

REPORT OF THE INDEPENDENT MONITOR  
FOR THE  
LOS ANGELES POLICE DEPARTMENT



**KROLL**

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

REPORT FOR THE QUARTER ENDING  
JUNE 30, 2007

Issued August 15, 2007

## EXECUTIVE SUMMARY

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The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The 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-fourth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending June 30, 2007 and is the fourth 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 28 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 8, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance with 1 subparagraph.

During the quarter ending June 30, 2007 (the current quarter), the Monitor assessed the Department's compliance with the following provisions of the Consent Decree.

The Monitor conducted its initial assessment of the City and Department's compliance with a number of Consent Decree paragraphs relative to its early warning system, termed TEAMS II, finding the Department in compliance with each provision assessed. The requirements that the City and Department were found to have complied with covered: the overall establishment and implementation of the system (paragraph 39 and subparagraphs 50d and e); access to the system (paragraph 40); the plan for inputting historical data into the system (paragraph 42); training of managers and supervisors on the use of the system (paragraph 48); maintenance of required information about officers during their employment with the LAPD and for at least three years thereafter (paragraph 49); modifications to the system (paragraph 52); and the management and coordination of the system (paragraph 53). In addition to this, the City has now achieved the Department-wide implementation of all four systems developed in order to meet the Consent Decree's requirements relative to the TEAMS II system.

The Monitor also conducted its initial assessment of the Department's compliance with the requirements to develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees (paragraph 54). The Monitor found the Department in non-compliance, as the LAPD's current system does not meet the requirements of the paragraph. The LAPD indicated that a performance evaluation rating form that will meet the

requirements of the paragraph, as well as related instruction and training, are being developed in an effort to comply with the requirements of the paragraph.

The Monitor assessed the Department's compliance with several Consent Decree requirements relating to Categorical Uses of Force (CUOF) incidents and investigations. The Monitor found that the Department had not complied with the requirement that managers analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident (subparagraph 62a). The Monitor determined that a number of the required analyses did not address material facts that would have been known at or right after the incident or were not completed within the mandated time period. The Monitor also found the Department in non-compliance with paragraph 63, which requires that all officers involved in a CUOF resulting in death or the substantial possibility of death be referred to the LAPD's Behavioral Science Services for a psychological evaluation (paragraph 63). Although most of the requirements of this paragraph were being met, the Department was unable to verify that a number of the officers selected for review were assigned to non-field assignments pending Chief of Police approval of fitness for duty. The Monitor did find that the Department was complying with requirements regarding managers' consideration of an officer's work and CUOF history, including information contained in the TEAMS II system, when reviewing and making recommendations regarding non-disciplinary action as a result of a CUOF (paragraph 64).

In the area of search and arrest procedures,<sup>1</sup> the Monitor assessed the Department's compliance with requirements that managers analyze the circumstances surrounding the presence or absence of a supervisor at the service of a search warrant (subparagraph 62b) and that supervisors' analyses be considered in their annual personnel performance evaluations (subparagraph 62c). The Monitor found the Department in non-compliance with both provisions, as more than 20% of the executed search warrants selected for review by the Monitor contained evaluations of supervisors' presence that were not completed within the mandated time period and 10% of the search warrants reviewed contained analyses that did not sufficiently document the supervisors' actions. In addition, the Commanding Officers' analyses were not documented on the respective supervisors' filed employee comment sheets for almost 15% of the search warrants reviewed.

The Monitor assessed the Department's compliance with Consent Decree requirements regarding the collection of field data each time an officer conducts a motor vehicle or pedestrian stop. In its *Motor Vehicle and Pedestrian Stop Data Collection Audit, Third Quarter, Fiscal Year 2006/2007*, the LAPD's Audit Division concluded that the Department had achieved only 90% compliance with requirements that Field Data Reports be administratively complete. The Monitor concurred with this conclusion.

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<sup>1</sup> 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.

In regards to the management of gang units, the Monitor assessed the Department's compliance with Consent Decree requirements relative to tour of duty limitations for gang supervisors and officers (subparagraph 106d), as well as eligibility criteria and the selection process for gang unit personnel (subparagraphs 107a and b). The Monitor found the Department in compliance with the requirements relative to tour of duty limitations, despite some specific issues identified. Although Audit Division, in its *GED Selection Criteria Audit* found that the extension requirements for tour assignments were adequately addressed for all Gang Enforcement Detail (GED) personnel reviewed, the Monitor identified a number of issues related to the timeliness of TEAMS reports and lack of indication that managers reviewed the officers' TEAMS record prior to approval. The Monitor concurred with Audit Divisions findings that the Department was in compliance with the requirements related to eligibility of an officer for selection into the gang units and in non-compliance with requirements relative to procedures for the selection of officers to the gang units. Regarding the latter, among the reasons for non-compliance were selection packages that lacked written applications, TEAMS records dated well before selection, lack of relevant performance evaluations, and related issues. The Monitor also found the Department in compliance with the requirements that officers' TEAMS records are reviewed and consideration of sustained administrative investigation, adverse judicial finding, and discipline is documented when they are selected to a gang unit (subparagraphs 51b and d).

In regards to training, the Monitor determined that the Department is in compliance with the requirements regarding the de-selection of Field Training Officers (FTOs) and withheld a determination of compliance with requirements relative to an FTO Training Plan pending the Monitor's review of training records and TEAMS II reports of a sample of FTOs to verify that they have completed FTO School and related FTO update training.

The Monitor completed its review and evaluation of three audits submitted by the LAPD's Audit Division: the *CUOF Investigations – Phase I Audit* (subparagraph 129i); the *Complaint Form 1.28 Investigations Audit – Phase II* (subparagraph 129iii); and the *GED Selection Criteria Audit* (subparagraph 131b), finding several areas for improvement, but ultimately concluding that each audit was generally a quality audit that addressed the major issues and was in overall compliance with Consent Decree requirements. The primary area for improvement related to instances in which AD identified concerns but did not include the concerns in its audit reports. There were also some instances in which the Department did not follow Departmental policy, or was inconsistent in the application of such policies, that were not identified as concerns. Lastly, AD, in some instances, appeared to uncritically accept proffered rationale as to why the Department did not perform certain investigate tasks.

During the current quarter, the Monitor assessed reviews conducted by the Office of the Inspector General (OIG) of the Audit Division's *Warrant Applications and Supporting Affidavits Audit*, *Motor Vehicle and Pedestrian Stops Audit*, and *Complaint Form 1.28 Investigations Audit, Phase I* (subparagraph 129iii). The Monitor concluded that the OIG's reviews of AD's three audits were quality reviews. The Monitor also assessed the OIG's *Non-Categorical Use of Force Investigations Audit*, concluding that it was a quality review that complied with Consent Decree requirements.

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- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending June 30, 2007
- B. Acronyms Utilized in Quarterly Reports Issued by the Independent Monitor

## I. INTRODUCTION

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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-fourth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending June 30, 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.<sup>2</sup>

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

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<sup>2</sup> 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 June 30, 2006.<sup>3</sup> The “Status as of Last Evaluation” column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph.<sup>4</sup> This is an estimate based on available information at the date of issuance of this Monitor’s Report and Report Card. These estimates are subject to change as information develops and circumstances change.

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<sup>3</sup> The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department’s compliance with the provisions of the Consent Decree.

<sup>4</sup> 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

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### A. UPDATE ON THE DEPARTMENT'S RESPONSE TO THE EVENTS OF MAY 1

Last quarter we reported on the May 1<sup>st</sup> MacArthur Park incident in which an overwhelmingly peaceful demonstration with a relatively small group of disruptive individuals engendered a deployment of the Metropolitan Division of the Department, who forcefully cleared the park. By all accounts, the actions of many of the officers involved were inappropriate and violative of Departmental policies and procedures.

We have stated many times that because there will always be instances of police misconduct, the measure of a police department should be the response to such instances and the remediation that a department undertakes to attempt to ensure that such misconduct is not repeated.

At the time of our report last quarter, we indicated that we were preliminarily encouraged by the investigations that had been launched by both the Department and Police Commission and the personnel actions that had been taken. During the current quarter, we have closely monitored the ongoing investigations and overall Departmental response to the incident and continue to be encouraged that the Department is treating the incident extremely seriously and attempting to remediate Departmental shortcomings on multiple fronts.

Of particular note, the Department has attempted to be as transparent as possible in dealing with the incident. From the evening of the event, the Chief of Police has kept the public informed through forthright conversations with the media and meetings with a variety of community groups, including the ACLU, the Hispanic Forum, various immigrant rights groups and media representatives. On the investigative side, the Department has continued its internal after-action review as well as the Internal Affairs investigation relative to specific misconduct complaints against identified officers. Likewise, the Office of the Inspector General has continued to monitor these ongoing investigations. In addition, the Chief of Police has commissioned a public report, due sometime in September, which will review all of the facts and circumstances surrounding the incident.

Perhaps most commendably, recognizing that immediate remediation was necessary, in the week following the incident the Department instituted updated training for the Metropolitan Division and created a new Bureau within the Department, the Incident Management and Training Bureau. The new bureau, headed by a seasoned veteran, Deputy Chief Michael Hillmann, immediately developed a new Department-wide training curriculum on crowd control, crowd management and relations with the media. The new curriculum stressed that all tactics needed to be undertaken in concert with existing use of force policy, which only allows the use of force in order to protect an officer or a third party from bodily injury or to effect a lawful arrest. As of August 1, 2007, the 10-hour course has already been utilized to train four divisions and was

observed by a team from the Monitor's Office. The Monitor was very impressed with both the curriculum, the quality of the training and the alacrity with which the training was initiated.

We will continue to follow the Departmental response to the events of May 1<sup>st</sup> in the coming quarter in order to ensure that all appropriate remedial steps are taken and that the disciplinary process relative to those who violated Department policy works effectively.

### III. PERFORMANCE OF THE LOS ANGELES POLICE DEPARTMENT

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#### 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.<sup>5</sup> In order to meet this requirement, the City developed four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,<sup>6</sup> and the Risk Management Information System (RMIS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

Although the original timeline for completion of the TEAMS II project has not been met, 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.

The City has now implemented the RMIS and CMS Department-wide. The Monitor commends the City for achieving the Department-wide implementation of all four systems as of the quarter ending June 30, 2007.

During the current quarter, the City and the LAPD made the following progress in connection with the new systems:

- As described in our Report for the Quarter Ending June 30, 2006, the City has completely rolled-out the UOFS Department-wide and has been working on making performance and usability improvements to the system. A significant modification was made to the UOFS this quarter. The TEAMS II staff developed a specialized screen to be used by Force Investigation Division (FID) that will allow FID to enter all Consent Decree required information for Categorical Uses of Force (CUOF) into just one screen. This has proven to be a major improvement, as users were previously required to click through dozens of screens to enter the same information, and is expected to lead to more timely and accurate entry of CUOF information into RMIS for risk management analysis.

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

<sup>6</sup> 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.

- As described in our Report for the Quarter Ending March 31, 2007, all RMIS action items were completely rolled out by March 12, 2007 and RMIS is now implemented Department-wide. TEAMS II staff and the Risk Analysis Section (RAS) of the Risk Management Group (RMG) are now monitoring and assessing the action items to see what types are being triggered and whether those being triggered, and the frequency of the triggers, are appropriate. Since January 31, 2007, there have been 1,076 action items triggered, and as of June 30, 2007 there are 601 action items completed through final Bureau level review. While the City initially set a 30-day deadline to complete these action items in RMIS, not everyone is meeting this deadline yet. This may be due to the learning curve involved in completing them. Timeliness should improve once supervisors and managers are more comfortable with the process of completing action items. However, it appears that more action items are being generated than originally projected. Therefore, the City is planning to reassess the RMIS peer groups and thresholds at the end of the current year to ensure the productivity of those various categories is appropriate. The City will present any proposed modifications to the DOJ and Monitor once this review is complete.
- As described in our Report for the Quarter Ending March 31, 2007, 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 to satisfy RMIS data requirements. The Department has now deployed CMS Phase I to all geographic areas as of May 2007. The Department hopes to roll out the full CMS, which includes some additional functionalities but is not a requirement for Consent Decree compliance, beginning in the second quarter of 2008.

