

REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



Kroll

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

**REPORT FOR THE QUARTER ENDING
MARCH 31, 2004**

Issued May 17, 2004

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INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Associates have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's Eleventh Report, covers the quarter ending March 31, 2004.

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

As a tool to assist the reader of this report, the Monitor has attached a "Report Card" as Appendix A that summarizes the overall grade of compliance with each paragraph or subparagraph of the Consent Decree for the last five quarters, beginning with the quarter ending March 31, 2003. The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter, or before the *Methodologies to Aid in Determination of Consent Decree Compliance*¹ (the Methodologies) were finalized. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's report and report card. These estimates are subject to change as information develops and circumstances change.

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

EXECUTIVE SUMMARY

During the quarter ending March 31, 2004, the Monitor examined 45 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 15, failed to achieve compliance with 21, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance for the remaining 9 paragraphs or subparagraphs.

Areas of concern identified during the quarter ending March 31, 2004 include:

- Deficiencies continue in connection with the Department's and Office of the Inspector General's (OIG) oversight of Categorical Use of Force (CUOF) investigations.
- Inaccurate UOF information is currently being captured in TEAMS I.

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

- The LAPD has made significant progress in complying with Consent Decree requirements relating to Confidential Informants. In addition to achieving almost 100% compliance with several fundamental procedures, the LAPD has made considerable improvements in supervisory oversight and maintenance of Confidential Informant packages, and relevant training has taken place on the LAPD's revised Informant Manual.
- The Monitor is pleased with the improvements the LAPD has made in its monitoring and documentation of the Consent Decree requirement that all involved and witness officers to an Officer Involved Shooting (OIS) be separated immediately and remain separated until they provide a statement.
- The Police Training and Education Division (PTE) has demonstrated strong organizational capabilities and considerable persistence in its efforts to improve the attendance rate at Field Training Officers (FTO) training from less than 30% two months ago to 94% today.

I. FOCUS ISSUES

A. CONTINUING DEFICIENCIES IN CUOF INVESTIGATIONS

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor described developments that unfolded during the quarter that undermined the Monitor's confidence in the Department's handling of CUOF investigations. The Monitor uncovered multiple occasions in which the Critical Incident Investigation Division (CIID) failed to identify and report material inconsistent statements and preserve essential evidence, none of which were uncovered or referenced by the Use of Force Review Section (UOFRS). The Monitor further noted that the Department was extremely responsive to our findings, with the Professional Standards Bureau (PSB) undertaking an independent review of investigative files and confirming, in almost every aspect, the Monitor's findings. The LAPD also indicated that it intends to move CIID to PSB.

During the current quarter, the Monitor determined that the deficiencies in CUOF investigations persist. The Monitor identified witness interviews that were not recorded; insufficient documentation within investigation files; and failures to interview supervisors responding to the scene, interview identified witnesses, adequately canvas the area for witnesses, and secure evidence. In addition, the Monitor identified CIID failures to adequately identify and report inconsistencies between officer and witness statements. Finally, the Monitor concluded that the LAPD failed to initiate complaint investigations in connection with three incidents in which they were warranted.²

Unfortunately, we found that the institutional review of these investigations by both the Use of Force Review Board (UOFRB) and the OIG failed to uncover the deficiencies that we identified. During the current quarter, the Monitor determined that deficiencies also persist in the OIG's evaluations of CUOF investigations: in 2003, as well as in 2002, the OIG did not evaluate or report on the quality or timeliness of CUOF investigations, the accuracy of any transcripts or summary statements obtained, or whether the CUOF was properly adjudicated.³

While the Monitor recognizes that the deficiencies identified are historical, representing CUOF incident investigations forwarded by the LAPD to the OIG during the period July 1, 2003 through December 31, 2003, the issues highlighted point to a general failure within the

² Please refer to the Current Assessment of Compliance for paragraph 80, below.

³ The OIG is currently developing a matrix to be used when evaluating future CUOF investigations in order to address these requirements, and will include the findings from such analyses in its future reports to the Police Commission.

Department to adequately oversee and evaluate the quality of the work performed by LAPD personnel investigating CUOF. This failure must be rectified with the greatest of expediency.

In response to the Monitor's concerns, the LAPD initiated a reorganization of the CIID. First and foremost, the LAPD reassigned the CIID to report to the Deputy Chief of the PSB, who has since initiated organizational and investigative changes in the manner in which CUOF investigations are completed. The results of these changes will hopefully be seen during our next scheduled review of this area.

B. UNRELIABILITY OF TEAMS DATA

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor expressed concern over inaccuracies in the LAPD's TEAMS reports. The Monitor reported that the inaccuracies appeared to be the result of input errors and shortcomings relative to the transfer of data from the UOFRS to TEAMS I, whereby all Use of Force (UOF) that occurred in an incident is reflected in all involved officers' TEAMS reports, regardless of the type(s) of force used by the individual officer(s).

During the current quarter, as noted in our assessment of the Audit Division's Audit of Non-Categorical Use of Force Reports/Investigations, paragraphs 128(3) & 129ii below, both the Monitor and Audit Division found that the TEAMS inaccuracies persist. While the Monitor accepts that it will take an enormous effort to fix historical data in TEAMS, the Monitor had understood that the Department was making every effort to get accurate information into TEAMS for recent incidents. This is not occurring, primarily because the UOF face sheet is poorly designed, in that it does not segregate the types of force used by each officer and does not facilitate the process of entering UOF information into TEAMS. The Monitor has previously identified this problem and recommended that the UOF face sheet be modified so that the UOF used by each officer are separately identified. The Department has recently updated its UOF forms to address this issue, but such forms have not yet been implemented.

As we stated in our Report for the Quarter Ending December 31, 2002, the TEAMS reports are an integral part of each officers' personnel file, and such files are meant to be used to make certain decisions. Until such time as these inaccuracies are remedied, the TEAMS I data is unable to be used. The Monitor again emphasizes that the City must also make certain that the inaccuracies of TEAMS I are not carried over into the proposed Risk Management Information System (RMIS).

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

The Consent Decree mandates that the City develop an early warning system, termed TEAMS II, with the purpose of promoting professionalism and best policing practices as well as identifying and modifying at-risk behavior.⁴ In order to meet this requirement, the City is developing four new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database,⁵ and the RMIS. The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

The ability to conform to the original timeline for completion of the TEAMS II project has, from the inception of the Monitorship, been very much in question. The Monitor has always recognized the numerous challenges presented by the scope of the TEAMS II project; therefore, the failure of the City to meet the deadlines set forth in paragraphs 50c and 50d while disappointing, is not surprising. As noted in our last report, because the current timetable does not provide the requisite two years of compliance before the scheduled end of the Monitorship, the slippage in schedule may very well necessitate an extension of the Monitorship.

That being said, it is nonetheless the Monitor's belief that, at this point in the process, the City is moving forward in as expeditious a manner as possible, with the proper attention to the details so important in projects of this magnitude.

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

- Sierra Systems continued work under the RMIS/UOFS contract. Although the agreed-upon schedule was delayed by a total of approximately 14 days, Sierra delivered a Design Document relative to RMIS. A walkthrough of that document was held, in which both the Monitor and the DOJ participated. This session led to additional delays due to the number of comments from the City. According to the City, the first "builds" of both RMIS and UOF are scheduled to be made available for City review on March 26, 2004. We are informed by the Department that, notwithstanding these delays, the schedule for completion of the RMIS

⁴ The system is being developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (TEAMS).

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

Prototype (Beta) is still achievable.⁶ There were also delays relative to the UOFS. The Design Document for UOFS was originally scheduled to be delivered on January 9, 2004 and was approved on March 1, 2004. Although the delays in the approval of the UOFS design document will impact the timeline for deployment of the UOFS,⁷ they will not impact the deployment of RMIS.

- The City is currently reviewing four deliverable reports from Bearing Point regarding CMS and the CMS Design Document is scheduled for delivery in May 2004. With respect to the Deployment Period System (DPS), the contract was signed by the City in March 2004 and is scheduled to begin work shortly thereafter.
- The development of Use Protocols continued this quarter with the TEAMS II Protocol Development Sub-Committee meeting on March 16, March 22 and March 30, 2004 to discuss modifications. As of the end of this quarter, these protocols are now at the Chief's Office for approval. The implementation of Use Protocols and Thresholds, which will alert Risk Management to potential issues, requires the Department to "meet and confer" with the Police Protective League (PPL). Although formal "meet and confer" cannot commence before the City has presented its implementation plan to DOJ and DOJ has approved the plan, the Department, much to its credit, has included the PPL in the committee dealing with thresholds and related issues.⁸

⁶ The RMIS Prototype (Beta) is scheduled to be completed by September 2, 2004, with RMIS Department-wide deployment still scheduled for June 27, 2005.

⁷ The UOFS was originally scheduled to be deployed on August 13, 2004; the revised deployment date is October 27, 2004.

⁸ The Consent Decree mandates that the City present its implementation plan to DOJ by April 30, 2004. The DOJ must approve the plan within 60 days of submission.

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

The Consent Decree requires LAPD officers to report all incidents in which force is used and whether that force is “Categorical” or “Non-Categorical.” A CUOF⁹ is defined by paragraph 13 of the Consent Decree. Any UOF that falls under this definition is subject to certain paragraphs of the Consent Decree.¹⁰ Administrative investigations of these incidents are the responsibility of the CIID. All completed CUOF incident investigations must be presented to a UOFRB and ultimately the Police Commission within a defined period of time.

All other UOF that do not fall under the definition of paragraph 13 are considered Non-Categorical. These are also subject to certain paragraphs.¹¹ Non-Categorical Use of Force (NCUOF) occur much more frequently than do CUOF, as officers often encounter resistance while performing their duties. NCUOF range from a technique as simple as the physical force used to control a resisting individual to the use of a taser or a bean-bag shotgun.

During the quarter ending December 31, 2003, the Monitor assessed the LAPD’s compliance with a number of Consent Decree requirements relative to CUOF investigations, including the notification process, and the required psychological evaluation of officers involved in a deadly CUOF. In addition, the Monitor reviewed the merits of NCUOF incident investigations, noting a significant improvement in the quality and consistency of such investigations.

During the current quarter, the Monitor concentrated its efforts on reviewing the LAPD’s compliance with CUOF incident investigations largely based on issues noted during the Quarter Ending September 30, 2003. The results of our current assessment follow.

Paragraph 55 – CUOF Investigations / CIID Responsibility

Paragraph 55 requires the LAPD to create a unit whose main responsibility is to conduct administrative investigations of CUOF incidents.¹² Investigators assigned to this Division shall be Detectives, Sergeants or other officers of supervisory rank. The Commanding Officer (CO) of

⁹ CUOF include an OIS 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.

¹⁰ Specifically paragraphs 13, 38, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 136 and 142 as well as certain audit related paragraphs.

¹¹ Specifically paragraphs 13, 38, 65, 66, 68, 69, 81 and 82 as well as certain audit related paragraphs.

¹² Pursuant to Special Order No. 39, 2001 – “*Critical Incident Investigation Division – Established*,” approved by the Police Commission, December 11, 2001.

this Bureau shall not have direct line supervision for any LAPD geographic bureaus. Lastly, all investigators must be trained in conducting administrative investigations as specified in paragraph 80 of the Consent Decree.

Background

The Monitor last evaluated paragraph 55 during the quarter ending September 30, 2003, at which time the LAPD was found in functional compliance. The Monitor also determined that Special Order No. 30, which establishes the criteria for selection, retention and de-selection of investigators and supervisors to the CIID, was in primary compliance with the Consent Decree.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 55 during the current quarter, the Monitor requested and received a listing of all CUOF incident investigations forwarded by the LAPD to the OIG during the period July 1, 2003 through December 31, 2003.¹³ Forty completed CUOF incident investigations were identified for review.¹⁴ All 40 investigations were managed and completed by CIID investigators ranked as either Detective III or Detective II.¹⁵

Based on the foregoing, the Monitor finds the LAPD in continued primary and functional compliance with paragraph 55.

Paragraph 57 – Criminal CUOF Investigations/LAPD Responsibility

Paragraph 57 requires the LAPD to conduct a criminal investigation of CUOF incidents, where the facts so warrant one. Such investigations cannot be conducted by the CIID, which is responsible for completing the administrative investigation.

Background

The Monitor last assessed compliance with paragraph 57 during the quarter ending September 30, 2003, at which time the LAPD was found in compliance.

¹³ Pursuant to paragraph 13 of the Consent Decree, animal shooting investigations and accidental discharge investigations were excluded.

¹⁴ The Monitor considers an investigation substantially completed when it is forwarded to the OIG and the Police Commission for review.

¹⁵ Suspect and certain witness interviews are conducted by Robbery Homicide Division and Detective Headquarters Division Detectives and are incorporated into the administrative investigation.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed CIID and UOFRS reports summarizing pending CUOF incidents as of December 31, 2003. The Monitor noted that one CUOF incident was referred to the PSB by the CIID. The Monitor was unable to review the investigation because it remained pending as of the end of the quarter.

Interviews of PSB command staff determined that once the CIID refers a CUOF incident,¹⁶ the PSB is tasked with completing both the administrative and criminal investigation. These investigations are bifurcated within the PSB i.e. investigations are assigned to different individuals in order to preserve certain independent evidence obtained within each separate investigation.

Based on the foregoing, the Monitor finds the LAPD in continued compliance with paragraph 57.¹⁷

Paragraph 61 – Separate Statements of Officers Involved in OIS

Paragraph 61 requires that all involved officers and witness officers to an OIS be separated immediately and remain separated until they provide a statement, whether voluntary or compelled.

Background

The Monitor last evaluated paragraph 61 during the quarter ending September 30, 2003, at which time the LAPD was found in functional non-compliance.

A recurring factor resulting in the LAPD's non-compliance with this paragraph had been its failure to transport officers separately from the scene of an OIS even after effectively separating them at the scene. In an effort to correct this deficiency, the LAPD issued Special Order No. 19, dated May 22, 2003, "*Obtaining a Public Safety Statement and Separating Officers Following a Categorical Use of Force Incident - Established.*" The order defines Incident Commander responsibility so as to include ensuring that officers are transported separately. The order mandates that any deviation from policy be articulated in the Incident Commander's daily log.¹⁸

¹⁶ The CIID is responsible for all aspects of the administrative investigation. However, once serious misconduct is suspected or identified the CIID must immediately notify the PSB.

¹⁷ The approved methodologies require only functional compliance with regard to paragraph 57. Primary and secondary compliance are not applicable.

¹⁸ In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor noted that the incidents that led to the finding of functional non-compliance with paragraph 61 pre-dated the issuance of Special Order No. 19.

Current Assessment of Compliance

Through Special Order No. 19, the LAPD continues to appropriately address policy and procedure regarding the separation of officers.

During this quarter, in order to review more current documentation regarding functional compliance with paragraph 61, the Monitor reviewed 26 OIS incidents that occurred during the period September 1, 2003 through February 29, 2004. The Monitor determined that in 2 of the 26 incidents reviewed, involved and/or witness officers were not properly separated either at the scene or while being transported.

The Monitor elected to exclude 3 additional incidents in determining compliance because the number of involved and/or witness officers and the tactical situation made it impossible for the LAPD to fully implement separation. It was noted, however, that on-scene supervisors were aware of the separation situations of the involved or witness officers and monitored them appropriately.

