

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



**REPORT FOR THE QUARTER ENDING
JUNE 30, 2003**

Kroll

Office of the Independent Monitor
of the Los Angeles Police Department

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INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Associates have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's Eighth Report, covers the quarter ending June 30, 2003.

EXECUTIVE SUMMARY

During the quarter ending June 30, 2003, the Monitor examined 59 paragraphs or sub-paragraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 24 and failed to achieve compliance with 31. For reasons stated in the body of this report, the Monitor withheld a determination of compliance for 4 of these paragraphs or sub-paragraphs.

The "Report Card" schedule attached as Appendix A to this report summarizes compliance with each substantive paragraph of the Consent Decree for the last five quarters, beginning with the quarter ending June 30, 2002. Although the Monitor assesses primary, secondary, and functional compliance with the requirements of the Consent Decree (as described in the Monitor's Report for the Quarter Ending September 30, 2002), the Report Card provides an *overall grade* for compliance with each paragraph or subparagraph. If the Department is in non-compliance with any of these three definitions of compliance for a paragraph or subparagraph, the Department is in overall non-compliance with that paragraph or subparagraph. The nature of the non-compliance, i.e. primary, secondary or functional, is fully detailed in the applicable section of this report.

The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter, or before the *Methodologies to Aid in Determination of Consent Decree Compliance*¹ were finalized. The quarter in which the evaluation was made is also indicated in Appendix A. Finally, the schedule identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's report and report card. These estimates are subject to change as information develops and circumstances change.

The Monitor has included a "Report Card Summary" along with the detailed Report Card. This chart graphically summarizes the most recent grades assigned to the paragraphs and

¹ Assessment of the Department's compliance with Consent Decree paragraphs utilizing the *Methodologies to Aid in Determination of Consent Decree Compliance* did not commence until the quarter ending June 30, 2002. Report Card "grades" were not assigned in prior quarters.

subparagraphs of the Consent Decree that are being evaluated by the Monitor, as reported in the Report Card's "Status as of Last Evaluation" column. The paragraphs being evaluated, numbers 40 through 157, are grouped on the chart as they are in the Consent Decree.

Areas of concern identified during the quarter ending June 30, 2003 include:

- The Monitor remains extremely concerned that citizen complaints are not being taken in accordance with mandated policies and procedures. The recent delay in the prosecution of the administrative proceedings against officers who failed to take citizen complaints has served to heighten this concern.
- Deficiencies persist in the tracking and reassignment of gang unit personnel, Department-wide.
- The Department continues to fail to conduct several regular, periodic audits outlined in the Consent Decree due to insufficient audit resources.

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

- As a result of the Department's continued improvements in discrimination training, coupled with the release of a Request for Proposal (RFP) for analysis of the motor vehicle and pedestrian stop data, the Department has been found in compliance with the non-discrimination provisions (paragraphs 102 and 103) of the Consent Decree.
- The Department has begun to develop the training curriculum to meet the requirements of the Consent Decree and is working on a strategy to assess its trainers in an effort to ensure consistency in the training. The Monitor anticipates additional improvements in other areas of training in the very near future.

I. FOCUS ISSUES

A. FAILURE TO PROPERLY PROCESS CIVILIAN COMPLAINTS

In its Report for the Quarter Ending March 31, 2003 the Monitor expressed concern and disappointment when it was uncovered that officers were not complying with the mandates of the Consent Decree relative to the taking of public complaints. At the time the Monitor's concern was moderated by the fact that the Department uncovered the misconduct itself and by the Department's strong initial reaction of intolerance towards this behavior; however, the temperance of our concern has been vitiated by a full understanding of the nature and extent of the misconduct as well as by a halt in the administrative prosecution of the complaints.

In an initial tranche of EES Sting Audits conducted to test compliance with complaint intake requirements, officers failed to follow mandated procedures in 11 out of 19 cases, or 57% of the time. The Monitor finds the number and percentage of failure to properly process civilian complaints shocking. A central tenet of self-policing and the Consent Decree is accepting and investigating civilian complaints. The failures noted above call into question whether there has been the necessary cultural shift in the LAPD to comply with this Decree and adopt best policing practices. This failure, two years into the Consent Decree is both outrageous and discouraging.

Even more disturbing is the actual conduct exhibited by some of the officers and, even more disappointing, supervisors, in their failure to take the complaints. In one sting operation, an undercover police officer, posing as a juvenile, complained of misconduct. The Sergeant then took an inordinate amount of time to take the details of the complaint, stretching the process beyond 10:00 p.m., at which point the sergeant **detained** the ostensible juvenile for curfew violation.

While, the Monitor was pleased with the EES's quick response to concerns about the complaint intake process and its thoughtful evaluation of the audits' results, as well as with the Professional Standards Bureau's (PSB)² swift response to the audits' findings, resulting in the filing of complaints against each of the officers who failed to comply with LAPD policy, those facts cannot and do not serve as redemption for the underlying problem.

The Monitor's discouragement is further exacerbated by the fact that the adjudication of the administrative proceedings against the officers who failed to take the citizen complaints has been stalled. It is incumbent upon the Department and the City to ensure that these cases are dealt with as swiftly as possible and that additional measures are undertaken in order to send the

² During the quarter under review, the LAPD underwent a substantial restructuring. The Internal Affairs Group is now known as the PSB. The PSB reports directly to the Chief of Police.

message loudly and clearly that no infringement on the public's right to be heard and to complain about police misconduct will be tolerated.

B. BOARD OF RIGHTS VIABILITY

In prior reports, the Monitor has been extremely critical of the lack of supervision and management oversight over certain processes of the Department. Indeed, many of the roots of the Consent Decree can be traced to this very problem. Lying at the heart of the reform process envisioned by the Consent Decree is the ability for top-level management to properly and appropriately discipline officers, supervisors, and managers for transgressions of Department policies and procedures.

Recently, the viability of the ultimate process in place for the determination of discipline, the Board of Rights, has been called into question. Specifically, the Board's ruling in May 2003 regarding the 1999 OIS death of a homeless woman armed with a screwdriver, Margaret Mitchell, drew attention to issues that must be examined and addressed. After a lengthy review of the incident by the Inspector General (IG) and extensive subsequent review by the Police Commission, both of which recommended finding the shooting to be out of policy, the Board of Rights ruled that no discipline of the officers involved was appropriate.

Under the Los Angeles City Charter the Board of Rights has the mandate to determine discipline in cases where either the involved LAPD employees elects to utilize the Board of Rights or in cases where punishment in excess of 21 days loss of pay are contemplated. Neither the Chief of Police, nor the Police Commission has the ability to impose a greater penalty than that determined by the Board. It is this inability, coupled with the internal methods of convening and staffing the Boards of Rights, which gives rise to our concern and which we recommend be examined by the appropriate City authorities.

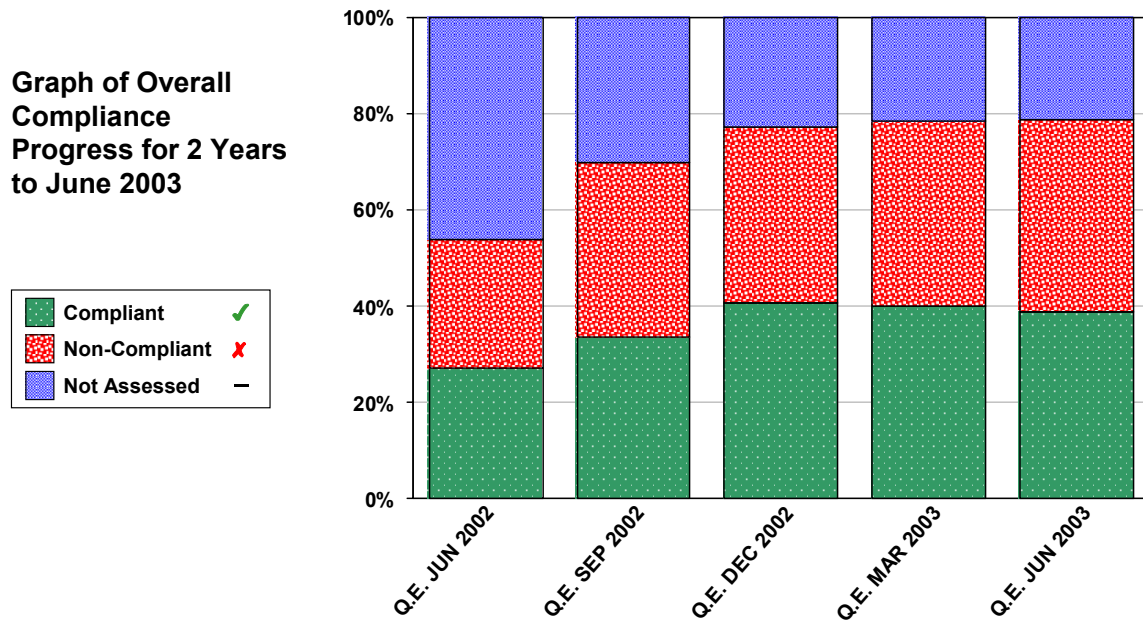
C. TWO-YEAR ANNIVERSARY FOR THE CONSENT DECREE

This report marks the two-year point in the Consent Decree's five-year term. The Monitor has taken this opportunity to summarize the Department's progress in complying with the Consent Decree over the last two years, and to highlight areas that require additional work to achieve compliance.

The Consent Decree specifically targets deficiencies in policies and procedures for training, supervising, investigating, and disciplining officers. Fundamental components of the Decree include effective supervisory oversight of officers; disciplinary tools to combat excessive force; zero tolerance of racism and bias; better training in all aspects of policing and communication; improved personnel practices, including more informed evaluations of officers; and, the development of an internal audit process to identify and remedy deficiencies in all of these areas. Overall, the Monitor is pleased with the efforts made by the Department in rectifying deficiencies in, and generally improving, its policies and procedures in these areas. Great strides

have been made in a number of areas, including investigations of excessive force (Categorical Uses of Force), and in developing an effective internal audit function. However, the Department continues to struggle in other areas, most notably in regards to supervisory oversight.

The following chart summarizes the status of the Department’s compliance, as of each quarter-end for the past five quarters,³ with each Consent Decree paragraph and subparagraph evaluated by the Monitor.⁴



³ Report Card "grades" were not assigned prior to the quarter ending June 30, 2002. Please refer to footnote 1.

⁴ As indicated previously, the most recent grades assigned to the paragraphs and subparagraphs evaluated by the Monitor are identified in the “Status as of Last Evaluation” column of each Report Card. The grades listed in that column are the most current grades at the time of the report; if a paragraph or subparagraph was not assessed during the then-current reporting period, the column will list the grade from the quarter in which that paragraph or subparagraph was last assessed. For the chart above, “Not Assessed” comprises three categories that are separately listed in the report card: Paragraphs that were not yet evaluated by the Monitor (NYE), paragraphs for which the Monitor withheld a determination of compliance (DW), and paragraphs for which an assessment was not yet required (NR) as of each of the quarter-ends listed.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

Overview

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices as well as identifying and modifying at-risk behavior. The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

In order to meet this requirement, the City is developing four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,⁵ and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

From the outset, the Monitor recognized the challenges the TEAMS II project presented and encouraged the City to develop a Master Plan for the design and implementation of TEAMS II and its various components. The City has, at times, struggled to obtain the proper balance between moving quickly to meet interim deadlines and working methodically and coherently to achieve the overall goal of creating an effective system. And, delays in obtaining a final approved design document for the RMIS have caused considerable concern over the City's ability to meet deadlines imposed by the Consent Decree.

Despite these and other setbacks, the City has continued to work on, and make progress with, the development of the various elements of TEAMS II. Significant progress has been made in organizing the project, dedicating critical personnel to it, and establishing a timeline for meeting Consent Decree requirements.

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

- In May 2003, the City chose Sierra Systems as its vendor for the RMIS and UOFS. At present, the City and Sierra are in contract negotiations, with contract execution anticipated July 2003.

⁵ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports regarding pedestrian and motor vehicle stops.

- The RFP for the development of CMS, which will reflect the tools selected for TEAMS II and the development of the RMIS/UOFS process, has been going through revisions during much of this quarter. The CMS RFP release date previously slated for May 2003 has been pushed back to July 2003.
- The MSRP Unit is continuing to carry out its assessment of the legacy systems that will eventually be feeding data to the RMIS. The data collected will not only be used to prioritize source system enhancements, but will also serve as a basis for the Data Input Plan required by paragraph 42.
- BearingPoint, Inc.⁶ has been working to improve the scanning capabilities and enable decentralized access so that all 18 Divisions will be able to review data from the APRIS and ICARS systems. Although this project continues to run behind schedule, the Monitor does not anticipate this delay affecting the TEAMS II project and the City's compliance with the Consent Decree.

The results of our current assessment follow.

Paragraph 51

Paragraph 51 mandates that until such time as TEAMS II is implemented, the LAPD utilize existing databases, information and documents to make decisions regarding the selection of officers for certain assignments.

Background

Paragraph 51 has been a meet and confer item; the Monitor has not previously reported on this paragraph. However, compliance has, in effect, been reviewed in previous quarters during compliance assessments of related paragraphs. For example, in the Report for the Quarter Ending March 31, 2003, the Monitor reviewed the selection process for both gang unit officers (§ 107b) and Field Training Officers (§ 114). This review included an assessment of whether the LAPD reviewed the applicable TEAMS I records for officers under consideration, as required by paragraph 51. This quarter, the Monitor tested the selection of officers for assignment as PSB investigators (§ 98).

Current Assessment

The LAPD has outlined the requirements of paragraph 51 in five distinct orders that were published and approved by the LAPD in July 2003. The Monitor will assess these orders for primary compliance in the quarter ending September 30, 2003. This will allow for the

⁶ In April 2002, the City signed a contract with BearingPoint, Inc. for the restoration and enhancement of the Automated Personnel Records Imaging System (APRIS) and the Integrated Crime and Arrest Records System (ICARS).

requirements of each selection process for Critical Incident Investigation Division⁷ (CIID) investigators, PSB investigators, Field Training Officers (FTOs), gang officers and transfer officers to be clearly defined. In addition, these orders activated the TEAMS Evaluation Report, which will document managers' consideration of sustained administrative investigations, adverse judicial findings or discipline against an officer as required by paragraph 51.

The Monitor will review these orders for primary compliance with the requirements of paragraph 51 after their publication in July 2003. After the LAPD has had sufficient time to implement these new procedures, the Monitor will assess secondary and functional compliance.

⁷ Paragraph 51 specifically refers to the OHB Unit; for purposes of this paragraph, CIID is taking the place of the OHB Unit.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

Overview

By mandate of the Consent Decree, LAPD officers are required to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A Categorical Use of Force⁸ (CUOF) is defined by paragraph 13 of the Consent Decree. Any Use of Force that falls under this definition is subject to certain paragraphs of the Consent Decree.⁹ Administrative investigations of these incidents are the responsibility of the CIID. All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

All other Uses of Force that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.¹⁰ Non-Categorical Uses of Force (NCUOF) occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

The Department has achieved progress in the area of CUOF investigations, generally conducting thorough investigations and making sound conclusions. Where deficiencies have been identified, the Department has taken timely action to remedy them. Although the Department struggled with various aspects of NCUOF investigations during the first two years of the Decree, it has made significant improvements and is nearing compliance with all of the Consent Decree requirements in this area.

During the current quarter, the Monitor assessed the LAPD’s compliance with the mandates of the Consent Decree relative to NCUOF and CUOF investigations, including the notification process, supervisory oversight and the required psychological evaluation of officers involved in a deadly CUOF. The results of our current assessment follow.

⁸ CUOFs include an Officer Involved Shooting with or without a hit, In-Custody Death, Law Enforcement Activity Related Death, Law Enforcement Related Injury requiring hospitalization, Neck Restraint, Head Strike with an impact weapon and a Department canine bite requiring hospitalization.

⁹ Specifically paragraphs 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.

¹⁰ Specifically paragraphs 13, 38, 65, 66, 68, 69, 81 and 82 as well as certain audit related paragraphs.

Paragraph 56 – CIID to Attend All Categorical Use of Force Incidents

Paragraph 56 mandates that the OHB Unit, defined by LAPD directives to be the CIID, have the capability to “roll out” to all CUOF incidents 24 hours a day. Additionally, the LAPD requires immediate notification to the Chief of Police, CIID, the Police Commission and the Office of the Inspector General (OIG) whenever there is a CUOF.

Background

Whenever a CUOF incident occurs, LAPD protocol requires that the Watch Commander notify the Department Command Post (DCP). Once notified, DCP officers concurrently notify the Chief of Police, the CIID, the Police Commission, the OIG and, if applicable, the District Attorney’s Office.

The Monitor’s last review of paragraph 56, during the quarter ending December 31, 2002, focused on assessing compliance for the entire notification process from the moment an incident occurred until all notifications were made. The LAPD was found to be in non-compliance largely due to the lapse of time in notification by the field to the DCP for In-Custody Deaths (ICD) and Law Enforcement Related Injury Incidents (LERII) involving a head strike with an impact weapon.

Current Assessment of Compliance

The Monitor selected for review 51 CUOF¹¹ incidents during the period of October 1, 2002 to March 31, 2003.¹² These incidents were reviewed to determine the LAPD’s compliance with paragraphs 58, 59 and 62. The incidents are broken down as follows: 3 ICD’s, 12 LERII’s with Head Strike, 3 LERII’s Requiring Hospitalization, 3 Canine Bites with Hospitalization, 22 OIS with Hit, and 8 OIS with no Hit.

For all but three incidents, the OIG acknowledges prompt notification by the LAPD. The OIG responded to 22 incidents. For all but three incidents the Chief of Police, or a designee, was promptly notified. On average for all 51 incidents, the CIID responded within 69 minutes of notification. The Monitor’s detailed findings follow:

¹¹ As defined by paragraph 13 of the Consent Decree. The Monitor did not determine the number of completed incidents that involved either an Accidental Discharge or an OIS of an animal.

¹² For the period under review, the Monitor listed and reviewed all incidents documented on DCP Logs that fell under the strict definition of a CUOF, thus the Monitor reviewed 100% of the incidents.