As of the end of the original five-year term of the Consent Decree, the Department had not achieved substantial compliance with many of the Consent Decree requirements related to TEAMS II (paragraphs 39-40, 42, 48, 49, 50d and e, 51b-d, 52-53). As a result, the Monitor is assessing the Department's compliance with these and the additional TEAMS II-related paragraphs during the extension period.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 39-40, 42, 48 and 50d and e, 51b and d, and 52-53. The results of our current assessments follow.

### *Paragraph 39 – New TEAMS II*

Paragraph 39 requires the City to establish a database, known as “TEAMS II,” containing relevant information about its officers, supervisors, and managers. This database will be utilized to promote professionalism and best policing practices and to identify and address at-risk behavior.

### *Background*

The Monitor has not previously assessed the LAPD's compliance with paragraph 39.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 39, the Monitor has consistently reviewed the progress of the TEAMS II since the inception of the Consent Decree. As described in the Monitor's quarterly reports, the City prepared a design document that contained an implementation plan for ensuring relevant data tables, fields and values, which was approved by the DOJ and shared with the Monitor on January 31, 2003. The City has also developed new systems, including CMS, UOFS and the RMIS, that will produce relevant information about its officers, supervisors, and managers to identify and address at-risk behavior.

As described in our Report for the Quarter Ending September 30, 2005, the Deployment Period System (DPS), which lies at the heart of TEAMS II and provides information relative to officers' attendance and the Department's command structure, was rolled-out Department-wide for utilization by all areas as of September 30, 2005. As described in our Report for the Quarter Ending June 30, 2006, the LAPD stopped entering use of force (UOF) incident data into its legacy system and the UOFS was rolled-out for utilization Department-wide as of June 30, 2006. The City continues to work on performance and usability improvements to the UOFS. As also described in our Report for the Quarter Ending June 30, 2006, RMIS made the TEAMS Individual Report available Department-wide, and the Department gave instructions to officers for reviewing their own individual TEAMS reports for accuracy. Also at that time, the City turned off the TEAMS 1.5 system (the Department's interim system), so that all relevant data was filtered directly into the TEAMS II system. On February 15, 2007, the Department began the roll-out of RMIS Action Items, which are automated or supervisor-generated notifications that identify employees whose performance may indicate a need for monitoring and all action items were completely rolled out by March 12, 2007. This meant that RMIS was implemented Department-wide at this time. As described in our Report for the Quarter Ending March 31, 2007, the City rolled-out Phase I of CMS, which is sufficient to satisfy the RMIS data requirements, to IAG and PSB during the week of November 13, 2006 and to all geographic areas by the end of April 2007.

In summary, as described above and in previous quarterly reports, the City has now rolled-out and is utilizing DPS, UOFS, RMIS and CMS Phase I Department-wide, all of which are related to the implementation of TEAMS II. As a result, the City and the LAPD have achieved the steps required for compliance with paragraph 39.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 39.

## **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 last assessed the LAPD's compliance with paragraph 40 during the quarter ending March 31, 2007, at which time the Monitor withheld determination of compliance pending the Department's finalization and distribution of a policy that outlines the requirements of paragraph 40.

## *Current Assessment of Compliance*

As described in the Report for the Quarter Ending March 31, 2007, the Monitor previously reviewed the TEAMS II working papers, including the Access Control Matrix and User Access Profiles for the Police Commission, the Office of the Inspector General (OIG), the Chief of Police, and their staffs, and concluded that the LAPD was in compliance with this paragraph's requirements regarding equal and full access to TEAMS II.

In order to assess the LAPD's compliance with paragraph 40 during the current quarter, the Monitor reviewed the TEAMS II 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 access policy, entitled "*Access Control Policy for TEAMS II Information*," dated July 16, 2007, was approved by the Police Commission on June 12, 2007, made available to the Department via the web the week of June 18, 2007 and distributed to the Department the week of July 16, 2007. Since this policy has now been approved and distributed, the Department has addressed all the requirements of paragraph 40.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of paragraph 40.

## *Paragraph 42 – Data Input Plan*

Paragraph 42 requires that the Department shall prepare and implement a plan for inputting historical data into TEAMS II. The Data Input Plan will identify data and time periods to be included, and deadlines for inputting the data. The amount, type and scope of historical data to be included in TEAMS II shall be determined by the City, after consultation with the DOJ.

## *Background*

The Monitor has not previously assessed the LAPD's compliance with paragraph 42.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 42, the Monitor has reviewed the Data Input Plan, which outlines a plan for inputting historical data into TEAMS II, including data and time periods to be included, and deadlines for inputting the data. The Data Input Plan was

written and approved by all parties, as required by paragraph 42, in the third quarter of 2003. It included an Appendix A that described data elements and time periods to be included and the amount, type and scope of historical data. Such historical data was imported into TEAMS II over the course of the last few years for all categories, including complaints, UOF, traffic collisions, vehicle pursuits, arrests, claims and lawsuits, and training. Since all systems related to TEAMS II have now been implemented Department-wide, the Monitor finds that the requirements of paragraph 42 have now been met.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 42.

### **Paragraph 48 – Training Re: Use of TEAMS II and Protocol Implementation**

Paragraph 48 requires that LAPD shall train managers and supervisors, consistent with their authority, to use TEAMS II to address at-risk behavior and to implement the protocol described in paragraphs 46 and 47.

### ***Background***

The Monitor has not previously assessed the LAPD's compliance with paragraph 48.

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

In order to assess the LAPD's compliance with paragraph 48 during the current quarter, the Monitor reviewed the TEAMS II policy that outlines the requirements of paragraph 46, entitled "*Duty to Conduct and Document Individual Performance Assessments*," dated July 12, 2007. This policy was approved by the Police Commission on June 12, 2007, made available to the Department via the web during the week of June 18, 2007 and distributed to the Department during the week of July 16, 2007.

As described in the Report for the Quarter Ending March 31, 2007, the Monitor previously attended numerous training sessions for RMIS and the UOFS, the most recent being an RMIS training session on February 21, 2007 at the TEAMS II facilities. The Monitor has also reviewed the training curriculum and materials for RMIS training in Supervisor's School and for Chain of Command (COC), including the Supervisor and COC Lesson Plans and PowerPoint Presentations used during the training. The Monitor determined that these training materials addressed the requirements of paragraph 48.

During the current quarter, the TEAMS II staff ran a query of all supervisors who should have attended RMIS TEAMS II training, identifying a total population of 2,512 officers. The TEAMS II staff determined that 2,401 of the 2512 officers, or 96%, were trained.

The Monitor randomly selected a sample of 92 supervisors from the total population identified by the TEAMS II staff and reviewed the list of supervisors trained and the dates, training rosters and TEAMS II reports to determine if the supervisors attended the RMIS TEAMS II training.<sup>7</sup> Although it was at times difficult to determine the date or type of training attended and the Monitor identified discrepancies in documented attendance, the Monitor concluded that all 92 supervisors in the sample appeared to have taken some type of RMIS TEAMS II training.<sup>8</sup>

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 48.<sup>9</sup>

### **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 last assessed the LAPD's compliance with paragraph 49 during the quarter ending March 31, 2007, at which time the Monitor withheld determination of compliance pending the finalization and distribution of a policy that outlines the Department personnel's access to TEAMS II and the completion by TEAMS II staff of follow-up work in connection with reviews conducted relative to the requirements of the paragraph.

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

In order to assess the LAPD's compliance with paragraph 49 during the current quarter, the Monitor reviewed the TEAMS II policy that outlines the requirements of paragraph 40, including

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<sup>7</sup> The Monitor used a 95% confidence interval and an error rate of +4%, since this paragraph has not previously been assessed.

<sup>8</sup> Inconsistent information was identified in 16 separate instances, which were discussed in detail with TEAMS II staff. The discrepancies and the overall difficulty in identifying the dates and types of training were related to pre-printed training rosters that were utilized in several instances upon which the dates or course titles had been crossed off and replaced with different handwritten dates or course titles. TEAMS II staff agreed to discontinue the use pre-printed training rosters due to the inconsistent data that can result. The Monitor commends the TEAMS II staff for taking the initiative to make these immediate changes.

<sup>9</sup> Paragraph 48 requires only that TEAMS II training is taken by supervisors; the inconsistent information, while important to correct, does not pertain to the compliance requirements of this paragraph, as the Monitor determined that all 92 supervisors selected for review have taken some form of TEAMS II training.

granting or limiting access to TEAMS II by all other persons, including the staff of the Commission and the IG. As described in the Current Assessment of Compliance for paragraph 40, this access policy was approved by the Police Commission on June 12, 2007 and this policy was made available to the Department via the Web during the week of June 18, 2007 and distributed to the Department during the week of July 16, 2007.

As described in the Report for the Quarter ending March 31, 2007, the Monitor previously reviewed the TEAMS II working papers and concluded that a sample<sup>10</sup> used by TEAMS II staff was not statistically valid, as the sample should have gone to an error rate of +4%.<sup>11</sup> The TEAMS II staff agreed to revise their methodologies and increase their sample size.

During the current quarter, the TEAMS II staff provided the Monitor with their working papers for the increased sample size of officers terminated more than three years. The TEAMS II staff conducted this review by looking at a specific LAPD organization for a specific time period and then queried all its employee events (i.e., arrests, stops, UOF, et al.) during that time period. They then queried all the employee events found to see which events belonged to terminated employees and compared those terminated employees' events against a current organizational summary report to determine if they were still included for aggregate statistical analysis.

The first review conducted by the TEAMS II staff queried an organization during Deployment Period (DP) 6 2005,<sup>12</sup> and identified 819 total employee events, of which 63 belonged to two terminated employees. After comparing such events to a current organizational summary report dated February 6, 2007, it was determined that 100% of the 63 employee events were included. The second review queried an organization during DP7 2006,<sup>13</sup> and identified 252 total employee events, of which 57 belonged to one terminated employee. After comparing such events to a current organizational summary report dated June 19, 2007, it was determined that 100% of the 57 employee events were included. The third review queried an organization during DP4 2007,<sup>14</sup> and identified 263 total employee events, of which 19 belonged to one terminated employee. After comparing such events to a current organizational summary report dated June 15, 2007, it was determined that 100% of the 19 employee events were included. The Monitor reviewed all three queries, including all terminated employees' events and their related working papers, and concurs with the TEAMS II staff's findings.

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<sup>10</sup> The sample in question was tested to review those officers terminated more than three years ago in order to determine if their information was still maintained in TEAMS II.

<sup>11</sup> In their first review, the TEAMS II staff selected a sample of 40 terminated officers from a population of 1,939 officers, and then conducted a review of only three officers from this sample.

<sup>12</sup> DP6 2005 covers May 29-June 25, 2005.

<sup>13</sup> DP7 2006 covers June 25-July 22, 2006.

<sup>14</sup> DP4 2007 covers April 1-April 28, 2007.

Since the required access policy has been approved and distributed Department-wide, and the aforementioned reviews have been corrected to achieve a statistically valid sample and such reviews are in compliance, the Monitor finds the LAPD in compliance with the requirements of paragraph 49.

