAMS II contain information the following information:

- a. all non-lethal uses of force that are required to be reported in LAPD "use of force" reports or otherwise are the subject of an administrative investigation by the Department;
- b. all instances in which a police canine bites a member of the public;

⁹ Only the Chief of Police has access to the records of confidential employees while they are employed by the Department.

- c. all officer-involved shootings and firearm discharges, both on-duty and off-duty (excluding training or target range shootings, authorized ballistic testing, legal sport shooting events, or those incidents that occur off-duty in connection with the recreational use of firearms, in each case, where no person is hit by the discharge);
- d. all other lethal uses of force;
- e. all other injuries and deaths that are reviewed by the LAPD Use of Force Review Board (UOFRB) (or otherwise are the subject of an administrative investigation);
- f. all vehicle pursuits and traffic collisions;
- g. all Complaint Form 1.28 investigations;
- h. with respect to 41a through g, above, the results of adjudication of all investigations (whether criminal or administrative) and discipline imposed or non-disciplinary action taken;
- i. all written compliments received by LAPD about officer performance;
- j. all commendations and awards;
- k. all criminal arrests and investigations known to LAPD of, and all charges against, LAPD employees;
- l. all civil or administrative claims filed with and all lawsuits served upon the City or its officers, or agents, in each case resulting from LAPD operations, and all lawsuits served on an officer of the LAPD resulting from LAPD operations and known by the City, the Department, or the City Attorney's Office;
- m. all civil lawsuits against LAPD officers which are required to be reported to the LAPD pursuant to paragraph 77;
- n. all arrest reports, crime reports, and citations made by officers, and all motor vehicle stops and pedestrian stops that are required to be documented in the manner specified in paragraphs 104 and 105;
- o. assignment and rank history and information from performance evaluations for each officer'
- p. training history and any failure of an officer to meet weapons qualification requirements;
- q. all management and supervisory actions taken pursuant to a review of TEAMS II information, including non-disciplinary actions.

TEAMS II further shall include, for the incidents included in the database, appropriate additional information about involved officers (e.g., name and serial number), and appropriate information about the involved members of public (including demographic information such as race, ethnicity, or national origin). Additional information on officers involved in incidents (e.g., work assignment, officer partner, field supervisor, and shift at the time of the incident) shall be determinable from TEAMS II.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 41.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 41 during the current quarter, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of the TEAMS II database for selected items required to be included in the TEAMS II database pursuant to this paragraph. Specifically, TEAMS II staff conducted extensive testing of selected random samples of NCUOF (subparagraph 41a); Vehicle Pursuits (subparagraph 41f); Traffic Collisions (subparagraph 41f); complaints (subparagraph 41g); written compliments (subparagraph 41i); commendations and awards (subparagraph 41j); claims (subparagraph 41l); lawsuits (subparagraph 41m); arrest reports (subparagraph 41n); and training rosters for training history (subparagraph 41p). For each of these required items, they then obtained relevant source documents and compared them against data in RMIS to determine if the required data elements associated with these items¹⁰ were populated in RMIS (presence rate) and whether the information included in RMIS is accurate (accuracy rate).

During the testing, TEAMS II staff determined that for most required items tested, not all data elements were populated in RMIS and not all of the required elements that were populated were accurate.

- 41(a): TEAMS II staff tested a random sample of 50 NCUOF for a total of 55 data elements. Thirty-four of the 55 data elements reviewed were populated in RMIS for all 50 NCUOF incidents reviewed (a presence rate of 100%), eight data elements had presence rates below 100%¹¹ and 13 were not applicable. Regarding the accuracy rates, which were calculated based on 55 total data elements reviewed, 36 data elements were populated in RMIS at accuracy rates of 94% or greater, five were below 94%¹² and 14 were not applicable.
- 41(f): TEAMS II staff tested a random sample of 99 vehicle pursuits for a total of 34 data elements. Twenty-two of the 34 data elements had a presence rate of 100% and 12 data elements had presence rates below 100%.¹³ Regarding the accuracy rates, 21 of the 34 data

¹⁰ The data elements for NCUOF and all other requirements describe herein were agreed upon by all parties and included in Appendix A of the RMIS Design Document.

¹¹ One data element was populated in RMIS for 82% of the NCUOF reviewed, 1 data element was at 80%, 1 was at 76%, 1 at 73%, 1 at 65%, and 3 were at 0%.

¹² One was at 83%, 1 at 82%, 1 at 73%, 1 at 65%, and 1 at 0%.

¹³ Three data elements were populated in RMIS for 99% of the vehicle pursuits reviewed, 1 data element was at 98%, 1 was at 87%, 1 was at 86%, and 6 ranged from 60% to 1%.

elements were populated in RMIS at accuracy rates of 94% or greater and 13 were below 94%.¹⁴

- 41(f): TEAMS II staff tested a random sample of 99 traffic collision for a total of 14 data elements. Eleven of the 14 data elements had presence rates of 100% and three data elements had presence rates below 100%.¹⁵ Regarding the accuracy rates, 10 of the 14 data elements were populated in RMIS at accuracy rates of 94% or greater, one was below 94%,¹⁶ and three were not applicable.
- 41(g): TEAMS II staff tested a random sample of 104 closed complaints for a total of 31 data elements.¹⁷ Twenty-two of the 31 data elements had presence rates of 100%, seven data elements had presence rates below 100%¹⁸ and two were not applicable. Regarding the accuracy rates, 20 of the 31 data elements were populated in RMIS at accuracy rates of 94% or greater, 9 were below 94%¹⁹ and two were not applicable.
- 41(j): TEAMS II staff tested a random sample of 50 major commendations and 50 minor commendations²⁰ found in employee's Personnel and Divisional packages for a total of five data elements. The presence rates were 100% for all five data elements tested and the accuracy rates for all five data elements populated in RMIS were 94% or greater.
- 41(l-m): TEAMS II staff tested a random sample of 50 closed claim and lawsuit records for a total of 24 data elements.²¹ Fourteen of the 24 data elements had presence rates of 100% and 10 data elements had presence rates below 100%.²² Regarding the accuracy rates, 17 of 24 data elements were populated in RMIS at accuracy rates of 94% or greater²³ and seven were below 94%.²⁴

¹⁴ Of these 13 data elements, 1 was at 93%, 2 were at 92%, 2 were at 88%, 1 was at 87%, 1 was at 86%, 1 was at 84%, 1 was at 79%, 1 was at 60%, 2 were at 50% and 1 was at 37%

¹⁵ The three data elements were populated in RMIS at 0%.

¹⁶ One data element was at 71%.

¹⁷ Nine of the data elements had multiple entries for each record/complaint.

¹⁸ One data element was populated in RMIS for 99% of the complaint records reviewed, 1 data element was at 95%, 1 at 93%, 1 at 89%, 1 at 68%, 1 at 45%, and 1 at 0%.

¹⁹ One data element was at 90%, 1 at 89%, 1 at 85%, 1 at 72%, 1 at 68%, 1 at 49% 1 at 45%, 1 at 5%, and 1 at 0%.

²⁰ Major commendations must be approved by the Board; otherwise they are classified as minor commendations.

²¹ The 24 data elements are found in the RMIS design document and 16 of the data elements contained multiple entries, such as personally identifiable information.

²² One data element was populated in RMIS for 99% of the records reviewed, 1 data element at 98%, 1 at 97%, 1 at 96% and the remainder were below 90%.

²³ Six data elements were at 100%, 2 were at 97.75%, 1 was at 95.51% and 1 was at 96.63%.

²⁴ One data element was at 93%, 1 at 88%, 1 at 91%, 2 at 80%, 1 at 79% and 1 at 69%.

- 41(n): The TEAMS II staff selected a random sample of 41 arrest reports for a total of 25 data elements. Eight of the 25 data elements had presence rates of 100%, 16 data elements had presence rates below 100%²⁵ and one was not applicable. Regarding the accuracy rates, nine of the 25 data elements were populated in RMIS at accuracy rates of 94% or greater, 14 were below 94%²⁶ and two were not applicable.
- 41(p): The TEAMS II staff selected a random sample of 100 training rosters for a total of seven data elements. Four of the seven data elements had presence rates of 100%, two data elements had presence rates below 100% and one was not applicable. Regarding the accuracy rates, four of the seven data elements were populated in RMIS at accuracy rates of 94% or greater, two were below 94% and one was not applicable.

During their review, TEAMS II staff compiled detailed items of issues identified.²⁷ Upon completion of their review, they began putting together a build for RMIS, which should be completed in mid-May 2007, that will make all of the changes necessary to correct the issues described above. Upon completion of the build, the TEAMS II staff will review these subparagraphs again to determine if the changes resolved the issues identified in connection with the presence and accuracy rates. The TEAMS II staff is also currently pulling samples of records for several remaining subparagraphs. When this testing is completed, the Monitor will conduct another review to determine whether the requirements of these subparagraphs, and of paragraph 41, overall, have been met.

Based on the foregoing, the Monitor withholds a determination of the Department's compliance with paragraph 41. The Monitor commends both the Department and the TEAMS II staff for the progress they are making, as well as the time and effort being expended in connection with the extensive testing described above.

Paragraph 43 – Data Analysis Capabilities

Paragraph 43 requires that TEAMS II shall include relevant numerical and descriptive information about each item and incident and scanned copies of relevant documents. TEAMS II shall have capability to search and retrieve numerical counts, percentages and other statistical analyses for individual employees, LAPD units, groups of officers, incidents or items and groups of incidents or items. TEAMS II shall have the capability to search and retrieve this information for specific time periods, based on combinations of data fields contained in TEAMS II.

²⁵ One data element was populated in RMIS at 91%, 11 at 90%, 1 at 71%, 1 at 66%, 1 at 34%, and 1 at 0%.

