

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



Kroll

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

**REPORT FOR THE QUARTER ENDING
DECEMBER 31, 2002**

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REPORT CONTENTS:

INTRODUCTION.....	1
EXECUTIVE SUMMARY	1
I. FOCUS ISSUES.....	3
A. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops.....	3
B. The Change in Administration.....	4
C. Inaccurate TEAMS Reports.....	4
II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY	5
A. TEAMS II [Computer Information System].....	5
III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW	8
A. Use of Force.....	8
B. Search and Arrest Procedures	19
C. Complaint Investigations	21
D. Conduct of Investigations	24
E. Adjudicating Investigations	26
F. Discipline & Non-Disciplinary Action.....	26
G. Internal Affairs Group.....	29
H. Non-Discrimination Policy and Motor VEHICLE and Pedestrian Stops.....	35
IV. MANAGEMENT OF GANG UNITS	39
V. CONFIDENTIAL INFORMANTS.....	39
VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS	45
VII. TRAINING.....	47
A. Field Training Officers Program.....	47
B. Training Content	47

C. Supervisory Training	50
VIII. INTEGRITY AUDITS	50
A. Audit Plan	51
B. Audits by the LAPD.....	51
C. Inspector General Audits	63
IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL	74
A. Operations of the Police Commission.....	74
B. Operations of the Inspector General	81
C. General.....	85
X. COMMUNITY OUTREACH AND PUBLIC INFORMATION	89
XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORTS	91
XI. CONCLUSION.....	94

APPENDICES:

- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending December 31, 2002
- B. Monitor’s Proposed Recommendations to Improve the Department’s Law Enforcement Procedures
- C. Specific Findings from the Monitor’s Review of the Audit Division’s Arrest, Booking and Charging Reports Audit (CD128(2))
- D. Specific Findings from the Monitor’s Review of the DSD’s Audit of Informant Usage by Special Enforcement Units (CD131d)
- E. Specific Findings from the Monitor’s Review of the OIG’s Non-Categorical Use of Force Investigations Audit (CD136i)
- F. Monitor’s Proposed Recommendations to Improve Future Audits

INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice 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 Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's Sixth Report, covers the quarter ending December 31, 2002.

EXECUTIVE SUMMARY

During the quarter ending December 31, 2002, the Monitor examined 71 paragraphs or sub-paragraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 29 and failed to achieve compliance with 36. For reasons stated in the body of this report, the Monitor withheld a determination of compliance for 6 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. It shows the assessment of compliance for the last three quarters, beginning with the quarter ending June 30, 2002. 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 were finalized. The quarter in which the evaluation was made is also indicated in Appendix A. Finally, the schedule also 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.

Commencing with this report, the Monitor is including a "Report Card Summary" along with the detailed Report Card. This summary graphically presents the status of the City and the LAPD's compliance with each of the major categories of policing covered by the Consent Decree.

Areas of concern identified during the quarter ending December 31, 2002 include:

- Motor vehicle and pedestrian stops data collected between July 2002 to November 2002 were released. On its face the data raises questions that the City of Los Angeles must answer.
- Historical data currently found in TEAMS I relative to Uses of Force are unreliable. All parties have been aware of this fact and are committed to using only accurate information for Teams II. However, the Monitor is concerned with the lack of clarity regarding how the data will be checked for integrity before being entered into TEAMS II, and the time that this process will take. Additionally, this raises issues that need to be addressed relative to the data's current use in evaluating officers.

- The Department continues to struggle with its handling of Non-Categorical Use of Force incidents and is having difficulty in complying with several Consent Decree paragraphs that address such uses of force.
- Despite improvements in the quality of Audit Division audits and the extensive efforts of its personnel, certain audits that were mandated by the Consent Decree to be completed by June 30, 2002 have not yet been completed, with the result that the Audit Division is now more than six months behind on certain audits.
- Backlogs in the processing of arrest reports by the Records and Identification Division continue, further impacting the timeliness and effectiveness of the audits being performed.
- Deficiencies continue in the daily operations and supervisory oversight of the gang units. Gang unit audits continue to be backlogged, notwithstanding the efforts of the Audit Division to assist with the planning and performance of these audits.
- Efforts made to establish policies and other procedures for improving the audit process are having mixed results at the Divisional level. This is evident from the findings in the Arrest, Booking and Charging Reports Audit, the Confidential Informant Control Packages Audit, and the Non-Categorical Use of Force Investigations Audit. More attention needs to be paid to the manner in which new policies and procedures are rolled out to the divisions.
- Training continues to be inadequate in many areas, most notably in the duty to report misconduct, retaliation, and the protections afforded to those who report misconduct.
- Although no substantive failures were uncovered relating to misuse of confidential informants or other impropriety, the Monitor continues to find that supervisory oversight of informant control packages is deficient and many packages are missing relevant documentation. In addition, the Confidential Informant Manual needs revision to clarify requirements and procedures for maintaining informant control packages and the handling of informants.

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

- The Department continues to improve its handling of Categorical Use of Force incidents; the Department has achieved or will soon achieve compliance with most of the paragraphs of the Consent Decree that address Categorical Uses of Force.
- The Audit Division continues to demonstrate that they have improved the planning, execution, and reporting of audits, and they are now achieving compliance relative to the quality of certain of their audits. In addition, the Audit Division is beginning to make progress relative to the impact of its audits on the LAPD, as some of its recommendations are starting to be implemented at the Divisional level.
- The Office of the Inspector General is also demonstrating improvements in the quality of its reviews of such audits, and is now achieving compliance from a qualitative perspective. The

Office of the Inspector General is also making progress relative to the impact of its audits on the LAPD, as its recommendations are also starting to be implemented.

- The Department made critical modifications to its discipline report database that should facilitate the inclusion of narrative summaries in the quarterly discipline reports.
- The Department's release of stop data via its website was handled in a pro-active community-building fashion.

I. FOCUS ISSUES

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

Paragraph 103 of the Consent Decree prohibits LAPD officers from using race, color, ethnicity or national origin, to any extent or degree, as a reason for a stop, detention or activity following a stop. The only time when race, color, ethnicity, or national origin can be utilized as part of a basis for police activity is when such activity is based on subject-specific information. To insure that this prohibition is followed the Consent Decree requires LAPD officers to complete a written or electronic report each time a motor vehicle or pedestrian stop occurs, and record, inter alia, the following information: the driver, occupant, or pedestrians' apparent race, ethnicity or national origin; gender and age; reason for the stop; whether the driver or occupants of the car were required to exit; whether they were patted down or searched, the basis of the search, the outcome of the stop and results of the search.

The data from July 2002 to November 2002 became available in this quarter. Approximately 175,000 forms from driver stops were entered into the database. They showed that roughly 33% of the drivers stopped were White, 18% were Black, 38% were Hispanic with the remaining individuals being Chinese, Filipino, Japanese, American Indian and other. The data showed that Black and Hispanic drivers were over three times as likely to be required to exit their vehicles by LAPD officers as were White drivers. It showed that Blacks were over four times, and Hispanics over three as likely to be patted down by LAPD as Whites. The data also showed that Black drivers were almost six times, and Hispanic drivers over five times as likely to be asked to submit to a search as White drivers.

During this same period over 60,000 forms for pedestrian stops were entered into the database. Of those stopped, approximately 18% were White, 36% Black and 42% Hispanic. Blacks and Hispanics who were stopped were approximately twice as likely to be patted-down as Whites.

Although this data is raw data without analysis, on its face it raises questions that are incumbent upon the City of Los Angeles to answer. The Monitor approves of the City's initiative to contract with outside experts to analyze the data and determine what, if any, valid conclusions can be drawn there from. The Monitor believes that the analysis is necessary to assure the Community at large that the LAPD is meeting its obligations under its own anti-discrimination policies and the mandates of the Consent Decree. While waiting for the expert analysis, however, the

Monitor urges the City to use its internal expertise to obtain answers to some of the more pressing questions.

B. THE CHANGE IN ADMINISTRATION

On October 28, 2002, William Bratton was sworn in as the 54th Chief of the Los Angeles Police Department. Prior to his appointment, Chief Bratton served on the Independent Monitoring team as a police practices expert. Since his appointment, Chief Bratton has consistently reiterated his support for the Consent Decree and his belief and understanding that the Consent Decree embodies “best practices” for modern policing. While the new Chief obviously brings much more than support for the Consent Decree to his position, his appointment clearly demonstrates the commitment of the Police Commission, the Mayor and the City Council to the Consent Decree and the importance that is placed on its implementation. The Independent Monitor applauds that concern and looks forward to working with Chief Bratton in the years to come.

C. INACCURATE TEAMS REPORTS

As described in this report in Section VIII, under paragraph 136(i), and in Appendix E, the LAPD’s TEAMS reports are unreliable. More than 50% of the TEAMS reports examined by the Monitor (97 of 187) had either the wrong uses of force attributed to such officers, or uses of force were attributed to officers who were not involved in any use of force. These appear to be the result of input errors and shortcomings relative to the transfer of data from the Use of Force Review Section to TEAMS I whereby all uses of force that occurred in an incident are reflected in all involved officers’ TEAMS reports, regardless of the type(s) of force used by the individual officer(s).

The Monitor is concerned with these inaccuracies for several reasons: The TEAMS reports are an integral part of each officers' personnel file, and such files are meant to be used to make certain decisions. While the Monitor understands that the LAPD is aware of the systemic problems that are causing some of these inaccuracies, until such time as these inaccuracies are remedied, the TEAMS I data are unable to be used. Lastly, the City must make certain that the inaccuracies of TEAMS I are not carried over into the proposed Risk Management Information System (RMIS). The City is aware of this necessity and is taking steps to ensure the integrity of the data that will populate the RMIS. However, we have not seen the plan nor the time line for cleaning this data for use in TEAMS II.

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 has begun to develop four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database¹, 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.

During the current quarter, the Monitor's efforts at helping the Department of Justice and the City resolve their outstanding differences relative to the TEAMS II "design document" continued. On January 31, 2003, the Department of Justice approved the design document.²

In addition to the resolution of the outstanding issues relative to the design document, the City has continued to carry out necessary work that is crucial to the development of various elements of TEAMS II.

The results of our current assessment follow.

Paragraph 45 – Approved TEAMS II Design Document

Paragraph 45 requires the City to prepare a design document which contains an implementation plan for ensuring that the requirements set forth in paragraphs 41, 43, and 44 are met, including relevant data tables, fields, and values. The City must consult with the Department of Justice and Monitor while developing such a document, and must obtain approval for the design document from the Department of Justice, which may not be unreasonably withheld.

¹ The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports.

² The Monitor has departed from its ordinary practice of not reporting on events outside of the reporting period in the body of the report because of the significance of the approval of the design document.

Background

The City submitted the first draft of the RMIS Requirements/Design Document to the Department of Justice on October 1, 2001. That document began a dialog between the City and the Department of Justice regarding the overall functionality of the system, as well as specific data elements and electronic documents necessary to conduct valuable behavior risk assessment. Numerous matrices and revised drafts of the design document were shared between the two parties and with the Monitor. As a result of this process approval of the RMIS Requirements/Design Document was given by the Department of Justice on January 31, 2003.

Current Assessment of Compliance

The Monitor has reviewed the RMIS Requirements/Design Document as approved by the Department of Justice and has determined that all of the requirements of paragraph 45 are addressed in the current draft.

During this quarter, the City has continued to carry out necessary work that is critical to the development of various elements of TEAMS II. This includes the following:

- The City dedicated significant resources to the development of a Request for Proposal (RFP) for the RMIS and UOFS throughout the quarter ending December 31, 2002. The RFP was released on November 28, 2002 and a pre-proposal conference was held on December 9, 2002 for potential bidders. Vendors were allowed to submit questions to various city entities regarding the RFP up until December 16, 2002. All proposals were due on January 24, 2003.
- The City completed work on the CMS Design Document prepared by Information Builders, Inc. The City is currently preparing for the release of the RFP for competitive bid. The RFP will include the production of a new design document, construction of the final system, test plans and training for the CMS.
- In April 2002, the City signed a contract with BearingPoint, Inc.³ for the restoration and enhancement of the Automated Personnel Records Imaging System (APRIS) and the Integrated Crime and Arrest Records System (ICARS). BearingPoint has been working to improve the scanning capabilities and enable decentralized access so that all 18 Divisions will be able to review data from these two 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 MSRP Unit has been carrying out interviews and research to determine how data is going to be fed to the RMIS from numerous legacy systems. The information obtained through these interviews is going to serve as the basis for the data input plan required by paragraph 42.

³ BearingPoint, Inc. was formerly known as KPMG Consulting, Inc.

As a result of the approval of the RMIS Requirements/Design Document by the Department of Justice, the Monitor finds the City to be in compliance with the requirements of this paragraph.

Paragraph 50(a) – TEAMS II Design Document Approved 30 Days After Submission to DOJ

Paragraph 50(a) states that within three months of the effective date of the Consent Decree, the City must submit a design document to the Department of Justice and the Monitor. The City and Department of Justice are to work together to ensure that the design document receives formal approval from the Department of Justice within 30 days after its submittal. It also states that the City must submit a response, including the City's position and proposed changes, to any Department of Justice written comments within 10 days.

Background

The City submitted their first draft of the RMIS Requirements/Design Document to the Department of Justice on October 1, 2001. The Department of Justice responded to this draft on November 7, 2001. The City answered this response on December 13, 2001 and January 14, 2002. The Department of Justice responded on February 11, 2002. On April 8, 2002 the Department of Justice invoked the dispute resolution provisions of paragraph 186, providing the City with a 45-day period to respond. The Department of Justice extended this 45-day period on separate occasions due to progress being made by the parties to resolve the issues. The City submitted an updated draft of the document to the Department of Justice on July 11, 2002 to further discussions regarding revisions. The City submitted to the Department of Justice the most recent version of the RMIS Requirements/Design Document on September 6, 2002. The Department of Justice approved the TEAMS II design document on January 31, 2003.

All versions of the RMIS Requirements/Design Document mentioned above were also shared with the Monitor.

Current Assessment of Compliance

The Monitor finds the City to be in compliance with the provisions of paragraph 50(a).

Paragraph 51 – Use of TEAMS I Data for Decision Making

Paragraph 51 requires the LAPD to utilize existing databases, information and documents to make certain decisions until TEAMS II is implemented. Among other decisions specified in the paragraph, the selection of officers for assignment to the OHB Unit or as Internal Affairs Group investigators shall require that the LAPD review the applicable IAG form 1.80's and all pending complaint files, in conjunction with the officer's TEAMS I record.

Background

Paragraph 51 is 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 September 30, 2002, the Monitor reviewed the selection process for both gang unit officers (paragraph 107b.) and Field Training Officers (paragraph 114). These reviews 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 Internal Affairs Group investigators (paragraph 98, below).

Current Assessment of Compliance

During the review of the Office of the Inspector General's Audit of Non-Categorical Uses of Force performed this quarter, the Monitor determined that TEAMS I is unreliable because of input errors and data transfer problems (refer to the Monitor's assessment of the paragraph 136(i), below, for details). The requirements of paragraph 51 were designed to ensure that important LAPD personnel decisions are informed decisions, based upon all available information. There was a recognition during the drafting of the Consent Decree that not all information contained within TEAMS I was reliable. It was for this reason that the Consent Decree mandated the use of original documents to make certain personnel decisions.

Until the meet and confer issues are resolved the Monitor will withhold a determination of compliance with paragraph 51.

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 where force is used and whether that force is "Categorical" or "Non-Categorical." Categorical Use of Force⁴ 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.⁵ Administrative investigations of these incidents are the responsibility of the Critical Incident Investigation Division (CIID). All completed Categorical Use of Force incident investigations must be presented to a Use of Force Review Board 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. Non-Categorical Uses of Force occur much more frequently than do Categorical

⁴ Categorical Uses of Force 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.

⁵ 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.

Uses of Force and range from a technique as simple as physical force to control a resisting individual to the use of a taser or a bean bag shotgun. Within all Divisions of the LAPD, Non-Categorical Uses of Force are normal daily occurrences as Officers frequently encounter resistance while performing their duties. Although the Consent Decree doesn't specifically define a Non-Categorical Use of Force, certain paragraphs apply to these incidents.⁶

Previous Monitor reports described certain Special Orders and other directives issued by the LAPD to address Use of Force requirements of the Consent Decree. This quarter, there were no substantive changes in policy on which to report.

With regard to its handling of Categorical Use of Force incidents, the Monitor has noted significant improvement by the LAPD since the inception of the Consent Decree. The LAPD has either achieved compliance with or will soon achieve compliance with many of the paragraphs that address Categorical Uses of Force. Going forward, the LAPD's goal should be to achieve and maintain compliance for the duration of the Consent Decree.

Unfortunately, the same cannot be said about Non-Categorical Use of Force incidents. Although some areas of non-compliance may be remedied quickly, others require more time. One of the greatest hurdles for the LAPD will be to meet the 14-day requirement to review each use of force (unless a deficiency in the investigation is detected) as defined by paragraph 69 and more fully described below.

The results of our current assessment follow.

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

Paragraph 56 mandates that the OHB Unit, defined by LAPD directives to be the Critical Incident Investigation Division (CIID), have the capability to "roll out" to all Categorical Use of Force (CUF) incidents 24 hours a day. Additionally, the Department requires immediate notification to the Chief of Police, CIID, the Police Commission and the Inspector General's Office by the LAPD whenever there is a Categorical Use of Force.

Background

Whenever a CUF 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 Inspector General's Office and if applicable, the District Attorney's Office.

The Monitor's last review of paragraph 56 focused on CIID's response time after notification of a Categorical Use of Force incident by the DCP. This prior assessment concluded that the LAPD was in compliance with paragraph 56 in the quarter ending June 30, 2002.

⁶ Specifically paragraphs 13, 38, 65, 66, 68, 69, 81 and 82 as well as certain audit related paragraphs.

Current Assessment of Compliance

During the current quarter, the Monitor focused on assessing compliance for the entire notification process from the moment the incident occurred until all notifications were made. This included assessing the time it takes for field officers to notify the DCP after a CUF occurs.

The Monitor reviewed approximately 46 CUF⁷ incidents reported during the period of April 1, 2002 through September 30, 2002.⁸ These same incidents were reviewed to determine the LAPD's compliance with paragraphs 58, 59 and 62. The incidents are broken down as follows:

1) Officer Involved Shootings (OIS)

For the period reviewed, the Monitor identified 14 OIS in which the suspect was hit by gunfire.⁹ For all 14 incidents, the average time that elapsed between the incident and notification to DCP was approximately 27 minutes. Once DCP was notified it took an average of 6 minutes to notify the CIID.¹⁰

Twelve OIS – No Hit incidents occurred during the period reviewed. On average, the DCP was notified within 20 minutes and the CIID was in turn notified within approximately 9 minutes. Once notified, the CIID responded to these incidents on average within 71 minutes with response times ranging between 35 and 113 minutes.

2) Law Enforcement Related Injury Incidents (LERII's), Law Enforcement Activity Related Deaths (LEARD's) and In Custody Deaths (ICD's)

Of the remaining Categorical Use of Force incidents, notification times are as follows:

a) LERII – 5 incidents

Reporting times for 4 of the 5 LERIIs ranged from 46 to 1,810 minutes, with an average notification time of 974 minutes.¹¹ Once reported to the DCP, the average time it took for notification to the CIID was 7.5 minutes.

⁷ 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.

⁸ For the period under review, the Monitor listed and reviewed all incidents documented on Department Command Post Logs and 24 hour logs that fell under the strict definition of a CUF, thus the Monitor reviewed 100% of the incidents.

⁹ This is the only category that LAPD's internal policy requires notification of the incident within 15 minutes of its occurrence.

¹⁰ The DCP was notified within 15 minutes of the stated incident time for 3 of the incidents. However, the DCP was only able to make notification to CIID within the 15-minute notification time for 1 of the 3 incidents. Of the remaining 11 OIS – Hit incidents, 9 were reported to the DCP within 16 to 30 minutes, one was reported to the DCP within 31 – 60 minutes and one was reported to the DCP in excess of one hour.

¹¹ The DCP was directly notified for only 2 of the 5 incidents. For 2 other incidents, the DCP was notified by the CIID. One incident was automatically referred to the Internal Affairs Group and not documented on DCP logs.

- b) LERII's with Head Strike – 5 incidents
Reporting times ranged from 25 minutes to 585 minutes, with an average notification time of 253 minutes. For 4 of the 5 incidents, the average time for notification to the CIID was 7.5 minutes.¹²
- c) LERII's with Neck Restraint – 2 incidents
Reporting times for these 2 incidents to the DCP by the field were 10 minutes and 60 minutes, respectively. On average, DCP notified the CIID of these incidents in 3 minutes.
- d) LEARD – 1 incident
The DCP was notified of this incident approximately 80 minutes after it occurred. Once notified, the DCP notified the CIID in approximately 15 minutes.
- e) IN CUSTODY DEATH – 5 incidents
The reporting times ranged from 5 minutes to 115 minutes, with an average notification time of 71 minutes.¹³ On average, DCP notified the CIID of these incidents in 35 minutes.¹⁴
- f) Canine Bite with Hospitalization – 1 incident
This incident was reported to the DCP approximately 390 minutes after it occurred. In turn, DCP notified CIID within 17 minutes.
- g) Unusual Incident – 1 incident
This incident occurred on 11/9/2001 and was originally reported as a Non-Categorical Use of Force. An investigation was completed and forwarded to the Risk Management Group for review after having been reviewed by the Division Commanding Officer, the Bureau Commanding Officer and the Use of Force Review Section. The Commanding Officer of the Risk Management Group reviewed the investigation and concluded that it was erroneously classified as non-categorical and should have been investigated as a Categorical Use of Force. As such, the investigation was referred to CIID for further investigation.

Of the 20 LERII, LEARD, In-Custody Death, and Canine Bite incidents identified during the period of review, response times could not be calculated for 4 incidents.¹⁵ For the remaining incidents, on average, once notified, the CIID responded to the scene within 52 minutes.

¹² For 1 incident, the DCP was notified by the CIID once the CIID was notified by the field approximately 70 minutes after the incident.

¹³ For one incident, the DCP was notified by the CIID.

¹⁴ For one incident, approximately 108 minutes passed before the CIID was notified. The remaining incident, A02-025, was reported directly to CIID.

¹⁵ One investigation was immediately referred to Internal Affairs, two investigations were originally investigated as a Non-Categorical Use of Force and one investigation was identified by the CIID during its regular review of Jail records.