<i>Average Notification Times</i>	<i>3 ICD Incidents</i>	<i>9 of 12 LERII Head Strike Incidents¹³</i>	<i>3 LERII Requiring Hospitalization¹⁴</i>	<i>3 Canine Bites</i>	<i>22 OIS with Hits¹⁶</i>	<i>8 OIS No Hits</i>
<i>Field to DCP</i>	24 minutes	43 minutes	499 minutes ¹⁵	52 minutes	26 minutes ¹⁶	34 minutes
<i>DCP to CIID</i>	8 minutes	11 minutes	15 minutes	12 minutes	9 minutes	8 minutes
<i>CIID Response Time</i>	70 minutes	91 minutes	94 minutes	65 minutes	63 minutes	68 minutes

The Monitor found that notifications, with the exception of three head strike CUOF and one LERII requiring hospitalization, were generally timely and CIID response times were judged to be within acceptable limits. Accordingly, the Monitor finds the LAPD to be in compliance with the provisions of paragraph 56.¹⁷

¹³ For 3 of the LERII's with Head Strike, the CIID either identified the incident via an audit of hospital records or was notified directly by the field. For these 3 incidents, the CIID was notified 195, 295 and 410 minutes after the respective incidents. The CIID in turn notified the DCP to facilitate additional notification. CIID response times to these incidents ranged from 11 minutes to 175 minutes, with an average response time of approximately 91 minutes.

¹⁴ The average times for DCP and CIID notification were for 2 of the 3 incidents. The third incident was identified directly by CIID while reviewing hospital records. By this time, approximately 1, 240 minutes had passed. The incident involved a fractured hand. The officers monitoring the suspect failed to properly report the incident, which resulted in it being misclassified as a NCUOF.

¹⁵ In both incidents, the DCP notification delay occurred at the hospital. Officers escorting suspects must wait for a medical diagnosis to determine whether or not the suspect's medical condition requires hospitalization. In one incident, the suspect complained of stomach pain several hours after the actual UOF. Once hospitalization occurred, the DCP was immediately notified, triggering subsequent timely notification. For the second incident, officers monitored the suspect's condition and, on more than one occasion as events unfolded, notified the DCP that the incident may be classified as a CUOF. Once x-rays concluded the suspect suffered a fractured hand the appropriate notifications were made in a timely fashion.

¹⁶ This is the only category that LAPD's internal policy requires notification of the incident within 15 minutes of its occurrence. The DCP was notified within 15 minutes of the stated incident time for 9 of the incidents. The DCP made notification to CIID within the 15-minute notification time for 18 of the 22 incidents. Of the remaining 4 OIS-hit incidents all were reported within 16-30 minutes.

¹⁷ The Monitor elected to find the LAPD in compliance with paragraph 56 despite the fact that they fell below the 95% compliance standard because of the limited population size and the fact that the audit function of CIID identified the incidents and performed as required.

Paragraph 58

Paragraph 58 requires that the LAPD continue its policy of notifying the Los Angeles District Attorney's Office whenever an LAPD officer, on or off-duty, shoots and injures any person during the scope and course of employment. In addition, the LAPD shall notify the District Attorney's Office whenever an individual dies while in the custody or control of an LAPD officer or the LAPD, and a UOF by a peace officer may be a proximate cause of death.

Background

Notification to the District Attorney's Office was a pre-Consent Decree requirement of the LAPD. As discussed in prior Monitor reports, the LAPD has established a protocol for first reporting CUOF incidents to its DCP, which in turn makes appropriate notifications to other individuals and/or entities, including the District Attorney's Office. Notifications are documented in daily 24-hour occurrence logs maintained by the DCP.

The Monitor last assessed compliance with paragraph 58 during the quarter ending December 31, 2002, at which time, the LAPD was found to be in functional compliance.

Current Assessment of Compliance

During the current quarter the Monitor identified 22 incidents that required notification to the District Attorney's Office. The District Attorney's Office independently confirmed to the Monitor that notification was made for all 22 incidents.

On average, once the DCP was notified of an incident, the DCP notified the District Attorney's Office within approximately 28 minutes. Notification times ranged from 2 to 87 minutes. Once notified, a representative of the District Attorney's Office responded, on average, to the scene of the incident within 101 minutes.

Based upon the foregoing, the Monitor finds the LAPD to be in functional compliance with paragraph 58.

Paragraph 59 – LAPD to Cooperate with District Attorney at Scene of Incident

Paragraph 59 requires the LAPD to cooperate with District Attorney Office personnel who arrive at a CUOF incident pursuant to the required notifications as defined in paragraph 58¹⁸ of the Consent Decree.

¹⁸ The Los Angeles County District Attorney's Office is required to be notified whenever an LAPD officer, on or off-duty, shoots and injures any person during the scope and course of employment; and, whenever an individual dies while in the custody or control of an LAPD officer or the LAPD, and a UOF by a peace officer may be a proximate cause of death.

Background

The Monitor last evaluated compliance with paragraph 59 during the quarter ending December 31, 2002, at which time the LAPD was found to be in functional compliance.

The Monitor recommended in its Report for the Quarter Ending December 31, 2002 that the LAPD consider use of a mobile notification device for contemporaneous notification to the CIID and the District Attorney's Office. The LAPD accepted the Monitor's recommendation and now employs handheld Blackberry devices for this purpose.

Current Assessment of Compliance

During the current quarter, the Monitor furnished the District Attorney's Office with a listing of incidents requiring notification to the District Attorney's Office. This listing captured certain reportable incidents that occurred during the period October 1, 2002 through March 31, 2003 per review of the LAPD's DCP logs. The Monitor requested that a District Attorney Office representative confirm notification and indicate the level of cooperation afforded to its personnel by the LAPD. In response, the District Attorney's Office, in writing, confirmed notification and advised that LAPD officers at CUOF incidents are cooperative and in most instances helpful to the District Attorney's investigations.

Based on the foregoing, the Monitor finds the LAPD to be in functional compliance with paragraph 59.

Paragraph 62

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

Background

The Monitor last evaluated paragraph 62 during the quarter ending December 31, 2002, at which time the LAPD was found in functional non-compliance.

Current Assessment of Compliance

Use of Force and Officer Involved Shooting review

The Monitor reviewed 51 CUOF incidents reported during the period October 1, 2002 through March 31, 2003¹⁹ to determine compliance with paragraph 62. The Monitor's review determined that 2 of the 51 incidents were not reviewed within the mandated seven calendar days²⁰, resulting in a 96% compliance rate.

For the remaining 49 incidents, with the exception of a few Divisions²¹, the Monitor found the analyses to be thoughtful and thorough, with sufficient background information of the incident given.²²

Search Warrant Service Review

The Monitor reviewed information provided by the LAPD for 80 executed search warrants statistically and randomly sampled from a population of 518 to determine compliance with paragraph 62.²³ Of the 80 warrants selected for review, only 33 included a manager's²⁴ analysis, of which there was a wide disparity in documentation regarding the appropriateness of a supervisor's presence or absence at the execution of a search warrant.²⁵ These analyses, more often than not, were devoid of original information, instead relying primarily on generic, canned language and indistinct conclusions.

¹⁹ Please refer to the Current Assessment of Compliance for paragraph 56 for additional information regarding these CUOF incidents.

²⁰ Both analyses were conducted 11 days after the incident.

²¹ The Monitor is concerned that COs in certain Divisions are using boilerplate paragraphs and only changing the date of the incident and the OIS or CIID number. For example, 4 of the 5 analyses out of the Southeast Division contained verbatim matches, with little or no information specific to the incident; two OIS analyses out of the 77th were verbatim matches, and separately, two LERII analyses, also out of the 77th, were verbatim matches; and, 5 of the 6 analyses from the Rampart Division contained no information specific to the incident and were, for the most part, verbatim matches with only 2 of the 6 containing a conclusion as to the appropriateness of the supervisor's actions at the scene.

²² COs should be commended for including in their analyses of OIS incidents whether involved officers were separated and if not, why not.

²³ Information reviewed included Employee Reports, Intradepartmental Correspondence and checklists prepared by Supervisors or Commanding Officers.

²⁴ The Consent Decree defines a manager as a supervisor at the rank of captain or above.

²⁵ The disparity was apparent among the Divisions as well as within a single Division. For example, within the Narcotics Division the reviews ranged from a mere date and initial to a generic sentence to a full review that contained specifics of the operation. Each of these was contained on the Employee Report, which is utilized by the entire Department for various communications and is included in each search warrant package.

Of the remaining 47 deemed in non-compliance, no analyses were completed for 31 search warrants.²⁶ For six other search warrants, although analyses were completed, they were not completed timely. For the remaining 10 deemed in non-compliance, the analyses were incomplete and canned, or completed by an individual other than a manager.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 62.

Paragraph 63

Paragraph 63 defines the requirement to refer an officer to the LAPD's Behavioral Science Services (BSS) for a consultation with and evaluation by a licensed mental health professional. Such referrals are mandated for officers involved in CUOF incidents that resulted in death or the substantial possibility of death. Officers so referred are precluded from working in the field until such consultation has occurred and notification of fitness for duty has been discussed with their respective Commanding Officer.

Background

Although the LAPD was unable historically to achieve compliance with this mandate, the LAPD was found in compliance with this paragraph for the quarter ending December 31, 2002. However, the Monitor also reported its concern that all officers referred to BSS appeared to be deemed fit for duty after their consultation.

Current Assessment of Compliance

In order to follow up on its concerns, the Monitor requested additional information to explain the appearance that virtually all officers are deemed fit for duty after the mandated consultation, typically after only one consultation. After several months, the BSS responded that "approximately 80% of officers involved in an OIS or CUOF are returned to full duty upon completion of this [initial] debriefing." The Chief Police Psychologist further advised that the LAPD is unable to provide specific statistical data with regard to how many officers return to full duty, restricted duty or do not return to work, as this information historically was not maintained by BSS. BSS represents that it is developing a protocol that will allow for the capture of this data in the future. However an expected completion date was not provided. This response has done nothing to alleviate the concerns of the Monitor, but has rather heightened those concerns. Indeed, it would appear that simple calculations based on records which should certainly be maintained by BSS would yield precise answers to the Monitor's inquiries.

During the current quarter, the Monitor identified 30 incidents, involving 79 officers, that were reported during the period October 1, 2002 through March 31, 2003. All 30 incidents involved

²⁶ Narcotics Division accounted for 25 of the 31 search warrants.

shootings in which the suspect was hit. All officers involved in the OIS incidents were timely referred to BSS. Sixty-eight of the 79 officers were not assigned to field duty until after their appointment with a BSS psychologist and after the psychologist conferred with each respective officer's Commanding Officer.

Of the remaining 11 officers, a review of daily work sheets determined that six officers worked at least one day in the field prior to a conference between their respective managers and BSS. Documentation provided by the LAPD was insufficient to make a determination regarding the remaining five officers. As such, the Monitor could not conclude on compliance.

Based upon the foregoing, the Monitor calculated a compliance rate of 86% (68 of 79 officers). As such, the LAPD is in functional non-compliance with the provisions of paragraph 63.

Paragraph 65 – Requirement to Report Non-Categorical Uses of Force

Paragraph 65 requires that LAPD officers report, without delay, their involvement in a UOF using the appropriate form as required by paragraph 66 of the Consent Decree.²⁷

Background

The LAPD historically required that officers self-report any UOF. Pre-Consent Decree, all UOF were categorized together and more serious UOF, such as OIS incident, were investigated by either the Robbery Homicide Division (RHD) or the Detective Headquarters Division (DHD). All other UOF were historically investigated by Chain of Command (COC) supervisors.

The Monitor last evaluated paragraph 65 during the quarter ending December 31, 2002, at which time the LAPD was found to be in non-compliance with this paragraph due to a combination of untimely reporting and failure by LAPD officers and supervisors to utilize the correct form.

Current Assessment of Compliance

During the current quarter of review, the Monitor requested and received a listing of all NCUOF incidents that occurred during the period September 1, 2002 through February 28, 2003. In total, the LAPD provided a listing of approximately 884 incidents, of which 87 were randomly selected for review to test compliance with paragraphs 65, 68, 69, 81, 82 and 84 of the Consent Decree.

The Monitor established, through an examination of the UOF forms and underlying investigations, that for all incidents reviewed, the involved officers self-reported, without delay,

²⁷ Pursuant to paragraph 66 of the Consent Decree, the LAPD developed and implemented a revised UOF report form. The Monitor determined that the LAPD was in compliance with paragraph 66 in its Report for the Quarter Ending June 30, 2002. The appropriate form is dated April 2002, the month it was issued, and to date has not been updated.

their involvement in a UOF. The Monitor also noted that for all but one investigation, the UOF incident was documented using the most recently issued UOF reporting form.

Notwithstanding the one exception noted, the Monitor finds the LAPD to be in functional compliance with paragraph 65.

Paragraph 68 – Non-Categorical Use of Force Investigations

Paragraph 68 requires that a supervisor²⁸ conduct a timely investigation of NCUOF incidents as required by LAPD policy and pursuant to the provisions of paragraphs 69, 81 and 84 of the Consent Decree.²⁹

Background

Paragraph 68 is a “shall continue to” requirement and references pre-Consent Decree LAPD policy. The LAPD has, since implementation of the Consent Decree, issued two Special Orders that provide additional guidance on investigating and adjudicating NCUOF incidents.³⁰

The LAPD is in the process of drafting another Special Order to provide further guidance in conducting timely and complete NCUOF incident investigations; however, its release date remains unknown.

The Monitor last evaluated this paragraph during the quarter ending December 31, 2002, at which time the LAPD was found to be in functional compliance with paragraph 68.

As reported in the Monitor’s Report for the Quarter Ending December 31, 2002, the LAPD Audit Division was slated to complete a second audit of NCUOF incident investigations by the end of 2002. This audit was not completed in the quoted timeframe.³¹

Current Assessment of Compliance

For all 87 investigations reviewed,³² the Monitor noted that a supervisor who was not involved in or a witness to the incident conducted a timely and appropriate investigation.³³ The Monitor

²⁸ The LAPD defines a supervisor as an individual ranked at least a Sergeant I or Detective II.

²⁹ These paragraphs mandate that NCUOF investigations be reviewed within 14 days of the incident by management; that investigations prohibit group interviews; that investigations include interviewing on-scene supervisors when applicable; and, that all appropriate evidence be collected and preserved with the burden of collection on the LAPD.

³⁰ Special Order 27, “Investigating and Adjudicating Non-Categorical Use of Force Incidents,” September 25, 2001 and Special Order 18, “Revisions to Special Order 27, 2001 – Investigating and Adjudicating Non-Categorical Use of Force Incidents,” May 7, 2002.

³¹ The Monitor’s findings relative to the LAPD’s Audit Division are contained in Section VIII of this report.

based its conclusion on a review of the UOF report form and underlying investigation for all 87 investigations.

Based on the foregoing, the Monitor finds the LAPD to be in primary, secondary and functional compliance with paragraph 68.

Paragraph 69 – Review of Uses of Force

Paragraph 69 addresses both CUOF and NCUOF incident investigations. With regard to NCUOF incidents,³⁴ LAPD Division Management³⁵ is required to review each UOF within 14 calendar days of the incident, unless a deficiency in the investigation is detected, in which case the review shall be completed within a reasonable time period. Department Bureau Management must also review each incident.

Background

Historically, the City and the LAPD have acknowledged difficulty in achieving compliance with the 14-day rule. This failure prompted the issuance of Special Order 18, which was intended to improve the overall quality of NCUOF incident investigations and hasten completion of the investigations within the prescribed time periods. It was anticipated that another Special Order further clarifying the investigative and documentation requirements of the Consent Decree would be issued by the LAPD. This Special Order has been in draft form for approximately one year.

The Monitor last evaluated paragraph 69 as it relates to NCUOF incident investigations during the quarter ending December 31, 2002, at which time, the LAPD was found to be in functional non-compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the merits of 87 NCUOF incident investigations. For all but five investigations, LAPD Division Management reviewed the incident within 14 days and the investigations were completed within a reasonable time period thereafter. This translates into a compliance rate of approximately 94.3%, which falls short of the compliance standard for this paragraph. UOF reports also documented at least one review by management at the Bureau level and ultimately by the Risk Management Division (RMD).

³² In total, the LAPD provided a listing of approximately 884 incidents, of which 87 were randomly selected for review to test compliance with paragraphs 65,68,69,81, 82 and 84 of the Consent Decree.

³³ Although not a Consent Decree requirement, LAPD policy mandates that all NCUOF incidents be investigated by a supervisor who was not involved in or a witness to the incident.

³⁴ In this report, the Monitor is not addressing paragraph 69 as it relates to CUOF incident investigations.

³⁵ Defined by paragraph 29 of the Consent Decree as an LAPD supervisor at the rank of captain or above.

Based on the foregoing, the Monitor finds the LAPD to be in functional non-compliance with the provisions of paragraph 69 that apply to NCUOF incident investigations.

Recommendation

Officers assigned to the Use of Force Review Section (UOFRS) are in the practice of making corrections to the UOF reports, primarily to sections that deal with the types of force used, to ensure that they are consistent with the underlying reports. The Monitor agrees that the corrections are necessary and do not misrepresent the force used; however, the Monitor recommends that the UOFRS either return the investigations requiring changes to the field or provide additional training to supervisors and managers responsible for writing and reviewing these reports, to prevent similar mistakes from being made in the future. Further to this recommendation, the Monitor considers the checklist used by the UOFRS, which includes a section on whether or not the correct boxes are checked on the report and whether the report is consistent with the information contained in the underlying investigation, to be a useful resource, which could be adapted for use by officers when completing the reports.

B. SEARCH AND ARREST PROCEDURES

Overview

The Consent Decree requires the LAPD to establish and/or continue to implement policies and procedures regarding searches and arrests. One such requirement is supervisory review of booking recommendations, supporting arrest paperwork, search warrant applications and execution plans to ensure that they meet the Department's standards for appropriateness and legality.

Although the Department has achieved compliance with some of the provisions related to search and arrest procedures, inadequate documentation and supervisory oversight in this area have resulted in many instances of non-compliance.

The Monitor is scheduled to assess issues relevant to search and arrest procedures again in its Report for the Quarter Ending September 30, 2003.