²⁶ Of the 14 data elements, 10 were at 90%, 1 at 85%, 1 at 80%, 1 at 32%, and 1 at 0%.

²⁷ These issues concern data elements that do not appear in RMIS or for which system fixes or other additional work must be performed. Some examples include: in testing NCUOF, the "address" data element did not show up in RMIS when an intersection was entered; the data elements "duration time" and "suspect apprehended" exist in the source documents but were not being inputted correctly into the source system; the field for the data element "supervisor on scene" is found in CMS but not RMIS; and the data element "city arrest occurred" was not tracked on source documents and, therefore, RMIS.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 43.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 43 during the current quarter, the Monitor attended training sessions for RMIS and the UOFS, and reviewed standard RMIS monthly reports, as well as different ad hoc queries that are available upon request, in order to ensure that TEAMS II has the capability to search and retrieve the information required in paragraph 43, including specific time periods, combinations of data fields, numerical counts, percentages, and other statistical analyses for both individual employees and groups of officers, incidents or items.

The Monitor has attended numerous training sessions for RMIS and the UOFS, including the most recent being an RMIS training session on February 21, 2007 at the TEAMS II facilities. The Monitor found relevant and descriptive information about various items and incidents included in TEAMS II, most categories which are covered in paragraph 41. There are scanned copies of certain documents available in RMIS and the UOFS, making reviews user-friendly. Also, the APRIS and ICARs systems, which contain employee information such as crimes and arrest reports, both contain attached documents, as well; these systems will eventually be linked to RMIS. Overall the Monitor was impressed with these systems capabilities, and felt that it met the requirements of paragraph 40 regarding the inclusion of relevant numerical and descriptive information about each item and incident and scanned copies of relevant documents.

Additionally, the Monitor has reviewed 34 different monthly reports produced by RMIS, including four individual summary and comparison reports, fifteen different summary and comparison reports for units and/or workgroups and fifteen different incident reports. These reports include comparisons of individuals and groups to various incidents or items for a particular date range selected, including but not limited to the number of uses of force to stops and arrests, the number of complaints to stops and arrests and the number of claims and lawsuits to stops and arrests, as well as information on each of the individual incidents. The Monitor determined that these reports meet the paragraph 43 requirement that TEAMS II has the capability to search and retrieve numerical counts, percentages and other statistical analyses for individual employees, LAPD units, groups of officers, incidents or items and groups of incidents or items.

Lastly, the capability for supervisors and managers to create their own ad hoc reports is currently in development. This will allow supervisors and managers to take any number of individuals or organizations, incidents and date ranges and produce their own specific reports to compare the categories selected. Currently, the TEAMS II staff can run ad hoc queries upon request until such time as RMIS allows these ad hoc reports to be created in its system.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 43. As the Monitor begins to use TEAMS II as a monitoring tool, we will continue to assess the extent to which the requirements of this paragraph are being met.

Paragraph 49 – Data Capture and Retention

Paragraph 49 requires that the City shall maintain all personally identifiable information about an officer included in TEAMS II during the officer's employment with the LAPD and for at least three years thereafter. Information necessary for aggregate statistical analysis shall be maintained indefinitely in TEAMS II. On an ongoing basis, the City shall make all reasonable efforts to enter information in TEAMS II in a timely, accurate and complete manner, and to maintain the data in a secure and confidential manner consistent with the applicable access policy as established pursuant to paragraph 40.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 49.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 49 during the current quarter, the Monitor reviewed the working papers provided by the TEAMS II staff, who conducted a review of records retention in connection with terminated employees who left LAPD within three years for individual information, as well terminated employees who left LAPD more than three years ago for aggregate information in the TEAMS II system. The TEAMS II staff ran a query of all employees who left the LAPD from January 2002 through December 2006, identifying a total population of 1,939 officers. From this population, TEAMS II staff then selected a random sample of 40 terminated officers²⁸ to determine if the officers' TEAMS reports, thus personally identifiable information, still exist in RMIS. They determined that all 40 terminated officers still had TEAMS reports in RMIS.

Additionally, TEAMS II staff conducted a review to determine if terminated officers' information was still included in the aggregate data comparisons. Because calculation of aggregate data (organizational summaries) was implemented on August 22, 2004, the sample was selected from officers who were terminated after that date. TEAMS II staff conducted a review of three officers to determine if their information was included in a comparison of aggregate data. This review consisted of selecting an area of information from each of the three officers' employee events (i.e. use of force, complaint, arrest) and running a report that provided an organizational comparison summary to determine if such officers' individual events were

²⁸ The sample was selected utilizing a 95% confidence interval and an error rate of +6%.

included in this report. TEAMS II staff determined that all three officers' individual events were included in these organizational comparison summary reports.

While the Monitor reviewed the TEAMS II staff's working papers and concurred that these officers' TEAMS reports were still in RMIS and that aggregate data was still included for comparison purposes, the Monitor concluded that this sample was not statistically valid, as it should have been selected using an error rate of +4%, which is the rate required by the Methodologies. In addition, because this paragraph has not previously been reviewed, a higher acceptable error rate is not appropriate. TEAMS II staff was notified of the Monitor's findings and has agreed to increase their sample size to accommodate this error rate.

Lastly, as described under the Current Assessment of Compliance for paragraph 40, and as required for paragraph 49, TEAMS II staff has drafted a policy that outlines the Department personnel's access to TEAMS II. Once this policy is published and distributed to the Department, and the reviews described above have been corrected to achieve a statistically valid sample and such reviews are found in compliance, TEAMS II and the Department will have addressed the requirements of paragraph 49.

Based on the foregoing, the Monitor withholds a determination of compliance with paragraph 49.

Paragraph 83 – FID and IAG Access to TEAMS II

Paragraph 83 requires that Force Investigation Division (FID) and IAG investigators conducting investigations shall have access to all information contained in TEAMS II, where such information is relevant and appropriate to such investigations, including training records, Complaint Form 1.28 investigations, discipline histories, and performance evaluations.

Background

The Monitor has not previously assessed the LAPD's compliance with paragraph 83.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 83 during the current quarter, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of the Department policy, the TEAMS II Access Control Matrix, and TEAMS II User Access Profiles for all FID and IAG investigators. TEAMS II staff initially found that 58 of 64 investigators received the appropriate access role; TEAMS II staff found that two investigators had their access roles removed due to transfer and four investigators were PO3s, who should not have received access. After further inquiry into this matter regarding the PO3s, TEAMS II staff determined that the four officers in question do not perform investigative functions but, instead, assist the detectives and sergeants and therefore should not be included on the investigator's list. However, a review of the Access Control Matrix revealed that PO3s in FID are authorized to

receive this access role even if they do not perform investigative functions. Therefore the TEAMS II staff concluded that all 64 FID investigators had appropriate access to TEAMS II. The Monitor reviewed all 64 investigators and their related working papers and concurs with the TEAMS II staff's findings.

TEAMS II staff determined that 116 of 128 IAG investigators received the appropriate access role, three investigators had their access roles removed due to transfer, three investigators had their access roles removed due to promotion, and six officers (PO2s) were not provided access due to their non-supervisory status. Therefore the TEAMS II staff found that 128 of 128, or 100% of IAG investigators had appropriate access to TEAMS II. The Monitor reviewed all 128 investigators and their related working papers and concurs with the TEAMS II staff's findings.

In sum, all 192 investigators (64 FID investigators and 128 IAG investigators) have appropriate access as required by paragraph 83.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of paragraph 83.

B. 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)²⁹ 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.³⁰ Administrative investigations of these incidents are the responsibility of the Force Investigation Division (FID). All completed CUOF incident investigations must be presented to a 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 NCUOF. These are also subject to certain paragraphs.³¹ 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.

²⁹ 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 (LERI) requiring hospitalization; Neck Restraint; Head Strike with an Impact Weapon; and a Canine Bite requiring hospitalization.

³⁰ 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.

³¹ Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

The Department has achieved substantial compliance with all Consent Decree provisions relating to uses of force except those requiring managers to analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a); the referral of all officers involved in a CUOF resulting in death or the substantial possibility of death to the LAPD's Behavioral Science Services for a psychological evaluation (paragraph 63); and managers' consideration of the officer's work history, including information contained in the TEAMS II system and that officer's CUOF history when reviewing and making recommendations regarding discipline or non-disciplinary action as a result of a CUOF (paragraph 64). In addition, the Department has not yet achieved substantial compliance with several Consent Decree provisions regarding use of force investigations (subparagraph 80i) and access to information contained in TEAMS II for those units conducting CUOF investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above). As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree;³² assessments are scheduled for the quarter ending June 30, 2007.

C. SEARCH AND ARREST PROCEDURES

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. Although the Department has achieved substantial compliance with many of the Consent Decree's requirements related to search and arrest procedures,³³ it has not achieved substantial compliance with the requirement related to supervisory presence at and review of the service of search warrants (subparagraphs 62b, 70b, 70c and paragraph 71) and the search warrant log (paragraph 72). As a result, the Monitor will be assessing the Department's compliance with these paragraphs and subparagraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the LAPD's compliance with Consent Decree requirements relative to supervisory review of search warrants (paragraph 71) and the search warrant tracking log (paragraph 72). The results of our current assessment follow.

³² The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 55-61 and 65-69 from this section of the Consent Decree. In addition, many of the paragraphs included in Section D. Complaints, below, are related to this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

³³ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraph 70a and paragraph 73 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Paragraph 71 – Supervisory Review of Warrants

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

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

Background

The Monitor last assessed the LAPD’s compliance with paragraph 71 during the quarter ending March 31, 2006, at which time the Monitor found the LAPD in compliance with subparagraph 71a but in non-compliance with subparagraphs 71b and c. The Monitor reviewed Audit Division’s (AD) *Warrant Applications and Supporting Affidavits Audit Report* submitted February 22, 2006, which found the LAPD in compliance with subparagraph 71a and in non-compliance with subparagraphs 71b and c. During its meta-audit, the Monitor found nine material issues and numerous administrative issues that were not identified by AD. These additional material findings would have further reduced the compliance percentages calculated by AD, but would not have changed the overall compliance findings.