3) Other Notifications

The Monitor noted that the Chief of Police was notified in 42 of the 46 CUF incidents identified. Similarly, notifications were made to the Inspector General's Office and the Office of the Police Commission in 44 of the 46 incidents. A review of the Inspector General's Office audit of notification¹⁶ corroborated such notification.

For Officer Involved Shootings, the overall time that elapsed between the incident and subsequent notifications to the DCP and the CIID as well as the CIID's response time, were deemed reasonable.

However, in reviewing the same criteria for LERII's, LEARD's and ICD's the same conclusions cannot be reached. For the most part, the Monitor believes the weakest point in the chain exists at the Divisional level. The amount of time that elapsed between the incidents and the first level of notification, that being notification to the DCP, is unacceptable. The notification of the DCP drives other crucial notifications and is a critical part of the LAPD's response to Categorical Uses of Force. Once the DCP was notified, timely notifications were indeed made and response times, on average, were reasonable.

Due to the lag in notification time for LERII, LEARD and ICD incidents, the Monitor finds the LAPD to be in non-compliance with paragraph 56.

Proposed Recommendations

The LAPD should evaluate the circumstances behind tardy notification and, if necessary, release new directives to the field that better define notification requirements. The evaluations should include a potential role for the Communications Division to alert the DCP when communications indicate that a potential CUF has occurred. The DCP and potentially CIID could then take a proactive role in monitoring the event in order to determine the event's status and the need to roll-out.

Paragraph 58 – LAPD to Notify District Attorney of Shootings or In Custody Death

The LAPD is required to continue its policy of notifying the Los Angeles District Attorney's Office whenever an LAPD officer shoots and injures a person during the scope and course of employment. This requirement applies whether an officer is on or off-duty. The LAPD is also required to make notification should an individual die while in custody or control of the LAPD and where use of force by an officer may be the proximate cause of death.

¹⁶ This audit was completed by the Office of the Inspector General in order to assess compliance with paragraph 147 of the Consent Decree. The Monitor calculated the mean notification time to the DA's Office to be 43 minutes, which is considered reasonable.

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 Categorical Use of Force 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. During the quarter ended June 30, 2002, the LAPD was found to be in compliance with this paragraph of the Consent Decree.

Current Assessment of Compliance

During the period April 1 through September 30, 2002, there were 46 reportable Categorical Use of Force incidents. Of the 46 incidents, 14 were Officer Involved Shootings (OIS) in which a person was shot and injured during the scope and employment of the involved officers. There was one Law Enforcement Activity Related Death attributable to use of force by an officer.

For 13 of the 14 incidents the LAPD, via its DCP, notified the District Attorney's Office. District Attorney's Office attorneys and investigators responded to all 13 incidents. The remaining incident involved a shooting where the suspect evaded immediate apprehension, leaving the officer uncertain if the suspect had actually sustained a shooting injury. As such, for this incident, the District Attorney's Office was not notified. Approximately 7 hours after the incident, the suspect was treated at a local hospital; however, at this time there was no notification, to the Department Command Post and hence no notification to the District Attorney. During this same period, one Law Enforcement Activity Related Death occurred and the District Attorney's Office was notified and responded. The District Attorney's Office was also notified and responded to the LEARD.

Notwithstanding the one unreported incident, the Monitor finds the LAPD to be in compliance with paragraph 58.

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

Paragraph 59 requires the LAPD to provide cooperation to District Attorney Office personnel who arrive at a Categorical Use of Force incident pursuant to the required notifications as defined in paragraph 58 of the Consent Decree.

Background

The Monitor last assessed compliance for this paragraph during the quarter ended June 30, 2002 and found the LAPD to be in compliance.

Current Assessment of Compliance

During the period April 1 through September 30, 2002, there were 46 reportable Categorical Use of Force incidents. Of the 46 incidents, 14 were Officer Involved Shootings (OIS) in which a person was shot and injured during the scope and employment of the involved officers. One Law Enforcement Activity Related Death incident occurred that also required notification to the District Attorney's Office.

The Monitor attempted to contact all assigned Assistant District Attorneys and Investigators to conduct interviews regarding the LAPD's level of cooperation. Although the Monitor was unable to interview every Attorney or Investigator, largely due to calls not being returned, the Monitor did discuss the level of cooperation with 4 responding Investigators. The supervisor of the unit responsible for rolling out to OIS incidents was also interviewed regarding rollouts and cooperation.

All individuals interviewed indicated that their interactions with the LAPD officers were positive and there were no indications of non-cooperation. However, concern was expressed that the District Attorney's Office was notified about incidents up to 1.5 hours after its occurrence.¹⁷ Notwithstanding this comment, the Monitor finds the LAPD to be in compliance with paragraph 59 of the Consent Decree.

Proposed Recommendations

The Monitor recommends that notifications to the District Attorney's Office be made contemporaneously with notification to the CIID. Indeed, technology exists for the "blasting" of such notifications by e-mail to all those who require notification and the receipt of those notifications on mobile devices such as a Blackberry. A reply protocol could be established whereby the failure to reply via e-mail within a given time would require a follow up notification by phone. A collateral benefit of such method of notification would be a computer generated log of such notifications.

Paragraph 62 –Supervisory Oversight of Categorical UOF Incidents and Search Warrants

Paragraph 62 requires that LAPD managers 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 7 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

During the prior reporting period the Monitor's review of this paragraph noted overall non-compliance relative to Categorical Use of Force incidents and virtually no compliance regarding

¹⁷ See the Monitor's discussion of the LAPD's compliance with paragraph 56 of the Consent Decree.

analysis of the service of search warrants despite the issuance of Special Order 18 that clearly delineated necessary responsibilities of managers relative to this Consent Decree paragraph.

The City and the LAPD acknowledged the serious deficiencies noted by the Monitor. The LAPD represented that it will issue an additional directive designed to further clarify the responsibilities of managers to analyze the absence or presence of a supervisor at either occurrence.

Current Assessment of Compliance

During the current reporting period, the Monitor reviewed 46 Categorical Use of Force incidents that were reported during the period April 1 through September 30, 2002 to determine compliance with paragraph 62. The Monitor elected not to review analyses of search warrants due to the LAPD's concession that in all likelihood it would take six months to issue the additional directive¹⁸, and only after its issuance would the LAPD achieve improvements in compliance. The Monitor will defer testing for compliance with regard to search warrants until the reporting period succeeding the issuance of the new directive.

The Monitor noted that 8 of the 46 incidents were not reviewed within the mandated 7 calendar days, resulting in an 83% compliance rate. One review occurred approximately 329 days subsequent to the incident. This was due to the incident not properly being categorized as a Categorical Use of Force at the time of the incident. Rather, it was classified and investigated as a Non-Categorical Use of Force, and while being reviewed by the Risk Management Division was properly re-categorized as a Categorical Use of Force. Another incident was not reviewed for approximately 115 days subsequent to its occurrence.

For 11 of the 46 analyses reviewed, there was no real "analysis." Commander comments simply acknowledged the presence of a supervisor at the scene but failed to identify any actions taken and their appropriateness. Four analyses submitted to the Critical Incident Investigation Division by the Rampart Division not only contained no analysis of the appropriateness of the supervisors' actions, they were all verbatim except for the identity of the officers and supervisors. One analysis submitted by the Pacific Patrol Division contained verbiage identical to that of the 4 Rampart Division analyses. The wording of 2 analyses submitted by the Hollenbeck Division was very similar to the verbiage of the Rampart Division and Pacific Division analyses.

The Monitor therefore finds the LAPD to be in non-compliance with paragraph 62 of the Consent Decree.

¹⁸ The Monitor's review occurred early during the current quarter. The LAPD indicated that it anticipates issuing this directive during either March or April 2003.

Proposed Recommendation

The Monitor is concerned with the lack of specificity and individuality offered in these analyses by the Commanding Officer and the failure to identify training issues uncovered or suggested by these incidents. The Monitor recommends that the LAPD's Audit Division, during the course of its next Categorical Use of Force audit, assess the timeliness and completeness of the analyses required by paragraph 62 of the Consent Decree.

Paragraph 63 – Confidential Psychological Evaluation for Officers Involved in Deadly Categorical UOF Incident

Paragraph 63 defines the parameters that require the referral of an officer to the LAPD's Behavioral Science Services section (BSS) for a consultation and evaluation with a licensed mental health professional. Such referrals are required for officers involved in Categorical Use of Force incidents that resulted in death or the substantial possibility of death. Such officers are precluded from working in the field until such consultation has occurred and notification of fitness for duty has been discussed with their respective Commanding Officer.

Background

The Monitor has paid particularly close attention to this mandate during past reporting periods and has found the LAPD to not be in compliance. In response to the Monitor's findings, the LAPD has attempted to achieve compliance via the issuance of a special order that provided guidance. Special Order No. 15, dated April 10, 2002, entitled "Revision to Special Order 39, 2001 – CIID Investigations".

Assessment of Compliance

The Monitor identified 14 Officer Involved Shootings (OIS) with hits involving 38 officers that were reported during the period of April 1 through September 30, 2002. All of the OIS incidents were timely referred to BSS. Thirty-four of the 38 referred officers were not assigned to field duty until after their appointment with BSS. For the remaining 4 officers, the Commanding Officers' documentation fails to cite the exact date BSS doctors deemed the involved officers fit for duty; although the documentation does suggest such a conversation took place. Therefore, the Monitor finds the LAPD to be in compliance with this paragraph.

Proposed Recommendation

Although the LAPD is found to be in compliance, the Monitor feels that Divisions could do a better job at documenting referrals. Documentation should include the officer's name, the date and time of the BSS appointment, the name of the psychologist, the date and time the officer is returned to field duty and the date that the psychologist consulted with the officer's superior and confirmed the results of the evaluation.

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

Paragraph 65 mandates that LAPD Officers report, without delay, their involvement in a use of force using the appropriate form as required by paragraph 66 of the Consent Decree.

Background

The LAPD historically required that officers self-report any use of force. Pre-Consent Decree, all uses of force were categorized together and more serious uses of force, such as officer involved shootings, were investigated by either the Robbery Homicide Division or the Detectives Headquarters Division. All other uses of force were historically investigated by chain-of-command supervisors.

Pursuant to paragraph 66 of the Consent Decree, the LAPD developed and implemented a revised use of force report form. The Monitor determined that the LAPD was in compliance with paragraph 66 in its Report for the Quarter Ending June 30, 2002.

Current Assessment of Compliance

The Monitor requested a listing of all Non-Categorical Use of Force investigations completed during the period April 1 through August 31, 2002. In total, the LAPD provided a listing of approximately 696 completed incidents, of which 85 were randomly selected for review to test compliance with paragraphs 65, 68, 69 and 81 of the Consent Decree.

The Monitor determined that for 81 of the 85 incidents reviewed, the involved officers self-reported, without delay, their involvement in a use of force. The Monitor established compliance using references to uses of force contained in arrest reports, employee reports¹⁹ or requests for a supervisor. Of the 4 not reported timely, the longest period to lapse between the date of the incident and the date reported amounted to 6 days.

The Monitor noted that for 3 of the 85 investigations reviewed, the LAPD failed to use the revised form as required by paragraph 66. All 3 incidents post-dated the circulation date of the revised form by 28, 35 and 43 days, respectively.

Given the combination of instances of untimely reporting and failure to use the appropriate reporting mechanism, the Monitor finds the LAPD to be in non-compliance with the provisions of paragraph 65.

¹⁹ Employee reports deal primarily with incidents not necessitating arrest. A large majority of the reports involve mentally ill individuals

Paragraph 68 – Non-Categorical Use of Force Investigations

Paragraph 68 requires that a supervisor²⁰ conduct a timely investigation of Non-Categorical Use of Force incident as required by LAPD policy and pursuant to the provisions of paragraphs 69 and 81 of the Consent Decree, which mandate that investigations of such incidents be reviewed within 14 days of the incident by management and that all Non-Categorical Use of Force investigations prohibit group interviews, include an interview of on-scene supervisors and collect and preserve all appropriate evidence.

Background

This particular paragraph is a “shall continue to” requirement and references pre-Consent Decree LAPD policy. The LAPD has, since implementation of the Consent Decree, issued 2 special orders that provide additional guidance on investigating and adjudicating Non-Categorical Uses of Force.²¹ It is also LAPD policy that all Non-Categorical Use of Force incidents be investigated by a supervisor who was not involved in or a witness to the incident. Even though this is not a Consent Decree requirement, the Monitor agrees with this internal requirement, and as such, during its course of review will identify and report any instances of noncompliance. According to the LAPD’s last internal audit, this policy was not regularly practiced. The LAPD slated another audit to be completed by the end of 2002.

Current Assessment of Compliance

For all 85 investigations reviewed, the Monitor noted that a supervisor who was not involved in or a witness to the incident conducted a timely and appropriate investigation. Therefore the Monitor finds the LAPD to be in compliance with the provisions of paragraph 68.

Paragraph 69 – Review of Uses of Force

Paragraph 69 addresses both Categorical Use of Force (CUF) and Non-Categorical Use of Force (NCUF) incidents. With regard to NCUF,²² LAPD Division management is required to review each use of force 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.

²⁰ The LAPD defines a supervisor as an individual ranked at least a Sergeant I or Detective I.

²¹ Special Order 27, “Investigating and Adjudicating Non-Categorical Use of Force Incidents,” September 25, 2001 and Special Order 18, “Revisions to Special Order No. 27, 2001 – Investigating and Adjudicating Non-Categorical Use of Force Incidents,” May 7, 2002.

²² In this report, the Monitor is not addressing paragraph 69 as it relates to CUFs.

Background

Historically, the Monitor concentrated its efforts on reviewing the LAPD's reporting compliance with the Use of Force Review Section. Previous reports have documented the LAPD's failure to timely notify the Use of Force Review Section of Non-Categorical Use of Force incidents and to provide reports of the investigations. The City and the LAPD have also acknowledged difficulty in achieving compliance with the 14-day rule. This failure prompted the issuance of Special Order 18 that is expected to result in improvements with achieving compliance.

Current Assessment of Compliance

The Monitor found that 21 of the 85 investigations selected for review were not reviewed within 14 calendar days of their submission. For all 21 incident investigations the Monitor noted no extenuating circumstances and the LAPD did not document any extenuating circumstances that would have precluded the investigation from reasonably being reviewed as required. As such, the LAPD is in non-compliance with the provisions of paragraph 69 that apply to Non-Categorical Uses of Force.

Completed Non-Categorical Use of Force investigations are ultimately forwarded to the Risk Management Division (RMD) for review after having been reviewed by Division and Bureau management. In the course of the RMD's investigation into several Non-Categorical Use of Force incidents, they made requests for additional clarification and investigation. It is the Monitor's contention that these same requests should have been made during the Division and/or Bureaus' earlier reviews of the incidents.

B. SEARCH AND ARREST PROCEDURES

The Consent Decree mandates 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.

In its Report for the Quarter Ending September 30, 2002, the Monitor assessed supervisory review of all booking approvals, arrest paperwork, watch commander logs and detention logs for cases involving charges for resisting arrest, delaying a police investigation and assault on a police officer. The Department was found to be in non-compliance with these provisions of the Consent Decree.

During the current quarter, the Monitor assessed the Department's training relative to arrest and booking procedures. In addition, the Monitor evaluated supervisory oversight of arrest packages.

The results of our current assessment follow.

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

Paragraph 70 requires supervisors to review all booking recommendations and evaluate the recommendations for appropriateness, legality, and conformance to Department policy. Supervisors are expected to review all arrest reports and all supporting documentation for authenticity, inconsistent information and probable cause. This mandate stems from historical allegations of officers abusing the charging and booking process to cover up administrative violations and/or criminal activity.

Background

This is the first time the Monitor is reviewing paragraph 70(a), as previous reviews were delayed to allow for the effects of the new orders and policy resulting from implementation of the Consent Decree. The Monitor reviewed paragraph 70(b) last quarter and found the Department in non-compliance with the secondary and functional requirement of that provision. Paragraph 70(c) is a meet and confer item.

Current Assessment of Compliance

In order to assess primary and secondary compliance with the mandates of paragraph 70(a), the Monitor requested and reviewed all policy related to training on paragraph 70. In addition, the Monitor attended some of the training related to review of arrest and booking procedures for all cases, as well as the specific training on review of cases involving resisting arrest, delaying a police investigation and battery on an officer, which are the focus of paragraph 70(b). The Monitor concludes that Special Order No. 13, dated June 20, 2001, entitled 'Booking Approval Procedure- Revised' clearly outlines the watch commander's supervisory responsibilities when reviewing all reports related to the arrest paperwork and procedures. The Monitor found that Special Order No. 13 sufficiently explained the Supervisors' responsibilities during the arrest process.

The Monitor also reviewed Watch Commander training and the Basic Supervisor training.²³ The Monitor found that the training for Basic Supervisor School and Watch Commander School to be unsatisfactory. Neither of the curricula specifically addressed when and how supervisors should conduct this review. The review of the CSDT curriculum as well as attendance in the class for the actual instruction proved to be unsatisfactory. The classroom instruction did not elaborate on the importance of the Order 13 or explain in any detail how sergeants and watch commanders should review the paperwork for completeness, authenticity, and articulation. Nor did the training instruct watch commanders on how to document the fact that they conducted this review.

To measure functional compliance with this paragraph, the Monitor relied on the Department's ABC Audit dated September 15, 2002, which was issued to the Police Commission on October 23, 2002. The Monitor relied on the Department's findings as the Monitor found the Department

²³ Sometimes a Sergeant will serve as an acting watch commander if the watch commander is not working.

to be in functional compliance relative to the quality of the audit. (See Section VIII of this Report, paragraph 128(2) and Appendix C for further particulars.) As stated in the Department's audit, "Department-wide compliance was achieved when 95% of the arrest packages passed an evaluation for 1) completeness, 2) authenticity, 3) proper underlying actions, and 4) supervisory oversight." The ABC Audit found that only 55.5% of the arrest packages reviewed were in compliance with all four of these operational objectives.²⁴ It is clear from this audit that Supervisors are either not adequately reviewing the arrest packages or are unable to identify significant issues in the paperwork.

The Monitor finds the Department to be in primary compliance with the mandates of paragraph 70(a), but in non-compliance with its secondary and functional requirements.

Proposed Recommendations

The Monitor endorses the recommendations of the Audit Division to remind personnel of existing protocol for the completion of documents associated with arrest packages. The Monitor further recommends that this topic be addressed in formal training for both the supervisors and the officers.

C. COMPLAINT INVESTIGATIONS

Overview

A significant portion of the Consent Decree is dedicated to reforming the LAPD's complaint process, from intake through investigation, adjudication and ultimately disposition. Prior to the Consent Decree, the LAPD's complaint review policies failed to differentiate between serious and frivolous complaints. Although the Consent Decree requires that certain types of complaints be investigated by Internal Affairs, the LAPD continued to struggle with the grading of complaints to determine necessary levels of investigation.

In the Monitor's first quarterly report, an examination of the complaint process was called for. The examination that followed led to the LAPD's issuance of orders and directives aimed at improving the complaint process, including authorizing Commanding Officers to grade a complaint on the seriousness of the allegations raised. Thus, a public complaint of excessive use of force, under the LAPD's criteria, is considered more serious and would therefore generate a more detailed investigation than would, for example, an Officer's failure to qualify for shooting a weapon.

During the current quarter, the Monitor focused attention on the initiation of complaints based upon entries into the City's lawsuit and claims database.

²⁴ The Audit Division evaluated a sample of 938 arrest packages from a population of 27,155 arrests during the period from October 1, 2001 through December 31, 2001.

Although the LAPD has either issued new policy or amended existing policy to improve its process and the quality of complaint investigations, it is still struggling with a laborious complaint process as is evidenced by the strain placed on staffing its Internal Affairs Division. However, the Monitor continues to see improvement in this area and is encouraged by the Department's progress.

The results of our current assessment follow.

Paragraph 76 – Civil Lawsuits Alleging Misconduct of LAPD

Pursuant to paragraph 76, 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 LAPD's Risk Management Division regularly receives Initial Litigation Reports, Quarterly Reports, and Final Reports from the City of Los Angeles' Attorney's Office for lawsuits filed with the City against the LAPD. The Risk Management Division also receives all newly filed claims from the City Attorney's Office. A data entry officer enters the claim or lawsuit information into the Claim/Lawsuit Information System (CLIS). The Risk Management Division periodically forwards a report to Internal Affairs, listing all claims and lawsuits for the generation of complaint investigations.

Current Assessment of Compliance

The City had a total of 150 lawsuits and 211 claims listed on the "Open Police Department Cases for the Police Litigation Unit Report."²⁵ Of these, approximately 101 lawsuits and all 211 claims were used in calculating the LAPD's compliance with paragraph 76. The remaining 49 lawsuits involved traffic accidents that did not allege misconduct.

A reconciliation of the Risk Management Division's CLIS identified that approximately 100 of these lawsuits were listed as either a lawsuit or claim and 209 of the 211 claims were listed as either a claim or lawsuit.

The Monitor concludes that the City of Los Angeles is in compliance with paragraph 76 of the Consent Decree.

Paragraph 78 – Requirement to Report Officer Misconduct

Paragraph 78 requires that Officers are to report, without delay, any conduct by other officers that reasonably appears to constitute any of the following:

²⁵ The period reviewed is April 1 through September 30, 2002.

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

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

Background

The Monitor's last review of paragraph 78 occurred during the quarter ending December 31, 2001. At that time the Department was found in compliance with the Consent Decree.

Current Assessment of Compliance

During a prior period the Monitor selected a sample of approximately 71 neglect of duty complaints from a population of 263 that alleged any of the aforementioned actions. During the most recent reporting period the Monitor requested a status on the selected investigations. In total, only 16 of these cases were closed or completed according to LAPD reports. While the LAPD produced the complaint investigation packets for review, we find this sample size too small for the drawing of conclusions relative to compliance.

Nonetheless, in no instance of the 16 complaint investigations was the investigation engendered (or corroborated) by a police initiated complaint. Fourteen complaint investigations alleged excessive use of force by the involved officers. For 13 of the 14 complaint investigations reviewed, the Monitor found the investigations to be complete and adequately documented. Because the officers in these investigations were absolved of wrongdoing no negative inference can be drawn from the non-reporting of fellow officers. For one investigation, it was unclear as to whether or not the area adjacent to the arrest was canvassed for possible witnesses thus leaving open the possibility that a police initiated complaint should have been lodged. One complaint, which was sustained, involved a violation of Department policy that was not self-reported. Both involved officers were suspended in accordance with a sustained adjudication. The Monitor agreed with the conclusions reached by the investigation.