### **Subparagraph 50d – TEAMS II Operational and Implemented**

Subparagraph 50d requires the TEAMS II computer program and computer hardware shall be operational and implemented to the extent possible, subject to the completion of the protocol for using TEAMS II required by paragraph 46, within 21 months of the approval of the design document pursuant to subparagraph 50a.

### ***Background***

The Monitor has not previously assessed the LAPD's compliance with subparagraph 50d.

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

In order to assess the LAPD's compliance with subparagraph 50d, the Monitor has monitored the progress of the TEAMS II system over the past seven quarters. The TEAMS II computer program and computer hardware is now operational and implemented Department-wide. Although this was not accomplished by the deadline set out in subparagraph 50d, the requirements of the subparagraph have otherwise been met. In addition, the TEAMS II staff has drafted two policies that outline the requirements of paragraph 40 and 46, including granting or limiting access to TEAMS II by all other persons, including the staff of the Commission and the IG. As described above, the policy that outlines the requirements of paragraph 40 is entitled "Access Control Policy for TEAMS II Information," dated July 16, 2007 and the policy that outlines the requirements of paragraph 46 is entitled "Duty to Conduct and Document Individual Performance Assessments," dated July 12, 2007. Both of these policies were approved by the Police Commission on June 12, 2007, made available to the Department via the web the week of June 18, 2007 and were distributed to the Department the week of July 16, 2007.

As described in the Current Assessment of Compliance for paragraph 39 and in previous quarterly reports, the City has now rolled-out and is utilizing DPS, UOFS, RMIS and CMS Phase I Department-wide, all of which are related to the implementation of TEAMS II. As a result, the LAPD has achieved the steps required for compliance with subparagraph 50d.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 50d.<sup>15</sup>

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<sup>15</sup> The Monitor makes this determination of compliance notwithstanding that the original time frame for the development schedule of TEAMS II was not met.

## Subparagraph 50e – TEAMS II Operational and Fully Implemented

Subparagraph 50e requires TEAMS II shall be implemented fully within the later of 21 months of the approval of the design document pursuant to subparagraph 50a, or 6 months of the approval of the protocol for using TEAMS II pursuant to paragraph 50b.

### *Background*

The Monitor has not yet assessed the LAPD's compliance with subparagraph 50e.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 50e, the Monitor has monitored the progress of the TEAMS II system over the past seven quarters. TEAMS II has been fully implemented Department-wide. Although this was not accomplished by the deadline set out in subparagraph 50e, the requirements of the subparagraph have otherwise been met. In addition, as described in the Current Assessments of Compliance for subparagraph 50d, the TEAMS II staff has drafted two policies that outline the requirements of paragraph 40 and 46 and the City has now rolled-out and is utilizing DPS, UOFS, RMIS and CMS Phase I Department-wide, all of which are related to the implementation of TEAMS II. As a result, the LAPD has achieved the steps required for compliance with subparagraph 50e.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 50e.<sup>16</sup>

## Subparagraphs 51b and d – Selection of Officers as Field Training Officers or for Gang Units; Document Consideration of Sustained Administrative Investigations, Adverse Judicial Findings or Discipline

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

Subparagraph 51d requires that when an officer is selected to the FID,<sup>17</sup> a gang unit, or assigned as a PSB<sup>18</sup> investigator or FTO, supervisors and managers shall document their consideration of any sustained administrative investigation, adverse judicial finding, discipline for excessive force, false arrest or charge, improper search or seizure, sexual harassment, discrimination, or dishonesty.

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<sup>16</sup> The Monitor makes this determination of compliance notwithstanding that the original time frame for the development schedule of TEAMS II was not met.

<sup>17</sup> FID is the successor to the Operations Headquarters Bureau (OHB) Unit.

<sup>18</sup> PSB is the successor to the IAG.

## *Background*

The Monitor last assessed the LAPD's compliance with subparagraphs 51b and d during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance with these subparagraphs.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraphs 51b and d as they pertain to gang officers, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit*, dated March 27, 2007, and related working papers. In this audit, AD identified a total population of 338 GED officers assigned between October 15 to November 11, 2006, from which it selected a sample of 64 officers (53 non-supervisory and 11 supervisory)<sup>19</sup> who were selected to the GED units between March 5, 2006 and November 11, 2006 to assess compliance with the requirements of subparagraphs 51b and d and 107a and b.

Regarding subparagraphs 51b and 107a,<sup>20</sup> AD reviewed the TEAMS I records and performance evaluations for the 64 non-supervisory and supervisory officers selected for review and determined that 60 of the 64 officers, or 94% had a positive evaluation of their TEAMS records and written consideration of sustained complaints related to those activities specified in subparagraphs 51d and 107a prior to being selected into the respective unit.<sup>21</sup>

The Monitor randomly selected a sample of 20 non-supervisory officers and nine supervisory officers from AD's samples and reviewed their TEAMS records and performance evaluations. The Monitor identified one TEAMS records in the sample that was dated more than 45 days before the selection was approved and, as a result, should have been found in non-compliance. Specifically, this TEAMS record was dated 53 days before the selection was approved.<sup>22</sup>

Regarding subparagraph 51d, AD found that none of the officers selected for review had sustained complaints or adverse judicial findings with elements specified in subparagraph 51d of the Consent Decree during their assignment in the gang unit. The Monitor did identify and report to the Department its concern regarding the subjectivity of whether some of the sustained complaints were related to subparagraph 51d.

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<sup>19</sup> The sample originally consisted of 57 officers and 15 supervisors, but AD found that 4 of the supervisors and 4 of the officers were on loan to GED, and therefore were not used to assess compliance.

<sup>20</sup> As noted in the Report for the Quarter Ending September 30, 2006, in connection with subparagraph 131b, and occurring again in this year's audit, AD did not report on the LAPD's compliance with subparagraphs 51b and d, even though it had done the fieldwork; the Monitor once again recommends that these assessments be included in future GED Selection Criteria audits.

<sup>21</sup> The remaining four packages did not contain a TER for selection.

<sup>22</sup> Refer to paragraph 131b for further comments in regards to the GED selection process and its direct relation to the *GED Selection Criteria Audit*.

As previously reported, the Department has changed its policy to require review of all sustained complaints for elements related to subparagraph 51d. The Monitor commends the Department for taking this step; however, the Monitor still identified complaints with elements that may be related to subparagraph 51d for which written explanations should have been provided. Because a decision as to whether a particular complaint falls within the ambit of subparagraph 51d may be subjective, the Monitor suggests that the Department consider requiring written explanations for all sustained complaints with the exception of Failure to Qualify (FTQ), Failure to Appear (FTA) and Preventable Traffic Collision (PTC).<sup>23</sup>

Based on the foregoing, notwithstanding the above, the Monitor finds the LAPD in compliance with subparagraphs 51b and d.

### Paragraph 52 – TEAMS II Modifications

Paragraph 52 requires that following implementation of TEAMS II, the City may cause the Department to add, subtract, or modify data tables and fields, modify the list of documents electronically attached, and add, subtract, or modify standardized reports and queries. The City or the Department shall consult with the DOJ and the Monitor before subtracting or modifying any data tables or data fields, or modifying the list of documents to be electronically attached, and make all reasonable modifications to the proposed alterations based on any objections by the DOJ.

### *Background*

The Monitor has not previously assessed the LAPD's compliance with paragraph 52.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 52 during the current quarter, the Monitor met with the TEAMS II staff on June 19, 2007 and discussed any possible modifications to the TEAMS II system. The Monitor was informed that additions have been made to the system since the Data Input Plan, including the data fields described in Appendix A, was approved in the third quarter of 2003, but that no eliminations or changes to TEAMS II have yet been made. In addition, during the Monitor's review of paragraph 41 in the previous quarter, which included ensuring that the data elements from Appendix A were present and accurate, the Monitor found that none of the data elements from Appendix A were eliminated or changed. The TEAMS II Commanding Officer (CO) is considering preparing a quarterly letter addressed to the DOJ and the Monitor that will delineate any changes or modifications to the system. In

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<sup>23</sup> Refer to the Current Assessment of Compliance for subparagraph 107a for additional information regarding this issue.

addition, the Monitor will continue its review of the system while assessing various TEAMS II-related paragraphs.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 52.

### *Paragraph 53 – TEAMS II Management and Coordination*

Paragraph 53 requires that LAPD shall designate a unit within Human Resources Bureau that is responsible for developing, implementing, and coordinating LAPD-wide risk assessments. Such unit shall be responsible for the operation of TEAMS II, and for ensuring that information is entered into and maintained in TEAMS II in accordance with the Consent Decree. Such unit further shall provide assistance to managers and supervisors who are using TEAMS II to perform the tasks required hereunder and in the protocol adopted pursuant to paragraphs 46 and 47 above, and shall be responsible for ensuring that appropriate standardized reports and queries are programmed to provide the information necessary to perform these tasks. Nothing in this Consent Decree shall preclude such unit from also having the responsibility for providing investigative support and liaison with the Office of the City Attorney.

### *Background*

The Monitor has not previously assessed the LAPD's compliance with paragraph 53.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 53 during the current quarter, the Monitor met with the TEAMS II staff and the RAS on June 19, 2007 and discussed the role of RAS. This unit has been providing the Department with assistance in connection with TEAMS II, including providing a help desk for LAPD personnel to call when guidance is needed on how to evaluate risk and write a proper narrative to support any conclusions made based on that evaluation. RAS is also engaging in on-site visits to assist with training and utilization of TEAMS II, and is directly monitoring and producing reports to ensure action items are being completed in a timely manner and that those managers and supervisors needing assistance with completing these action items are receiving that help.

RAS and TEAMS II staff also produce a daily status report that shows the status of action items Department-wide. The Monitor reviewed this status report and, going forward, will be receiving this status report at the beginning of each month. The status report is used to coordinate the efforts of RAS and TEAMS II Helpdesk staff to assess which action items are pending and which are completed in a timely manner. RAS also meets with the TEAMS II staff on a bi-weekly basis, where they provide an agenda and a status update of their role in the TEAMS II process.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 53.

## B. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY – PERFORMANCE EVALUATION SYSTEM

Paragraph 54 is the only paragraph included in this subsection of the Consent Decree.

### Paragraph 54 – Performance Evaluations

Paragraph 54 mandates that the Department shall develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance, including with respect to: (a) civil rights integrity and the employee's community policing efforts (commensurate with the employee's duties and responsibilities); (b) managers' and supervisors' performance in addressing at-risk behavior including the responses to Complaint Form 1.28 investigations; (c) managers' and supervisors' response to and review of Categorical and Non-Categorical Use of Force (NCUOF) incidents, review of arrest, booking, and charging decisions and review of requests for warrants and affidavits to support warrant applications; and (d) managers' and supervisors' performance in preventing retaliation. The plan shall include provisions to add factors described in subparts (a)-(d), above, to employees' job descriptions, where applicable.

### *Background*

The Monitor has not previously assessed the LAPD's compliance with paragraph 54. As part of the methodology changes that took effect in the fall of 2006, the Monitor will now include the following subparagraphs in its paragraph 54 assessment:

- 62c: Supervisor Conduct at Search Warrant Services or CUOF Incidents
- 70c: Watch Commander Approval of All Booking Recommendations
- 108i: Quality of Supervisory Oversight Regarding Use of Confidential Informants
- 116: Competency of FTOs in Successfully Completing and Implementing FTO Training

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 54 during the current quarter, the Monitor requested documentation from the Department, including a performance evaluation rating (PER) form, as well as any instructions on how to complete the form and any applicable training curricula and/or lesson plans developed in conjunction with the use of the PER form, that demonstrates compliance with the paragraph's requirements. The LAPD responded that a performance evaluation rating form and related instruction and training are being developed in an effort to comply with the requirements of the paragraph.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 54.