Current Assessment of Compliance

In order to assess the LAPD’s compliance with paragraph 71 during the current quarter, the Monitor reviewed AD’s *Warrant Applications and Supporting Affidavits Audit Report* submitted December 28, 2006. The Monitor conducted a meta-audit of AD’s audit and findings, noting that AD included sealed (Hobbs) warrants in this, its fifth *Search Warrant Audit*.

During its audit, AD selected a sample of 97 warrant packages from a total population of 167 warrants that were prepared and/or served Department-wide during July 2006. AD reviewed each of the 97 warrant packages for compliance with subparagraphs 71a, b and c, among others, and found the LAPD in non-compliance with subparagraphs 71a, b and c.

In assessing compliance with subparagraph 71a, regarding completeness of the information and an authenticity review for warrants reviewed, AD determined that eight packages were non-

compliant with the requirement regarding completeness of information,³⁴ resulting in a compliance rate of 92% (89 of 97), eight packages were non-compliant with the requirement regarding canned language, resulting in a compliance rate of 92% (89 of 97) and 23 packages were non-compliant with the requirement regarding inconsistent information, resulting in a compliance rate of 76% (74 of 97).³⁵

In assessing compliance with subparagraph 71b, regarding underlying actions for warrants reviewed, AD determined that 39 packages were non-compliant with the requirements regarding appropriateness and legality³⁶ and conformance with LAPD procedures, resulting in a compliance rate of 60% (58 of 97).

In assessing compliance with subparagraph 71c, regarding supervisory oversight for warrants reviewed, AD determined that six packages were non-compliant with the requirements regarding application/affidavit,³⁷ resulting in a compliance rate of 94% (91 of 97), nine packages were non-compliant with the requirements regarding supervisory oversight of applicable incidents,³⁸ resulting in a compliance rate of 88% (66 of 75),³⁹ and seven packages were non-compliant with the post-incident review requirement,⁴⁰ resulting in a compliance rate of 91% (68 of 75).

As described in further detail under the Current Assessment of Compliance for paragraphs 128(1), 131c-1 and 131e, below, during its meta-audit, the Monitor evaluated AD's findings for a sample of 38 warrants reviewed by AD. The Monitor found numerous material issues that were not identified by AD. These additional material findings would have further reduced the

³⁴ Four warrants did not include a Warrant Service Tactical Plan Report as required; two warrants did not include a Property Report as required; one warrant did not include a Receipt for Property as required; and one warrant did not include a Search Warrant Return as required.

³⁵ The authenticity objective comprises canned language, inconsistent information and articulation of legal basis (which AD found in compliance).

³⁶ These 39 warrants had errors or omissions in connection with the "search warrant info" boxes of the Property Report; articulation of justification for night service; failure to return the warrant within the time required; absence of a Warrant Service/Tactical Plan Report as required; absence of CO analysis of the service; absence of dates for the supervisory review; and absence of the date of the debrief or the date of the CO's analysis. There was overlap among the anomalies in certain packages.

³⁷ The six warrants did not include documentation indicating review by a supervisor.

³⁸ Four warrants did not document that a Lieutenant or above was present at service when GED personnel were present; four packages documented the affiant as supervisor on scene; three packages did not have a supervisor of appropriate rank on scene at service; and two packages did not indicate that a supervisor reviewed the Warrant Service/Tactical Plan Report. There was overlap among the anomalies in certain packages.

³⁹ Of the 97 warrants reviewed, 22 involved third party records, such as telephone records, and were therefore not reviewed for compliance with the supervisory review requirements.

⁴⁰ Six warrants did not document that a debrief took place by the next day; six warrants did not indicate that the CO evaluated the Warrant Service/Tactical Plan Report; six warrants did not indicate the appropriateness of service; and four warrants did not document that a supervisor reviewed the written debrief critique. There was overlap among the anomalies in certain packages.

compliance percentages calculated by AD for subparagraphs 71a, b and c, but would not have changed the overall compliance findings.

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

Paragraph 72 – Supervisory Review of Warrant Log

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

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 72 during the quarter ending March 31, 2006, at which time the Monitor found the LAPD in non-compliance. The Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report* submitted February 22, 2006, which found the LAPD in non-compliance with paragraph 72. During its meta-audit, the Monitor evaluated AD's findings for a sample of warrants reviewed by AD and concurred with AD's findings and conclusions in relation to paragraph 72.

Current Assessment of Compliance

In order to assess the LAPD's functional compliance with paragraph 72 during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report*, submitted December 28, 2006. As described in the Current Assessment of Compliance for paragraph 71, above, the Monitor conducted a meta-audit of AD's audit and findings, noting that AD included sealed (Hobbs) warrants.

AD selected and reviewed a sample of 97 warrant packages⁴¹ and the corresponding warrant tracking log for compliance with paragraph 72 and found the LAPD in non-compliance. AD concluded that 31 warrants were non-compliant with the requirements regarding completeness and accuracy of the Warrant Tracking Log, resulting in a compliance rate of 68% (66 of 97).

⁴¹ Refer to the Current Assessment of Compliance for paragraph 71 for information regarding the audit population and sample.

As described in detail under the Current Assessment of Compliance for subparagraphs 128(1), 131c-1 and 131e, below, during its meta-audit, the Monitor evaluated AD's findings for a sample of 36 warrants reviewed by AD. The Monitor found three material issues that were not identified by AD and two that were identified by AD but were not included in its report.

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

D. COMPLAINTS

The Consent Decree directs the LAPD to ensure the public unfettered ability to lodge complaints against police officers, and provides specific requirements relative to the intake of complaints, including the continuation of a 24-hour toll-free complaint hotline. The Decree also provides a series of specific instructions relating to the conduct of complaint investigations and requires that misconduct complaints be adjudicated in a fair, timely and consistent fashion; provides specific requirements relative to the adjudication process, including standards for credibility determination and categories for final adjudication; and provides specific requirements regarding the imposition and reporting of disciplinary and non-disciplinary action. In addition, the Chief of Police must report to the Police Commission on his imposition of discipline during each calendar quarter. The OIG must review, analyze and report to the Police Commission on the Chief's actions, and the Police Commission must assess the appropriateness of his actions.

The Department has achieved substantial compliance with many of the Consent Decree's requirements relative to complaints intake, investigation, adjudication and reporting.⁴² However, the Department has not yet achieved substantial compliance with Decree requirements relative to the receipt and maintenance of complaints (paragraph 74); the investigation of complaints (certain subsections of subparagraph 80ii and paragraph 81⁴³); access to information contained in TEAMS II for those units conducting specified complaint investigations (paragraph 83, which is reported on in *A. Management and Supervisory Measures to Promote Civil Rights Integrity – TEAMS II [Computer Information System]*, above); standards for credibility determinations (paragraph 84); adjudication of complaint investigations (paragraph 85); and manager review of complaint investigations (paragraph 90). As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the LAPD's compliance with paragraph 74, pertinent provisions of paragraphs 80ii and 81, and paragraphs 84, 85 and 90.

⁴² The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 75-78, 79, certain provisions of paragraph 80, and paragraphs 82, 86-89, 91-96 and 98-101 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

⁴³ The parties agreed that during the extension the Monitor will assess subparagraph 80ii, subsections a and f, and paragraph 81 as it relates to subparagraph 80ii, subsection f.

Paragraph 74 – Complaint Intake

Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials and continue the operation of a 24-hour toll free telephone complaint hotline. Specifically, the Department must continue to provide for the receipt of complaints as follows:

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

Background

During the quarter ending March 31, 2005, the Monitor elected to separately report on the LAPD's compliance with the various subparagraphs of paragraph 74. The Monitor reported on compliance with subparagraphs 74a, b, f, h and g during the quarter ending September 30, 2006 finding the LAPD in compliance with subparagraphs 74a, b, f and h and in non-compliance with subparagraph 74g.

Current Assessment of Compliance

In order to assess compliance with subparagraphs 74 a, b, f and h during the current quarter, the Monitor requested and received a listing of all complaint investigations completed during the

period December 1, 2006 through December 31, 2006. From this listing, the Monitor randomly selected 83 investigations for review.⁴⁴ The Monitor noted the following:

- For all 83 investigations, the complaints were received either in writing, verbally, in person, by telephone, or by mail. Although none of the complaints selected were received via facsimile or email, the LAPD is capable of receipt via either method (subparagraph a).
- None of the 83 complaint investigations selected were received by the Department anonymously.
- For all 83 investigations, the complaints were assigned unique complaint file numbers (subsection f).⁴⁵
- For all 83 investigations, the Monitor noted no instances in which the LAPD required the complainants to sign a form or waiver that in any way limited their ability to submit a complaint or file a lawsuit (subsection h).

In order to assess compliance with subparagraphs 74d and g, the Monitor reviewed and subsequently relied on AD's *Complaint, Form 1.28 Investigations Audit*, dated December 27, 2006, and related working papers.⁴⁶ The Monitor noted the following:

- AD conducted visits to 28 locations in an effort to verify the availability of complaint material in all mandated languages⁴⁷ and the availability of pre-addressed, postage paid envelopes. The identified population of complaint material totaled 392 of which the LAPD AD verified the existence of 362 or 92.3%.⁴⁸
- AD determined that the Department was unable to automatically tape-record all incoming calls to the hotline at Detective Support Division (DSD). The hotline was not at the Department Command Post (DCP) for the periods selected in the audit. AD also identified reliability issues with the equipment used and determined that personnel assigned to man the hotline off-hours lack expertise in handling complaints. The AD noted that calls to the

⁴⁴ A random, statistical sample of 83 investigations was selected out of a population of 568 complaint investigations completed during the period December 1, 2006 through December 31, 2006 utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

⁴⁵ For duplicate complaints, a unique complaint file number is assigned, however, once determined to be a duplicate, the more recent complaint file is combined with the first complaint file and investigated as one complaint.