C. INITIATION OF COMPLAINTS

Overview

The Consent Decree directs the LAPD to continue existing procedures to encourage the filing of complaints. The Department has generally done a commendable job regarding the initiation of complaints, especially in meeting the community public outreach requirements, such as placing materials at station houses and publishing materials in a variety of languages. However, recent

events involving officers alleged to have discouraged the filing of complaints, as described in a separate focus issue in this report, have caused considerable concern and have resulted in the Monitor finding the Department in non-compliance with certain provisions of the Consent Decree.

During the current quarter, the Monitor assessed compliance with Consent Decree requirements relative to officers receiving citizen complaints and the initiation of complaints based upon entries into the City's lawsuit and claims database.

The results of our current assessment follow.

Paragraph 74 – Receipt/Maintenance of Complaints

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

Background

The Monitor last evaluated paragraph 74 during the quarter ending March 31, 2003. During that quarter, the Monitor determined that the LAPD adequately maintained complaint forms at seven Divisions and that the complaint hotline was functioning as designed. However, towards the end of that quarter, the Monitor was informally advised of results of sting audits completed by the EES. The sting audits were undertaken in response to a special request by the Chief of Police. Given that the preliminary results suggested a pattern of complainants being discouraged from filing complaints, the Monitor elected to defer its determination of compliance pending a review of the results of EES audits.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 19 completed EES audits designed to determine whether or not officers refused to accept or discouraged the filing of complaints.³⁶ For eight of 19 sting audits reviewed, officers and/or supervisors acted in accordance with the requirements of the Consent Decree. For the remaining 11 audits, EES concluded that officers and/or supervisors administratively failed the audit. The Monitor reviewed these audits and agreed with the conclusions reached by EES. In those 11 instances, officers and/or supervisors approached by an undercover EES officer with a complaint responded as follows:

³⁶ Additional EES audits were completed outside the period selected for review. Refer to the Monitor's assessment of paragraph 97 in this report.

- Instructed the complainant to file a complaint at the station without documenting complainant information;
- Failed to notify a supervisor or to document complainant information;
- Refused to take the complaint without additional information;
- Refused to take the complaint over the telephone.

Given the results of those EES audits reviewed and an indication that additional EES audits have met with similar results, the Monitor finds the LAPD to be in functional non-compliance with regard to paragraph 74.

Paragraph 75 – Initiation of Complaint Form 1.28 Investigations

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

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

Background

The Monitor last evaluated paragraph 75 during the quarter ending March 31, 2003. Toward the end of that quarter, the LAPD informed the Monitor of the results of certain operational integrity audits completed by the EES.³⁷ The results of these audits suggested that officers were not complying with Consent Decree paragraph 74 requirements.

The Monitor elected to withhold a determination of compliance pending a review of completed operational integrity audits during April 2003.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 19 random audits designed to determine whether or not officers discouraged, refused or simply failed to receive and document a complaint or provide guidance on submitting a complaint in order to verify that the PSB responded appropriately to the audits' findings. For 11 of the 19 audits reviewed, one or more

³⁷ Please see paragraph 97 in this report for work completed regarding EES operational integrity and sting integrity audits.

officers per audit failed to meet paragraph 74 requirements. For all 11 of these audits, the PSB timely effected the completion of a complaint face sheet.

Notwithstanding the Department's swift initial response, the Monitor is very much concerned that the prosecution of the administrative proceedings against the officers who failed to take the citizen complaints is stalled. The Monitor contends that the cases must be prosecuted swiftly and vigorously, sending a clear message that no infringement on the public's right to be heard and to complain about police misconduct will be tolerated.

As a result of the delays in the administrative proceedings described above, as well as multiple complaints initiated subsequent to our testing period, the Monitor finds the LAPD to be in functional non-compliance with paragraph 75.

Paragraph 76 – Civil Lawsuits Alleging Misconduct of LAPD

The City of Los Angeles is required to notify the LAPD whenever a person serves a civil lawsuit on or files a claim against the City alleging misconduct by an LAPD officer or other employee of the LAPD.

Background

The Monitor last evaluated this paragraph during the quarter ending December 31, 2002, at which time the LAPD was found to be in compliance with paragraph 76.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received from the City a listing of all pending lawsuits and claims for the period October 1, 2002 through March 31, 2003. In total, the City identified 113 lawsuits as listed on the "Open Police Department Cases for the Police Litigation Unit Report" and 240 separate claims as listed on the "Claim Detail Report."³⁸

The Monitor requested and received from the LAPD its Claim/Litigation Information System (CLIS) report for the same time period. A reconciliation of RMD's CLIS report with the City's reports established that all lawsuits and claims were captured by the LAPD. Additionally, the Monitor noted that RMD's CLIS report included 12 claims that were not listed on the City's Claim Detail Report.

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

³⁸ The City identified 27 lawsuits involving traffic accidents that did not allege misconduct and therefore were excluded from the population.

Paragraph 77

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

Background

The Monitor last evaluated this paragraph during the quarter ending June 30, 2002, at which time the LAPD was found to be in compliance with paragraph 77.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received from the LAPD a listing of all officers known to have been arrested during the time period April 1, 2002 and March 31, 2003, as well as the related complaint face sheet for each arrest, which provides a summary of the incident leading to the officer's arrest and the nature of any allegation(s).

In total, 23 officers were identified by the LAPD.³⁹ The LAPD reported that 2 of the 23 identified officers did not self-report their respective arrests.⁴⁰ For the remaining 21 instances the PSB concluded that the officers either self reported their arrest, or by identifying themselves as officers, caused the arresting officers to report their arrest.⁴¹

The Monitor's review established that one arrest considered not reported by the LAPD was indeed self-reported. According to the complaint face sheet, the officer contacted the Department within 24 hours of the arrest. The one officer that did not self-report his/her arrest was identified via a driver's license audit.⁴²

In addition to the list of officer arrests, the LAPD also provided a listing of lawsuits and claims filed against officers for the comparable period. The Monitor's review of the list and related

³⁹ The LAPD included in the population six employees who were arrested, but were not officers. They were excluded from the population in determining compliance.

⁴⁰ For both instances, the officer was arrested by a jurisdiction other than the LAPD.

⁴¹ The LAPD has established agreements with adjacent law enforcement agencies to disclose whenever an officer in their jurisdiction arrests an LAPD officer.

⁴² The LAPD participates in a "pull program" with the California Department of Motor Vehicles. The purpose of this program is to notify the LAPD whenever an employee's license is suspended for a driving under the influence offense.

complaint face sheets confirmed the PSB's findings that all were self-reported. Given the reporting requirements established in paragraph 76, the likelihood of a claim or lawsuit going unreported is minimal. Typically, the officer first learns of the lawsuit or claim from the PSB.

Notwithstanding the one instance of non-compliance, the Monitor finds the LAPD to be in compliance with paragraph 77.

Paragraph 78

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

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

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

Background

The Monitor last attempted to assess compliance for paragraph 78 during the quarter ending December 31, 2002. During that time period, the Monitor selected 71 neglect of duty complaints from a population of 263 containing any of the aforementioned allegations. Of the 71 selected, 55 investigations remained pending and only 16 were completed and available for review in an attempt to determine compliance. Although there were no indications of officers not reporting misconduct as defined by this paragraph, the Monitor elected to withhold determination pending additional work.

Current Assessment of Compliance

During the most recent reporting period, the Monitor requested to review all sustained complaints containing paragraph 78 allegations that were closed between July 1, 2002 and December 31, 2002. According to LAPD reports, 23 such complaints were closed or completed during that timeframe; the LAPD provided their complaint investigation packets for review. Of the 23 complaints, 11 alleged excessive force, 8 alleged ethnic remarks (invidious discrimination), 2 alleged gender bias, 1 alleged false arrest, and 1 alleged unlawful search.

- The Monitor's review established that all eleven investigations of the excessive force complaints were complete and adequately documented.⁴³
- The Monitor found that five of the eight investigations of complaints alleging ethnic remarks (invidious discrimination) were complete and adequately documented.⁴⁴ The remaining 3 were judged to be non-compliant, as the investigations contained statements by officers interviewed suggesting they knew or should have known of misconduct and that they failed to report it.
- The Monitor found the investigations of the two complaints alleging gender bias to be complete and adequately documented. However, it is the Monitor's contention that one of the complaints was misclassified and should have been categorized as a sexual misconduct complaint.
- The investigations of the complaints alleging false arrest and unlawful search were found to be in compliance.

In conclusion, the Monitor's review of the 23 complaint investigations suggests that the requirements of paragraph 78 are not being met. Therefore, the Monitor finds the LAPD in functional non-compliance with paragraph 78.

⁴³ Three of the complaints arose out of the Rampart Division Corruption investigation. All were adjudicated as sustained against the officers involved.

⁴⁴ For two investigations found to be in compliance, the same officer involved had a history of making discourteous or ethnic remarks during traffic stops. Although there are no indications that other officers knew or should have known, the Monitor questions the LAPD's reasoning in permitting this officer to work alone after having received 12 previously not resolved complaints with the same exact allegation. The Monitor also questions the disciplinary process that permitted this officer to receive a four day suspension for this offense four months subsequent to receiving an eight day suspension for the same misconduct.

D. CONDUCT OF INVESTIGATIONS

Overview

The Consent Decree provides a series of specific instructions relating to the conduct of complaint investigations. These instructions are published in the LAPD Guide for Supervisors dated October 2000.

The Department is in compliance with several Consent Decree provisions in this area, most notably in the conduct of CUOF investigations and some of the requirements related to complaint investigations. Non-compliance continues in connection with certain requirements for the conduct of complaint investigations and with NCUOF investigations.

During the current quarter, the Monitor assessed compliance with Consent Decree requirements relative to the requirements for conducting NCUOF investigations and collateral misconduct investigations.

The results of our current assessment follow.

Paragraph 81 – Non-Categorical Uses of Force

Paragraph 81 requires that certain investigative guidelines set out in paragraph 80 shall also apply to chain of command complaint investigations and NCUOF incident investigations, where applicable. These guidelines include the directive to interview witnesses separately; to interview supervisors regarding their conduct during the incident; and to properly collect and preserve all appropriate evidence.

Background

The Monitor last evaluated paragraph 81 during the quarter ending December 31, 2001, at which time the LAPD was found to be in non-compliance with this paragraph, due in large part, to the LAPD's failure to properly document whether or not witness interviews were conducted separately. At that time, the issue was discussed with the Commander of RMD who advised that the LAPD was aware of the problem and in the process of amending current policy to address the deficiency.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 87 randomly selected substantially complete NCUOF incident investigations.⁴⁵ The population from which the stratified random sample by Division was selected totaled 884. The sample size was computed using a confidence level of 95% with an error rate of plus or minus four percent.

The Monitor reviewed each investigation, in totality, for the requirements of paragraph 81 and noted the following:

In each instance for which it was applicable⁴⁶, the supervisor responsible for conducting the investigation interviewed the on-scene supervisor. The content of the interviews included inquiries into the on-scene supervisors' conduct.

For 84 of the 87 investigations reviewed, all material evidence was collected and preserved. For 2 of the 3 instances of non-compliance, documentation suggests there were witnesses to the UOF who were not interviewed. In the third instance of non-compliance, photographs of the officer's injuries were not taken. In addition, there were 2 investigations for which documentation suggests that the scene was not thoroughly canvassed for witnesses.

Lastly, and of most serious concern, is that the LAPD continues to fail to document whether or not witnesses are interviewed separately. For 53 of the 87 investigations reviewed, the Monitor could not determine whether or not group interviews were prohibited. This translates into a compliance rate of approximately 39%. Although this demonstrates progress over the last reported compliance rate of approximately 7%, there remains considerable room for improvement.

As of the Monitor's review, the LAPD had yet to publish a new directive regarding the completion of NCUOF incident investigations. In the interim, the UOFRS notified the LAPD that any NCUOF incident investigations that did not address the requirements of paragraph 81 would be returned for additional investigation and/or documentation.⁴⁷ Of the 87 NCUOF incident investigations sampled for review, 30 were dated during or subsequent to January 2003. Of these 30, only 4 failed to document or indicate whether or not interviews were conducted separately. This suggests that the Department is improving in this area.

The Monitor finds the LAPD to be in functional non-compliance with paragraph 81 with regards to NCUOF incident investigations.

⁴⁵ As of the Monitor's review, all incident investigations were submitted to the UOFRS as complete, however four were returned to LAPD Divisions for further clarification or documentation to conform to paragraph 81 requirements.

⁴⁶ This provision was not applicable for 54 of the 87 investigations because a supervisor was not present at the scene.

⁴⁷ Notification occurred during January 2003.

Recommendation

While reviewing NCUOF incident investigations, the Monitor noted a wide disparity in reporting of the use of the hobble restraint. In some incidents, the reporting officer created a check box on the UOF form to indicate its use, while in other incidents, the use of the hobble restraint was contained in the body of the investigation. Given that the UOFRS does indeed track the use of this device, it is recommended that use of the hobble restraint be added as a pre-printed check box to the UOF reporting form in order to facilitate its reporting and promote consistency.

Paragraph 82 – Collateral Misconduct Investigations

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

Background

The Monitor last evaluated this paragraph, as it pertains to CUOF incident investigations and complaint investigations, during the quarter ending March 31, 2003, at which time the LAPD was found to be in functional compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the merits of 87 randomly selected NCUOF incident investigations. None of the 87 investigations selected for review resulted in the filing of a separate complaint by the LAPD. The Monitor's review supported the LAPD's conclusions.

Based on the foregoing, the LAPD is found to be in functional compliance with paragraph 82.

E. ADJUDICATING INVESTIGATIONS

Overview

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

Over the past two years, the Department has achieved compliance with many of the Consent Decree provisions related to the adjudication of complaints and is currently in compliance with two of the four paragraphs in this area.

The Monitor last reviewed all aspects of the adjudication phase of the complaint process during the quarter ending March 31, 2003. A similar review is scheduled for the quarter ending September 30, 2003.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

Overview

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

Although it is moving closer to compliance with Decree requirements relative to disciplinary and non-disciplinary action, the Department remains non-compliant in most areas, primarily due to inadequate reporting.

During the current quarter, the Monitor assessed modifications made by the LAPD to their discipline report database, the IG and Police Commission's review of the quarterly discipline report, and the Department's anti-retaliation policy.

The results of our current assessment follow.

Paragraph 88 – Chief of Police Report on Discipline

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

Background

The Monitor last evaluated compliance with paragraph 88 during the quarter ending March 31, 2003, at which time LAPD was found in functional non-compliance. As described in previous quarterly reports⁴⁸, both the Monitor and the DOJ have expressed concerns about the timeliness of information presented in the Quarterly Discipline Report (QDR). The Monitor has had ongoing discussions with LAPD personnel concerning the timeliness issue.

⁴⁸ The Monitor's Reports for the Quarters Ending March 31, 2002; September 30, 2002; and March 31, 2003; the LAPD was found to be in functional non-compliance with paragraph 88 in each of these reports.

Current Assessment of Compliance

During the current quarter, the Monitor continued its discussions with LAPD personnel concerning the timeliness of the information included in the QDR. The Department represented that it has addressed the data entry backlog of closed complaint cases and that the OIG is moving toward a random sample complaint review process, which should further enhance timeliness. However, the Department expressed that due to the limitations of the current complaint tracking system, the timeliness of data entered for use in the QDR is approaching maximum capabilities. However, the Department represented that the planned CMS will further enhance the timeliness of information included in the QDR.

The Monitor also reviewed process flow and capture of complaint information discussed in the current draft of the CMS RFP, dated May 22, 2003. As designed, CMS will capture penalty information after the Chief's review of sustained complaints. The CMS RFP also provides for preparation of a standardized QDR.

CMS will be developed in conjunction with the RMIS. It is estimated that this will take approximately 22 months to complete. In the interim, the Department continues to report discipline imposed after the case is closed, rather than the quarter in which it is imposed, as required by paragraph 88.⁴⁹

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with the provisions requiring timeliness of information presented in the QDR.⁵⁰

Proposed Recommendations

The Monitor proposes the following recommendations:

- Modification of the current system database, the Complaint Information System (CIS), to allow for the capture of penalty information when sustained cases not requiring review by the Chief of Police (admonition or less severe penalty recommendations) are adopted by the Review and Evaluation Unit (REU).
- Modification of the CIS database to allow for the capture of penalty information after review and adoption of recommended penalties by the Chief of Police.
- For preparation of the QDR, utilization of the modified CIS data (including penalty information) for the quarter in which the Chief of Police makes his final determination of discipline. Complaint cases would be reported in the quarter in which the Chief made a

⁴⁹ The Monitor has requested that the Department provide information computing the time between the Chief's final determinations of discipline imposed and the date each complaint case was closed for the first quarter 2003. This information will provide a basis for further discussion with the Department.

⁵⁰ If the Department continues to report discipline when the case is closed it runs the risk of continued non-compliance in the foreseeable future.

disciplinary decision that was final and no further complaint process such as a Board of Rights procedure was involved. Those cases involving complaint processes such as a Board of Rights would be reported in the quarter in which the Chief adopted the penalties recommended as a result of the process or downwardly departed from the recommendations. Cases involving penalties of Admonishment or less severe, would be reported in the quarter in which they were adopted by the REU.

Paragraph 89 – Inspector General and Police Commission Review

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

Background

The Monitor last evaluated the provision of paragraph 89 that requires the IG to review, analyze and report to the Commission on each QDR during the quarter ending March 30, 2003, at which time the Department was found to be in compliance.

The Monitor last evaluated the provision of paragraph 89 that requires the Police Commission to review and assess the discipline imposed by the Chief of Police during the quarter ending March 31, 2003, at which time the Monitor withheld a determination of compliance due to the Monitor's inability to review the Commission's assessment of the QDR for the fourth quarter of 2002 until the current quarter. The Monitor found the Department in functional non-compliance with this same provision during the quarters ending September 30, 2002 and December 31, 2002.

Current Assessment of Compliance

IG Review, Analysis, and Reporting to the Police Commission on each QDR

During the current reporting period, the Monitor received and reviewed the IG's report on the QDR for the first quarter of 2003.⁵¹ The IG's review raised the issue that the QDR continues to include "aged cases" that "were adjudicated during the tenure of a prior Chief of Police." The IG maintained in his report that the "inclusion of these aged cases, which were not closed in some cases until several years after the actual case was adjudicated and the penalty imposed, ... do not provide a fair picture of the actions of the current COP."

