

# 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  
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## INTRODUCTION

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The City of Los Angeles and the Los Angeles Police Department (LAPD) entered into a Consent Decree with the Department of Justice (DOJ) on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Inc. have been hired as the Independent Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor's thirteenth report, covers the results of the Monitor's compliance assessments conducted during the quarter ending September 30, 2004.<sup>1</sup>

For the provisions of the Consent Decree evaluated in this quarter, the Monitor assessed 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 as Appendix A a "Report Card" that summarizes the overall grade of compliance with each paragraph or sub-paragraph of the Consent Decree for the last five quarters, beginning with the quarter ending September 30, 2003.<sup>2</sup> The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter. The quarter in which the evaluation was made is also indicated. Finally, the Report Card identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's report and report card. These estimates are subject to change as information develops and circumstances change.

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<sup>1</sup> The Monitor's assessments generally involve evaluating activities and incidents that occurred in prior quarters. As explained below, during the quarter ending September 30, 2004 (the "current quarter"), the Monitor elected to place reliance on audits conducted by the LAPD Audit Division. In some instances, which are noted in this report, the timeframes for activities and incidents evaluated by Audit Division and the Monitor were from the same general timeframes that have been previously reported on. These are one-time occurrences made necessary so as to enable the Monitor to begin relying on LAPD audits, pursuant to paragraph 162 of the Consent Decree, and to synchronize the assessments of audits with the underlying substantive paragraphs being audited.

<sup>2</sup> The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the Department's compliance with the provisions of the Consent Decree.

## EXECUTIVE SUMMARY

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During the quarter ending September 30, 2004, the Monitor examined 55 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 27, failed to achieve compliance with 18, and, for reasons stated in the body of this report, the Monitor withheld a determination of compliance for the remaining 10 paragraphs or subparagraphs.

Areas of concern identified during the quarter ending September 30, 2004 include:

- Inadequate resources are hampering the Office of the Inspector General's ability to effectively perform some of its oversight functions.
- Additional delays in the deployment of the TEAMS II early warning system.

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

- The Monitor observed selected sessions of a 3-day police performance auditing course from September 15-17, 2004. This comprehensive course was led by Audit Division's Captain Ron Sanchez and senior members of his staff, and was attended by most of the audit personnel from Audit Division and the Office of the Inspector General. The Monitor was impressed with both the content and delivery of this course.
- The LAPD achieved full compliance with the qualitative requirements for the four audits completed by Audit Division as evaluated by the Monitor in the current quarter.
- Audit Division's *Categorical Use of Force Interim Systems Audit* resulted in direct improvements to the timeliness and reliability of the notifications of categorical uses of force, and a notice was sent to advise all Commanding Officers that categorical uses of force other than Officer-Involved Shootings are not reported in TEAMS.
- The Department continues to make strides in complying with Consent Decree requirement regarding the notification, investigation and review of Categorical Use of Force incidents.

In light of the quality of the work being performed by Audit Division in recent quarters, in those instances in which the scope of an Audit Division audit directly addresses the requirements of a given paragraph, the Monitor has elected to perform meta-audits of Audit Division's audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.<sup>3</sup>

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<sup>3</sup> This is consistent with paragraph 162 of the Consent Decree which states, "In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose."

## I. FOCUS ISSUES

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### A. RESOURCE CONSTRAINTS ARE HAMPERING THE OIG'S OVERSIGHT

The Office of the Inspector General (OIG) has a critical role in the oversight of the LAPD, and is an essential component of the City's compliance with the Consent Decree. The OIG is charged with a wide array of responsibilities. Relative to uses of force, the OIG is charged with reviewing all Categorical Use of Force investigations, observing Categorical Use of Force "roll outs" and attending Use of Force Review Board meetings. In the area of police misconduct, it is charged with reviewing the LAPD's complaint intake process, accepting complaints from LAPD officers, reviewing all retaliation complaints, reviewing all misconduct complaints against the Chief of Police and reviewing complaint investigations on behalf of the Police Commission. In the audit area, it must conduct audits of non-categorical uses of force and complaints and evaluate all of the LAPD's audits. In addition, when TEAMS II becomes operational, the OIG will also be charged with auditing the quality and timeliness of the LAPD's use of TEAMS II to perform certain tasks required under the Consent Decree, and will periodically use TEAMS II to conduct certain audits and review unit-specific and officer-specific audits conducted by the LAPD.

The Monitor is concerned that the OIG has yet to effectively perform some of these functions. While specific feedback has been provided by the Monitor to assist the OIG with its role, the Monitor has previously expressed its view that the OIG's ability to effectively oversee the LAPD is being hampered by inadequate resources. While the OIG developed a revised staffing plan in the summer/fall of 2003 to address these issues, the process of implementing this plan is complex and slow, and has yet to remedy the OIG's shortcomings.

At this critical juncture in the term of the Consent Decree,<sup>4</sup> and in light of the OIG's role as a cornerstone in the LAPD's reform efforts, it is imperative that the OIG's resource needs are addressed in a timely fashion in order to alleviate the Monitor's growing concerns about the effectiveness of the OIG's oversight of the LAPD.

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<sup>4</sup> Under paragraph 179, the City is required to substantially comply with each of the provisions of the Consent Decree for at least two years.

## II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

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### 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.<sup>5</sup> 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,<sup>6</sup> and the Risk Management Information System (RMIS). The RMIS will gather data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis.

The 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 previous reports, 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. The Department-wide roll-out of the UOFS was to begin to take place on November 8, 2004. However, several issues were identified during Readiness Review training, prompting the Department to revise the system to reflect necessary changes. The City now anticipates a January or February 2005 roll-out of UOFS. However, the City has reported that the delays in the development of UOFS should not impact the deployment of RMIS.

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

<sup>6</sup> The STOP database has already been developed and is currently being utilized to collect data from the Field Data Reports regarding pedestrian and motor vehicle stops.



- The Deployment Period System (DPS), a critical component of RMIS and UOFS operations, is scheduled for completion in February 2005. Training on DPS has begun for Central Division, which will be the pilot division.
- The City approved the CMS design document and has already begun the building of CMS. Build 1, covering the intake, classification, and investigation stages of the processing of both disciplinary and non-disciplinary complaints, was completed but has not yet been tested. As of the date of this report, CMS testing is, at a minimum, a week behind schedule. Further work needs to be completed before the City can determine if there will be delays with subsequent builds.



### III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

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#### 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 Categorical Use of Force (CUOF)<sup>7</sup> is defined by paragraph 13 of the Consent Decree. Any use of force (UOF) that falls under this definition is subject to certain paragraphs of the Consent Decree.<sup>8</sup> Administrative investigations of these incidents are the responsibility of the Critical Incident Investigation Division (CIID).<sup>9</sup> All completed CUOF incident investigations must be presented to a Use of Force Review Board (UOFRB) and ultimately the Police Commission within a defined period of time.

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

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 quarter ending March 31, 2004, the Monitor concentrated its efforts on reviewing the LAPD’s compliance with Consent Decree requirements regarding CUOF incident investigations.

During the current quarter, the Monitor again focused on the LAPD’s compliance with Consent Decree requirements relative to CUOF investigations. The results of our current assessments follow.

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<sup>7</sup> CUOF include an Officer-Involved Shooting with or without a hit, In-Custody Death, Law Enforcement Activity Related Death, Law Enforcement Related Injury requiring hospitalization, Neck Restraint, Head Strike with an impact weapon and a Department canine bite requiring hospitalization.

<sup>8</sup> Specifically paragraphs 13, 38, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 80, 82, 83, 136 and 142 as well as certain audit related paragraphs.

<sup>9</sup> Prior to September 2004, the Division responsible for conducting CUOF incident investigations was collectively referred to as the CIID, which was established pursuant to Special Order 39, 2001 – “*Critical Incident Investigation Division – Established*,” approved by the Police Commission, December 11, 2001. Effective August 22, 2004, in a reorganization of the way in which CUOF are handled, CIID responsibilities were transferred to a newly created Force Investigation Division (FID), a unit in the command structure of the PSB.

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

### **Paragraph 55 – CUOF Investigations /CIID Responsibilities**

Paragraph 55 requires the LAPD to create a unit whose main responsibility is to conduct administrative investigations of CUOF incidents.<sup>11</sup> Investigators assigned to this unit shall be Detectives, Sergeants or other officers of supervisory rank. The Commanding Officer (CO) of the unit cannot have direct line supervision for any LAPD geographic bureau. Finally, all investigators assigned to it must be trained in conducting administrative investigations as specified in paragraph 80 of the Consent Decree.

### ***Background***

On July 25, 2003, the LAPD issued Special Order No. 30 – “*Selection and Assignment to Critical Incident Investigation Division.*” This Special Order establishes the criteria for selection, retention and de-selection of investigators and supervisors to the CIID.

In November 2003, as part of its reorganization, the CIID was re-assigned to report to the Chief of the PSB. The Chief of the PSB does not maintain direct line supervision for any geographic Bureau.

The Monitor last assessed compliance with paragraph 55 during the quarter ending March 31, 2004, at which time the LAPD was found in compliance.

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

In order to assess compliance with paragraph 55 during the current quarter, the Monitor placed reliance on the LAPD Audit Division’s *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related audit working papers. The Monitor conducted a meta-audit of Audit Division’s audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions.<sup>12</sup> The working papers included the CIID organizational chart, TEAMS reports for all investigators, attendance rosters, curricula outlines and Special Orders related directly to the CIID.

In its *Categorical Use of Force Interim Audit*, Audit Division selected for review CUOF incidents that occurred during the period October 1 through December 31, 2003. Audit Division determined that all CUOF investigations reviewed were completed by CIID investigators. The Monitor notes that these findings are consistent with the Monitor’s findings from the quarter ending March 31, 2004, during which the Monitor reviewed CUOF incident investigations forwarded by the LAPD to the OIG during the period July 1, 2003 through December 31, 2003.

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<sup>11</sup> As noted above, effective August 22, 2004, the FID became the division responsible for conducting CUOF incident investigations.

<sup>12</sup> See the Monitor’s Current Assessment of Compliance for paragraph 129i later in this report.

In December 2002 and November 2003, the CIID conducted eight-hour training days for investigators. Attendance for both sessions was documented and accurately reflected on officers' TEAMS reports. Audit Division correctly determined that all but two investigators had attended at least one of the training days. The Monitor concurs with Audit Division's conclusion, as indicated in the audit report, that training provided to investigators was thorough and relevant to CIID investigations.

Finally, Audit Division reviewed investigators' TEAMS reports and determined that all investigators assigned to the CIID attended LAPD supervisor school prior to their assignment with the CIID and all were of supervisory rank.

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

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

Paragraph 56 requires that the OHB Unit, defined by LAPD directives to be the CIID, have the capability to "roll out" to all CUOF incidents 24 hours a day. Additionally, the Department requires immediate notification to the Chief of Police, CIID, the Police Commission and the OIG whenever there is a CUOF.

### ***Background***

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

The Monitor last assessed the LAPD's compliance with paragraph 56 during the quarter ending December 31, 2003, at which time the LAPD was found in primary, secondary and functional compliance.

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

No changes in policy were issued during the current quarter in connection with paragraph 56 requirements. The Monitor determined that the policies that were previously issued continue to adequately meet the paragraph's primary compliance requirements.

In its *Categorical Use of Force Interim Audit*,<sup>13</sup> Audit Division identified 24 CUOF incidents that occurred during the period October 1 through December 31, 2003 that required CIID

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<sup>13</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 56, the Monitor tested and then placed reliance on

response and notifications to the DCP, the Chief of Police and the OIG.<sup>14</sup> The following summarizes Audit Division’s review and findings:

Average Notification Times	3 ICD incidents	3 LEARD incidents	9 LERII	5 OIS With Hits	4 OIS No Hits	24 Incidents Total
Field to DCP	Less than one minute	16.5 minutes	27 minutes	20 minutes	32 minutes	26 minutes
DCP to CIID	12 minutes	16 minutes	19 Minutes	9 minutes	26 minutes	17 minutes

One incident, a head strike with a baton, was not reported for more than two days. Although unreported, the CIID was notified the day of the incident and responded to the scene to commence its investigation. The LAPD subsequently filed a Departmental complaint against a supervisor in the Division in which the incident occurred for failing to timely report the CUOF incident, as well as for failing to document and investigate a reportable NCUOF. The complaint investigation remains pending. For purposes of calculating average notification time to the DCP, this incident was excluded and represented the only incident for which an inordinate amount of time elapsed without notification.