⁴⁶ Refer to the Current Assessment of Compliance for paragraph 129iii for information regarding the Monitor's assessment of the AD's *Complaint, Form 1.28 Investigations Audit*.

⁴⁷ The seven mandated languages are English, Spanish, Korean, Cantonese, Japanese, Vietnamese and Tagalog.

⁴⁸ AD also included the "Community and Commendation Poster" as an item of compliance; the Monitor does not consider this to be a requirement of subparagraph 74d.

hotline went unrecorded for the period April 27, 2006 through September 29, 2006. Lastly, the AD identified three complaints of misconduct that went unreported by one supervisor.⁴⁹

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraphs 74a, b, f and h, and in non-compliance with subparagraphs 74d and g.

Subparagraph 80ii –Administrative Complaint Investigations

Paragraph 80 defines specific investigative requirements that apply to all CUOF incident investigations and all administrative complaint investigations in which the underlying alleged misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven 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.⁵⁰ The Monitor's assessment of subparagraph 80ii, related to administrative complaint investigations, follows.

⁴⁹ Although the current system is capable of recording multiple incoming calls, calls were not being recorded during the five-month period indicated. The Department is in the process of implementing a new phone system that will capture incoming complaint calls during non-business hours. PSB will have oversight of the system and will staff the hotline with PSB personnel during normal business hours. As of the audit, there was no time frame for transition from DSD to PSB.

⁵⁰ The Monitor's assessment of subparagraph 80i, related to CUOF investigations, is not reported this quarter. The Monitor's assessment of CUOF investigations will be included in its Report for the Quarter Ending June 30, 2007.

Background

The Monitor last assessed compliance with paragraph 80 as it pertains to administrative complaint investigations (subparagraph 80ii) during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance with subsections a and f.⁵¹

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 74 above, during the current quarter, the Monitor reviewed 83 completed complaint investigations, of which 28 were completed by IAG and 55 were completed by the LAPD's chain of command (COC). In assessing compliance with subsections a and f of subparagraph 80ii the Monitor considered only the 28 investigations completed by the IAG.⁵²

- Of the 28 IAG investigations reviewed, for one investigation the Monitor could not determine whether all interviews were tape recorded.
- The Monitor noted that evidence was not collected in five of the 28 IAG investigations reviewed. In two investigations, Department employees were not interviewed; in two investigations, evidence referenced in the investigation was not preserved; and in one investigation, although the accused officers were interviewed, they were not questioned regarding all of the initial allegations of misconduct.

The Monitor considered the merits of each complaint investigation as a whole, and whether or not items of non-compliance impacted the investigations' overall quality and the ability of a reviewer to properly adjudicate officer actions. Although certain investigations were notably superiorly conducted and reported, 26 provided adequate information to ultimately render a decision. The Monitor believes that the absence of officer statements in two investigations may have influenced the LAPD's adjudication.⁵³

Although not within the purview of subparagraph 80ii, the Monitor noted four investigations in which the allegations were mischaracterized at either the onset or the completion of the investigation.⁵⁴

⁵¹ The parties have agreed that the Department has achieved substantial compliance with subsections b, c, d, e and g of subparagraph 80ii applicable to administrative complaint investigations.

⁵² The remaining 55 completed complaint investigations were used in assessing the LAPD's compliance with paragraph 81.

⁵³ Refer to the Current Assessments of Compliance for paragraphs 84 and 85 regarding officer preference and adjudications.

⁵⁴ One investigation should have included an initial classification of unauthorized force. Another investigation clearly included allegations of harassment but was classified solely as unbecoming conduct. Another investigation included an initial allegation of theft, but the final classification excluded this allegation, and the accused officers

Notwithstanding the few discrepancies identified above, the Monitor finds the LAPD in compliance with subsections a and f of subparagraph 80ii.

Paragraph 81 – COC Investigations of Complaints

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 81 as it relates to COC complaint investigations during the quarter ending March 31, 2006, at which time the Monitor found the LAPD in compliance with the requirements of the paragraph.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 83 completed complaint investigations, of which 28 were completed by the IAG and 55 investigations were completed by COC. For two of the 55 investigations completed, the Monitor noted that witnesses were not interviewed. However, the absence of these interviews would not have influenced the LAPD's adjudication. Although certain investigations were notably superiorly conducted and reported, all provided adequate information to ultimately render a decision.

Notwithstanding the two discrepancies identified above, the Monitor finds the LAPD in compliance with paragraph 81.

Paragraph 84 – Standards for Credibility Determinations

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

were not questioned regarding the allegations of theft. For another investigation, the initial classification of dishonesty should have been neglect of duty.

Background

The Monitor last assessed the LAPD's compliance with paragraph 84 during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for subparagraph 80ii, above, during the current quarter, the Monitor reviewed 83 completed complaint investigations, of which 28 were completed by the IAG and 55 were completed by COC. The Monitor concluded that the rationale used to evaluate the credibility of complainant, officer and witness statements was sufficient and unbiased in 79, or 95.2%, of the 83 investigations selected for review. For the remaining four investigations, the Monitor concluded that sufficient information existed in the investigation files for a reasonable individual to conclude that an automatic judgment in favor of the accused officer took place.

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

Paragraph 85 – Preponderance of the Evidence

Paragraph 85 requires that all complaints be adjudicated using a preponderance of the evidence standard⁵⁵ and, wherever supported by evidence, collected complaints shall be adjudicated as follows:⁵⁶

- Sustained
- Sustained – no penalty
- Not resolved
- Unfounded
- Exonerated
- Duplicate

⁵⁵ Per the LAPD's *Management Guide to Discipline*, dated January 2002, preponderance is defined using the *Black's Law Dictionary* as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity from knowledge, information possessed, and manner of testifying determines the weight of testimony."

⁵⁶ The LAPD also adjudicates complaint investigations as "Insufficient Evidence to Adjudicate," "Other Judicial Review" and "Withdrawn by the Chief of Police." These additional dispositions represent a continuation of LAPD policy and new policy released in October 2001.

- No Department employee.

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

Background

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

The Monitor assessed the LAPD's compliance with paragraph 85 during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in non-compliance.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for subparagraph 80ii above, during the current quarter, the Monitor reviewed 83 completed complaint investigations, of which 28 were completed by the IAG and 55 were completed by COC.

The Monitor concluded that the LAPD applied a preponderance of the evidence standard in 79, or 95.2%, of the 83 investigations reviewed. The Monitor noted the following regarding the four investigations in which the LAPD failed to apply the appropriate standard:

- For an investigation of alleged discourtesy, the Monitor contends that the finding of *actions could have been different, non-disciplinary* should have been adjudicated as *sustained* based on the documented rationale.
- For an investigation of alleged unauthorized force and unlawful search that was adjudicated as *unfounded*, the Monitor contends it was not possible to render an adjudication without interviewing the accused officers.
- For an investigation of an alleged neglect of duty, the Monitor believes that the adjudication should have been *Not Resolved*, rather than *Unfounded*. The investigation did not provide sufficient evidence for the LAPD's conclusion.
- For an investigation alleging unauthorized force, unbecoming conduct and discourtesy, the Monitor believes that the adjudication should have been *Not Resolved*, rather than *Unfounded*. The Monitor also believes that an additional allegation of *Neglect of Duty* should have been formulated based on officer statements and supervisor rationale.

Based on the foregoing, and notwithstanding the aberrations noted above, the Monitor finds the LAPD in compliance with the requirements of paragraph 85.

Paragraph 90 – Manager Review of Complaint Form 1.28 Investigations

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

Background

The Monitor last assessed the LAPD's compliance with paragraph 90 during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

As described in the Current Assessment of Compliance for paragraph 74, above, during the current quarter, the Monitor reviewed 83 completed complaint investigations, of which 28 were completed by IAG and 55 were completed by the LAPD's COC. The Monitor determined that five of the 83 completed investigations reviewed lacked sufficient management review that otherwise should have identified underlying inconsistencies, additional investigation and/or training needs.⁵⁷ This translates into a compliance rate of 94%.

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

E. 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 on race, color, ethnicity or national origin. Race, color, ethnicity or national origin can only be utilized as part of a basis for police activity when such activity is based on subject-specific information. The Consent Decree directs the LAPD to enforce these policies and mandates data collection with the ultimate goal of determining whether racially biased stops are being made.

The Monitor assessed the Department's compliance with paragraphs 102 and 103 during the quarter ending September 30, 2006, and is scheduled to again assess compliance with these paragraphs during the quarter ending September 30, 2007. The Monitor is scheduled to assess compliance with paragraphs 104 and 105 during the quarter ending June 30, 2007.

⁵⁷ Of the investigations indicating underlying inconsistencies, additional investigation and/or training needs, two involved allegations of discourtesy and unauthorized force; one involved an allegation of unauthorized search; and two involved allegations of discourtesy.

F. MANAGEMENT OF GANG UNITS

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into Gang Enforcement Details (GEDs),⁵⁸ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD), which has responsibility for monitoring gang units Department-wide.

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

The Department has achieved substantial compliance with most Consent Decree requirements relative to the management of gang units.⁵⁹ However, it has not achieved substantial compliance with the requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d); detention, transportation, arrest, booking and charging of gang arrestees (subparagraph 106e(i)); the roles of gang unit supervisors, Gang Area Managers and Bureau Gang Coordinators (BGCs) (subparagraphs 106f, g and h); and eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). As a result, the Monitor will be assessing the Department's compliance with these subparagraphs during the extension to the Consent Decree.