The last complaint involved two officers, one of whom has since been removed from the Department and prosecuted for his actions. A review of the complaint didn't yield any information on the other officer listed on the complaint form. According to events as portrayed by at least two witnesses, this officer was in a position to recognize a severe violation of LAPD policy that appears to have gone unreported.

Thus, in the only two instances in which reporting by a fellow police officer would positively have been appropriate, there was no such reporting. Next quarter we will be looking at all sustained complaints of the enumerated types to determine how many such complaints were initiated (or corroborated) by police officers and if not whether any disciplinary action against non-reporting officers ensued. The Monitor is withholding its determination of compliance.

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. Among other things, the Guide instructs chain of command investigators to interview supervisors with respect to their conduct at the scene of the incident and prohibits the practice of conducting group interviews.

During the quarter ending September 30, 2002, the Monitor's review of completed complaint investigations was limited due to the small number of complaints actually reported and investigated post-Consent Decree.

During the current quarter, the Monitor assessed for the first time the Department's compliance with requirements for conducting Non-Categorical Uses of Force investigations.

The results of our current assessment follow.

Paragraph 81 – Investigation of Complaints and Non-Categorical Uses of Force

Paragraph 81 requires that certain investigative guidelines set out in paragraph 80 shall also apply to complaint investigations and Non-Categorical Use of Force 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 the evidence.

Background

In the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor concluded that it was unable to assess compliance for the investigation of complaints as there were no completed complaint investigations prior to that date that related to post-Consent Decree

incidents. The LAPD Audit Division is scheduled to complete its audit of complaint investigations in the Quarter Ending March 31, 2003, after which the Monitor will assess compliance with the provisions of paragraph 81a.

Prior to this quarter, the Monitor had not reviewed the provisions of this paragraph that relate to Non-Categorical Uses of Force. Historically both the LAPD Audit Division and the Office of the Inspector General completed audits of Non-Categorical Use of Force investigations and found several areas of non-compliance. These audits related to Non-Categorical Use of Force incidents that occurred from June 1, 2002 through May 31, 2001, and from September 1, 2001 through November 30, 2001.

Current Assessment of Compliance

For 79 of the 85 Non-Categorical Use of Force incidents reviewed, from a total population of 696, the Monitor was unable to determine whether or not witnesses were interviewed separately. Although each interview was substantively reported separately, the date, time and location of interviews were not sufficiently documented nor were there additional indications that interviews were conducted separately. For 2 incidents, the Monitor noted that interviews were not conducted separately. In all incidents reviewed, where a Supervisor was present at the NCUF, the Supervisor was interviewed for the investigation.

Generally, the collectable evidence of a Non-Categorical Use of Force consists of photographs of the subject of the use of force, the surrounding location at which the use of force occurred, and anyone injured during the incident, as well as witness statements. With a few exceptions,²⁶ all investigations reviewed included photographs of the subject from several angles, and, if applicable, the involved officers.

Largely due to the LAPD's failure to properly document whether or not witness interviews are conducted separately, the Monitor must find the LAPD in non-compliance with paragraph 81. This issue was discussed with the Commanding Officer of Risk Management who advised that the LAPD is aware of the problem and is in the process of amending current policy to address this deficiency.

Proposed Recommendations

The Monitor recommends that the LAPD immediately inform all supervisory personnel who conduct Non-Categorical Use of Force investigations that they must more thoroughly document the location of the interview and the time of the interview in order to achieve compliance with paragraph 81. A revision of applicable forms to include a mandate to indicate whether the interview was conducted separately should be undertaken. This will serve the dual purpose of

²⁶ Exceptions include one investigation that was the result of a department complaint; one investigation where no pictures were taken due to the sensitive nature of the injuries; one investigation where pictures of the officers and the environment were taken, but not of the subject of the NCUF; and one incident in which the photographs were lost.

making determination of compliance easier, while at the same time, reminding officers of their obligation to separate witnesses.

E. ADJUDICATING INVESTIGATIONS

In its Report for the Quarter Ending September 30, 2002, the Monitor assessed the adjudication phase of the complaint process. The Monitor is scheduled to assess such issues again in its Report for the Quarter Ending March 31, 2003.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

Overview

It is mandated by the Consent Decree that the Chief of Police report to the Police Commission his imposition of discipline during each calendar quarter. It is also required that a copy of the report be forwarded to the Inspector General.

The Inspector General is required to review, analyze and report to the Police Commission on each Quarterly Discipline Report. The Police Commission, in turn, is mandated to review the Report with the Chief of Police and assess the appropriateness of the Chief of Police's actions.

In previous reports, the Monitor has expressed concerns about the timeliness of the information presented in the Quarterly Discipline Reports and with their lack of detail relative to misconduct cases.

During the current quarter, the Department made critical modifications to its discipline report database that will facilitate the inclusion of narrative summaries in the quarterly discipline reports, bringing the Department closer to achieving compliance.

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 the imposition of discipline during the previous calendar quarter no later than 45 days from the end of each quarter and that a copy of the report shall be forwarded to the Inspector General.

Background

As reported in the Monitor's Report for the Quarter Ending March 31, 2002, the Monitor expressed concerns about the timeliness of information presented in the Quarterly Discipline Report and the manner in which discipline imposed was broken down [Paragraph 88(a)]. The Department of Justice articulated similar concerns in a letter to the City of Los Angeles.

During the quarter ending September 30, 2002, the Department submitted a revised Quarterly Discipline Report for the quarter ending June 30, 2002. The report contained a number of revisions, which the Monitor viewed as a good attempt toward compliance with the provisions of paragraph 88(a).

As described in detail in the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor has had ongoing discussions with LAPD personnel concerning the timeliness of the information included in the Quarterly Discipline Report. In addition, the Department of Justice expressed concern that the monthly reports on Administration of Internal Discipline, which are attached to the quarterly Discipline reports, do not contain the level of detail required by the Consent Decree.

Current Assessment of Compliance

Timeliness

Discussions have been ongoing with LAPD personnel concerning the timeliness of the information included in the Quarterly Discipline Report.

Discussions were held internally by Department personnel concerning the Monitor's recommendation to reexamine the second quarter 2002 Discipline Report data focusing on when the Chief of Police made his final determination of discipline during each quarter and excluding closed cases that did not fit the profile articulated by the Monitor in the Report for the Quarter Ending September 30, 2002. Due to staffing priorities, the Department decided to postpone acting on this recommendation in favor of expending its resources to address the Department of Justice and Monitor's concerns about the exclusion of narrative summaries in the Discipline Reports.

Narrative Summaries

Compliance with paragraph 88 of the Consent Decree requires that the Quarterly Discipline Report include narrative summaries of the misconduct cases.

During this quarter, the LAPD made significant improvements to the discipline report database, which will allow for the entry of complaint summaries in a "text field" that can be electronically retrieved for report purposes. It was represented to the Monitor that complaint summary information collection has been initiated and that the Discipline Report for the fourth quarter 2002 will include complaint summaries for complaints closed in December and a portion of complaints closed in November. Complaint summaries will be available for sustained complaints, excluding Failure to Qualify, Failure to Appear, and Preventable Traffic Accident.

The Monitor finds that the LAPD is moving closer towards compliance with the requirements of paragraph 88.²⁷ However, at this time the LAPD is still in functional non-compliance.

Paragraph 89 – Inspector General and Police Commission Review

Paragraph 89 requires the Inspector General to review, analyze, and report to the Police Commission on each Quarterly Discipline Report. The Police Commission must review the Quarterly Discipline Report with the Chief of Police and make an assessment of the appropriateness of the Chief of Police's actions, specifically with respect to Categorical Uses of Force.

Background

The Office of Inspector General is responsible for reviewing and analyzing the LAPD Quarterly Discipline Report and reporting its findings to the Police Commission. To ensure that the Inspector General has all the information needed to complete an appropriate analysis of discipline imposed, the LAPD provides the Inspector General with information from the database used to develop the discipline report.

The Inspector General Report and the Quarterly Discipline Report are discussed in open session before the Police Commission, affording an opportunity for public comment. The reports are also discussed in closed session to allow for evaluation of the discipline imposed and to assess the appropriateness of the actions taken by the Chief of Police. As part of the assessment process, the Police Commission is required to specifically comment on discipline imposed by the Chief of Police in out-of-policy Categorical Use of Force cases.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed the Inspector General's review of the third quarter 2002 Discipline Report. In addition to his normal review, the Inspector General focused on Unauthorized Force Complaints. His focus encompassed 113 closed cases in which at least one allegation of Unauthorized Force was classified as either "Unfounded" or "Exonerated." In four cases, the Inspector General found the adjudication of "Unfounded" to be questionable, with the more appropriate adjudication being "Not Resolved." In eleven of the cases reviewed, the Inspector General found that the allegations adjudicated as "Unfounded" should have been more appropriately adjudicated as "Exonerated." The Inspector General anticipates recommending that the Department consider re-classifying these allegations.

The Inspector General discussed seven investigative problem areas identified during his review and made a number of recommendations concerning Unauthorized Force complaint investigations, including the following²⁸:

²³ The Monitor commends the Department's effort in developing modifications to its discipline report database for the inclusion of narrative summaries and is looking forward to reviewing the Quarterly Discipline Report for the fourth quarter 2002.

- The Department should provide additional training to complaint investigators and adjudicators regarding the distinction between dispositions of “Unfounded” versus “Exonerated.”
- Should the Department continue to rely on Non-Categorical Use of Force reports to serve as the basis for personnel complaint investigations into allegations of Unauthorized Force, then efforts should be made to ensure that additional requirements mandated by paragraphs 80 and 83 of the Consent Decree are complied with during the subsequent personnel complaint investigation including, but not limited to, interviewing and tape-recording involved officers, and reviewing and considering the disciplinary history of the accused.

Each quarter, the Police Commission discusses discipline issues with the Chief of Police in closed session and prepares a written summary of the discussions. Included in the summary is the Police Commission’s assessment of the appropriateness of the disciplinary actions taken by the Chief of Police. The assessments are used in the annual evaluation of the Chief of Police.

The Monitor examined two written Police Commission assessments covering the disciplinary actions taken by the Chief of Police in the second and third quarters of 2002. Although discipline involving 28 Categorical Use of Force cases determined to be out-of-policy or administratively disapproved was reflected in the Quarterly Discipline reports for the two quarters, the Police Commission’s assessment did not contain an evaluation of the discipline imposed in these cases as required by Consent Decree paragraph 89.

The Monitor finds the Inspector General and Police Commission in functional compliance with the provisions of paragraph 89 concerning review, analysis, and reporting to the Police Commission and the Police Commission’s review of the Discipline Report. However, for the reasons stated above, the Monitor finds lacking the Police Commission’s written assessments of the discipline imposed by the Chief of Police pertaining to Categorical Use of Force cases²⁹. Therefore, the Monitor continues to find the Police Commission in functional non-compliance with this provision of the paragraph.

G. INTERNAL AFFAIRS GROUP

Overview

The LAPD Internal Affairs Group has oversight responsibility to manage all complaints filed against LAPD officers. Historically, the overwhelming majority of the complaints filed were investigated by chain-of-command supervisors. While this is still true under the Consent Decree, the Decree mandates that certain categories of cases, including unauthorized use of force;

²⁸ These concerns may be the subject of further review by the Monitor pursuant to paragraph 154 of the Consent Decree.

²⁹ Since the Police Commission’s written assessments will be the basis for a portion of the annual evaluation of the Chief of Police, it is particularly important that they at a minimum conform to the provisions of the Consent Decree.

unlawful search or seizure; dishonesty; domestic violence; discrimination – be handled directly by the Internal Affairs (IA) Administrative Division.

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 the IA Administrative Division. The Department has made progress in filling its vacancies and anticipates that all authorized positions will be filled by July 2003.

This quarter the Monitor focused attention on administrative requirements of the Consent Decree relative to complaint investigations, namely the staffing, training and evaluation requirements of the IA Administrative Division. The Monitor also reviewed the LAPD's Ethics Enforcement Section that is responsible for conducting Sting Audits for officers identified as potentially high risk.

The results of our current assessment follow.

Paragraph 95 – Internal Affairs Group Investigator Positions

Paragraph 95 defines the time period in which the City and the Department must properly staff the Internal Affairs (IA) Administrative Division 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's Report for the Quarter Ending June 30, 2002, found the LAPD to be in non-compliance with the requirements of this paragraph. The Monitor arrived at this conclusion based on interviews with LAPD staff and a review of the IA Administrative Division actual staffing versus authorized positions. The Monitor found that many authorized positions were yet to be filled and that the LAPD continues to rely on "loaned" officers.

The City and the LAPD disagreed with the Monitor's conclusion. They responded that although the LAPD received authorization for certain staffing levels, it was meeting the time limit requirements of the Consent Decree with its existing staff, and thus, did not need to allocate additional personnel to the IA Administrative Division. Specifically, the LAPD and the City advised that the LAPD was transitioning investigative responsibility systematically to the IA Administrative Division according to its September 19, 2001 Transition Plan, and after each transition, was monitoring the Administrative Division's ability to complete investigations in a timely manner.

On September 27, 2002, the LAPD issued a revised Transition Plan to address transition of claims for damages and theft and dishonesty complaints solely to the Internal Affairs Administrative Division. In the revised transition plan, claims for damages and theft and

dishonesty complaints were transitioned solely to Administrative Division investigators on October 1, 2002 and December 5, 2002, respectively. The September 27, 2002 Revised Transition Plan also makes recommendations to meet targeted staffing levels.

Current Assessment of Compliance

The Monitor requested and received a listing of all complaint investigations received by the LAPD during the period January 1 through April 30, 2002 that were assigned to the IA Administrative Division for investigation. During this time period, approximately 386 complaints were received and assigned to the Administrative Division.

The Monitor also requested that the LAPD advise of the status of each complaint investigation as of September 30, 2002. This date was selected because had a complaint been received on April 30, 2002, approximately 153 days would have elapsed by the end of September.

For the 386 complaints identified, approximately 190 investigations were not completed as of September 30, 2002. For the remaining 196 that were completed, approximately 45 were completed in excess of 150 days. Thus, 235 of the 386 complaints received, representing 60.9% of the population, were not completed within the 150-day time period as dictated by paragraph 87 of the Consent Decree.

IA Administrative Division complaint investigations continue to represent a small segment of the overall complaint population, which also includes Chain of Command investigations. Even though IA Administrative Division investigations have yet to consistently meet the 51% timely completion compliance threshold, when combined with LAPD compiled statistics for Chain of Command investigations, the LAPD appears to be meeting compliance with paragraph 87.

As of December 31, 2002, the LAPD had filled approximately 167 of the 208 positions for which it had authority. This is a decrease in vacancies of approximately 22 positions or roughly 33% since the Monitor's last review. The Department anticipates filling all authorized positions by July 2003. The IA Administrative Division also authorized overtime for investigators in order to complete investigations more timely. Therefore the Monitor finds the LAPD to be in compliance with paragraph 95.

Paragraph 97 – Scheduled Integrity/Sting Audits

Paragraph 97 requires the LAPD 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 failing to report misconduct or complaints. The LAPD was required to develop and initiate this plan before July 1, 2001.

Background

In order to meet the requirements of paragraph 97 the LAPD established the Ethics Enforcement Section (EES), which falls under the management of the Commanding Officer of the LAPD's Internal Affairs Division.³⁰ EES conducts both random and targeted "Sting Audits." The random Sting Audits are conducted periodically and without any specific officer as a target of the process. The targeted sting audits on the other hand are directed at officers identified through research or through referrals³¹ as being potentially at risk. Prior to undertaking a directed sting audit the EES must make 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 officers' at-risk behavior.³²

The Monitor, in prior reporting periods, was provided access to EES personnel, facilities and sting audit reports and concluded that the LAPD was in compliance with regard to the provisions of this paragraph. The Monitor was also in receipt of three previously issued quarterly audit reports prepared in accordance with paragraph 127. These reports were approved by the Chief of Police and forwarded to the Police Commission.

Current Assessment of Compliance

Risk Evaluation Reports

As with prior reporting periods, the Monitor received full cooperation from the LAPD's EES staff.

During the current quarter the Monitor reviewed five Risk Evaluation Reports generated by EES. The reports identified the source of information on potential subject officers as well as the existing relevant information and evidence. Four of the reports indicated that officers were referred by the LAPD's Internal Affairs Division based on information contained in pending complaint investigations. For one matter, the EES was contacted directly by an officer expressing concern about another officer's on-the-job activities.

For all five matters³³ the EES conducted a thorough preliminary investigation and concluded that it was not appropriate for the EES to tailor a sting audit. These conclusions were based on one of the following rationales: that no evident pattern of conduct existed; that the allegations were outside the scope of EES' responsibility (and would constitute a misuse of limited resources); or

³⁰ Special Order 22, "Ethics Enforcement Section-Established," approved by the Commission September 18, 2001.

³¹ Referrals in most instances are generated by complaints; however, they may be received directly from officers.

³² When enough evidence exists to establish at-risk prohibited behavior, the officer can be addressed directly through the IAG's complaint investigation process without the need for a Sting Audit.

³³ Two matters involved alleged sexual misconduct, one matter alleged neglect of duty, one matter alleged unlawful search and one matter alleged unauthorized use of force.

that there existed enough information for the matter to be adjudicated under the LAPD's complaint process.

A review of all EES' Risk Evaluation Reports identified a standardized process that included a summary that was reviewed by EES management, as evidenced by a statement and signature at its conclusion. Information filed behind the summary included copies of complaint forms, complainant interviews, witness interviews and officer histories.

Audits

The Monitor requested access to review sting audits that were completed during the period April 1, 2002 through September 30, 2002.³⁴ In total, eight sting audits were reviewed. Four were targeted sting audits and four were random sting audits. Each of the audits conducted addressed Consent Decree requirements.

As previously reported by the Monitor, the LAPD has issued policies that adequately and reasonably address the requirements of this particular paragraph. Each audit reviewed was concise and thoroughly documented.

In all eight audits reviewed, 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 of paragraph 97 requirements and provided recommendations to improve the overall performance of audited officers and the LAPD as a whole.

The Monitor finds the LAPD to be in compliance with the provisions of paragraph 97 of the Consent Decree.

Paragraph 98 – Hiring of Internal Affairs Investigators/Supervisors

Paragraph 98 mandates that when hiring an individual for service as an Internal Affairs (IA) Administrative Division investigator, the Internal Affairs Group Commanding Officer must consider investigative experience a desirable criterion, but not a required one. In addition, a candidate whose work history includes any *sustained*³⁵ complaint investigation or discipline received for the use of excessive force, a false arrest or charge, or an improper search or seizure, sexual harassment, discrimination or dishonesty must be disqualified as a candidate for service in the IA Administrative Division unless the Commanding Officer justifies the candidate's hiring in writing.

³⁴ Completed is defined as those audits that were planned, conducted and documented during this period. As such, the actual date or dates of audits conducted in some instances preceded this time period, however, were documented and reported during the period selected. Conversely, there are ongoing audits that occurred during the period selected that are not complete, and as such, will be reviewed during future periods.

³⁵ Sustained complaint and discipline criteria remain a "meet and confer" item.

Background

The Monitor last reviewed paragraph 98 during the quarter ending June 30, 2002. The LAPD was found to be in compliance.

Current Assessment of Compliance

The Monitor reviewed the selection packages for 31 of the 32 individuals chosen by the Commanding Officer, Internal Affairs Group to be investigators covering individuals chosen between April 1, 2002 to September 30, 2002.³⁶

Paragraph 98 calls for a review of an officer's history in the course of consideration for the position of Internal Affairs Administrative Division investigator. The Monitor interprets this to include reviewing the officer's TEAMS history. In seven of the packages, while the TEAMS history is marked as reviewed on the standardized checklist of documents to be contained in a selection package, the TEAMS printout was not present; therefore, the Monitor was not able to assess if there was a TEAMS report present in the package at the time of review. In an effort to resolve this ambiguity, the Monitor requested and the Department provided a current TEAMS printout for each individual. None of the candidates whose original printout was missing had any history that would preclude him or her from serving in the IA Administrative Division.

None of the individuals chosen for service had any incidents in their history that would preclude them from service; all had career histories appropriate to serve as an IA Administrative Division investigator. However, the Commanding Officer did prepare memorandum justifying selection where deemed appropriate.

The Monitor concludes that the LAPD is in compliance with paragraph 98.

Paragraph 100 – Internal Affairs Evaluations

Paragraph 100 of the Consent Decree requires the Commanding Officer, Internal Affairs Group 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 Internal Affairs Group.

Background

Prior to this quarter, the Monitor had not reviewed any Internal Affairs (IA) Administrative Division investigator packages for compliance with paragraph 100.

³⁶ The selection package for one of the individuals could not be located by IAG; however, the Monitor was provided a recent TEAMS report for the individual. Based on the information in the TEAMS report, there is nothing in the individuals' history that would preclude him/her from service in IAG.

Current Assessment of Compliance

Current LAPD policy requires the Commanding Officer, Internal Affairs Group to review Detective and Sergeant Investigators annually. Reviews of Detective Investigators are required to be completed by the end of December 2002 and Sergeant Investigator reviews are due at the end of January 2003. As such, the Monitor reviewed packages completed for Detectives and will assess compliance regarding Sergeants during the quarter ending June 2003.

The Monitor reviewed approximately 24 packages for Internal Affairs Detectives selected from January 1, 2002 through December 31, 2002. For each officer reviewed, the Commanding Officer completed an Evaluation Report that documented an overall assessment for each officer regarding his/her competency as an IA Administrative Division investigator. Each officer was critiqued regarding their technical knowledge, oral communication skills, interpersonal skills, reasoning and judgment, character and attitude, written communication skills and other personal characteristics. The Monitor noted that each officer's package contained remarks specific to his or her strengths and/or weaknesses in conducting CF 1.28 investigations.

While all officers appeared to have sufficient investigatory background and training for the position it was noted that not all had attended Internal Affairs Investigations training and some had not attended either Internal Affairs or Non-Categorical Use of Force Investigation training. However, all had attended at least 4 of the 5 CEDP's offered by the Department.

The Monitor finds the Department in compliance with paragraph 100.

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

Overview

The LAPD prohibits discriminatory conduct. LAPD officers may not make pedestrian or vehicle stops based on race, color ethnicity or national origin. The only time when race, color, ethnicity or national origin can be utilized as part of a basis for police activity is 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. In previous quarters, the Monitor has concentrated on the City's efforts to collect such data.