⁵¹ Although the report, dated July 7, 2003, was not received until July, the Monitor was able to conduct a review prior to publication of this report. As a result, the Monitor is including this review in the assessment of compliance for the quarter ending June 30, 2003.

The Monitor commends the IG for raising this important issue, since the Police Commission's assessment of discipline imposed "shall be considered as part of the (current) Chief's annual evaluation." According to the IG's report, the Department has agreed to identify which Chief was involved in the imposition of discipline in future QDRs. This information should begin appearing in the third quarter 2003 QDR.

Based on the foregoing, the Monitor finds the Department in functional compliance with the provision of paragraph 89 that requires the IG to review, analyze and report to the Police Commission on each QDR.

Police Commission Review and Assessment of Discipline Imposed by the Chief of Police

Although the Police Commission received the QDR for the first quarter of 2003 on May 7, 2003, it did not review the report until July 15, 2003, 68 days after it was submitted to the Police Commission by the LAPD.⁵² Accordingly, the Police Commission's review of that QDR exceeded the 45-day time limit imposed by the Consent Decree.

During the current quarter, the Monitor also reviewed the Commission's written assessment of the discipline imposed by the Chief of Police for the fourth quarter 2002. The assessment mentioned six CUOF cases discussed by the IG in closed session; however, it made no specific mention of the Commission's assessment of the discipline imposed in these cases. The Consent Decree is very specific concerning the assessment of discipline involving CUOF. It requires the Commission to document its assessment of discipline imposed by the Chief for "each officer whose conduct was determined to be out of policy by the Commission."

Based on the foregoing, the Monitor finds the Department in functional non-compliance with the provisions of paragraph 89 that require the Police Commission to review and assess the discipline imposed by the Chief of Police.

Paragraph 92 – Review of Anti-Retaliation Policy

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

⁵² The QDR was not reviewed with the Chief of Police until July 22, 2003. The Consent Decree requires the Police Commission to review the QDR within 45 days "following consultation with the Chief"... so that it can assess the appropriateness of the disciplinary actions taken by the Chief.

Background

The Monitor last evaluated paragraph 92 during the quarter ending March 31, 2003, at which time the Monitor withheld a determination of compliance.⁵³

Current Assessment of Compliance

During this quarter, the Monitor met with the IG and was informed that due to staffing problems the IG's report was not finalized for presentation to the Police Commission. As a result, the Commission has delayed revisiting this Consent Decree requirement pending the IG's report.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with the provisions of Paragraph 92.

G. INTERNAL AFFAIRS GROUP

Overview

The Consent Decree mandates that certain categories of cases -- including unauthorized use of force; unlawful search or seizure; dishonesty; domestic violence; and discrimination -- be handled directly by IAG. The Consent Decree also outlines certain best practices with respect to complaint procedures and provides for a transition period to accomplish the reassignment of personnel to IAG.

The Department has achieved compliance with many of the Consent Decree requirements relating the Internal Affairs Group. Although progress has been made in filling vacancies within Internal Affairs, staff shortages have been problematic, leading to non-compliance with certain provisions.

During the current quarter, the Monitor assessed compliance with many of the Consent Decree requirements relative to staffing and personnel management within Internal Affairs, as well as sting audit provisions.

The results of our current assessment follow.

⁵³ On February 26, 2003, the LAPD submitted to the Police Commission its annual report regarding its review of the Department's Anti-Retaliation Policy. The Police Commission requested additional information concerning supervisory performance in addressing and preventing retaliation; the report was re-considered at the Police Commission meeting on March 18, 2003 and referred to the IG for review and comment. The Monitor withheld a determination of functional compliance pending the IG's report, which was expected to be discussed at the April 15, 2003 Police Commission meeting, and final action by the Commission.

Paragraph 95 – Professional Standards Bureau Investigator Positions

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

Background

The Monitor last evaluated paragraph 95 during the quarter ending December 31, 2002, at which time the LAPD was found to be in functional compliance with the requirements of the paragraph. Compliance was largely determined by 1) the LAPD transitioning investigative authority from the COC to the PSB, as called for in its revised September 27, 2002 Transition Plan, 2) the LAPD significantly reducing the number of vacant investigator positions for which it had authority to fill, and 3) the LAPD authorizing overtime for existing investigators to facilitate the timely completion of investigations.

Current Assessment of Compliance

During the current quarter, the Monitor requested and received a listing of vacant positions as of May 14, 2003. In total, the LAPD had the authority to fill 239 sworn positions of which 204 were filled, leaving 35 vacancies.⁵⁴ This represented a reduction of 6 positions since the Monitor's last review.

The PSB's revised Transition Plan called for the reduction of investigative vacancies by 11 positions through the same time period. However, a transfer freeze prevented the PSB from filling four Detective III positions.

The Monitor discussed its concern about the transfer freeze with the LAPD and the City, indicating that the LAPD might be found in non-compliance if targeted staffing levels were not achieved.

The City and the LAPD requested of the Mayor and the City Council that the transfer freeze not apply to Consent Decree-sensitive positions. The Mayor and City Council considered the request and authorized a one-time unfreeze for all positions.⁵⁵ The matter was presented to and approved by the City Council's Personnel Committee.⁵⁶

⁵⁴ One Lieutenant II, 5 Detective III, 23 Sergeant II and 6 Detective II positions remain vacant.

⁵⁵ At the time of the request, the number of vacancies had increased from 35 positions to 37 positions.

⁵⁶ Per Report of the Chief Legislative Analyst dated April 1, 2003.

The Monitor also requested and received monthly figures for the number of complaint investigations assigned to and completed by the PSB for the 18-month period November 2001 through April 2003. Over this time period, the PSB was assigned 2,082 complaint investigations and completed 1,467 complaint investigations. The difference, 615 complaint investigations, represents, on average, an accumulation of approximately 34 complaint investigations per month over this same time period. A further review determined that the PSB completed more cases than it received for only 2 months during this 18-month time frame.

Based upon the PSB's completion rate,⁵⁷ coupled with a renewed concern over staffing, the Monitor finds the LAPD in secondary and functional non-compliance with paragraph 95.

Paragraph 96 – Misconduct Complaints Filed Against the Chief of Police

Please refer to paragraph 145 of this report.

Paragraph 97- Scheduled Integrity/Sting Audits

Paragraph 97 requires the LAPD, via its EES, to conduct random and targeted sting audits of officers who may be engaging in at-risk behavior that includes, but is not limited to: unlawful stops, searches, seizures (including false arrests), uses of excessive force, or discouraging the filing of a complaint or failure to report misconduct or complaints. The LAPD was required to develop and initiate a plan for organizing and executing such audits before July 1, 2001.

Background

The LAPD's EES reports directly to the Commanding Officer of the PSB. EES conducts both random and specific "sting audits." Random sting audits are designed to test compliance with LAPD policy or procedure. A targeted audit is designed to test a particular officer or officers who is either referred to EES or identified by EES as potentially "at risk." Prior to undertaking a targeted sting audit, the EES makes a determination as to whether or not the suspected behavior constitutes a violation of paragraph 97 and, if it does, whether or not a staged scenario is necessary to confirm the officer's at-risk behavior.⁵⁸

The Monitor last evaluated paragraph 97 during the quarter ending December 31, 2002, at which time the LAPD was found to be in compliance with the paragraph.

⁵⁷ In the Monitor's Report for the Quarter Ending March 31, 2003, the Monitor also voiced concern over the PSB's performance in completing slightly in excess of 25% of all assigned complaint investigations within five months, as required by paragraph 87.

⁵⁸ Such determination is documented in the sting audit report package. Should enough evidence exist to establish at-risk prohibited behavior, the officer's actions may be addressed through either the PSB's complaint investigation process or the Special Operations Section without the need for a sting audit. For referrals that the EES elects not to pursue, decisions are memorialized in Risk Evaluation Reports.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed two Risk Evaluation Reports. Both reports provided information on the officers referred for a possible targeted sting audit. For both referrals, the EES elected not to conduct a sting audit and the Monitor agreed with the conclusions reached. The Monitor found the preliminary work to be thorough and well-documented.

The Monitor also reviewed 32 completed sting audits that were planned, conducted and/or documented during the period October 1, 2002 through March 31, 2003. Nine of the 32 audits were completed during the quarter ending December 31, 2002. Six of these 9 audits were targeted and the remaining 3 were random audits. Of the remaining 23 sting audits, all of which were completed during the quarter ending March 31, 2003, 22 were random.⁵⁹ Nineteen of these random audits were conducted in response to a request from Chief Bratton and were designed to test whether or not officers are accepting complaints from the public.⁶⁰

For 8 of the 19 sting audits, the officers' and/or Sergeants' actions conformed to LAPD policy and earned them a grade of "pass." For the remaining 11 audits, the officers' and/or Sergeants' responses did not comply with LAPD policy and were correctly graded as "administrative fail."⁶¹

For all 32 sting audits completed, the Monitor concurred with the conclusions reached by the EES. The Monitor also noted that EES personnel identified, documented and reported on other areas outside the scope of paragraph 97 requirements.⁶²

The Monitor commends the EES for its quick response to concerns raised regarding the LAPD's complaint intake. However, since virtually all of its resources were directed toward the LAPD's complaint intake, the EES delayed other ongoing and contemplated audits. The Monitor is concerned that the EES may be required to further prolong other investigations that fall under the scope of paragraph 97 should complaint intake audits continue to suggest that LAPD supervisors and officers are either discouraging the filing of a complaint or failing to report misconduct or complaints. The Monitor is also concerned that there is no master plan that, at a minimum on a quarterly basis, addresses all of the requirements of paragraph 97. Although the LAPD has formulated audits to address paragraph 97 topics, these audits are not conducted consistently each quarter.

⁵⁹ The LAPD's quarterly Sting Audit report discusses 22 audits for this same time period. One Sting Audit was not included in their report as it was deemed incomplete.

⁶⁰ Concern over whether or not complaints were being accepted was prompted by remarks made during a City Council meeting and an analysis of complaints received over preceding comparable periods.

⁶¹ See additional discussion at paragraphs 74 and 75 of this report.

⁶² As an example, an officer who passed the audit failed to document contact with the undercover officer on the officers DFAR and failed to complete an FDR. A complaint investigation was subsequently initiated.

Notwithstanding these concerns, the Monitor finds the LAPD in functional compliance with paragraph 97.

Paragraph 98 – Hiring of PSB Investigators/Supervisors

Paragraph 98 mandates that when hiring an individual for service as a PSB investigator, the PSB Commanding Officer must consider investigative experience as a desirable criterion, but not a required one. In addition, a candidate whose work history includes any sustained⁶³ complaint investigation or discipline received for the use of excessive force, a false arrest or charge, an improper search or seizure, sexual harassment, discrimination or dishonesty must be disqualified as a candidate for service in the PSB unless the Commanding Officer justifies the candidate's hiring in writing.

Background

The Monitor last evaluated paragraph 98 during the quarter ending December 31, 2002, at which time the LAPD was found to be in compliance with the paragraph.

Current Assessment of Compliance

The Monitor reviewed the selection packages⁶⁴ for 40 investigators and supervisors assigned to the PSB during the period October 1, 2002 through March 31, 2002. This represented 100% of the population.

The Monitor reviewed each potential investigator's history and noted that none of the officers' histories contained sustained complaint investigations that might preclude their selection to the PSB as outlined in paragraph 98. The Monitor noted that the PSB has an excellent system by which they review an officer's history for sustained complaints, utilizing both TEAMS and CMS. The officers' complaint histories were well-documented in each of the selection packages.

As noted in their selection packages, four investigators or supervisors selected during this period did not have prior investigative experience. However, their packages contained ample evidence of other skills, which prompted their selection.

The Monitor finds the LAPD in functional compliance with paragraph 98.

⁶³ Sustained complaint and discipline criteria remain a "meet and confer" item.

⁶⁴ Selection packages consist of a multi-page questionnaire completed by two PSB managers during the interviews of potential candidates. Candidates are questioned regarding their investigative experience and knowledge of LAPD policy, among other things. The questionnaire includes space for the evaluator to write comments.

Paragraph 99

Paragraph 99 requires the LAPD to establish a term of duty of up to three years for PSB Sergeants, Detectives and Lieutenants responsible for conducting investigations; the LAPD may reappoint an officer to a new term of duty only if that officer has performed in a competent manner. Such PSB investigators may be removed during their term of duty for acts or behaviors that would disqualify them from selection to PSB or under any other personnel authority available to the Department.⁶⁵

Background

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

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the "Limited Tour Assignment Report," furnished by PSB, to identify those officers currently assigned to PSB that have requested an extension in their term of duty.⁶⁶

Six months prior to the end of an officer's current term, they are required to fill out a Notification/Request form, which allows officers assigned to PSB to request: 1) a new assignment in a different section⁶⁷ within PSB for 3 years; 2) an extension in the same assignment for 1 or 2 years; or 3) a transfer at the end of a 3-year assignment out of PSB.

The Monitor noted 5 investigating officers who requested reappointment in an investigative capacity once their current term had expired or was expected to expire. For all 5 officers, the Monitor noted that all appropriate approvals were timely obtained and documented.

The Monitor also queried whether or not any PSB personnel were removed for cause during the period April 1, 2002 through March 31, 2003, of which there were none. Similarly, for the same time period, no PSB personnel were subject to a sustained complaint investigation for disqualifying behavior.

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

⁶⁵ The Monitor defers to paragraphs 93 and 94 in defining disqualifying behavior.

⁶⁶ The period reviewed spanned April 1, 2002 through March 31, 2003.

⁶⁷ For example, an investigator may elect assignment to the Advocate Section, the System's Development Unit, Classifications Section or the Administrative Section. All of these Sections perform necessary duties within PSB that do not involve the completion of investigations.

Paragraph 100

Paragraph 100 requires the Commanding Officer, PSB to evaluate investigators based on their competency in following the policies and procedures for Complaint Form 1.28 investigations. Regular periodic re-training and re-evaluations on topics relevant to their duties as investigators shall be provided by the PSB.

Background

The Monitor last evaluated paragraph 100 during the quarter ending December 31, 2002, at which time the LAPD was found to be in compliance with this paragraph. The Monitor's last review focused on Detective Investigators. Although in compliance, the Monitor noted that not all Detectives had attended training geared toward the completion of either complaint investigations or NCUOF investigations.

Current Assessment of Compliance

During the current reporting period, the Monitor reviewed 83 performance evaluations for Sergeants assigned to the PSB during the period January 1, 2002 through December 31, 2002.⁶⁸

The performance evaluations, completed by the Commanding Officer, documented the overall rating for each Sergeant regarding his or her performance as a PSB investigator. The key areas of the evaluations included: responsiveness to instruction, judgment and common sense, quality of public contacts, use of available resources, thoroughness, reliability, initiative, work quality, and communication skills. The officers were also rated on their leadership capabilities.

Out of the 83 evaluations reviewed, 27 were approved, signed and dated by the PSB Commanding Officer subsequent to March 19, 2003, the date that the Monitor requested the information. The reviews should have been completed no later than 60 days after the close of the annual review period.⁶⁹ In addition, one of the evaluations was for the period January 1, 2001 through December 31, 2001; there was no 2002 evaluation for this officer. As well, one of the 83 evaluations failed to mention the officer's competency in following the policies and procedures for 1.28 investigations.⁷⁰

⁶⁸ The LAPD provided the Monitor with 81 performance evaluations. During the Monitor's review of paragraph 98, two additional officers were identified, who should have been included in the original population. Both officers were transferred to PSB on October 20, 2002 and each received loanee evaluations; however, their annual reviews were completed late.

⁶⁹ The close of the review period is December 31st.

⁷⁰ The officer had been on active duty in the military from December 3, 2001 to November 18, 2002. His evaluation only stated that he was "reinstated as the squad leader of one of the two surveillance teams and continuing his assignment in an outstanding manner."

The Monitor also reviewed course outlines, timesheets and rosters of the ongoing training provided to PSB investigators during the period October 2002 through March 2003.⁷¹ During the monthly squad meetings, ongoing training was provided by Special Operations, Central, West, South, Valley, Headquarters, and the Family Violence Sections of PSB. Although re-training is only an annual requirement, the Monitor evaluated training attendance during the six-month review period and determined that 16 out of 100 investigators reviewed did not attend any training during this period.

Based on the fact that 27 out of 83 evaluations were not completed in the requisite timeframe, the Monitor finds the Department in functional non-compliance with paragraph 100.

Recommendation

The Monitor recommends that a standard roster or attendance form be developed and used for all training courses, including a list of all officers who were not in attendance and the reason for their absence.

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

Overview

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

The Department has made a strong effort to comply with Consent Decree requirements regarding non-discrimination and motor vehicle and pedestrian stops. The Department developed a Field Data Report (FDR) to advance data collection and then expended significant resources to revise the FDR when flaws became apparent. In addition, the Department has, on its own initiative, committed resources to the development of a Portable Officer Data Device System (PODDS) in the hopes of streamlining the reporting process required by paragraphs 104 and 105. The Department also released to the public 6 months of field data collected from July 1, 2002 to December 31, 2002. Recent non-compliance in this area was based upon failures to publish an RFP for analysis of this data, as well as failure to establish an internal audit process to assess the data collection efforts and to ensure compliance with the Decree.

⁷¹ PSB held a 3-day complaint investigation training supplemented with instruction in the following areas: sexual harassment, sex crimes investigations, new complaint policy overview, mental illness first responder update, discovery, and search warrant tracking.

During the current quarter, the Monitor continued its assessment of the Department's non-discrimination policy, as well as officers' continued use of the FDRs. In addition, the Monitor assessed the training and policy that accompanied the release of the new FDR.

The results of our current assessment follow.

Paragraphs 102 and 103- Non-Discrimination Policy

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

Background

During the quarter ending March 31, 2003, the Department released the first tranche of collected field data under the Consent Decree. A statistical breakdown of the data illustrates that African Americans and Hispanics are much more likely to be patted down and subjected to a search after being stopped than Caucasians. The Consent Decree requires the City to attempt to analyze the stop data in an effort to discover the reasons for this disparity.

The Monitor last evaluated paragraphs 102 and 103 during the quarter ending March 31, 2003, at which time, the Monitor found the Department in secondary non-compliance due to the City's failure to attempt to analyze the collected field data.