The Monitor assessed the Department's compliance with subparagraphs 106d and 107a and during the quarter ending September 30, 2006, and is scheduled to again assess compliance with these paragraphs during the quarter ending September 30, 2007.

During the current quarter, the Monitor assessed the LAPD's compliance with subparagraphs 106f and g. The results of our current assessments follow.

Subparagraphs 106f and 106g – Role of Gang Unit Supervisors and Area Managers

Subparagraph 106f addresses the daily activities of gang unit supervisors, including providing a daily field presence and maintaining an active role in unit operations.

⁵⁸ GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

⁵⁹ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 106a, b, c, e(ii)-(vii) and 107c from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

Subparagraph 106g requires Area managers to ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations.

Background

The Monitor last assessed compliance with paragraphs 106f and g during the quarter ending December 31, 2004, at which time the Monitor found the LAPD in functional non-compliance with both subparagraphs. The assessments were based on the Monitor's findings during a review of documentation from a stratified sample of dates selected from BGC inspections for language indicating whether the GED supervisors provided a daily field presence and maintained an active role in unit operations. In addition, AD's *GED Warrant Applications and Supporting Affidavits Audit* dated June 29, 2004 found supervisory oversight of GED warrants to be 86% compliant and its *ABC Reports Audit* dated October 8, 2004 found supervisory oversight of GED arrests to be 72% compliant.

Current Assessment of Compliance

In order to assess functional compliance with subparagraphs 106f and g during the current quarter, the Monitor utilized the new methodology proposed by the City and accepted by the Monitor in October 2006. This methodology includes the following:

- Measure GED supervisory oversight through the supervisory oversight objective of specified audits completed by AD, including the *Arrest, Booking and Charging Audits*; *NCUOF Audits*; *Search Warrant Audits*; *Confidential Informant (CI) Audits*; and *GED Work Product Audits*.
- Conduct reviews of GED daily supervisor logs to assess the following: Watch Commander's notification of GED units' activities, mission, and deployment; approval of GED uniform and vehicle deviations; and training provided to GED units.
- Measure supervisor daily field presence through a review of the GED Supervisory Oversight Inspection conducted by CRID.

Each of the above-listed specified audits contains a separate GED strata and analysis. As the Monitor reports on this provision twice annually, a minimum of three audits/inspections should be available for review. The assessment of GED supervision and management will therefore be based on multiple audit products addressing the critical aspects of GED supervision.

The Monitor began this assessment by reviewing the specified audits listed above, specifically evaluating AD's findings regarding GED supervisory oversight in each of these audits.

- The Monitor reviewed the last two *Arrest, Booking and Charging Audits* issued by AD, dated September 27, 2005 and September 27, 2006, respectively. In the *ABC Audit* dated September 27, 2006, AD reviewed a sample of 91 GED arrests and found that on-scene supervision was 100% compliant, but post-incident supervisory oversight was 64%

compliant. In the *ABC Audit* dated September 27, 2005, AD reviewed a sample of 174 GED arrests and found that on-scene supervision was 99% compliant, but post-incident supervisory oversight was 90% compliant.

- The Monitor reviewed the last two *Search Warrant (SW) Audits* issued by AD, dated December 28, 2005 and December 28, 2006, respectively. In the *SW Audit* dated December 28, 2006, AD reviewed a total of 25 GED search warrants and found that supervision of the application/affidavit was 88% compliant; supervision of applicable incident was 83% compliant; post-incident supervisory oversight was 92% compliant; supervisory oversight of the warrant tracking log was 67%; and the Commanding Officers' (CO) analysis was 33% compliant. In the *SW Audit* dated December 28, 2005, AD reviewed a total of 18 GED search warrants and found that supervision of the application/affidavit was 72% compliant; supervision of applicable incident was 88% compliant; post-incident supervisory oversight was 94% compliant; supervisory oversight of the warrant tracking log was 89% compliant; and the CO's analysis was 63%.
- The Monitor reviewed the last two *NCUOF Audits*, dated September 28, 2006 and June 30, 2005, respectively. In the *NCUOF Audit* dated September 28, 2006, AD reviewed a sample of 20 GED NCUOF reports and found that on-scene supervision was 92% compliant and post-incident supervisory oversight was 90% compliant. In the *NCUOF Audit* dated June 30, 2005, AD reviewed a sample of 13 GED NCUOF reports and found that on-scene supervision was 100% compliant and post-incident supervisory oversight was 100% compliant.
- The Monitor reviewed the last two *CI Audits*, dated June 29, 2006 and June 29, 2005, respectively. In the *CI Audit* dated June 29, 2006, AD reviewed a sample of 8 GED CI packages and found that supervisory oversight was 63% compliant. In the *CI Audit* dated June 29, 2005, AD reviewed a sample of 5 GED CI packages and found that supervisory oversight was 100% compliant.
- The Monitor reviewed the last two *GED Work Product Assessment Summary Audits*, dated September 28, 2006 and September 29, 2005, respectively. In the *GED Work Product Audit* dated September 28, 2006, AD reviewed 27 audit reports consisting of Consent Decree-related audits and *Command Accountability and Performance Audits (CAPAs)* audits and identified numerous issues in regards to supervisory oversight. In the Executive Summary, AD stated, "The Department policies regarding GED requirements, procedures, and functions (hard controls) are in place. However, the Department needs to place emphasis on management and supervisory operating practices, and commitment to proficiency (soft controls)." This conclusion was consistent with the *GED Work Product Audit* dated September 29, 2005.

In addition to the above, the Monitor conducted a review of GED supervisor and watch commander daily logs for the days worked during Deployment Periods (DPs) 1 and 2, 2007.⁶⁰ The Monitor determined that there were 662 days work by all GED units Department-wide during this period and selected a stratified random sample of 33 days worked. The Monitor then reviewed 43 GED supervisor and Watch Commander daily logs from those days for supervisory oversight of GED, including but not limited to Watch Commander notification of GED units' activities, mission, and deployment; approval of uniform and vehicle deviations; training; roll call attendance; supervisory field presence; and overall supervisory oversight of GED units. The Monitor found the following regarding the daily activities of gang unit supervisors:

- The Watch Commander's notifications of GED units' activities, mission and deployment were compliant in 41 of 43 (95%) daily logs, 43 of 43 (100%) daily logs, and 43 out 43 (100%) daily logs, respectively.
- The approvals for both GED uniform and vehicle deviations were compliant in 4 of 4 (100%) applicable daily logs; the remaining 39 GED daily logs contained only required Class A or C uniforms and marked black-and-white vehicles, and had no deviations.
- 21 of the 43 GED daily logs reviewed documented that roll-call training took place for GED units. Of these 21 logs, 15 included a description or title of the training given to GED units; the remaining 6 simply indicated that training took place, without including such specifics.
- With regard to the supervisors' approval of the GED daily log, not all Areas are using the Supervisor's Daily Report (SDR) required by Special Order No. 20, "GED-Supervisor's Daily Report", dated June 24, 2003. Those Areas that were using old forms did not have a officer-in-charge (OIC) signature date field, as required by the new SDR, and there were inconsistencies in the field time, as the old form asks for "field time" and the new form asks for "available field time." The Monitor found that 30 of the 43 (70%) GED daily logs included OIC signature dates.
- For GED supervisors' daily field time, 34 of 43 (79%) of the GED daily logs properly documented field time; the nine that did not include inaccuracies between the available field time and what was reflected in the supervisors' narrative.
- For GED daily mission, 39 of 43 (91%) of the GED daily logs properly documented the GED daily mission.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraphs 106f and g.

⁶⁰ DPs 1 and 2, 2007 cover the period January 7 - March 3, 2007.

Proposed Recommendations

The Monitor recommends that when training is provided in roll-call, the description or title of the training is documented for both accountability and acknowledgment of specific training provided.

Although there is no timeliness requirement in the Special Order No. 20 policy regarding the CO's signature on the GED daily logs, the Monitor found that 10 of 43, or 23% of the GED daily logs had CO's signatures which were dated eight or more days after the days worked, with the two latest signed 15 and 28 days after the GED days worked. The Monitor recommends that a timelier signature by the COs be considered in the future.

G. CONFIDENTIAL INFORMANTS

The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of CI information. The Department has not yet achieved substantial compliance with the Consent Decree's requirements relative to procedures for the handling of informants (paragraph 108).⁶¹ As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree, and has completed such an assessment during the current quarter.

The Monitor assessed the Department's compliance with paragraph 108 during the quarter ending September 30, 2006, and is scheduled to again assess compliance with this paragraph during the quarter ending June 30, 2007.

H. TRAINING

The Consent Decree's training requirements center largely on Field Training Officers (FTOs), supervisory training, and training content, including periodic training on police integrity. The Department has achieved substantial compliance with all requirements relative to supervisory training and most requirements relative to training content.⁶² The Department has not achieved substantial compliance with Consent Decree requirement to train members of the public scheduled to serve on the Board of Rights in police practices and procedures (paragraph 118), nor has the Department complied with training requirements relative to FTOs -- eligibility

⁶¹ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraph 108 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with this paragraph.

⁶² The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 117 and 119-124 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

criteria for FTOs (paragraph 114), FTO de-selection (paragraph 115), and an FTO Training Plan (paragraph 116). As a result, the Monitor will be assessing the Department's compliance with these paragraphs during the extension to the Consent Decree.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 115 and 118. The results of our current assessments follow.