## C. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used and with a determination as to whether that force is “Categorical” or “Non-Categorical.” A CUOF<sup>24</sup> is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.<sup>25</sup> Administrative investigations of these incidents are the responsibility of the FID. All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered NCUOF. These are also subject to certain paragraphs.<sup>26</sup> NCUOF occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

The 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 (BSS) 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 UOF 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.<sup>27</sup>

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<sup>24</sup> CUOF include an Officer-Involved Shooting (OIS) with or without a hit; In-Custody Death (ICD); Law Enforcement Activity Related Death (LEARD); Law Enforcement Related Injury (LERI) requiring hospitalization; Neck Restraint; Head Strike with an Impact Weapon; and a Canine Bite requiring hospitalization.

<sup>25</sup> Specifically, paragraphs 13, 38, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 136 and 142, as well as certain audit-related paragraphs.

<sup>26</sup> Specifically, paragraphs 13, 38, 65, 66, 68, 69, 81 and 82, as well as certain audit-related paragraphs.

<sup>27</sup> 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.

During the current quarter, the Monitor assessed the Department's compliance with paragraphs 62, 63, and 64. The Monitor was also scheduled to report on its assessment of the Department's compliance with paragraph 80 (as it relates to CUOF investigations) in this report. However, the Monitor has elected to give additional consideration to points raised by the LAPD in its response to our initial assessment of compliance with the paragraph. The Monitor will include its assessment of the LAPD's compliance with the paragraph in its Report for the Quarter Ending September 30, 2007.

The results of our current assessments follow.

### *Paragraph 62 – Analyses of CUOF and Search Warrants*

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

### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to CUOF (subparagraph 62a) during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in non-compliance. For seven of the 19 CUOF incidents reviewed, the Monitor noted that the evaluations either were insufficient or did not address all responding supervisors. For another three incidents, the Monitor noted the required analyses were not completed within the mandated seven-day period.

### *Current Assessment of Compliance*

#### *Subparagraph 62a CUOF Incidents*

In order to assess compliance with subparagraph 62a, the Monitor reviewed 23 CUOF incidents.<sup>28</sup> Although the analyses required by paragraphs 62 were completed for each of the incidents reviewed, the Monitor determined that the analyses of 11 of the 23 incidents were insufficient, as they did not address material facts that would have been known at or right after

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<sup>28</sup> The 23 incidents occurred during the period November 2005 - July 2006 and were forwarded to the Police Commission for review during the period November 2006 - February 2007.

the incident.<sup>29</sup> The Monitor also determined that the analyses for two incidents were not completed within the mandated seven-day period.<sup>30</sup>

Based on the foregoing, the Monitor finds the LAPD non-compliance with subparagraph 62a.

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

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

### ***Background***

The Monitor last assessed compliance with paragraph 63 during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in non-compliance. In assessing compliance with this paragraph, the Monitor relied on information compiled and analyzed by the LAPD's Civil Rights Integrity Division (CRID). For nine of 40 officers referred to BSS, the CRID was unable to verify that the officers were assigned to a non-field assignment pending their BSS consultation and notification of fitness for duty.

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

During the current quarter, CRID compiled and presented information on 37 CUOF incidents, which involved a total of 87 officers requiring referral to BSS.<sup>31</sup> The Monitor reviewed the CRID's analysis and noted that all 87 officers were scheduled for an appointment with the BSS within 48 hours of the incident and all 87 officers underwent a psychological examination. Similarly, the respective COs of all 87 officers consulted with the BSS regarding the involved officers' readiness to return to field duty. However, the CRID was able to verify that only 63 of the 87 officers were assigned to non-field assignments pending BSS consultation and notification of fitness for duty.<sup>32</sup> This translates into an overall compliance rate of 72.4%.

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<sup>29</sup> For six incidents the Monitor identified supervisors who were either at or responded to the scene and assumed a supervisory role, but were not evaluated.

<sup>30</sup> For one of the two incidents the evaluation appropriately assessed the presence and actions of all supervisors at the CUOF scene.

<sup>31</sup> The incidents occurred between October 2006 and April 2007.

<sup>32</sup> CRID's inspection included reviewing and comparing DPS Daily Work Sheets, Official Divisional Time Books, Detective Daily Sign In/Sign Out Sheets and Form 15.2 Interdepartmental Correspondence.

For the period under review, the CRID noted that the BSS was staffed with 17 psychologists, 15 of whom completed officer psychological evaluations. All 17 psychologists maintained current mental health licensing with the State of California Department of Consumer Affairs, Board of Psychology.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 63.<sup>33</sup>

### Paragraph 64 – Officer History Considered for Disciplinary or Non-Disciplinary Actions

Paragraph 64 requires a manager<sup>34</sup> to consider an officer's work history, including information contained in the TEAMS II system, the officer's CUOF history and prior tactics, when reviewing and/or making recommendations regarding disciplinary or non-disciplinary action as a result of a CUOF.

### *Background*

Once FID has completed a CUOF investigation, and prior to the UOFRB, the Use of Force Division (UOFD) reviews the investigation and prepares a form entitled, "*Officer Work History Review*."<sup>35</sup> At the conclusion of the Board, an involved officer's CO is questioned as to whether or not his/her review identified a pattern regarding tactics of the involved officer.

The Monitor last assessed the LAPD's compliance with subparagraph 64b (regarding non-disciplinary action) during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in compliance. For 19 CUOF incidents, the Monitor reviewed relevant documentation, including TEAMS reports, and determined that the UOFRB received accurate officer history information for consideration of non-disciplinary action.

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<sup>33</sup> After the end of the quarter, the Police Commission issued an order requiring the appearance of any Department employee or entity that fails an audit. The Monitor applauds this requirement.

<sup>34</sup> Paragraph 29 defines a "manager" as an LAPD supervisor ranked captain or above. In interpreting the requirements of this paragraph, the Monitor noted that although it requires a manager's review, it does not specifically require the involved officer's manager. The UOFRB is comprised of at least four participants who qualify as a manager according to the Consent Decree definition.

<sup>35</sup> This form documents disciplinary history that includes lethal UOF, non-lethal UOF, and complaints.

## *Current Assessment of Compliance*

### *Subparagraph 64b Officer History Considered For Non-Disciplinary Action*<sup>36</sup>

As described in the Current Assessment of Compliance for paragraph 62, above, during the current quarter, the Monitor reviewed 23 CUOF incident investigations that were investigated solely by the FID. For all 23 CUOF incidents, the Monitor reviewed relevant documentation, including TEAMS II reports, and determined that the UOFRB received accurate information.<sup>37</sup>

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

## D. 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,<sup>38</sup> 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 subparagraph, 62b. The results of our current assessment follow.

### *Paragraph 62 – Analyses of CUOF and Search Warrants*

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

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<sup>36</sup> The Monitor is scheduled to again assess the LAPD's compliance with subparagraph 64a during the quarter ending September 30, 2007.

<sup>37</sup> The LAPD represented to the Monitor that during January 2006 it commenced generating reports from the TEAMS II system for use by the UOFRB in evaluating officer history.

<sup>38</sup> 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.

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to search warrants (subparagraph 62b) during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in non-compliance. The Monitor noted that for 74 of 82 executed search warrants reviewed, the required analysis was documented as having occurred within seven days of service. Additionally, for 73 of 82 search warrants the analyses conducted by the COs sufficiently documented the supervisors' actions.

The Monitor last assessed the LAPD's compliance with paragraph 62 as it pertains to employee comment cards (subparagraph 62c) during the quarter ending December 31, 2006, at which time the Monitor found the LAPD in compliance. The Monitor noted that for 17 of the 19 CUOF incidents reviewed and for 79 of the 82 search warrants reviewed, the analyses were documented on the respective supervisors' employee comment cards.

## *Current Assessment of Compliance*

### *Subparagraph 62b Service of Search Warrants*

During the current quarter, the CRID compiled information and analyses of a sample of executed search warrants selected for review by the Monitor.<sup>39</sup> The Monitor noted that for 55 of the 70 (78.6%) search warrants reviewed, the CO completed an evaluation of the supervisors' presence within the mandated seven-daytime period. The Monitor also noted that for 63 of the 70 (90.0%) search warrants reviewed, the analyses conducted by the CO sufficiently documented the supervisors' actions.

### *Subparagraph 62c Employee Comments Cards*

In assessing the LAPD's compliance with subparagraph 62c, the Monitor noted that for 60 of the 70 (85.7%) search warrants reviewed, the CO's analysis was documented on the respective supervisors' filed employee comment sheets.

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

## **E. 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,

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<sup>39</sup> The CRID accumulated information on search warrants executed during April 2007. In total, 111 such warrants were identified. The CRID randomly sampled 70 of the warrants for review and analyses from 18 of the 19 Areas. For one Area, there were no search warrants that qualified for review.

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.<sup>40</sup> 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 81<sup>41</sup>); 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 is assessing the Department's compliance with these paragraphs during the extension to the Consent Decree; assessments of several of these paragraphs are scheduled for the quarter ending September 30, 2007.

## F. 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 assessed the

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<sup>40</sup> 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.

<sup>41</sup> 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.

Department's compliance with paragraphs 104 and 105 during the current quarter. The results of our current assessments follow.

### *Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops*

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

### *Background*

The Monitor last assessed the LAPD's compliance with paragraphs 104 and 105 during the quarter ending June 30, 2006, at which time the Monitor found the Department in compliance.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraphs 104 and 105 during the current quarter, the Monitor reviewed and subsequently relied on AD's *Motor Vehicle and Pedestrian Stop Data Collection Audit, Third Quarter, Fiscal Year 2006/2007*, dated December 28, 2006, and related working papers.<sup>42</sup> In this audit, AD tested three different samples to measure compliance with subparagraphs 128(4) & 131c-4, among others. One sample comprised 134 randomly selected FDRs from a total population of 60,939 from patrol and gang units in the 19 areas, the four Traffic Divisions and Metropolitan Division for three dates in DP 7, 2006.<sup>43</sup> Additionally, AD randomly selected 44 Daily Field Activity Reports (DFARs)<sup>44</sup> 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.<sup>45</sup> In connection with paragraphs 104 and 105, the Monitor reviewed the samples for compliance with the requirements of completion of the entire form, accuracy of the information, and completion of an FDR when

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<sup>42</sup> Refer to the Current Assessment of Compliance for subparagraphs 128(4) & 131a, c-4 and e in the Report for the Quarter Ending March 31, 2007 for additional information regarding this audit and the Monitor's meta-audit of it.

<sup>43</sup> DP 7, 2006 covers June 25 - July 22, 2006.

<sup>44</sup> While AD randomly selected one watch and one unit within each watch for 19 divisions, they did not select a statistically valid sample.

<sup>45</sup> 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 included stops by patrol and GED officers. After reviewing the OIG's sample for appropriateness, the Monitor reviewed the same sample.

required. The Monitor concurred with AD in its finding that the Department, including the GED units, was non-compliant with the paragraph 104 and 105 requirements that FDRs be administratively complete (90% compliance).

The Monitor also reviewed the *OIG's Review of the Department's Motor Vehicle and Pedestrian Stop Data Collection Audit, Fiscal Year 2006/2007*, dated March 29, 2007. After looking at the same samples as the OIG, the Monitor concurs with the OIG's conclusions that the audit was complete, performed in a quality manner, and that its findings were adequately supported.

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

## G. 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 GEDs,<sup>46</sup> 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.<sup>47</sup> 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.

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<sup>46</sup> GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

<sup>47</sup> 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.