Current Assessment of Compliance

Since the Monitor's last quarterly report, the Department released an RFP for analysis of the stop data, which is collected from the field by officers completing FDRs.⁷² The RFP was released⁷³ on May 14, 2003 with a response date of no later than July 15, 2003. The issuance of an RFP currently satisfies the Consent Decree mandate that the City attempt to analyze the collected field data.⁷⁴

⁷² The Department is required to collect specific field data for specified discretionary stops according to paragraphs 104 and 105 of the Consent Decree.

⁷³ The RFP was posted on the LA City and LAPD website as well as advertised in media publications.

⁷⁴ The Monitor will be reviewing responses to the RFP, the City's selection process and its reactions to the work performed by the selected vendor. Future compliance will require a continued good-faith effort to understand and address the disparities that appear in the data.

Another component of secondary compliance is the establishment of training that instructs officers on appropriate, non-biased conduct. During the current quarter, the Monitor attended training on the new Field Data Report, which was implemented July 1, 2003. The training incorporated a significant non-discrimination component, which served to further the Department's commitment to prevent discriminatory practices.

As a result of the Department's continued improvements in non-discrimination training, coupled with the release of an RFP for analysis of the stop data, the Monitor finds the LAPD in secondary compliance with paragraphs 102 and 103.⁷⁵

In order to assess functional compliance, the Monitor interviewed approximately 15 Deputy Public Defenders to determine if they were aware of systemic discrimination in the LAPD.⁷⁶ Of the approximately 15 Deputy Public Defenders who volunteered to speak with the Monitor, none reported any incidents of systemic discrimination within the Department. However, several of the Deputy Public Defenders did cite specific incidents of what they believe to be misconduct or unnecessary 'use of force' by certain officers.⁷⁷

Based on the forgoing, the Monitor finds the Department to be in secondary and functional compliance with the provisions of paragraphs 102 and 103.

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

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

Background

The Monitor last evaluated paragraphs 104 and 105 during the quarter ending March 31, 2003, at which time the LAPD was found to be in secondary and functional non-compliance.

⁷⁵ The Monitor notes that secondary compliance also requires that the Department's internal supervisory and annual audit functions are reasonably designed to review conformance to the requirements of paragraphs 102 and 103. Analysis of the field data will aid in this process. The Monitor is finding the Department in secondary compliance because of their initial efforts. The Monitor recognizes the inherent difficulties in developing the appropriate methodology for assessing officer's continued adherence to the non-discrimination policy and will continue to work with the LAPD in order to aid in its development.

⁷⁶ The Monitor reached out to the supervising Deputy Public Defender at the following courthouses: Metro Courthouse, Airport Courthouse and Central Division Courthouse. It is the Monitor's understanding that the Supervisor at each of these courthouses advised their respective attorneys to come forward and report any cases or interactions with LAPD officers that were indicative of both systemic and isolated discrimination and/or corruption. Although not specifically addressed by paragraphs 102 and 103, the Monitor queried the Deputy Public Defenders about corruption. None of the Deputy Public Defenders reported incidents of systemic corruption.

⁷⁷ The Monitor is investigating these particular officers and has disclosed, based on a City and Department request, certain names to the Department for review.

Current Assessment of Compliance

During the current quarter, the Department redesigned the FDR that was created in the fall of 2001 because design flaws became apparent to the Department once the data collection program was initiated. The Department obtained input from officers in the field during the redesign process to make the form more user-friendly. Planning and Research Division (PRD) formed two committees to provide input into the form; one committee comprised at least one police officer from each division and the other committee comprised the FDR coordinators from each division. Both committees' input helped address fields of the FDR with the highest incidents of error. Once redesigned, the prototype of the newly created form was circulated back to members of committees, as well as the Monitor and the DOJ for final input.

In anticipation of the rollout of the new form, which was planned for July 1, 2003, the Department issued a Special Order #29 entitled "Data Collection for Motor Vehicle and Pedestrian Stops" and began Department-wide training on the new form, as well as training on the Department's non-discrimination policy and the Fourth and Fourteenth Amendments to the U.S. Constitution. The Monitor's review established that both the policy and training that accompanied the release of the new FDR were in secondary compliance with the requirements of these paragraphs.

Another component of secondary compliance is the requirement that the Department conduct an audit to measure whether officers are collecting field data when required and that the data accurately reflects the field activity. During the current quarter, the Department wrote a formal methodology and conducted the Data Collection audit; however, the audit was not completed until after the quarter's end. One of the more significant findings of the Data Collection audit was the discovery that 38,000 FDR forms were not input into the FDR database. Upon this discovery, PRD, with assistance from Audit Division, initiated an investigation into the whereabouts of the missing forms and the reasons why they were not input into the database according to protocol. Within weeks, the Department located the majority of the missing 38,000 forms and drafted a proposal of a series of controls to prevent a similar mistake in the future.

In order to assess functional compliance, the Monitor assessed whether officers are completing the field data reports thoroughly, accurately and when required. As of June 30, 2002, the Department had collected 1,200,000 field data reports. Since the Department began collecting data in November 2001, the Monitor has struggled with developing a methodology to determine whether or not officers are collecting data when they should be collecting data. Absent sting audits, it is difficult to prove the negative. Therefore, over the course of this quarter, the Monitor tested various systems to determine if those techniques could be used to measure whether or not the officers are collecting the required information in the field. The Monitor will continue to test different methodologies in an attempt to best determine if officers are collecting information.

In order to measure whether the officers are accurately completing FDRs, the Monitor chose a sample of FDRs in which the stops resulted in an arrest. The Monitor reviewed the FDRs in conjunction with the relevant arrest paperwork, field interview cards, daily field activity reports

and detention logs. Of a population of 7,784 FDRs that document an arrest and were collected during January 1, 2003 through March 31, 2003, the Monitor statistically selected a sample of 60, using a 94% confidence level a standard deviation of plus or minus 6%. Of the 60 FDRs, 8 contained information inconsistent with the arrest paperwork.⁷⁸ This translates into an 87% compliance rate extrapolated over the entire population.

The Monitor finds the Department in secondary and functional non-compliance as a result of the failure to complete the Data Collection audit and the percentage of FDRs that contain inconsistencies.

⁷⁸ Fields that were based on the officer's perceptions (i.e. race, age) were not part of the Monitor's assessment.

IV. MANAGEMENT OF GANG UNITS

Overview

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime. The new units are called Special Enforcement Units (SEUs). The SEU gang units report to the command staff in the stations where they are assigned, and receive support from the 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 SEU personnel. These requirements were adopted by Administrative Order 3, dated March 6, 2000, 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 SEU personnel. In addition, the LAPD further establishes the policy for gang selection criteria with Special Order No 27, "Selection and Assignment to Gang Enforcement Details" dated July 10, 2003.

Throughout the first two years of the Consent Decree, the Monitor has expressed concern regarding the demonstrated lack of supervision of the gang units. The Monitor's most recent evaluation, in the Report for the Quarter Ending March 31, 2003, revealed many of the same deficiencies that were highlighted in previous reports, including inadequate chain of command supervision and control; inconsistent and inadequate record keeping in connection with required information; and, deficiencies in the selection process for SEU officers.

During the current quarter, the Monitor assessed the LAPD's compliance with the mandates of the Consent Decree relative to tour of duty limitations for Gang Supervisors and Officers. The results of our current assessment follow.

Paragraph 106(d)

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

Background

The Monitor last assessed compliance with paragraph 106(d) during the quarter ending March 31, 2003, at which time the LAPD was found to be in functional non-compliance with its requirements due to the fact that only 1 of 9 officers required to be reassigned in March 2003 was transferred out of the officer's current assignment.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the reassignment schedule for SEU officers and SEU tracking rosters covering the time period March 20, 2003 to June 10, 2003.

The Monitor determined that of the 82 officers who had reached their mandated 39 Deployment Period limitations, only 43 (or 52%) had the proper extensions or transfers required by paragraph 106(d). Specific findings included:

- 21% of the 82 gang officers reviewed had extensions that post-dated their deployment period limitation.
- 10% of the 82 gang officers reviewed had extensions that had no bureau approval signature.
- 7% of the 82 gang officers reviewed were transferred out but did not have the proper transfer order.
- 2% of the 82 gang officers reviewed were transferred out but did not have approval signatures on the transfer order.
- 7% of the 82 gang officers reviewed were deleted from the roster without explanation as to their reassignments or extension status.

In addition to the above, the Monitor found the following issues with regards to the tracking and reassignment of all gang unit personnel Department-wide:

- 3 gang unit officers who were due out as of June 1, 2003 had the notation “pending extension” on the June 10, 2003 roster.
- For 1 gang officer, there was a six-month discrepancy between the roster and the division’s records regarding the date the officer was assigned.
- 3 gang unit officers appeared for the first time on the roster on June 10, 2003, although they were assigned between six months and three years prior to that date.
- 8 gang unit officers were deleted from the roster and subsequently reappeared on the roster one to two months later without explanation.
- 8 gang unit officers were permanently deleted from the roster but are still assigned to the gang units according to either extension letters or correspondence received.
- The LAPD did not provide transfer orders at the time of the document request for 9 gang unit officers; 3 of these 9 transfer orders have since been provided, 1 of which was an old transfer order
- The LAPD provided transfer orders that were inaccurate and irrelevant, as they were dated prior to the officers’ actual transfer dates, for 3 gang unit officers.



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- 1 gang unit officer had two different SOSD tracking forms with conflicting assignment dates.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with the provisions of paragraph 106(d).

V. CONFIDENTIAL INFORMANTS

Overview

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

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

The Department has had difficulty complying with Consent Decree requirements regarding confidential informants, primarily due to inadequate procedures regarding the maintenance of confidential informant packages and deficiencies in its database, which make it difficult to track informants and identify unreliable ones. The Department has worked hard to rectify the deficiencies in the tracking databases, leading to recent findings of compliance. However, problems with documentation persist.

During the current quarter, the Monitor continued its assessment of the Department's procedures for handling of informants, as well as the Department's maintenance of the Confidential Informant Database. The results of our current assessment follow.

Paragraph 108 – Procedures for the Handling of Confidential Informants

Paragraph 108 mandates that the LAPD continue to implement and follow procedures for the handling of informants. These procedures include completing an informant control package, submitting the package to COC for review and approval, as well as numerous additional requirements for the managing of informants.

Background

The Monitor last evaluated paragraph 108 during the quarter ending December 31, 2002, at which time the LAPD was found to be in secondary and functional non-compliance.

Current Assessment of Compliance

In order to assess functional compliance during the current quarter, the Monitor reviewed confidential informant packages selected from a total population of active informant packages as determined by a statistical sample.

The Methodologies use the guideline that packages lacking two or more required elements are considered to be out of compliance. The Monitor's review established that 77% of the informant packages were in compliance with the requirements of paragraph 108. Of the 77% that achieved compliance, only 30% of the packages had all of the required elements, while the remaining 70% of the packages lacked one required element but still achieved compliance.

The Monitor's evaluation identified the following material issues:

- In 15% of the packages reviewed, forms lacked the necessary supervisory and/or commanding officer signatures.
- In 15% of the packages reviewed, officers used "canned language," failing to document new information developed through informant contact.
- In 8% of the packages reviewed, officers failed to indicate whether they met with their supervisors prior to in-person meetings with informants.

Other compliance failures include informant packages missing signature cards, current informant photographs and/or admonishment forms; errors on the master list of active informant packages that are maintained by the Divisions;⁷⁹ package sign-out forms lacking required signatures and return dates; and, failure of officers to check the Undesirable Informant Database before acting on an informant's information after there has been a three-month lapse in contact with the informant.

Despite these compliance failures, several fundamental and important procedures rated at or near 100% compliance: all packages are maintained in a locked and secure location; and no informants are maintained by unauthorized uniformed officers.

Based on the foregoing, the Monitor finds the LAPD to be in secondary and functional non-compliance with the requirements of paragraph 108.

Paragraphs 109

Paragraph 109 mandates that a permanent Department-wide confidential informant database be established to include all LAPD confidential informants except those listed by the Anti-Terrorist Division and those used in conjunction with another agency. This database should include the informant number, name, aliases and date of birth.

Background

The Monitor last evaluated paragraph 109 during the quarter ending December 31, 2002, at which time the LAPD was found to be in primary, secondary, and functional compliance.

⁷⁹ Several Divisions still do not maintain a master list of active informants.

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 109 during the current quarter, the Monitor reviewed data entries in the Active Informant Database. The Monitor's review established that the information contained in the Active Informant Database matched the information in the sample of active informant packages reviewed.

In addition, the Monitor determined that the Active Informant Database contains only active and inactive informants from the last five years to the present. Active and inactive informants used prior to the last five years are kept in a separate database, reducing the number of total informants in the current database and facilitating queries.

Since the Monitor's last review, the Undesirable Informant Database has been relocated from the Chief of Staff's Office to the Narcotics Division, where the Active/Inactive Database is currently located. Although these databases are in separate systems at this time, steps are being taken to allow for easier access and tracking of all LAPD informants, which the Monitor recommended in the Report for the Quarter Ending December 31, 2002.

Based upon the analysis described above, the Monitor finds the LAPD in primary, secondary and functional compliance with paragraph 109.

Recommendations

The Monitor proposes the following recommendations:

- As recommended in the Monitor's Report for the Quarter Ending June 30, 2002, undesirable informant packages should be maintained at a location other than the Divisions due to their highly sensitive nature.
- Including an additional category in the Undesirable Informant Database that documents the date that an informant became undesirable may be of value to the Department in the future.
- A prior recommendation of the Monitor that back-up disks for both databases be maintained in a separate and secure location has been implemented; however, the Monitor would further recommend that the Department develop a written policy regarding the protocol and procedure for the updating and maintenance of the back-up disks for these databases at the beginning of each month and the period of time for maintaining such disks.

Paragraph 110 – Confidential Informant Manual

Paragraph 110 mandates that the LAPD shall publish a confidential informant manual, which further defines procedures for identifying and utilizing informants and includes the requirements of paragraphs 108 and 109.

Background

In the Monitor's Report for the Quarter Ending April 30, 2002, it was reported that the LAPD published an Informant Manual on February 26, 2002 and was therefore found to be in primary compliance with the requirements of paragraph 110.

The Monitor last evaluated this paragraph during the quarter ending December 31, 2002, at which time the LAPD was found to be in secondary and functional non-compliance due to the Monitor's contention that the Manual contained ambiguous and/or vague sections and that training on the manual was inadequate.

Current Assessment of Compliance

The LAPD has completed a newly-revised Informant Manual that is currently going through the appropriate LAPD approval process. This newly-revised Manual has incorporated the recommendations made by the Monitor in the Report for the Quarter Ending December 31, 2002.

The Monitor will assess the training for this Manual and the Manual itself upon its final approval and distribution to appropriate personnel.

The Monitor finds the LAPD in secondary and functional non-compliance with paragraph 110 until such time as the newly-revised Manual has been distributed and is available for assessment and training.

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

Overview

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

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

Initial work on the Mental Illness Project was completed timely, with deadlines being made and progress anticipated. Unfortunately, development has slowed considerably as a result of several outstanding issues, including the Department's budget request for \$1.9 million.

During the current quarter, the Monitor continued its efforts at tracking the progress being made relative to the Department's Mental Illness Program. The results of our current assessment follow.

Paragraph 112 – Report on Proposed Police Contact with Mentally Ill

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

Background

The LAPD's report to the Police Commission concerning the Mental Illness Project was submitted timely by July 15, 2002. The Department submitted a supplemental report to the Police Commission that included recommendations as well as a request for \$1.9 million for the Mental Illness Project. Both reports and the funding request were approved by the Police Commission and forwarded to the City. The City Council requested that the Chief Legislative Analyst (CLA) and the City Administrative Officer review the Department's recommendations and determine potential funding sources.

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

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the CLA report to the City concerning the Department's Mental Illness Project recommendations. The CLA generally supported the establishment of a central authority for the programs, as well as the Department's recommendations for tracking and documenting the LAPD's encounters with mentally ill persons. Furthermore, the CLA recommended that a workgroup be initiated regarding incident data collection and tracking. However, the CLA had reservations about expanding the System-wide Mental Assessment Response Team (SMART), the Mental Evaluation Unit (MEU) and the Crisis Intervention Team (CIT) programs. For details, refer to the CLA report to the Public Safety Committee, *LAPD Consent Decree – Mental Illness Project Recommendations*, dated April 7, 2003.

During the current quarter, the Monitor developed and made available to the Department for comment a matrix to evaluate Mental Illness Project progress. The Monitor anticipates utilizing the matrix in the next quarter to assess progress in the following areas:

- Establishment of Centralized Authority and Associated Responsibilities and Duties.
- Expansion of the SMART/MEU Programs.
- Expansion of the CIT Program.
- Enhancement to LAPD Training Programs.
- Tracking and Documenting LAPD Encounters with Mentally Ill Persons.

The Monitor is considering expanding the "Report Card" summarizing the Monitor's evaluation of compliance with this paragraph to include a more specific breakdown of the Department's



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recommendations. Going forward, compliance will be assessed based on the Department's implementation of each recommendation.

Pending the review of comments submitted by the Department in response to the Monitor's matrix and concerns articulated in previous quarters, the Monitor withholds determination of compliance with the provisions of paragraph 112.

VII. TRAINING

Overview

The training requirements of the Consent Decree comprise three areas, the FTO program, training content, and supervisory training.

The Consent Decree requires the LAPD to continue to implement formal training and establish eligibility criteria for FTOs, who are assigned to work with a probationary officer out of the academy throughout the probationary period. Consent Decree requirements are intended to ensure that the officers chosen to be FTOs, who are essentially responsible for the professionalism, skill and quality of the future Department, are themselves qualified and appropriately trained to educate newer members of the LAPD.

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

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to assumption of their new responsibilities.⁸⁰ Once promoted, supervisors should continue to receive regular training on key issues, including incident control, UOF Investigations, Complaint Investigations, and ethical decision-making.

The Monitor has been disappointed with the Department's lack of progress in achieving compliance with the Consent Decree's training requirements over the last two years. However, in recent months the Department has begun to develop training curriculum to meet the requirements of the Consent Decree. In addition, the Department is working on a strategy to assess their more experienced trainers in an effort to ensure consistency in the training. Based on these efforts, and others reported in the Monitor's Report for the Quarter Ending March 31, 2003, the Monitor anticipates additional improvements in other areas of training in the very near future.