During this quarter, the Monitor reviewed the first tranche of collected field data released under the Consent Decree. Although this data is in raw form, on its face it indicates additional review and evaluation are necessary. The Monitor believes the Consent Decree requires the City to analyze the apparent disparities and determine whether or not they result from biased policing. The Monitor approves of the City's initiative to contract with outside experts to analyze the data, review the information gathered, and determine what conclusions, if any, can legitimately be drawn from the information we have. We also look forward to the City's independent expert's view of what additional information, if any, would allow us to have a clearer picture on this

difficult and controversial issue. At the same time that the City is moving forward to engage an outside expert, the Monitor believes it is important for LAPD to use its own internal resources to evaluate, as well as possible, the reasons for the disparities of treatment that appear on the face of the data.

In addition, the Monitor assessed the Department's enforcement of its non-discrimination policy through a review of completed racial profiling, gender bias and discrimination complaint investigations.

With respect to the motor vehicle and pedestrian data itself, an examination of the database revealed that the backlog of approximately 180,000 reports continues to exist. There have been no efforts made to remedy this situation as of the Monitor's last quarterly report nor has the Monitor been informed by the Department or the City how they plan to address this deficiency.

Lastly, the City has yet to release its Request for Proposal for data analysis³⁷ nor has it developed a formal internal audit process that would measure the Department's compliance with the non-discrimination policy.

The results of our current assessment follow.

Paragraphs 102 & 103 – Non- Discrimination Policy and Use of Discrimination

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

Background

In previous quarters, the Monitor reviewed the Department's relevant orders related to its non-discrimination policy and found the Department to be in primary compliance with the Consent Decree. The Monitor also reviewed the Department's training curriculum related to paragraphs 102 and 103. Training on the non-discrimination policy has been incorporated into the STOP database training³⁸ and the Department's eight core curriculum classes,³⁹ which

³⁷ The Department anticipates that this Request for Proposal will be released in early February. Both the Monitor and the Department of Justice were provided with a draft of this RFP and asked to provide comments. Both entities have provided their respective comments to the City.

³⁸ The STOP database is a program that enables officers to correct their errors on their respective field data reports, allows for manual entry of unscannable reports, provides auditing capabilities, and loads scanned data into the database.

³⁹ The eight core classes consist of: Recruit Training, Basic Detective School, Detective Supervisor School, Field Training Officer School, Basic Supervisor School, Watch Commander School, Command Development and the Continuing Education Delivery Plan modules.

include the Continuing Education Delivery Plan modules (CEDP I-V).⁴⁰ Nevertheless, training on the policy was inadequate as the lesson plans did not include interactive problem-solving exercises.

Current Assessment of Compliance

Since the Monitor's last report, the Department has incorporated the interactive problem solving exercises into CEDP Module V, entitled "Ethical Decision Making;" all members of the department are required to attend this training. Based solely on the review of the curriculum, the Monitor believes the problem-solving exercises in CEDP Module V satisfy this requirement. However, due to the very sensitive nature and the importance of this material, the Monitor believes it is critical to observe how this material is actually taught to the officers before making a determination about secondary compliance. In addition, the Department has still not released the RFP for analysis of the collected field data. Similarly, the Department has not developed an adequate internal supervisory and annual audit process.

To assess functional compliance with paragraphs 102 and 103, the Monitor assessed a sample of field data collected according to the dictates of paragraphs 104 and 105. The data is reviewed for trends by activity type, station and unit and is used to identify issues and areas of concern. In December 2002, field data collected from July 1, 2002 through November 30, 2002 was made available to the Monitor.⁴¹ A statistical breakdown of the data, which was collected from July 1, 2002 through November 30, 2002, revealed that Blacks and Hispanics were over three times as likely to be required to exit their vehicles by LAPD as Whites and Blacks were over four times, and Hispanics over three times as likely to be patted down as Whites by LAPD. The data also showed that Black drivers were almost six times, and Hispanic drivers over five times as likely to be searched after being stopped than Whites. The City and the Department have committed to discover the reasons for this disparity. The Monitor will make every effort to assist them in this endeavor.

A determination of functional compliance also requires the Monitor to review all completed complaint investigations alleging racial profiling, gender bias or discrimination. Between July 1, 2002 and September 30, 2002, the Department completed 66 discrimination, racial profiling, or gender bias complaint investigations. Of these, 53 resulted in a finding of "unfounded," 3 resulted in a finding of "exonerated," 8 resulted in a finding of "insufficient evidence to adjudicate," 1 resulted in a finding of "no misconduct," and 1 resulted in a finding of "policy and procedure."⁴²

⁴⁰ CEDP is in-service training organized into eight hours of a specific discipline. The training is mandatory for Lieutenants and below except for CEDP V, which is required for all members of the Department. The Department anticipates creating a total of eight CEDP modules.

⁴¹ On January 6, 2003, the data was also made available to the Public via its posting on the LAPD website.

⁴² The following are the potential adjudications of a complaint investigation: Unfounded - investigation was conducted and they were able to prove the allegation against the officer did not occur; Insufficient evidence - investigation was conducted and the investigators were unable to prove the incident occurred; No misconduct - it occurred but after investigation found the officer's actions to be in-policy or no misconduct occurred; Other judicial - referred to another judicial branch, i.e. family court; Sustained - The alleged misconduct was proven to have

The Monitor reviewed all 66 complaint packages and agreed with the Department's findings. Five of these complaints were reported in 2000, but were not adjudicated until 2002. The Monitor finds the two-year delay in adjudicating these complaints to be unacceptable. Had the allegations in any of the complaints revealed misconduct, two years would have passed before it came to the attention of an investigating officer. The delay hinders the Department's ability to locate witnesses; ascertain facts as the memories of the complainant(s) as well as the witness(es) are weaker and less reliable. Furthermore, the two-year lag gives the impression to both the community and the involved officers that the allegations are not a Department priority.

The Monitor finds the Department to be in primary compliance with the provisions of paragraphs 102 and 103. The Monitor finds the Department in secondary non-compliance with the paragraph due to the failure to release an RFP for analysis of the collected field data and the failure to develop an adequate internal supervisory and annual audit process. The Monitor finds the Department in functional non-compliance with the paragraph due to the delays in adjudicating complaints.

Paragraphs 104 & 105 – Motor Vehicle and Pedestrian Stops

Paragraph 104 mandates that by November 1, 2001 officers are to complete a written or electronic report⁴³ each time they conduct a motor vehicle stop. Paragraph 105 mandates that by November 1, 2001 officers are to complete a field data report each time they conduct a pedestrian stop.

Background

The Monitor's Report for the Quarter ending September 30, 2002 found that the Department, in a combined effort with the City, created a usable, reliable, and partially complete database. The portion of the database that consists of data from July 1, 2002 through November 30, 2002 had a 1% error rate, as opposed to the complete database, comprised of data from November 1, 2001 through November 30, 2002, with a 3% error rate.⁴⁴

Current Assessment of Compliance

Scantron, the City's current vendor for the entry of data records into the database, continues to successfully scan and extract data from the field data reports completed by officers in the field.

occurred; Policy/procedure – it did occur but the action by the officer was in-policy; and, Exonerated – investigation was conducted and officer was found not guilty of any misconduct.

⁴³ The Field Data Report is a paper form used by officers to gather specific information relating to pedestrian and motor vehicle stops. The information includes: the individuals apparent age, apparent ethnicity, apparent race or national origin, gender, reasons for the stop, whether the driver was required to exit the vehicle, whether the driver was asked to submit to a consensual search of his or her person, vehicle and/or belongings and, if so, whether he or she granted such permission, the outcome of the stop, and results of the search, as well as other items that relate to consensual and non-consensual searches.

⁴⁴ This 3% error rate corresponds to logical errors, which are inconsistencies in the reported fields.

As of December 31, 2002, the Department had collected 812,050 field data reports. The complete database, which spans November 1, 2001 through December 31, 2002, contains 631,876 reports with a 3% error rate. As reported in the Monitor's Report for the Quarter Ending September 30, 2002, there are approximately 180,000 outstanding reports that have not been entered into the database. The Monitor continues to await an explanation as to how the Department intends to resolve this issue.

The Department continues to make progress in selecting a vendor that can develop a handheld device that will capture the field data electronically thus reducing the chance for human error. Although this is not a Consent Decree mandated project, the Department and the City continue to move forward and expect to select a vendor in the upcoming months.

The Department is currently reviewing its field data report form to ensure that the descent category language is consistent with other Department paperwork that captures that data. The Department is also assessing the sequence of the report's questions and considering the inclusion of additional questions with the intent of providing insight into the meaning of the data.

The Monitor finds the Department to be in primary compliance with paragraphs 104 and 105, but in secondary non-compliance due to the absence of an internal and supervisory annual audit function of the data collection process.⁴⁵ Although the Department has achieved a reliable and complete database from July 2002 through the present, the unresolved issue of the outstanding 180,000 reports necessitates that the Monitor find the Department in functional non-compliance with paragraphs 104 and 105.

IV. MANAGEMENT OF GANG UNITS

In its Report for the Quarter Ending September 30, 2002, the Monitor assessed the Department's management of its gang units. The Monitor is scheduled to assess such issues again in its Report for the Quarter Ending March 31, 2003.

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.

⁴⁵ Paragraph 128 of the Consent Decree mandates that Audit Division conduct an annual audit of the data collection process. Although Audit Division will ultimately conduct the audit, Management Services Division is tasked with developing the methodology. The Monitor has consulted with Management Services Division several times on the development of this methodology.

In prior quarterly reports, the Monitor has expressed concern relative to poor administrative oversight of the informant packages and the relatively low number of informants being maintained by the Department.

During this quarter, the Monitor reviewed the Department's management of confidential informants, including the confidential informant packages, the confidential informant databases, and the Manual. The review established that supervisory oversight of the packages remains deficient, as evidenced by their lack of uniformity and standardization department-wide.

The Monitor commends those officers who are properly using confidential informants to further their investigations and encourages them in this effort.

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 chain-of-command for review and approval and numerous additional requirements for the managing of informants.

Background

The Monitor's Report for the Quarter Ending June 30, 2002 found the LAPD to be in primary compliance with the requirements of paragraph 108. However, the Monitor found a high overall rate of non-compliance with the active confidential informant packages. Such deficiencies included, but were not limited to, officers' failure to check the Undesirable Informant Database when a source had not been used in 90 days; failure to accurately document access to the informant packages; and multiple failures at documenting meetings with informants.

Current Assessment of Compliance

In order to assess functional compliance with the mandates of paragraph 108 during the current quarter, the Monitor reviewed confidential informant packages, consisting of active informant packages and inactive informant packages.

The Monitor's review established that 64% of informant packages reviewed were maintained in compliance with the requirements of paragraph 108 of the Consent Decree. Of the active informant packages reviewed, 58% were in compliance with paragraph 108 requirements.⁴⁶ Despite this low overall rate of compliance, several fundamental and important procedures were

⁴⁶ Under the Methodologies to Aid in Determination of Consent Decree Compliance, packages lacking 2 or more required elements are considered to have failed. Of those that achieved compliance, only 24% of these packages had all of the required elements, the remaining 76% lacked one required element but still achieved compliance.

rated at or near 100% compliance, including the fact that all Confidential Informant packages are maintained in a locked and secure location.⁴⁷

Based upon the analysis described above, the Monitor finds the LAPD in non-compliance with the secondary and functional requirements of paragraph 108. No substantive failures were uncovered relating to informant misuse or improper actions. The Monitor has provided its analysis to the LAPD.

Proposed Recommendations

The Monitor recommends that all active informant packages be brought up to the standards of both the Consent Decree and the Department's Informant Manual dated February 26, 2002. The Monitor proposes the following specific recommendations in connection with paragraph 108:

- Pre-collated packages should be maintained at each of the Divisions containing the appropriate forms needed for the complete and accurate completion of the package. The package should contain an instruction sheet with a checklist that reminds officers of their documentation obligations. Such a system would serve not only to remind officers of that which needs to be done, but would also provide a relatively quick method for supervisory review.
- The Informant Manual should be revised to clarify requirements and procedures for maintaining informant control packages and the handling of informants. Officers must be trained on how to properly document their interactions with informants, including each meeting that takes place, the information received, and follow-up required.
- Supervisory oversight at the Command Officer level must be improved. The Informant Manual should be revised to clarify the procedures for supervisory review and approval of informant packages. The Monitor found two instances in which Areas were notified of deficiencies but failed to address those deficiencies.

⁴⁷ The Monitor found the following areas of non-compliance resulting from failure to conform with the methodology and/or existing policy guidelines:

- In 78% of the cases, officers failed to obtain supervisor and/or commanding officer signatures on appropriate forms;
- In 11% of the cases, officers failed to document whether a preliminary meeting took place between the supervisor and the informant prior to submission of the package;
- In 38% of the cases, officers failed to document information received from an informant and, where information was received, whether the required follow-up occurred.

Other compliance failures were noted as well, including: Informant packages missing signature cards; errors on the master list of active informant packages; failure to ensure that the active/inactive status of informant packages corresponds with their status in the Active Informant Database; and, failure to document return dates or proper signatures on the Sign-Out Forms. Some of the deficiencies may be attributable to varied interpretations of the requirements of the Informant Manual and forms that do not adequately explain, nor provide fields for required documentation. (See discussion under Paragraph 110.)

- Serial numbers should be required with every signature and form used. It is difficult to identify some signatures without the serial number accompanying them.
- The Rolodex cards, which include the investigating officer's name, serial number, unit assignment and informant number should be kept separate from the informant package. Keeping the rolodex card inside the package defeats the purpose of having a back-up tracking system to the Sign-Out Forms. In lieu of the rolodex cards, a master list should be maintained by each Division.
- Sign-Out Forms should be maintained in each informant package and used as placeholders for the packages while they are checked out.

Paragraphs 109 – Confidential Informants Database

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 must include the informant number, name, aliases and date of birth.

Background

In the Monitor's Report for the Quarter Ending April 30, 2002, the LAPD was found to be in primary compliance with the requirements of paragraph 109. However, the Monitor found deficiencies with the Active Informant Database ranging from minor inefficiencies in information processing to serious questions regarding its accuracy when comparing active packages with the number of informants listed in the database.

In subsequent reports, the Monitor discussed these same issues regarding accuracy and incorrect data input. In addition, the Monitor identified serious concerns regarding the accuracy and accessibility of the Undesirable Informant Database, ranging from missing information, including dates of birth and aliases, to problems inherent in conducting a manual search of this database.

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 purpose of this review was to determine whether the information contained in the database matched the information in the confidential informant packages.

The Monitor found discrepancies with the middle names of two of the active informants when comparing the information in the database with the active informant packages. Aside from these two minor discrepancies, the Monitor found that the information in the Active Informant Database matched the information in the active informant packages.

The Monitor also conducted a review of the Undesirable Informant Database to determine whether the entries matched the information in the confidential informant packages. Since the Monitor's last review, the Undesirable Informant Database has been updated and enhanced, eliminating the need for officers to perform manual searches of the database. In addition, the new system records all queries of a particular officer checking the database; searches the system by any number of fields; and indicates the date that a particular informant became undesirable.

The Monitor discussed with the Chief of Staff's Office the concern that the Undesirable Informant Database still does not interface with the Active Informant Database regarding instances when an active or inactive informant becomes undesirable. According to the Chief of Staff's Office, steps are currently being taken to correct this deficiency.

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

Proposed 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.
- The Active Informant Database and the Undesirable Informant Database should be consolidated. This would facilitate a more coordinated tracking of all Department informants. Those responsible for maintaining two databases would be able to report informant information in a single database environment.
- Back-up disks for these databases should be maintained in a secure location physically separated from the original databases for reasons of security and threat of natural disasters.

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

The Monitor's Report for the Quarter Ending April 30, 2002, noted that on February 26, 2002 the LAPD published an Informant Manual, which defines procedures for identifying and utilizing confidential informants pursuant to the requirements of the Consent Decree. The LAPD was found to be in primary compliance with the requirements of paragraph 110.

In subsequent reports, the LAPD was found to be in non-compliance with the secondary requirements of paragraph 110. The Monitor raised two issues regarding the training that covers

this Informant Manual. First, there was no instruction on how to create an informant package or document contact with an informant, nor was there discussion of the procedures for supervisory review and approval of informant packages. Second, training on this Manual was only implemented in two Department courses. Those personnel not attending these courses were responsible to train themselves on the Manual's requirements.

Current Assessment of Compliance

In order to assess functional compliance with the mandates of paragraph 110 during the current quarter, the Monitor reviewed the Informant Manual to ensure that it is responsive to paragraphs 108 and 109.⁴⁸ The Monitor's assessment also included review of confidential informant packages and interviews with command staff and officers maintaining informants.

The Monitor's review found that the Manual contains sections that are ambiguous or not detailed enough to elucidate the requirements of paragraphs 108 and 109.

Given the Monitor's reservations about the content and varied interpretation of the Informant Manual, as described below, the Monitor finds the LAPD in non-compliance with paragraph 110.

Proposed Recommendations

The monitor proposes the following recommendations regarding the Informant Manual:

- The Informant Manual should be revised to make it more understandable and user-friendly.⁴⁹
- The Monitor's Report for the Quarter Ending June 30, 2002 addressed the fact that training on the Informant Manual is only being implemented in two Department courses: the Detective Supervisory and the Basic Detective Courses. The Monitor recommends that training on the handling of informants be offered and made mandatory for all officers permitted to manage informants.
- The Monitor's Report for the Quarter Ending June 30, 2002 recommended that the final review of completed informant packages be centralized to ensure uniformity and completeness. The Monitor has spoken with LAPD Command Staff regarding this issue and they agree with the Monitor's recommendation. Indeed, LAPD Command Staff suggested having one final reviewer in each of the four bureaus who would check for informant package accuracy and Informant Manual compliance prior to the Division Commanding Officer's review and approval and before inputting it into the Confidential Informant Database.

⁴⁸ The Monitor is scheduled to attend the Basic Detective and Detective Supervisory Courses in March 2003 at which time secondary compliance for paragraph 110 will be reassessed.

⁴⁹ See Appendix B for the specific sections that require revision.

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 and 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 is required by the Consent Decree to forward its reports and actions regarding new or revised policies, practices, or training to the City Council and Mayor. In addition, the Department is expected to complete an audit of the LAPD's handling of calls and incidents involving persons who appear to be mentally ill, no more than 32 months after the effective date of the Consent Decree.

During this quarter, the Monitor had discussions with LAPD personnel and representatives from the Chief Legislative Analyst's office in order to monitor the progress being made concerning the Mental Illness Project.

The results of our current assessment follow.

Paragraph 112 – Report on Proposed Police Contact with Mentally Ill

The Department is required 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.

Background

The LAPD's report to the Police Commission concerning the Mental Illness Project was submitted timely by July 15, 2002. The report contained the Department's findings and recommendations.

The Department's findings included a judgment that LAPD's incident tracking systems, including Use of Force, did not readily identify incidents that involved persons who may be

mentally ill. As a result, the ability to evaluate the effectiveness of the LAPD's response and to identify trends or training issues was limited. The Department also found that there "may be better methods of training to ensure a greater understanding and sensitivity regarding persons who may be mentally ill."

The Department made a number of recommendations to the Police Commission which were outlined in the Monitor's Report for the Quarter Ending September 30, 2002. The Department of Justice informed the City of a number of concerns it had with the LAPD report, which were also outlined in the Report for the Quarter Ending September 30, 2002. The Police Commission requested that the LAPD respond to the Department of Justice's concerns and report back to the Police Commission.

The LAPD submitted a supplemental report to the Police Commission indicating that an additional \$1.9 million would be needed to implement revised recommendations concerning the Mental Illness Project. The supplemental report and funding requests were approved by the Police Commission subject to subsequent reopening of the topic to address the concerns of the Department of Justice. A synopsis of the report was contained in the Monitor's Report for the Quarter Ending September 30, 2002.

Current Assessment of Compliance

The City's response to the Department of Justice is still pending. However, two additional supplemental reports have been submitted to the Police Commission to address issues raised by the Department of Justice.

The Department has expanded its deployment of the Crisis Intervention Team (CIT) to include the Harbor and West Los Angeles areas. CIT training, which was scheduled to begin in October and end in December 2002, was not completed. However, a training taskforce was formed and CIT training is scheduled for completion in February 2003.

During the quarter ending December 31, 2002, the Department forwarded its reports and funding requests to the City. The City Council requested that the Chief Legislative Analyst and the City Administrative Office review the Department's recommendations and determine potential funding sources. Their reports to the City Council are due by the end of January 2003.

The Monitor finds the LAPD in functional compliance with the provision of paragraph 112 that requires the Department to report its findings and recommendations to the City Council and Mayor. However, despite the Department's substantial progress on the issue, the Monitor withholds determination of functional compliance with the provisions of paragraph 112 pending final City action on the concerns raised by the Monitor and the Department of Justice⁵⁰.

⁵⁰ The Monitor's previously-stated concern regarding citywide CIT deployment has eased with the anticipated expansion of the CIT Pilot Program. However, the Monitor continues to be concerned about how calls and incidents will be integrated with the dispatch system and how they will be tracked in the future.

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

In its Report for the Quarter Ending September 30, 2002, the Monitor assessed certain issues relative to the Department's field training officers program. The Monitor is scheduled to assess the eligibility criteria for field training selection again in its Report for the Quarter Ending March 31, 2003, and is next scheduled to evaluate the field training officers training plan in its Report for the Quarter Ending June 30, 2003.

B. TRAINING CONTENT

Overview

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.

In the quarter ending September 30, 2002, the Monitor assessed the Department's in-service training. The evaluation concluded that the training did not satisfy the mandates of the Consent Decree.

During the current quarter, the Monitor reviewed the Department's police integrity training, specifically as it relates to recruit training. Upon review of the recruit curriculum, the Monitor found significant deficiencies, especially in the area of duty to report misconduct, prohibition against retaliation, protection from retaliation and interactive exercises in resolving ethical dilemmas.

The results of our current assessment follow.

Paragraph 117 – Police Integrity Training Requirements

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

- The duty to report misconduct and facts relevant to such misconduct;
- What constitutes retaliation for misconduct, the prohibition against retaliation for reporting misconduct, and the protections available to officers from retaliation;

- Cultural diversity, which shall include training on interactions with persons of different races, ethnicities, religious groups, sexual orientations, persons of the opposite sex, and persons with disabilities, and also community policing;
- The role of accurately completing written reports in assuring police integrity, and the proper completion of such reports;
- Fourth amendment and other constitutional requirements, and the requirements of the Department's non-discrimination policy, governing police reactions in conducting stops, searches, seizures, making arrests and using force; and
- Examples of ethical dilemmas faced by LAPD officers and, where practicable given the location, type, and duration of the training, interactive exercises for resolving ethical dilemmas shall be utilized.