The OIG received notification for 22 of 24 incidents.<sup>15</sup> On average, notification time from the DCP to the OIG was approximately 54 minutes. For 18 of 24 incidents the Chief of Police, or his designee, was notified, on average, within approximately 37 minutes. For six incidents it could not be determined whether emails were timely released from the LAPD’s system.<sup>16</sup>

In the course of conducting its audit, Audit Division identified a deficiency in the LAPD’s reporting process. Specifically, although Blackberry email devices were utilized, there was no mechanism in place to ascertain whether such transmissions ever occurred. It was determined that for some incidents, although emails were sent, they were not timely released from the LAPD’s system. This resulted in some individuals either not receiving notification or receiving notification several hours later.

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Audit Division’s *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related audit working papers. See the Monitor’s Current Assessment of Compliance for paragraph 129i, below.

<sup>14</sup> Notification to the OIG also constitutes notification to the Police Commission, a requirement of paragraph 56.

<sup>15</sup> Although the LAPD DCP records reflect an email was sent or an individual was paged, the OIG indicated it did not receive any notification. Audit Division, adopting a conservative position, reported no notification.

<sup>16</sup> Although LAPD DCP records reflect an email transmission was sent, there is no verification that notification was ever received.

The DCP has since adopted additional procedures that require notification and, in those instances when notification involves either utilizing email or a pager, acknowledgement of notification.

Notwithstanding the foregoing, the Monitor finds the LAPD in continued primary, secondary and functional compliance with paragraph 56. When compared to prior periods, the LAPD continues to reduce, on average, the time required for notification from the field to the DCP and subsequently from the DCP to the Chief of Police, the OIG and the CIID. Additionally, the Blackberry malfunction was quickly and appropriately addressed.

### **Paragraph 58 – LAPD to Notify District Attorney of OIS and ICD Incidents**

The LAPD is required to notify the Los Angeles DAO whenever an LAPD officer, on or off-duty, shoots and injures any person during the scope and course of employment. In addition, the LAPD is required to notify the DAO whenever an individual dies while in the custody or control of an LAPD officer or the LAPD, and a UOF by an officer may be the proximate cause of death.

### ***Background***

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

The Monitor last assessed compliance with paragraph 58 during the quarter ending December 31, 2003, at which time the LAPD was found in functional compliance.

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

In its *Categorical Use of Force Interim Audit*,<sup>17</sup> Audit Division identified eight Officer-Involved Shootings (OIS) from the period October 1 through December 31, 2003 that required DAO notification.<sup>18</sup> For all eight incidents, Audit Division found the LAPD to be in functional compliance.

During its meta-audit, the Monitor randomly selected six of the eight incidents and reviewed supporting documentation contained within Audit Division's working papers. For all six

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<sup>17</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 58, the Monitor tested and then placed reliance on Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related audit working papers. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

<sup>18</sup> The period of review included all incidents occurring during the period October 1, 2003 through December 31, 2003. The LAPD's sample included a total of 24 incidents. A review of all 24 incidents determined that the LAPD properly captured those incidents wherein paragraph 58 is applicable.

incidents, the Monitor compared notification times, as memorialized within LAPD DCP logs to notification documentation prepared by the DAO.<sup>19</sup> Although slight differences in times were noted, such differences were immaterial. On average, once the DCP was notified of an incident, the DCP notified the DAO within approximately 23 minutes. Notification times ranged from 0 to 45 minutes. The DAO responded to all incidents.

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

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

Paragraph 59 requires the LAPD to cooperate with DAO personnel who arrive at a CUOF incident pursuant to the required notifications as defined in paragraph 58 of the Consent Decree.

### ***Background***

The Monitor last assessed compliance with paragraph 59 during the quarter ending December 31, 2003, at which time the LAPD was found in functional compliance.

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

No changes in policy were issued during the current quarter in connection with paragraph 59 requirements. The Monitor determined that the policies previously issued by the LAPD continue to adequately meet the paragraph's primary compliance requirements.

In its *Categorical Use of Force Interim Audit*,<sup>20</sup> Audit Division identified eight OIS and Law Enforcement Activity Related Death (LEARD) incidents from the period October 1 through December 31, 2003 that required DAO notification. Audit Division determined that the DAO was notified on a timely basis in all eight. Audit Division directly contacted a Deputy Chief within the District Attorney's Office who confirmed that LAPD officers at CUOF incident scenes are cooperative.

Based on the foregoing, the Monitor finds the LAPD in primary, secondary and functional compliance with paragraph 59.

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<sup>19</sup> The DAO refers to this documentation as a "snap sheet."

<sup>20</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 59, the Monitor tested and then placed reliance on Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related working papers. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.



### **Paragraph 61 – Separation of Officers at OIS Incidents**

Paragraph 61 of the Consent Decree requires that all involved officers and witness officers of an OIS be separated immediately and remain separated until such officers have provided statements, whether voluntary or compelled.

#### ***Background***

The Monitor last assessed compliance with paragraph 61 during the quarter ending March 31, 2004, at which time the LAPD was found in compliance.

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

In its *Categorical Use of Force Interim Audit*,<sup>21</sup> Audit Division's review included 6 OIS incidents that occurred during the period October 1 through December 31, 2003. For five of the six incidents, both Audit Division and the Monitor determined that involved and/or witness officers were properly separated either at the scene or while being transported to the station.

The sixth OIS incident consisted of nine involved or witness officers. The working papers indicated that several of the witness officers were transported together, either to the station or back to the incident scene for a walkthrough, after receiving the Captain's approval prior to transportation. The Monitor has elected to exclude this incident in determining compliance with paragraph 61 due to the logistics involved in transporting the large number of witness and involved officers separately. The Monitor notes that in its audit, Audit Division did not include in its reported findings any reference to the transportation and monitoring of witness officers in this incident.<sup>22</sup>

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

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

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

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<sup>21</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 61, the Monitor tested and then placed reliance on the Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related working papers. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

<sup>22</sup> This is addressed as a weakness in the Monitor's Current Assessment of Compliance for paragraph 129i.



## **Background**

The Monitor last assessed compliance with paragraph 62 during the quarter ending December 31, 2003, at which time the LAPD was found in functional non-compliance. The Monitor and DOJ agreed with the LAPD that the requirements of this paragraph would apply to the actions of the first responding supervisor.<sup>23</sup>

## **Current Assessment of Compliance**

In its *Categorical Use of Force Interim Audit*,<sup>24</sup> Audit Division selected and reviewed 24 CUOF incidents that occurred during the period October 1 through December 31, 2003 and determined that the LAPD was in non-compliance with the requirements of paragraph 62. During its meta-audit, the Monitor reviewed 20 of these 24 incidents<sup>25</sup> and agreed with Audit Division's finding that two were not reviewed within the mandated seven calendar days.<sup>26</sup> Additionally, the Monitor concurred with Audit Division's finding that the analyses conducted by the COs were insufficient for 3 incidents. The COs either failed to indicate whether or not the supervisors' actions were appropriate or inappropriate, or failed to adequately articulate their reasoning in reaching their conclusions. Finally, for one incident, the CO failed to identify the first responding supervisor or discuss that supervisor's actions.

The five non-compliant instances, described above, out of the 20 CUOF reviewed, result in a compliance rate of 75%.

Based on the foregoing, the Monitor finds the LAPD in primary compliance, but in functional non-compliance with paragraph 62.<sup>27</sup> However, the Monitor notes that the Department has made significant improvements with the requirements of this paragraph.

## **Proposed Recommendation**

The Monitor noted that several of the CO's analyses of CUOF were dated within the 7-day requirement period but were not received by the CIID for several weeks to almost two months after the incident. The delays were attributed to the analyses being submitted for Bureau review

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<sup>23</sup> *Special Order 35, Duty to Assess a Supervisor's Response to a Categorical Use of Force*, dated August 26, 2003.

<sup>24</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 62, the Monitor tested and then placed reliance on Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related working papers. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

<sup>25</sup> The Monitor's sample was selected using a 95% confidence interval and an error rate of +/-4%.

<sup>26</sup> The analyses were conducted 8 and 24 days, respectively, after the incident.

<sup>27</sup> During the current quarter, the Monitor did not evaluate compliance with paragraph 62's requirement that the LAPD review and analyze the circumstances surrounding the presence or absence of a supervisor at the service of a search warrant.

and approval prior to being forwarded to the CIID. The Monitor recommends that the LAPD develop a system in order to ensure that the analyses are forwarded to CIID/FID in a timelier manner.

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

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

### ***Background***

The Monitor last assessed compliance with paragraph 63 during the quarter ending December 31, 2003, at which time the LAPD was found in functional non-compliance. The Monitor was able to determine that 22 of the 28 officers involved in OIS during the period March 1, 2003 through September 30, 2003 were not assigned to return to field duty until after their appointment with a BSS psychologist and after that psychologist conferred with each of the respective officer's CO.

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

In order to assess compliance with paragraph 63 during the current reporting period, the Monitor reviewed six of the eight CUOF incidents<sup>28</sup> that occurred during the period October 1 through December 31, 2004 and that were selected for review by Audit Division in its *Categorical Use of Force Interim Audit Report*, dated May 27, 2004.<sup>29</sup> There were a total of 18 involved officers in connection with these six incidents all of whom were referred to BSS in a timely manner. However, the Monitor determined that 4 of the 18 involved officers returned to the field prior to the requirements of paragraph 62 being satisfied. This translates into a compliance rate of 78%.

Based on the foregoing, the Monitor finds the LAPD in primary compliance, but in functional non-compliance with paragraph 63.

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<sup>28</sup> These comprised 3 OIS incidents and 3 LEARD incidents.

<sup>29</sup> Audit Division found the LAPD in non-compliance in regards to BSS clearances on all CUOF incidents, whereas paragraph 63 relates to only OIS incidents and incidents resulting in death or the substantial likelihood of death. The Monitor therefore elected not to rely on the LAPD's conclusions and separately reviewed source documentation in order to conclude on compliance relative to paragraph 63.

**Paragraph 64 – Officer History Considered for Disciplinary and Non-Disciplinary Actions**

Paragraph 64 requires a manager<sup>30</sup> to consider an officer's work history, including information contained in the TEAMS II system<sup>31</sup>, the officer's CUOF history and prior tactics, when reviewing and/or making recommendations regarding discipline or non-disciplinary action as a result of a CUOF.

***Background***

The Monitor last assessed compliance with paragraph 64 during the quarter ending March 31, 2004, at which time the Department was found in functional compliance.

***Current Assessment of Compliance***

In order to assess compliance with paragraph 64 during the current quarter, the Monitor tested and placed reliance on Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004 and related working papers,<sup>32</sup> which identified 20 CUOF incidents that occurred during the period October 1 through December 31, 2003. The Monitor also conducted a supplemental interview with the supervising Sergeant and Lieutenant of the UOFRS.

Through closer examination of the requirements of this paragraph, as indicated in Audit Division's audit, all COs were not aware that current TEAMS reports only contain an officer's OIS history. Currently, the UOFRS is the only repository in the Department that maintains complete histories of all non-OIS CUOF incidents. In response to Audit Division's survey distributed to COs, more than 75% of the COs indicated that they review only TEAMS reports. Interviews of UOFRS staff confirmed that COs do not always confer with the UOFRS in ascertaining all categories of CUOF incidents, including Law Enforcement Related Injury Incidents (LERIIs), LEARDs and In-Custody Deaths (ICDs), in which an officer has been or may have been involved. Audit Division also determined that although a CO's review of an officer's shooting history may identify the receipt of training, the CO does not always contact the UOFRS to determine the nature of the training issues.

The Monitor commends Audit Division for identifying these deficiencies and, prior to the issuance of its report, notifying appropriate management within the LAPD to prompt immediate corrective action. On April 22, 2004, a notice was sent to all COs advising that non-OIS CUOF incidents are not reported on TEAMS. The Notice requested that COs contact the UOFRS should they need information related to previous CUOF incidents.

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<sup>30</sup> Paragraph 29 of the Consent Decree defines a "manager" as an LAPD supervisor ranked captain or above.