As evidenced by the fact that the Monitor identified only 2 OIS incidents in which officers failed to separate officers, the LAPD has substantially improved its monitoring and documentation of the provisions of this paragraph.

Based on the foregoing, the Monitor finds the LAPD in primary and functional compliance with paragraph 61.

Paragraph 64 – Officer History in Disciplinary & Non-Disciplinary Actions

Paragraph 64 requires a manager¹⁹ to consider an officer's work history, including information contained in the TEAMS II²⁰ system, and the officer's CUOF history, including tactics used in past UOF, when reviewing and/or making recommendations regarding discipline or non-disciplinary action as a result of a CUOF.

Background

The Monitor last evaluated paragraph 64 during the quarter ending September 30, 2003, at which time the LAPD was found in primary, secondary and functional compliance.

¹⁹ Paragraph 29 of the Consent Decree defines a "manager" as an LAPD supervisor ranked captain or above.

²⁰ Until the TEAMS II system is developed, the Monitor will base compliance on the LAPD's use of its current TEAMS system.

Current Assessment of Compliance

In order to assess the LAPD's compliance with paragraph 64 during the current quarter, the Monitor reviewed 40 completed CUOF incident investigations.²¹ Contained within each investigation file were forms used by the UOFRS to record information specific to each officer. These forms, which are presented to the UOFRB, contain a section that references an officer's past CUOF history, provides the unique incident number, and lists whether or not the officer's actions were deemed in-policy no action (IPNA) or administrative disapproval (AD).²² The Monitor also noted that each file contained handwritten notes memorializing comments, questions and concerns raised by the UOFRB. The notes, completed by UOFRS officers in attendance at the respective UOFRB, contained references that indicated work histories were presented.

During the current quarter, a member of the Monitor's team observed a UOFRB,²³ at which one incident was presented. At the conclusion of the presentation, the CO provided the UOFRB with the involved officer's work history for consideration.²⁴ It is the CO's responsibility to be prepared to answer any questions posed by the Board regarding the incident being presented and, if applicable, any past incidents.

The Monitor also requested and received a listing of all CUOF incidents adjudicated as administrative disapproval for tactics, drawing a weapon or the UOF during the period July 1, 2003 through December 31, 2003. Eight such incidents were identified. For all eight, the LAPD provided documentation that the involved officers' work histories were considered when rendering disciplinary action.

Based on the foregoing, the Monitor finds the LAPD in continued primary, secondary and functional compliance with paragraph 64.

Paragraph 67 – OIG and Commission Review of CUOF

Paragraph 67 requires the LAPD to submit completed administrative investigations of all CUOF incidents²⁵ to the OIG and the Police Commission at least 60 days prior to the running of any appropriate statutes. For any investigation not completed and forwarded within this timeframe, the LAPD must provide the Commission with a copy of the underlying investigative file

²¹ As described in the Current Assessment of Compliance with paragraph 55, these investigations were forwarded to the Police Commission via the OIG during the period July 1, 2003 through December 31, 2003.

²² If no CUOF history exists, "No Prior" is entered into this section of the form.

²³ A UOFRB convenes on most Monday afternoons to hear presentations of CUOF incidents.

²⁴ This portion of the UOFRB is "closed session." Those required to be present at a closed session include the Board members, the CO, each involved officer, separately, and a UOFRS representative. The IG, at his discretion, may also attend the closed session.

²⁵ As defined by paragraph 13 of the Consent Decree.

accumulated to date, along with an explanation for its delay, the necessary investigative steps still to be completed, and a schedule for the completion of the investigation.

Background

The Monitor last evaluated paragraph 67 during the quarter ending September 30, 2003, at which time the LAPD was found in compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 40 completed CUOF incidents.²⁶ Of the forty incident investigations reviewed, thirty-nine were forwarded to the OIG for review by the Commission more than 60 days prior to the running of any statute of limitations. For the one investigation that was submitted less than 60 days prior to the running of any statute of limitations, the OIG was notified in accordance with the Consent Decree, resulting in a compliance rate of 100%.²⁷ On average, the incident investigations were provided to the OIG approximately 161 days prior to the running of the statute of limitations. The OIG acknowledged receipt of these completed investigations.

The Monitor regularly receives notification of Police Commission agendas. Inclusive in the agendas are references to CUOF incidents scheduled for review by the Commission during its closed-door sessions.

Based on the foregoing, the Monitor finds the LAPD in continued functional compliance with the provisions of paragraph 67.²⁸

Paragraph 69(a) – Use of Force Review Board

The first requirement of paragraph 69²⁹ (paragraph 69(a)) is that the LAPD continue its practice of presenting all CUOF incident investigations to the UOFRB.

²⁶ As described in the Current Assessment of Compliance with paragraph 55, these investigations were forwarded to the OIG during the period July 1, 2003 through December 31, 2003.

²⁷ The investigation of an OIS incident was received by the OIG 37 days prior to the statute of limitation. The UOFRS noted that the UOFRB requested further investigation of the incident. The additional investigation included the expert opinion of a subject matter expert regarding the lag/reaction time of shots fired by the involved officer. It also included a firearms analysis and a reenactment of the incident. The UOFRB found the involved officer and his partner's tactics as administrative disapproval.

²⁸ The approved Methodologies for this paragraph of the Consent Decree require an assessment of functional compliance only. Primary and secondary compliance requirements do not apply.

²⁹ Paragraph 69 also requires the LAPD to complete NCUOF investigations within 14 days of occurrence. This particular provision of paragraph 69 was not evaluated during the current quarter.

Background

The Monitor last evaluated paragraph 69(a) during the quarter ending September 30, 2003, at which time the LAPD was found in functional compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 40 completed CUOF investigations.³⁰ For all 40 investigations, the files maintained by the UOFRS contained documentation evidencing review of the incidents by the UOFRB or the Canine Review Board.³¹

Based on the foregoing, the Monitor finds the LAPD in continued functional compliance with this provision of paragraph 69.³²

B. SEARCH AND ARREST PROCEDURES

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

The Monitor last assessed compliance with Consent Decree requirements relative to search and arrest procedures during the quarter ending September 30, 2003.

During the current quarter, the Monitor assessed both supervisory review of warrants and supervisory review of warrant logs. The results of our current assessment follow.

³⁰ As described in the Current Assessment of Compliance with paragraph 55, these investigations were forwarded to the OIG during the period July 1, 2003 through December 31, 2003.

³¹ With the exception of incidents involving a canine bite requiring hospitalization, all incidents are heard by a panel of five individuals. The panel is comprised of the CO of the Chief of Support Services, a representative from the Chief of Operations, the Bureau CO from the Division in which the incident occurred, a CO from the Training Division, a CO from Personnel and a peer officer of equal rank. As indicated in paragraph 64, the Division CO of the involved officer(s) is required to present a synopsis of the incident to the Board. Prior to the UOFRB, all Board members have received a complete copy of the report prepared by CIID and theoretically should have reviewed it in its entirety for familiarity. During the presentation, the Board may ask the CO questions regarding the incident, what was on the involved officer's mind, and knowledge of any facts that may not have been reported in the CIID investigation. The involved officers may attend the Board; however, they are not permitted to speak except in response to questions from the Board. After the presentation and after all questions have been answered, the Board, in a closed session, discusses the incident and renders its decision. The majority determines the outcome of the incident for all categories reviewed.

³² The methodologies require that this paragraph be evaluated only for functional compliance. Primary and secondary compliance are not applicable.

Paragraph 71 – Supervisory Review of Warrants

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

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

Background

The Monitor last evaluated compliance with paragraph 71 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in primary compliance with all of the provisions of paragraph 71 and secondary and functional compliance with paragraph 71b. However, the Monitor found the LAPD in secondary and functional non-compliance with the requirements of paragraph 71a and c.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 71 during the current quarter, the Monitor selected for review a random sample of 76 search warrant packages from a total population of 365 packages from Deployment Periods 11-13, 2003.³³

The Monitor determined that the LAPD was in compliance with several requirements of paragraph 71, including lack of canned language, articulation of legal basis, conformance with LAPD procedures, and supervisory presence during execution of the search warrant. However, the Monitor noted the following instances of non-compliance with paragraph 71a and c requirements regarding completeness, inconsistent information and supervisory oversight of the after-action review of the warrant:

- 17% of the search warrant packages reviewed did not include a written game plan when required.
- 17% of the search warrant packages reviewed did not include a written debriefing critique/after-action report when required; of those that included a debriefing critique, 40%

³³ The timeframe for Deployment Periods 11-13, 2003 is October 19, 2003 through January 10, 2004.

did not include signatures of the supervisor indicating the review took place no later than the next working day.

- 14% of the search warrant packages reviewed did not include a required commander's review of the debriefing critique/after action report; of those that included a commander's review, 8% indicated that the review took place later than seven days.
- 33% of the search warrant packages reviewed did not include the initials of a supervisor indicating review on the bottom of every page of the warrant affidavit.
- 20% of the search warrant packages reviewed failed to indicate or provide verification of the return of the search warrant within ten days of issuance.
- Of the search warrant packages reviewed where property was seized, 20% did not include the Receipt for Property Taken and 7% did not include the Property Report. Of the search warrant packages where property was seized and the package did include both reports, 60% had inconsistencies between them, with evidence listed that did not match, or evidence not listed at all.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 71b, but in functional non-compliance with paragraphs 71a and c.

Paragraph 72 – Supervisory Review of Warrant Log

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

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

Background

The Monitor last evaluated compliance with paragraph 72 during the quarter ending September 30, 2003, at which time the LAPD was found in primary compliance, but in secondary and functional non-compliance with the requirements of paragraph 72.

Current Assessment of Compliance

In order to assess functional compliance with paragraph 72 during the current quarter, the Monitor reviewed the sample of 76 search warrant packages selected for review in connection with the assessment of compliance with paragraph 71. The Monitor compared the search

warrants issued from this sample with the corresponding Search Warrant Tracking Logs to ensure completeness and accuracy.

Pursuant to the Methodologies for paragraph 72, the Monitor calculated a Logging Rate³⁴ and Effective Logging Rate³⁵ for the Warrant Tracking Logs reviewed. The Monitor found that all of the search warrants reviewed were logged, producing a 100% Logging Rate. In order to assess whether the warrants were logged appropriately, the Monitor reviewed the information contained within the search warrants, finding that of the search warrants reviewed, some were logged inappropriately, resulting in a 60% Effective Logging Rate.

The Monitor identified the following instances in which the LAPD failed to appropriately log the search warrants reviewed:

- The Search Warrant Tracking Log did not include a date and time for 20% of the search warrant packages reviewed.
- The Search Warrant Tracking Log did not include the search warrant number for 7% of the search warrant packages reviewed.
- The Search Warrant Tracking Log did not include the on-scene supervisor name and serial number for 7% of the search warrant packages reviewed.
- The Search Warrant Tracking Log did not include the search warrant return date for 20% of the search warrant packages reviewed.
- The Search Warrant Tracking Log did not include the CO's signature, serial number and date for 7% of the search warrant packages reviewed.

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

C. INITIATION OF COMPLAINTS

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

In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor assessed compliance relative to officers receiving citizen complaints, as well as the requirement to report officer misconduct.

³⁴ # of warrants logged / # of warrants issued and identified in sample.

³⁵ # of warrants logged appropriately / # of warrants logged.

The Monitor is scheduled to again review Consent Decree requirements regarding the initiation of complaints during the quarter ending June 30, 2004.

D. CONDUCT OF INVESTIGATIONS

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.

In past quarterly reports the Monitor reported that the LAPD was in functional compliance with many provisions in this section, most notably in the conduct of CUOF incident investigations and with some of the requirements related to complaint investigations. However, in the Monitor's Report for the Quarter Ending September 30, 2003 it was reported that serious deficiencies were noted in CUOF incident investigations. Specifically, the Monitor identified instances in which the LAPD failed to preserve evidence, failed to identify and report inconsistencies in officer and witness statements, failed to prohibit group interviews and failed to report possible misconduct.

In the Monitor's most recent report, the Monitor assessed compliance with Consent Decree requirements related to the conduct of NCUOF and collateral misconduct investigations, at which time the Monitor reported on significant improvements made by the LAPD with regard to the completeness and consistency of NCUOF investigations and found the LAPD in primary, secondary and functional compliance with relevant Consent Decree requirements.

During the current quarter, the Monitor concentrated its efforts on thoroughly reviewing CUOF incident investigation. The results of our current assessment follow.

Paragraph 80 – Use of Force Investigations

Paragraph 80 defines specific investigative requirements that apply to all CUOF incident investigations and all administrative complaint investigations in which the underlying alleged misconduct falls under the definition of paragraphs 93 and 94. Paragraph 80 contains seven subsections requiring conformance as follows:

- a. Tape record or videotape interviews of complainants, involved officers, and witnesses;
- b. Canvass a scene, interview complainants and witnesses at sites and times convenient for them;
- c. Prohibit group interviews;
- d. Notify involved officers and the supervisors of involved officers, except when the LAPD deems the complaint to be confidential under the law;
- e. Interview all supervisors with respect to their conduct at the scene during the incident;

- f. Collect and preserve all appropriate evidence, including canvassing the scene to locate witnesses; and
- g. Identify and report all inconsistencies in officer and witness interview statements gathered during the investigation.

For reporting purposes, the Monitor has broken paragraph 80 down into two subparagraphs: 80i,³⁶ which relates to CUOF investigations, and 80ii, which relates to complaint investigations.

Background

The Monitor last evaluated paragraph 80, as it pertains to CUOF investigations, during the quarter ending September 30, 2003, at which time the LAPD was found in functional non-compliance.

Current Assessment of Compliance

During the current quarter, the Monitor reviewed 40 CUOF investigations in their entirety.³⁷ The investigations related to the following types of incidents:

- 24 OIS with or without a hit
- 6 Law Enforcement Related Incident Injuries (LERII) requiring hospitalization
- 8 head strikes with an impact weapon
- 1 Law Enforcement Activity Related Death (LEARD)
- 1 Department canine bite requiring hospitalization.

The Monitor's findings regarding compliance with paragraph 80i are as follows:

- For 27 incidents reviewed, the Monitor determined that officer and witness interviews were tape-recorded, as required by subparagraph a. For the remaining 13 incidents, the Monitor concluded non-compliance either because interviews simply were not recorded or the recording equipment malfunctioned.
- For 35 incidents reviewed, the Monitor concluded that witness interviews appeared to be conducted at times and locations convenient for the witness, as required by subparagraph b. For the remaining five incidents, the Monitor could not make a determination, largely due to insufficient documentation within the investigation file.

³⁶ Item (d) does not apply to the evaluation of CUOF incident investigations.

³⁷ As described in the Current Assessment of Compliance with paragraph 55, these investigations were forwarded to the OIG during the period July 1, 2003 through December 31, 2003.