Background

The Monitor reviewed police integrity training in the Monitor's Report for the Quarter Ending September 30, 2002 relative to the Department's in-service training. This quarter, the Monitor reviewed the police integrity training in the context of recruit training.

Current Assessment of Compliance

To facilitate measuring compliance, the Monitor requested and received from the Department the curricula of all of the recruit learning disciplines.⁵¹ The Monitor's review established that the same deficiencies exist for the learning disciplines as were noted last quarter for in-service training. The learning disciplines failed to adequately address the following: Duty to report misconduct; what constitutes retaliation; protection against retaliation; and, interactive exercises involving ethical dilemmas. In addition, although the training addresses the Department's non-discrimination policy, additional interactive learning exercises are required in this area.

The recruit training does sufficiently address cultural diversity, community policing, integrity in report writing and Constitutional issues.

The Consent Decree requires that police integrity training be delivered on a 'regular and periodic basis', which the Monitor has defined for the purposes of this paragraph as annually⁵². If the learning disciplines for recruit training are deemed compliant with paragraph 117's mandates, a recruit officer could meet the 'regular and periodic' training requirement though a combination of this training and attendance at the CEDP modules.

⁵¹ Recruit training is comprised of approximately 41 subject matter areas that the Department refers to as learning disciplines. Recruit training lasts for approximately six months.

⁵² The Monitor believes that this integrity training is especially critical during a period of reform.

Finally, as reported in the Monitor's Report for the Quarter Ending September 30, 2001, functional compliance with paragraph 117 requires the Department to have an internal inspection and audit process designed to identify indicators of effectiveness or ineffectiveness in training. To date, the Training Group has not developed an internal audit process.⁵³

The Monitor finds the Department in non-compliance with paragraph 117 due to the deficiencies in its recruit training and because no internal audit process exists to measure the quality of the training.

Proposed Recommendations

The Monitor believes the deficiencies of this training could be resolved by including Interactive Exercise C from CEDP Module VI, Weapons of Mass Destruction⁵⁴ in the recruit learning disciplines. This interactive exercise adequately addresses misconduct, the duty to report misconduct and the protections afforded to those who report misconduct.⁵⁵

Paragraph 120 – Communication of Training Suggestions

Paragraph 120 requires the Department to establish procedures for supervisors and officers of the LAPD to communicate to the LAPD Training Group any suggestions they may have for improving the standardized training provided to LAPD officers, and to make written referrals to the appropriate LAPD official regarding suggestions about police policies and tactics.

Background

Paragraph 120 was reviewed in the Monitor's Report for the Quarter Ending June 30, 2002. Since the signing of the Consent Decree, the Department has implemented several procedures for communicating suggestions to the Training Group. In fact, as reported during the Monitor's last review of paragraph 157,⁵⁶ the Continuing Education Division, along with the California Commission on Peace Officer Standards and Training, developed a revised Basic Supervisory School as a result of suggestions made by officers through course evaluations and student interviews. Consequently, the training will now require each sergeant candidate to participate in

⁵³ The Monitor specifically requested that the Department outline their internal inspection and audit process. The Monitor received a response from Commander Gascon, Training Group dated August 30, 2002 that stated that the Director of Police Training and Education is tasked with the responsibility of designing general methods of evaluating the effectiveness of training in the field. The response stated that Training Group has made repeated personnel requests to accomplish this goal but these demands have remained unanswered, therefore no inspection/audit process has been designed.

⁵⁴ CEDP VI is scheduled to begin the second week of February. Based on a request from CED, the Monitor reviewed and provided comments on the curriculum back to CED.

⁵⁵ The Monitor has prepared a detailed review of the courses and deficiencies noted, and will meet with the Captain of the Training Division to discuss this review.

⁵⁶ See the Monitor's Report for the Quarter Ending June 30, 2002.

two one-day ride-alongs with an experienced sergeant. The evaluations and interviews stressed that the candidates would find tremendous value in participating in field training.

Current Assessment of Compliance

The mechanisms to make training suggestions remain in place; nevertheless, no training related suggestions were submitted to the Continuing Education Division during the period of April 1, 2002 through December 31, 2002.⁵⁷ The Monitor continues to find the Department in compliance with paragraph 120.

C. SUPERVISORY TRAINING

The Monitor's most recent evaluation of supervisory training was reported on in the Monitor's Reports for the Quarters Ending June 30, 2002 and September 30, 2002. The Monitor is scheduled to assess the supervisory training requirements again in its Report for the Quarter Ending March 31, 2003, and is next scheduled to evaluate the remaining supervisory training provisions in its Report for the Quarter Ending September 30, 2003.

VIII. INTEGRITY AUDITS

Overview

The Consent Decree mandates that the LAPD and Inspector General 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, police training and skeletal fractures on a regular and periodic basis. The audit processes of the LAPD and the Inspector General are an important step in the reform process for the entire Department.

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. As the LAPD and Inspector General improve in their abilities to identify and rectify such incidents, as well as the underlying concerns, the effectiveness of these audits also improves.

This improved process is now evident not only in the audits being conducted by the LAPD's Audit Division, but also in the reviews being conducted by the Inspector General.

Notwithstanding such improvements, ongoing deficiencies are occurring: many audits remain backlogged due to resourcing constraints, and the audits conducted by auditors other than Audit Division have much room for improvement.

⁵⁷ According to Personnel Group, the Department did receive a total of seven employee suggestions; none however were related to training.

The results of our current assessment follow.

A. AUDIT PLAN

In its Report for the Quarter Ending September 30, 2002, the Monitor assessed the content and submission of the Annual Audit Plan for 2002-03, the review and approval of this Annual Audit Plan and the Quarterly Updates for 2001-02, the role of the LAPD's Audit Division and the sufficiency of its resources, and the content of the LAPD's audit reports. The Monitor also tracked the LAPD's progress relative to the recommendations formally proposed by the Monitor in its Reports for the Quarters Ending March 31, 2002 and June 30, 2002.

The next Monitor's report, for the quarter ending March 31, 2003, will assess the LAPD's progress relative to its 2002-03 Annual Audit Plan and progress relative to the Monitor's audit-related recommendations to date.

B. AUDITS BY THE LAPD

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

- Paragraph 127 – Sting Audits Reporting Protocol
- Paragraph 128(2) – Arrest, Booking & Charging Reports Audit
- Paragraph 128(5) – Confidential Informant Control Packages Audit
- Paragraphs 128(3)(4) and 129(ii)(iii) – Other Audits Not Yet Completed by Audit Division
- Paragraph 131(d) – Gang Unit Use of Confidential Informants Audit
- Paragraphs 131(a)(b) – Other Gang Unit Audits Not Yet Completed by the DSD
- Paragraphs 131(c-1)(c-3)(c-4)(c-5) – Other Gang Unit Audits to be Completed by Audit Division
- Paragraph 133 – Police Training Audit

The Monitor concludes that the LAPD is in compliance for the Sting Audits Reporting Protocol and the Arrest, Booking and Charging Reports Audit, but all the other LAPD audits identified above are either non-compliant because they are deficient in quality, or because they remain incomplete beyond the deadlines established in the Consent Decree.

A separate section for the Monitor's proposed audit-related recommendations is included as Appendix F to this report.

Paragraph 127 – Sting Audits Reporting Protocol

Paragraph 127 mandates that the LAPD furnish a copy of the LAPD's Ethics Enforcement Section report to the Police Commission and the Office of the Inspector General within two weeks of the Chief of Police's receipt of the report.

Background

Historically, the LAPD has been found to be in compliance with this provision.

Current Assessment of Compliance

During the current period of review, two quarterly EES reports were generated by the LAPD that were ultimately reported to the Police Commission and the Inspector General. For both reports the Monitor, through review of documentation and interviews of LAPD and Inspector General personnel, determined that the reports were provided pursuant to Consent Decree requirements. Therefore, the LAPD is in compliance with paragraph 127.

Paragraph 128(2) – Arrest, Booking and Charging Reports Audit

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(2) mandates an audit of Arrest, Booking and Charging Reports.

Background

On June 26, 2001, the LAPD Audit Division (Audit Division) completed a Department-wide audit of arrest, booking and charging reports. The Monitor reviewed this audit and reported the findings in the Monitor's Report for the Quarter Ending December 31, 2001.

As described in that Report, the Monitor concluded that the Audit Division failed to critically analyze the collected data and the Department was found to be in non-compliance with Consent Decree requirements.

On December 27, 2001, the LAPD Audit Division completed a second Department-wide audit of the arrest, booking and charging reports. The Monitor reviewed this audit and reported its findings in the Monitor's Report for the Quarter Ending March 31, 2002. As described in that Report, the Monitor noted an improvement in the audit process and the Audit Division's ability to identify substantive issues, but also identified and reported several audit-related deficiencies. Again, the Department was found in non-compliance with paragraph 128(2).

Current Assessment of Compliance

In order to assess compliance with paragraph 128(2) for the current quarter, the Monitor reviewed the Arrest, Booking and Charging Audit report dated September 15, 2002, that was

issued to the Police Commissioner on October 23, 2002. In addition, the Monitor reviewed a sample of 147⁵⁸ arrest reports out of 938⁵⁹ arrest reports audited by the Audit Division as well as the Audit Division's audit working paper files.

Similar to findings relating to other audits recently completed by Audit Division, the Monitor found that the quality of all aspects of this audit improved significantly compared to prior audits:

- The Audit Division prepared a matrix form and "crib sheet" to provide guidance to its auditors prior to commencing the audit. The matrix addressed all substantive/risk management issues identified in paragraph 128(2) such as completeness, authenticity review for canned language, inconsistent information and legal basis, conformance with LAPD procedures, and supervisory oversight of the incident and post-incident review.
- The Audit Division took appropriate steps to ensure the completeness of the population from which their sample was drawn, and to obtain complete arrest packages.
- This audit addressed numerous key risk management issues, including those relating to documentation deficiencies, articulation of the legal basis for the actions taken, supervisory oversight and the identification of patterns consistent with issues identified during the Board of Inquiry. The Audit Division also conducted appropriate procedures to follow up on the anomalies identified.
- The Monitor's testing of a sample⁶⁰ of the Audit Division's audit work revealed that the Audit Division identified 95.4%⁶¹ of the issues that were identified by the Monitor. Expressed another way, the Monitor identified 110 issues, whereas the Audit Division identified 105. Accordingly, the Audit Division's findings are statistically reliable.
- The audit report clearly articulated the Audit Division's evaluation considerations and findings, as well as the actions taken to follow up on certain anomalies; it addressed recommendations made in the prior audit and the current status of each recommendation, and offered practical recommendations based on its current review. In addition, this audit report was well supported, with few exceptions, by the audit working papers.
- The Audit Division concluded that 55.5% of the arrest reports reviewed were in compliance with the following four operational objectives for arrest packages: 1) completeness, 2)

⁵⁸ This comprised a random sample of 88 arrest reports, plus another 59 arrest reports that related to multi-arrests in the random sample of 88.

⁵⁹ The sample selected by Audit Division comprised a random sample of 602 arrest reports, plus another 336 arrest reports that related to multi-arrests in the random sample of 602.

⁶⁰ The Monitor's sample of 147 arrests (including a random sample of 88 arrest packages, and 59 multi-arrests) is sufficient to enable the Monitor to express this conclusion with a 95% confidence level, and an error rate of +/-4%.

⁶¹ In order to address the possibility that the Audit Division could have been less than or equal to 94% compliant in their audit fieldwork (95.4% +/- 4% could be less than or equal to 94%), we performed a hypergeometric distribution analysis. Based on this analysis, the Monitor is 90% confident that the fieldwork on this audit was more than 94% compliant.

authenticity, 3) proper underlying actions, and 4) supervisory oversight. This conclusion indicates substantial non-compliance by the Department with these objectives and it is useful that the Audit Division expressed this conclusion as a percentage, as it emphasizes the severity of the problems at the Department level. It also provides useful management information relative to benchmarking the progress of the LAPD, and emphasizes the need for further operational reform in this area.

Notwithstanding the quality of this audit, there is room for improvement relative to the timeliness of this audit:

- Although Audit Division commenced their planning for this audit in April 2002, their scope of review was limited to arrests made during the period from October 1, 2001 to December 31, 2001. While the Audit Division would have preferred to conduct their audit on arrests that were more current, this was not possible due to an almost 4 month backlog at the Records and Identification Division. The Audit Division therefore selected the most recent period for which arrest reports were available. In addition, their audit report included recommendations to remedy the backlog for future audits, which the Monitor concurs with.
- This audit commenced in April 2002 but the report was not completed and issued to the Police Commission until 6 months later, in October 2002. The Monitor considers the period of time required to complete this audit to be excessive. To a certain extent, this is driven by the large sample size selected for review by Audit Division, but it is also driven by the audit processes used by Audit Division, both of which should be rethought from a cost-efficiency and timeliness perspective.

The Monitor met with the Audit Division to discuss its findings and recommendations, which are further discussed in Appendices C and F, respectively.

The Monitor finds that the Department is in functional compliance relative to the quality of the paragraph 128(2) audit of arrest, booking and charging reports. The Monitor cautions that this audit was borderline with respect to timeliness, while acknowledging the efforts of the Audit Division to remedy this issue for future audits.

The Inspector General is currently performing a review of this audit, but this review is not yet complete. The Monitor addresses the timeliness provisions of paragraph 135 in this report.

Paragraph 128(5) – Confidential Informant Control Packages Audit

As described above, 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(5) mandates an audit of Confidential Informant Control Packages.

Background

On July 13, 2001, the Criminal Intelligence Group (CIG) completed a Department-wide audit of the Confidential Informant Control Packages. The Monitor reviewed this audit and reported its findings in the Monitor's Report for the Quarter Ending December 31, 2001.

Although the audit was effective from the standpoint of establishing standards that would improve the processes relative to the handling of informants,⁶² the Monitor reported in its Report for the Quarter Ending December 31, 2001 that the underlying audit conducted by the CIG was deficient because the audit did not identify several substantive issues, and, the audit did not conform to generally accepted standards related to auditing.

Current Assessment of Compliance

In order to assess compliance with paragraph 128(5) for the Quarter Ending December 31, 2002, the Monitor reviewed the Criminal Intelligence Group's Confidential Informant Control Packages Audit Report dated September 1, 2002, as well as a copy of the working papers for all active Confidential Informant Control Packages audited. The Monitor did not specifically review any of the Confidential Informant Control Packages for this audit.

The Monitor's review of the report, matrices and audit working papers revealed that this audit did not address all of the requirements of paragraph 108 of the Consent Decree, nor did it address the standards related to confidential informants as set forth in the LAPD Informant Manual, dated February 26, 2002. This was confirmed in discussions with the CIG, Audit Division and the Inspector General, and the Inspector General's report on its review of this audit further confirmed this. In addition, the Monitor notes that this audit was not completed by the Audit Division as required by paragraph 124, and the CIF's report for this audit. The Monitor notes that the CIG's report for this audit did not articulate that this was only a partial audit.

Accordingly, the Monitor finds that this audit is in functional non-compliance with the requirements of paragraph 128(5). The Audit Division expects to complete a new Confidential Informant Control Packages Audit during the quarter ending March 31, 2003 that will address the requirements of paragraphs 128(5) and 108.

Paragraph 128(3),(4) & 129(ii)&(iii) – Other Audits Not Yet Completed by Audit Division

As described above, 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 Use of Force Reports, and paragraph 128(4) mandates an audit of Motor Vehicle and Pedestrian Stops.

⁶² The findings from this audit were incorporated into a new "Confidential Informant Manual," dated February 26, 2002; Special Order No. 6, dated February 26, 2002 on the "Use of Informants and Activation of the Informant Manual"; and, Special Order No. 28, dated September 5, 2001, on the "Confidential Informant Tracking System Database."

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(ii) mandates an audit of all Non-Categorical Use of Force Investigations, and paragraph 129(iii) mandates an audit of all Complaint Form 1.28 Investigations.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, these audits are required to be completed by the LAPD's Audit Division on a "regular periodic" basis. The Monitor interprets this to mean that these audits must be completed on at least an annual basis.⁶³

The Use of Force Reports audit required by paragraph 128(3) was required to be completed by November 1, 2002.

For the other three audits discussed in this section, since the Consent Decree was entered into effective June 2001, the Monitor expected that the audits required by paragraphs 128(4), 129(ii) and 129(iii) would be completed within one year, i.e. by June 30, 2002.⁶⁴ As reported in the Monitor's Report for the Quarter Ending June 30, 2002, because these audits were deferred to the quarter ending September 30, 2002 and beyond, the Monitor found the LAPD in non-compliance with these paragraphs. Because such audits were also not completed in the quarter ending September 30, 2002, the Monitor continued to find the LAPD in non-compliance with these paragraphs for that quarter.

Current Assessment of Compliance

Although progress was made by the Audit Division on the following audits, these audits remained incomplete by December 31, 2002:

- Use of Force Reports Audit and Non-Categorical Use of Force Investigations Audit (paragraphs 128(3) & 129(ii)) – The Monitor understands that these audits are being combined. The planning has been completed, the fieldwork is in progress, and the report is expected to be issued early in the quarter ending March 31, 2003.
- Motor Vehicle and Pedestrian Stops Audit (paragraph 128(4)) – This audit was originally due by June 30, 2002, but was deferred until the database stabilized. Improvements have now been made relative to the data collection issues, reliability testing is currently in progress, and the planning for this audit is in progress. This audit is not likely to be completed until the quarter ending June 30, 2003 at the earliest (one year late).

⁶³ The LAPD and the Department of Justice concur with this interpretation of this phrase – not only for this audit, but also for other audits required to be completed on a "regular periodic" basis as discussed later in this report.

⁶⁴ These audits were also listed on the 2001-02 Annual Audit Plan for completion by June 30, 2002.

- Complaint Form 1.28 Investigations Audit (paragraph 129(iii)) – The planning for this audit has been completed, the fieldwork is in progress, and the report for this audit is expected to be issued early in the quarter ending March 31, 2003.

Until such time as these audits are completed, the Monitor finds the LAPD to be in functional non-compliance with these paragraphs of the Consent Decree. The Monitor will assess and report on the quality of these audits when completed.

Paragraph 131(c-2) – Gang Unit Arrest, Booking & Charging Reports Audit

Paragraph 131 mandates that the OHB Detective Support Division (DSD) conduct regular periodic audits of the work product of all gang units covered by paragraph 106. Paragraph 131(c) specifies that such audits shall include an audit of the type set forth in paragraph 128. By extension, paragraph 131(c-2) therefore mandates an audit of Gang Unit Arrest, Booking and Charging Reports.

Background

In the Monitor's Report for the Quarter Ending June 30, 2002, the Monitor reported on the DSD's Gang Unit Arrest, Booking and Charging (ABC) Audit dated March 29, 2002. The DSD was found to be in non-compliance with the requirements of paragraph 131(c-2) due to a number of quality deficiencies with that audit.

As noted in the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor identified a total of 111 reports that did not meet the DSD's review criteria because they were Releases from Custody (RFC), Misdemeanor Warrants (MW) and Alleged Probation Violation Notices (APVN). Although the DSD did not review any of these 111 reports, the Monitor subsequently reviewed a stratified random sample of 70 of such 111 reports to identify and assess any potential risk management issues. The procedures relating to this review were incomplete at the time of writing the Monitor's prior quarterly Report. This review is now complete, and the Monitor's findings are reported below.

Current Assessment⁶⁵

As noted in the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor identified an issue with one of the 70 reports reviewed, which included charges for "Possession of Marijuana less than 1 oz". Specifically, we were not provided with either a "Property Report" or "Receipt for Property Taken into Custody/10.10 Form" relating to the evidence seized. On November 26, 2002, the Monitor received a copy of the Property Report supporting the above evidence seized. However, the Property Report indicates that a "Receipt for Property Taken into Custody" was not issued. According to Department policy, a 10.10 is required any time

⁶⁵ As described above, the Monitor is reporting on work that was outstanding at the date of the Monitor's Report for the Quarter Ending September 30, 2002. The Monitor is not assessing compliance for paragraph 131(c-2) at this time.

evidence is seized or taken from an arrestee and booked; therefore, the Department is out of compliance with policy relating to the issuance of the 10.10 receipt.

There were no further issues identified by the Monitor relating to the RFC's, MW's, and APVN's that were excluded from the DSD's scope of review.

As noted in the Monitor's Report for the Quarter Ending June 30, 2002, the DSD Audit Section inadvertently failed to review 18 arrest, booking and charging reports. The DSD previously advised the Monitor that they plan to review those additional 18 reports, and that they expect to provide their findings in their next Gang Unit ABC audit report. In light of the shift of responsibilities relative to the audits required by paragraph 131c as discussed below, the Monitor suggests that the Audit Division take on this responsibility.

Paragraph 131(d) – Gang Unit Use of Confidential Informants Audit

As described above, paragraph 131 mandates that the OHB Detective Support Division conduct regular periodic audits of the work product of all gang units covered by paragraph 106. Paragraph 131(d) further mandates an audit of the use of confidential informants by the gang unit, to assess compliance with paragraph 108.

Background

On May 29, 2002, the DSD completed its first audit of the use of confidential informants by Special Enforcement Unit (SEU) personnel. Criminal Intelligence Group had previously completed a Department-wide Informant Audit in the summer of 2001, but this audit did not specifically address the issues related to the use of informants by gang units as specified in paragraphs 108 and 131 of the Consent Decree.

Current Assessment of Compliance

In order to assess compliance with paragraph 131(d) for the current quarter, the Monitor reviewed the DSD's Audit Report on Informant Usage by SEUs dated May 29, 2002, and met with the DSD to discuss their audit approach, report and findings. The Monitor also reviewed the DSD's limited working papers as follows:

- A listing of officers assigned to the SEU as March 29, 2002 (from the Paradox system).
- Summary matrices documenting interviews with supervisors and site visits.
- A report generated by the Narcotics Division's Confidential Informant Tracking System Database (CITSD) which listed the active informants on the date reviewed by the DSD.