<sup>31</sup> Until the TEAMS II system is developed, the Monitor will base compliance on the LAPD's use of its current TEAMS system.

<sup>32</sup> See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

In interpreting the requirements of paragraph 64, the Monitor noted that although paragraph 64 requires a manager's review, it does not specifically require the involved officer's manager. The UOFRB is comprised of at least four participants who qualify as a manager according to the Consent Decree definition. For 20 incidents selected for review, the Monitor reviewed UOFRB notes and noted indications that the UOFRB considered the complete complaints and UOF histories of all officers presented.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 64.

### ***Proposed Recommendation***

The LAPD sent a notice to all COs advising that non-OIS CUOF incident histories are not captured in current TEAMS reports, and included language requesting that CO's contact the UOFRS should they need information related to previous CUOF incidents. The Monitor recommends that this be a mandatory exercise, as the CO may only learn of prior non-OIS incidents through contact with the UOFRS.

### **Paragraph 69a – Review of Categorical UOF by Review Board**

The first requirement of paragraph 69 (subparagraph a.) requires that the LAPD continue its practice of presenting all CUOF incident investigations to the UOFRB.<sup>33</sup>

### ***Background***

The Monitor last assessed compliance with paragraph 69a during the quarter ending March 31, 2004, at which time the LAPD was found in functional compliance.

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

The Monitor notes that Departmental policy calls for the Division CO of the involved officer(s) to present an overview of each CUOF incident to the Board. Each member of the Board receives a copy of the CIID report prior to the Board and should read it, in its entirety, for familiarity. During the presentation, Board members may ask the CO questions regarding the incident, the involved officer's thought process, and knowledge of any facts that may not have been included in the CIID investigation. Involved officers may attend the Board but are not permitted to speak. After the presentation and all questions have been answered, the Board, in a closed session,

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<sup>33</sup> Paragraph 69 also requires the LAPD to complete NCUOF investigations within 14 days of occurrence. This particular provision of paragraph 69 (subparagraph b) was not evaluated during the current quarter.

discusses the incident and renders its decision. The majority determines the outcome of the incident for all categories reviewed.<sup>34</sup>

In its *Categorical Use of Force Interim Audit*,<sup>35</sup> Audit Division selected and reviewed sixteen CUOF incidents completed by CIID that occurred during the period February 1 through April 30, 2003 and found the Department in compliance with paragraph 69 as it relates to CUOF. During its meta-audit of Audit Division's audit, which was conducted in order to assess compliance with a number of Consent Decree paragraphs, the Monitor reviewed these 16 CUOF incidents and related documents contained in the incident files maintained by the UOFRS and identified documentation evidencing review of the incident by the UOFRB.<sup>36</sup> The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending March 31, 2004, during which the Monitor reviewed CUOF incident investigations forwarded by the LAPD to the OIG during the period July 1, 2003 through December 31, 2003.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with subparagraph a. of paragraph 69.<sup>37</sup>

## **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.

During the quarter ending March 31, 2004, the Monitor assessed both supervisory review of warrants and supervisory review of warrant logs. The Monitor is scheduled to again assess compliance with Consent Decree requirements relative to search and arrest procedures during the quarter ending December 31, 2004.

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<sup>34</sup> An OIS investigation is reviewed for three categories: 1) Tactics, 2) Drawing of the weapon, and 3) the Use of Force. A LERII investigation typically is reviewed for 1) Tactics and 2) Use of Force. However, on occasion, the officer may have drawn a weapon in which case this is evaluated as well.

<sup>35</sup> As indicated in the Current Assessment of Compliance for paragraph 55, in order to assess the LAPD's compliance with a number of paragraphs, including paragraph 69, the Monitor tested and then placed reliance on Audit Division's *Categorical Use of Force Interim Audit Report*, dated May 27, 2004, and related audit working papers. See the Monitor's Current Assessment of Compliance for paragraph 129i, below.

<sup>36</sup> With the exception of canine bite incidents requiring hospitalization, all incidents are heard by a panel of five individuals. This panel is composed 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 of the involved employee, a CO from the Training Division, a CO from Personnel and a peer officer of equal rank.

<sup>37</sup> The Methodologies require that this paragraph be evaluated only for functional compliance. Primary and secondary compliance are not applicable.

## 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.

During the quarter ending December 31, 2003, the Monitor assessed compliance with Consent Decree requirements regarding the receipt, initiation and maintenance of citizen complaints, as well as the requirement to report officer misconduct. During the quarter ending June 30, 2004, the Monitor reassessed compliance with Consent Decree requirements relative to the initiation of complaints that arose out of lawsuits, arrests and/or litigation.

During the current quarter, the Monitor again assessed the LAPD's compliance with Consent Decree requirements regarding the receipt, initiation and maintenance of citizen complaints. The results of our current assessments follow.

### **Paragraph 74 – Receipt/Maintenance of Complaints**

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

### ***Background***

The Monitor last assessed compliance with paragraph 74 during the quarter ending December 31, 2003. The Monitor determined that the LAPD was in functional non-compliance based upon the results of the Ethics Enforcement Section's (EES) sting audits conducted.<sup>38</sup>

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

During the quarter ending June 30, 2004, the Monitor requested and received a listing of closed complaint investigations for the period January 1 through February 29, 2004. A total of 1,556 complaints were identified. Using statistical sampling, a random sample of 90 complaints was selected and reviewed by the Monitor to assess the LAPD's compliance with paragraph 74. The Monitor noted that all complaints were accepted in venues and languages required by paragraph 74. There was no evidence of officers refusing to accept complaints in the sample selected.<sup>39</sup>

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<sup>38</sup> 13 of 60 sting audits conducted by EES determined that officers and/or supervisors administratively failed the audit for failing or refusing to accept a complaint.

<sup>39</sup> Obviously, this sample included only complaints which were, in fact, taken. As outlined below, the Monitor continues to rely upon EES audits in order to determine the frequency of failure to take complaints.



In the course of reviewing completed complaint investigations the Monitor noted one investigation in which an officer was accused of improperly capturing complaint information via the LAPD's hotline. The Monitor reviewed this complaint and subsequently requested additional tapes for this individual. In total, 28 taped complaints were identified and reviewed by the Monitor. Of these 28 complaints, the Monitor determined that nine were not appropriately documented on complaint face sheets, and face sheets often omitted allegations and/or information pertinent to the assigned investigator.<sup>40</sup> The Monitor did not identify any additional allegations added to the original complaint or additional complaints generated by the LAPD. The Monitor is also concerned that during off-hours, complaints are accepted by non-PSB individuals who may not have sufficient knowledge of Consent Decree requirements. Insufficient information on a complaint sheet may also result in a misclassification of investigative responsibility pursuant to paragraph 93 of the Consent Decree.<sup>41</sup>

Lastly, in its EES reports for the period October 1, 2003 to March 31, 2004, the LAPD reported on 32 sting audits it conducted to assess whether officers are receiving complaints and not dissuading the reporting of misconduct. The EES concluded that officers failed to comply in 5 of 32 audits conducted, resulting in a compliance rate of 84% for the sting audits conducted.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 74.

### **Paragraph 75 – Initiation of Complaint Form 1.28 Investigations**

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

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

### ***Background***

The Monitor last assessed compliance with paragraph 75 during the quarter ending December 31, 2003, at which time the Monitor found the LAPD in functional compliance.

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<sup>40</sup> In total for the period December 2003 through June 2004 the LAPD has received 261 complaints via their 24-hour hotline of which 83 were accepted by the PSB duty room and 178 by DSD. The nine complaints in question were all accepted by DSD.

<sup>41</sup> While, in theory, these misclassifications should be caught upon review at the Chain of Command level, better training should be able to ensure that such misclassifications do not occur.



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

In order to assess compliance with paragraph 75 during the current quarter, the Monitor reviewed *The Office of the Inspector General's Review of the Ethics Enforcement Section's Quarterly Report* for the Fourth Quarter of 2003 and the First Quarter of 2004. During the quarters ending December 31, 2003 and March 31, 2004, the EES finalized reports on 31 random audits and one targeted audit assessing the compliance of LAPD officers with the requirements of paragraph 75. Of the 32 completed audits, the EES concluded that in four random instances and in the one targeted instance, officers either failed to take a complaint or attempted to dissuade the undercover officer from filing a complaint. For all five instances, the LAPD's EES initiated a complaint investigation against the involved officers.

The OIG reviewed the 32 completed audits, concurring with the EES' findings. Although the Monitor found the OIG's review to be in non-compliance,<sup>42</sup> it was determined that reliance could be placed on the conclusions reached by the EES and the OIG regarding whether LAPD officers complied with paragraph 75 requirements.<sup>43</sup>

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 75.

### **D. CONDUCT OF INVESTIGATIONS**

The Consent Decree provides a series of specific instructions relating to the conduct of CUOF, NCUOF and complaint investigations.

During the quarter ending December 31, 2003, the Monitor assessed the LAPD's compliance with Consent Decree requirements related to the conduct of NCUOF and collateral misconduct investigations. 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 quarter ending March 31, 2004, the Monitor's review focused on thoroughly reviewing CUOF incident investigation and during the quarter ending June 30, 2004, the Monitor reviewed completed Chain of Command (COC) and Collateral Misconduct Investigations.

During the current quarter, the Monitor assessed compliance with Consent Decree requirements regarding the documentation and forwarding of all complaint face sheets to the PSB for review and investigative assignment. The results of our current assessment follow.

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<sup>42</sup> Please refer to the Current Assessment of Compliance for paragraph 136i, below.

<sup>43</sup> In reaching its conclusion that the OIG's conclusions could be relied upon, the Monitor reviewed six of the 32 audits in their entirety.

### **Paragraph 79 – PSB Review of Complaint Face Sheets**

Paragraph 79 requires the LAPD to document and forward all complaints to the PSB for review and investigative assignment within ten days of receipt to determine whether or not criteria as defined in paragraphs 93, 94 and 95 apply.

### ***Background***

The Monitor last assessed compliance with paragraph 79 during the quarter ending June 30, 2004, at which time the Monitor found the LAPD in non-compliance. A significant element of non-compliance was the fact that the majority of complaints not processed timely by the PSB were received directly by the PSB. In an effort to understand and rectify this issue, the PSB researched the matter and determined that two of its units forwarded complaints on a monthly basis, rather than forwarding them once received. Management of both units was apprised of the Consent Decree requirements.

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

In order to assess compliance with paragraph 79 during the current quarter, the Monitor requested and received a listing of all complaints initiated during the period June 1, 2004 through August 31, 2004. A total of 1,563 complaints were identified. For each complaint, the LAPD provided the date the complaint was reported to the LAPD, the date the complaint face sheet was completed and the date the face sheet was received by the PSB for review and classification. For 68 of the 1,563 complaints listed, the face sheets were provided to the LAPD's PSB in excess of ten days of receipt. This translates into an overall compliance rate of 95.65%.

As it has done in the past, the Monitor excluded from its calculation of compliance certain complaints.<sup>44</sup> These particular complaints were excluded as the LAPD identifies them only after generating monthly reports. Similarly, certain complaints arising out of a UOF investigation were excluded, as UOF administrative investigations typically occur over many months before a complaint investigation is initiated.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 79.

## **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.

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<sup>44</sup> LAPD generated complaints alleging Failure to Qualify, Failure to Appear or a Preventable Traffic Collision.

The Monitor last evaluated all aspects of the adjudication phase of the complaint process during the quarter ending March 31, 2004. The Monitor is scheduled to again assess the requirements in this area during the quarter ending March 31, 2005.

## **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 June 30, 2004, the Monitor's evaluation entailed an assessment of managerial review of Complaint Form 1.28 Investigations, and notifications to the complainants of complaint resolutions. During the current quarter, the Monitor again assessed compliance with requirements relative to the Chief of Police's discipline report and the IG's and Commission's reviews of this report. The results of our current assessments follow.

### **Paragraph 88 – Chief of Police Report on Discipline**

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

### ***Background***

The Monitor last assessed the LAPD's compliance with paragraph 88 during the quarter ending March 31, 2004. Although the Monitor found that the information contained in the Fourth Quarter 2003 Quarterly Discipline Report (QDR) was submitted on a timely basis to the Police Commission, the Monitor withheld a determination of compliance with paragraph 88 while it reviewed the discipline reports to ensure that they accurately captured relevant data and were useful.