- For 30 incidents reviewed, the Monitor concluded that group interviews were prohibited, as required by subparagraph c. The Monitor noted that group interviews occurred during four incident investigations. For the remaining six incidents, the Monitor was unable to determine whether group interviews occurred, largely due to insufficient documentation within the investigation file.
- For 37 incidents reviewed, the Monitor concluded that the appropriate supervisors were interviewed regarding their conduct, as required by subparagraph e. For the remaining three incidents, supervisors responding to the scene, as determined by other officer statements, were not interviewed.
- For 20 incidents reviewed, the Monitor concluded that the appropriate evidence material to the investigation was collected and/or there was sufficient information to conclude that the scene was adequately canvassed for witnesses, as required by subparagraph f. For the remaining 20 incidents, the LAPD failed to adequately canvass for witnesses or evidence was not adequately secured.
- For 20 incidents reviewed, the Monitor concluded that the CIID failed to adequately identify and report inconsistencies amongst officer and witness statements, as required by subparagraph g.

In addition to the above, the Monitor noted that the investigations of the following five incidents were clearly deficient. The Monitor concluded that the LAPD should have initiated complaint investigations in connection with three of these incidents, yet failed to do so. The following summarizes those issues:

- In one investigation involving both a CUOF and a NCUOF, the LAPD failed to investigate the NCUOF.
- In a second investigation involving both a CUOF and a NCUOF, the LAPD failed to identify that inconsistent conclusions were reached, despite the fact that the divergent conclusions were based on the same medical report. In this particular incident, the Monitor also questioned the re-instatement of an officer to a unit from which the officer was previously removed for disciplinary action.
- In one CUOF, the LAPD continued to question a suspect despite the suspect's assertion of his right to counsel.
- In one CUOF, a Supervisor misrepresented investigative steps taken at an incident scene.
- In one CUOF, a suspect alleged excessive UOF that was not addressed by the investigation despite indications that such unauthorized force may have occurred.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with subparagraphs 80a., b., c., e., f. and g. relative to CUOF incident investigations.

E. ADJUDICATING INVESTIGATIONS

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

The Monitor assessed all aspects of the adjudication phase of the complaint process during the quarter ending September 30, 2003.

The Monitor is scheduled to again review Consent Decree requirements regarding the adjudication of investigations during the quarter ending June 30, 2004.

F. DISCIPLINE & NON-DISCIPLINARY ACTION

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

During the quarter ending December 31, 2003, the Monitor assessed the Chief of Police's discipline report and the IG and Commission's review of this report.

During the current quarter, the Monitor again reviewed the Chief of Police's discipline report and the IG's and Commission's reviews of this report, as well as their reviews of the Department's anti-retaliations policy and its implementation.

Paragraph 88 – Chief of Police Report on Discipline

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

Background

The Monitor last evaluated compliance with paragraph 88 during the quarter ending December 31, 2003, at which time the LAPD was found in functional non-compliance. As explained in the Monitor's quarterly report, the Monitor found that the information contained in the Quarterly Discipline Report (QDR) for the third quarter of 2003 was inconsistent with the information tracked by the Department.

Current Assessment of Compliance

During the current quarter, the Monitor received and reviewed the QDR for the Fourth Quarter of 2003, dated February 15, 2004. The Monitor determined that this discipline report was timely submitted to the Police Commission.³⁸ In order for the Police Commission and the OIG to utilize these annual complaint reports and QDRs to their fullest extent, these reports should be user-friendly and provide appropriate statistical data to reflect the outcome of the discipline imposed during the respective year / quarter. In subsequent quarters, the Monitor will review the annual complaint reports and QDRs to ensure that they accurately capture relevant information and are useful in terms of reporting format and the statistics that are provided.

Based on the foregoing, the Monitor withholds a determination of the LAPD's functional compliance with paragraph 88.

Paragraph 89 – IG and Police Commission Review of QDR

Paragraph 89 requires the IG to review, analyze and report to the Police Commission on each QDR. The Police Commission shall review the QDR no later than 45 days after its receipt and assess the appropriateness of the Chief of Police's actions, specifically with respect to CUOF. Such assessment must be considered as part of the Chief's annual evaluation as provided in paragraph 144.

For ease of reporting, the Monitor has split its reporting on paragraph 89 into three components:³⁹

- 89a IG Review Discipline Report
- 89b Commission Review/Assess Discipline Report
- 89c PC Assessment Considered Part of Chief's Annual Review

Background

The Monitor last evaluated compliance with paragraph 89 during the quarter ending December 31, 2003, at which time the Department was found in functional non-compliance with subparagraphs 89a and b, and in compliance with subparagraph 89c. As explained in the Monitor's quarterly report, the Monitor concluded that neither the IG nor the Police Commission was reviewing QDRs on a timely basis.

³⁸ The QDR was received by the Police Commission on February 17, 2004. Although this was technically 47 days following the end of the quarter, Day 45 was a Sunday and Day 46 was a national holiday.

³⁹ The Monitor has split its reporting since there are three distinct activities required under this paragraph and it is possible that the Department could be in compliance with one or two, but not all three.

Current Assessment of Compliance

89a IG Review of QDR

During the current quarter, the Monitor received and reviewed the IG's review of the QDR for the third quarter of 2003, dated February 4, 2004. The Monitor determined that the IG's review was thorough and analytical concerning discipline issues. However, the IG did not submit its review of the QDR to the Police Commission until February 2004, even though the QDR, itself, was delivered to the Commission on or about November 14, 2003. The IG's lack of timeliness in conducting its review may have had an impact on the Police Commission's review.

The Monitor also received and reviewed the IG's review of the QDR for the fourth quarter of 2003, dated April 1, 2004. Again, although the Monitor determined that the IG's review was thorough and analytical concerning discipline issues, the lack of timeliness of that review may have had an impact on the Police Commission. The IG did not submit its review of the QDR to the Police Commission until April 5, 2004, even though the QDR, itself, was delivered to the Commission on February 17, 2004. The Commission reviewed and assessed the appropriateness of the Chief of Police's actions on April 20, 2004, 63 days after receipt of the QDR.⁴⁰

Based on the foregoing, the Monitor finds the Department in functional non-compliance with subparagraph 89a.

89b Police Commission Assessment of QDR

The Police Commission received the QDR for the third quarter of 2003 on November 14, 2003. The Commission's review and assessment of the appropriateness of the Chief of Police's actions took place on February 17, 2004, 95 days after the receipt of the report. Paragraph 89 requires the Police Commission to review and assess the QDR 45 days after its receipt.

The Police Commission received the QDR for the fourth quarter of 2003 on February 17, 2004. The Commission's review and assessment of the appropriateness of the Chief of Police's actions is scheduled for April 20, 2004, 63 days after receipt of the QDR.

Based on the foregoing, the Monitor finds the Department in functional non-compliance with subparagraph 89b.

89c Police Commission Assessment Considered Part of Chief's Annual Review

⁴⁰ The Monitor notes that the Consent Decree does not require the OIG to complete its review within 45 days of the end of the quarter, nor does it require the Police Commission to consider the OIG's review in its evaluation of the Chief's discipline. However, the City and Police Commission agree that consideration of the OIG's review is appropriate and desired during the Police Commission's review. In fact, because OIG submitted its report on April 5, 2004, the Commission did not review and assess the appropriateness of the Chief's actions during a Commission meeting held on April 6, 2004, but put off such assessment until the next scheduled Commission meeting on April 20, 2004. This reinforces the fact that the OIG must perform a more timely review in order to ensure that the Commission can meet its 45-day deadline.

The Monitor is scheduled to assess the Department's compliance with subparagraph 89c during the quarter ending September 30, 2004.

Paragraph 92 – Review of Anti-Retaliation Policy

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

Background

The Monitor last evaluated paragraph 92 during the quarter ending June 30, 2003, at which time the Monitor found the LAPD in functional non-compliance, as the Police Commission postponed its review pending receipt of the IG's report on discipline, which was delayed due to staffing problems.

Current Assessment of Compliance

During this quarter, the Monitor requested and received the IG's February 12, 2004 memorandum report entitled "Review of the Department's Retaliation Policy, Processing of Retaliation Complaints, and Discipline Imposed". Almost one year earlier, on March 18, 2003, the Police Commission had requested the IG to review and comment upon the Department's February 25, 2003 "Annual Retaliation Report." The apparent delay in completing the review was attributed to the decision by the IG to broaden the scope of its review, as well as some transitional staffing issues at the OIG during the past year.

The Monitor also requested and received the Department's March 12, 2004 memorandum report to the Police Commission entitled "Progress Report Regarding Review of the Retaliation Investigation Process." The memorandum was more specifically described by the Department as a progress report regarding an on-going project designed to focus on the need for an overhaul of the Department's mechanism for addressing retaliation concerns. The Department has stated that a subsequent report reflecting substantial progress would be prepared within six months of this March 12, 2004 memorandum.

The IG's review report found that the Department's retaliation policy itself to be sound, but identified a number of problems with respect to the implementation of the policy.⁴¹ In fact, the

⁴¹ The Consent Decree requires, among other things, that the Department's anti-retaliation policy and implementation of such policy must "protect officers from reprisals for reporting misconduct."

OIG concluded that there was a disconnect between the policy and its implementation. The Monitor shares the concerns raised by the OIG.

The principal concern highlighted by the IG, and shared by the Monitor, relates to the Department's failure to adequately consider the supervisor's performance in connection with a retaliation complaint. Based on its review of completed retaliation investigations, the IG concluded that only a few of the investigations contained an adequate assessment of how the involved supervisor's conduct may have contributed to the aggrieved employee's decision to initiate a retaliation complaint. The OIG went even further in concluding that it was unable to identify a formal mechanism in place during the relevant time frame that specifically evaluated a supervisor's performance in addressing/preventing retaliation. The OIG's finding was in conflict with the existing policy's clear requirement that a supervisor take action to prevent, intervene or otherwise stop the retaliatory conduct, and that such actions – or lack thereof – be documented.

The IG's report recommended that the Police Commission direct the Chief of Police to prepare a response that included a plan to ensure full and consistent implementation of the Department's anti-retaliation policy. The Department's recently provided Progress Report makes clear that such an implementation plan has not yet been prepared.

In its March 12, 2004 Progress Report, the Department concluded that its current procedure for addressing retaliation concerns simply does not work. The Department acknowledged that at least nine Department entities have different systems for addressing retaliation concerns, and that those entities frequently come to different conclusions about the same case.

The Department reportedly is in the process of reviewing and incorporating into its anti-retaliation policy the OIG's recommendations, as well as recommendations made by the Department's employees and the staff of Internal Affairs Division (IAD). According to the Department, however, efforts to overhaul the current system for addressing retaliation concerns have only just begun.

The Department is to be commended for its on-going efforts to overhaul its mechanism for addressing retaliation concerns. However, taking into account the findings of the OIG, as well as the Department's own admissions, it is clear that the necessary modifications to the existing anti-retaliation policy and its implementation have not been made.

Based on the foregoing, the Monitor finds the Department in non-compliance with the provisions of paragraph 92.

G. PROFESSIONAL STANDARDS BUREAU

The Consent Decree mandates that certain categories of cases -- including unauthorized UOF; unlawful search or seizure; dishonesty; domestic violence; and discrimination -- be handled directly by PSB. 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 PSB.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor assessed compliance with Consent Decree requirements relative to staffing and personnel management within PSB, as well as sting audit provisions.

The Monitor is scheduled to again review Consent Decree requirements regarding the PSB during the quarter ending June 30, 2004.

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

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

The Monitor last assessed the LAPD's non-discrimination policy during the quarter ending December 31, 2003.

During the current quarter, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy. The results of our current assessment follow.

Paragraphs 102 and 103 – Non-Discrimination Policy

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

Background

The Monitor last evaluated paragraphs 102 and 103 during the quarter ending December 31, 2003, at which time the Monitor withheld a determination of compliance pending the Monitor's review of documentation⁴² detailing the procedures, exercises, and systems that the

⁴² This documentation was forwarded to the Monitor on January 6, 2004.

Department has in place to ensure compliance with the policies mandated by paragraphs 102 and 103.

Current Assessment of Compliance

During the current quarter, Analysis Group, Inc., the vendor selected to develop a methodology to analyze the STOP data, began work and was required to submit its first work plan on April 8, 2004. As reported in the Monitor's previous reports, the data collected in the field has shown discrepancies in the treatment of different ethnicities.

In January 2004, the Department posted six months' of data collected between July 1, 2003 and December 31, 2003. Consistent with trends identified in the data collected for the period July 1, 2002 through June 31, 2003, the latest tranche continues to demonstrate disparities in the treatment of different ethnicities. Once again, the data indicates that African Americans and Hispanics are much more likely than Caucasians to be patted down and subjected to a search after being stopped. The Monitor acknowledges that the disparate treatment reflected in the statistics may be explainable other than as an indication of biased policing. However, standing alone without further analysis, the statistics are very troubling. Therefore, the Monitor withholds a determination of the Department's functional compliance with these paragraphs.

Measurement of secondary compliance for paragraphs 102 and 103 requires an evaluation of the Department's training on its non-discrimination policy and a review of the Department's internal audit processes that measure the City and LAPD's compliance with its non-discrimination policy. As reported in the Monitor's Report for the Quarter Ending December 31, 2003, the City provided the Monitor with a document describing the internal audit processes in place to measure compliance with its non-discrimination policy. In conjunction with the collection of Motor Vehicle and Pedestrian Data and training, the Department identified the acceptance, investigation and review of complaints, as well as audits performed by Audit Division as the means by which the Department audits its compliance with paragraphs 102-103.

Regarding training, throughout the quarter the Department conducted training that instructs officers on the Department's non-discrimination policy and on appropriate, non-biased conduct. The Department successfully incorporated instruction on the Fourteenth Amendment as well as interactive problem-solving exercises involving non-biased policing⁴³ into this ongoing training.

Regarding the Department's systems for accepting, investigating and reviewing gender bias, racial profiling and discrimination complaints, in the Report for the Quarter Ending December 31, 2003 the Monitor found the LAPD in functional non-compliance with paragraph 74,⁴⁴ which

⁴³ For additional information on this training, please refer to the Current Assessment of Compliance for paragraph 117 in this report.

⁴⁴ Paragraph 74 outlines the methods by which the LAPD must receive complaints, maintain required complaint materials and continue the operation of a 24-hour toll-free telephone complaint hotline. Officers are also prohibited

is indicative of problems with the LAPD's acceptance and investigation of civilian allegations of abusive practices by its officers. During the current quarter, in order to review the investigation and review components of the complaint process, the Monitor reviewed 41 of 42 gender bias, racial profiling and discrimination complaints adjudicated between October 1, 2003 and December 31, 2003.⁴⁵ Of the 41 complaint investigations reviewed, the Monitor determined that 5 were inadequate,⁴⁶ resulting in a compliance rate of 87.8%. It is important to note that although the overall quality of these five complaint investigations was substandard, the Monitor did not identify any indications that the Department is failing to uphold and/or enforce its non-discrimination policy.

Regarding LAPD audits, according to the City's document, LAPD's Audit Division reviews for indicators of bias during audits. As a result, the City also cites the audits performed by Audit Division as a means of measuring the Department's compliance with paragraphs 102 and 103. Although Audit Division does look for indicators of bias when conducting their audits, they have not designed a specific test to check for patterns of bias nor have they been asked to design such a test. Consequently, although Audit Division personnel would recognize blatant examples of biased policing in the cases reviewed during audits, they are not and have not been mandated with the task of auditing all bias-related complaints. As a result, a specific audit has not been conducted regarding the Department's acceptance of discrimination / profiling complaints.