Paragraph 115 – FTO De-selection

Paragraph 115 instructs that the Department may remove a FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.⁶³

Background

The Monitor last assessed the LAPD's compliance with paragraph 115 during the quarter ending March 31, 2006, at which time the Monitor found the LAPD in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received a list of all FTOs assigned a probationary officer during the period covering July 1, 2006 through December 31, 2006. From this population of 583, the Monitor selected a sample of 83⁶⁴ officers and reviewed their TEAMS II reports and personnel packages for sufficiency of annual evaluations, FTO eligibility criteria outlined in paragraph 114, and use of force and complaint histories. In order to complete its assessment of compliance with the requirements of paragraph 115, after the end of the current quarter, the Monitor requested the complaint investigations files for nine complaints identified during this review.

Based on the foregoing, the Monitor withholds a determination of the LAPD's compliance with paragraph 115 pending the review of the requested complaint files, which will occur during the quarter ending June 30, 2007.

Paragraph 118 – Public Members on Board of Rights

Paragraph 118 requires the Department to properly train all civilian members of Board of Rights (BOR) in police practices and procedures.

⁶³ Under paragraph 114, the required eligibility criteria includes demonstrated analytical skills; demonstrated interpersonal and communication skills; cultural and community sensitivity; diversity; and, commitment to police integrity.

⁶⁴ A random, statistical sample of 83 officers was selected out of a population of 583 officers utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

Background

The Monitor last assessed the LAPD's compliance with paragraph 118 during the quarter ending September 30, 2006. At that time, the Monitor withheld a compliance determination pending completion of the hearing examiner selection process.

Current Assessment of Compliance

During the current quarter, on February 27, 2007, the Police Commission approved the selection of 48 hearing examiners to fill civilian BOR positions. With the Monitor's participation, Police Commission staff developed lesson plans for civilian BOR training to meet the requirements of this paragraph. An all-day training session was held on March 31, 2007, attended by 45 of the newly selected examiners, DOJ personnel, and members of the Monitoring Team. The three hearing examiners who did not attend the training are experienced BOR members, who will attend a training session presented by the Police Commission's Executive Director.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 118.

IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

A. INTEGRITY AUDITS & INTERNAL AUDIT OVERSIGHT

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. In addition, the Consent Decree provides specific requirements for the City 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 (paragraph 97).

Since the inception of the Consent Decree, the Department has established an audit division made up of a combination of sworn and civilian professionals. The LAPD's AD has developed an audit charter,⁶⁵ an audit protocol,⁶⁶ and submitted annual audit plans which outline the audits to be completed in each coming year. Additionally AD has developed and run a Basic Law Enforcement Performance Auditing Course, which covers all aspects of police performance auditing.⁶⁷ This course, offered on a quarterly basis, has been offered 12 times and has been attended by police professionals from the US and Canada.

During the original five-year period of the Consent Decree from June 1, 2001 to June 30, 2006, AD issued a total of 30 quality Consent Decree audits. For certain audits produced by AD in more recent years, in those instances in which the scope of an AD audit directly addressed the requirements of a given Consent Decree paragraph, the Monitor elected to perform a meta-audit

⁶⁵ The Audit Charter outlines AD's role, the requirement for independence, the requirement to comply with Generally Accepted Government Auditing Standards, and AD's access authorization to records, and defines the audit scope. It was approved by the Police Commission in January 2006.

⁶⁶ The Audit Protocol sets the standards for LAPD's audits. It outlines the requirements for audit staffing, audit team member responsibilities, and the audit process. It includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection, and audit reporting.

⁶⁷ 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.

of AD's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.⁶⁸ Instances of such reliance are clearly indicated in our reports.

Given these advancements, during the three-year extension of the Consent Decree, the Monitor revised its methodology for reviewing certain required audits. Under the revised methodology, described in our Report for the Quarter Ending June 30, 2006, for those areas/audits that have been in substantial compliance for the past two years, the Monitor will generally review the quality of the audits in order to gain assurance that the underlying area being audited does not require active monitoring. The Monitor will continue its focused review of documents in those areas/audits where the Department has not achieved substantial compliance, such as complaints, CUOF and CIs.

During this quarter, the Monitor evaluated:

- AD's *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131a, 131c-1, and 131e);
- AD's *Motor Vehicle and Pedestrian Stops Audit* (subparagraphs 128(4), 131a, 131c-1, and 131e); and
- AD's *Complaint Form 1.28 Investigations Audit, Phase I* (subparagraph 129iii).

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

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

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

⁶⁸ 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."

Background

The Monitor first found the Department in compliance with paragraph 128(1) for the audit completed in July 2002, and subsequently during the quarters ending June 30, 2004 and June 30, 2005. The Monitor found the audit submitted June 30, 2006 in non-compliance because the Monitor identified a number of significant issues relating primarily to lack of documentation in affidavits to support searches being conducted, insufficient supervisory review and inadequate COs' analyses of the search warrant, and numerous administrative errors that were not identified by AD.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraphs 128(1), 131c-1 and 131e during the current quarter, the Monitor reviewed AD's *Warrant Applications and Supporting Affidavits Audit Report*, submitted December 28, 2006.⁶⁹ The Monitor also reviewed selected AD working papers, including work plans, crib sheets, matrices and related documents.

AD selected a stratified random sample of 97 LAPD warrants from the total population of 141 Department warrants and 25 gang (GED) warrants issued in July 2006. The sample of 97 warrants comprised 72 Departmental warrants and all 25 gang (GED) warrants. Eighteen of these warrants were identified as Hobbs warrants (13 Departmental and 5 GED).⁷⁰

The Monitor obtained and reviewed a random sample of 23 Departmental and 15 GED warrants.⁷¹ Within the Monitor's sample were eight Hobbs warrants (four Departmental and four GED).

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

- The Monitor concurs with AD's conclusions that the Department was in compliance with the requirements related to Articulation of Legal Basis, Warrant Service at Correct Time, and Warrant Served within the Required Time. AD also appropriately concluded the Department was in non-compliance with the requirements related to Completeness, Canned Language, Inconsistent Information and Other Indicia That Information Is Not Authentic, Articulation of Justification of Night Service, Warrant Executed in Proper Order, Supervisors Review of

⁶⁹ AD also submitted this audit to partially meet the requirements of subparagraph 131a, which requires AD to assess the gang work-product as a whole, as well as audit the work of any individual officers whose product the auditor has observed contains indicia of untruthfulness or other forms of misconduct. The Monitor understands that AD will issue Phase II of the *GED Work Product Assessment* to meet the requirements of subparagraph 131a; the Monitor will assess compliance with this subparagraph after this report is issued.

⁷⁰ Hobbs warrants include those warrants that are sealed pursuant to *People v. Hobbs (1994) 7 Cal.4th 948*, where the California Supreme Court held that all or part of the information in a search warrant provided by an informant (whose only relevance is supplying cause) may be sealed to protect the informant's identity.

⁷¹ These random samples were selected using a 95% confidence interval and an error rate of +/- 7%.

Execution Plan/Supervisory Presence at Execution of Warrant, and Pos-incident Review, Completion and Maintenance of Warrant Tracking Log, and CO's Analysis.

- The Monitor does not concur with AD's assessment of the Department's compliance with Conformance with LAPD Procedures - Use of Confidential Informants and Supervisory Oversight of Application/Affidavit. When the Monitor's findings below are included with AD's findings, the LAPD is non-compliant with these two objectives.
- The Monitor commends AD for implementing two of the Monitor's recommendations from the prior audit relating to evaluating reviews of the tactical plans. Additionally, the Monitor commends AD for including Addenda 2, which details, by Division, each warrant that was not in compliance
- While the Monitor commends AD for its additional review of the CO's analysis and notes that AD found the Department in 44% compliance as compared to 71% last year, the Monitor identified an additional seven packages where the COs' reviews were insufficient. Additionally, one of these packages contained a comment card that was prepared for a sergeant who was on the scene but not for the Lieutenant who was in charge at the scene.⁷²
- The Monitor identified eleven packages that contained other compliance-related issues that were not identified by AD:⁷³
 - four packages where the detail in the debriefing memoranda was not sufficient to meet the requirements for the supervisor's review of the debriefing memo as required by Special Order No. 28;
 - two packages where either the warrant service tactical plan had not been approved or pages within the affidavit did not show evidence that they had been reviewed;
 - one package that contained canned language in the CO's comments in the debriefing memo and on the comment card;
 - one package where the warrant was returned after 10 days;
 - two packages where the warrant was not documented within the CI package;
 - one package where information documented in the CI package was not consistent with information in the warrant; and
 - one package where the warrant tracking log was not approved.
- The Monitor also identified two packages that AD erroneously held out of compliance. In one, the supervisor who reviewed the warrant was listed on the warrant tracking log, although AD indicated that he was not, and in another, AD erroneously held the package out

⁷² This reduces the Departments compliance rate to 35% compliance.

⁷³ Three of these packages also had issues in relation to CO's oversight, as described in the prior bullet.

of compliance under two objectives (Supervisory Oversight and Warrant Tracking Log objectives) for the same issue, when it should only have been held out under one objective.

- The Monitor identified two packages where the non-compliant results in AD's database and work papers were not included in the reported findings for one or more objectives.
- The Monitor identified four packages where AD reported the packages were out of compliance, as the affiants were also the supervisor and there appeared to be a conflict of interest. AD subsequently concluded that these packages were in compliance because LAPD policies and/or procedures do not prohibit a person in a supervisory capacity from also being the affiant on a warrant. However, AD's initial concerns about a possible conflict of interest were unaddressed. The Monitor recommends that the policy be changed to remedy this type of issue as expressed below.

Based on the number of material issues that were not identified by AD, the Monitor finds the LAPD in non-compliance with paragraphs 128(1), 131c-1 and 131e. The Monitor is withholding its determination of compliance with subparagraph 131a pending its review of AD's *GED Work Product Assessment, Phase II*.