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

During the current quarter, the Monitor received and reviewed the QDR for the Second Quarter 2004, dated August 13, 2004. The Monitor found that this discipline report was submitted to the Police Commission, with a copy to the IG, on August 11, 2004. The Department provided the Police Commission with this report 42 days after the end of the quarter, which complies with the 45-day requirement of this paragraph.

In order for the Police Commission and the OIG to utilize these QDRs to their fullest extent, the reports should be user-friendly and provide appropriate statistical data to reflect the outcome of

that quarter's discipline imposed. The Monitor substantively reviewed the Fourth Quarter 2003 and Second Quarter 2004 QDRs to ensure that they accurately capture and report on relevant information. The Monitor found that the reports provide appropriate statistical data to reflect the outcome of the discipline imposed during the respective quarter and are adequate in their current format.

Based on the foregoing, the Monitor finds the LAPD in 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:<sup>45</sup>

- 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 assessed the Department's compliance with subparagraphs 89a and b during the quarter ending March 31, 2004. Although the Monitor determined that the IG's reviews of QDRs were thorough, the lack of timeliness of those reviews, and the resulting delays in the Police Commission's reviews, led the Monitor to find the Department in functional non-compliance with subparagraphs 89a and b.

The Monitor last assessed the Department's compliance with subparagraph 89c during the quarter ending December 31, 2003, at which time the Department was found in functional compliance.

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<sup>45</sup> 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 and 89b Police Commission Assessment of QDR***

During the current quarter, the Monitor received and reviewed the IG's review of the QDR for the Second Quarter 2004, dated September 16, 2004. Again, the Monitor determined that the IG's review was thorough and analytical concerning discipline issues. The Police Commission received the QDR on September 16, 2004. Although the Commission formally concluded its review and assessment of the appropriateness of the Chief of Police's actions on October 5, 2004, this review and assessment commenced 36 days after the receipt of the report. As such, the Police Commission's actions comply with the 45-day requirement of this paragraph.

Based on the foregoing, the Monitor finds the Department in functional compliance with subparagraphs 89a and b.

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

As more fully described in the Current Assessment of Compliance for paragraph 144, below, the Police Commission informed the Monitor that the annual review of the Chief of Police has not yet been completed. As a result, the Monitor withholds a determination of compliance with subparagraph 89c. Upon its completion, the Monitor will review the Police Commission's evaluation of the Chief of Police to determine compliance with this subparagraph.

## **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 assessed compliance with paragraph 92 during the quarter ending March 31, 2004, at which time the Monitor found the Department in non-compliance as the Department, by its own admissions, had not made the necessary modifications to the existing anti-retaliation policy.

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

Planned retaliation training did not take place and has been re-assigned to LAPD Training Division, which is currently evaluating training options. The LAPD currently anticipates that the planned retaliation training will be scheduled for the first quarter of 2005. The Monitor

recognizes the efforts made by the Department toward the development of in-house training, and the positive impact of the re-assignment of responsibility to the Training Division. At this time, however, the effect of this reassignment has been that training, specifically training dealing with the evaluation of supervisor performance in connection with retaliation complaints, has not yet occurred.

In response to a February 17, 2004 report prepared by the OIG,<sup>46</sup> the Department undertook a review of the roles of each of the entities identified as being involved in retaliation-related investigations. The Department is scheduled to present a “best practices” model for handling retaliation investigations in November 2004. The next annual report on retaliation is scheduled for February 2005, only two months after the best practices model will be presented to the Police Commission for consideration. The Monitor shares the concerns recently raised by the CLA regarding the pace with which the OIG’s February recommendations are being addressed.

All of the complaint investigations initially identified as having been open for more than one year have since either been closed or tolled and there do not appear to be any statute-related issues at this time. Accordingly, it appears that the timely investigation and resolution of retaliation complaints has been significantly improved.

Based on the foregoing, despite the strides which the Department has made, the Monitor finds the LAPD in continued non-compliance with 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 the PSB. It also outlines certain best practices with respect to complaint procedures and provides for a transition period to accomplish the reassignment of personnel to the PSB. In addition, the Consent Decree provides specific requirements regarding integrity/sting audits and outlines various requirements regarding the staffing of the PSB, including the selection and evaluation of PSB officers.

During the quarter ending June 30, 2004, the Monitor reviewed the Consent Decree requirement relative to the reallocation of complaint investigations between PSB and COC, the requirement that certain misconduct complaints be completed solely by the PSB, the requirement that misconduct complaints filed against the Chief of Police be directed by the Police Commission (rather than by PSB), and requirements regarding terms of duty and evaluations of PSB personnel.

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<sup>46</sup> Please refer to the Monitor’s Report for the Quarter Ending March 31, 2004 for additional information on this report.

During the current quarter, the Monitor assessed the LAPD's compliance with the Consent Decree requirements relative to integrity/sting audits. The results of our current assessment follow.

### **Paragraph 97 – Scheduled Integrity/Sting Audits**

Paragraph 97 requires the LAPD, via its EES, to develop and initiate a plan for organizing and executing regular, targeted, and random integrity audit checks, or “sting” operations, to identify and investigate officers engaging in at risk behavior, including, but not limited to: unlawful stops, searches, seizures (including false arrests), uses of excessive force, or discouraging the filing of a complaint or failing to report misconduct or complaints. The LAPD was required to develop and initiate this plan before July 1, 2001.

### ***Background***

The LAPD established the EES in order to fulfill the requirements of paragraph 97. The EES falls under the management of the CO of the LAPD's PSB. The purpose of the EES is to identify, either through research or referrals, officers that may exhibit tendencies of at risk behavior. Once identified, the EES must make a determination as to whether or not the officers' behavior constitutes a violation of paragraph 97 and, if it does, whether or not a staged scenario is necessary to confirm the officers' at-risk behavior.

The Monitor last assessed compliance with paragraph 97 during the quarter ending December 31, 2003. At that time, the Monitor found the LAPD in primary compliance, but in functional non-compliance with the requirements of the paragraph based largely on the premature termination of sting audits testing compliance with the Department's complaint policy. The Monitor disagreed with the EES' approach and rationale for terminating the audits, concluding that an accurate test of compliance must run the gamut of the complaint intake process, including the generation, or lack thereof, of a complaint form.

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

In order to assess compliance with paragraph 97 during the current reporting period, the Monitor reviewed the *Office of the Inspector General's Review of Ethics Enforcement Section Quarterly Report* for the Fourth Quarter of 2003 and the First Quarter of 2004. These reports related to a total of 55 sting audits conducted from October 2003 through March 2004, of which 14 were targeted audits, comprising the following:

- Excessive force, one audit
- Criminal misconduct, six audits
- Unlawful stop, four audits



- Neglect of duty, two audits
- Complaint in-take, one audit

The OIG reviewed all 14 targeted audits and concluded that all 14 were complete and adjudicated properly. As part of the Monitor's evaluation of the quality of such audits, the Monitor reviewed seven randomly selected targeted audits. The Monitor agreed with the OIG's assessments of these audits.

The OIG reviewed a total of 37 of the 41 random audits that were finalized by the EES during these two quarters. Thirty-one of the 37 audits were designed to test compliance with reporting officer misconduct and the complaint intake process. For all but one of these 31 random audits, the OIG concluded that the audits were complete and adjudicated properly. In one instance, the LAPD rated the officer as "pass" and the OIG opined that the officer should have been rated as "administrative/fail." The Monitor reviewed a total of 12 of these 31 random audits and concurred with the OIG's assessments of all 12.

The remaining 6 random audits of the 37 reviewed by the OIG were designed to test compliance with unlawful seizure/false arrest random audits. The OIG concluded that these audits were complete and adjudicated properly. The Monitor reviewed one of these 6 random audits and concurred with the OIG's assessments.

Finally, in its reviews, the OIG identified administrative inconsistencies among audit reports and offered constructive recommendations. The deficiencies noted were consistent with those previously reported by the Monitor. However the Monitor did not consider those few omissions to be serious in nature. The OIG met with and discussed all of its findings with EES management.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 97.<sup>47</sup> As with our assessment of paragraph 75,<sup>48</sup> although the Monitor found the OIG's audit to be in non-compliance, it was determined that reliance could be placed on the conclusions reached by the OIG.

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<sup>47</sup> Regarding primary compliance, the Monitor determined that the LAPD-issued policy, which was reported on in previous quarters, continues to reasonably and substantially address the requirements of this paragraph. Regarding secondary compliance, as previously reported, the EES furnished the Monitor with a comprehensive "Integrity Audit Guide" that was developed as an outline in conducting EES audits. In addition, the OIG, in its 2004 first quarter report, concluded that the LAPD provided adequate training to EES.

<sup>48</sup> Please refer to the Current Assessment of Compliance for paragraph 75, above.

## **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 and its compliance with the Consent Decree requirement to collect field data each time its officers conduct a motor vehicle or a pedestrian stop during the quarter ending June 30, 2004. During the current quarter, the Monitor continued its assessment of the Department's compliance with its non-discrimination policy. The results of our current assessments 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 assessed the Department's compliance with paragraphs 102 and 103 during the quarter ending June 30, 2004, at which time the Monitor withheld a determination of secondary and functional compliance with the provisions of the paragraphs. In previous reports, the Monitor noted that 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 these paragraphs.

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

As reported in the Monitor's previous quarterly reports, the data collected in the field and posted on the LAPD website for the periods July 1, 2002 through June 31, 2003 and July 1, 2003 through December 31, 2003 indicate 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 continues to acknowledge that the disparate treatment reflected in the statistics may be explained other than as an indication of biased policing and that additional analysis is required.

As reported previously, to facilitate further analysis, the Department has selected a vendor, Analysis Group, Inc. (Analysis Group) to develop a methodology to analyze the field data in order to determine if the disparity can be explained and, if so, what those explanations are. During the previous quarter, Analysis Group submitted its first deliverable, the Project Work Plan. During the current quarter, the parties worked to significantly refine the scope of the work and methodology. However, as in previous quarters, the Monitor withholds a determination of functional compliance with paragraphs 102 and 103 pending further analysis of the field data. The Monitor will report on the next project deliverables during the quarter ending December 31, 2004.

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

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

### ***Background***

The Monitor last assessed compliance with paragraphs 104 and 105 during the quarter ending June 30, 2004, at which time the Monitor found the Department in functional compliance.

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

The Monitor was originally scheduled to assess compliance with paragraphs 104 and 105 during the current quarter, in conjunction with its assessment of Audit Division's *Motor Vehicle and Pedestrian Stops (MV&PS) Audit*. The *MV&PS Audit* is currently under review by the Monitor. However, the sample selected for review by Audit Division pre-dates the samples reviewed by the Monitor in assessing compliance with paragraphs 104 and 105 during the quarter ending June 30, 2004. As a result, the Monitor's finding of compliance from the quarter ending June 30, 2004 still stands. The Monitor will next assess this paragraph during the quarter ending June 30, 2005.

## IV. MANAGEMENT OF GANG UNITS

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In the wake of the Rampart Scandal, the LAPD conducted an audit of its internal operations and in March 2000 reorganized the units that police gang-related crime into Special Enforcement Units (SEU). The SEUs, which were subsequently reorganized into Gang Enforcement Details (GED),<sup>49</sup> report to the command staff in the stations where they are assigned, and receive support from Special Operations Support Division (SOSD),<sup>50</sup> which has responsibility for monitoring gang units Department-wide.

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

During the quarter ending June 30, 2004, the Monitor assessed all Consent Decree requirements regarding the LAPD's management of gang units. During the current quarter, the Monitor again assessed compliance with the requirements regarding the eligibility criteria for and the selection process of GED officers, tour of duty limitations, and supervisory review of sustained complaint or adverse judicial findings during an officer's assignment tour in the GED. The results of our current assessments follow.

### **Paragraph 106b – Eligibility Criteria for Selection of Gang Non-Supervisory Officers**

Paragraph 106b provides eligibility criteria for the selection of non-supervisory officers.

#### ***Background***

The Monitor last assessed compliance with paragraph 106b during the quarter ending June 30, 2004, at which time the LAPD was found in functional compliance.

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

In order to assess compliance with paragraph 106b for the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004, and related audit working papers. The Monitor also conducted a meta-audit of

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<sup>49</sup> GEDs are part of Gang Impact Teams, which also include Community Law Enforcement and Recovery (CLEAR) units.