In sum, until the propriety of the stops being made by LAPD is adequately determined, it remains difficult for both the Monitor and the Department to fully assess compliance with this paragraph. The Monitor intends to carefully review the methodologies being put forward by The Analysis Group, Inc. in order to ensure that best efforts are being made to understand the prima facie discrepancies that have been show to exist.

Based on the foregoing, the Monitor withholds its determination of functional and secondary compliance with the provisions of paragraphs 102 and 103.

Paragraphs 104 and 105 – Motor Vehicle and Pedestrian Stops

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

from asking or requiring the complainant to sign a form that in any manner limits or waives certain rights. The appropriate recording and investigation of civilian complaints of abuse is crucial to an effective self-policing effort.

⁴⁵ The LAPD was unable to locate 1 complaint prior to the issuance of this report.

⁴⁶ The five investigations were deemed inadequate for the following reasons: failure to tape-record the interviews; failure to conduct any interviews; failure to adjudicate certain allegations; and disagreements regarding the final adjudications.

Background

The Monitor last evaluated paragraphs 104 and 105 during the quarter ending December 31, 2003, at which time the Monitor found the Department in secondary compliance, but withheld a determination of functional compliance.

Current Assessment of Compliance

In order to assess functional compliance with paragraphs 104 and 105 during the current quarter, the Monitor collected and reviewed the Daily Field Activity Reports (DFAR), Field Data Reports (FDR), citations, field interview cards, watch commander logs, sergeants logs, detention logs and any corresponding arrest paperwork from one watch from each of the 18 areas and Metropolitan Division. The purpose of this audit was to assess whether officers are collecting field data when required, whether the collections are complete and whether the data accurately reflect field activity.

The Monitor collected the paperwork prior to Supervisory review. A second phase of the Monitor's review, which is being undertaken at this time, will involve determining whether errors and/or omissions identified by the Monitor were detected by the FDR coordinator or Supervisor during their respective reviews.

The Department monitors the gross error rate of the processed FDR forms, which is another component of functional compliance. The current Department-wide error rate is 1%. Notwithstanding this very low error rate on one component of compliance, the Monitor will withhold a determination of functional compliance for these paragraphs until the Monitor's review of DFARs and accompanying paperwork has been completed.

Secondary compliance for these paragraphs requires the Department to provide proper training on data collection. The Department successfully completed data collection training in June 2003 and continues to provide de-centralized training on this topic on an "as-needed" basis at the divisional level. In addition to training, secondary compliance requires the Department to conduct an audit on the data collection process. Not only has the Department successfully completed this audit, the Field Data Report unit performs area audits on a regular basis to ensure that officers are accurately documenting the data they are collecting.

Based on the foregoing, the Monitor withholds its determination of functional compliance and finds the Department in secondary compliance with paragraphs 104 and 105.

IV. MANAGEMENT OF GANG UNITS

In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime. The units, called Special Enforcement Units (SEU),⁴⁷ report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),⁴⁸ which has responsibility for monitoring gang units Department-wide.

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

In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor's assessment of the management of gang units focused on the selection process of SEU officers and supervisory review of sustained complaint or adverse judicial findings during an officer's assignment tour in the SEU.

The Monitor is scheduled to again assess the LAPD's management of gang units during the quarter ending June 30, 2004.

⁴⁷ SEUs are now referred to as Gang Enforcement Details.

⁴⁸ SOSD was formerly known as Detective Support Division (DSD). Under a March 2003 Department reorganization, SOSD was mandated to assume many of DSD's responsibilities. Whenever the DSD is referred to in the Consent Decree and in this report, SOSD should generally be substituted.

V. CONFIDENTIAL INFORMANTS

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

The Monitor last evaluated the Department's management of confidential informants (CI) and assessed compliance with the CI-related provisions of the Consent Decree during the quarter ending June 30, 2003. During the current quarter, the Monitor again assessed the LAPD's compliance with these Consent Decree requirements. The results of our current assessment follow.

Paragraph 108 – Procedures for the Handling of Confidential Informants

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

Background

The Monitor last evaluated paragraph 108 during the quarter ending June 30, 2003, at which time the LAPD was found in secondary and functional non-compliance.

Current Assessment of Compliance

In order to assess secondary and functional compliance with paragraph 108 during the current quarter, the Monitor selected for review a statistical sample of confidential informant packages from all active informant packages. Of the packages reviewed, 98% were in compliance with paragraph 108.⁴⁹ Of the 98% that achieved compliance, 77% of the packages had all of the required elements, while the remaining 23% of the packages lacked one required element but still achieved compliance.⁵⁰

The Monitor notes that several fundamental and important procedures rated at or near 100% compliance. For example, all packages are maintained in a locked and secure location, and no informants are maintained by uniformed officers. In addition, the documentation of meetings with informants, information received and follow-up, when necessary, as well as supervisory

⁴⁹ Under guidelines established in the Methodologies, packages lacking two or more required elements are considered to be out of compliance.

⁵⁰ The details of the non-compliant instances identified by the Monitor have been provided to the LAPD.

oversight and maintenance of these packages, has improved considerably since the Monitor's last review.

Based upon the foregoing, the Monitor finds the LAPD in secondary and functional compliance with paragraph 108.

Paragraph 109 – Confidential Informant Database

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

Background

The Monitor last evaluated this paragraph 109 during the quarter ending June 30, 2003, at which time the LAPD was found in primary, secondary, and functional compliance.

Current Assessment of Compliance

In order to assess secondary and functional compliance with 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 sample of confidential informant packages reviewed during the Monitor's assessment of compliance with paragraph 108.

The Monitor found that 17% of the packages reviewed had information that was inconsistent with information contained in the database.⁵¹ Inconsistencies included names, monikers, aliases and dates of birth either not shown in the database or the package, or the data listed did not match in both sources. Narcotics Division, which maintains this database, is aware of these errors and is in the process of correcting the information in the database, and/or notifying the officer maintaining the package that a correction on the appropriate form is necessary.⁵²

⁵¹ The guidelines established in the Methodologies for assessing compliance with paragraph 109 call for the Monitor to "verify that all entries in the database are matched in the hard copy informant control packages." Accordingly, a package is deemed out of compliance if any one of the four required items (the informant number, name, aliases and date of birth items) do not match. In contrast, paragraph 108 looks at many more items, which is why packages are deemed non-compliant when they lack two or more required elements.

⁵² The City has indicated that because the database is updated upon re-application of a CI, rather than every time new information is entered into the CI file, there is a lag time between new information being documented in the file and the updating of the Active Informant database. To keep informants active, the Informant Manual currently requires that updates of all informant forms with any new information, as well as checks of the Undesirable Informant File and want and warrant checks, be conducted every three months. The Monitor recommends that the Active Informant database also be updated with any new information from active informant packages every three months (in addition to the updates upon re-application of a CI).

Based on the foregoing, the Monitor finds the LAPD in secondary and functional non-compliance with paragraph 109.

Paragraph 110 – Confidential Informant Manual

Paragraph 110 requires the LAPD to 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 last evaluated paragraph 110 during the quarter ending June 30, 2003, at which time the LAPD was found to be in secondary and functional non-compliance. Although the LAPD completed a newly revised Informant Manual during the quarter, it had not been distributed and made available for assessment and training as of the end of the quarter.

Current Assessment of Compliance

The LAPD's revised Informant Manual, which was published on April 22, 2003, has now been distributed and made available to all officers managing informants. The Department incorporated training on the new manual into its Basic Detective and Narcotics Schools, which took place in March and April 2004, respectively.

The Monitor attended the Informant Manual training on March 24, 2003, given for the Basic Detective School. Although the training was conducted utilizing informant package forms from the earlier version of the Informant Manual, the Monitor concluded that the content provided adequately addressed the substantive issues related to confidential informant packages and the Informant Manual.

Based upon the foregoing, the Monitor finds the LAPD in secondary and functional compliance with paragraph 110.

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

The Consent Decree mandates that the Department evaluate successful programs in other law enforcement agencies across the United States for responding to persons who may be mentally ill. In addition, the Department is required to evaluate LAPD training, policies, and procedures for dealing with persons who may be mentally ill.

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

As in previous quarters, during the current quarter, the Monitor continued to track the progress being made relative to the Department's Mental Illness Program and also reviewed the status of the Department's Audit of Police Contact with the Mentally Ill. The results of our current assessment follow.

Paragraph 112 – Report on Proposed Police Contact with Mentally Ill

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

Background

The Monitor last evaluated paragraph 112 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in functional non-compliance due primarily to lack of funding and support from the City.

Current Assessment of Compliance

During the current quarter, a meeting between the Monitor and the Department's Mental Illness Project staff was held on February 18, 2004 to discuss Mental Illness Project matters. The Department's Fact Sheet entitled "*Status of Consent Decree Mental Illness Recommendations*" was reviewed and compared to the Monitor's Mental Illness Project Recommendations Matrix with the following results.

Establishment of Centralized Authority and Associated Responsibilities and Duties

As reported previously, the Department has made great strides in centralizing authority for its Mental Illness Program. Although not timely, the Department's Mental Illness Program Implementation Plan was completed on November 28, 2003. It addressed and reported on the status of all the Department's Mental Illness Project recommendations approved by the Police Commission in 2002 and the Mental Illness Program audit required under Consent Decree paragraph 113.

Monthly Mental Illness Program status reports have been instituted and are directed to the Civil Rights Integrity Division (CRID) from the Chief of Detectives. The reports cover all Consent Decree related issues concerning the Mental Illness Program.

Expansion of the SMART/MEU Programs

On November 18, 2003, the Los Angeles County Department of Mental Health (LACDMH) reaffirmed its commitment to provide 13 additional clinicians for expansion of the System-wide Mental Assessment Response Team (SMART) from 12 to 25 teams. LACDMH estimated that it would take 3-6 months for hiring and implementation.

On December 3, 2003, the LAPD Consent Decree Mental Illness Project (CDMIP) Coordinator met with staff from Chief Legislative Analyst's (CLA) office to discuss funding and staffing needs concerning the Department's Mental Illness Program. CLA staff reiterated that any expansion of the program would have to be accomplished utilizing existing Department personnel/hiring authority as dictated by the City Council's action on April 2003. On January 8, 2004, an expansion plan was finalized by the CDMIP Coordinator after meeting with the Department's Office of Operations to expand SMART by six officers this fiscal year and seven officers next fiscal year. On January 26, 2004, the CDMIP Coordinator was advised by the Office of Operations that anticipated deployment was postponed due to lack of Academy classes.

The CDMIP Coordinator represented to the Monitor that he again requested the expansion to six officers for fiscal year 2004/2005. The Department will attempt to fill these positions from existing authorized positions. Additionally, one Detective II position was included in the Department's fiscal year 2004/2005 budget request.

On December 31, 2003, changes to the Department's Manual concerning the duties of Mental Evaluation Unit (MEU) were requested. Planning and Research Division anticipates that a directive will be issued within 90 days.

Expansion of the CIT Program

The CIT Pilot Program officially ended in August 2003. On February 10, 2004, a Department evaluation report of the program was made available to the Monitor; it is currently under review by the Monitor. City-wide expansion of this program was not recommended in the report.

Enhancement to LAPD Training Programs

The 8-hour recurrent refresher course for the CIT Program was developed and submitted to Continuing Education Division (CED) for approval. The training was scheduled to begin in March and finish in May 2004. Although the LAPD has recommended that the CIT Program be discontinued, the Department is working to maximize return on resources already expended by continuing to train existing CIT officers.

Tracking and Documenting LAPD Encounters with Mentally Ill Persons

On January 29, 2004, Fiscal Operations Division approved the purchase order for Information Technology Division to purchase a new computer server for MEU's database and tracking system. The system should be operational within 45-60 days of the purchase of equipment.

As of December 1, 2003, the Department has implemented the review by the MHCRP Coordinator of all completed NCUOF and CUOF investigations involving persons who may be mentally ill. Additionally, the UOF Form (face sheet) will be modified to include additional indicators of impairment and will be used for all NCUOF and CUOF incidents.

Implementation of the Department's new Computer Aided Dispatch System has been postponed until September 2004. Issues concerning the system's ability to track and document LAPD encounters with mentally ill persons still need to be addressed. It was represented by LAPD personnel that a change order is needed to incorporate new procedures and mental illness tracking. That change order has yet to be submitted due to contract issues with the vendor of the system and legal issues associated with the Health Insurance Portability and Accountability Act (HIPAA).

In sum, although the Department has continued to make significant strides in developing its program for responding to persons with mental illness, the Monitor has concerns about proposed tracking and database systems and their ability to meaningfully document contacts with persons who may be mentally ill, the protracted expansion of SMART/MEU and the discontinuance of the CIT program.

Based on the foregoing, the Monitor finds the Department in functional non-compliance with paragraph 112.

Paragraph 113 – Audit of Police Contact with Mentally Ill

Paragraph 113 requires the Department to complete an audit within one year of the date of issuance of the report to the Police Commission on the LAPD's handling of calls and incidents involving persons who appear to be mentally ill,⁵³ or within 32 months after the effective date of the Consent Decree. This audit shall evaluate any new policies, procedures and training methods implemented pursuant to paragraph 112, and specify any additional modifications in the Department's policies, procedures or training to meet the objectives in paragraph 112.

Background

No audits have been submitted related to paragraph 113.

Current Assessment of Compliance

The LAPD's initial report to the Police Commission concerning the Mental Illness Project was submitted by July 15, 2002, which means that the Department was required to complete an audit by at least July 15, 2003, certainly by February 15, 2004 (32 months after the effective date of the Consent Decree). Although an audit is currently under way, it is not expected to be completed until May or June 2004.

Based on the foregoing, the Monitor finds the Department in non-compliance with the requirement of paragraph 113 to complete an audit of the LAPD's handling of calls and incidents involving persons who appear to be mentally ill.

⁵³ As required by paragraph 112.

VII. TRAINING

A. FIELD TRAINING OFFICERS PROGRAM

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

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor assessed the quality of training provided to FTOs, as well as the process in place for FTO de-selection.

During the current quarter, the Monitor continued its evaluation of the FTO selection process and the quality of the training provided to them. The results of our current assessment follow.

Paragraph 114 – Eligibility Criteria for FTO

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

Background

The Monitor last evaluated this paragraph during the quarter ending September 30, 2002, at which time the Monitor found the LAPD in non-compliance based on the Monitor's inability to determine from the FTO selection packages provided whether the selection criteria was being considered.

The Monitor delayed the next review of this paragraph to coincide with the implementation of the revised officer selection evaluations forms.

Current Assessment of Compliance

In order to assess compliance with paragraph 114 during the current quarter, the Monitor requested and received the FTO selection packages from October 1, 2003 through December 31, 2003. There were a total of 22 selection files from this time period, each of which the Monitor reviewed with a focus on the evaluation process, as documented by each interviewer

on the revised FTO selection evaluation forms. During the evaluation process, the interviewers⁵⁴ work from the revised FTO selection form, which dedicates a page to each of the characteristics delineated in paragraph 114. In addition, the interviewer is required to comment on how they reached their respective conclusions.

For the 22 selection packages reviewed, the Monitor determined that 17 of the 22 candidates possessed the necessary skills required of an FTO. However, the Monitor noted that in 4 of these 17 packages, the interviewers did not clearly document how they arrived at their conclusions.