The Monitor also reviewed a listing of LAPD personnel assigned to SEU's for the period January 2000 to October 2002, as generated by the DSD SEU Database that was implemented in May 2002. This listing was compared to the information contained on the CITSD. This comparison revealed one informant package that was assigned to an SEU Detective. Further

follow-up by the Monitor revealed that one uniformed officer under the supervision of that Detective was primarily responsible for communicating with the informant, even though the package was assigned to the Detective. According to the DSD, that officer spends approximately 2/3 of his time conducting investigations and doing administrative-related work (audits), while the balance of his time is spent conducting field enforcement activities while in uniform. This situation was not identified by the DSD in their audit and is a violation of the Consent Decree, which prohibits uniform personnel from maintaining or using confidential informants.

In addition to the above, the Monitor's review established that although the audit strategy and approach were reasonable, the DSD did not have a work plan for this audit, the audit scope was too narrow, the audit lacked sufficient depth, and the audit working papers were not detailed enough to facilitate a thorough evaluation by the Monitor. Accordingly, the Monitor finds the DSD to be functionally non-compliant with paragraph 131(d).

The detailed findings from the Monitor's assessment of this audit are discussed in Appendix D. Appendix F contains the Monitor's recommendations relative to improving the quality of this and other audits.

Paragraph 131(a)&(b) – Other Gang Unit Audits Not Yet Completed by the DSD

As described above, paragraph 131 mandates that the OHB Detective Support Division 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 131⁶⁶:

- 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).
- 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)⁶⁷, 131(b), and 131(d).

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

⁶⁶ The Monitor assessed the audit conducted for paragraph 131(d) in a previous section of this report, and the Monitor completed its follow-up assessment on certain aspects of the audit conducted for paragraph 131(c-2) which is also discussed previously in this report. The gang unit work product audits for paragraph 13(a) and 131(b) are discussed below, and the remaining gang audits are discussed in the next section of this report.

⁶⁷ For ease of reference, the Monitor hereinafter refers to the general work product audit as a paragraph 131(a) audit. This audit includes (but is not limited to) the audit of the bureau gang co-coordinator audits required by paragraph 106h.

Background

As required by the Consent Decree, the gang unit work product audits required by paragraphs 131(a)⁶⁸ and (b) of the Consent Decree were required to be completed by the LAPD's DSD on a "regular periodic basis".

As stated in the Monitor's Report for the Quarter Ending September 30, 2002, there has been no Department-wide gang unit audit since the last audit was completed in June 2001. The LAPD was therefore found to be in functional non-compliance with these paragraphs at that time. The Monitor also reported that there were significant resource issues facing the DSD which led to the untenable situation whereby the DSD was unwilling/unable to accept responsibility for these audits, notwithstanding that paragraph 131 of the Consent Decree mandated such responsibility to the DSD.

Current Assessment of Compliance

Subsequent to the issuance of the Monitor's Report for the Quarter Ending September 30, 2002, certain audits⁶⁹ that the Consent Decree requires be conducted by DSD were reassigned to the Audit Division, thereby limiting the audit-related responsibilities of the DSD to only those audits that are specific to the work of the gang units. Although progress was made relative to planning such audits, the gang unit audits remained incomplete as of December 31, 2002. Until these audits are completed, the Monitor finds the LAPD to be in functional non-compliance with paragraphs 131(a) and 131(b) of the Consent Decree. The Monitor will assess and report on the quality of these audits when completed.

Paragraph 131(c-1),(c-3),(c-4)&(c-5) – Other Gang Unit Audits to be Completed by Audit Division

As described above, paragraph 131 mandates that the OHB Detective Support Division (DSD) conduct regular periodic audits of the work product of all gang units covered by paragraph 106. Paragraph 131(c) specifies that such audits shall include audits that are similar to the Department-wide audits conducted by the Audit Division of the type set forth in paragraph 128. The audit required by paragraph 131(c-2) is discussed above. For the remaining audits, by extension:

- Paragraph 131(c-1) mandates an audit of Gang Unit Warrant Applications and Supporting Affidavits;
- Paragraph 131(c-3) mandates an audit of Gang Unit Use of Force Reports;
- Paragraph 131(c-4) mandates an audit of Gang Unit Motor Vehicle and Pedestrian Stops;
- Paragraph 131(c-5) mandates an audit of Gang Unit Informant Control Packages.

⁶⁸ See the preceding footnote.

⁶⁹ See the next section of this report.

Background

The Consent Decree required the above audits to be completed by the DSD on a “regular periodic basis”.

As reported in the Monitor’s Report for the Quarter Ending June 30, 2002, because the audits required for paragraphs 131(c-1),(c-4) and (c-5) were deferred to the quarter ending September 30, 2002 and beyond, the Monitor found the DSD to be in functional non-compliance with the Consent Decree requirement to conduct such audits on a “regular, periodic” basis. These audits were also not completed by the date of the Monitor’s Report for the Quarter Ending September 30, 2002; accordingly, the Monitor continued to find the LAPD in functional non-compliance for such audits.

The Gang Unit Use of Force Reports Audit required by paragraph 131(c-3) was required to be completed by November 1, 2002, which was after the Monitor’s previous reporting period.

As expressed above, the Monitor reported previously that there were significant resource issues facing the DSD that affected the DSD’s willingness/ability to accept responsibility for the gang unit audits, notwithstanding that paragraph 131 mandated such responsibility to the DSD.

Current Assessment of Compliance

Although the responsibility of the DSD, the audits that are similar to the Department-wide audits required by paragraph 128 are in the process of being reassigned to the Audit Division. This move will limit the audit-related responsibilities of the DSD to only those audits that are specific to the work of the gang units. The intent of this reassignment is that the next paragraph 128 audits being conducted by the Audit Division would include separate samples to address the gang unit issues, and the findings related to the gang unit sample would be reported separately.

Although progress is being made relative to the planning of the paragraph 131(c) gang unit audits as set out below, the paragraph 131(c-1), (c-3), (c-4) and (c-5) audits remained incomplete as of December 31, 2002:

- A timetable has been drafted that specifies when each gang unit audit is expected to be conducted in the remainder of 2002-03. This timetable mirrors the timetable for the Paragraph 128 audits being conducted by Audit Division.
- A Department-wide Search Warrants and Affidavits Audit was completed as reported in the Monitor’s report for the Quarter Ending September 30, 2002, but that audit did not address the special needs of a gang-related audit as required by paragraph 131(c-1). The next Department-wide Search Warrants and Affidavits Audit planned for the Quarter Ending June 30, 2003 will do so.
- A Department-wide Use of Force Reports Audit is currently underway and is expected to be completed in the Quarter Ending March 31, 2003; this audit includes SEU incidents but is not currently expected to address the special needs of a gang-related audit. The Monitor suggests

that it would be preferable to address the needs of a gang unit Use of Force Reports Audit in this quarter, rather than waiting another year to conduct this audit.

- Planning is currently in progress for a department-wide Motor Vehicle & Pedestrian Stops Audit; now that the data is considered to be stabilized for this audit, the Audit Division will include the special needs of a gang-related audit in its planning, as required by paragraph 131(c-4).
- A Department-wide Confidential Informants Control Packages Audit was recently completed as reported earlier in this report, but that audit did not address the special needs of a gang-related audit as required by paragraph 131(c-5). The next Department-wide Confidential Informants Control Packages Audit planned for the Quarter Ending March 31, 2003 will do so.

Until such time as these audits are completed, the Monitor finds the LAPD to be in functional non-compliance with paragraphs 131(c-1), (c-3), (c-4) and (c-5) of the Consent Decree. The Monitor will assess and report on the quality of these audits when completed.

Paragraph 133 – Police Training Audit

Paragraph 133 requires the Department to hire independent consultants who have substantial experience in police training, to audit police officer and supervisory training within 18 months of the effective date of the Consent Decree. The audit must address methods in which LAPD training could be improved:

- to reduce incidents of excessive use of force, false arrests, and illegal search and seizures; and
- by making greater use of community-oriented-police training models that incorporate factors relating to cultural diversity, including training on interactions with persons of different races, ethnicities, religious groups, sexual orientations, persons of the opposite sex, and persons with disabilities.

Background

The Consent Decree became effective on June 15, 2001 triggering the requirements of this paragraph to be completed by December 15, 2002. Accordingly, this is the Monitor's first review of this paragraph.

Current Assessment of Compliance

In July 2002, the Department hired RAND as the independent consultant to complete this training audit. The training audit has not been completed to date. RAND is scheduled to complete a draft of its report by March 31, 2003 and to deliver its final report in August 2003. As a result, the Department is in non-compliance for paragraph 133, and will continue to be in non-compliance until such time as the audit report is finalized.

Paragraph 134 – Skeletal Fractures During UOF Audit

Paragraph 134 requires the Department to complete an audit of all known uses of force resulting in skeletal fractures within 18 months of the effective date of the Consent Decree. The audit must review and evaluate the frequency of occurrence of skeletal fractures by officers and groups of officers, the types of force that produced such fractures, the medical care provided, the chain of command investigation, and any patterns related to complaints. The audit must also analyze the circumstances giving rise to the use of force and resulting fractures and the responsiveness of the Department to such injuries, and must recommend potential reforms to minimize and promptly treat such fractures.

Background

The Consent Decree became effective on June 15, 2001 triggering the requirements of this paragraph to be completed by December 15, 2002. Accordingly, this is the Monitor's first review of this paragraph.

Current Assessment of Compliance

In the planning phase of this audit, the Audit Division obtained input from the DOJ and the Monitor which resulted in an expansion of the scope of this audit. This caused a slight delay in the progress of this audit. As a result, the Audit Division completed and submitted its report for this audit on January 8, 2003, less than a month after the December 15, 2002 deadline.

Although the Department missed the deadline for this audit, in light of the expansion in scope of the audit, the Monitor is withholding a determination of compliance relative to its timeliness. The Monitor will review and evaluate the quality of this audit in its Report for the Quarter Ending March 31, 2003.

C. INSPECTOR GENERAL AUDITS

During this quarter, the Monitor assessed the following audits and audit reviews that are required to be completed by the Inspector General:

- Paragraph 135 – Office of the Inspector General Evaluation of LAPD Audits (for this quarter, the Office Of The Inspector General's evaluation of the Search Warrants Audit, the Arrest Booking and Charging Reports Audit, the Confidential Informant Control Packages Audit, and the Use of Confidential Control Packages Audit)
- Paragraphs 136 – Office Of The Inspector General Review of Categorical Use of Force Investigations
- Paragraph 136(i) – Office of the Inspector General Audit of Non-Categorical Uses of Force

- Paragraph 136(ii) – Office of the Inspector General Audit of Complaint Form 1.28 Investigations
- Paragraph 139 – Office of the Inspector General Retaliation Complaint Protocols and Investigations

The Monitor concludes that the Office of the Inspector General is in compliance with respect to the quality of its reviews of the LAPD's audits, but is in non-compliance for the remaining audits identified above because such audits are deficient in quality, or are incomplete. For the retaliation complaints, the Office of the Inspector General is in compliance with respect to its investigations, but is in non-compliance because its protocol has not yet been approved by the Police Commission.

A separate section for the Monitor's proposed audit-related recommendations is included as Appendix F to this report.

Paragraph 135 – OIG Evaluation of LAPD Audits

Paragraph 135 requires the Department to provide the Inspector General 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 Office of the Inspector General
- Paragraph 135(b) assesses the quality of the Office of the Inspector General's review of such audits.

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

Background

The Monitor has not previously assessed the timeliness of the audits received by the Office of the Inspector General, as required by paragraph 135.

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 for the current quarter, the Monitor reviewed copies of the following reports and related correspondence, which documented when such reports were transmitted from the Department to the Office of the Inspector General:

- Audit Division's Search Warrants and Affidavits Audit (CD128(1))
- Audit Division's Arrest Booking and Charging Reports Audit (CD128(2))

- Criminal Investigation Group's Confidential Informant Control Packages Audit (CD128(5))
- DSD's Gang Unit Use of Confidential Informants Audit (CD131(d))

In addition, the Monitor held discussions with personnel at the Office of the Inspector General, DSD and Audit Division in order to clarify certain issues related to the timing of transmittal of these reports.

The following Table summarizes the timing of the transmittal of the four reports listed above:

	CD 128(1)	CD 128(2)	CD128(5)	CD131(d)
Date of Audit Report	July 8, 2002	Sept 15, 2002	Sept 1, 2002	May 29, 2002
Date Approved by Chief of Police	Aug 13, 2002	Oct 23, 2002	Sept 9, 2002	July 8, 2002
Date Received by Police Commission	Aug 16, 2002	Oct 25, 2002	Sept 9, 2002	July 9, 2002
Date Received by OIG	Aug 19, 2002	Oct 29, 2002 ⁷⁰	Sept 13, 2002	July 10, 2002
# of Days from Date of Audit Report to Date Received by the OIG	42	44	12	42
Assessment of Compliance	X	X	X	X

X = Non-Compliant

The Monitor finds the Department to be in functional non-compliance with regards to the transmittal of all four of the above reports to the Office of the Inspector General, since none were transmitted within 7 days of completion.⁷¹

Paragraph 135(b) – Qualitative Evaluation of LAPD Audits

Background

In the Monitor's Report for the Quarter Ending March 31, 2002, the Office of the Inspector General was found to be in non-compliance with the requirements of paragraph 135 due to quality deficiencies relating to their review of the LAPD's Use of Force Audit and the Arrest, Booking and Charging (ABC) Reports Audit.

⁷⁰ The Monitor was informed that the Police Commission placed this report in the Office of the Inspector General's mailbox on October 29, 2002. However, the Office of the Inspector General does not routinely collect their mail on Wednesdays, so they did not actually receive this report until October 31, 2002.

⁷¹ The "Methodologies to Aid in Determination of Consent Decree Compliance" define the date of completion to be the date of the audit report.

In the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor reported improvements in the Office of the Inspector General's review processes relative to its paragraph 135 review of the SEU ABC Reports Audit⁷², but ultimately found the Office of the Inspector General to be in non-compliance with the requirements of paragraph 135 again, because the Office of the Inspector General did not adequately evaluate the quality, completeness and findings of the audits completed by the LAPD.

The Office of the Inspector General conducted a review of an earlier Search Warrants Audit and Informant Control Packages Audit in 2001 and made recommendations to both the auditors and the LAPD, which have been implemented. In the Monitor's Report for the Quarter Ending December 31, 2001, the Monitor accepted the Inspector General's criticisms of these audits, but disagreed with their ultimate conclusions that these audits were "generally thorough and complete."

Current Assessment of Compliance

For this quarter, the Monitor assessed the quality of the Office of the Inspector General's review of the following LAPD audits:

- the Search Warrants and Affidavits Audit (as required by paragraph 128(1));
- the Confidential Informant Control Packages Audit (as required by paragraph 128(5)); and,
- the Gang Unit Use of Confidential Informants Audit (as required by paragraph 131(d)).

The Office of the Inspector General is currently reviewing the LAPD's Arrest, Booking and Charging Audit (as required by paragraph 128(2)); the Monitor will report its findings relating to the quality of that review in its next quarterly report.

Office of the Inspector General's Review of the Audit Division's Search Warrants & Affidavits Audit (CD 128(1))

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter as related to the Office of the Inspector General's review of the Audit Division's Search Warrants & Affidavits Audit, the Monitor reviewed the Office of the Inspector General's report dated October 31, 2002 on their review of this audit, as well as the Office of the Inspector General's working papers for the 73 Search Warrant Packages and the 5 extra search warrants identified by the Office of the Inspector General while verifying the completeness of the population. The Monitor's findings are as follows:

- The Inspector General performed various tests on the population of search warrants, which revealed that the Warrant Tracking Logs relied upon by Audit Division were unreliable⁷³ and incomplete⁷⁴. The Monitor applauds the Inspector General for performing these steps.

⁷² Required by paragraph 131c-2 of the Consent Decree.

⁷³ The dates for 3 search warrants were incorrect in the Warrant Tracking Log.

- The Inspector General expressed concern in its report about the exclusion of 13 sealed search warrants from the audit (15%) – particularly for warrants that may have been sealed to protect the identity of an informant, which is an area of interest in the Consent Decree. The Inspector General further expressed that it was exploring whether any of these sealed warrants could either be unsealed, or otherwise reviewed after such warrants became unsealed. The Monitor supports this endeavor, and recommends that a process be established to include any unsealed warrants from prior audits in the next audit.
- The report submitted by the Inspector General is one of the best paragraph 135 reports produced by the Inspector General to date, because it addressed the above issues, and because it also included detailed findings that addressed the discrepancies between the Office of the Inspector General's findings and the findings of Audit Division.

In conclusion, the Monitor finds the Office of the Inspector General to be in functional compliance with the qualitative provisions of paragraph 135 as related to the Office of the Inspector General's review of the LAPD's Search Warrants & Affidavits Audit.

OIG's Review of the Criminal Intelligence Group's Confidential Informant Control Packages Audit (CD 128(5))

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter relative to the Office of the Inspector General's review of the Criminal Intelligence Group's Confidential Informant Control Packages Audit, the Monitor reviewed the Office of the Inspector General's report dated November 14, 2002 on their review of this audit, and the Office of the Inspector General's working papers related thereto. However, the Monitor did not review the underlying informant control packages. The Monitor's findings are as follows:

- The Inspector General performed various tests on the population of informant packages, which revealed that the Confidential Informant Tracking System Database is not reliable as it contained 10 informants that were no longer active. The Monitor agrees with the Inspector General's recommendation that regular and periodic audits be conducted to ensure that the data in the informant database is consistent with the number of active packages.
- The Inspector General performed additional tests that were not performed by CIG to assess supervisory oversight. These tests revealed that 43% of the confidential informant control packages did not identify whether supervisors had initially met with the informant prior to the individual being approved as an informant, and 59% did not identify whether officers had advised supervisors of meetings with their informants. Although these are Consent Decree requirements, there was no requirement to document such supervisory oversight. The Office of the Inspector General's report included a recommendation to address this.
- The report was well written and organized, addressed several substantive findings (including the above) and provided appropriate recommendations to address the deficiencies identified.

⁷⁴ There were 5 search warrants that were identified by site inspections and interviews that were not recorded in the Warrant Tracking Log.

- The Monitor agrees with the Office of the Inspector General conclusion that the CIG's audit was deficient in its approach, methodology and findings as it did not address the requirements of paragraph 108 and the Informant Manual published February 26, 2002.

In conclusion, the Monitor finds the Office of the Inspector General to be in functional compliance with the qualitative provisions of paragraph 135 as related to the its review of the Criminal Intelligence Group's Confidential Informant Control Packages Audit.

OIG's Review of the DSD's Gang Unit Use of Confidential Informants Audit (CD 131(d))

In order to assess compliance with the qualitative provisions of paragraph 135 for the current quarter as related to the Office of the Inspector General's review of the DSD's Gang Unit Use of Confidential Informants Audit, the Monitor reviewed the Office of the Inspector General's report dated August 14, 2002 on their review of this audit, and the Office of the Inspector General's working papers related thereto. The Monitor's findings are as follows:

- The Monitor agrees with the Office of the Inspector General's conclusion that the DSD's audit scope, methodology and approach were deficient, and concurs with the Office of the Inspector General's suggestions regarding alternative procedures that should have been conducted.
- The process undertaken by the Office of the Inspector General to test the quality and scope of this audit was thorough, notwithstanding that the Office of the Inspector General failed to identify one instance in which an informant package that was assigned to an SEU Detective was later found to be managed by a uniformed SEU officer.

In conclusion, the Monitor finds the Office of the Inspector General to be in functional compliance with the qualitative provisions of paragraph 135 as related to the Office of the Inspector General's review of the DSD's Gang Unit Use of Confidential Informants Audit.

Considering the Office of the Inspector General's paragraph 135 reviews as a group, the Monitor finds the Office of the Inspector General to be in functional compliance with the qualitative provisions of paragraph 135.

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

The first part of paragraph 136 is related to paragraph 142, which requires the Office of the Inspector General to continue its practice of reviewing all Categorical Use of Force investigations. Paragraph 136 further requires the Inspector General to issue a written report to the Police Commission on each Categorical Use of Force, which addresses the quality, completeness, and findings of each investigation, the timeliness of each investigation, the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, and whether the investigation was properly adjudicated.

Background

After reviewing each Categorical Use of Force, the Office of the Inspector General prepares an analysis of each incident and forwards it to the Police Commission. The Inspector General also prepares an annual report for the Police Commission on Categorical Uses of Force in the preceding year.

Current Assessment of Compliance

In order to assess compliance with the provisions of paragraph 136 for the current quarter, the Monitor reviewed several Categorical Use of Force incident reports prepared by the Office of the Inspector General in October 2002, and held discussions with the Office of the Inspector General regarding these reports.

For each report examined, the Office of the Inspector General articulated the date of the Inspector General's analysis, the date and time of the incident, the name(s) of the officer(s) involved and their length of service, and any priors, the name and a description of the suspect, a summary of the incident, a summary of the findings and recommendations of the Chief of Police, and the Inspector General's notes related to the Office of the Inspector General's assessment of the incident.

The Inspector General's assessment of each incident was written as point form notes, and typically addressed:

- Whether the Office of the Inspector General concurred with the findings and recommendations of the Chief of Police and the Office of the Inspector General's rationale for any instances that the Office of the Inspector General challenged;
- The specifics of any evidentiary issues, including instances where certain evidence was not obtained; and
- The specifics of any inconsistencies identified in the evidence obtained.

The Inspector General's notes do **not** explicitly address the following requirements of the Consent Decree; instead, the Inspector General advised that these issues are explicitly addressed only if considered necessary:

- The timeliness of the investigation;
- The quality of the investigation;
- The accuracy of any transcripts or summary statements obtained; and
- Whether the categorical use of force was properly adjudicated.

The Monitor notes that a few of the reports reviewed related to use of force incidents that occurred approximately one year earlier; the Inspector General's reports to the Police Commission did not express any concerns relative to the timeliness of such investigations.

Based on the foregoing, although the Office of the Inspector General is continuing to review and report to the Police Commission on all Categorical Use of Force Investigations, the reports issued are not responsive to all of the requirements of paragraph 136. Accordingly, the Monitor finds the Office of the Inspector General to be in functional non-compliance with the reporting requirements of paragraph 136 as related to its review of all Categorical Use of Force Investigations.

Proposed Recommendation

In order to achieve compliance with the reporting provisions of this particular paragraph, the Monitor suggests that the Inspector General modify the layout of its Categorical Use of Force Investigations reports to explicitly evaluate and report on the issues required by paragraph 136 of the Consent Decree.