During the current quarter, the Monitor continued its assessment of the Department's evaluation of FTOs and the Department's training of civilian members who sit on the Board of Rights, as well as the continued communications between officers and the LAPD Training Group. The results of our current assessment follow.

⁸⁰ This requirement pertains to all promoted officers, except for those officers promoted to the rank of Captain, who must at least begin their Command Development training before they assume their new positions.

A. FIELD TRAINING OFFICERS PROGRAM

Paragraph 115

Paragraph 115 instructs that the Department may remove FTOs from their positions for the same acts and behaviors that would disqualify the same officers from selection as FTOs.⁸¹

Background

FTOs are PIIs who serve as field instructors to probationary officers or PIIs. The impetus behind the eligibility criteria is to ensure that the Department is continuously reevaluating its FTOs to make certain that the PIs and PIIs are receiving the best field training available.

The Monitor attempted to evaluate this paragraph for the first time during the quarter ending March 31, 2003. However, a limited sample size precluded the Monitor from assessing compliance; rather the Monitor withheld a determination of compliance pending additional testing.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the personnel packages for 22 FTOs⁸² in order to assess whether they possess the necessary skills and integrity to serve in this position. The Monitor's review established that only one FTO from the sample appeared not to have the necessary skills to be an FTO.⁸³

Based on the limited sample size, the Monitor has decided to withhold its determination of compliance and to continue its assessment in the quarter ending September 30, 2003.

B. TRAINING CONTENT

The Monitor is scheduled to review most of the Consent Decree requirements regarding training content during the quarter ending September 30, 2003.

⁸¹ As stated 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.

⁸² The 22 FTOs reported on this quarter represent the first tranche of the Monitor's sample, which is comprised of 116 FTOs out of a total population of 802 FTOs who served in this capacity from July 1, 2002 through June 30, 2003. The Monitor will report on the remainder of the sample in a future quarter.

⁸³ The FTO was suspended for 20 days following his failure to take action on a radio call. His PI was suspended for 5 days. This was the second time this FTO was cited for failure to act.



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C. SUPERVISORY TRAINING

The Monitor is scheduled to review all aspects of supervisory training during the quarter ending September 30, 2003.

VIII. INTEGRITY AUDITS

Overview

The audit processes of the LAPD and the IG are important components in the reform process for the entire Department. The Consent Decree mandates that the LAPD and IG perform audits and reviews of numerous aspects of policing, including search warrants, arrests, uses of force, racial profiling, confidential informants, complaints, gang units, financial disclosure, and police training on a regular and periodic basis. Each of these audits examines a variety of issues, but a common theme among them all is the requirement to assess and report on incidents suggestive of inappropriate police behavior, and the related lack of supervisory oversight.

The Department has struggled considerably with the audit requirements of the Consent Decree, in terms of both timeliness and the quality of the audit. However, significant improvements have been made throughout the past two years and the Department, most notably the Audit Division, is generally conducting audits that meet the qualitative requirements of the Decree. What has been, and continues to be, a trouble spot for the audit functions is the allocation of resources to ensure that audits are conducted in timely fashion. The Department is currently not meeting the majority of the Consent Decree's timeliness requirements, including the requirement that audits be conducted on a regular, periodic basis.

During the current quarter, the Monitor continued its assessment of the audits and reviews conducted by the LAPD and IG. The results of our current assessment follow.

A. AUDIT PLAN

One of the significant findings of the *Board of Inquiry into the Rampart Area Corruption Incident* was the LAPD's failure to establish a meaningful system of internal audits. This finding was subsequently incorporated into the Consent Decree. The Consent Decree mandates that prior to the beginning of each fiscal year, the Chief of Police is required to submit to the Police Commission, with a copy to the IG, a listing of all scheduled audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits.

The Department's 2002-03 Annual Audit Plan was evaluated during the quarter ending September 30, 2002, and the Monitor assessed the LAPD's progress relative to that plan during the quarter ending March 31, 2003. The Monitor will assess the Department's 2003-04 Annual Audit Plan in its Report for the Quarter Ending September 30, 2003.

B. AUDITS BY THE LAPD

Overview

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

- Paragraph 127 - Sting Audits Reporting Protocol
- Paragraphs 128(3),(4) and 129(i),(ii) – Departmental Audits Not Yet Completed
- Paragraph 129(iii) – Complaint Form 1.28 Investigations Audit
- Paragraphs 131(a),(c-1),(c-3),(c-4) – Gang Unit Audits Not Yet Completed

In addition, the Monitor completed its assessment of the tape-recorded interviews for the COC investigations that were included in the Skeletal Fractures Use of Force Audit.

The following audits were recently submitted to the Monitor and will be assessed in the Monitor's Report for the Quarter Ending September 30, 2003:

- Paragraph 128(5),131(c-5) and 131(d) – Confidential Informant Control Packages Audit⁸⁴ and Gang Unit Use of Confidential Informants Audit
- Paragraph 131(b) – Gang Unit Selection Criteria Compliance Audit
- Paragraph 131(c-2) – Gang Unit Arrest, Booking and Charging Reports Audit

Paragraph 127 - Sting Audits Reporting Protocol

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

Background

The Monitor last evaluated paragraph 127 during the quarter ending December 31, 2002, at which time the LAPD was found to be in compliance.

⁸⁴ For both the Department and Gang Units.

Current Assessment of Compliance

During the current period of assessment, the LAPD issued two quarterly reports summarizing the results of observational integrity⁸⁵ and sting integrity audits.⁸⁶ The reports issued covered the quarters ending December 31, 2002 and March 31, 2003, respectively.

Written quarterly reports were provided to the OIG and the Police Commission within two weeks, defined as 14 calendar days, of the Chief of Police's receipt of such reports. The Monitor noted that the Chief of Police is verbally apprised of any audits, whether observational or sting, that result in a failure, typically within 24 hours of such occurrence. Similar verbal notification to the OIG and the Police Commission also occurs.

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

Paragraphs 128(3),(4) and 129(i),(ii) – Departmental Audits Not Yet Completed

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

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

Background

As required by the Consent Decree, these audits are required to be completed by the LAPD's Audit Division on a "regular periodic" basis. The parties have agreed that this means that these audits must be completed on at least an annual basis.

As stipulated in paragraph 128(3), the UOF Reports audit required by paragraph 128(3) was required to be completed by November 1, 2002. Because it was not, the LAPD was found in non-compliance with this paragraph for the quarters ending December 31, 2002 and March 31, 2003.

⁸⁵ Observational integrity audits are designed to evaluate officers' conduct as it relates to field situations that spontaneously occur between the public and the officer. These audits provide an opportunity to covertly observe and evaluate officers' conduct as they interact with the public.

⁸⁶ Sting integrity audits are designed to observe and evaluate officers' conduct in situations where a specific set of circumstances has been created that requires police intervention.

For the audits required by paragraphs 128(4) and 129(ii), since the Consent Decree was effective June 2001, the Monitor expected that such audits would be completed within one year, i.e. by June 30, 2002.⁸⁷ Because they were not, the LAPD was found in non-compliance with these paragraphs for the quarters ending June 30, 2002 through March 31, 2003.

Audit Division completed an audit described as a CUOF investigations audit in April 2002 that the Monitor assessed relative to paragraph 129i of the Consent Decree. However, there was only one CUOF incident included in the scope of that audit. Although the Monitor commended the LAPD for certain of its findings, the Monitor ultimately concluded that compliance would be assessed when the next CUOF investigations audit was completed. For each quarter since June 2002, such an audit was not completed, so the Monitor’s conclusion that this audit was “not yet evaluated” remained unchanged from June 2002 through March 2003.

Current Assessment of Compliance

Although the Audit Division has made progress on these four audits, they remained incomplete as of June 30, 2003. The following table and text summarizes the current deadlines and progress for these four audits:

	<u>Current Due Dates</u>	<u>Status</u>
128(3) – Use of Force Reports Audit	Nov. 1, 2002 Nov. 1, 2003	Overdue > 8 months Upcoming
129(ii) – Non-Categorical Use of Force Investigations Audit	June 30, 2002 June 30, 2003	Overdue > 12 months Overdue > 1 month
128(4) – Motor Vehicle and Pedestrian Stops Audit	June 30, 2002 June 30, 2003	Overdue > 12 months Overdue > 1 month
129(i) – Categorical Use of Force Investigations Audit	June 30, 2003	Overdue > 1 month

Each of the above audits is overdue, some by more than one year.

The report for the combined UOF Reports Audit and NCUOF Investigations Audit (required by paragraphs 128(3) & 129(ii)) is currently in the review process. The findings from the Motor Vehicle and Pedestrian Stops Audit (as required by paragraph 128(4)) are currently being analyzed, and the report is in the drafting and reviewing process. The CUOF Investigations Audit (as required by paragraph 129(i)) is currently in the fieldwork stage.

⁸⁷ These audits were also listed on the 2001-02 Annual Audit Plan for completion by June 30, 2002.

Until the above audits are completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of paragraphs 128(3), (4) and 129(i) and (ii) of the Consent Decree. When these audits are completed, the Monitor will evaluate the quality of such audits; timeliness will not be evaluated at that time.⁸⁸

Paragraph 129(iii) – Audit of Complaint Investigations

Paragraph 129(iii) requires the Department to complete regular periodic audits of random samples of all Complaint Form 1.28 investigations. Paragraph 129(iii) describes the qualitative factors that should be assessed in such audits, including the requirement to assess the timeliness of completing the investigation, the completeness and adequacy of the investigation file⁸⁹, the accuracy of the investigator's statement summaries, and the appropriateness of the PSB's determinations under paragraph 79.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, the annual Complaint Form 1.28 audit was required to be completed by the LAPD's Audit Division by June 30, 2002.

The Monitor has found the LAPD in functional non-compliance with paragraph 129(iii) for four consecutive quarters, as a result of the Complaint Form 1.28 audit not being completed on a "regular, periodic basis."

Current Assessment of Compliance

In assessing compliance with the requirements of paragraph 129(iii), the Monitor reviewed the Audit Division's "Interim Report on the Status of the Department's Efforts to Comply with the Consent Decree Mandates for the Management of Personnel Complaint Investigations" ("Interim Report") dated April 30, 2003, as well as the underlying Complaint investigations and audit working papers that were the basis for this audit. The Audit Division did not prepare a formal audit report⁹⁰ for this audit; rather, they prepared the above-referenced *interim* audit report⁹¹ that provided synopsis findings and recommendations, and identified actions already taken by the Department to address certain deficiencies.

⁸⁸ Missing audits will be separately tracked by the Monitor in order to assess whether "substantial compliance" has been achieved for at least two years as required by paragraph 179 of the Consent Decree.

⁸⁹ Including whether the file contains all appropriate evidence and documentation or if evidence is missing, an explanation of why the evidence is missing.

⁹⁰ Prior formal audit reports prepared by the Audit Division have generally included detailed audit findings by division, the impact of the deficiencies identified, conclusions and recommendations.

⁹¹ Although this was not a formal audit, for ease of reference, the Monitor refers to the Audit Division's report as an interim audit report.

The Audit Division has acknowledged that their interim audit report did not fully address the requirements of paragraph 129(iii) of the Consent Decree:

- Quality deficiencies were identified during the Audit Division's internal quality control process.
- The Audit Division unintentionally biased their audit population by excluding certain complaints; this resulted in a scope limitation.
- There was a lack of specificity with respect to the Audit Division's reported findings⁹².

In light of these acknowledged deficiencies, the Monitor's review of this interim audit report was limited to identifying its strengths and areas for improvement relative to future audits; specifically, the Monitor focused on reviewing certain critical issues, including the timeliness of completing the investigations, the adequacy of the investigations, and the appropriateness of the PSB's determinations under paragraph 79.

The Audit Division reviewed all personnel complaint investigations that were reported to the Department between August 1, 2001 and January 31, 2002 and closed between January 1, 2002 and March 31, 2002⁹³. There were 59⁹⁴ complaint investigations that met this criteria (excluding complaints resulting from the Failure to Appear (FTA), Failure to Qualify (FTQ) and Preventable Traffic Collisions (PTC)⁹⁵). The Monitor selected a random sample of 17 of these 59 Complaint Investigations. The Monitor's detailed findings, which have been discussed with the Audit Division, are highlighted below:

- The Audit Division identified numerous shortcomings regarding the investigation of personnel complaints, including lack of completeness of documentation in complaint investigation files; lack of articulation regarding convenience and date and time of interviews; lack of appropriate storage of interview tapes; lack of access to TEAMS reports by investigating officers; and lack of articulation of recommended training in TEAMS reports. The Monitor concurs with these findings.

⁹² The Audit Division did not quantify how many complaints were deficient in each area; instead they used words like "many", "frequently" and "often" to describe their findings. The Monitor considers that the Audit Division should have reported the specific findings from its audit.

⁹³ The Audit Division did not review investigations that remained open beyond March 31, 2002 or that were closed before January 1, 2002. This was the unintentional scope limitation referenced above.

⁹⁴ The 59 complaint investigations comprised 54 Chain of Command (COC) investigations and 5 PSB cases.

⁹⁵ The Audit Division examined FTAs, FTQs, and PTCs for timeliness of the completion of the investigation and receipt and review of the Complaint face sheet by PSB within ten days. The Audit Division found that most were completed within the 152-day period normally required to complete investigations (as set out in paragraph 87 of the Consent Decree); however, most of these complaint investigations failed to meet the 10-day requirement for PSB to receive and review the Complaint face sheet and allocate investigations between COC and PSB (as defined in paragraph 79 of the Consent Decree), mainly because of administrative delays.

- The Monitor noted 3 instances in which the Audit Division incorrectly concluded regarding the allocation of complaint investigations between PSB and COC pursuant to the transition plan⁹⁶.
- The Audit Division discussed their findings from this audit with PSB, summarized the actions taken by the Department to address the above discrepancies and proposed additional recommendations. The Monitor commends the Audit Division for tracking such initiatives and concurs with Audit Division's recommendations.

Based on the foregoing, the Monitor concludes that most of the work reviewed by the Monitor in this audit was well performed; however, the interim audit report lacked specificity relative to the Audit Division's findings, and the audit was subject to a scope limitation. Accordingly, the Monitor finds that this audit is in functional non-compliance with the requirements of paragraph 129(iii).

Proposed Recommendations

In addition to the recommendations proposed by Audit Division, the Monitor recommends:

- A checklist⁹⁷ should be attached to every complaint investigation file that sets out the specific requirements (and requires sign-off) at each level of review; this will serve to enhance Department accountability relative to the supervisory oversight of such complaint investigations.
- Complaint investigations should include a review of Field Data Cards.

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

- Audit Division should test the timeliness of those investigations⁹⁸ that were opened during the period under review, but not closed.
- The Audit Division should access TEAMS data to verify the accuracy of the Commanding Officer's comments with respect to the Officer's Work/Complaint History.

⁹⁶ The transition plan provides guidance regarding PSB's incremental responsibility over complaint investigations, as specified by paragraphs 93 and 94 of the Consent Decree. The Audit Division's future complaint investigations' audits will only be impacted by this transition plan if its population is drawn from investigations initiated prior to 2003.

⁹⁷ The Audit Division recommended the use of a checklist by commanding officers and others involved in the investigation of personnel complaints to facilitate the standardization of the thoroughness of investigations. However, Audit Division did not consider the use of such checklists as a tool for ensuring the accountability of supervisors in their review of such investigations.

⁹⁸ This recommendation applies to all internal LAPD investigations, including complaints, UOF, and UOF resulting in skeletal fractures.

- Audit Division should share its auditing experience with PSB by reviewing a sample of complaint investigation biopsies conducted by PSB in order to identify potential areas for improvement.

Paragraph 131 – Gang Unit Audits

Paragraph 131 mandates that the DSD⁹⁹ conduct regular periodic audits of the work product of all gang units covered by paragraph 106. There are basically two types of audits that are required to be completed by the provisions of paragraph 131:

- Those that are specific to the work product of the gangs that are required to assess compliance with paragraph 106, 107 and 108 – namely the audits required by paragraphs 131(a)¹⁰⁰ and (b).
- Those that are similar to the Department-wide audits conducted for paragraph 128 – namely the audits required by paragraph 131(c-1), (c-2), (c-3), (c-4) and (c-5), and 131(d).

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

Paragraphs 131(a),(c-1),(c-3),(c-4) – Gang Unit Audits Not Yet Completed

Background

In its reports for the quarters ending September and December 2002, the Monitor reported on the resource issues facing the DSD which led to the DSD's unwillingness/inability to accept responsibility for certain of the paragraph 131 audits, notwithstanding that the Consent Decree mandated such responsibility to the DSD. By December 2002, although this situation was expected to be alleviated when certain audits were unofficially reassigned to the Audit Division, the audits required by paragraph 131(a) and (c) remained outstanding. Accordingly, for the last four quarters from June 2002 through March 2003, the LAPD has been found in functional non-compliance with the Consent Decree requirement to conduct audits for paragraphs 131(a),(c-1) and (c-4) on a "regular, periodic basis."

The paragraph 131(c-3) audit was required to be completed by November 1, 2002. Because this audit was incomplete by March 31, 2003, the Monitor found the Department in functional non-compliance for this audit for quarters ending December 31, 2002 and March 31, 2003.

⁹⁹ As previously noted, under the Department's proposed March 2003 reorganization, the SOSD would be mandated to assume many of the DSD's responsibilities.

¹⁰⁰ For ease of reference, the Monitor hereinafter refers to the general work product audit specified in paragraph 131 as a paragraph 131(a) audit. This audit includes (but is not limited to) the meta-audit of the Bureau Gang Coordinator audits required by paragraph 106(h).