Of the remaining 5 selection packages reviewed, 4 indicate that the officers selected have pending or sustained complaints,⁵⁵ which the Monitor intends to investigate further. The Monitor notes that the existence of these complaints does not necessarily preclude these officers from serving as FTOs. For the last fifth package, the Monitor was unable to conclude on the officer's eligibility because neither the evaluation process nor his performance evaluations indicated that he possessed all of the characteristics mandated by paragraph 114.

Based on the foregoing, the Monitor withholds a determination of the LAPD's compliance with paragraph 114 until the Monitor has had an opportunity to review of the pending/sustained complaints against the 4 officers described above⁵⁶.

Paragraph 116 – FTO Training Plan

Paragraph 116 requires FTOs to receive sufficient training in LAPD policies and procedures and training on how to be an instructor.

Background

The Monitor last evaluated paragraph 116 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in functional non-compliance based on a low attendance rate at FTO update training.

Current Assessment of Compliance

On February 26, 2004, the PTE assumed responsibility for FTO update school from Training Division, at which point the attendance rate for FTO update school was less than 30%. Upon assuming responsibility, PTE immediately organized the training list and contacted the training coordinators to enlist their assistance in getting the officers into the classroom. Based on these

⁵⁴ There are three interviewers present during each interview.

⁵⁵ Two of the officers have CUOF complaints pending, one officer has a sustained domestic violence complaint and the last officer has a dishonesty complaint that resulted in a 22-day suspension.

⁵⁶ This review will be conducted during the quarter ending June 30, 2004.

efforts, in less than two months, PTE has been able to raise attendance to 94%. The Monitor commends PTE for its extraordinary effort.

Based on the foregoing, the Monitor finds the Department in functional compliance with paragraph 116.

B. TRAINING CONTENT

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

During the quarter ending September 30, 2003, the Monitor continued its assessment of the Department's police integrity training, as well as the training of the public members who serve on the Board of Rights and the communication of training suggestions to the LAPD Training Group.

During the current quarter, the Monitor again assessed the Department's compliance with these provisions of the Consent Decree. 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,⁵⁷ 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 policy integrity, and the proper completion of such reports;
- fourth amendment and other constitutional requirements, and the requirement of the Department's nondiscrimination policy, governing police reactions in conducting stops, searches, seizures, making arrests and using force; and

⁵⁷ The Monitor has defined "regular and periodic" to mean "annually" for paragraph 117 and every 24 months for the remaining training paragraphs.

- 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 last evaluated paragraph 117 during the quarter ending September 30, 2003, at which time the Monitor found the Department in non-compliance based on a low attendance rate. However, the Monitor's report noted that the CEDP completed development of the eight-hour training curriculum, CEDP VII, Field Officer Update, designed as the vehicle for initial training of Department personnel on police integrity issues.

Current Assessment of Compliance

The Monitor has attended training at each of the three sites at which CEDP VII was offered. The Monitor determined that the training satisfactorily captures the components of paragraph 117.⁵⁸ All of the instructors observed by the Monitor were well-prepared and thorough, and each fostered an interactive learning environment while being mindful of the curriculum that needed to be covered.

As stated previously, the Monitor commends the Department for the development of this comprehensive training program, which includes mechanisms to ensure adequate attendance and consistent, quality training. As a result of these developments, the Department achieved historic attendance rates of 97.1% for CEDP VII.

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 117.

Paragraph 118 – Public Members on Board of Rights

Paragraph 118 requires the Department to properly train all civilian members who sit on the Board of Rights in police practices and procedures.

Background

The Monitor evaluated paragraph 118 for the first time during the quarter ending September 30, 2002, at which time the Monitor found the Department in non-compliance.

⁵⁸ Although CEDP VII is the first lesson plan to capture all of the elements of paragraph 117, the Department has offered other training programs in which components of this paragraph were delivered satisfactorily, including Tools for Tolerance II, delivered by the Museum of Tolerance, and CEDP module VI, Weapons of Mass Destruction.

Current Assessment of Compliance

A training program was delivered by PSB on January 15, 2004 for all civilian and sworn members of the Board of Rights. Although a formal curriculum was not written prior to the training, the curriculum was transcribed by one of the instructors observing the class. The Monitor will review this curriculum during the quarter ending June 30, 2004.

The Monitor withholds a determination of compliance for paragraph 118 pending review of the curriculum.

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

The Monitor last evaluated paragraph 120 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in functional compliance.

Current Assessment of Compliance

Since its last assessment, the Monitor determined that the Department has made significant efforts towards encouraging employees to submit their insights, including inserting the Training Suggestions/Lessons Learned guidelines onto the Department's internal website opening page,⁵⁹ as well as implementing additional methods for conducting outreach to garner training suggestions and lessons learned from field experiences. As a result of these efforts, several training suggestions were submitted by officers in the field.⁶⁰

Based on the foregoing, the Monitor finds the Department in continued compliance with paragraph 120.

⁵⁹ Training Group intends to create a Lessons Learned site where the "lessons learned" will be broken down into categories such as search warrants, report writing, traffic stops, etc.

⁶⁰ The training suggestions included a suggestion that training be provided on how to handle a 911 call without any additional information and no answer at the location; a suggestion that training be offered on serving arrest warrants; and a suggestion to integrate department shooting policy into the practical training at the range.

C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to assumption of their new responsibilities.⁶¹ Once promoted, supervisors should continue to receive regular training on key issues, including incident control, UOF Investigations, Complaint Investigations, and ethical decision-making. The Consent Decree also requires the Department to ensure that supervisors who conduct investigations receive relevant training.

During the quarter ending September 30, 2003, the Monitor assessed the Department's compliance with the Consent Decree requirements to provide regular supervisory training and to provide supervisory investigations training. The Monitor found the Department in compliance with the former requirement but in non-compliance with the latter requirement. The Monitor assessed the Department's compliance with supervisory training requirements for officers promoted to supervisory positions during the quarter ending December 31, 2003, at which time the Monitor found the Department in compliance.

The Monitor is scheduled to again review the Department's compliance with supervisory investigations training requirements during the quarter ending June 30, 2004, and the remaining supervisory training requirements during the quarter ending September 30, 2004.

⁶¹ This requirement pertains to all promoted officers, except for those officers promoted to the rank of Captain, who must at least begin their Command Development training before they assume their new positions.

VIII. INTEGRITY AUDITS

The audit processes of both the LAPD and the OIG are important components in the reform process for the entire Department. The Consent Decree mandates that the LAPD perform regular and periodic audits of numerous aspects of policing, including search warrants, arrests, UOF, racially biased policing, CIs, complaints, gang units, financial disclosure, and police training. Each of these audits is supposed to examine a variety of issues, but a common theme among them all is the requirement to assess and report on compliance with the Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight. The Consent Decree also mandates that the OIG assess the quality, completeness and findings of such audits, and that the OIG perform independent audits of certain topics, namely UOF incidents and complaints.

In the first two years of the Consent Decree, the LAPD struggled with the requirement to complete quality audits on a timely basis. This was an ongoing theme in the Monitor's quarterly reports for that period. However, during the last few quarters, the Monitor noted improvements in both the quality and timeliness of the Department's audits.

In this quarter, the Monitor concluded that the most recent gang unit work product audit met the qualitative requirements of the Consent Decree – thereby bringing the total number of quality audits to six:

<i>Scope of Audit</i>	<i>Audit Topic for Which Compliance Achieved</i>	<i>Paragraph Reference</i>	<i>Timing of Monitor's Evaluation</i>
Department-wide	Warrant Applications & Affidavits Audit	CD128(1)	September 30, 2002
Department-wide	ABC Reports Audit	CD128(2)	December 31, 2002
Department-wide	MV&PS Audit	CD128(4)	December 31, 2003
Department-wide	CI Control Packages Audit	CD128(5)	September 30, 2003
Gang Unit	Work Product Audit ⁶²	CD131a	December 31, 2003
Gang Unit	Work Product Audit ⁶³	CD131a	March 31, 2004

In this quarter, the Monitor also reports on the following audit:

<i>Scope of Audit</i>	<i>Audit Topic</i>	<i>Paragraph Reference</i>	<i>Comments</i>
Department-wide	NCUOF Reports/Investigations Audit	CD128(3) & CD129ii	Determination withheld; borderline re: quality assessment; sample size increased; evaluation ongoing

In previous quarters, the Monitor expressed concern about the OIG's untimely and deficient reviews and independent audits. The Monitor is pleased to report that the OIG has stepped up its efforts to eliminate a backlog of required reviews and independent audits. However the Monitor's concerns over the quality of the OIG's work persist.

A. AUDIT PLAN

One of the significant findings of the *Board of Inquiry into the Rampart Area Corruption Incident* was the LAPD's failure to establish a meaningful system of internal audits. This finding was subsequently incorporated into the Consent Decree. The Consent Decree mandates that prior to the beginning of each fiscal year, the Chief of Police is required to submit to the Police

⁶² Although this was a quality audit, it was not compliant because it was performed by Audit Division rather than by the SOSD.

⁶³ Same comment as for the previous gang unit work product audit.

Commission, with a copy to the IG, a listing of all scheduled audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits.

The Monitor evaluated the Department's 2002-03 Annual Audit Plan during the quarter ending September 30, 2002 and assessed the LAPD's progress relative to that plan during the quarter ending March 31, 2003. The Monitor evaluated the Department's 2003-04 Annual Audit Plan during the quarter ending September 30, 2003. In each of these reports, the Monitor concluded that the Department was in non-compliance relative to paragraph 124. The Monitor is scheduled to assess the LAPD's progress relative to the 2003-04 Annual Audit Plan during the quarter ending June 30, 2004, and will also evaluate the Department's 2004-05 Annual Audit Plan.

B. AUDITS BY THE LAPD

During this quarter, the Monitor assessed the quality and timeliness of the following audits:

- Paragraphs 128(3) & 129ii – Non-Categorical Use of Force Reports/Investigations Audit
- Paragraph 131a – Gang Unit Work Product Audit
- Paragraph 131c-3 – Gang Unit Use of Force Reports Audit

The following audits were previously identified as being outstanding, but have recently submitted to the Monitor. They will be assessed in the Monitor's Report for the Quarter Ending June 30, 2004:

- Paragraphs 128(1) & 131c-1 – Department-wide and Gang Unit Warrant Applications and Affidavits Audit
- Paragraph 128(2) – Department-wide Arrest, Booking & Charging Reports Audit
- Paragraph 131c-4 – Gang Unit Motor Vehicle & Pedestrian Stops Audit

The Monitor commends the LAPD's efforts in completing its audits on a timely basis as required by its 2003/2004 Annual Audit Plan.

Paragraphs 128(3) & 129ii – Audit of Non-Categorical Use of Force Reports/Investigations

Paragraphs 128(3) and 129ii require the Department to complete a regular, periodic audit of stratified random samples of all Non-Categorical Use of Force reports/investigations. Paragraph 128 requires that this audit assess such reports for completeness, authenticity, appropriateness of action taken, compliance with the law, conformity with Department procedures and an evaluation of supervisory oversight. Paragraph 129ii requires the audit to assess the timeliness, completeness, adequacy and appropriateness of the investigations.

Background

Audit Division completed its first NCUOF audit in the fall of 2001. In its Report for the Quarter Ending March 31, 2002, the Monitor concluded that this audit was non-compliant with the requirements of the Consent Decree because of a flawed audit process and the failure of Audit Division to identify many substantive errors noted by the Monitor.

The Monitor found the Department in non-compliance with paragraphs 128(3) and 129ii for the three consecutive quarters from December 31, 2002 to June 30, 2003, because the Department did not complete another NCUOF audit on a regular, periodic basis after the initial audit referenced above.

On August 22, 2003 Audit Division completed a NCUOF Report Audit and Supplemental NCUOF Reports Audit, which reported on NCUOF incidents that occurred from January to June 2002. The Monitor reviewed this audit and reported its findings in its Report for the Quarter Ending December 31, 2003. In light of the staleness of the audit data the Monitor found Audit Division's report in non-compliance with Paragraphs 128(3) and 129ii, but noted that the audit was diligently completed and very thorough and that but for the staleness of the data, the audit would have been in compliance.

Current Assessment of Compliance

In order to assess compliance for the current quarter, the Monitor reviewed Audit Division's NCUOF Reports Audit report submitted December 30, 2003. The Monitor also reviewed selected Audit Division working papers including work plans, crib sheets, matrices and other related documents.

Audit Division's sample comprised 100% of the NCUOF reports for incidents that occurred in February 2003. This included 150 reports, of which 2 were not examined for compliance as they documented accidental taser discharges.

The Monitor obtained and reviewed a random sample of 14 of the NCUOF reports in Audit Division's sample.⁶⁴ Additionally the Monitor reviewed 14 of the 15 NCUOF reports that Audit Division had reviewed to test the accuracy of TEAMS. The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

Sample Selection

- The Monitor commends Audit Division for its thoroughness in identifying the reports for NCUOF incidents in February 2003.⁶⁵ The Monitor tested the completeness of Audit

⁶⁴ This sample size was selected using a plus or minus 10% error factor.

⁶⁵ As discussed in prior quarterly reports, the LAPD had not been tracking NCUOF incidents until after the completion of the investigation. NCUOF incidents are now being tracked via a UOF Summary Report at the Area

Division's population by comparing Audit Division's sample to Access and Paradox reports⁶⁶ dated February 19th and 20th, 2004; this comparison did not identify any additional NCUOF incidents.

- Audit Division significantly improved its sample selection by obtaining the most current and complete population possible. By reviewing 100% of the incidents in one month Department-wide, Audit Division's sample size was smaller than those previously used⁶⁷ but was still large enough to produce statistically valid findings. This process contributed to the timely reporting of the audit results.

Audit Findings

- Audit Division concluded that the Department is not compliant with the objectives tested in paragraphs 128(3) and 129ii, as only 85.1% of the reports met all of those paragraphs' requirements. The deficiencies largely related to post-incident review, failure to ensure that completely uninvolved and impartial Department personnel conducted all witness interviews, and failure to locate and produce all of the tapes from those witness interviews that were recorded. Audit Division also noted a significant number of minor inconsistencies in dates, times, names, locations etc. The Monitor concurs with Audit Division's findings.
- Audit Division noted the Department is producing more thorough, analytical NCUOF reports. The Monitor agrees with Audit Division's observation and was impressed with the significant improvement in the quality and completeness of the NCUOF reports it reviewed during this audit in comparison with reports written for incidents that occurred between January and June 2002.
- Audit Division noted that prior audits have identified a high error rate in the accuracy of reporting the force used in TEAMS and that the problems are well known within the Department. For this reason, Audit Division limited its review to 15 NCUOF reports involving 36 officers to test the accuracy of UOF data reflected in TEAMS reports. Audit Division concluded that TEAMS reports continue to be inaccurate, as it found 24 officers, or 67%, had TEAMS reports that contained errors or omissions. The Monitor reviewed TEAMS reports for 29 of the 36 officers and found 4 instances where Audit Division

level, which is forwarded through the Bureau to the UOFRS. When Audit Division personnel commenced their fieldwork in September 2003, they initially identified that 90% of the reports on the 150 NCUOF incidents were completed. Audit Division found in February 2003, 14 additional NCUOF incidents that were included in the UOFRS list that were not on the Area Summary Reports. As a result, Audit Division personnel continued to follow-up by reviewing reports such as the Watch Commander Daily Reports, Sergeants Daily Reports, arrest reports and personal complaints to ensure they had identified all of the NCUOF incidents by the time they had completed their fieldwork.