Paragraph 136(i) – OIG Audit of Non-Categorical Uses of Force

Paragraph 136(i) requires the Office of the Inspector General to conduct a regular periodic audit and review of a stratified random sample of all Non-Categorical Use of Force investigations. This paragraph further requires the Inspector General to issue a report to the Police Commission on their assessment of the quality, completeness, and findings of the investigations, the timeliness of such investigations, the accuracy of the statement summaries/transcripts, the completeness of the evidence collected and analyzed, and whether the investigation was properly adjudicated.

The type of issues required to be assessed by paragraph 136i are the same as those required by paragraph 136, but the subject-matter required to be assessed is different:

- CD136 requires an assessment of 100% of all Categorical Use of Force investigations.
- CD136i requires an assessment of a sample of Non-Categorical Uses of Force.

Background

On August 15, 2002, the Inspector General completed its first Department-wide audit of Non-Categorical Uses of Force (NCUOF). The Monitor received this audit in the quarter ended September 30, 2002, but there was insufficient time for the Monitor to evaluate this audit in that quarter.

A previous Department-wide Non-Categorical Use of Forces Reports audit was completed by the Audit Division on October 29, 2001. Certain objectives from the Inspector General's recent

audit were similar to the objectives of the Audit Division's audit, and the Inspector General used some of the findings from that audit in planning the Office of the Inspector General's audit.

Current Assessment of Compliance

In order to assess compliance with paragraph 136(i) for the current quarter, the Monitor reviewed the Inspector General's Non-Categorical Uses of Force Audit report dated August 15, 2002. In addition, the Monitor reviewed the Office of the Inspector General's audit working papers and a random sample of 85 of the 252 Non-Categorical Use of Force reports audited by the Inspector General⁷⁵. In summary, the Office of the Inspector General's methodology, fieldwork and reporting were all deficient. Monitor's key findings are as follows:

- Although the Inspector General prepared a matrix that identified the specific questions to be addressed related to each Non-Categorical Use of Force, he did not prepare a crib sheet to provide guidance to its auditors on how to answer such questions. In addition the Inspector General did not set up a review process to ensure the quality of the work performed by his auditors.
- The matrix addressed many of the issues that were required to be addressed in this audit by paragraph 136i⁷⁶, but the matrix did not address the accuracy of the TEAMS data and did not address whether an appropriate adjudication was made for each involved officer.
- In addition to the objectives specified in paragraph 136 of the Consent Decree, the Inspector General's matrix for this audit was meant to assess compliance with Special Order 27⁷⁷, however it did not address a number of issues such as whether photos were taken of evidence recovered and whether each Use of Force Report was complete.
- As a result of the above, the Inspector General's audit processes were deficient, which led the Inspector General to miss more than 25% of the 1,000+ issues that were found by the Monitor in its sample of 85 NCUOF Reports. Approximately 180 of the issues missed related to Consent Decree requirements, and the balance related to the requirements of Special Order 27.
- The Office of the Inspector General tested to ensure that training recommendations appeared in each officers' TEAMS I report, however, the Office of the Inspector General failed to identify 51 instances⁷⁸ in which TEAMS I identifies the wrong uses of force for the 97 officers who were involved in such NCUOF, and 2 instances in which certain officers had

⁷⁵ The OIG's audit comprised a stratified random sample of the 394 NCUOF incidents reported for the period September 1 through November 30, 2001.

⁷⁶ The matrix addressed the completeness and timeliness of the investigation, conflicting information, supervisory oversight, collection of evidence, adjudication/findings and TEAMS documentation.

⁷⁷ The Inspector General's scope for this audit included testing compliance with Special Order 27 "Investigating and Adjudicating Non-Categorical Use of Force Incidents" issued September 1, 2001.

⁷⁸ In the Monitor's sample of 85 reports (or 60%).

uses of force attributed to them who were not involved in the incident. This is the historical data of the officers that will be part of TEAMS II system that will be used to supervise and audit the performance of specific officers, as well as the LAPD as a whole⁷⁹. Accordingly, the Monitor recommends that the inaccuracies in the TEAMS I data be rectified before any decisions are made based on this data.

- The period selected for this audit was September 1 through November 30, 2001, whereas the fieldwork for this audit commenced in June 2002. The period for this audit was not suitable for several reasons: it was not timely, it did not allow any time for the recommendations to be implemented from the LAPD's first audit of NCUOF reports dated October 29, 2001, and it did not allow sufficient time for Special Order 27, dated September 1, 2001, to be implemented.
- Although the Office of the Inspector General attempted to validate the completeness of the population of NCUOF reports to be audited, the Office of the Inspector General's completeness tests were inadequate. The Monitor's completeness tests revealed a further 35 NCUOF incidents from September 1, 2001 to November 30, 2001⁸⁰ that were not identified by the Office of the Inspector General. In addition, the Monitor identified 67 historical uses of force that were entered into the UOF database in the period from September to November 2001, these uses of force occurred from 1984 to 2000.
- The Office of the Inspector General's report addressed all the key areas that were audited, however there was minimal analysis of patterns, other than assessing the timeliness of the report review process. In addition, the Office of the Inspector General's report included an Appendix that identified a total of 892 discrepancies, however the appendix was not presented in a way that facilitated interpretation of the results.
- There was no indication in the Office of the Inspector General's report of any follow-up action taken with respect to incidents that were identified as problematic, other than a discussion with Risk Management Group.

The Monitor met with the Office of the Inspector General to discuss the Monitor's findings and recommendations, which are more fully described in Appendices E and F, respectively.

In conclusion, the Monitor finds the Office of the Inspector General to be in functional non-compliance with the provisions of paragraph 136(i).

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

Paragraph 136(ii) requires the Office of the Inspector General to conduct a regular periodic audit and review of a stratified random sample of all Complaint Form 1.28 investigations. In its

⁷⁹ As required by paragraph 46 of the Consent Decree.

⁸⁰ The OIG is currently conducting a supplemental audit on these NCUOF reports to ascertain if there were any specific risk management issues which caused these reports to be entered so late.

review, the Office of the Inspector General 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.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, the audit required by paragraph 136(ii) was required to be completed by the Office of the Inspector General by June 30, 2002. As reported in the Monitor's Reports for the Quarters Ending June 30, 2002 and September 30, 2002, because this audit was deferred beyond September 30, 2002, the Monitor found the Office of the Inspector General to be in non-compliance with the Consent Decree requirement to conduct such audits on a "regular, periodic" basis.

Current Assessment of Compliance

Although the Office of the Inspector General has made progress on the Complaint Form 1.28 Investigations Audit required by paragraph 136(ii), including planning the audit, identifying how to select a suitable sample from the population of complaints, and identifying the type of issues to be subjected to an audit, the audit remains incomplete by December 31, 2002. Until such time as this audit is completed, the Monitor continues to find the Office of the Inspector General to be in functional non-compliance with paragraph 136(ii).

Paragraph 139

The Office of Inspector General may receive retaliation complaints from LAPD employees and is required by paragraph 139 to investigate these complaints if the Inspector General "determines that such complaints indicate possible retaliation in the Police Department's handling of complaints." The Inspector General is required to record and track these allegations and report to the Police Commission.

Background

During the quarter ending September 30, 2002, the Monitor reviewed retaliation complaints received by the Inspector General for the period June 2001 through August 2002 and found the Inspector General in compliance with paragraph 139. The Inspector General developed protocols for handling retaliation complaints and ensuring the confidentiality of the identity of the person reporting retaliation. The protocols were forwarded to the Police Commission for consideration and approval.

Current Assessment of Compliance

The Monitor continued to examine retaliation complaints filed with the Office of the Inspector General. During this quarter there were four retaliation complaint reports, each of which, were forwarded to the Police Commission. Two were placed on Commission agendas during the

quarter and discussed in closed session with the Commissioners. Two were placed on Commission agendas for January 2003.

The Inspector General recorded and tracked the allegations for all 4 complaints and reported them to the Police Commission. The IG's review of these complaints did not reveal any possible retaliation; however, the IG is still monitoring these complaints for any evidence that may require this to be revisited.

Protocols concerning the handling of retaliation complaints and ensuring the confidentiality of the identity of the person reporting retaliation were placed on the Police Commission's November 5, 2002 agenda for discussion and approval. The protocols were discussed in closed session and the matter was continued. On November 19, 2002, the Inspector General submitted revised protocols to the Police Commission. These were placed on the Commission's December 10, 2002 agenda for discussion and approval. The Police Commission did not act to approve the protocols. Instead, the Commission decided to defer the matter pending the selection of a new Inspector General.

The Monitor finds the Office of Inspector General continues to be in functional compliance with the provisions of paragraph 139 concerning investigation of retaliation complaints. The Monitor finds the Police Commission in functional non-compliance with the provision of paragraph 139 requiring the development and implementation of complaint investigation protocols to protect the identity of complainants.⁸¹

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

Overview

The Consent Decree requires that the Police Commission review and evaluate all Categorical Uses of Force and determine whether an officer's conduct conforms with LAPD policies, procedures, and the requirements of the Consent Decree.

Additionally, the Police Commission is 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.

⁸¹ Although the Police Commission has not approved the protocols submitted by the Office of the Inspector General, it was represented to the Monitor by the former Inspector General that many of the procedures articulated in the protocols were being followed by his staff, particularly as they pertain to ensuring the confidentiality of complainants.

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.

In the quarter ending September 30, 2002, the Monitor completed its review of the Police Commission's Annual Report regarding Categorical Use of Force incidents reviewed by the Police Commission in 2001.

In this quarter, the Monitor completed its review of Categorical Use of Force investigations submitted to and reviewed by the Police Commission.

The Monitor concluded that the general administrative function of the Commission needs to be improved.

The results of our current assessment follow.

Paragraph 142 – Police Commission/Inspector General Review of All Categorical UOF

Paragraph 142 is related to paragraphs 67 and 136, which require the Police Commission and the Inspector General to continue to review all Categorical Uses of Force. 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 Categorical Use of Force incidents.

Background

After review of each Categorical Use of Force, the Inspector General prepares his own analysis of the incident and forwards it to the Police Commission's Executive Director. The Executive Director reviews each incident and has the option to prepare a separate memorandum containing comments pertinent to the matter. He then forwards his comments, if any, along with the Inspector General's analysis, and the Department's report, to the Police Commission for consideration.

Discussions concerning Categorical Use of Force incidents are held with the Chief of Police in closed session. If the Police Commission finds a Categorical Use of Force "out of policy" or administratively disapproved, the matter is referred back to the Chief of Police who is responsible for filing a misconduct complaint against the officer(s) involved.

During the quarter ending September 30, 2002, the Monitor completed its review of the Police Commission's Annual Report regarding Categorical Use of Force incidents reviewed by the Police Commission in 2001 and found that the Police Commission was in compliance with the respective provision of paragraph 142.

Current Assessment of Compliance

Currently, the Office of the Inspector General is tracking 61 open Categorical Use of Force cases. These cases are in various stages of investigation by the LAPD. The Inspector General assigns a member of his staff to follow up on each case tracked. Administrative statute dates are also tracked.

The Monitor reviewed 9 Categorical Use of Force packets prepared for submission to the Police Commission. All 9 were Officer Involved Shootings. Two of the 9 involved the shooting of dogs.

The Monitor found that all packets contained a report by the Chief of Police, the summary portion of the investigative report of the Critical Incident Investigation Division, Use of Force Review Board findings and an analysis report prepared by Office of the Inspector General staff.⁸² The reports contained investigative findings, and recommendations. Findings were made concerning Tactics, Drawing/Exhibiting/Holstering, and Use of Force.

In the Chief of Police reports each finding was summarized including an articulation of the policies involved. Any additional considerations were listed and recommendations as to needed changes in Department standards were addressed.

The analysis reports of the Office of the Inspector General contained staff notes concerning observations made during their review. Any non-conformance by the LAPD with policies, procedures, or the requirements of the Consent Decree was noted.⁸³ Recommendations to the Police Commission were made concerning whether the findings and recommendations of the Chief of Police should be adopted by the Commission.

Of the 9 packets reviewed, 5 were placed on the Police Commission agenda and submitted for adoption by the Commission, and 4 were pending submission to the Police Commission. The 5 that were placed on the Police Commission agenda were discussed with the Chief of Police in closed session. In 4 of the cases, the Police Commission adopted the findings and recommendations of the Chief of Police. In one of the cases, the Chief of Police changed 2 recommendations during the closed session, which the Police Commission adopted.

The Monitor finds the Police Commission and the Inspector General in functional compliance with the provisions of paragraph 142.

⁸² During closed Police Commission sessions at which Categorical Use of Force incidents are discussed with the Chief of Police, the Inspector General also has available his staff investigative files and a copy of the complete CIID investigative report.

⁸³ See Current Assessment of Compliance Section under paragraph 147 in this report.

Paragraph 143 – Police Commission Review of Audits

Paragraph 143 requires the Police Commission and the Inspector General to review various audits required under the Consent Decree to determine whether any changes or modifications in LAPD policies are necessary. The paragraph also requires the Police Commission to consider the results of such audits in its annual evaluation of the Chief of Police, and to address protocols for the Police Commission review and approval of all new LAPD policies and procedures, as well as changes to existing policies and procedures.

Background

The Monitor initiated its review of compliance with the provisions of paragraph 143 during this quarter.

Current Assessment of Compliance

In order to assess compliance as related to paragraph 143, the Monitor reviewed the audit-related correspondence log, which was newly created for the Monitor's review, and a sample of Police Commission packets and meeting transcripts. The Monitor found that the Police Commission lacked a system to track audits to ensure that they were completed and provided to the Police Commission on a timely basis.

The Monitor noted additional problems regarding the review of audits, including:

- No minutes of Police Commission meetings were available to document audit reviews or what transpired at Police Commission meetings. None have been prepared since December 2001.
- Some audit reviews were not placed on Police Commission agendas due to administrative problems.
- There was no evidence that any action was taken by the Police Commission relative to certain audits under review.
- Transcripts were missing from Police Commission meeting files.

Concerning Police Commission tracking and documentation, it was represented to the Monitor that Police Commission staff keep records of agenda items continued or approved by the Commission for each Police Commission meeting so that staff can follow up. In addition, a Press Release is issued summarizing the results of each Police Commission meeting. Tape recordings of each Commission meeting are kept for 30 days. It was represented to the Monitor that the tapes are transcribed and kept "forever."

Based upon the above, the Monitor finds the Police Commission is not in functional compliance with the provisions of paragraph 143 as it pertains to review of audits.

Review of the provision requiring the Commission to consider the results of audits in its annual evaluation of the Chief of Police was postponed to coincide with the Monitor's review of paragraph 144, which pertains to the Chief's annual evaluation. These reviews are scheduled for the Quarter Ending September 30, 2003.

The Monitor's evaluation of the Police Commission's review and approval of all new LAPD policies and procedures was postponed until the next quarter.

Proposed Recommendations

A process recently implemented by Police Commission staff to track audits needs to be continued and presented to the Police Commission in a manner that will enable the Police Commission to have oversight of the entire audit process.

Paragraph 144 – Police Commission Review of the Chief of Police

Paragraph 144 instructs the Police Commission, while conducting their annual review of the Chief of Police, to take into consideration the Police Chief's responses to use of force incidents and complaints of officer misconduct, assessment and imposition of discipline and those matters described in paragraphs 67, 88, 89, 106, 124, 127, and 143.

Background

The Police Commission conducted a 5-year review of the former Chief of Police as part of the reappointment process. The City deemed the information sensitive, but agreed to provide documentation directly to the Chief Monitor or his Deputy. The review was scheduled to commence during the quarter ending December 31, 2002.

However, in view of the nature of the 5-year review and the fact that only a portion of that review involved Consent Decree mandates, the Monitor has decided that it would be more timely and appropriate to conduct the evaluation of paragraph 144 after the Police Commission's annual review of the current Chief of Police. That evaluation is scheduled for July 2003. Therefore, compliance with paragraph 144 will not be assessed until the quarter ending September 30, 2003.

Paragraphs 96 & 145 – Misconduct Complaints 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 Inspector General, or authorized contractors to conduct such investigations.

Background

During the quarter ending March 31, 2002, the Monitor requested documentation concerning complaints filed against the Chief of Police from the Inspector General and the LAPD.⁸⁴ The Inspector General provided the information requested. The City deemed sensitive their portion of the information requested, but agreed to provide documentation directly to the Chief Monitor or his Deputy. The City directed the Chief Monitor or his Deputy to contact the Police Commission's Executive Director in this regard.

Because of the sensitivities surrounding the retention of Chief Parks and the selection of a new Chief of Police, the review was postponed until this quarter.

Current Assessment of Compliance

During this quarter, the Deputy Monitor contacted the Police Commission's Executive Director and learned that all misconduct complaints filed against the Chief of Police are referred to the Office of the Inspector General for investigation. However, there exists no tracking system at the Police Commission that can be compared with the records maintained by the Inspector General to determine if all complaints received by the Police Commission are forwarded to the Office of the Inspector General.

The TEAMS Report for the Chief of Police was not made available to the Chief Monitor or his Deputy during the quarter. Arrangements were made to make it available during the week of January 20, 2003. However, the report was not made available as promised.

The Monitor met with Office of the Inspector General staff and obtained updated information concerning misconduct complaints filed against the Chief of Police since March 2002.

For the year 2001, Inspector General records reflect five misconduct complaints filed against the Chief of Police. The Police Commission withdrew all five. For the year 2002, the records show six misconduct complaints filed against the Chief of Police. Four were withdrawn, no misconduct was determined in one, and one was unfounded.

Currently, all Chief of Police misconduct complaint investigations are closed with the exception of one case that remains open from the year 2000. A lawsuit was filed in that matter alleging misconduct by the Department. In his capacity as a representative of the Department, the Chief of Police was included in the complaint and the matter remains open.

During the next quarter, the Monitor will conduct a review of the complaint investigation files for complaints against the Chief of Police.

⁸⁴ The Monitor requested a TEAMS Report for the Chief of Police pertaining to misconduct complaints filed against the Chief.

The Monitor withholds determination of functional compliance with the provisions of Paragraphs 96 and 145 pending review of the TEAMS Report for the Chief of Police, a review of the complaints filed against the Chief of Police for the years 2001 and 2002, and a review of information obtained from Internal Affairs Group.

Proposed Recommendations

A record keeping system should be put in place at the Police Commission to track all misconduct complaints filed against the Chief of Police. This would allow for comparison with records maintained by the Inspector General and contained on the Chief's TEAMS Report.

Paragraphs 146

Paragraph 146 states that the Police Commission shall continue to review and approve LAPD budget requests.

Background

The Monitor previously reported on this paragraph in the Report for the Quarter Ending December 31, 2001 and found that the Police Commission was reviewing and approving LAPD budget requests before submission to the City.

Current Assessment of Compliance

During this quarter, the Monitor met with the Police Commission's Budget Analyst, reviewed the LAPD budget proposal and the Police Commission agenda, and determined that the Police Commission reviewed and forwarded to the City the LAPD proposed budget of \$1,141,678,207 for fiscal year 2003/2004. The proposed budget represented a 22.9% increase (\$213,195,824) over the previous year. Funds for 339 new positions were included (136 sworn, 203 civilian). Salaries represented 90% (\$1,027,424,912) of the budget. Operating expenses represented 4% (47,237,511) of the budget and equipment expenses represented 4% (45,152,809). Budget hearings will be held in January 2003. Budget conferences with the Mayor will be held in February 2003.

With the appointment of Chief Bratton the Police Commission anticipates that the new administration will make significant changes to the LAPD which will impact the budgetary priorities submitted to the City. The LAPD will submit a supplemental budget request to address changing priorities.

The LAPD's proposed budget included other funding sources available to the Department for fiscal year 2003/2004 in addition to funds provided by the City.⁸⁵ They include the following:

- Revolving Training funds (\$1,500,000)

⁸⁵ Some of these funding sources, which are currently available, may not be available in the future.

- Narcotics Analysis Laboratory Trust funds (\$400,000)
- Funds for Standards and Training for Corrections Officers (\$184,000)
- Community Law Enforcement Equipment Program (CLEEP) funds (600,000)
- FBI Metropolitan Task Force funds (\$65,000)
- High Intensity Drug Traffickers Act (HIDTA) funds (\$141,915)
- Los Angeles Impact funds (\$113,000)
- Law Enforcement Specialized Domestic Violence Project funds (\$180,000)
- TRAP funds (\$1,400,000)
- DUI Reimbursement funds (\$330,000)
- HALT (Health Authority Law Enforcement Task Force – Los Angeles County) funds (\$60,000)
- Real Estate Fraud Prosecution (Los Angeles County) funds (\$576,000)
- California Cold Hit Program (\$510,000)
- Project Safe Neighborhood – Media Outreach and Community Engagement funds (\$65,000)
- Gang Resistance Education and Training funds (\$110,000)
- Bulletproof Vest Partnership Program funds (\$50,000)
- Weed & Seed funds (\$350,000)

The Monitor finds that the Police Commission continues to be in functional compliance with the provisions of Paragraph 146 of the Consent Decree.⁸⁶

B. OPERATIONS OF THE INSPECTOR GENERAL

Overview

The Consent Decree affirms that the Inspector General shall review and evaluate all Categorical Uses of Force incidents and provides that he shall be notified of all such incidents in a timely manner. In addition, he may observe all Categorical Use of Force “roll outs” and may attend Use of Force Review Board meetings. The Inspector General’s observations, reviews and evaluations are reported to the Police Commission for consideration.

In previous quarters, the Monitor reviewed Categorical Use of Force notifications to the Inspector General, “roll outs,” and audit procedures.

⁸⁶ Due to the ongoing budgetary process, which will include supplemental budget requests in the future, the Monitor is considering evaluating compliance with Paragraph 146 on a quarterly basis.

During this quarter, the Monitor completed its review of Inspector General notifications to the Police Commission of non-conformance with LAPD policies and procedures and the Inspector General's observations relative to LAPD Categorical Use of Force "roll-outs." The Monitor also reviewed the Inspector General's access to Use of Force Review Board meetings. In addition, the Monitor assessed the Inspector General's communication with the Police Commission.

The results of our current assessment follow.

Paragraph 147 – Inspector General Notification and Observation of CUF "Roll-Outs"

Paragraph 147 of the Consent Decree requires that the Inspector General be notified in a timely manner of all Categorical Uses of Force and be entitled to be present as an observer on all Categorical Use of Force "roll outs." The Inspector General shall report to the Police Commission any observations regarding conformance with LAPD policies and procedures and the requirements of the Consent Decree.