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 106d, 107a and 107b. The results of our current assessments follow.

### *Subparagraph 106d- Gang Unit Tour of Duty Limitations*

Subparagraph 106d provides mandated limitations on the amount of time that officers can spend working in the gang units.

#### *Background*

The Monitor last assessed the LAPD's compliance with subparagraph 106d during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance.

#### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 106d during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit*, dated March 27, 2007, and related working papers.<sup>48</sup> In this audit, AD identified the total population of GED officers due for an extension from DP3, 2006 to DP 11, 2006;<sup>49</sup> in total, 62 GED personnel were due for an extension during the time period. In assessing Department-wide compliance regarding tour limitations, for the 62 GED personnel identified, AD reviewed Teams Evaluation Reports (TERs), TEAMS I and II records and performance evaluations for proper documentation and approval in extending the GED tours of duty. AD found that the extension requirements for tour assignments were adequately addressed for all 62, or 100%, of the GED personnel reviewed.

The Monitor selected a random sample of 21 GED personnel from AD's sample of 62, and reviewed their TERs, current TEAMS I and II records and performance evaluations.<sup>50</sup> The Monitor identified one instance where both the Interviewing Supervisor and Watch Commander reviewing the documentation and request for extension provided their signatures prior to the date of the TEAMS record. As a result, the Monitor could not identify any indications that they

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<sup>48</sup> Refer to the Current Assessment of Compliance for paragraph 131b, below, for additional information regarding the *GED Selection Criteria Audit* and the Monitor's review of that audit.

<sup>49</sup> DP 3 to DP 11 covers the period March 5 to November 11, 2006.

<sup>50</sup> Refer to the Current Assessment of Compliance for paragraph 131b for information regarding AD's and the Monitor's sampling parameters.

reviewed the officer's TEAMS record prior to approval; this instance should also have been held out of compliance.

The Monitor identified four TEAMS records in the sample that were dated more than 45 days before the request for extension was approved;<sup>51</sup> these four records were not, but should have been, considered for non-compliance in AD's audit report, as the 45-day guideline AD established should have been applied consistently.<sup>52</sup> However, as AD identified in this and prior audits, there is a conflict between what is required by the Consent Decree and what is required by policy.<sup>53</sup>

The Monitor also noted that the packages that were selected after TEAMS II became available included varying types of TEAMS II records, as the Department has not yet indicated which TEAMS II record is appropriate.<sup>54</sup>

During its review of the performance evaluations, the Monitor identified that eight of the 21 officers' and supervisors' performance evaluations used to assess their eligibility to remain in the gang unit contained canned language; AD did not identify the canned language during its review. The amount of canned language contained in these performance evaluations ranged from one-third to over half of the total narrative, and the narratives ranged between two and five pages. The Monitor is concerned about this level of canned language, as these extensions are based on evaluations of performance reviews that do not address the individual officers' performance.

Overall, with the one non-compliant instance related to the supervisor's signature prior to the TEAMS report, the Monitor computed a compliance rate of 95.2% (20 of 21). The four TEAMS records in the sample that were dated more than 45 days before the request for extension were

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<sup>51</sup> Three TEAMS records were dated 49 days before the request for extension was approved and one TEAMS record was dated 78 days before the request for extension was approved.

<sup>52</sup> As the Monitor indicated in the Report for the Quarter Ending September 30, 2006, AD reviewed timeliness for new officer selections and assessed whether TEAMS records were dated more than 45 days before selection to the unit; however, AD did not review timeliness in connection with officers' extensions and they should have, as Department policy requires a current TEAMS report.

<sup>53</sup> Paragraph 106d states that supervisors and non-supervisory officers in gang units shall have a limited tour for a period not to exceed 39 DPs. Any longer extension shall be permitted upon written approval of the Chief of Police. Due to the lack of specifics surrounding the extension time beyond 39 DPs, the Chief submitted a letter to the DOJ proposing that after a 39 DP tour of duty, successful incumbents would be reassigned to the GED after a reevaluation process took place for no longer than 26 DPs. The DOJ letter in response, dated February 11, 2003, stated that they had no objections to this plan. Shortly thereafter, the Department drafted Special Order No. 27, which speaks to this reevaluation process and includes review of a current TEAMS report among other documents. Therefore, whether or not the TEAMS report is current and what the policy requires for current TEAMS II reports is assessed under this paragraph.

<sup>54</sup> Although Special Order No. 27 requires that the type of TEAMS Report used is Promotion / Paygrade Advancement, this policy was written prior to roll-out of the TEAMS II system and does not specifically refer to the TEAMS II report. Additionally, the ambiguity regarding which type of TEAMS II report to use is apparent in the various types of TEAMS II reports included in these selection and extension packages.

not considered non-compliant in this assessment, as they were impacted by the inconsistency between policy and the Consent Decree regarding both the timeliness and the type of TEAMS II reports required, as described above.

Based on the foregoing, the Monitor finds the LAPD in compliance with subparagraph 106d.

### ***Recommendations***

The Monitor recommends that the Department or AD conduct a review of performance evaluations and identify how many of those contain canned language to see how prevalent this issue may be. In addition, training of supervisors on how to write original performance evaluations for their subordinates should be considered.

The Monitor recommends that the Department specify which type of TEAMS II report is required and what constitutes a current TEAMS II report when supervisors and managers are reviewing an officer's or supervisor's eligibility to extend the tour of duty in a GED unit.

### ***Subparagraph 107a – Gang Unit Eligibility Criteria***

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

### ***Background***

The Monitor last assessed the LAPD's compliance with subparagraph 107a during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in compliance.

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

In order to assess the LAPD's compliance with subparagraph 107a during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit*, dated March 27, 2007, and related working papers. As described in detail in the Current Assessment of Compliance for subparagraphs 51b and d, AD selected a sample of 64 officers (53 non-supervisory and 11 supervisory) to assess compliance with the requirements of subparagraphs 51b and d and 107a and b. AD reviewed the TERs, TEAMS Records and performance evaluations for the 64 non-supervisory and supervisory officers selected for review and determined that 60 of the 64 officers, or 94% had a positive evaluation of their TEAMS

records and written consideration of sustained complaints related to those activities specified in subparagraphs 51d and 107a prior to being selected into the respective unit.<sup>55</sup>

The Monitor selected a random sample of 20 non-supervisory officers and 9 supervisory officers from AD's samples, and reviewed their current TEAMS records and written consideration of sustained complaints related to those activities specified in paragraph 107a prior to being selected into the respective unit. The Monitor identified one TEAMS record in the sample that was dated more than 45 days before the request for selection was approved and, as a result, should have been considered for non-compliance in AD's audit report.<sup>56</sup> In addition, some packages that were selected after TEAMS II became available included varying types of TEAMS II records, as the Department has not yet indicated which TEAMS II record is appropriate.<sup>57</sup>

The Monitor also identified five selection packages that contained sustained complaints that the Monitor concluded contained elements related to subparagraph 107a. For two of these packages, the reviewing supervisors did not include written consideration of these complaints in their assessments of these officers. The Monitor and AD differed on whether such complaints were related to subparagraph 107a;<sup>58</sup> however, both felt that some of these packages could benefit from providing such written consideration. Regardless of whether these aforementioned sustained complaints were related to subparagraph 107a, given the seriousness of the complaints, the Monitor believes they deserve written consideration when officers are being considered for selection into a coveted unit such as GED.<sup>59</sup>

As described in our Report for the Quarter Ending September 30, 2006, Special Order No. 43, dated December 28, 2005, now requires supervisors to review all sustained complaints to ascertain if they contain elements related to subparagraph 107a and to document their consideration of each sustained complaint that qualifies under this criterion. The Monitor commended the Department for taking such measures in its new policy. However, the subjectivity of whether such complaints are related to subparagraph 107a is still an issue, and managers and supervisors are not consistently providing written consideration.

Notwithstanding the issues described above; due to the inconsistency between policy and the Consent Decree regarding both the timeliness and the type of TEAMS II reports required, as well as the subjectivity of whether two of the packages had complaints that were related to

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<sup>55</sup> The remaining four packages did not contain a TER for selection.

<sup>56</sup> This TEAMS record was dated 53 days before the selection was approved.

<sup>57</sup> As described in the Current Assessment of Compliance for subparagraph 106d above, Special Order No. 27 does not specifically refer to the TEAMS II report and, as a result, the TEAMS II report types used in these selection packages were inconsistent.

<sup>58</sup> The Monitor acknowledges that there is a degree of subjectivity involved.

<sup>59</sup> Please refer to the Current Assessment of Compliance for subparagraph 131b for additional information regarding the classification of complaints in connection with *the GED Selection Criteria Audit*.

subparagraph 107a with no written consideration, the Monitor finds the LAPD in compliance with subparagraph 107a.

### *Recommendations*

The Monitor recommends that the Department consider having supervisors provide written consideration for all sustained complaints except FTQ, FTA and PTC when assessing sustained complaints related to those activities specified in subparagraph 107a so that there is no question as to whether such complaints are related to subparagraph 107a. In addition, providing written documentation for all such sustained complaints for officers and supervisors under consideration for the GED unit ensures such units are being well monitored.

As with subparagraph 106d, the Monitor recommends that the Department specify which type of TEAMS II report is required and what constitutes a current TEAMS II report when supervisors and managers are reviewing an officer's or supervisor's eligibility to be selected into a GED unit.

### *Subparagraph 107b – Selection Process for Gang Unit Personnel*

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

### *Background*

The Monitor last assessed the LAPD's compliance with subparagraph 107b during the quarter ending September 30, 2006, at which time the Monitor found the LAPD in non-compliance.

### *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 107b during the current quarter, the Monitor reviewed and subsequently placed reliance on AD's *GED Selection Criteria Audit* dated March 27, 2007, and related working papers.<sup>60</sup> As described in the Current Assessment of Compliance for subparagraphs 51b and d, AD selected a sample of 64 officers (53 non-supervisory and 11 supervisory) to assess compliance with the requirements of subparagraphs 51b and d and 107a and b. In assessing Department-wide compliance regarding eligibility criteria for officers selected to a gang unit, AD reviewed the TEAMS I records, performance evaluations, written applications and evidence of an oral interview for the 64 non-supervisory and supervisory officers selected. AD determined that 30 of 64, or 47% of these officers had a formal, written application process, oral interview(s), and the use of TEAMS II and annual

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<sup>60</sup> Please refer to the Current Assessment of Compliance for subparagraph 131b for additional information regarding the GED selection process in connection with *the GED Selection Criteria Audit*.

performance evaluations considered and documented in their selection packages as required by subparagraph 107b. Of the 34 in non-compliance, issues included lack of written application, TEAMS records dated well before selection, lack of relevant performance evaluations, CO approval after selection, no documentation of oral interview, lack of evidence that RMG was contacted, and selections approved prior to the oral interview taking place.

The Monitor selected a random sample of 20 non-supervisory officers and 9 supervisory officers from AD's samples, and reviewed the TERs, the current TEAMS I records, performance evaluations, written applications and evidence of an oral interview. The Monitor identified two packages in the sample for which the interviewing supervisors' names or signatures were not on the GED Selection checklists or the TER narratives indicating who conducted the suitability or oral interview of these supervisors; these packages should also have been classified as non-compliant by AD.<sup>61</sup>

Also, during the Monitor's review of these 29 GED selection packages, the Monitor identified deficiencies in connection with the performance evaluations utilized in considering selection for four of the 29 officers and supervisors: the two most recent performance evaluations included in one packages covered seven months, the two most recent evaluations included in two other packages covered one year, and the most recent evaluations included in another package covered 18 months. In addition, two of the four packages' most recent evaluations were dated a year or more prior to the selection date. Lastly, the Monitor identified canned language in two of the 20 officers' performance evaluations used to assess their selection into the gang unit.<sup>62</sup> AD did not identify the canned language during its review.