⁶⁶ The Access system tracks NCUOF reports from the point at which such reports are received by the UOFRS, while Paradox is used to assign the NCUOF key numbers to reports once packages have completed the review cycle. Audit Division has noted in prior audits that NCUOF reports can surface 6 months after the incident occurred.

⁶⁷ For example, Audit Division's sample for its previous audit consisted of reviewing 506 NCUOF reports over a 6-month period.

assessed Teams as inaccurate, whereas the Monitor concluded that such TEAMS reports were accurate. Therefore, although the Monitor agreed with Audit Division that TEAMS continues to be inaccurate, it is not at the same degree of inaccuracy as was concluded by Audit Division. It appears that TEAMS is inaccurate due to difficulties in initially documenting the UOF in TEAMS, and later assessing the accuracy of TEAMS. This occurs for two reasons: the UOF face sheet does not segregate the types of force used by each officer,⁶⁸ and certain UOF are very similar.⁶⁹

- The Monitor noted one instance in which the accused was stopped for riding a bicycle at night without a light and Audit Division failed to identify that the UOF report did not include a property report or an explanation of what happened to the bicycle.
- Audit Division failed to identify two investigations where individuals who had planned and been involved in a UOF incident also conducted interviews.⁷⁰
- Audit Division appropriately concluded that “cutting and pasting” of witness statements continues to occur and identified 3 instances of inappropriate cutting and pasting. The Monitor identified an additional instance in which the statements of two officers were virtually the same and concluded that the cutting and pasting was inappropriate.⁷¹ The Monitor notes that there appears to have been a change in how Audit Division is assessing what is and what is not appropriate cutting and pasting. In the current audit report, Audit Division indicates “For the purpose of this audit, copying and pasting the opening verbiage in witness statements was not considered inappropriate.”⁷² This approach is similar to the approach taken by Audit Division for its NCUOF audit completed August 2003, in which Audit Division indicated that as long as the statements identifying the UOF were different, it was not concerned if there was significant similarity or apparent cutting and pasting in the rest of the report. However, based upon the Monitor’s discussions with Audit Division regarding its December 30, 2003 audit report, the Monitor understands that Audit Division is

⁶⁸ The Monitor identified this problem in its Report for the Quarter Ending December 31, 2003 and recommended that the UOF face sheet be modified so that the UOF are broken down by officer. To address this issue, the Department has recently updated its UOF forms, including a new "Internal Process Report," which is officer specific and includes a list of types of force used by that officer to address this issue. These forms have not yet been implemented.

⁶⁹ An example of similar UOF is a takedown that may be included in TEAMS as simply a takedown in one incident, while the TEAMS report for an officer involved in a similar incident may include a firm grip, body weight and takedown.

⁷⁰ The Monitor identified one investigation in which the officers who interviewed a witness / wife had either observed or heard the UOF on the husband by other officers, were involved in the forced entry into the couple’s apartment, and were involved in the subsequent arrest of the husband. The Monitor identified a second instance in which two individuals who had planned and supervised an event but had not observed the UOF conducted the interviews of some of the witnesses. Audit Division ultimately accepted the Monitor’s concerns with the first instance, but disagreed with the second.

⁷¹ Audit Division indicated they did not believe the cutting and pasting was inappropriate in this instance.

⁷² Page 19 NCUOF Reports Audit report submitted December 30, 2003.

now concluding that cutting and pasting is inappropriate only if it negatively impacts the quality of the report. This appears to be a more lenient standard.

Audit Methodology and Scope

- Audit Division has improved upon the work plans, crib-sheets, and audit matrix questionnaires used in prior audits to evaluate NCUOF reports as required by paragraphs 128(3) and 129ii. The Monitor noted the matrix questions and crib-sheet were easier to evaluate and less subjective than in prior audits.
- Audit Division conducted procedures that exceeded the scope requirements of paragraphs 128(3) and 129ii; such procedures enabled the Audit Division to identify several areas for improvement in connection with NCUOF policy and procedures.⁷³

Audit Report

- Audit Division's audit report was well written, summarized the audit findings effectively and presented appropriate actions taken and recommendations to address the deficiencies identified.
- Audit Division's report appropriately commented on the status of recommendations made in its prior NCUOF audit report.

The findings described above are based on a limited sample of 14 reports that were selected using a confidence interval of 95% and a plus or minus 10% error factor. The Monitor cannot conclude on Audit Division's compliance because this sample size was not large enough. The Monitor has requested additional reports to review in order to conclude whether or not Audit Division is in compliance with the Consent Decree. The Monitor is therefore withholding its determination of compliance until it has reviewed and assessed such reports.

Proposed Recommendations

- The Monitor recommends that the Department develop clear guidelines to delineate what is appropriate and inappropriate cutting and pasting.
- In order to improve the accountability associated with the accuracy and completeness of the Department's UOF reports, although not a Consent Decree requirement to do so, the Monitor recommends that Department policy be revised to require the supervising investigator and watch commander to sign or initial each page of a UOF report.⁷⁴

⁷³ These included the timeliness of the review process, tracking of NCUOF investigations, inconsistencies by investigators completing UOF face sheets, and incorrect TEAMS data relating to UOF reporting.

⁷⁴ The Monitor noted numerous instances in which the supervising investigator and/or the watch commander did not sign the UOF report. Audit Division did not identify these instances as an area of concern, as Department policy does not require the investigating supervisor or the watch commander to sign the report. However, the Monitor is concerned about this policy, and believes that a signature by the supervising officer and watch commander, or their

- The Monitor reiterates the recommendation, included in the Report for the Quarter Ending December 31, 2003, that the LAPD should revise its policy to require witness statements to be signed by the witness with an acknowledgement of the statement's independence. This will provide confirmation that the officer agrees with the statement and that the supervising investigator has summarized the statement correctly.

Paragraph 130 – Annual Report on Complaints and Disposition

Paragraph 130 requires the LAPD to report annually to the Police Commission, with a copy to the IG, on the type of complaint allegations it receives, the disposition and discipline, or lack of discipline, resulting from each type of allegation.

Background

The Monitor last evaluated compliance with paragraph 130 during the quarter ending March 31, 2003, at which time the LAPD was found in functional compliance with the requirements of the paragraph.⁷⁵

Current Assessment of Compliance

During the current quarter, the LAPD submitted its “Annual Complaint Report-Year 2003.” The Monitor reviewed this report and determined that complaint information was again broken down by allegation type, disposition and discipline imposed, as required by this paragraph. As mentioned in the Current Assessment of Compliance for paragraph 88, above, the Monitor will review the annual complaint report and QDRs to ensure that they accurately capture relevant information and are useful in terms of reporting format and the statistics that are provided.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 130.

Paragraph 131a – Gang Enforcement Detail Work Product Audits

Paragraph 131a requires the SOSD⁷⁶ to conduct regular periodic audits of the work product of all gang units covered by paragraph 106 by auditing a random sample of the work of the unit as a

initials on each page, would indicate that they have reviewed and ensured that all of the information within the report is accurate and there have been no additional changes to the report.

⁷⁵ The Monitor notes that the Report for the Quarter Ending March 31, 2003 erroneously concluded that the Monitor was withholding a determination of compliance with paragraph 130. Please refer to Section XI (Correction to Previous Quarterly Reports) of this report for additional information.

⁷⁶ SOSD is the Special Operations Support Division. Please refer to the footnote in Section IV. of this report, Management of Gang Units, for additional information.

whole, as well as the work of individuals whose work product appears to contain indicia of untruthfulness, other forms of misconduct, or otherwise merits further review.

Background

From mid-2002 through September 2003, the Monitor concluded that the Department was in non-compliance with the paragraph 131a requirement to conduct regular periodic audits of this topic, as an audit of the gang unit work product had not been completed during that time period. On October 3, 2003, Audit Division reported on its first audit of the gang unit work product as a whole. In its Report for the Quarter Ending December 31, 2003, the Monitor found the Department in non-compliance with the requirements of paragraph 131a due to the fact that the audit was not conducted by the SOSD.

Current Assessment of Compliance

In order to assess compliance with paragraph 131a during the current quarter, the Monitor reviewed Audit Division's Gang Enforcement Detail Work Product Audit report dated December 26, 2003, the related audit workplan and cribsheet, and selected audit matrices and other documents included in the Monitor's sample of reports reviewed.

Audit Division's audit sample comprised 100% of all gang unit work product for four randomly chosen Gang Enforcement Detail (GED) Units,⁷⁷ one from each geographic bureau, for the month of August 2003, excluding the four GED units that were audited during the last quarterly audit.⁷⁸ This included 97 arrest reports, 3 UOF reports,⁷⁹ 4 search warrant packages, 2 Ramey Warrants and no confidential informant reports. Audit Division plans to continue to use this

⁷⁷ The prior audit excluded the work product of officers who were assigned to the Community Law Enforcement Program ("CLEAR") or the Gang Impact Team ("GIT"), as such officers were not assigned to a GED Unit. However, Audit Division found significant co-mingling of reports from these officers that were teamed with GED personnel and concluded that future audits would include the work completed by CLEAR and GIT personnel. During the current audit, all GED and other personnel assigned to gang enforcement units were identified. However, research determined that only GED/GIT personnel had primary responsibility for gang enforcement activity and the areas did not include any CLEAR personnel. Therefore only GED/GIT officers were evaluated during the current audit.

⁷⁸ The prior audit covered the period June 2003 for Central, North Hollywood, Pacific and Southwest. Operations-Central Bureau was also selected for review, but there was no gang unit work product from this Bureau during June 2003.

⁷⁹ The Monitor notes that, as with the last GED work product audit, this audit did not include a review of gang unit UOF investigations as required by paragraph 128(3), as the investigations relating to UOF incidents in August 2003 were not complete. Instead, Audit Division verified the type of UOF investigation and that such UOF incidents were in the process of being investigated. Audit Division indicated that they would evaluate the quality of such gang unit UOF investigations as a separate stratum in the next NCUOF investigation audit. However, the Monitor notes that the NCUOF audit completed in December 2003 included NCUOF incidents from February 2003, but did not include the 3 NCUOF reports relating to NCUOF incidents in August 2003.

sampling methodology for the remaining GED audits each quarter, choosing 4-5 GED units until all units have been audited once during the year.

The Monitor obtained and reviewed a random sample of 14 of the 97 arrest reports in Audit Division's sample,⁸⁰ the 3 UOF reports, the 4 search warrant packages and the two Ramey warrants. The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

Audit Findings

- The Audit was conducted by Audit Division rather than by the SOSD.⁸¹
- Audit Division concluded that the Department was non-compliant with the objectives required by paragraph 131a, as only 70% of the gang unit work product reviewed met the standards for the objectives evaluated by Audit Division. Significant issues identified by Audit Division during its review related to supervisory oversight (84% compliance), whether the underlying actions of the officers were in accordance with Department policy (87% compliance) and completeness (88% compliance). Audit Division found that the units achieved 95% compliance in connection with the authenticity or correctness of the reports. The Monitor concurs with Audit Division's findings.
- As indicated in the Monitor's last quarterly report, the Monitor endorses the sampling methods used by Audit Division because they allow Audit Division to identify and evaluate patterns in the gang unit work product reports. In its audit completed in December 2003, Audit Division reviewed the gang unit arrest reports for patterns of conduct associated with detentions and arrests. This review resulted in a supplemental audit that will be reviewed by the CO of Audit Division and forwarded confidentially to the Chief of Police, Police Commission and the Monitor when it is completed.
- For the Search and Ramey warrants, Audit Division tested to ensure that the appropriate documents were included in each package and were appropriately signed, but did not address the requirements of paragraph 131c as related to paragraph 128(1) (Gang Unit Warrant Applications and Affidavits Audit). Audit Division agreed to conduct a supplementary audit to address these issues; the Monitor expects to receive and evaluate this audit in the next quarter.
- The Monitor did not identify any material areas of non-compliance; three administrative errors were identified.

⁸⁰ This sample was selected using a confidence interval of 95% and a plus or minus 10% error factor.

⁸¹ Paragraph 131 requires the SOSD to conduct all gang unit audits. Although the Monitor supports the Department's decision to reassign these audits to Audit Division in principle, until the Consent Decree is formally changed by the parties, all future gang unit audits that are not completed by the SOSD will be in non-compliance with the Consent Decree. The Monitor understands that the City has requested a change to the Consent Decree in this regard that has been submitted to the DOJ for review.

Audit Methodology and Scope

- Audit Division made minor modifications to its audit workplan, crib sheet and audit matrix to improve upon those used during the first quarterly audit. The Monitor determined that the design of these tools and their use as designed met the requirements of paragraph 131a.

Audit Report

- Audit Division's audit report was well written and included useful recommendations. Audit Division also provided a summary of the recommendations from the last audit and their current status.

Although the Gang Enforcement Detail Work Product Audit was a quality audit that satisfied most of the requirements of paragraph 131a, this audit was conducted by Audit Division rather than by the SOSD. As a result, the Monitor finds this audit in non-compliance with the requirements of paragraph 131a.⁸²

Paragraphs 131c-3, 131c-4 – Audits of Gang Unit Use of Force Reports and Gang Unit Motor Vehicle and Pedestrian Stops

Paragraphs 131c-3 and 131c-4 require the Department to conduct regular, periodic audits of a stratified random sample of all gang unit UOF reports and gang unit motor vehicle and pedestrian stops (MV&PS). The qualitative factors that must be addressed in these audits are described in paragraphs 128 and 131e-g.

Background

The Department has not conducted prior audits of either the gang unit UOF reports or gang unit MV&PS. Accordingly, since June 2002, the Department has been found in non-compliance with the requirement to conduct regular, periodic paragraph 131c-3 and 131c-4 audits.

In August 2003, Audit Division reported on its Department-wide audits of NCUOF reports and MV&PS reports. The Monitor found that although the samples used in these reports included gang unit officers, the reports did not meet the requirements of paragraphs 131c-3 and 131c-4 as they were not conducted by SOSD, did not address specific gang unit issues, and there were no specific conclusions articulated relating to gang unit findings.

⁸² The Monitor reiterates its earlier comments regarding the Consent Decree requirement that all paragraph 131 audits be conducted by the SOSD.

Current Assessment of Compliance

Gang Unit NCUOF Reports

In February 2004, the Monitor determined that Audit Division's NCUOF audit report dated December 30, 2003 did not address the UOF by GED officers and therefore did not meet the requirements of paragraph 131c-3. The Monitor discussed this conclusion with Audit Division and in March 2004, Audit Division provided the Monitor with a supplemental analysis of the gang unit NCUOF reports included within the Department-wide paragraph 128(2) audit. However, this supplemental analysis was not intended to meet, nor did it meet, the requirements of paragraph 131c-3.

Based on the foregoing, the Department has not yet conducted an audit to meet the requirements of paragraph 131c-3. Accordingly, the Monitor finds the Department in non-compliance with paragraph 131c-3.