<sup>50</sup> 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.

Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 106b.<sup>51</sup>

The Monitor reviewed the listing used by Audit Division of 333 non-supervisory officers selected to a gang unit during the period March 1, 2000 to March 6, 2004. Audit Division selected a random sample of 85 of these non-supervisory officers and reviewed their selection and personnel packages. In assessing Department-wide compliance regarding eligibility criteria for non-supervisory officers, Audit Division reviewed the TEAMS I records and performance evaluations for all 85 non-supervisory officers selected for review. Audit Division determined that all 85 non-supervisory officers had the minimum experience required and demonstrated proficiency in law enforcement activities, interpersonal and administrative skills, cultural and community sensitivity, and commitment to police integrity prior to being selected into the respective unit.<sup>52</sup>

The Monitor's meta-audit evaluated Audit Division's findings for a random sample of 14 of the 85 non-supervisory officers reviewed by Audit Division, and included a review of the officers' TEAMS I records and performance evaluations. The Monitor concurred with Audit Division's assessments. The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending June 30, 2004, during which the Monitor reviewed non-supervisory officers selected to a gang unit during the period January 11 through April 3, 2004.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 106b.<sup>53</sup>

### **Paragraph 106c – Eligibility Criteria for Selection of Gang Supervisors**

Paragraph 106c establishes the eligibility criteria for selection of a supervisor in a gang unit.

#### ***Background***

The Monitor last assessed compliance with paragraph 106c during the quarter ending June 30, 2004, at which time the LAPD was found in functional compliance.

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<sup>51</sup> See the Monitor's Current Assessment of Compliance for paragraph 131b.

<sup>52</sup> Although TEAMS I has proven to be unreliable and incomplete relative to UOF, no concerns have been identified regarding the experience and performance evaluation records contained therein.

<sup>53</sup> Going forward, the Monitor will require that in addition to the check of the TEAMS database a check with the UOFRS for CUOF not contained within the TEAMS database will be required. In addition, an auditable form indicating that such a check was performed will be required.

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

In order to assess compliance with paragraph 106c during the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004, and related audit working papers. The Monitor also conducted a meta-audit of Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 106c.<sup>54</sup>

The Monitor reviewed the listing used by Audit Division of 37 supervisors selected to a gang unit during the period March 1, 2000 to March 6, 2004. Audit Division selected a random sample of 36 of these supervisors and reviewed their selection and personnel packages. In assessing Department-wide compliance regarding eligibility criteria for supervisory officers, Audit Division reviewed the TEAMS I records and performance evaluations for the 36 supervisors selected for review. Audit Division found that one supervisor was re-selected into a gang unit in February 2002 with less than a 13-Deployment Period (DP) of elapsed time since his previous assignment into a gang unit. As a result, Audit Division determined that 35 of 36, or 97%, of the supervisors had the minimum experience required and demonstrated outstanding leadership, supervisory and administrative skills prior to being selected into the respective unit.

The Monitor's meta-audit evaluated Audit Division's findings for a random sample of 10 of the 36 supervisors reviewed by Audit Division, and included a review of their TEAMS I records and performance evaluations. The Monitor concurred with Audit Division's assessments. The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending June 30, 2004, during which the Monitor reviewed supervisory officers selected to a gang unit during the period January 11 through April 3, 2004.

Based on the foregoing, the Monitor finds the LAPD in functional compliance with paragraph 106c.

### **Paragraph 106d – Gang Unit Tour of Duty Limitations**

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

### ***Background***

The Monitor last assessed compliance with paragraph 106d during the quarter ending June 30, 2004, at which time the LAPD was found in functional non-compliance.

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<sup>54</sup> See the Monitor's Current Assessment of Compliance for paragraph 131b.

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

In order to assess functional compliance with paragraph 106d during the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004, and related audit working papers. The Monitor also conducted a meta-audit of Audit Division's audit and findings.

The Monitor reviewed the listing used by Audit Division of non-supervisory and supervisory officers selected to a gang unit from July 2001<sup>55</sup> to March 6, 2004. Audit Division identified 16 officers that had a tour assignment that exceeded 39 DPs as of June 2004, including tour extensions that were given in late July 2003 that extended officers tour assignments through the end of June 2004. Audit Division found that 13 of 16, or 81%, of the selections were in compliance. Extensions for three officers were not approved until after the end of the officers' tour assignment. However, Audit Division did not include these three officers in determining compliance because the focus of its audit was on extensions given after Special Order 27 came into effect.<sup>56</sup>

The Monitor's meta-audit evaluated Audit Division's findings for the 16 officers selected by Audit Division, and included a review of their tour extension documentation. The Monitor agrees that documentation of extensions on TEAMS Evaluation Reports was not required until after July 10, 2004; however, the three extensions lacked approval prior to the end of these gang officers' tour assignments. As a result, the Monitor concluded that they failed to comply with the requirements of paragraph 106d. The Monitor notes that this conclusion is consistent with the Monitor's findings from the quarter ending June 30, 2004, during which the Monitor reviewed the SOSD tracking roster for officers' assignments to gang units through April 3, 2004.

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

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

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

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<sup>55</sup> The inception of the Consent Decree.

<sup>56</sup> Special Order 27 was issued on July 10, 2003 and was effective August 1, 2003. It requires formal documentation on TEAMS Evaluation Reports (TER) of tour extensions in gang units.



## **Background**

The Monitor last assessed compliance with paragraph 107a during the quarter ending June 30, 2004, at which time the LAPD was found in functional non-compliance.

## **Current Assessment of Compliance**

In order to assess functional compliance with paragraph 107a for the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004. The Monitor also conducted a meta-audit of Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 107a.<sup>57</sup>

The Monitor reviewed the listing used by Audit Division of non-supervisory and supervisory officers selected to a gang unit from June 15, 2001<sup>58</sup> to March 6, 2004. From this list, Audit Division selected a sample of 82 officers that were selected to a gang unit during that period and reviewed their selection and personnel packages. In assessing compliance regarding eligibility criteria for officers selected to a gang unit, Audit Division reviewed the TEAMS I records and performance evaluations for the officers and determined that seven packages were non-compliant. One selection was non-compliant due to the reliance on a limited TEAMS record and six selections did not have written consideration of sustained complaints related to those activities specified in paragraph 107a. As a result, Audit Division determined that 75 of 82, or 91%, of the officers had a positive evaluation of their TEAMS record and written consideration of sustained complaints related to those activities specified in paragraph 107a prior to being selected into the respective unit.

The Monitor's meta-audit evaluated Audit Division's findings for a sample of the 82 officers reviewed by Audit Division, and included a review of their TEAMS I records and performance evaluations. The Monitor concurred with Audit Division's assessments. The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending June 30, 2004, during which the Monitor reviewed the selection and personnel packages for supervisors and non-supervisory officers selected to a gang unit during the period January 11, 2004 to April 3, 2004.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 107a.<sup>59</sup>

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<sup>57</sup> See the Monitor's Current Assessment of Compliance for paragraph 131b, below.

<sup>58</sup> The inception of the Consent Decree.

<sup>59</sup> Going forward, the Monitor will require that in addition to the check of the TEAMS database a check with the UOFRS for CUOF not contained within the TEAMS database will be required. In addition, an auditable form indicating that such a check was performed will be required.

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

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

#### ***Background***

The Monitor last assessed compliance with paragraph 107b during the quarter ending June 30, 2004, at which time the LAPD was found in functional non-compliance.

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

In order to assess functional compliance with paragraph 107b during the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004. The Monitor also conducted a meta-audit of Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 107b.<sup>60</sup>

The Monitor reviewed the listing used by Audit Division of non-supervisory and supervisory officers selected to a gang unit after August 2003.<sup>61</sup> From this list, Audit Division selected a sample of 31 officers that were selected to a gang unit after August 2003, and reviewed their selection and personnel packages. In assessing compliance regarding eligibility criteria for officers selected to a gang unit, Audit Division reviewed the TEAMS I records, performance evaluations, written applications and evidence of an oral interview for these officers. Audit Division identified issues with 17 of the 31 selections, including TEAMS records dated after selection, lack of relevant performance evaluations and selections approved prior to the oral interview taking place. On this basis, Audit Division found 14 of 31, or 45%, of the selections met the requirements of the Consent Decree.

The Monitor's meta-audit evaluated Audit Division's findings for a sample of the 31 officers reviewed by Audit Division, and included a review of their TEAMS I records, performance evaluations, written applications and evidence of an oral interview. The Monitor concurred with Audit Division's findings regarding the instances of non-compliance. The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending June 30, 2004, during which the Monitor reviewed the selection and personnel packages for supervisors and non-supervisory officers selected to a gang unit during the period January 11, 2004 to April 3, 2004.

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<sup>60</sup> See the Monitor's Current Assessment of Compliance for paragraph 131b, below.

<sup>61</sup> August 2003 was selected because Special Orders 23 and 27, which provide formal guidance on the type of documentation needed to be maintained within the packages, were issued on July 10, 2003.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 107b.<sup>62</sup>

### **Paragraph 107c – Supervisory Review of Incidents & Impact on Eligibility to Remain in Gang Unit**

Paragraph 107c mandates that during an officer's assignment in the gang units, any sustained complaint or adverse judicial finding for use of excessive force, a false arrest or charge, an unreasonable search or seizure, sexual harassment, discrimination, or dishonesty, shall result in supervisory review of the incident and a written determination as to whether or not the officer should remain in the unit.

### ***Background***

The Monitor last assessed compliance with paragraph 107c during the quarter ending June 30, 2004, at which time the LAPD was found in functional compliance.

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

In order to assess functional compliance with paragraph 107c for the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Gang Selection Criteria Audit*, dated June 25, 2004, and related working papers. The Monitor also conducted a meta-audit of Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 107c.<sup>63</sup>

The Monitor reviewed the listing used by Audit Division of 333 non-supervisory and 37 supervisory officers selected to a gang unit during the period March 2000 to March 6, 2004. From this list, Audit Division selected a sample of 98 officers that were selected to a gang unit during that period and reviewed their selection and personnel packages. In assessing compliance regarding eligibility criteria for officers selected to a gang unit, Audit Division reviewed the TEAMS I records and performance evaluations for these 98 officers, and also communicated with PSB and Risk Management Group (RMG). Audit Division found that none of these officers had sustained complaints or adverse judicial findings related to the issues specified in the Consent Decree during their assignment in the gang unit. As a result, Audit Division concluded that compliance could not be assessed using the population and sample selected for review and, accordingly, withheld a determination of compliance.

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<sup>62</sup> Going forward, the Monitor will require that in addition to the check of the TEAMS database a check with the UOFRS for CUOF not contained within the TEAMS database will be required. In addition, an auditable form indicating that such a check was performed will be required.

<sup>63</sup> See the Monitor's Current Assessment of Compliance for paragraph 131b, below.

The Monitor's meta-audit evaluated Audit Division's findings for a sample of the 98 officers reviewed by Audit Division, and included a review of their TEAMS I records and performance evaluations, as well as a review of Audit Division's records of its communications with PSB and RMG. The Monitor concurred with Audit Division's findings that none of the officers had sustained complaints or adverse judicial findings related to the issues specified in the Consent Decree during their assignment in the gang unit.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 107c.<sup>64</sup> The Monitor recognizes that this finding is based on a "null set" i.e. the Department has not actually conducted the activities required by this paragraph because there has not been a need to conduct such activities. This finding is consistent with the Monitor's conclusion from the quarter ending June 30, 2004, during which the Monitor reviewed the selection and personnel packages for supervisors and non-supervisory officers selected to a gang unit during the period January 11, 2004 to April 3, 2004.

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<sup>64</sup> Going forward, the Monitor will require that in addition to the check of the TEAMS database a check with the UOFRS for CUOF not contained within the TEAMS database will be required. In addition, an auditable form indicating that such a check was performed will be required.

## V. CONFIDENTIAL INFORMANTS

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The use of informants is among the more sensitive areas of police work. The Consent Decree requires the LAPD to use strict controls in the use and handling of 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 March 31, 2004. The Monitor again assessed compliance with the Consent Decree's requirements regarding CIs during the current quarter.<sup>65</sup> The results of our current assessments 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 assessed compliance with paragraph 108 during the quarter ending March 31, 2004, at which time the LAPD was found in secondary and functional compliance.