Recommendations

AD identified that there may be a potential conflict of interest when the affiant and the supervisor reviewing a search warrant are the same person. The Monitor recommends the Department update Special Order No 28 to mandate that, except in certain special circumstances, the affiant and the supervisor on scene or reviewing the warrant are not be the same person and, if they are; a reason must be provided.

Special Order No. 28 requires the designated supervisor to review and evaluate the tactical plan report and provide documented confirmation that a debriefing with involved personnel was conducted no later than the next working day after the warrant service. It also requires the designated supervisor to provide a summary of the debriefing no later than the next working day after warrant service. Currently, there is insufficient information provided to determine when the summary of the debriefing was prepared or who prepared it. The Monitor identified 11 packages where the reviewing supervisor signed the summary of the debriefing more than one working day after warrant service, which suggests that the debriefing summary may have been prepared more than one working day after the warrant service. The Monitor understands that amendments are being considered for Special Order #28 and suggests that the Department clarify the requirements of Special Order No. 28 in this area, as there is currently no way of definitively determining whether Department personnel are complying with its requirements; as a result, AD is not currently testing for compliance with this requirement.

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

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

Sub-paragraphs 131c and 131e requires the Department to conduct similar audits of a stratified random sample of all gang unit MV&PS. Subparagraph 131c-4 requires an assessment of the same qualitative factors that are required in subparagraph 128(4). Subparagraph 131e requires the Department to audit the roles and conduct of supervisor of these audits.

Background

The Monitor first found the Department in compliance with paragraph 128(4) during the quarter ending September 30, 2003; however, the Monitor found the Department in non-compliance with subparagraph 131c-4, as a separate gang component was not included. The Monitor found the MV&PS Audit submitted during the quarters ending December 31, 2004 and June 30, 2005 in compliance with the requirements of subparagraphs 128(4) and 131c-4.

The Monitor found the *MV&PS Audit* submitted during the quarter June 30, 2006 in compliance with subparagraphs 128(4), 131c-4, and 131e.

Current Assessment of Compliance

In order to assess the Department's compliance with subparagraphs 128(4), 131c-4 and 131e during the current quarter, the Monitor reviewed AD's *MV&PS Data Collection Audit* dated December 28, 2006,⁷⁴ the related audit work plan and crib sheet, the Monitor's sample of completed audit matrices and supporting documents relating to the audit population and sample determination.

AD's sample comprised 134 randomly selected FDRs from a total population of 60,939 for patrol and gang units from the 19 areas, the four Traffic Divisions and Metropolitan Division for three dates in DP 7, 2006.⁷⁵ Additionally, AD randomly selected 44 Daily Field Activity Reports

⁷⁴ AD also submitted this audit to partially meet the requirements of subparagraph 131a, which requires AD to assess the gang work product as a whole, as well as audit the work of any individual officers whose product the auditor has observed contains indicia of untruthfulness or other forms of misconduct. The Monitor understands that AD will issue Phase II of the *GED Work Product Assessment* to meet the requirements of subparagraph 131a; the Monitor will assess compliance with this subparagraph after this report is issued.

⁷⁵ DP 7, 2006 covers June 25 - July 22, 2006.

(DFARs)⁷⁶ and reviewed them for discretionary stops that required the completion of an FDR. These discretionary stops resulted in the completion of 103 FDRs (63 Non-GED and 40 GED). AD also reviewed a stratified random sample of 100 personnel complaints from a total population of 3,068 that were completed and closed during January 1 - July 22, 2006 in order to determine whether FDRs were completed when required and whether they were properly posted to the STOP database.

The Monitor tested a random sample of 27 DFARs (14 Non-GED and 13 GED), 40 FDRs (25 Non-GED and 15 GED) and 24 complaints reviewed by AD.⁷⁷ The Monitor's findings, which have been discussed with AD, are highlighted below:

- AD appropriately concluded that the Department, including the GED units, was non-compliant with the paragraph 104 and 105 requirements that FDRs be administratively complete (90% compliance) and the paragraph 128(4) requirement that FDRs be consistent with related documents (91% compliance). AD also appropriately found the GED stops in non-compliance with the requirement pertaining to other indicia of a lack of authenticity or correctness (86% compliance). AD appropriately found that the Department, including the GED units was in compliance with paragraph 128 requirements relating to the legality of the officers' actions.
- AD concluded that the GED units were in 100% compliance with the on-scene supervision requirements of subparagraphs 131c-4 and 131e; however, this conclusion was inappropriate without a caveat to make it clear that it was based on only one stop.
- AD appropriately concluded the Department was in non-compliance with the paragraph 128 requirement for post-incident review based on identifying that 4,503 or 7% of the FDRs are automatically approved by the system after 21 days⁷⁸ and therefore were not approved by a supervisor. The Monitor commends AD for highlighting this issue. Since AD could not identify which FDR's were issued for non-GED or GED personnel, they only assessed post-incident review in its totality, rather than separately assessing post-incident review of GED stops; accordingly, AD did not separately report on supervisory oversight of the GED units, as required by subparagraphs 131c-4 and 131e.

⁷⁶ While AD randomly selected one watch and one unit within each watch for 19 divisions, they did not select a statistically valid sample.

⁷⁷ During its review of this audit, the OIG selected a sample of 24 complaints based on a 95% confidence interval and an error rate of +/-7%; the OIG did include stops by patrol and GED officers. After reviewing the OIG's sample for appropriateness, the Monitor reviewed the same sample.

⁷⁸ AD identified through its system review that officers upload FDRs from their PODDs to the Web Podds server, and they are then reviewed and approved by a supervisor. If a supervisor disapproves an FDR, it is kicked back for correction; however, if an FDR sits on the Web Podds computer system server for longer than 21 days, the computer system "automatically approves" the FDR and loads it into the STOP system. AD concluded that these FDRs did receive approval, as the system, and not the supervisor, approved the FDR.

- The Monitor identified one FDR where the time on the FDR was after the end of watch for the DFAR that AD indicated matched the FDR. While AD identified most of the issues associated with this FDR, the Monitor determined that AD indicated some parts of the FDR were correct when there was not sufficient information to support these conclusions. The Monitor determined that these errors did not significantly impact the compliance percentages for the related objectives.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 128(4) but is withholding a determination of compliance with subparagraphs 131c-4, and 131e pending additional testing that AD must undertake to be in a position to conclude on the Department's compliance. The Monitor is also withholding its determination of compliance with subparagraph 131a pending its review of AD's *GED Work Product Assessment, Phase II*.

Paragraphs 129iii – Complaint Form 1.28 Investigations Phase I Audit

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

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

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

Background

During the quarter ending March 31, 2006, the Monitor found AD's *Complaint, Form 1.28, Investigations Audit, Phase I* dated December 27, 2005 in compliance with the systems related requirement of sub-paragraph 129iii.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's *Complaint, Form 1.28, Investigations – Phase I Audit* Report submitted December 27, 2006 and supporting working papers, including its audit work plan, selected matrices and complaint investigation packages.

The audit addressed subparagraphs 129iii(a and e), and its scope included paragraphs 79 and 87, as well as several other paragraphs that are not specifically required by 129iii including subparagraphs 51a and d, 74d, f, and g and paragraphs 76, 83, 93, 94, 95 and 152.

AD identified several audit populations and selected several samples for this audit. AD found the Department compliant with all objectives tested, except subparagraphs 74d and g, which cover the continuation of a 24-hour toll-free recorded complaint hot line and availability of personnel complaint material to the public, respectively.

The Monitor reviewed a sample of 24 complaints to assess the LAPD's compliance with paragraphs 79 and 87, which are required to be reviewed in this audit.⁷⁹ The Monitor also selected samples to assess compliance with paragraphs 51, 93 and 94, using the same criteria as for paragraphs 79 and 87. For the remaining objectives, the Monitor used either judgmental samples (paragraph 152) or tested 100% of the population (paragraphs 76, 83 and 95). The Monitor's findings, which have been reviewed with AD, are highlighted below:

- The Monitor concurred with AD's conclusions for the two objectives required to be assessed in this audit: paragraph 79, which requires a timely review of the PSB's complaint face sheets (99% compliance), and paragraph 87, which requires timely completion of complaint investigations (58% compliance).⁸⁰
- AD tested compliance with paragraph 95, finding that 79% of investigator positions were filled; the Monitor concurred with this finding, although 91% of the positions were filled at the time of the Monitor's review.
- The Monitor noted some duplication in reconciling the list of lawsuits on the City Attorney's Office Claim Detail Report to the Claim/Litigation Information System maintained by LAPD's Risk Management Division and PSB. There were five instances in which PSB was notified twice regarding a claim or lawsuit.
- AD reported that 100% of PSB investigators had access to TEAMS II. The Monitor identified one PSB investigator who did not have access to the system.

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

⁷⁹ These samples were chosen using a one tail test, a 95% confidence interval and a +/-7% error factor.

⁸⁰ Standards for this objective require that greater than 50% of the investigations must be completed within 150 days.

B. INSPECTOR GENERAL REVIEWS & AUDITS

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

The OIG's overall goal is to step into the Monitor's role of providing civilian oversight for the Department. Over the past five years, the OIG has developed a professional audit team that includes police performance auditors and special investigators who have the expertise to ensure the OIG meets its mandate. In particular, since 2005, the OIG made significant strides in successfully implementing its role by completing timely meta-audits that were quality reviews of the audits completed by AD and the Ethics Enforcement Section during this period. Additionally the OIG conducted its own audits of complaint, CUOF and NCUOF investigations. Each of these reviews and audits provided insightful comments, conclusions and recommendation to the Police Commission.

During the current quarter, the Monitor assessed the quality of the OIG's reviews issued at the end of December 2006 of three Department audits.