Gang Unit MV&PS

On March 30, 2004, Audit Division completed an audit of gang unit MV&PS. However this audit was not intended to address the requirements of paragraph 131c-4; instead, it is a supplemental audit to be used to assist in the planning for the next Department-wide MV&PS audit and to address certain requirements of paragraph 131a.

Based on the foregoing, the Department has not yet conducted an audit to meet the requirements of paragraph 131c-4. Accordingly, the Monitor finds the Department in non-compliance with paragraph 131c-4.

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 UOF, 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 Monitor last assessed compliance with paragraph 133 during the quarter ending December 31, 2002, at which time the Department was found in functional non-compliance as a result of the audit report not having been completed.

Current Assessment of Compliance

In July 2002, the Department hired RAND as the independent consultant to complete the training audit required by this paragraph. The Monitor evaluated Rand's report and determined that Rand's review was too general in its application to the LAPD, despite the City's comments and direction to RAND otherwise.⁸³

However, the LAPD reorganized its training groups by incorporating suggestions from the report, as well as additional innovative concepts. The Monitor attended the Department's police integrity training⁸⁴, which was one of the elements that required attention under paragraph 133, and determined that the curriculum and the implementation of the new training model is effective.

Nevertheless, the Monitor withholds a determination of compliance with paragraph 133 until the new training model is fully operational with regard to the other components of this paragraph.

C. INSPECTOR GENERAL AUDITS

During this quarter, the Monitor assessed the following OIG audits and audit reviews:

- Paragraph 135 – OIG Evaluation of LAPD Audits (for this quarter, the OIG's evaluation of two sets of Sting Audits, the CUOF Audit and the Gang Selection Audit)
- Paragraph 136 – OIG Review of Categorical Use of Force Investigations
- Paragraph 136ii – OIG Audit of Complaint Form 1.28 Investigations

In addition, the OIG recently submitted its NCUOF Audit, which the Monitor had previously identified as outstanding. This audit will be assessed in the Monitor's Report for the Quarter Ending June 30, 2004.

⁸³ "The RAND Report: Training the 21st Century Police Officer" is available on the LAPD website.

⁸⁴ Please refer to the Current Assessment of Compliance for paragraph 117 for additional information regarding the police integrity training.

Paragraph 135 – OIG Evaluation of LAPD Audits

Paragraph 135 requires the Department to provide the OIG with copies of certain audit reports within seven (7) days of completion, so that OIG staff 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 135a assesses the timeliness of the transmittal of LAPD audits to the OIG, and
- Paragraph 135b assesses the timeliness and quality of the OIG’s review of such audits.

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

Background

The Monitor first assessed the timeliness of the audits received by the OIG during the quarter ending December 31, 2002, at which time the Department was found in non-compliance with the requirement to transmit Departmental audits to the OIG within seven (7) days. The Monitor continued to find the Department in non-compliance during the quarters ending March 31, 2003 through December 31, 2003.

Current Assessment of Compliance

In order to assess compliance with the timeliness provisions of paragraph 135 during the current quarter, the Monitor reviewed details of the timing of the Department’s transmittal of the following five Audit Division audits: Warrant Application and Supporting Affidavits Audit (CD128(1)), Arrest Booking and Charging Reports Audit (CD128(3)), Complaint Form 1.28 Investigations Audit (CD129iii), and two GED Work Product Audits (CD131a). The Monitor also communicated directly with the OIG to confirm the dates of receipt. The following table summarizes the timing of transmittal to the Police Commission and the OIG of these audits:

Date Of/To	CD 128(1)	CD 128(3), 129ii	CD 129iii	CD 131a	CD 131a
Approval by Chief of Police	Mar 30, '04	Mar 30, '04	Mar 31, '04	Mar 30, '04	Mar 31, '04
Submission to Police Commission	Mar 30, '04	Mar 30, '04	Mar 31, '04	Mar 30, '04	Mar 31, '04
Receipt by OIG	Apr 5, '04	Apr 5, '04	Apr 5, '04	Apr 5, '04	Apr 5, '04
# of Days From Chief's Approval to OIG Receipt ⁸⁵	6	6	5	6	5
Assessment of Compliance	√	√	√	√	√

√ = Compliant: X = Non-Compliant

Based on the foregoing, the Monitor finds the Department in compliance with the provision of paragraph 135 that requires the transmittal of certain audit reports to the OIG within seven days of completion.

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

Background

With the exception of the quarters ending June 30, 2002, December 31, 2002 and June 30, 2003, the Monitor has found the OIG’s reviews of specified and other audits to be non-compliant with the requirements of paragraph 135b.⁸⁶ The assessments of non-compliance resulted either from shortcomings in the quality of OIG’s review or the failure of the OIG to present its reviews in a timely manner to the Police Commission, as noted in the following table:

Monitor’s Report for the Quarter Ending	Monitor’s Determination	Basis
March 31, 2002	Non-compliant	Deficient quality
June 30, 2002	Not assessed	
September 30, 2002	Non-compliant	Further improvements to quality required
December 31, 2002	Compliant	Improved quality
March 31, 2003	Non-compliant	Evaluation not timely
June 30, 2003	Determination Withheld	All reviews compliant except 1 which is subject to interpretation
September 30, 2003	Non-compliant	Deficient quality and lack of timeliness
December 31, 2003	Non-compliant	Deficient quality and lack of timeliness

⁸⁵ The Monitor considers the date of completion to be the date that the audit report is approved by the Chief of Police.

⁸⁶ The Monitor did not assess compliance during the quarter ending June 30, 2002, found the OIG in compliance during the quarter ending December 31, 2002, and withheld determination of compliance during the quarter ending June 30, 2003.

Current Assessment of Compliance

During the current quarter, the Monitor assessed the OIG's reviews of the following audits:

- OIG reviews dated February 26 and March 3, 2004 of the Ethics Enforcement Section's (EES) 2nd and 3rd Quarterly Sting Reports issued in August and November 2003, respectively (CD97, CD127);
- OIG's review dated February 18, 2004 of Audit Division's CUOF Investigations Audit completed August 20, 2003 (CD129i); and
- OIG's review dated December 16, 2003 of SOSD's Gang Selection Criteria package audit completed June 10, 2003 (CD131b).

During the current quarter, the Monitor also received the OIG's reviews of the following audits, but there was insufficient time to evaluate these reviews for the purposes of the current quarterly report.⁸⁷

- OIG's review dated February 18, 2004 of Audit Division's NCUOF Primary and Supplemental Audit completed August 22, 2003 and October 10, 2003 (CD128(3), CD129ii);
- OIG's review dated April 9, 2004 of Audit Division's NCUOF Audit completed December 30, 2003 (CD128(3), CD129ii);
- OIG's review dated March 8, 2004 of Audit Division's MV&PS Audit completed August 20, 2003 (CD128(4));
- OIG's review dated March 12, 2004 of Audit Division's Q1 GED Work Product Audit completed September 29, 2003 (CD131a); and
- OIG's review dated March 30, 2004 of Audit Division's Q2 GED Work Product Audit completed December 26, 2003 (CD131a).

In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor determined that the OIG's reviews were non-compliant because they were not submitted on a timely basis. With the submission of the above reviews, the OIG is now completing its reviews on a timely basis. Accordingly, the Monitor's assessment for this quarter focuses on the quality of the OIG's reviews.

The OIG's Review of EES's Sting Audit Reports (CD127)

In order to assess compliance with the qualitative provisions of paragraph 135b for the current quarter, the Monitor reviewed the OIG's reports dated February 26 and March 3, 2004 regarding

⁸⁷ Audit Division's NCUOF Audit completed August 22, 2003, the MV&PS Audit completed August 20, 2003 and the Q1 GED Work Product Audit completed September 29, 2003 were evaluated by the Monitor during the previous quarter.

the OIG's review of the EES Sting Audit Reports for the 2nd and 3rd Quarters of 2003⁸⁸ as required by paragraph 127, the OIG's working papers and a sample of 14 EES random sting audit reports⁸⁹ completed for the quarters ending June 30 and September 30, 2003.

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

- While the OIG's fieldwork was completed and findings were discussed with the EES in October 2003 relating to the EES Sting Audit Report issued in August 2003, the OIG's review was not issued until February 2004; this was six months after the issuance of the EES report.
- The OIG's review noted several material issues with the EES Sting Audit Reports, including three incidents, subsequently acknowledged by EES, in which initial EES audit classifications as PASS should have been classified as FAIL.⁹⁰ The Monitor concurs with the OIG's findings.
- The OIG made appropriate recommendations that EES design future public intake complaint audits to include the full process, from initial contact to the completion of the complaint Form 1.28, and that EES segregate all sting incidents as separate sting audit reports.
- The Monitor identified several deficiencies in the OIG's report and its findings: the OIG failed to address certain matrix questions; the Monitor's responses differed from those of the OIG on two occasions;⁹¹ for one incident, the OIG did not determine that the Complaint Form 1.28 provided by EES was not relevant to that incident; the Monitor identified two instances in which the OIG failed to identify that a Sergeant and Police Service Representative's (PSR) conduct indicated dissuasion of the filing of a complaint; the OIG did not identify that there were several instances of tape-recordings that were not specifically authorized; and there were inconsistencies between EES's working papers and the final reports.
- The OIG did not consider the Monitor's prior findings and recommendations when conducting its current reviews of EES's Sting Audit Reports.⁹² For example, the OIG's

⁸⁸ These reports were issued in August and November 2003, respectively.

⁸⁹ The Monitor's sample focused on certain EES Sting Audit Reports reported upon by the Monitor during the quarter ending December 31, 2003. The Monitor's sample comprised random sting audits with issues, as targeted sting audits were without issues. The 14 sting audit reports included 7 specific sting incidents reported as part of a single EES sting audit report.

⁹⁰ Two instances involved the failure of an officer/supervisor to file a Complaint Form 1.28 when there was sufficient information available and one instance involved a desk officer dissuading the filing of a public complaint.

⁹¹ In one instance, the OIG incorrectly reported that the sting was not videotaped. For another, the OIG noted an incorrect audio-tape reference.

⁹² The Monitor previously reported on the OIG's review of EES Sting Audit Reports in its Report for the Quarter Ending September 30, 2003.

recent reviews did not evaluate the sufficiency or appropriateness of the EES' sample, and the OIG did not prepare a workplan or cribsheet for such reviews.

Based on the foregoing, the Monitor finds the OIG is in non-compliance with the qualitative provisions of paragraph 135 in connection with its reviews of the two EES Sting Audit reports issued in August and November 2003.

OIG's Review of Audit Division's Categorical Use of Force Reports Audit (CD129i)

In order to assess compliance with the qualitative provisions of paragraph 135b for the current quarter, the Monitor reviewed the OIG's report dated February 18, 2004 and limited working papers, discussed the OIG's review methodology with OIG staff and considered the Monitor's findings arising from its previous review of a sample of 9 CUOF investigations.⁹³

The OIG's review comprised 30 investigations, the 19 CUOF investigations completed between November 1, 2001 and December 31, 2002 as covered in Audit Division's paragraph 129i interim report and an additional 11 investigations identified by the OIG but not reviewed by Audit Division.

The OIG advised that its working papers were incomplete, as its audit matrix responses had been misplaced. As a result, the OIG acknowledged that it would be unable to confirm that its work procedures had been performed, nor would it be able to provide a basis to support the findings presented in the OIG report.

The OIG advised the Monitor that the OIG's review methodology included an assessment of selected Audit Division audit questionnaire responses for the 19 CUOF investigations included in Audit Division's population, and that the OIG's findings were documented directly on copies of the Audit Division's matrices. As the OIG was unable to provide the Monitor with its working papers to support its reported findings, the OIG acknowledged that the Monitor would not be able to assess the OIG's compliance with the requirements of paragraph 135b. Accordingly, the Monitor restricted its review to a comparison of the Monitor's previously reported CUOF review findings to those findings reported in the OIG's report for 9 of the 19 CUOF investigations.

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

- The OIG included in its review 11 animal and accidental shootings, which were not required to be evaluated for CUOF investigation review purposes.⁹⁴

⁹³ This sample had been previously reviewed by the Monitor during its review of Audit Division's interim report of CUOF investigations for paragraph 129i; the Monitor's findings were included in the Report for the Quarter Ending December 31, 2003.

⁹⁴ In its Report for the Quarter Ending December 31, 2003, the Monitor reported that animal and accidental shootings were appropriately deselected from Audit Division's CUOF population.

- The OIG's audit population (and Audit Division's population) did not include 27 CUOF investigations that had been presented for Police Commission review but had not completed the Commissions review process in the audit period.⁹⁵
- Although documentation to confirm completion of its review procedures was not available, the OIG report identified various review procedures and findings that the Monitor determined were appropriate to meet the requirements of paragraph 135b. The OIG report indicated a review of Audit Division working papers and an assessment of tape recordings of non-transcribed witness interviews for possible omission of relevant information from the completed investigations. It also included the results of its review of the status of prior CUOF review recommendations, and provided a positive and appropriate assessment of Audit Division's CUOF planning documents.
- The OIG correctly reported that Audit Division did not review tape recordings of non-transcribed witness interviews to compare with paraphrased witness statements.
- The Monitor identified the following issues that were not identified by the OIG: an allegation of misconduct that was not investigated by CIID; witness statement issues, including inconsistencies and a curtailed witness interview; an instance in which the manager's analysis of the actions of the on-scene supervisor was inconsistent with investigation findings; an instance in which the officer's work history was not considered; and two instances of incomplete documentation.

Based on the foregoing, the Monitor finds the OIG in non-compliance with the qualitative provisions of paragraph 135b in connection with its review of Audit Division's CUOF Investigations Audit.

The OIG's Review of SOSD's Gang Officer Selection Criteria Audit (CD131b)

In order to assess compliance with the qualitative provisions of paragraph 135b for the current quarter, the Monitor reviewed the OIG's report dated December 16, 2003 regarding its review of the SOSD's Gang Selection Criteria Audit and various working papers of SOSD and the OIG, including 12 audit matrix questionnaires completed for selection packages reviewed by the SOSD, the OIG and the Monitor. The Monitor compared the OIG and SOSD matrix responses with its own findings and noted differences.

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

- Using a limited but appropriate review process, the OIG quickly concluded that the SOSD's audit was deficient as to quality, timeliness and completeness because the SOSD: did not

⁹⁵ In the Monitor's December 31, 2003 quarterly report, the Monitor determined that Audit Division's failure to include the CUOF investigations for which Police Commission review was in process was an audit scope restriction, which, along with other material issues missed by Audit Division, rendered its CUOF audit report non-compliant. The Monitor determined that, historically, the Police Commission's review identified few revisions to the investigations.

check certain applicants' TEAMS complaint histories; did not confirm the audit population; calculated applicant experience requirements based on inappropriate data; and conducted non-timely and incomplete follow-up of identified issues. The OIG determined there was no value in further assessing the stale-dated SOSD findings, as revisions to Gang Selection policy had been subsequently adopted. Additionally, the OIG noted the SOSD's self-admission of stale-dated findings.