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

In order to assess functional compliance with paragraph 108 during the current quarter, the Monitor reviewed Audit Division's *Confidential Informant Control Package Audit*, dated June 28, 2004, and related audit working papers. The Monitor reviewed the listing used by Audit Division of active informant packages maintained by Confidential Informant Tracking System Database (CITSD) dated March 9, 2004. In assessing Department-wide compliance of CI packages with the requirements of paragraph 108, the Monitor reviewed each of the active informant packages that were reviewed by Audit Division.<sup>66</sup> The Monitor determined that 89% of the informant packages reviewed were in compliance with the requirements of paragraph 108. Of the 89% that achieved compliance, 72% of the packages had all of the required elements, while the remaining 28% of the packages lacked one required element but still achieved

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<sup>65</sup> For the quarter ending March 31, 2004, the Monitor found the LAPD in compliance with paragraph 110, which requires the LAPD to publish a CI manual that further defines procedures for identifying and utilizing informants and includes the requirements of paragraphs 108 and 109. There have been no changes in the manual, nor were any required, since that assessment.

<sup>66</sup> The shared informant packages reviewed by Audit Division were not reflected in the Monitor's findings.

compliance.<sup>67</sup> The Monitor identified the following requirements that were lacking in the 28% of the packages that were lacking at least one required element:

- Informant's motivation and supervisory signatures on either the Exceptional Handling Report or Informant Information Form. In addition, several packages reviewed contained inconsistencies between the informant's motivations as listed on the Exceptional Handling Report and as listed on the Informant Information Form.
- Indication on the Informant Contact Forms that a conference took place with the supervisor prior to meeting with the informant. In addition, several Informant Contact Forms lacked supervisory signatures indicating oversight after the contact with the informant took place and / or failed to document the result of the action taken.
- Approval by commanding officer of the informant package prior to utilizing an informant.
- Informant was not contacted within the 90-day requirement and was not identified as inactive, and the package was not submitted for re-approval.
- CO's signature on the Sign-Out Log when the package was kept beyond the end of watch, and new forms required by the Informant Manual were not utilized.

Based on the foregoing, the Monitor finds the LAPD in functional non-compliance with paragraph 108. The Monitor notes that these findings differ from the Monitor's findings from the quarter ending March 31, 2004, during which the Monitor also selected and reviewed a statistical sample of confidential informant packages from all active informant packages and found that 98% of the packages reviewed were in compliance with paragraph 108. The Monitor emphasizes that its review criteria and methodology have not changed; rather, the different findings result from the fact that the information in the CITSD is constantly changing, resulting in different sample populations each time a listing of active informants is generated.

### **Paragraph 109 – Confidential Informant Database**

Paragraph 109 requires the LAPD to establish a permanent Department-wide CI database to include all LAPD CIs 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 assessed compliance with paragraph 109 during the quarter ending March 31, 2004, at which time the LAPD was found in functional non-compliance.

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<sup>67</sup> The Methodologies establish a guideline that packages lacking two or more required elements are considered to be out of compliance.

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

In order to assess functional compliance with paragraph 109 during the current quarter, the Monitor reviewed and subsequently placed reliance on Audit Division's *Confidential Informant Control Package Audit*, dated June 28, 2004, and related audit working papers. The Monitor conducted a meta-audit of Audit Division's audit and findings, concluding that the audit was complete, accurate and reached appropriate conclusions relative to paragraph 109.<sup>68</sup>

The Monitor reviewed the listing, dated March 9, 2004, used by Audit Division of active and inactive informant packages maintained in the CITSD. Audit Division selected for review a statistical sample of active informant and inactive informant packages<sup>69</sup> and determined that 13% of the active packages, and 30% of the inactive packages, contained discrepancies between the information in the database and the information reflected in the informant package. As a result, Audit Division concluded that the Department was non-compliant.

The Monitor reviewed a sample of the packages selected for review by Audit Division and concurred with Audit Division's assessment. The Monitor notes that these findings are consistent with the Monitor's findings from the quarter ending March 31, 2004, during which the Monitor also selected and reviewed a statistical sample of confidential informant packages from all active informant packages.

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

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<sup>68</sup> See the Monitor's Current Assessment of Compliance for paragraph 128(5).

<sup>69</sup> The shared informant packages were not included in the active informant packages reviewed because they are not required to be reflected in CITSD.



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

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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. The Department is also 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.

During the current quarter, the Monitor evaluated the Department's progress with its Mental Illness Program, and evaluated 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 assessed compliance with paragraph 112 during the quarter ending March 31, 2004, at which time the Monitor found the Department in functional non-compliance. Although the Department continued to make strides in developing its program for responding to persons with mental illness, the Monitor had 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 the system-wide Mental Assessment Response Teams (SMART) / the Mental Evaluation Unit (MEU) and the discontinuance of the Crisis Intervention Team (CIT) program.

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

During the reporting period, the Monitor and the Department's Consent Decree Mental Illness Project (CDMIP) staff held multiple meetings to discuss Mental Illness Project matters. These meetings included on-site reviews at the Training Unit, MEU and the Command Post Communications/Dispatch Center. The Department's *Monthly Progress Reports*, *Consent Decree Mental Illness Status Reports* other relevant *Interdepartmental Correspondence* were reviewed and compared to the Monitor's Mental Illness Project Recommendations Matrix. The Monitor determined that the Department, through the CDMIP team, made great strides in satisfying the requirements of this paragraph. In particular, the Department centralized authority for its Mental Illness Program, expanded the SMART and MEU programs, enhanced its training programs, and took significant steps to improve tracking and documentation capabilities. Following is a summary of the status of various CDMIP initiatives.

### *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 of 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 May 18, 2004, the Board of Police Commissioners directed the Department to expand SMART unit by nine Police Officers II to a total of 18. Additionally, the Department was directed to expand the MEU by one Sergeant I, two Police Officers III, and six Police Officers II. The Chief of Police approved this expansion on June 2, 2004.

On June 7, 2004, the Director, Office of Operations, directed the Detective Bureau to implement the expansion of SMART and MEU. The expansion was initially accomplished on June 13, 2004 through the loaning of personnel from the DARE Section to SMART and MEU. While some of the transfers eventually became permanent, others have reverted back to their divisions of assignment, pending the arrival of their counterparts from the Department of Mental Health (DMH). According to the CDMIP Coordinator, the DMH transfers are occurring at the rate of approximately two per month. At this time, the Department has permanently transferred 13 of the proposed SMART unit officers, thus creating 13 SMART Teams. The MEU is fully staffed at this time.

On August 24, 2004, the Office of Operations informed the Detective Bureau that the Personnel Division had no documentation to support the expansion of SMART/MEU, and related personnel transfers, and requested evidence of the same. On August 27, 2004, the CDMIP Coordinator submitted to the Office of Human Resources a fact sheet to support the expansion of these programs.

A Special Order has been drafted which redefines the functions of the MEU, and defines for the first time the responsibilities of the CDMIP Coordinator. The draft of this Special Order has been submitted to the City Workgroup for possible modifications.

#### *Expansion of the CIT Program*

On May 18, 2004, the Board of Police Commissioners recommended the CIT Program be disbanded, effective immediately. The Commission recommended that the CIT Program be replaced by more limited training provided to all patrol officers. The Commission cited budgetary and deployment issues as reasons for its recommendation to disband the CIT Program.

#### *Enhancement to LAPD Training Programs*

In recommending that the CIT Program be disbanded, the Commission recommended that the CIT program be replaced with scenario based training delivered at the divisional level under the direction of MEU and the Training Group. It was further recommended that the training focus on conflict resolution and dealing with persons with suspected mental illness.

The Department has identified what it considers to be the two “most valuable” portions of the 40-hour CIT Program – “Crisis Intervention Techniques” and “Crisis Communications” – and is attempting to create a four- to six-hour block of “e-learning” to be provided to all patrol officers. According to the Training Group, the Crisis Intervention Techniques program is 80% complete, and the Crisis Communications block of instruction has not been started. The Training Group also advised that the Department still has not purchased the software necessary to implement these e-learning programs.

#### *Tracking and Documenting LAPD Encounters with Mentally Ill Persons*

Information and Technology Division (ITD) received and installed a new computer server for MEU’s database and tracking system, which became operational on April 18, 2004. Implementation of the Department’s new Computer Aided Dispatch System (“Print Track CAD”) still has not been rolled out because of vendor delays. The vendor is expected to produce a final product by November or December 2004. However, due to the anticipated five month training requirement, it is not expected to be operational until at least April of 2005.

Based on the foregoing, the Monitor finds the Department in 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,<sup>70</sup> 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***

The LAPD's initial report to the Police Commission concerning the Mental Illness Project was submitted by July 15, 2002, which means the Department was required to complete an audit by February 15, 2004 (32 months after the effective date of the Consent Decree). Although the fieldwork for this audit was apparently completed during the quarter ending June 30, 2004, the report was not issued by the end of that quarter. As a result, the Monitor found the Department in non-compliance with paragraph 113 in its Report for the Quarter Ending June 30, 2004.

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

Detective Bureau completed its first audit of Police Contacts with Persons who may be Mentally Ill and submitted its report dated June 10, 2004 to the Police Commission on July 9, 2004.<sup>71</sup> The Department acknowledges it is out of compliance relative to the timeliness of this audit.

In order to assess compliance with paragraph 113 during the current quarter, the Monitor reviewed the Department's *Mental Illness Audit* report dated June 10, 2004, met with the Mental Illness Coordinator and his staff, and reviewed selected audit working papers including the audit work plan dated October 12, 2003, sample Daily Field Activity Reports (DFARs) and records from communications, and departmental correspondence related to this audit. The Monitor's findings, which have been discussed with Detective Bureau, are highlighted below:

#### ***Sample Selection***

Detective Bureau personnel reviewed 33,114 DFARs for the period February 1, 2003 to January 31, 2004 to identify calls for service involving persons with suspected mental illness.<sup>72</sup> From this review, they identified and then analyzed all 2,011 DFARs that referenced such calls. Additionally Detective Bureau reviewed all of the 2,256 radio calls and all of the UOF reports

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<sup>70</sup> As required by paragraph 112.

<sup>71</sup> This audit evaluated the new policies, procedures and training methods that have been implemented pursuant to paragraph 112.

<sup>72</sup> Detective Bureau performed such an extensive review because there were no automated systems to identify the total number of DFARs involving persons with suspected mental illness.

involving persons suffering from mental illness, suicide and attempted suicide in West Los Angeles, Harbor, Central and Van Nuys Areas.<sup>73</sup>

While the Monitor commends Detective Bureau's diligence, it did not use statistical samples in its evaluations. If sampling had been done using a 95% confidence interval and a +/-4% error rate, the sample sizes would have been dramatically reduced as follows:

	<i>Total Population</i>	<i>100% Review by Detective Bureau = All Incidents Involving Mental Illness</i>	<i>Sample Could Have Been This Size</i>
DFARs	33,141	2,011	92
Radio Calls	2,256	2,256	92
UOF Incidents	303	59	37

#### *Scope of Detective Bureau's Evaluations*

Detective Bureau found the Department ineffective in relation to its handling of persons with suspected mental illness:

- Only 21% of calls involving persons with suspected mental illness were handled by CIT personnel;<sup>74</sup>
- The Department cannot track calls and incidents involving persons with suspected mental illness; and
- The MEU was notified only 66% of the time when individuals with suspected mental illness were placed on involuntary hold, and the Department's procedures for tracking MEU calls were ineffective.

On the positive side, Detective Bureau also found that considerable progress had been made in the Department's ability to provide quality services to those suffering from mental illness via a number of new policies, procedures and training programs.

While the Monitor commends Detective Bureau for its evaluation of these topic areas, and its subsequent efforts to implement further improvements,<sup>75</sup> the work performed by Detective Bureau in connection with these evaluations did not constitute an audit as described below.

<sup>73</sup> Detective Bureau judgmentally selected these areas, as they are the areas participating in the CIT pilot programs.

<sup>74</sup> Lodestar recommended that CIT-trained officers be the first responders for all calls involving persons with suspected mental illness.

### *Inadequate Audit Working Papers*

Detective Bureau's audit working papers for this evaluation were inadequate or non-existent. As a result, the Monitor was unable to perform a meta-audit to evaluate the quality and completeness of Detective Bureau's work.