Based on the foregoing, the Monitor finds the LAPD in non-compliance with subparagraph 107b.

### *Recommendations*

The recommendations included under subparagraph 107a apply to this subparagraph as well.

## H. CONFIDENTIAL INFORMANTS

The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of Confidential Informant (CI) information. The Department has not yet achieved substantial compliance with the Consent

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<sup>61</sup> The TER provided the signatures of the supervisors conducting the selection review, however, the individuals conducting the suitability or oral interview may be different from those conducting the selection review; therefore, the signature and serial number should also have been included on the GED selection checklist as required.

<sup>62</sup> The amount of canned language contained in these performance evaluations was approximately one-third of the total narrative.

Decree's requirements relative to procedures for the handling of informants (paragraph 108).<sup>63</sup> As a result, the Monitor will be assessing the Department's compliance with this paragraph during the extension to the Consent Decree; such an assessment is scheduled for the quarter ending September 30, 2007.

## I. TRAINING

The Consent Decree's training requirements center largely on 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.<sup>64</sup> 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 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 116. 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.<sup>65</sup>

#### *Background*

The Monitor last assessed the LAPD's compliance with paragraph 115 during the quarter ending March 31, 2007, at which time the Monitor withheld a determination of compliance pending review of requested complaint files, which took place during the current quarter.

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<sup>63</sup> The parties have agreed, and the Monitor concurs, that the Department has achieved substantial compliance with paragraphs 109-110 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.

<sup>64</sup> 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.

<sup>65</sup> Under paragraph 114, the required eligibility criteria includes demonstrated analytical skills; demonstrated interpersonal and communication skills; cultural and community sensitivity; diversity; and, commitment to police integrity.

## *Current Assessment of Compliance*

During the current quarter, the Monitor requested and received a list of all FTOs assigned a probationary officer during the period July 1, 2006 through December 31, 2006. A total population of 583 officers was identified, from which the Monitor selected a sample of 83<sup>66</sup> and reviewed their TEAMS II reports and personnel packages for sufficiency of annual evaluations, FTO eligibility criteria outlined in paragraph 114, and UOF and complaint histories. The Monitor identified two officers who each had a personnel complaint against them that rose to the level of warranting de-selection from the FTO program.<sup>67</sup> This translates to 81 of 83 FTOs, or 97.6%, thus meeting the requirements of paragraph 115.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 115.

## *Paragraph 116 – FTO Training Plan*

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

## *Background*

The Monitor last assessed the LAPD's compliance with paragraph 116 during the quarter ending June 30, 2006, at which time the Monitor found the Department in non-compliance.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with paragraph 116 during the current quarter, the Monitor requested and received from the LAPD a list of 640 officers assigned as FTOs from October 1, 2006 through March 31, 2007. From that list, the Monitor selected a random sample of 84 FTOs for whom the Monitor intends to review training records and TEAMS II reports to verify that they have completed FTO School and related FTO update training.

Unlike past quarters, the Monitor will no longer review the FTOs' personnel packages to assess whether their annual performance evaluations addressed their competency in successfully completing and implementing their FTO training. This requirement will now be assessed as part of paragraph 54.

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<sup>66</sup> 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.

<sup>67</sup> These officers were not de-selected by the LAPD; documentation indicates that each was assigned a probationer during the period July 1, 2006 through December 31, 2006.

Based on the foregoing, the Monitor withholds a determination of the LAPD's compliance with paragraph 116 pending the review of the requested training records and TEAMS II reports, which will occur during the quarter ending September 30, 2007.

## IV. INTERNAL & EXTERNAL OVERSIGHT/MONITORING

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### 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,<sup>68</sup> an audit protocol,<sup>69</sup> 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.<sup>70</sup> This course, offered on a quarterly basis, has been offered 13 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

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<sup>68</sup> 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.

<sup>69</sup> 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.

<sup>70</sup> This course, which was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005, covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process.

of AD's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.<sup>71</sup> 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 *CUOF Investigations – Phase I Audit* (subparagraph 129i) dated March 28, 2007;
- AD's *Complaint Form 1.28 Investigations Audit – Phase II* (subparagraph 129iii) dated March 20, 2007; and
- AD's *GED Selection Criteria Audit* (subparagraph 131b) dated March 27, 2007.

The Monitor was also scheduled to report on its assessment of the Department's compliance with paragraph 97 (sting audits) in this report. However, the Monitor has elected to give additional consideration to points raised by the LAPD in its response to our initial assessment of compliance with this paragraph. The Monitor will include its assessment of the LAPD's compliance with paragraph 97 in its Report for the Quarter Ending September 30, 2007.

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

Subparagraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the investigations. Subparagraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, 82 and 83; in addition, AD's audit has considered paragraphs 51 a and d, 55, 56, 58, 59 and 61, 62 a, 63, 64 and 65 relating to CUOF investigations, and 147 regarding timely notification to IG and Notification of Policy issues to the Police Commission. These further paragraphs are not specifically required to be included in paragraph 129i audits.

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<sup>71</sup> This is consistent with paragraph 162 of the Consent Decree, which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

## *Background*

Commencing in the 2003/2004 fiscal year AD split its CUOF investigations review into two separate audit reports in order to address the requirements of paragraph 129i: an interim audit report covering those paragraphs that largely address specific process issues and a final audit report that will cover quality of investigation requirements.<sup>72</sup>

For reporting purposes,<sup>73</sup> the Monitor similarly split its evaluation of paragraph 129i into two separate evaluations.

For the quarters ended September 30, 2004, December 31, 2004, June 30, 2005, June 30, 2006 and September 30, 2006, the Monitor determined that AD's *CUOF Systems Audit Report* dated June 9, 2004, April 8, 2005, and March 23, 2006 and *CUOF Investigations Audit Report* dated August 14, 2004 and June 26, 2006 were compliant with paragraph 129i requirements.

## *Current Assessment of Compliance*

In order to assess the LAPD's compliance with subparagraph 129i during the current quarter, the Monitor reviewed AD's *CUOF Systems Audit Report* dated March 28, 2007, as well as supporting CUOF audit working papers and electronic files.

AD's primary population comprised all 16 CUOF incidents that occurred during the period September 1 through October 31 2006.<sup>74</sup> For additional audit objectives, AD selected three other audit populations of CUOF incidents.<sup>75</sup> As the audit populations were small, AD reviewed the entire population. AD also reviewed files for FID personnel assigned to that division between September 1 and October 31, 2006.<sup>76</sup> Based on its reviews, AD found the Department in

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<sup>72</sup> The CUOF interim systems audit assesses the requirements of 14 paragraphs: 51 a/d, 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83 and 147. Additionally, it assesses portions of paragraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively. The CUOF final investigations audit report assesses the requirements of paragraphs 57, 80 and 82 and the remaining requirements of 128(3) and 129i.

<sup>73</sup> In the attached Report Card (Appendix B), the historical assessments for CD129i have been applied to both evaluations of the CD129i audits.

<sup>74</sup> This population was selected to assess compliance with paragraphs 56, 58, 59, 61, 62a, 63, 65 and 147.

<sup>75</sup> To assess compliance with subparagraph 64a, AD selected all 18 out-of-policy CUOF incidents that were adjudicated by the officers' COs, forwarded to PSB and closed in 2006; these 18 incidents involved 30 officers. For paragraphs 64b and 69, AD included all 13 CUOF incident investigations presented to the UOFRB from September 1 through October 31, 2006. These 13 investigations involved 87 officers, all of whose work histories were included. For paragraphs 67 and 129a, the audit population comprised 20 CUOF incidents occurring January 1 to March 31, 2006.

<sup>76</sup> This population was selected to assess compliance with subparagraphs 51a and d and paragraphs 55 and 83.

compliance with the requirements of 12 of the 18 paragraphs reviewed. The Department was found to be non-compliant with the requirements of the following 6 paragraphs:

<i>Paragraph Ref.</i>	<i>Paragraph Description</i>	<i>Circumstances</i>
Paragraph 56(2)	Immediate Notification of Chief of Police, FID and the IG	13 of 16 (81%) met the requirements. Three had no justification for the delay.
Paragraph 62(a)	Seven-Day Review of Supervisory Response	14 of 16 (88%) met the requirements. Two did not – the analysis of supervisor response was 3 days late on one and 5 days late on the other.
Paragraph 62(b)	Supervisory Conduct Considered for Performance Evaluations <sup>77</sup>	19 of 24 (79%) met the requirements. The other five comment sheets could not be located.
Paragraph 63	Psychological Evaluations of Officers	28 of 32 (88%) met the requirements. 4 officers returned to duty prior to CO approval.
Paragraph 64(1)	Consideration of Officer Work and CUOF History Prior to Taking Disciplinary Action(s)	25 of 30 (83%) met the requirements. Five did not have sufficient evidence of managerial consideration of officers work history.
Paragraph 67	Submission of completed investigation or status report to Commission within 60 days of statute	9 of 20 (45%) met the requirements. Eleven investigations were submitted to the PC an average of 19 days late.

The Monitor reviewed 100% of the CUOF incidents, a random sample of the FID officers' selection packages and personnel records,<sup>78</sup> and all related work papers.

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

- The audit report presented its audit findings in a clear manner and the working papers contained evidence of appropriate planning and conduct of the audit processes and good documentary support of audit findings.
- At times, based on the documents available, the time the first FID investigator or supervisor arrived at the scene of a CUOF was not clear. While AD appropriately called FID to obtain the arrival times for several incidents in order to assess compliance with paragraph 56, this information should have been documented.

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

<sup>77</sup> AD analyzed each CUOF incident for both requirements and referred to these two analysis as 62a and 62b.

<sup>78</sup> After assessing for appropriateness, the Monitor used the OIG's samples, which were selected using a one-tailed test with +/- 7% error rate and a 95% confidence interval.

As part of this audit, AD assessed four subparagraphs that are not required to be included in a subparagraph 129i audit; the Monitor makes the following observations in order to help AD to better evaluate, and the Department to better address, the requirements of such subparagraphs, as well as the requirements of related Departmental Policy:

- In order to test the appropriateness of FID officer selections relative to subparagraphs 51a and 51d, AD reviewed FID officer selection packages, but did not review their personnel packages. Department Policy (Special Order No. 43) requires the CO to review the employee's entire complaint history when making selections to FID, in order to ascertain if they contain elements of the type of issues listed in subparagraph 51d. There was one FID officer who had a sustained complaint for discourtesy that was included in his personnel package that was not in his FID officer selection package. Since complaints classified as discourtesy, conduct unbecoming, or neglect of duty may contain elements of subparagraph 51d-type complaints that may not have been addressed in the selection process (such as in the case of this FID officer's selection package), the Monitor recommends that AD look at personnel packages along with selection packages when performing this test.
- For one FID investigator whose selection package included a sustained complaint relating to an unlawful search, the CO's analysis on the TER referenced an attached list of complaints that included the sustained complaint, but did not provide an explanation as to why the complaint did not impact the officer's selection, as required by Department Policy (Special Order No. 43), which specifically states that listing the complaint history or attaching a list of the complaints is insufficient. AD considered that the reference to the list of complaints was sufficient to address the requirements of subparagraph 51d, but did not consider the adequacy of such documentation relative to Department Policy.<sup>79</sup>
- This audit included an evaluation of certain requirements of paragraph 62; however, AD's methodology did not test the adequacy of the CO's review. Instead, it focused on whether the CO's review was completed within seven days, whether comment sheets were available for review, and whether the comment sheets were sufficient to use for the employees' performance evaluations. In order to evaluate if the manager's analysis adequately addressed the circumstances surrounding the presence or absence of a supervisor for each incident reviewed, as required by paragraph 62, AD would need to review the FID's completed report and other supporting documents, which would naturally take place during Phase II of this audit, wherein AD presently reviews the supervisors' actions pursuant to paragraph 128, but does not analyze the managers' assessments of these actions. The Monitor recommends that

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<sup>79</sup> AD's position is that if the supervisor states that he or she has considered the complaint, this is sufficient documentation. The Monitor's position is that the supervisor should provide a brief description of the complaint and why it did not impact selection. In this situation, the supervisor should have indicated that the complaint had no impact on selection since it was eight years old and there had been no further instances of this type of complaint.