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

Subparagraph 135b includes the requirement for the OIG to evaluate the LAPD's audits to assess their quality, completeness and findings.

Background

The Monitor has found the OIG in compliance with the requirements of subparagraph 135b since the quarter ending September 30, 2005. Since the inception of the Consent Decree, the OIG has completed a total of 27 quality reviews.

Current Assessment of Compliance

The Monitor reviewed the following OIG reports and compared the OIG's findings to the Monitor's findings from its review of the same AD reports, AD audit work papers, and sampling documentation:

- OIG's December 27, 2006 review of AD's *Arrest, Booking and Charging Reports Audit* (subparagraph 128(2));
- OIG's December 28, 2006 review of AD's *Supplemental Non-Categorical Use of Force Reports Audit* (subparagraph 128(3)); and
- OIG's December 28, 2006 review of AD's *Gang Enforcement Detail Work Product Assessment Summary* (subparagraph 131a);

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

- The OIG's reports continue to be well-organized and contained clearly reported findings and insightful comments for the Department to consider.
- The OIG appropriately found *AD's Arrest, Booking and Charging Reports Audit* and *Supplemental Non-Categorical Use of Force Reports Audit* to be quality audits that included well supported findings. The OIG also appropriately withheld a conclusion on AD's *Work Product Assessment Summary*, as AD had not yet addressed all the requirements of the Consent Decree for this audit and was submitting a phase II to this audit.
- Regarding the *Arrest, Booking and Charging Reports Audit*, the OIG provided an alternative method of assessing supervisory oversight, which involved reporting on the number of reports that were compliant compared to the total number of required reports. This method increased the compliance rate for the Supervisory Oversight objective to 86% from 65%. While the Monitor agrees with the OIG that providing additional information on the type of supporting reports that are either missing or incomplete provides useful information, the Monitor disagrees with this method of calculating compliance, as the unit that is measured by this audit is arrest reports, not each of the reports that support an arrest report. As a result, the Monitor believes AD used an appropriate basis for assessing compliance. .
- Also in connection with the *Arrest, Booking and Charging Reports Audit*, the OIG did not identify but concurs with the Monitor's assessment that AD should conduct additional reviews to determine if any individuals acting as watch commander are independent of the arrest itself, as required by paragraph 73.
- The Monitor commends the OIG for the recommendations it made in connection with its review of the *Supplemental Non-Categorical Use of Force Reports Audit* and for identifying that AD did not report findings related to the lack of consistent statements verbiage in the NCUOF investigations.
- The OIG appropriately identified in its review of AD's *Gang Enforcement Detail Work Product Assessment Summary* that AD had conducted extensive analysis to compile the GED findings from 27 different audit reports. The OIG also identified inconsistencies and errors in the database and provided feedback to AD so these inconsistencies could be corrected prior to AD issuing the phase II report. In addition, while indicating that AD has not yet addressed all mandates of the Consent Decree in connection with the *Work Product Assessment Summary*, OIG provided recommendations as to the type of analysis that needs to be provided.

The Monitor concluded that each of the OIG reviews were quality reviews. The OIG has now completed a total of 30 quality reviews of LAPD audits.

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

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

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

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

Background

Prior to March 31, 2005 the Monitor concluded the OIG's reviews submitted to meet the requirements of 136 were in noncompliance as the OIG's reports did not directly address the requirements of paragraph 136. Although the Monitor continued to find the Department in non-compliance for the quarter ending March 31, 2005, the Monitor noted an improvement, as the reviews were more thorough and insightful, the reports better addressed the reporting requirements, and the OIG had improved its report template and developed a database to assist in standardizing the findings from its CUOF investigations. The Monitor found the OIG in compliance with paragraph 136 during the quarter ending June 30, 2006.

Current Assessment of Compliance

In order to assess compliance with paragraph 136 during the current quarter, the Monitor randomly selected a sample of 17 CUOF investigations from the OIG's population of 34 CUOF review reports presented by the OIG to the Police Commission in the months June 2006 to December 2006⁸¹ that overlapped with CUOF investigations reviewed by the Monitor during its substantive assessment of paragraphs 80, 64 and 62. The Monitor considered the OIG's reports, matrix responses, database and other working papers, as well as the relevant CUOF investigation package, including the report of the Chief of Police, TEAMS extracts and UOFRB notes.

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

- The OIG's reports, files and the database continue to be well organized and easy to follow, and supported the OIG's findings.

⁸¹The Monitor's sample was based on a selection using a one-tailed test with a +/-7% error rate and 95% confidence interval.

- The Monitor commends the OIG for the thoroughness, organization and clarity of its reports to the Police Commission and the way the reports highlight key issues for the Commission to address.
- The Monitor did not identify any significant issues that were not addressed by the OIG.
- The Monitor commends the OIG for implementing the Monitor's recommendation from the prior year's audit that the OIG assess the quality of the paragraph 62 supervisor's analysis, in addition to commenting on the timely completion thereof.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 136.⁸²

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

Subparagraph 136ii, requires the OIG to conduct a regular periodic review of a random sample of complaint form 1.28 investigations, and to promptly provide its written findings to the Police Commission. Such reviews shall assess 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: whether the summarized and transcribed statements accurately match the recorded statements; whether all available evidence was properly collected and analyzed, and/or whether the investigation was properly adjudicated.

Background

The Monitor found the Department in non-compliance with subparagraph 136ii for the quarters ending March 31, 2004, September 30, 2004 and September 30, 2005. The Monitor found the Department in compliance for the quarter ending December 31, 2006.

Current Assessment of Compliance

The Monitor reviewed OIG's *Complaint Investigations Audit* dated December 28, 2006. The OIG evaluated a sample of 56 higher-risk complaint investigations handled by the IAG that were initiated on or before January 1, 2005 and closed in August 2006. The Monitor reviewed the documentation and associated tapes of a random sample of 21 of these complaints.⁸³ The OIG also selected a sample of 13 face sheets from the population of low risk complaint investigations excluded from the high risk investigations and tested the face sheets to determine if they were correctly classified. The Monitor reviewed a random sample of 10 of these face sheets.⁸⁴

⁸² While the Monitor has tested to +/-4% in the past, the Monitor did not conduct additional testing in this instance since no material issues were identified and the OIG's findings were consistent with the Monitor's and AD's findings on other similar audits or reviews.

⁸³ Sample selected using a one-tail test with a 95% confidence level and a +/-7% error rate.

⁸⁴ Sample selected using a one-tail test with a 95% confidence level and a +/-7% error rate.

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

- The OIG appropriately excluded lower risk complaints such as failure to appear, failure to qualify and preventable traffic collisions and complaints involving neglect of duty, unbecoming conduct and discourtesy. As recommended by the Monitor when it last assessed this paragraph, the OIG also included a random sample of 13 investigations of these lower-risk complaints and tested them for proper classifications.
- During its testing of the 13 lower risk complaints, OIG determined that two of the thirteen complaints had not been properly classified⁸⁵ and were therefore excluded from its primary population. The Monitor believes OIG should continue to review these lower risk complaints to see if they are appropriately classified; if they are not, and there are serious concerns regarding their investigation, they should be included in the OIG's review.
- The OIG appropriately identified concerns related to adequacy of the investigation in 12 investigations, paraphrased statements that were either incomplete or inaccurately depicted compared to information in the tape recorded interview of the complainant and/or the witness in 11 investigations, and one or more significant allegations not framed or adjudicated in 14 investigations. The Monitor did not identify any additional significant concerns.
- The Monitor commends the OIG for continuing to issue an additional report of Less Significant Issues to IAG Management to consider and take action, where appropriate.

Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 136ii.⁸⁶

C. POLICE COMMISSION OVERSIGHT

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

The only provisions of this section of the Consent Decree with which the Department has not achieved substantial compliance are those requiring the Commission to annually issue a publicly

⁸⁵ The complaints were classified as "unbecoming conduct" instead of theft. The OIG agreed for these two complaints that they were unfounded but brought the classification problem to the attention of IAG management.

⁸⁶ While the Monitor has tested to +/-4% in the past, the Monitor did not conduct additional testing in this instance since no material issues were identified and the OIG's findings were consistent with the Monitor's and AD's findings on other similar audits or reviews.

available report detailing its findings regarding CUOF incidents (subparagraph 142b) and to review specific audits required under the Decree (subparagraph 143a). The Monitor will be assessing the Department's compliance with these requirements during the extension to the Consent Decree.⁸⁷

The Monitor is schedule to assess the Department's compliance with subparagraph 142b during the quarter ending December 31, 2007 and with subparagraph 143a during the quarter ending September 30, 2007.

D. 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 is schedule to assess the Department's compliance with paragraph 154 during the quarter ending December 31, 2007.

⁸⁷ The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with subparagraphs 142a, 143b and 143c and with paragraphs 144, 145 and 146 from this section of the Consent Decree. As described in the Introduction section of this report, the Monitor will not be actively monitoring or reporting on the Department's compliance with these paragraphs.

V. CONCLUSION

While we continue to be generally pleased with the progress of the Department in the areas of the Consent Decree with which the Department has not yet achieved substantial compliance, unlawful use of force lies at the heart of the Consent Decree. As noted in our focus issue, the events of May 1, 2007 have called into direct question when and how force can and should be used for dispersal of crowds. Those events transpired in full view of cameras recording the incident for all the world to see. The larger question has been asked by some: to what extent is force, outside the view of cameras, being utilized inappropriately. While we believe that instances of inappropriate uses of force continue to be rare, by conducting a full and thorough investigation with appropriate discipline for any who may have deviated from Departmental policies or procedures, the Department has the opportunity to reassure those asking the larger question. We will be closely monitoring and reporting on the results of the Department's inquiries into the events of May 1st.