- In light of the deficiencies with the SOSD audit, the OIG focused its review on assessing whether the current Selection packages remained non-compliant with the requirements of the Consent Decree and Department policy, an initiative the Monitor commends. The OIG reviewed Gang Selection packages at four divisions to assess whether the deficiencies identified by the SOSD were corrected, utilizing the SOSD's matrix questionnaire, which it noted provided sufficient coverage of required procedures. No audit workplan was utilized.
- The OIG confirmed the SOSD's and Monitor's finding that many gang selection packages lacked documentation to substantiate whether the required selection testing procedures were considered and whether the gang officers selected met the eligibility criteria.
- The OIG identified several fundamental deficiencies in the SOSD audit and made appropriate recommendations: the SOSD audit population did not consider officers at ranks higher than Sergeant, and the SOSD failed to ensure the three year field experience requirement for a non-supervisory applicant excluded Academy training time.
- The OIG concluded that SOSD's review fulfilled the paragraph 107a requirement for written supervisory assessments for applicants with sustained complaints as listed in paragraph 107a, but felt such a review should be extended to all sustained complaints, as they all reflect on the applicant's suitability for the gang selection process. The Monitor concurs with the OIG's recommendation and believes its introduction into policy would not cause supervisors undo extra effort.
- The Monitor determined that the OIG's recommendations were appropriate for the deficiencies noted by the OIG.
- The Monitor identified two deficient responses by the OIG on the audit matrix questionnaires included for the 12 selection packages reviewed: an applicant's performance evaluation report was incorrectly noted as missing⁹⁶ and the OIG did not identify that the second page of an Application Form 15.88 was missing.

Based on the foregoing, the Monitor finds the OIG in compliance with the qualitative provisions of paragraph 135b as related to its review of SOSD's Gang Selection Criteria Audit.

In summary, the Monitor found the OIG in non-compliance with the qualitative provisions of paragraph 135b for two of the three OIG reviews that the Monitor assessed during the current

⁹⁶ The Monitor determined that the performance evaluation in the selection package covered the year prior to the application date; the performance evaluation for the applicant's current year's performance was not approved until several months after the application review.

quarter. As a result, the Monitor finds the Department in overall non-compliance with paragraph 135b.

Paragraph 136 – OIG Review of Categorical Use of Force Investigations

The first part of paragraph 136 requires the OIG to continue its practice of reviewing all CUOF investigations. Paragraph 136 further requires the OIG to issue a written report to the Police Commission on each CUOF, 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

In the quarter ending December 31, 2002, the Monitor confirmed that the OIG prepares an analysis of each CUOF incident and forwards it to the Police Commission. However, the Monitor concluded that the quality of such analyses was deficient, as the OIG did not address all of the requirements of paragraph 136.

Current Assessment of Compliance

In order to assess compliance with the provisions of paragraph 136 during the current quarter, the Monitor reviewed a limited selection of 2002 CUOF incident reports that were reviewed by the OIG in 2003, and held discussions with the OIG regarding these reports.

For each report examined, the OIG followed the same reporting protocol as was used in 2002: the OIG's analysis recapped many of the incident's facts, provided a summary of the findings and recommendations of the Chief of Police, and included notes related to the OIG's assessment of:

- whether the OIG concurred with the findings and recommendations of the Chief of Police and the OIG's rationale for any instances that the OIG 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 OIG's analyses and reports did *not* explicitly address the following requirements of the Consent Decree:

- the timeliness of the investigation;
- the quality of the investigation;
- the accuracy of any transcripts or summary statements obtained; and

- whether the CUOF was properly adjudicated.

The Monitor had similar criticisms in December 2002. The OIG is currently developing a matrix to be used when evaluating future CUOF investigations in order to address these requirements, and will include the findings from such analyses in its future reports to the Police Commission.

Based on the foregoing, the Monitor continues to find the OIG in non-compliance with the reporting requirements of paragraph 136 as related to its review of all CUOF Investigations.

Paragraph 136ii – OIG’s Complaint Form 1.28 Investigations Audit

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

Background

This is the OIG’s first audit of Complaint Form 1.28 investigations under paragraph 136ii. The Monitor has previously reported the OIG as non-compliant with the requirements of paragraph 136ii for the quarters ended June 30, 2002 to September 30, 2003 because a regular, periodic audit had not been conducted. For the quarter ending December 31, 2003, the Monitor reported that the OIG’s audit of complaint investigations was not yet evaluated as that audit had been received by the Monitor early in January 2004.

Current Assessment of Compliance

In order to assess compliance with paragraph 136ii during the current quarter, the Monitor reviewed the OIG’s Complaint Form 1.28 Investigations Audit report dated December 18, 2003, planning documents, completed audit matrix questionnaires for those complaint investigations included in the Monitor’s sample, other audit working papers relating to the population and sample determination and follow-up correspondence related to the OIG’s audit findings. The Monitor reviewed the original complaint investigations included in the Monitor’s sample and a selection of audio tapes of witness interviews.

The audit period covered Complaint Form 1.28 investigations initiated after November 1, 2001 that were completed and delivered by the PSB to the OIG during the period November 1, 2002 to January 31, 2003 (“the audit period”). The OIG’s complaints audit report was not issued until December 2003, approximately 10_ months after the receipt of the most recent completed complaint investigation. As a result, the Monitor determined the OIG’s audit findings were stale-dated. The Monitor therefore limited its review to identifying the audit’s strengths and areas for improvement and limited its testing to evaluating criteria from a random sample of 15

of the 209 complaint investigations included in the OIG's sample. Five of these complaints were further selected to compare the paraphrased witness statements with the corresponding audio tapes of witness interviews. The Monitor's findings, which have been discussed with the OIG, are highlighted below.

Sample Selection

- With the Monitor's concurrence, and to focus its audit on higher risk complaint allegations, the OIG developed a rating process to categorize each complaint allegation as to High, Medium or Low risk and priority. The sampling process was weighted to select proportionately more complaint allegations from the High and Medium priority complaints compared to the Low priority complaints.
- The OIG identified that there were 881 completed complaint investigations during the audit period, some with multiple allegations. The OIG randomly selected 209 of these investigations, encompassing 230 allegations, of which 121 were High, 93 Medium and 16 Low priority allegations.⁹⁷ Lower risk Failure to Appear (FTA), Failure to Qualify (FTQ) and Preventable Traffic Collision (PTC) internal administrative complaints were appropriately deselected. Additionally, the OIG randomly selected 118 complaint investigations for assessment of the appropriateness of the investigator's paraphrasing of witness interview statements through comparison to audio interview tapes.
- The OIG's sample did not consider stratification by Division/Bureau as an aid to evaluating performance by Area investigators.
- The Monitor commends the OIG's creativity as evident in its rating and sample selection process. However, the Monitor determined that the OIG's sample sizes exceeded the minimum size requirements, which contributed to the lack of timeliness and staleness of the audit findings.

Audit Findings

- The OIG was not able to confirm that the complaint investigations met the requirements of paragraph 80b and c because documentation to confirm the completion of these procedures was absent from the investigations. Current Department policy does not require complaint investigations to document that paragraph 80b and c standards have been complied with.^{98 99}

⁹⁷ The OIG appropriately deselected four complaint investigations from its initial sample of 213. These were not replaced in the sample. The Monitor advised the OIG that, in the future, similar de-selections should be replaced to maintain statistical validity. This was not a shortcoming in the current complaints audit as the sample sizes were excessively large.

⁹⁸ Department policy introduced October 29, 2001 by Special Order No. 36 revised the investigation of public complaints in conjunction with the CD. However, the revised procedures did not cover all of the requirements of the CD relating to complaint investigations noted in paragraph 80b and c, including the requirement to document whether the scene was canvassed for witnesses and evidence, whether witness convenience was considered by the investigator in making arrangements for interviews and whether group interviews occurred.

The Monitor agrees with the OIG's recommendation that Department policy be revised to resolve this inconsistency with the Consent Decree, but considers that the OIG's recommendation does not fulfill the need for documentation that the paragraph 80b and c standards have been carried out.¹⁰⁰

- The OIG determined, and the Monitor concurs, that supervisory oversight was problematic as evidenced by the final adjudication of complaints despite the absence of required documents or with incomplete documents.
- The OIG reported that there was an overall improvement in the quality of complaint investigations, as most were thorough, the evidence supported the adjudication and the required documentation was largely present in the investigation package. However, the Monitor concluded that these comments were inconsistent with the extent and nature of specific issues disclosed in the OIG's report.¹⁰¹
- Although the Monitor agreed with most of the OIG's matrix responses, the Monitor noted several clerical discrepancies in the OIG's matrix responses and five other discrepancies of greater impact on the audit's quality. In two instances, the OIG failed to accurately assess the investigation's documentation completeness; in one instance, it was not clear which tape-recorded interview(s) the OIG considered in completing its audio-tape matrix responses; and in two instances, the Monitor's findings in respect of taped witness interviews differed from the OIG's.
- The OIG conducted appropriate follow-up procedures to resolve identified audit discrepancies, but did not conduct alternative procedures to assess whether risk issues were present related to certain paragraph 80b and c issues that were unable to be assessed.
- The OIG's procedures included a review for patterns of at-risk behavior by officers and identified two officers with abnormal levels of complaints. One officer had already been referred to the Risk Management Executive Committee ("RMEC"), and the OIG appropriately referred the second officer to that committee.

⁹⁹ This finding was consistent with Audit Division's interim report dated April 30, 2003.

¹⁰⁰ The March 25, 2003 "Guidelines for Accepting Public Complaints" will only partially correct this scope limitation as it requires complaint investigators to include procedures as noted in paragraph 80, but does not consider the issue of documenting the completion of these standards. This guideline directs a supervisor making a preliminary investigation of a complaint to arrange interviews to be convenient to witness preferences, to conduct interviews individually and not in groups and canvass the scene to collect and preserve evidence.

¹⁰¹ The OIG reported findings that impacted the quality, completeness and adjudication audit objectives, including instances of inconsistent application of policy by CO's; adjudications not supported by evidence; inappropriate assignment of investigative unit; incomplete documentation; and failure to accurately paraphrase all tape-recorded witness interviews, address witness statement inconsistencies, address allegations of misconduct and identify clerical errors.

Audit Methodology and Scope

The OIG developed an appropriate audit work plan, crib-sheet, and matrix questionnaire to evaluate the complaint investigations. However, the scope of the OIG audit covered only completed complaint investigations. For future reviews, the OIG has acknowledged that it will additionally consider those complaint investigations not completed as of the audit date and will assess the reasons for any delays beyond the five month guideline for completion of complaint investigations noted in paragraph 87.

Audit Report

The OIG recorded its matrix responses into a database to assist in summarizing the audit findings. The OIG's audit report was well-structured, although, as noted previously, the Monitor concluded that the favorable summary comments regarding the Department's investigation of complaints were not consistent with the nature of the audit findings noted in the OIG's report.

Based on the foregoing, the Monitor finds the OIG's Complaint Form 1.28 Investigations audit in non-compliance with paragraph 136ii.

Proposed Recommendations

The Department should revise its "Guidelines for Accepting Public Complaints" to require all preliminary complaint investigations to document that the paragraph 80b and c standards have been met.

The OIG's reports would improve if the OIG included a Summary of Findings section that matched the detailed findings, with a table identifying compliance/non-compliance with the audit objectives.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

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

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor reviewed current performance appraisal criteria for the Chief of Police's annual evaluation and the format for that evaluation. In addition, the Monitor assessed the Police Commission's review of Consent Decree audits and the Commission's review and approval of new/changed policies and procedures. In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor evaluated the Police Commission's annual review of the Chief of Police and the Commission's review of the LAPD budget.

The Monitor is scheduled to again assess the LAPD's compliance with many of Consent Decree regarding the operations of the Police Commission during the quarter ending June 30, 2004.

B. OPERATIONS OF THE INSPECTOR GENERAL

The Consent Decree affirms that the OIG shall review and evaluate all CUOF incidents and provides that he shall be notified of all such incidents in a timely manner. In addition, he may observe all CUOF "roll outs" and may attend UOF Review Board meetings. The IG's observations, reviews and evaluations are reported to the Police Commission for consideration. In addition, the IG shall accept complaints from LAPD officers and review all complaint intake information to ensure that they are being received in a manner that complies with LAPD policies and procedures, and the terms of the Consent Decree.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor assessed the IG's acceptance of complaints lodged by LAPD officers. In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor assessed the IG's presence at UOFRB meetings, the LAPD's prompt forwarding of documents and information to the IG, as well as the IG's timely notification to the Police Commission of pending investigations and audits.

The Monitor is schedule to again assess the LAPD's compliance with many of Consent Decree regarding the operations of the IG during the quarter ending June 30, 2004.

C. GENERAL

Paragraph 154 of the Consent Decree requires the City and the Department take appropriate timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Commission, the IG, and the Department under the Consent Decree. Since the implementation of the Consent Decree, numerous reports have been issued that identify recommendations to correct deficiencies at various levels within the LAPD.

In previous quarters, the Monitor assessed the Department's progress in tracking recommendations and their implementation, and whether appropriate, timely and reasonable steps have been undertaken to implement recommendations and remedy deficiencies emanating from LAPD and OIG audits. The Monitor is scheduled to conduct similar assessments during the quarter ending June 30, 2004.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

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

The Consent Decree also mandates that the LAPD prepare and publish on its website semiannual public reports that include aggregate statistics broken down by each LAPD geographic area and for the Operations Headquarters Bureau, and broken down by the race/ethnicity/national origin of the citizens involved, for arrests, and UOF. Additionally, the Consent Decree mandates the establishment of a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles.

In the Monitor's Report for the Quarter Ending December 31, 2003, the Monitor reviewed the Department's compliance with Consent Decree requirement to prepare and post certain semiannual reports on its website and to hold a quarterly Media Advisory Group meeting. The Monitor will again assess the Department's compliance with these requirements during the quarter ending June 30, 2004.

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORTS

The Monitor issues the following corrections to the Monitor's previous quarterly reports.

Paragraph 130 – Annual Report on Complaints and Disposition

Paragraph 130 requires the LAPD to report annually to the Police Commission, with a copy to the IG, on the type of complaint allegations it receives, the disposition and discipline, or lack of discipline, resulting from each type of allegation.

Background

In its Report for the Quarter Ending March 31, 2003, the Monitor indicated that “[t]imeliness issues affecting the QDRs continue to hinder the Monitor’s ability to adequately assess the Department’s compliance with the provisions of paragraph 130.” As a result, the Monitor withheld a determination of the Department’s functional compliance with the provisions of paragraph 130 pending resolution of the timeliness issues.

Correction

In its Report for the Quarter Ending March 31, 2003, the Monitor determined that the LAPD’s “Annual Complaint Report-Year 2002” presented complaint information by allegation type, disposition and discipline imposed, as required by this paragraph. Although there were discussions among the parties related to timeliness issues concerning the QDRs and their potential impact on this paragraph, the Monitor concluded that the Department was in substantial compliance for submitting the report and addressing the requirements of this paragraph.

The language in the report indicating that the Monitor was withholding a determination of compliance with paragraph 130 was erroneous. The report should have reflected a finding of compliance with the paragraph. The Report Card accompanying the Report for the Quarter Ending March 31, 2003 does not need to be amended, as it correctly indicated compliance.

XII. CONCLUSION

The Department continues to make strides towards achieving full compliance. While clearly not in compliance in many areas, most notably in audits and TEAMS II, the Monitor is pleased with the progress being made.