Current Assessment of Compliance

Although the LAPD has made progress on the gang unit work product audit, this audit remained incomplete as of June 30, 2003. The following table and text summarizes the current deadlines and progress for the overdue gang unit work product audit:

	<u>Current Due Dates</u>	<u>Status</u>
131(a) – Gang Unit Work Product Audit	June 30, 2002 June 30, 2003	Overdue > 12 months Overdue > 1 month

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

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

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

Until the above-referenced 131(a) audit is completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of paragraph 131(a) of the Consent Decree. When this audit is completed, the Monitor will evaluate the quality of that audit; timeliness will not be evaluated at that time.¹⁰¹

While some progress has been made on the other outstanding gang unit audits required by paragraphs 131(c-1), (c-3) and (c-4), these audits remained incomplete as of June 30, 2003. The following table and text summarizes the current deadlines and progress for such gang unit audits:

¹⁰¹ As indicated earlier in this report, missing audits will be separately tracked by the Monitor in order to assess whether “substantial compliance” has been achieved for at least two years as required by paragraph 179 of the Consent Decree.

	<u>Current Due Dates</u>	<u>Status</u>
131(c-1) – Gang Unit Warrant Applications & Affidavits Audit	June 30, 2002 June 30, 2003	Overdue >12 months Overdue > 1 month
131(c-3) – Gang Unit Use of Force Reports Audit	Nov. 1, 2002 Nov. 1, 2003	Overdue > 8 months Upcoming
131(c-4) – Gang Unit Motor Vehicle & Pedestrian Stops Audit	June 30, 2002 June 30, 2003	Overdue > 12 months Overdue > 1 month

The next Department-wide audits for each of the above topic areas (Warrant Applications and Affidavits, Use of Force, and Motor Vehicle & Pedestrian Stops) are expected to address the special needs of a gang-related audit as required by paragraphs 131(c-1),(c-3) and (c-4) respectively. The next Department-wide Warrant Applications and Affidavits Audit is due to be completed during the quarter ending December 31, 2003; the next Department-wide UOF Reports Audit is currently in the review process; and Audit Division is currently analyzing the findings from its Department-wide Motor Vehicle and Pedestrian Stops Audit..

Until the above 131(c-1), (c-3) and (c-4) audits are completed, the Monitor will continue to find the LAPD in functional non-compliance with the requirements of these paragraphs of the Consent Decree. When these audits are completed¹⁰², the Monitor will evaluate the quality of such audits; timeliness will not be evaluated at that time.¹⁰³

Paragraph 134 –Skeletal Fractures During UOF Audit

Background

In the Monitor’s Report for the Quarter Ending March 31, 2003, the Audit Division was found to be in non-compliance with the requirements of paragraph 134 given a number of quality deficiencies identified in its UOF-SF Audit. During its review of the audit, the Monitor was not provided with tape-recorded witness interviews in time to listen to them and assess the quality of the Audit Division’s evaluation thereof by May 15, 2003, the date the Monitor’s previous Quarterly Report was issued. This review is now complete and the findings are reported below.

¹⁰² The Consent Decree specifically requires that the DSD perform these audits. Accordingly, unless the Consent Decree is amended, even if Audit Division were to complete these audits on a timely basis, the Department would not be in compliance with the Consent Decree. Although the Monitor and the DOJ are amenable to a proposal to change the Consent Decree to shift responsibility for these audits, such a proposal has not yet been made.

¹⁰³ Again, missing audits will be separately tracked by the Monitor in order to assess whether “substantial compliance” has been achieved for at least two years as required by paragraph 179.

Current Assessment of Compliance¹⁰⁴

In order to assess the quality of the Audit Division's evaluation of the quality, thoroughness, and disposition of the COC investigations of UOF resulting in skeletal fractures, in addition to the processes articulated in the Monitor's previous quarterly report, the Monitor performed a detailed comparison of the paraphrased statements from all NCUOF-SF investigations with the audio tape recordings for such incidents¹⁰⁵.

The Monitor notes that there is a disagreement with Audit Division regarding the scope of the UOF-SF audit. The Monitor considers that this audit should be thorough in its evaluation of the "quality, thoroughness and disposition" of all COC investigations of UOF-SF, whereas Audit Division does not consider that a detailed review is necessary for the paragraph 134 audit, and instead considers that a "high level" evaluation is sufficient because a thorough evaluation would be performed as part of the Audit Division's NCUOF audit.

Notwithstanding the differing interpretation of the Consent Decree as related to the scope of this audit, the Monitor's findings are as follows:

- The Audit Division appropriately noted that the Metropolitan Division tapes were mislabeled and the interview with the suspect was not on the tape as indicated. These issues were appropriately followed up by Audit Division; however, Audit Division failed to identify that one of the audiotapes relating to this incident commenced in the middle of an interview.
- The Monitor noted certain issues relating to the comparison of the paraphrased statements with the taped interviews that the Audit Division failed to identify that raise questions about the quality of the two tape-recorded COC investigations:
 - There were inconsistencies between the paraphrased statements and certain statements made by the officers and witnesses in the taped interviews.
 - Certain inconsistencies within the taped statements were not clarified by the Investigating Officer (I/O).
 - Certain information from the taped interviews was omitted from the paraphrased statements.
 - The I/O appeared to be leading certain witness' questions; where apparent inconsistencies surfaced, the I/O did not seek clarification from the interviewees.

The Monitor discussed the above findings with Audit Division. Audit Division advised that it planned to re-evaluate the quality, thoroughness and disposition objectives¹⁰⁶ in its NCUOF audit.

¹⁰⁴ As described below, the Monitor is reporting on work that was outstanding since the Monitor's Report for the Quarter Ending March 31, 2003; the Monitor's previous assessment of non-compliance remains unchanged.

¹⁰⁵ There were two: Audit Division Incident Report Nos. 4 and 6.

¹⁰⁶ Including evaluating the quality of paraphrased statements.

C. INSPECTOR GENERAL AUDITS

Overview

During the quarter ending June 30, 2003, the Monitor assessed the timeliness of transmittal of the Audit Division's Complaint Investigations Audit to the OIG, and assessed the OIG's review of the following audits:

- Audit Division's Audit of Arrest, Bookings and Charging Reports (CD128(2)).
- Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Officer (CD128(2)-70(b)).
- Audit Division's Audit of Skeletal Fracture Uses of Force (CD134).

Paragraph 135 – OIG Evaluation of LAPD Audits

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

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

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

Background

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

Similarly, during the quarter ending March 31, 2003, the Monitor assessed the timeliness of transmittal of the paragraph 70(b) and 134 audits received by the OIG, and, again, found the Department to be in functional non-compliance.

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 for the current quarter, the Monitor reviewed a copy of Audit Division's "Interim Report on the Status of the Department's Efforts to Comply with the Consent Decree Mandates for the Management of

Personnel Complaint Investigations” (“Interim Report”) (CD 129(iii)) and related correspondence that documented when this report was transmitted from the Department to the OIG.

The following table summarizes the timing of the transmittal of the above-mentioned “Interim Report” on the Complaint Investigations Audit:

	<u>CD 129iii</u>
Date of Audit Report	April 30, 2003
Date Approved by Chief of Police	May 6, 2003
Date Received by Police Commission	May 16, 2003
Date Received by OIG	May 21, 2003
# of Days from Date of Audit Report to Date Rec'd by the OIG	21
Assessment of Compliance	X

X = Non-Compliant

Based on the foregoing, the Monitor finds the Department to be in functional non-compliance with the provision of paragraph 135 that requires the transmittal of specific audit reports to the OIG within 7 days of completion.¹⁰⁷

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

Background

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

For the quarter ending March 31, 2003, the OIG was behind in its reviews of certain Audit Division audits. Accordingly, the Monitor found the OIG to be non-compliant with the

¹⁰⁷ The “Methodologies to Aid in Determination of Consent Decree Compliance” define the date of completion as the date of the audit report.

requirement to submit its reviews on a timely basis, and deferred assessing the quality of these audit reviews to the quarter ending June 30, 2003.

Current Assessment of Quality Compliance

For this quarter, the Monitor assessed the quality of the OIG's reviews of the following LAPD audits:

- Audit Division's Audit of Arrest, Bookings and Charging Reports (CD128(2));
- Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Officer (CD128(2)-70(b)); and
- Audit Division's Audit of Skeletal Fracture Uses of Force (CD134).

The OIG is currently reviewing the Audit Division's Complaint Form 1.28 investigations audit (as evaluated by the Monitor in this quarter via paragraph 129(iii)); the Monitor will report its findings relative to the quality of the OIG's review of this audit in its next report.

The Monitor noted that all three of the OIG's reports were silent as to the Audit Division's failure to meet the paragraph 135 timeliness requirement as reported in the Monitor's Report for the Quarter Ending March 31, 2003.

The Monitor also noted that the OIG's reviews of the above-referenced audits were completed subsequent to the release of the Monitor's review of these audits in its Report for the Quarter Ending December 31, 2002¹⁰⁸. Where practical and feasible, future OIG evaluations should be completed prior to the issuance of the Monitor's Quarterly Report relating to such reviews.

OIG's Review of Audit Division's Arrest Booking and Charging Reports Audit (CD128(2))

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter, the Monitor reviewed the OIG's March 13, 2003 report on its review of the Audit Division's Arrest Booking and Charging Reports Audit, as well as various supporting working papers, including the OIG's response to Audit Division's matrix questions and the supplemental questions for juvenile arrestees. The OIG's sample comprised 462 of the 938 arrest reports reviewed by Audit Division (including multiple arrests), while the Monitor's sample comprised 159¹⁰⁹ arrest reports drawn from the OIG's sample. The Monitor's sample of 159 arrest reports overlapped the OIG's sample by 97 arrest reports.

The Monitor's findings¹¹⁰ are as follows:

¹⁰⁸ Report issued publicly on February 15, 2003.

¹⁰⁹ Including 12 juvenile arrest reports—the Monitor's review of such incidents was limited to evaluating those risk management issues identified by the OIG relating to juvenile arrests.

¹¹⁰ The Monitor reported its findings in respect of its review of Audit Division's Arrest, Booking and Charging Reports Audit in its Report for the Quarter Ending December 31, 2002, released February 15, 2003.

- The OIG's review procedures were appropriate and sufficient to assess the quality, completeness and findings of Audit Division's audit as required by Consent Decree paragraph 135.
- The OIG was unable to reconcile its independently drawn population of arrest reports with Audit Division's population, and was therefore unable to verify the completeness of Audit Division's population¹¹¹. Both the OIG and the Monitor agree with Audit Division's recommendation that system limitations in the Consolidated Criminal Analysis Database be addressed to ensure that accurate and complete data is available for management and audit purposes.
- The OIG noted that the Department's arrest report packages were incomplete and/or were unable to be authenticated, and that supervisors are failing their review requirements as incomplete arrest reports are being processed. The Monitor concurs with such findings and with Audit Division's recommendations and OIG's endorsement thereof.
- Of the 97 arrest reports that were sampled by Audit Division, the OIG and the Monitor, the findings on 4 arrest reports were at variance.¹¹²
- The OIG's evaluation of risk management issues relating to juvenile arrests¹¹³ revealed several deviations from Department policy regarding the treatment of juvenile arrestees¹¹⁴. The Monitor concurs with the OIG's recommendations relating to these arrests, including the need for Audit Division to evaluate such issues in future audits.

In conclusion, the OIG's review appropriately assessed the quality, completeness and findings of Audit Division's Arrest, Booking and Charging Reports Audit as reported March 13, 2003. The Monitor therefore finds the OIG to be in functional compliance with the qualitative requirements of paragraph 135 as related to this review.

OIG's Review of Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Officer (CD128(2)-70(b))

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter, the Monitor reviewed the OIG's April 23, 2003 report on its review of the Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest or Assault on a Police Officer (CD128(2)-70(b)), the Monitor's sample of 159 Arrest, Booking and

¹¹¹ The Monitor's Report for the Quarter Ending March 31, 2003 articulates a similar problem.

¹¹² For 2 of the 4 arrest reports, the Monitor's and OIG's findings were in agreement and in the other 2, the OIG's and Monitor's findings differed as a result of differing interpretations for certain matrix questions.

¹¹³ Although this was not addressed by Audit Division, the Consent Decree does not identify specific requirements for auditing juvenile arrest reports; accordingly, Audit Division's non-inclusion of juvenile-specific risk assessments does not render its audit non-compliant with Consent Decree paragraph 128(2).

¹¹⁴ For example, the lack of adequate articulation of admonishment of Miranda rights, temporary detention and data log entries and the timely notification of a parent/guardian.

Charging Reports related to the prior Arrest, Booking and Charging Reports audit¹¹⁵ and the OIG's working papers related thereto. Five arrest reports in the Monitor's sample were included in the Audit Division's population of 28 arrest reports and the OIG's audit population of 31 arrest reports for 70(b) review.

The Monitor's findings¹¹⁶ are as follows:

- The OIG, Audit Division and the Monitor interpreted the requirements of paragraph 70(b) differently relative to what charges should be subjected to supervisory review; each reviewed a different mix of arrest reports based on such interpretation. Because the Monitor disagreed with the OIG's interpretation of arrest reports to be considered for 70(b) supervisory evaluation¹¹⁷, the Monitor does not concur with the OIG's conclusion that the Audit Division's population was 'reasonably' complete.
- The OIG appropriately reported that the Audit Division did not utilize a work plan or matrix to assist in its audit review and did not assess the arrest reports identified as having elements of 70(b) incidents to determine whether a supervisory evaluation had been conducted for issues relating to training, policy and tactics. However, the OIG did not specifically recommend that Audit Division utilize a work plan and matrix for all audits.
- The OIG conducted appropriate procedures in assessing the quality of Audit Division's 70(b) audit, particularly given the lack of working papers prepared by the Audit Division.
- The OIG did not include a recommendation that Watch Commanders should be specifically reporting in their Watch Commander Logs their assessments as to training, policy and tactics issues relative to their review of 70(b) incidents, as previously recommended by the Monitor.

The Monitor withheld a determination of compliance in its previous Quarterly Report relative to the Audit Division's CD128(2)-70(b) audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest, or Assault on a Police Officer. Since then, the Department has undertaken to provide further guidance for determining which arrest incidents require supervisory evaluation for training, policy or tactics, however, this has not yet been completed. Accordingly, in light of the unresolved interpretational issues relating to this paragraph, the Monitor is withholding a

¹¹⁵ This audit was reviewed by the OIG, and the Monitor's comments on this audit review are described in the preceding section.

¹¹⁶ The Monitor reported its findings in respect of its review of Audit Division's Audit of Supervisory Evaluation of Arrests for Interfering, Resisting Arrest, or Assault on a Police Officer dated December 16, 2002 in its Quarterly Report Ending March 31, 2003, released May 15, 2003.

¹¹⁷ The Monitor recommended in its Report for the Quarter Ending March 31, 2003 that supervisors should evaluate training, policy and tactics for all arrests whereby the arrest report narrative articulates elements of obstructing or interfering of an officer, resisting arrest, and delaying, assaulting or challenging an officer. The timing of this determination did not permit the OIG to reassess the OIG's basis for identifying arrest reports with a 70(b) incident prior to the issuance of the OIG's report dated April 23, 2003 on the 128(2)-70(b) audit.

determination of compliance for the OIG's review of the Audit Division's CD128(2)-70(b) audit¹¹⁸.

OIG's Review of Audit Division's Use of Force-Skeletal Fractures Audit (CD134)

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter as related to the OIG's review of the Audit Division's UOF-SF Audit, the Monitor reviewed the OIG's report thereon dated April 17, 2003, various supporting working papers, including the OIG's notes and correspondence, TEAMS reports, audio tapes of witness' statements, and other related supporting documentation.

The Monitor's findings¹¹⁹ are as follows:

- The OIG performed appropriate procedures to test the completeness of Audit Division's population of 13 UOF-SF investigations that occurred from September 1, 2001 to August 31, 2002. However, the OIG did not address the Audit Division's failure to review "all known" UOF resulting in skeletal fractures by limiting its audit to only "completed investigations".
- Given the small audit population, the OIG elected to evaluate all 13 investigations. In addition, the OIG reviewed two additional incidents identified by Audit Division subsequent to the completion of its audit in order to identify "...any significant global issues" and "to determine reasons why such reports were not available for Audit Division to review".¹²⁰ The Monitor commends the OIG for its initiative in conducting such a review.
- The Monitor commends the OIG for its initiative in performing a number of procedures to ascertain whether there were any unidentified risk management issues associated with these UOF-SFs. Specifically, the OIG identified that TEAMS does not reflect LERIIs or non-lethal uses of force¹²¹ that occur at the scene of an OIS. The OIG reviewed its own UOF database in order to identify any possible patterns¹²², and determined that three SEU officers were involved in multiple incidents¹²³.

¹¹⁸ In the absence of this issue, the Monitor would have found the OIG's review of the CD128(2)-70(b) audit to be in compliance as it appropriately assessed the Audit Division's audit report for quality, completeness and findings as required by paragraph 135.

¹¹⁹ The Monitor reported its findings in respect of its review of Audit Division's Use of Force-Skeletal Fractures Audit in its quarterly report ending March 31, 2003, issued May 15, 2003.

¹²⁰ The OIG did not identify any significant issues relative to either report; it also indicated that it will review Audit Division's supplemental audit report, which will include these two incidents, and provide detailed findings thereafter.

¹²¹ The Department's response to the OIG regarding this apparent oversight is that this will be "corrected with the advent of TEAMS II".

¹²² This procedure included cross-referencing the TEAMS reports to the OIG's UOF database to identify all UOF by officers involved in UOF-SF.

¹²³ The OIG noted that none of these SEU officers were involved in subsequent UOF nor have they been the subjects of any personnel complaints since those incidents.

- The OIG appropriately identified substantive discrepancies that were not identified by Audit Division relating to the paraphrased statements¹²⁴ in one incident, but failed to identify certain less significant discrepancies relating to another incident.
- The OIG identified that the complaint investigation associated with Incident No. 4 was erroneously handled as a Chain of Command investigation, contrary to the requirements of paragraph 93 of the Consent Decree¹²⁵. The OIG followed up on this investigation, with the result that it was reassigned to IAG. The Monitor concurs with the OIG's findings, and commends the OIG for its follow-up on this incident.
- The OIG appropriately concluded that Audit Division was inconsistent when calculating the time elapsed from the incident until medical treatment was provided, and the OIG provided appropriate recommendations related thereto.
- Audit Division reported that they were unable to evaluate the timeliness of the COC investigations because of the use of an old form that did not capture the relevant information. The OIG failed to identify that it *was* possible for the Audit Division to do this using alternative sources of such information.
- The OIG failed to identify that Audit Division did not conduct timely follow-up related to 3 of the 7 incidents whereby the Watch Commander's interview and inspection of arrestees was not documented in accordance with Department policy and paragraph 73 of the Consent Decree.
- The Monitor agrees with the OIG's conclusion that the Audit Division's audit was comprehensive and meticulously planned, but "did not thoroughly review and identify quality and thoroughness issues".