AD evaluate paragraph 62 as part of its CUOF Investigations Audit (Phase II), rather than in the CUOF Systems Audit (Phase I), as this will provide AD with additional insights.<sup>80</sup>

### Paragraph 129iii – Audit of Complaint Form 1.28 Investigations

Paragraph 129iii requires the Department to conduct regular, periodic audits of random samples of all Complaint Form 1.28 investigations. This paragraph also describes the qualitative factors that should be assessed in such audits, including the requirement to assess the timeliness of completing the investigation,<sup>81</sup> the completeness of the investigation file, the accuracy of the investigator's statement summaries, the adequacy<sup>82</sup> of the investigation, and the appropriateness of PSB's determinations relative to who shall conduct the investigation.<sup>83</sup>

### *Background*

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

In 2004, AD decided to split the requirements of paragraph 129iii into two audits: an interim audit that assessed systems-related issues and a final audit that assessed the quality of complaint investigations. The Monitor found the *Interim Complaint Form 1.28 Investigations Audits* dated December 22, 2004, December 27, 2005 and December 27, 2006 in compliance with the systems-related requirements of paragraph 129iii.<sup>84</sup> The Monitor reviewed AD's *Final Complaint Form 1.28 Investigations Audits* submitted March 31, 2005 and March 30, 2006<sup>85</sup> and found the audits non-compliant with the requirements of paragraph 129iii.

### *Current Assessment of Compliance*

In order to assess the Department's compliance with paragraph 129iii during the current quarter, the Monitor reviewed AD's *Final Complaint Form 1.28 Investigations Audit* dated March 30,

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<sup>80</sup> The Monitor included recommendations regarding reviewing the quality of manager's assessment in its Report for the Quarters Ending June 30, 2005 and June 30, 2006.

<sup>81</sup> As required by paragraph 87 (most complaint investigations to be completed in five months).

<sup>82</sup> As required by paragraphs 80-86.

<sup>83</sup> As required by paragraphs 79 (PSB to receive Complaint Form 1.28 face sheets and classify as to investigating entity within 10 days) and 93-95.

<sup>84</sup> These audits assessed the following provisions: 74d,f, g, 76, 79/129iii(e), 83, 87/129iii(a), 93, 94, 95 and 152 relating to investigative resources, public accessibility and administrative processes for the complaint review process.

<sup>85</sup> These audits primarily addressed the following 14 provisions: 74h, 75, 77, 78, 80a-g/81, 82, 84-86, 90, 91, 101, and 129b-d, all of which relate to the quality of the complaint investigations.

2007 and supporting working papers, including its audit work plan, crib sheet and selected matrices, complaint investigation packages and taped interviews.

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

<i>Audit Population</i>	<i>Audit Objective(s)</i>	<i>Population Size</i>	<i>AD's Sample Size<sup>86</sup></i>	<i>Monitor's Sample Size<sup>87</sup></i>
All Complaint Form 1.28 investigations (excluding FTA / FTQ / PTCs <sup>88</sup> ) closed October 2006	Completeness, accuracy and adequacy of the investigation, appropriate adjudication and follow-up	IAG: 247 COC: <u>186</u> Total: <u>433</u>	IAG: 46 COC: <u>34</u> Total: <u>80</u>	IAG: 26 COC: <u>19</u> Total: <u>45</u>

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

- AD concluded that the Department was compliant with 24 provisions of the Consent Decree, and non-compliant with two provisions. The following table identifies AD's two non-compliant findings:

<i>Paragraph Ref.</i>	<i>Paragraph Description</i>	<i>Circumstances</i>
80(ii)(f)	Collection and Preservation of Evidence in PSB Investigations	Tapes were not available for 4 of the 46 (9%) IAG complaint investigations.
129(d)	Adequacy of Investigation	The investigations were inadequate for 7 of 80 (9%) IAG complaint investigations.

- AD selected its sample based on the total number of complaints closed in October 2006 and then stratified based on whether or not they were IAG or COC complaints. This differed from the methodology used last year, where AD identified the number of COC and IAG complaints and then selected a sample. While the Monitor commended AD for the extensive sample last year, as paragraph 129 requires the Department to conduct a random sample of all complaints, the methodology used this quarter meets these requirements. Additionally the

<sup>86</sup> AD's sample was randomly selected based on a one-tail test, a 95% confidence interval, a 94% success rate factor and +/-4% error rate.

<sup>87</sup> After reviewing for appropriateness, the Monitor utilized the sample selected by the OIG for its subparagraph 135b review of AD's *Complaint Form 1.28 Investigations Audit* report. In addition to the OIG's statistically-based randomly selected sample size of 23 complaint investigations, the Monitor also randomly selected another 22 complaint investigations for detailed testing based on a 95% confidence interval and a +/-4% error rate.

<sup>88</sup> Department-generated complaints arising from non-compliance with administrative policy were appropriately deselected. These comprised FTA, FTQ and PTC.

Monitor commends AD for selecting complaints from a more recent period than they did during the prior audit of this paragraph.

- The audit was well planned and organized and it was clear the audit team has extensive knowledge of each complaint investigation. Although AD identified numerous concerns with the adequacy of many complaint investigations, the Monitor identified the following issues that were not identified and/or reported by AD in eight of the 45 investigations reviewed by the Monitor:
  - Three complaints were either not filed or were filed late. For one of these, the circumstances of the complaint were not fully investigated, as the complainant recanted the complaint;<sup>89</sup> for the other two, the late filing was not investigated. AD identified but did not report the lack of an investigation into the first complaint and did not identify or report the lack of an investigation into the late filing of the other two complaints.
  - Two complaint investigations had a number of issues and/or inconsistencies that were identified but not investigated. In one of these investigations, the AD commendably identified concerns regarding how the Department handled an individual who ultimately became a CI; however, AD did not include these concerns in its audit report.<sup>90</sup> In the other complaint investigation, AD did not identify or report that additional allegations were not formalized into complaints and investigated.
  - Two complaint investigations contained no indication as to why certain witnesses, who were the only non-Departmental witnesses who could shed some light on the situation, were not interviewed or followed up on. Absent these interviews, these complaints were adjudicated as “unfounded” and “non-disciplinary – employee’s actions did not rise to the level of misconduct.” AD did not identify or report these concerns.
  - While the Monitor commends AD for identifying that there were missing tapes for four of 46 PSB investigations, the Monitor identified one additional complaint investigation for which one taped interview was unavailable. AD did not identify or report on this missing tape.<sup>91</sup> Additionally, AD concluded that all paraphrased statements were consistent; however, this conclusion was unable to be substantiated given the missing tape.

Based on the foregoing, the Monitor finds the LAPD in compliance with the requirements of subparagraph 129iii.

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<sup>89</sup> Paragraph 86 requires that the LAPD use reasonable efforts to investigate such complaints to determine whether the complaint can be corroborated, notwithstanding the withdrawal of the complaint

<sup>90</sup> AD staff indicated that if this had been the CI audit, they would have included these issues in their compliance assessment, however, many of the inconsistencies and issues also related to the complaint investigation.

<sup>91</sup> AD obtained and reviewed 227 of 232 tapes.

## Subparagraph 131b – GED Selection Criteria Compliance Audit

Subparagraph 131b requires AD to complete regular periodic audits to assess compliance with the GED selection processes and eligibility criteria set forth in paragraphs 106 and 107 for supervisors and officers. Paragraphs 106 and 107 establish the specific audit criteria to be evaluated in selecting gang supervisors and officers, including number of years required as a supervisor/police officer, skills required, information/documentation required for review and limits to assignment to GEDs.

### *Background*

Prior to the quarter ending December 31, 2004 the Monitor found the LAPD in non-compliance with subparagraph 131b. In its Reports for the Quarter Ending December 31, 2004, September 30, 2005, and September 30, 2006, the Monitor reported that AD's *Gang Selection Criteria Audits* dated June 25, 2004, June 22, 2005, and June 30, 2006, respectively, were quality audits that were compliant with the requirements of subparagraph 131b.

### *Current Assessment of Compliance*

In order to assess compliance with paragraph 131b during the current quarter, the Monitor reviewed AD's *GED Selection Criteria Audit* dated March 27, 2007, the related audit work plan and matrix questionnaires, a sample of completed audit matrices for the GED selection packages,<sup>92</sup> and audit working papers relating to the audit population and sample determination.

AD identified a total audit population of 338 GED officers for DP11.<sup>93</sup> From this population, AD selected three sample groups, each covering both non-supervisory and supervisory personnel, to assess the three audit objectives identified in AD's work plan.<sup>94</sup> The Monitor used the same sample selected by the OIG during its review of this audit, which consisted of 29 GED personnel for objective 1 (new selections), 21 officers for objective 2 (GED tour extensions), and 10 GED personnel, all of whom were identified as having sustained complaints, for objective 3 (current suitability).

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

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<sup>92</sup> The Monitor used the sample selected by the OIG which was chosen using a one tailed test with an error rate of +/- 7% and a 95% confidence interval.

<sup>93</sup> DP11 covered the period October 15 to November 11, 2006. The population contained 298 non-supervisory officers and 40 supervisory officers.

<sup>94</sup> The first sample group comprised 53 officers and 11 supervisors to test for objective 1 (new officer selections). The second sample group comprised 62 personnel to test for objective 2 (GED tour extensions). The third sample group comprised 10 officers to test for objective 3 (current suitability).

- The Monitor commends AD for focusing on the differences between loanees and permanent selections to the GED units, and concurs with AD's recommendations that loanees be subjected to a restricted time period and fully reevaluated upon permanent selection to GED.
- There were several substantive issues involving eight packages that were either not identified or reported by AD:
  - The Monitor identified two packages in the sample for objective 1 (new selections) in which the interviewing supervisors were not identified on the GED selection checklists, as required by Department policy.<sup>95</sup>
  - The Monitor identified one package in the sample for objective 2 (extensions) in which the signatures of both the Interviewing Supervisor and Watch Commander, the first line of review and the individuals who conduct the detailed review, indicated that their reviews were complete prior to the date of the TEAMS record. This suggests that neither the Interviewing Supervisor nor the Watch Commander reviewed such documentation during their reviews, as required by Department policy.<sup>96</sup>
  - In its testing of the timeliness of approvals, the Monitor identified one package in the sample for objective 1 (new selections) in which the TEAMS report was dated more than 45 days prior to when the selection was approved.<sup>97</sup> The Monitor also identified four packages in the sample for objective 2 (extensions) in which the TEAMS reports were dated more than 45 days prior to extension. While the 45-days period is a guideline established by AD, the Monitor is concerned that AD did not apply the policy consistently for each package, nor did they apply it in conformance with the method stated in the audit report.<sup>98</sup>

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<sup>95</sup> AD disagrees with this, indicating that the TERs provided the names of the interviewing supervisors; however, AD agreed that the individuals conducting the suitability or oral interview may be different from those conducting the review (Interviewing Supervisor and Watch Commander) on the TER. As a result, the signature of the interviewer and their serial number should also have been included on the GED selection checklist, as required by the SO.