Detective Bureau did not use an audit matrix or cribsheet to determine what they were measuring or to track its findings;<sup>76</sup> there were no population or sample size working papers; and Detective Bureau did not have any audit working papers to document its findings relating to: monitoring radio frequencies, analysis of calls within Communications Division, analysis of who reports a call for service, and analysis of the response time by patrol and CIT officers.

The Monitor understands that Detective Bureau was directed that this audit did not need to comply with the typical standards for audits. The Monitor disagrees with this direction: all LAPD audits should comply with government auditing standards and should follow similar standards to the specified audits identified in paragraphs 124 and 135.

### *Inadequate Testing*

Detective Bureau conducted judgmental evaluations of the Department's mental illness policies, procedures and training by reviewing the lesson plans of all programs in use by the Continuing Education Division (CED) and Training Division, and obtaining feedback from internal and community stakeholders. There is no evidence to indicate that Detective Bureau reviewed participant evaluations or the results of testing conducted at the end of these programs, both of which would have provided a more reliable measure of the programs' effectiveness.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 113.

### **Recommendations**

The Monitor supports Detective Bureau's recommendation that Audit Division conduct the next audit of this paragraph or, in the alternative, that Audit Division directly assist Detective Bureau with the development of a suitable audit matrix and cribsheet and with sample selection, and that Audit Division provide ongoing support during the audit fieldwork and review of the quality thereof.

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<sup>75</sup> As a result of this review, the Department now has systems in place to track calls to the MEU, determine the type of call, and track uses of force that involve people who may be suffering from mental illness.

<sup>76</sup> Audit Division provided feedback during the development of the audit workplan and final audit report, but did not provide assistance in relation to the development of an audit matrix and cribsheet, nor did it provide any assistance during the fieldwork stage of this audit.



## VII. TRAINING

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### A. FIELD TRAINING OFFICERS PROGRAM

The Consent Decree requires the LAPD to continue to implement formal training and establish eligibility criteria for Field Training Officers (FTOs). Consent Decree requirements are intended to ensure that the officers chosen to be FTOs, who are responsible for the professionalism, skill and quality of the future Department, are, themselves, qualified and appropriately trained to educate newer members of the LAPD.

During the quarter ending March 31, 2004, the Monitor assessed the quality of the training provided to FTOs and continued its evaluation of the FTO selection process. The Monitor last assessed compliance with requirements related to FTO de-selection during the quarter ending September 30, 2003.

During the current quarter, the Monitor assessed the LAPD's training of FTOs and its process for their de-selection. The results of our current assessments 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 assessed compliance with paragraph 114 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 attempted to again assess compliance with the paragraph during the quarter ending March 31, 2004 but withheld a determination of compliance pending a review of the pending/sustained complaints against 4 officers selected as FTOs.

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

In the Monitor's Report for Quarter Ending June 30, 2004, in connection with the assessment of compliance with paragraph 51d, the Monitor reported on its review of the pending/sustained complaints against 4 officers selected as FTOs during the period October 1 through December



31, 2003.<sup>77</sup> The Monitor concluded that 3 of the 4 officers were qualified to serve as training officers. However, the Monitor noted that in one instance an officer selected had a sustained complaint for “neglect of duty” and “filing a false report.” The Monitor concluded that although the complaint was reviewed, the decision to select the officer was clearly faulty.<sup>78</sup>

Based on the foregoing, the Monitor finds the LAPD in non-compliance with paragraph 114.<sup>79 80</sup>

### **Paragraph 115 – FTO De-selection**

Paragraph 115 instructs that the Department may remove an FTO from his or her position for the same acts and behaviors that would disqualify the same officer from selection as an FTO.<sup>81</sup>

### ***Background***

The Monitor last assessed compliance with paragraph 115 during the quarter ending September 30, 2003, at which time the Monitor found the LAPD in non-compliance. Of the 116 FTOs who served from July 1, 2002 through June 30, 2003, the Monitor identified five who should not be training probationary officers and three for whom personnel evaluations had not been conducted since 1998.

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<sup>77</sup> The Monitor had initially reviewed the selection files for 22 officers selected as FTOs during this time period, with a focus on the evaluation process, as documented by each interviewer on the FTO selection evaluation forms. 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 indicated that the officers selected had pending or sustained complaints, which the Monitor needed to review before determining whether these officers were qualified to serve as FTOs. For the fifth selection 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.

<sup>78</sup> The officer received a 22-day suspension for behavior the Monitor considers reprehensible for any officer, let alone an FTO. The officer was asked to return to court for a preliminary hearing in the prosecution of a third time felony offender who was rescheduled for the afternoon. The officer told the District Attorney that he would not be returning because of child care responsibilities. Upon returning to the station, the officer filled out a form, which indicated that the District Attorney had given him permission to leave. The officer’s relative who serves as the childcare provider failed to corroborate the officer’s story and instead stated that she was available at that time. Without the officer’s presence at the preliminary hearing, charges were dropped against the felony offender.

<sup>79</sup> As part of its assessment of paragraph 114 during the current quarter, the Monitor was scheduled to review the selection process for FTOs selected from January 1, 2004 through June 30, 2004. However, the LAPD did not select any FTOs during this time period.

<sup>80</sup> Going forward, the Monitor will require that in addition to the check of the TEAMS database a check with the UOFRS for CUOF not contained within the TEAMS database will be required. In addition, an auditable form indicating that such a check was performed will be required.

<sup>81</sup> Please refer to paragraph 114 for the required eligibility criteria.

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

In recent years, the LAPD has been challenged by budget constraints and poor enrollment, resulting in smaller academy classes and fewer recruits. With fewer recruits, there are fewer officers actually serving as FTOs. Although the LAPD was able to identify the total number of officers that are or have once served as FTOs,<sup>82</sup> it was unable to identify the number of officers actually serving as FTOs in the field with a probationary officer.<sup>83</sup> As a result, the Monitor was unable to identify the actual population to be reviewed in order to assess compliance with this paragraph.

Based on the foregoing, the Monitor withholds a determination of compliance with paragraph 115. The Monitor will review this paragraph when the LAPD provides the Monitor with the names and serial numbers of the officers actually assuming the responsibility of an FTO. The Monitor anticipates that this will occur during the quarter ending December 31, 2004.

### **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 assessed compliance with paragraph 116 during the quarter ending March 31, 2004, at which time the Monitor found the LAPD in functional compliance.

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

Paragraph 116 requires the Monitor to evaluate whether FTOs are receiving sufficient training in LAPD policies and procedures and training on how to be an instructor. Due to the fact that the actual FTO population was not identified by the LAPD, as described in the Current Assessment of Compliance for paragraph 115, above, the Monitor was unable to assess its compliance with this paragraph.

Based on the foregoing, the Monitor withholds a determination of the LAPD's compliance with paragraph 116. The Monitor anticipates reviewing this paragraph during the quarter ending December 31, 2004.

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<sup>82</sup> Currently there are 735 officers in the field that are currently or have once served as an FTO.

<sup>83</sup> The Department estimates that there are approximately between 200 and 300 officers actually training a PI in the field.

## **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 March 31, 2004, 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 quarter ending June 30, 2004, the Monitor again assessed the Department's training of the public members who serve on the Board of Rights.

During the current quarter, the Monitor again assessed compliance with the requirements regarding the communication of training suggestions to the LAPD Training Group. The results of our current assessment follow.

### **Paragraph 120 – Communication of Training Suggestions**

Paragraph 120 requires the Department to establish procedures for LAPD supervisors and officers 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 assessed compliance with paragraph 120 during the quarter ending March 31, 2004, at which time the Monitor found the LAPD in functional compliance.

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

The Department continues to explore various methods for conducting outreach to garner training suggestions and lessons learned from field experiences; as well as encouraging employees to submit their insights. Since the initiation of the Training Suggestions and Lessons Learned program this year, approximately six suggestions have been integrated into the training curriculum.

The Department's receptiveness to suggestions and its willingness to develop training based on actual needs is best exemplified by a 12-hour training program implemented in Operation South Bureau (OSB). The training program objectives were driven by training recommendations from both CUOF and NCUOF determinations and current "tactical trends" faced by OSB personnel.

The training included self-defense techniques; firearms training; building search; and traffic stop and tactical communications skills.

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

### C. SUPERVISORY TRAINING

The Consent Decree mandates that all officers promoted to supervisory positions receive training prior to the assumption of their new responsibilities.<sup>84</sup> Once promoted, supervisors should continue to receive regular training on key issues, including report review, incident control, ethical decision-making, UOF and complaint investigations. 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 assessed the Department's compliance with supervisory training requirements for officers promoted to supervisory positions during the quarter ending December 31, 2003. During the quarter ending June 30, 2004, the Monitor again reviewed the Department's compliance with supervisory investigations training requirements.

During the current quarter, the Monitor focused on the curricula for supervisory training. The results of our current assessment follow.

#### **Paragraph 121 – Supervisory Training Requirements**

Paragraph 121 requires the LAPD provide all officers promoted to supervisory positions,<sup>85</sup> up to and including the rank of Captain, with training to perform their new duties and responsibilities. Officers are to receive this training prior to the assumption of their new supervisory positions, except for those officers promoted to the rank of Captain, who shall have at least commenced command development training before they assume their new positions.<sup>86</sup>

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<sup>84</sup> 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.

<sup>85</sup> 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.

<sup>86</sup> Due to the fact that the promotion of a Detective I to a supervisory role as a Detective II is a pay-grade promotion, the officer rarely has enough time to attend the requisite school before they are to be promoted. Should this be the case, the Monitor requires the newly promoted Detective II to sign an affidavit stating they refrained from performing supervisory duties until they received training.

## ***Background***

The Monitor last assessed compliance with Paragraph 121 during the quarter ending December 31, 2003, at which time the Monitor found the Department in compliance.

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

During the current quarter, the Monitor reviewed the training of 83 officers promoted between July 31, 2003 and August 31, 2004, the entire population of officers promoted. Of those 83 officers promoted, a total of 12 received training after they assumed their new posts. All 12 of these officers were promoted from Detective I to Detective II, but only 8 had signed an affidavit stating that they would not assume supervisory responsibilities until they received the appropriate training. This represents a compliance rate of 90.4%.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 121.

## **Paragraph 122 – Regular and Periodic Supervisory Training**

Paragraph 122 requires the Department to provide regular and periodic supervisory training on report review, incident control and ethical decision-making.

## ***Background***

The Monitor last assessed compliance with paragraph 122 during the quarter ending September 30, 2003, at which time the Monitor found the Department in functional compliance.

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

During the current quarter, the Monitor requested and received a listing of 2,406 LAPD supervisors. Using statistical sampling, a random sample of 131 Supervisors, including officers with the rank of D-II, Sergeant, Lieutenant, Captain, Deputy Chief, Assistant and Chief, was selected for review by the Monitor. The Monitor analyzed the training data for the supervisors selected for review to determine if they received the appropriate training on a regular and periodic basis.<sup>87</sup> The Monitor determined that 125 officers received the appropriate training<sup>88</sup> on a regular and periodic basis, resulting in a compliance rate of 95.4%.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 122.

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<sup>87</sup> For the purposes of this paragraph, ‘regular and periodic’ means every 24 months.

<sup>88</sup> The Monitor relied on the training provided in Continuing Education Delivery Plan 6, 7, and 7.5. The Monitor has reviewed the curriculum of each of these training modules and attended multiple classes of each taught by various instructors and has found the training to be sufficient.

## 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 periodic audits of numerous aspects of policing, including warrants, arrests, UOF, stops, CIs, complaints, gang units, financial disclosure, and police training. Each audit examines a variety of issues, but a common theme among all audits is the requirement to assess and report on compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight. 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 caused by the following two issues: the LAPD was going up a steep learning curve regarding the standards required for the conduct of audits, and it was under-resourced. The Department has made significant progress in both of these issues in recent quarters as set out below; however, the Department's audit personnel have little time available to delve deeper into any audit that warrants a closer look.