Background

As reported in the Monitor's Report for the Quarter Ending September 30, 2002, the Office of the Inspector General Categorical Use of Force Notification Log/Index was reviewed for the period January 1 through June 30, 2002. During this period, Office of the Inspector General staff rolled out to 13 Categorical Use of Force incidents.

The Monitor found the Inspector General in compliance with the provisions of paragraph 147 concerning notification and observance of Categorical Use of Force "Roll Outs." However, the paragraph 147 provision that requires notification to the Police Commission of all non-conformances with LAPD policies and procedures and the Consent Decree was not evaluated.

Current Assessment of Compliance

Non-conformances with LAPD policies and procedures and the Consent Decree are evaluated by Office of the Inspector General staff on an ongoing basis. This involves not only observances at the scene of a Categorical Use of Force incident, but observations made by staff as a result of the investigative process resulting in a final report by the Critical Incident Investigation Division (CIID). Observations are noted in the "Staff Notes" section of the Inspector General's analysis report to the Police Commission concerning each Categorical Use of Force incident, which goes before the Police Commission for adoption. It was represented to the Monitor that there have been no non-conformances with LAPD policies, procedures, or the requirements of the Consent Decree observed during Office of the Inspector General staff "Roll-Outs."

Nine Inspector General Categorical Use of Force analysis reports were reviewed by the Monitor. Five pertained to Categorical Use of Force cases adopted by the Police Commission. Four pertained to cases that were pending presentation to the Police Commission. In two instances, staff notes indicated officers involved in the Categorical Use of Force were not properly

separated before being interviewed. These observations were made by Office of the Inspector General staff during their analysis of the respective Categorical Use of Force incidents.

The Monitor finds the Inspector General in compliance with the provision of paragraph 147 that requires notification to the Police Commission of all non-conformances with LAPD policies and procedures, and the Consent Decree.

Paragraphs 148 – Inspector General Attendance at UOF Review Board Meetings

Paragraph 148 states that the Inspector General may attend any Use of Force Review Board meeting and may interview any participant in such hearing after the conclusion of the hearing.

Background

During the last review of this paragraph, the LAPD was informing the Office of Inspector General of all Use of Force Review Board meetings so that a staff member could be afforded the opportunity to attend. Office of Inspector General staff members were not being constrained from interviewing any participants.

Current Assessment of Compliance

Office of Inspector General Staff continues to attend Use of Force Review Board meetings. Staff has the opportunity to question participants at the conclusion of the Board meeting. The interim Inspector General is very pleased with the notification process and the access given to his staff.

The Office of Inspector General Staff is provided with copies of CIID reports and underlying files. Access to the Use of Force Review Section incident summaries is also given.

The Monitor found that the LAPD continues to be in functional compliance with the provisions of paragraph 148.

Paragraphs 149 – Documents and Information Provided Promptly to Inspector General

Paragraph 149 provides that the LAPD shall promptly provide the Inspector General with any documents or other information requested by the Inspector General related to the Inspector General's responsibilities under the Consent Decree and that the Inspector General shall provide the LAPD with a list of reports, complete with timeframes and frequency of production, that the LAPD shall provide.

Background

During the last review of this paragraph, the LAPD was timely responding to requests for information and documents by the Inspector General. The Inspector General limited requests for reports under paragraph 149 to "any and all audits or reports that relate to the LAPD's Annual Audit Plan or that fall within the purview of the Consent Decree." The Inspector General

provided the LAPD with a letter dated September 21, 2001 requesting that these reports be forwarded to the Office of Inspector General upon completion by LAPD.

Current Assessment of Compliance

The Monitor met with the Acting Inspector General to discuss his access to LAPD information, documents and reports. It was represented to the Monitor that the LAPD continues to provide the Inspector General with timely responses to requests for information and documents and that reports requested by the Inspector General are forwarded by LAPD to the Office of Inspector General in compliance with the Inspector General's original letter requesting such reports.

The Monitor finds that the LAPD continues to be in functional compliance with the provisions of paragraph 149.

Paragraph 153 – Informing the Police Commission of Pending Investigations and Audits

Paragraph 153 requires the Inspector General to keep the Police Commission informed of the status of all pending investigations and audits to be performed by the Inspector General pursuant to the Consent Decree.

Background

The Inspector General keeps the Police Commission informed about the status of all pending Inspector General investigations and audits through periodic activity reports. These reports not only cover investigations and audits to be performed under the requirements of the Consent Decree, but other matters of concern to the Police Commission.

Current Assessment of Compliance

The Inspector General communicates with the Police Commission in a number of ways. Monthly activity reports are generated which discuss significant activities and events occurring within the Office of Inspector General. The Inspector General regularly places items of special interest on the Police Commission's meeting agenda. In addition, the Inspector General briefs the Police Commission on sensitive issues in closed session.

The Monitor reviewed monthly activity reports prepared by the Office of Inspector General and addressed to the Police Commission for the months of September and October 2002. The reports were placed on the Commission's meeting agenda for discussion on January 14, 2003. It was represented to the Monitor that they were discussed at that time. The Monitor found that the reports focused on the following areas:

- Complaints/inquiries from the public and/or LAPD personnel.
- Review of completed complaint investigations.
- Status of audits undertaken or to be undertaken.

- Meetings with the Independent Monitor.
- Pitchess Motions.
- Status of Use of Force cases under review.
- Office of the Inspector General personnel issues.
- Training.

Activity reports were not available for November and December 2002 due to the departure of the former Inspector General and priorities that faced the newly appointed Acting Inspector General. The November report is currently being drafted. It was represented to the Monitor that the November and December reports will be available in the near future.

Items of special interest are placed by the Inspector General on the Police Commission's meeting agenda when reviews are completed and reports are ready for submission. These include special reports, audit reports, reviews of the LAPD quarterly Discipline reports, reviews of Categorical Use of Force incidents, reports concerning retaliation complaints, reviews of LAPD audits, etc.

In many instances, the details of these reports and reviews are discussed in closed session where the Inspector General shares sensitive information. Additionally, the Inspector General can update the Police Commission on ongoing investigations and sensitive issues during closed sessions.

Although monthly activity reports were not available for November and December, the Monitor finds the Office of Inspector General in functional compliance with the provisions of paragraph 153.⁸⁷

C. GENERAL

Paragraph 154 – Recommendations to Improve Deficiencies

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

Background

In its Report for the Quarter Ending September 30, 2002, the Monitor reviewed recommendations made by the LAPD and the Office of the Inspector General in connection with audits that were addressed in a subsequent report/review. The focus in this Monitor's report is to

⁸⁷ The Monitor will follow up during the next quarter concerning the missing activity reports. Henceforth, activity reports of the Inspector General will be routinely requested for each month.

assess the Department's overall implementation of recommendations made in connection with successive audits.

This Monitor's quarterly report also addresses the processes in place to track such audit-related recommendations, as well as the processes to track recommendations emanating from other reviews and reports required by the Consent Decree to be made by the Police Commission, the Inspector General or the LAPD.

Current Assessment of Compliance

Implementation of Recommendations Emanating from Successive Audits

For the purposes of this Quarterly Report, the Monitor comments on the LAPD's progress, if any, in "...taking appropriate, timely and reasonable steps to remedy deficiencies" identified in the successive audits of the Department's procedures relevant to the following topics:⁸⁸

<i>AUDIT TOPIC</i>	<i>DATES AUDITED</i>
Arrest, Booking & Charging Reports	June 2001, Dec 2001 & Sept 2002
Confidential Informant Control Packages	July 2001 & Sept 2002
Non-Categorical Uses of Force	Oct 2001 ⁸⁹ & Aug 2002

Arrest, Booking & Charging Reports – Audits Completed June 2001, December 2001 & September 2002

In this quarter, the Monitor reports on the Arrest, Booking and Charging Reports Audit completed in September 2002; the previous audit of this topic was completed in December 2001. The scope of the recent audit related to arrests conducted from October to December 2001; hence the Department did not have an opportunity to implement the recommendations from the December 2001 audit by the time of the September 2002 audit, but had 4 to 6 months to implement the recommendations from the June 2001 audit.

Based on a comparison of the findings and recommendations from the three successive audits and related reviews of Arrest, Booking and Charging Reports, the Department has implemented certain recommendations made by the Audit Division and the Inspector General related to enhanced training, random inspections, and increased oversight of arrest report review and approval. However, the recent audit revealed continuing problems relating to document retention and retrieval, report approval, and other supervisory oversight issues. Accordingly, there is little progress relative to remedying the underlying deficiencies in the arrest process.

⁸⁸ See Section VII of this quarterly report, specifically paragraphs 128(2), 128(5) and 136(i) respectively.

⁸⁹ This audit was conducted by the Audit Division to test compliance as required by paragraph 128(3) whereas the August 2002 audit was conducted by the OIG to test compliance as required by paragraph 136(i).

Confidential Informant Control Packages – Audits Completed July 2001 & September 2002

In this quarter, the Monitor reports on the Confidential Informant Control Packages Audit completed in September 2002; the previous audit of this topic was completed in July 2001. The scope of the recent audit related to informant packages that were active as of June 25, 2002; accordingly, the Department had approximately 11 months to implement the recommendations from the July 2001 audit.

Based on a comparison of the findings and recommendations from these two successive audits and related reviews, despite the issuance of an Informant Manual in February 2002, informant packages continue to lack standardization. In addition, the audits and related reviews revealed a continuing lack of supervisory oversight regarding the completeness of documentation and interaction with informants. Accordingly, there is little progress relative to remedying the underlying deficiencies.

Non-Categorical Uses of Force Investigations– Audits Completed October 2001 & August 2002

In this quarter, the Monitor reports on the Non-Categorical Use of Force Audit completed in August 2002; there was a previous audit of Use of Force Reports that was completed in October 2001. Although certain objectives of these audits are different, both audits required the auditors to review Non-Categorical Use of Force Reports, and to make assessments based on the information contained therein. The scope of the recent audit related to Non-Categorical Use of Force Reports for incidents occurring during the 3-month period from September 1, 2001 to November 30, 2001, hence the Department did not have an opportunity to implement the recommendations from the October 2001 audit.

A comparison of the findings and recommendations established that Special Order No. 27 dated September 1, 2001 is not being consistently followed: The majority of the investigations were not completed within 14 days and the majority were not reviewed and approved at the bureau level within 7 days. For less than 10% of the reports reviewed, conflicting witness statements were unresolved, and injuries were inconsistent with the use of force reported. Accordingly, some progress appears to have been made relative to remedying the deficiencies previously identified, but the recurring issues suggest further steps are required.

Conclusion

Based on the above, while the Department has made some notable progress in implementing recommendations and other processes for improvement emanating from the audits and related reviews of arrest reports, confidential informant packages and non-categorical uses of force, there are numerous recurring deficiencies within the Department. Therefore, the Monitor finds the LAPD to be functionally non-compliant with the requirements of paragraph 154 of the Consent Decree.

Processes to Track Audit-Related Recommendations

In the Monitor's Report for the Quarter Ending September 30, 2002, the Monitor recommended that each successive audit report "should include a section which discusses the progress on recommendations and issues identified for follow-up in prior audit report(s)". This process was partially adopted for the purposes of the Audit Division's recent Arrest Booking and Charging Reports Audit completed in September 2002, however, the scope was restricted to only the most recent audit completed in December 2001, and did not include any commentary on the recommendations from the June 2001 audit.

This process has not yet been adopted for any other audits or reviews by either the Audit Division, the Office of the Inspector General, or any other group conducting LAPD audits.

Processes to Track Recommendations Emanating from Other Reviews and Reports Required by the Consent Decree

To date, neither the City nor the Department, including the Inspector General and the Police Commission, have developed a process to track the LAPD's implementation of recommendations emanating from other reviews and reports required by the Consent Decree. The Monitor notes that the Consent Decree Task Force is currently working on this endeavor.

There are several aspects that could be considered when establishing such a process to track recommendations emanating from other reviews and reports required by the Consent Decree:

- a) identifying all the types of reviews and reports that have generated or could generate recommendations to correct deficiencies;
- b) establishing a system to track those recommendations that relate to policies, procedures, and the requirements of the Consent Decree or the activities of more than a few officers;
- c) identifying which recommendations are governed by the provisions of the Consent Decree, as distinct from recommendations that relate to the establishment of "best practices";
- d) establishing a process to assess the relative priorities of such recommendations (which considers the nature of the recommendation and the severity of the deficiency that the recommendation is intended to resolve);
- e) identifying the basis for evaluating progress relative to each substantive recommendation; and,
- f) establishing a suitable timeframe for such evaluations.

The Monitor would be pleased to provide input into any aspects of this process, but does not intend to develop an independent system for tracking progress on the implementation of recommendations relevant to paragraph 154 of the Consent Decree.

In the meantime, until such time as a process is developed to track recommendations emanating from other reviews and reports required by the Consent Decree, the Monitor finds the City and the LAPD to be in non-compliance with paragraph 154 of the Consent Decree.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

Overview

The Consent Decree directs the LAPD to 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 uses of force.

In the current quarter as in previous quarters, the Monitor reviewed the Department's compliance with the Consent Decree mandate to publish certain semi-annual reports on its website.

The results of our current assessment follow.

Paragraph 156 – Website Reports

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

Background

The Department has been found non-compliant with Paragraph 156 since the Monitor's Report for the Quarter Ending September 30, 2001, due to its inability to publish data collected from officer-initiated pedestrian and motor vehicle stops.

Current Assessment of Compliance

The Department's collection of data had been plagued with difficulties rendering the Department incapable of posting data collected pursuant to Paragraphs 104 and 105. However, the Department's efforts at improving the flawed collection process were successful and the field data collected from July 1, 2002 through November 30, 2002 was ready to be posted on the LAPD website during the first week of January.⁹⁰ In addition to the posting of the collected data,

⁹⁰ The information was, in fact, posted on January 6, 2003. Although the Department did not complete this task in time to be considered compliant for the quarter ending December 31, 2002, it has since complied with the Consent Decree by posting this data and citywide statistics for each category.

Upon the data's release to the public, the Mayor, the President of the Police Commission, the Chief of Police, as well as other representatives from the Commission and the Department, held a press conference to announce the release of the data, the efforts made by the collective group to determine whether the data could be analyzed, and some of their respective concerns. The City and the Department were unified in their message to the public when

the Department is required to post a series of completed audits and reports as they become due under the mandates of the Consent Decree. The results of a training audit were required to be posted no later than December 31, 2002.⁹¹ However, the audit has not been completed. The failure to post the Motor Vehicle and Pedestrian Stop data requires the Monitor to find the Department in non-compliance with the mandates of 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 Department was found in compliance with Paragraph 157 for the quarters ending December 31, 2001 and March 31, 2002 and found in non-compliance for the quarters ending June 30, 2002 and September 30, 2002.

Current Assessment of Compliance

As mandated by Paragraph 157, the Media Advisory Group held a meeting on November 22, 2002. The Monitor requested all paperwork generated from the November meeting and was provided with the attendance list as well as the meeting notes. Although the Group is comprised of a minimum of six participants, the attendance list revealed that only four people attended the November 22nd meeting. The four people that attended are representatives from the Mayor's office, Inside Edition, City News Service, and LAPD media relations. From the documents provided, it is difficult to discern what activities the group engaged in as a result of their meeting.

questioned by the press as to the merit of publishing this data without an agreed upon methodology for analyzing it; Chief Bratton responded that not only is the data mandated by the Consent Decree, but that being "transparent" to the community is critical in the Department's effort to develop a partnership with the public.

The press conference was followed by a meeting with Chief Bratton and several community leaders to inform them about the release of the data and understand what, if any, implications the data might have for their respective communities. The Monitor had an opportunity to speak with several community leaders after the meeting, all of whom expressed satisfaction with the Department's handling of the data's release.

That afternoon, Chief Bratton held a meeting with all Captain III's and above to reiterate his expectations of how each commanding officer should address the release of data with their respective officers. The Chief announced that he, along with LAPPL President Robert Baker, would be attending upcoming roll call meetings to emphasize to their officers that both the Union and the Department are supportive of their efforts and their work and that no one will be drawing conclusions from the data until proper analysis can be performed.

The Monitor commends the City and Department for their efforts and encourages future proactive community building on the part of the Department.

⁹¹ The Department has hired RAND to conduct the training audit. They are expected to deliver a draft report in March 2003 and a final report on August 2003.

The Department is in compliance with paragraph 157.

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORTS

The Monitor issues the following corrections to the Monitor's report for the quarter ending December 31, 2002 after discussions among the Monitor, the City, and The Department of Justice.

Paragraph 61 – Separation of Officers After an OIS

Background

Paragraph 61 requires that all involved officers and witness officers "be separated" immediately after an Officer Involved Shooting (OIS) until each has given, or declined to give, a statement.

Clarification

The Monitor's report for the quarter September 30, 2002 stated: "The Monitor, the LAPD and the Department of Justice have agreed that the importance of eliciting a public safety statement temporarily supercedes the need to immediately separate officers." While this does constitute the position of both the Monitor and the LAPD, the Department of Justice's position is that LAPD supervisors may gather involved officers and witness officers together after an OIS to elicit a public safety statement only on a case-by-case basis, where circumstances justify that action, and then only after LAPD adopts an appropriate policy regarding the taking of public safety statements and trains supervisors on this policy. While the Monitor has clearly recommended the adoption of such policies and procedures and will continue to find the Department in non-compliance until such policies and procedures are adopted, we cannot and do not, recommend the suspension of public safety statements until that time.

Paragraph 69 – Review of Uses of Force

Paragraph 69 requires that the Use of Force Review Board continue to review all Categorical Use of Force (CUOF). However, the City has established a parallel review board for dog bites that constitute CUOFs. The Report for the Quarter Ending September 30, 2002 incorrectly indicates that all CUOFs are forwarded to the UOF Review Section and then to the UOF Review Board, and does not mention the new dog bite board.

Paragraph 131 – Gang Unit Work Product Audits

Background

Paragraph 131 mandates that the OHB Detective Support Division conduct regular periodic audits of the work product of all gang units covered by paragraph 106. Paragraph 131 also describes what such audits should include.

Clarification

The Monitor's Report for the Quarter Ending September 30, 2002 listed the specific mandates of paragraph 131, and the report card similarly listed these mandates:

- Paragraph 131(a) mandates an audit of Gang Unit Work Product.
- Paragraph 131(b) mandates an audit of Gang Unit Selection Criteria Compliance.
- Paragraph 131(c-1) mandates an audit of Gang Unit Warrant Applications and Supporting Affidavits.
- Paragraph 131(c-2) mandates an audit of Gang Unit Arrest, Booking and Charging Reports.
- Paragraph 131(c-3) mandates and audit of Gang Unit Use of Force Reports.
- Paragraph 131(c-4) mandates an audit of Gang Unit Motor Vehicle and Pedestrian Stops.
- Paragraph 131(c-5) mandates an audit of Gang Unit Informant Control Packages.
- Paragraph 131(d) mandates an audit of the Gang Unit Use of Confidential Informants.
- Paragraph 131(e) mandates an audit of the Roles and Conduct of Gang Unit Supervisors.
- Paragraph 131(f) mandates an audit of the Supervisory Review of Gang Unit Incidents.
- Paragraph 131(g) mandates that the above audits include Conclusions and Recommendations.

Other than the mandate for paragraph 131(g), the above mandates were listed in a way that suggested that each of these mandates represented a separate audit, and the subsequent text identified that the LAPD was in non-compliance for each of the audits that were not completed on a "regular, periodic basis", namely, the audits of 131(a), (c-1), (c-4), (e), (f), and (g).

The Monitor is now of the view that paragraph 131 essentially has two aspects:

- It identifies the types of audits that must be conducted: Namely an audit of the work product of the gang units, including the bureau gang co-coordinator audits – as mandated by paragraphs 131 and 106(h); the selection criteria audit – as mandated by paragraphs 131(b), 106(b) and (c); audits that are similar to the paragraph 128 Department-wide audits – as

mandated by paragraph 131(c), and the audit of the use of confidential informants – as mandated by paragraph 131(d).

- It identifies the standards for each of the above audits: namely testing a random sample of the gang units with extended testing for officers with anomalies – as mandated by paragraph 131(a); testing the roles and conduct of supervisors relative to the subject audited – as mandated by paragraph 131(e); testing the incidents requiring supervisory review – as mandated by paragraphs 131(f), 62, 64, 68, 70 and 71; and concluding and issuing recommendations related to any deficiencies – as mandated by paragraph 131(g).

Correction

The Monitor's Report and Report Card for the Quarter Ending September 30, 2002 should be amended to remove the assessments relative to paragraphs 131(e), (f) and (g), and the assessment for paragraph 131(a) should be interpreted as referring to the work product of gang units relative to paragraphs 106(a), (d), (e), (f), (g) and (h), which therefore includes the audit of the bureau gang co-coordinator audits.

Paragraphs 136 & 142 – Review and Adjudication of All Categorical Uses of Force

Background

Paragraphs 136 and 142 require that the Inspector General continue to review each Categorical Use of Force (CUOF) investigation, and paragraph 142 requires that the Police Commission continue to adjudicate each CUOF investigation.

The Report Card for the Quarter Ending September 30, 2002 states, for paragraph 136, that the subject of IG reviews of CUOFs is covered under paragraph 142, and states, for paragraph 142, that the City is in compliance with IG and Commission reviews of CUOFs based on a Monitor evaluation conducted during the quarter ending June 2002.

However, it does not appear that the Monitor in fact conducted any such evaluation during the April-June quarter. The text of the Monitor's Report for the Quarter Ending June 2002 (issued August 15, 2002) makes no mention of any Monitor evaluation of either IG reviews or Commission reviews of individual CUOFs. Instead, the report only addresses other issues relating to the IG, the Commission, and CUOFs (notifications to the IG when CUOFs occur, and the annual report that the Police Commission must issue).

Error

The Report Card for the Quarter Ending June 30, 2002 correctly includes an "NYE" grade for paragraph 136 with regard to IG reviews of CUOFs. It incorrectly includes a "compliant" grade for paragraph 142 with regard to Commission/IG reviews of CUOFs (instead of "NYE"). This error was not identified following the issuance of that report and was repeated in the Report Card for the Quarter Ending September 30, 2002.

XI. CONCLUSION

The Consent Decree approaches its critical third year with a number of noticeable successes but also troubling issues that may affect the ability of the City to be in compliance within the five-year timetable. The most daunting remaining questions, but by no means the only remaining questions, relate to TEAMS II and the stop data analysis. The Monitor believes there is still time to achieve compliance within five years, but believes the City must use the same energy and resources it demonstrated so well in handling the audit issues.