<sup>96</sup> AD disagreed with the Monitor and indicated that it was only important that the TEAMS report be there when the CO approved. Additionally, AD indicated that perhaps the earlier TEAMS report was replaced with a more current TEAMS report. While this is a possibility, it is difficult to imagine why an Interviewing Supervisor or Watch Commander would agree to having documentation that supports that they completed their review removed from the file.

<sup>97</sup> Department policy requires for all extensions that the supervisor review a current TEAMS report. AD established that "current" was anything within 45 days to the date of appointment.

<sup>98</sup> Department policy requires supervisors to review current TEAMS reports for all selections and extensions. AD's audit report states that "Auditors determined a reasonable time period from the date of the TEAMS printout to the date of appointment as 45 days." After the Monitor identified the five packages that were outside that period, AD indicated it was 45 days from the date of the TEAMS report to the date the CO signed the selection or extension. In each of these cases, the CO signed in less than 45 days; however, the date of appointment was greater than 45 days.

Notwithstanding the discrepancies identified in connection with the eight packages described above, AD conducted a quality audit, appropriately found the Department out of compliance with subparagraphs 106c and 107b, and identified a key problem in relation to individuals loaned to the GED. Based on the foregoing, the Monitor finds the Department in compliance with subparagraph 131b.

In addition to the above, the Monitor makes the following additional observations in order to help AD improve its next GED Selection Criteria Audit, which should ultimately help the Department improve their GED selection processes.

- Although AD conducted extensive testing for objective 3 (current suitability), AD was unable to draw a conclusion, as none of the ten officers identified with sustained complaints had complaints related to Consent Decree-specified activities.<sup>99</sup> The Monitor commends AD for testing whether or not the unit was deselecting officers with sustained complaints or adverse judicial findings in relation to these categories,<sup>100</sup> but suggests that AD consider alternative methods of testing current suitability for its next audit.
- The Monitor notes that AD chose not to assess the advanced paygrade process, as required by Special Order No. 7, during their evaluation for objective 1 (new selections), notwithstanding the Monitor's previous recommendation to do so.<sup>101</sup> The Monitor has requested that AD consider, at a minimum, testing for the inclusion of internal memos justifying the reason for selection.<sup>102</sup>
- The Monitor identified two packages in the sample for objective 1 (new selections) in which the performance evaluations contained canned language equating to approximately one-third of the total narrative. The Monitor also identified eight packages in the sample for objective 2 (extensions) in which the performance evaluations contained canned language ranging from one-third to over one-half of the total narrative, and the narratives ranged between 2 to 5 pages each.<sup>103</sup> AD concluded that there were often similarities between evaluations written by the same supervisor, but determined that they did not rise to the level of "canned language." The Monitor suggests that AD revisit this issue in its next GED Selection Criteria Audit.

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<sup>99</sup> These activities include excessive force, false arrest or charge, unreasonable search or seizure, sexual harassment, discrimination or dishonesty.

<sup>100</sup> AD did not find any instances where an officer was deselected from the unit due to complaints or adverse judicial findings related to CD specified activities.

<sup>101</sup> This was discussed with AD during the Monitor's review of the previous audit, and the Monitored recommended such a review in its Report for the Quarter Ending September 30, 2006. AD felt this was outside the scope of the *GED Selection Criteria Audit*.

<sup>102</sup> The Monitor noted that many of the selection packages in the sample reviewed that were chosen via the advanced paygrade process included internal memo's justifying why they were selected into GED.

<sup>103</sup> At the request of the OIG, AD conducted a test of performance evaluations to determine if they contained canned language as described under "Other Related Matters" in its audit report.

- The Monitor identified two packages<sup>104</sup> in which the TERs contained inaccuracies or were missing additional LERIs. The Monitor obtained this information by checking with the UOFRD and RMG for a list of adverse judicial findings, LERIs or in-custody deaths, as required by policy. While AD staff contacted RMG, they did not contact the UOFRD and, as a result, they did not identify that the findings listed on the TERs were missing information related to these LERIs. AD concurred that this check was beneficial and they plan to include it in future GED Selection Criteria 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 30 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 audit reports, as well as the related audit work papers and sampling documentation:

- OIG’s March 29, 2007 review of AD’s *Warrant Applications and Supporting Affidavits Audit* (subparagraphs 128(1), 131a, 131c-1, and 131e);
- OIG’s March 29, 2007 review of AD’s *Motor Vehicle and Pedestrian Stops Audit* (subparagraphs 128(4), 131a, 131c-1, and 131e); and
- OIG’s March 29, 2007 review of AD’s *Complaint Form 1.28 Investigations Audit, Phase I* (subparagraph 129iii).

During the current quarter, the Monitor also reviewed the OIG’s February 1, 2007 review of *EES’s Quarterly Report for the Third Quarter 2006* and the OIG’s May 8, 2007 review of *EES’s Quarterly Report for the Fourth Quarter 2006* during this quarter. The Monitor was scheduled to include its assessment of these reviews in the current report; however, in light of the Monitor’s deferral of its assessment of compliance with paragraph 97, the Monitor will defer its assessment

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<sup>104</sup> One package was from the sample for objective 1 (new selections) and one package was from the sample for objective 2 (extensions).

of the OIG's review of these sting audits.<sup>105</sup> These Monitor will report its assessments of these reviews in the Monitor's Report for the Quarter Ending September 30, 2007.

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

- The OIG's reports continue to contain clearly reported findings and insightful comments and recommendations for the Department to consider.
- The OIG appropriately found AD's *Warrant Applications and Supporting Affidavits Audit* to be complete, but identified numerous exceptions that AD did not identify and/or report. The Monitor commends the OIG for identifying many of the same concerns that the Monitor identified during its review. The OIG identified additional issues and provided suggestions and comments to AD in relation to this audit. In addition to the issues identified by the OIG, the Monitor identified several issues that the OIG did not identify, including:
  - Three warrants in which information was either inconsistent, missing approval signatures, or double-counted in AD's assessments of compliance.
  - Six warrants in which the Monitor identified concerns that the level of review on either the CO's analysis or the comment cards was insufficient or used canned language. In addition, the OIG did not review the warrant packages to determine when the debriefing summaries were prepared, as required by Department policy.<sup>106</sup>
- The OIG appropriately found AD's *Motor Vehicle and Pedestrian Stops Audit* and *Complaint Form 1.28 Investigations Audit, Phase I* to be quality audits that included well-supported findings. The Monitor concluded that each of these reviews was a quality review, as they identified key concerns and provided additional insights.

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.

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

Subparagraph 136i, as amended, requires the OIG to conduct regular, periodic reviews of a random sample of all NCUOF investigations, and issue its reports thereon to the Police

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<sup>105</sup> As described above, the Monitor elected to defer assessment of compliance with paragraph 97 to give additional consideration to points raised by the LAPD in connection with EES audits required by the paragraph. These points also impact the Monitor's assessment of the OIG's review of these audits.

<sup>106</sup> In its Report for the Quarter Ending March 31, 2007, the Monitor identified that Department policy requires the designated supervisor to provide documented confirmation that a debriefing with involved personnel was conducted no later than the next working day after warrant service; in addition, a summary of the debriefing memo must also be prepared no later than the next working day. The Monitor recommended that the Department amend the tactical plan to document when the debriefing summary is prepared; as such information is not currently being recorded.

Commission. Such reviews are required to assess any areas of concern identified by the OIG, and at least one of the following issues related to the quality and/or outcome of the investigations: the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, or whether the investigation was properly adjudicated.

## *Background*

The OIG submitted Department-wide audits for the quarters ending September 30, 2002, September 30, 2003 and March 31, 2004, which the Monitor found in non-compliance either because the methodology, fieldwork and/or reporting were deficient or because they were not submitted on a timely basis. On March 31, 2006, the OIG submitted its next review of NCUOF investigations. The Monitor found this review in compliance with subparagraph 136i during the quarter ending June 30, 2006.

## *Current Assessment of Compliance*

In order to assess the Department's compliance with subparagraph 136i during the current quarter, the Monitor reviewed the OIG's *Non-Categorical Use of Force Investigations Audit Report*, dated March 30, 2007. The Monitor also reviewed selected OIG working papers, including the audit work plan, crib sheet, matrices<sup>107</sup> and related documents.

The OIG reviewed all 19 Level I NCUOF incidents that closed during the months September to November 2006. The Monitor selected for review a random sample of 16 of these 19 incidents.<sup>108</sup> The Monitor's findings, which have been discussed with the OIG, are as follows:

- The OIG assessed the overall quality of the investigations and the handling of unauthorized force allegations that stemmed from the incidents, if applicable. In assessing the quality of the investigations, the OIG used a detailed matrix covering numerous aspects of the investigations, including consistency of information and statements; articulation of reason for detention, arrest and UOF; adjudication of UOF; and recording the incident in TEAMS II. The Monitor commends the OIG for following up on findings from its prior audit and focusing its review on how the Department handles unauthorized force allegations that stem from NCUOF investigations.
- The OIG appropriately identified concerns with four of the 19 investigations related to the quality of the investigation, two involving the accuracy and completeness of the summarized

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<sup>107</sup> The OIG used two matrices, one that assessed the investigation and one designed specifically to assess the taped interviews and subsequent transcription of these interviews.

<sup>108</sup> The Monitor's sample was selected using a one-tailed test, with a +/-4% error rate and a 95% confidence level.

statements, two that were missing information that had been collected during a related CUOF investigation.<sup>109</sup>

- The OIG identified several other key matters and made recommendations for follow-up. Among the issues identified were inconsistencies in how statements are handled for Department employees versus non-Department employees; review of officers' work history; documentation of recommended training; quality of taped interviews; the possibility that witnessing employees were not identified; missing photographs of officers' injuries; and issues in relation to timeliness of closing of NCUOF investigations. The Monitor commends the OIG for identifying these additional deficiencies in the investigations.
- The OIG made seven recommendations in its audit report; the Monitor believes these recommendations would help to improve the quality of UOF investigations.
- The Monitor commends the OIG for identifying that for two of nineteen investigations Department employees may have been in close proximity to the UOF but were not identified. The Monitor identified one additional investigation in which the UOF report did not address the location of the partners of officers who used force; these individuals were not interviewed to determine if they had seen the UOF or had any additional information.

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

## 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 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

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<sup>109</sup> One of these two NCUOF investigations had a concurrent CUOF investigation and the other was initially identified as a CUOF but was reclassified as an NCUOF.

assessing the Department's compliance with these requirements during the extension to the Consent Decree.<sup>110</sup>

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.

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<sup>110</sup> 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

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Last quarter we indicated that we would be carefully monitoring and reporting on the results of the Department inquiries into the events of May 1<sup>st</sup>. We have, in fact, done so in this report and believe that, at least at this stage, the Department has appropriately addressed the issues that became evident on that day in MacArthur Park. There is still much work to be done, however, to ensure that such incidents do not occur in the future and we will continue to closely monitor the efforts of the Department in this regard.

While we are generally pleased with the progress that has been made toward full compliance with the Consent Decree, we continue to be frustrated with a lack of progress in a few substantial areas. Most notably, the Department does not seem to be able to bring into compliance its supervisory oversight of Categorical Uses of Force and Search Warrants, as required under paragraph 62. Also vexing is the continued non-compliance of the Department relative to the return to duty of officers involved in the most serious Categorical Uses of Force under paragraph 63. The Department has, through discipline and required appearances before the Police Commission, begun to address these areas. We commend the Department for these steps and are hopeful that the barriers that exist toward achieving compliance in these areas will finally be removed.