In conclusion, the Monitor finds the OIG to be in functional compliance with the qualitative provisions of paragraph 135 as related to the OIG's review of Audit Division's UOF-SF Audit.

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

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

¹²⁴ The tapes for these paraphrased statements were not provided to the Monitor with sufficient time to review in order to be included with the Monitor's findings on the Audit Division's UOF-SF audit as articulated in the Monitor's previous quarterly report; the findings relating to this review are instead reflected in the Monitor's current quarterly report.

¹²⁵ Paragraph 93 includes a provision requiring that all complaints that allege unauthorized force shall be investigated by IAG.

Background

As reported in the Monitor's reports for the last four quarters, the OIG had not completed its first complaints audit; accordingly, for each of these quarters, the Monitor found the OIG to be in non-compliance with the Consent Decree requirement to conduct this audit on a "regular, periodic" basis.

Current Assessment of Compliance

Although the OIG has made progress on the Complaint Form 1.28 Investigations Audit, this audit remains incomplete as of June 30, 2003. Until this audit is completed, the Monitor will continue to find the OIG in functional non-compliance with the requirements of paragraph 136(ii). When this audit is completed, the Monitor will evaluate the quality of this audit; timeliness will not be evaluated at that time, but instead, the Monitor will track missing audits separately in order to assess whether "substantial compliance" has been achieved for at least two years as required by paragraph 179 of the Consent Decree.

Paragraph 139 – Recording and Investigating Retaliation Complaints by OIG

Paragraph 139 requires the IG to record and track allegations of retaliation for reporting possible misconduct or at-risk behavior in complaints received from LAPD employees. If the IG "determines that such complaints indicate possible retaliation in the Police Department's handling of complaints," the IG is required to conduct an investigation and report its findings to the Police Commission.

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

Background

The Monitor last evaluated the provision of paragraph 139 that requires the IG and the Police Commission to develop and implement complaint investigation protocols to protect the identity of complainants during the quarter ending March 31, 2003, at which time the Department was found in functional compliance.¹²⁶

The Monitor last evaluated the provisions of paragraph 139 that require the IG to record, track, and investigate retaliation complaints during the quarters ending September 30, 2002 and December 31, 2002, at which time the LAPD was found to be in compliance.

¹²⁶ The Monitor found the LAPD in non-compliance in its Reports for the Quarters Ending December 31, 2002 and March 31, 2003. As described in the Current Assessment of Compliance for this paragraph, below, the Monitor has changed its assessment, finding that the Department was in compliance with this provision of paragraph 139 for each respective quarter.

Current Assessment of Compliance

During the current quarter, the Monitor's review established that the Police Commission continues to defer its consideration of protocols concerning the handling of retaliation complaints and ensuring the confidentiality of the person reporting retaliation. On July 9, 2003, the Monitor discussed this issue with the Department, the City, the IG, and the DOJ. As a result of this meeting, the Monitor reviewed existing protocols¹²⁷ contained in the OIG Policy and Procedures Manual and found them to be adequate. Future reviews of Paragraph 139 will include an evaluation of whether these protocols are being followed.

During the current quarter, the Monitor also reviewed the IG's investigative files for each of the eight retaliation complaints received since October 1, 2002¹²⁸ and found them to be uniform, well-documented and well-investigated. Based on the foregoing, the Monitor finds the Department in functional compliance with paragraph 139 of the Consent Decree.

¹²⁷ The Department's position was that the Consent Decree does not require new protocols if the current ones are adequate. The IG maintained that current protocols regarding confidentiality of complainants are currently in place and that they are adequate.

¹²⁸ The OIG tracks the status of retaliation complaints on a computer database that includes chronological narrative of the investigation.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

Overview

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

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

Over the last two years, the Department has achieved compliance with each of the Consent Decree provisions relating to the operations of the IG. Although in compliance with some provisions relating to the operations of the Police Commission, the Department has had far more difficulty in this area, primarily due to failures to perform certain reviews on a timely basis.

During the current quarter, the Monitor, among other things, continued its assessment of the IG and Police Commission's handling of retaliation complaints and their review of all CUOF, as well as OIG complaint intake procedures. The results of our current assessment follow.

A. OPERATIONS OF THE POLICE COMMISSION

Paragraph 142 – Police Commission/Inspector General Review of all CUOF

Paragraph 142 is related to paragraphs 67 and 136, which require the Police Commission and the IG to continue to review all CUOF. In addition, it requires that the Police Commission determine whether an officer's conduct conforms to LAPD policies, procedures and the requirements of the Consent Decree. Paragraph 142 also requires the Police Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents.

Background

The Monitor last evaluated the provision of paragraph 142 that requires the Police Commission and the IG to continue to review all CUOF during the quarter ending December 31, 2002, at which time the Department was found in compliance.

The Monitor last evaluated the provision of paragraph 142 that requires the Police Commission to annually issue a publicly-available report detailing its findings regarding CUOF incidents during the quarter ending September 30, 2002, at which time the Department was also found in functional compliance.

Current Assessment of Compliance

Review of All CUOF

Currently, the OIG is tracking 99 open CUOF cases, an increase of 38 cases from the last review conducted by the Monitor for the quarter ending December 31, 2002. The increase is due largely to the Monitor's expanded review of CUOF tracking information, beginning on the date the OIG is first notified of a CUOF incident. Previously, the Monitor reviewed CUOF tracking information beginning on the date the OIG received the CIID report concerning a CUOF incident. In the future, the Monitor will continue to review the OIG tracking of CUOF from the date the OIG is notified of a CUOF incident.

The 99 cases are in various stages of investigation by the LAPD. The IG assigns a member of his staff to attend the UOFRB hearing for each case tracked. Administrative statute dates are also tracked.

In order to assess the level of review conducted by the Police Commission and IG, the Monitor reviewed 10 CUOF packets recently submitted to the Police Commission. Of these 10 packets, 7 were OIS, of which two involved dog shootings and one was an accidental discharge, 2 were LERI's and 1 was a LEARD.

The Monitor found that all packets contained reports by CIID and the Chief of Police, UOFRB findings, where appropriate, and an analysis report prepared by the OIG. The reports contained investigative findings, summaries, and recommendations. Findings were made concerning Tactics, Drawing/Exhibiting/Holstering, and UOF.

The OIG's analysis reports contained staff notes concerning observations made during the OIG's review. Any non-conformance by the LAPD with policies, procedures, or the requirements of the Consent Decree was noted. Recommendations to the Police Commission were made concerning whether the findings and recommendations of the Chief of Police should be adopted by the Commission. In all 10 cases the Police Commission adopted the recommendations of the Chief of Police after they were discussed with him in closed session.

Based on the foregoing, the Monitor finds the Department in functional compliance with the provision of Paragraph 142 that requires the Police Commission and the IG to continue to review and evaluate all CUOF and to determine whether an officer's conduct conforms to LAPD policies, procedures and the requirements of the Consent Decree.

Annual Report on CUOF Incidents

During the current quarter, the Monitor was informed by the IG that due to staffing problems, the 2002 Annual CUOF Report, which is prepared by the OIG on behalf of the Police Commission, was not finalized and released. The last Annual CUOF Report covered CUOF incidents reviewed by the Police Commission in 2001. Consequently, the Monitor finds the Department in functional non-compliance with the provision of Paragraph 142 that requires the Police Commission to annually issue a publicly available report detailing its findings regarding CUOF incidents.

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

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

Background

During the quarter ending March 31, 2003, the TEAMS Report for the Chief of Police was made available by the Department. It was compared with database information supplied by PSB and files maintained by the OIG. During the review, a number of discrepancies were identified. The Monitor withheld a determination of functional compliance with the provisions of paragraphs 96 and 145 pending resolution of the discrepancies.

Current Assessment of Compliance

During the current quarter, the Monitor endeavored to resolve discrepancies identified during the previous quarter involving the TEAMS Report for the Chief of Police and information obtained from the OIG and PSB.

As reported in the previous quarter, the Monitor identified an OIG complaint case file that did not contain documentation showing the Police Commission's adoption of the IG's recommendation to withdraw the complaint.¹²⁹ During this quarter, the Monitor determined that

¹²⁹ The OIG conducts investigations concerning misconduct complaints filed against the Chief of Police and maintains files pertaining to each investigation. At the conclusion of each investigation the IG makes a

the Commission's closed session packet was also missing documentation of the Commission's action.¹³⁰ The Monitor also identified a second OIG complaint case file that did not contain documentation relative to the Commission's adoption of the IG's recommendation to withdraw the complaint, other than a note in the case file stating "PC adopted recommendation on July 24, 2001." The Commission's closed session packet pertaining to this matter contained no documentation of the Commission's action.

The Monitor's Report for the Quarter Ending March 31, 2003 also identified six instances in which reply letters were not sent by the OIG to complainants. The current review established that, with the exception of one complaint in which the complainant would not give his address, complainant address information was present in the complaint file and the reply letters should have been sent. The IG represented that the reply letters will be sent as required.

Lastly, the Monitor's previous report identified three complaints that appeared in the PSB database and three complaints in the OIG database that did not appear on the TEAMS Report for the Chief of Police for the years 2001 and 2002. Of the six complaints, it was determined that two were duplicates. Of the remaining four complaints, two were closed by PSB in 2003, resulting in their appropriate exclusion from the TEAMS information requested by the Monitor for the years 2001 and 2002, and the remaining two should have appeared on the TEAMS Report for the Chief of Police for the years 2001 and 2002. PSB personnel reviewed the omission and took steps to correct the oversight. The two cases will now appear on the TEAMS Report for the former Chief of Police.

The Monitor reviewed 13 complaint cases filed against the Chief of Police for the years 2001 and 2002. The Monitor found the investigations to be thorough and of good quality. However, one of the 13 cases was terminated upon the former Chief's retirement. The Monitor found no policy or procedure in effect concerning the termination of complaint investigations upon the retirement of a Chief of Police. The current IG represented to the Monitor that all future investigations will continue regardless of the Chief's employment status.

Based upon the discrepancies described above, the Monitor finds the LAPD in functional non-compliance with the provisions of paragraphs 96 and 145.¹³¹

recommendation to the Police Commission as to the appropriate disposition of the complaint. The Commission may adopt the recommendation of the IG or determine a different disposition.

¹³⁰ Although not documented, the Monitor established that the Commission adopted the IG's recommendation to withdraw the complaint.

¹³¹ The Department, the Commission and the OIG have taken steps to correct the documentation and procedural discrepancies that were identified.

B. OPERATIONS OF THE INSPECTOR GENERAL

Paragraph 147 – Notification and Observance of CUOF “Roll-outs”

Paragraph 147 of the Consent Decree requires that the IG be notified in a timely manner of all CUOF and be entitled to be present as an observer on all CUOF “roll-outs.” The IG shall report to the Police Commission any observations regarding conformance with LAPD policies, procedures, and the requirements of the Consent Decree.

Background

The Monitor last evaluated compliance with the requirements of paragraph 147 during the quarters ending September 30, 2002 and December 31, 2002, at which time the Department was found to be in functional compliance.

Current Assessment of Compliance

The IG continues to document all CUOF incident notifications from the Department. In addition, OIG staff continues to review the CIID case tracking logs to identify all CUOF investigations initiated during the period reviewed.¹³² This review revealed that the IG was notified of all CUOF incidents.

The Monitor compared CUOF incident information independently obtained from DCP logs for the period October 1, 2002 through March 31, 2003 to the IG’s CUOF Notification Log/Index for the same period. The review confirmed that the IG was notified of all CUOF incidents. The Monitor also noted that the IG attended, as an observer, 22 CUOF roll-outs during this period.

The Monitor found that observations concerning conformance with LAPD policies, procedures, and the requirements of the Consent Decree are made by OIG staff on an ongoing basis. This involves not only observations at the scene, but during the investigative process. Incidents of non-conformance with LAPD policies, procedures, or the requirements of the Consent Decree observed by OIG staff are reported to the Police Commission.

Based on the foregoing, the Monitor finds the Department in functional compliance with the provisions of paragraph 147.

Paragraph 152 – Providing Complaint Intake Information to the IG

Paragraph 152 requires the LAPD to continue to provide the IG with all complaint intake information within one week after its receipt by PSB and that the IG shall review such

¹³² The case tracking logs are compared to the DCP logs and the IG’s CUOF Notification Log/Index to determine if all CUOF notifications have been made to the IG.

information to ensure that complaints are received in compliance with LAPD policies and procedures and the terms of the Consent Decree.

Background

The Monitor last evaluated this paragraph during the quarter ending September 30, 2002, at which time the LAPD was found to be in functional compliance with paragraph 152.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the OIG complaint intake procedures and log for the period July 1, 2002 – September 30, 2002.

The Monitor's review established that complaint intake information continues to be input on a daily basis into the OIG tracking database as it is received from PSB. Within 10-15 days after the end of the month, a Complaint Intake Log is generated. The log tracks the following Consent Decree requirements: the 10 day requirement for the submission of complaints to PSB; and, the 7 day requirement for submission of complaint intake information to the IG.

Additionally, a monthly Out-of-Sequence report continues to be generated showing CF numbers of complaint face sheets not received from PSB. The Monitor reviewed these reports and also noted that the OIG continues to follow up with PSB staff concerning missing complaint intake face sheets identified by the reports.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 152.

C. GENERAL

The Monitor is scheduled to report on paragraph 154 during the quarter ending September 30, 2003.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

Overview

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

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

Additionally, the Consent Decree mandates the establishment of a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles.

Over the last two years, the Department has made strides in its interaction with the community. Sincere attempts have been made to comply with Consent Decree mandates and improve its communication with the public. However, the Department's progress is contingent on support it receives from the City. The poor representation by City Council members or their staff at the media advisory group meetings is disheartening. Even though the Department has complied with the Consent Decree in its establishment of this group, the group's impact has been diminished by the absence of representatives from the City Council. Nevertheless, the Department has independently continued its efforts at improving its dialogue with the community.

During the current quarter, the Monitor reviewed the Department's compliance with the Consent Decree mandates to hold annual public meetings and to continue its operation of the Media Advisory Group. The results of our current assessment follow.

Paragraph 155

Paragraph 155 requires the LAPD to hold quarterly community meetings within each geographic area for the first year of the Consent Decree, and one meeting in each Area annually thereafter, to inform the public about the provisions of the Consent Decree, and the various methods of filing a complaint against an officer.

At least one week prior to such meetings, the City is required to publish notice of the meeting (i) in public areas; (ii) in at least one newspaper covering the City of Los Angeles; (iii) in one or more local community newspaper(s) that services the Areas, taking into account the diversity in

language and ethnicity of the area's residents; (iv) on the City and LAPD website; and (v) in the primary languages spoken by the communities located in such area.

Background

The Monitor last evaluated paragraph 155 during the quarter ending June 30, 2002, at which time the LAPD was found in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor determined that all 18 Areas held their community meetings within the relevant annual period - July 1, 2002 through June 30, 2003. The Department provided the Monitor with materials from 12 Areas relating directly to their community meetings. The other 6 Areas provided ancillary materials, including photocopies of newspaper advertisements, which identified the meetings' dates, times and locations.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 155.

Paragraph 156 – Website Reports

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

Background

The Monitor last evaluated paragraph 156 during the quarter ending March 31, 2003, at which time the LAPD was found to be in compliance.¹³³

Current Assessment of Compliance

The website reports are required to be posted on a semi-annual basis. As of the writing of this report, the LAPD has posted on its website one semi-annual report, which covers the period July 1, 2002 through December 31, 2002. The Department is scheduled to post the January 1, 2003 to June 30, 2003 data by September 1, 2003. The Monitor will again assess the Department's compliance with this mandate when this report is posted.

¹³³ The Monitor found the LAPD in non-compliance in its Report for the Quarter Ending March 31, 2003. This finding was based on the City's failure to post 4 directives in its semi-annual report. Subsequent to the publication of the report, the City pointed out that the 4 cited directives were procedures, as opposed to policies, and therefore were not required to be posted. The Monitor agreed with the City and changed its assessment of paragraph 156 to compliant.

Based on the foregoing, the Monitor withholds a determination of compliance with paragraph 156.

Paragraph 157 – Meeting with Community Advisory Groups

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

Background

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

Current Assessment of Compliance

During the current quarter, the Monitor requested and reviewed all paperwork leading up to, and resulting from, the Media Advisory Group's quarterly meeting, including the meeting's attendance list and notes.

Based on its review, the Monitor finds the Department in functional compliance with the mandates of paragraph 157.

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORTS

The Monitor issues the following corrections to previously-issued quarterly reports after discussions among the Monitor, the City, and The Department of Justice.

Paragraph 139 – Recording and Investigating Retaliation Complaints by OIG

Paragraph 139 requires the IG to record and track allegations of retaliation for reporting possible misconduct or at-risk behavior in complaints received from LAPD employees. If the IG “determines that such complaints indicate possible retaliation in the Police Department’s handling of complaints,” the IG is required to conduct an investigation and report its findings to the Police Commission.

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

Correction

The Monitor’s assessment of the Department’s compliance with paragraph 139 in the Reports for the Quarters Ending September December 31, 2002 and March 31, 2003, and in the respective accompanying Report Card, should be changed from a finding of non-compliance to a finding of compliance. Please refer to the Monitor’s assessment of paragraph 139 in this report for additional information.

Paragraph 156 – Website Reports

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

Correction

The Monitor’s assessment of the Department’s compliance with paragraph 156 in the Report for the Quarter Ending March 31, 2003, and in the accompanying Report Card, should be changed from a finding of non-compliance to a finding of compliance. Please refer to the Monitor’s assessment of paragraph 156 in this report, specifically footnote 133, for additional information.

XII. CONCLUSION

As noted, this report marks the two-year point in the Consent Decree's five-year term. By the terms of the Consent Decree substantial compliance with the Decree's provisions must be achieved by the end of this third year of the five-year Decree. The first two years have laid a good foundation for achieving that goal, which, with the possible exception of TEAMS II, appears to the Monitor to be within reach.