<i>Timing of Monitor's Evaluation</i>	<i>"Quality" Audits Completed by the LAPD<sup>89</sup></i>	<i>Paragraph Reference(s)</i>
Sept 30, 2002	<i>Warrant Applications &amp; Affidavits Audit</i>	CD128(1)
Dec 31, 2002	<i>ABC Reports Audit</i>	CD128(2)
Sept 30, 2003	<i>CI Control Packages Audit</i>	CD128(5)
Dec 31, 2003	<i>MV&amp;PS Audit</i>	CD128(4)
	<i>GED Work Product Audit</i>	CD131a
Mar 31, 2004	<i>GED Work Product Audit</i>	CD131a
Jun 30, 2004	<i>Warrant Applications &amp; Affidavits Audit</i>	CD128(1)
	<i>ABC Reports Audit</i>	CD128(2)
	<i>NCUOF Reports/Investigations Audit</i>	CD128(3) & CD129ii
	<i>Complaints Investigations Audit</i>	CD129iii
	<i>GED Work Product Audit</i>	CD131a
Sept 30, 2004	<i>CI Control Packages Audit</i>	CD128(5) & CD131d
	<i>CUOF Systems Audit</i>	CD129i
	<i>GED Work Product Audit</i>	CD131a
	<i>GED Selection Criteria Audit</i>	CD131b

<sup>89</sup> Although the GED Work Product Audits were quality audits, they were non-compliant during previous quarters because they were performed by Audit Division rather than by the SOSD. As explained in detail below, the Monitor withheld a determination of compliance for these audits during the current quarter.

Since the issuance of the Monitor's Report for the Quarter Ending March 31, 2003, the Monitor has expressed concerns about the OIG's untimely and deficient reviews/independent audits. Although the OIG stepped up its efforts earlier this year to eliminate its backlog of reviews and independent audits, this effort was short-lived; with the result that the OIG is now behind in meeting its deadlines, and concerns over the quality of the OIG's audits/reviews persist.

### *Audit Training*

Audit Division personnel and OIG audit personnel attended a Basic Law Enforcement Performance Auditing Course from September 15-17, 2004, which was presented by senior members of LAPD's Audit Division, under the leadership of Captain Ron Sanchez. The three-day program examined all aspects of performance auditing including auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process.

The Monitor attended selected sessions and found it was a well-run program that incorporated adult learning principles to ensure the concepts were fully understood. Each session encouraged participants to interact and discuss key learning objectives. This helped to maximize the learning in each session, as evidenced by the marks on the final exam and feedback from the participants' evaluations.

Future courses are expected to be offered to new members of LAPD's Audit Division and new OIG audit staff, as well as police performance auditors and sworn officers from other jurisdictions. The Monitor is particularly heartened by the success of this course and all that it represents.

## **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 paragraph 124 of the Consent Decree, which requires the completion of an *Annual Audit Plan* prior to the beginning of each fiscal year, and sets out other requirements associated with establishing a meaningful and effective system of internal audits.

### **Paragraph 124 Annual Audit Plan & Responsibilities**

Paragraph 124 states that by June 1, 2001, and prior to the beginning of each fiscal year thereafter, the Chief of Police is required to submit to the Police Commission, with a copy to the OIG, a listing of all Consent Decree audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits. Paragraph 124 also describes:

- the primary responsibilities of the Audit Division, being the development of the Annual Audit Plan, coordinating, scheduling and conducting audits as required by the Annual Audit Plan and the Chief of Police, and ensuring the timely completion of such audits;



- the requirement to obtain sufficient resources to complete the audits required by the Consent Decree;
- other responsibilities of the Audit Division, including serving as a resource to other LAPD audit units, and performing periodic assessments of the quality of audits performed by other units;
- the topics to be addressed in each audit report;
- the topics to be addressed in each quarterly audit report, including the status of the audits listed in the Annual Audit Plan, and any significant results of such audits; and
- the review and approval process for the Annual Audit Plan and quarterly updates thereto, “provided, however, that the Annual Audit Plan shall include the specified audits to be conducted by the LAPD.”

### ***Background***

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. For each of these quarters, the Monitor concluded that the Department was in non-compliance relative to paragraph 124 for a number of reasons, including a lack of suitable resources, quality deficiencies with the early audits that were completed, and a lack of specificity in the Annual Audit Plan relative to the requirement to complete gang unit audits as required by paragraph 131.

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

In order to assess compliance with paragraph 124 for the fiscal period from July 2003 through June 2004, the Monitor reviewed the following:

- the Annual Audit Plan for fiscal 2004-05<sup>90</sup> dated May 17, 2004, as submitted to the OIG and the Police Commission on May 25, 2004;
- the Revised Annual Audit Plan for fiscal 2004-05 dated September 17, 2004, as submitted to the OIG and the Police Commission on September 17, 2004,<sup>91</sup> including a proposal for the GED Command Accountability Performance Audits;

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<sup>90</sup> Fiscal 2004-05 spans the period July 1, 2004 to June 30, 2005.

<sup>91</sup> The Monitor was originally scheduled to evaluate compliance with paragraph 124 in the previous quarter, but deferred this evaluation in order to be able to evaluate and comment on the revisions to the Annual Audit Plan that were being contemplated at the time of issuance of the Monitor’s previous quarterly report.

- Quarterly Status Reports on the 2003-04 Annual Audit Plan as submitted to the Police Commission for the quarters ending September 30, 2003, December 31, 2003, March 31, 2004, and June 30, 2004; and
- all of the audit reports issued related to the 2003-04 Annual Audit Plan and the Consent Decree, as well as the Monitor's reports thereon.

The Monitor also held discussions with representatives of the LAPD in relation to the requirements of paragraph 124. The Monitor's findings are set out below.

#### *Audit Completion Responsibilities*

- Most of the primary audit responsibilities of the Audit Division identified in paragraph 124 were met: the development of the Annual Audit Plan, coordinating, scheduling and conducting audits as required by the Annual Audit Plan and the Chief of Police, and ensuring the timely completion of most of the LAPD's audits.
- The LAPD's Audit Division, under the leadership of Captain Ron Sanchez, met most of its audit reporting deadlines for 2003-04. One exception was the *Warrants Audit*, which was issued in March 2004; the previous audit was issued in July 2002, more than one year prior.<sup>92</sup> This audit was postponed due to resource constraints, and to enable sufficient time for prior audit recommendations to be implemented.
- The LAPD's Detective Division did not complete its *Mental Illness Audit* on a timely basis.
- The *GED Work Product Audits* were not conducted for certain topic areas until the Monitor pointed this out as an oversight: the *GED Work Product Audits* did not address GED warrants, UOF, stops or CIs, and the Department-wide audits did not address the gang unit issues related to these topics.
- The *GED Work Product Audits* in the quarters ended September 30, 2003, December 31, 2003 and March 31, 2004 identified certain findings requiring a supplemental audit. These supplemental audits were not concluded until late September 2004 due to resource constraints.

#### *Staffing Assessment*

- There was an apparent lack of training for the Detective Division personnel who conducted the *Mental Illness Audit* in 2003-04. In addition, although Audit Division provided some input to Detective Division in connection with this audit,<sup>93</sup> the support provided was inadequate.

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<sup>92</sup> This timetable did not technically meet the definition of 'regular, periodic' as understood by the parties to mean on an annual basis.

<sup>93</sup> See the Monitor's Current Assessment of Compliance for paragraph 113.

### *Audit Quality*

- While most of the audits completed in 2003-04 met or exceeded the qualitative standards for Consent Decree audits, a few audits from the start of the fiscal year did not: the August 2003 *NCUOF Audit* was stale; and the August 2003 *CUOF Audit* was restricted in scope and deficient in quality.<sup>94</sup> In addition, the recent July 2004 *Mental Illness Audit* did not meet the qualitative standards for Consent Decree audits.
- With the exception of the *Mental Illness Audit*, each audit report submitted by Audit Division documented the audit's methodology, data sources, analysis of the data and conclusions.

### *Completeness & Content of the Annual Audit Plan*

- The Annual Audit Plan for 2004-05 includes all of the specified audits identified in the Consent Decree, and also includes all other Consent Decree paragraphs that have a secondary requirement for an audit.
- The Annual Audit Plan for 2004-05 indicates an intention to postpone the completion of the Department's next NCUOF audit by six months in order to enable sufficient time for the Department to implement changes to the Department's use of force reporting procedures. While this timetable will not meet the definition of 'regular, periodic' as an annual audit requirement, the Monitor considers the postponement to be appropriate in the circumstances.
- The Annual Audit Plan for 2004-05 includes a well-written proposal for *GED Command Accountability Performance Audits (CAPA)* to be conducted by Audit Division in order to address the audit requirements of CD131a, e and g and other risk management concerns. The Monitor commends Audit Division for its lateral thinking in developing this proposal to improve its ability to identify risk management issues and patterns of conduct requiring attention, and acknowledges the care and attention taken by Audit Division to address each of the concerns previously raised by the Monitor when this proposal was first being considered.<sup>95</sup> Accordingly, the Monitor does not consider this to be a deviation from the regular, periodic audit requirement of the Consent Decree.

### *Communications to the Police Commission Regarding Audits Scheduled on the Annual Audit Plan*

- The quarterly audit reports issued to the Police Commission for 2003-04 identified the significant findings from each of the audits submitted in 2003-04 but overlooked the fact that

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<sup>94</sup> Audit Division's recent *CUOF Systems Audit* dated May 27, 2004 was a fully compliant audit; Audit Division's recent *CUOF Investigations Audit* dated August 13, 2004 will be evaluated by the Monitor during the quarter ending December 31, 2004.

<sup>95</sup> While the timeframe for the conduct of these audits will cover a two-year rather than a one-year period, the findings from such audits will be disseminated throughout the Department to ensure yet-to-be audited GEDs are informed of any findings requiring action; the work product of the GEDs will be evaluated as part of the regular periodic (annual) audits conducted relative to paragraph 128; and an annual report will be prepared that assimilates the GED findings from the CAPA and paragraph 128 audits.

neither the *GED Work Product Audits* nor the Department-wide audits addressed GED NCUOF, warrants, stops and confidential informants.

- Although the Department advised the Police Commission in January 2003 that it would integrate most of the gang unit audits within the Department-wide audits, most of the audit reports issued in 2003-04 did *not* specifically report on the gang unit issues in its paragraph 128 Department-wide audits.

Based on the foregoing, although the Department has made substantial progress with its audits over the recent fiscal year, the Monitor finds the Department in non-compliance with the requirements of paragraph 124.

## **B. AUDITS BY THE LAPD**

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

- Paragraph 127 – *Sting Audit Reporting Protocol*
- Paragraph 128(4) – *Motor Vehicle & Pedestrian Stops Audit*
- Paragraph 128(5) – *Confidential Informant Control Packages Audit*
- Paragraph 129i – *Categorical Use of Force Systems Audit*
- Paragraph 131a – *GED Work Product & GED Arrest Booking and Charging (ABC) Reports Audit*
- Paragraph 131a – *Supplemental GED Work Product Patterns Audits*
- Paragraph 131b – *GED Selection Criteria Compliance Audit*
- Paragraphs 131c-1, c-3 and c-4 – *GED Audits of Warrant Applications & Affidavits, UOF Reports and MV&PS Stops*
- Paragraphs 131c-5 & 131d – *GED Confidential Informant Control Packages Audit*

### **Paragraph 127 – Sting Audit Reporting Protocol**

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

### ***Background***

The Monitor last assessed compliance with paragraph 127 during the quarter ending December 31, 2003 at which time the LAPD was found to be in compliance.

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

During the current period of assessment, the LAPD issued two quarterly reports summarizing the results of sting integrity audits. The reports issued covered the quarters ending December 31, 2003 and March 31, 2004, respectively.

Written quarterly reports were provided to the OIG and the Police Commission within two weeks, defined as 14 calendar days, of the Chief of Police's receipt of such reports. As previously reported,<sup>96</sup> the Chief of Police is verbally apprised of any audits that result in a failure, typically within 24 hours of such occurrence. Similar verbal notification to the OIG and the Police Commission also occurs.

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

### ***Paragraph 128(4) Motor Vehicle & Pedestrian Stop Audit***

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

### ***Background***

For the quarters ending September 30, 2002 through to the quarter ending June 30, 2003, the Monitor found the Department in non-compliance with paragraph 128(4) because the Department had not completed a regular periodic MV&PS audit as required by this paragraph. This audit was not completed until August 2003, because the data collection process was not considered to be reliable enough to warrant an audit.

The Monitor reviewed the August 2003 audit report during the quarter ended December 31, 2003 and found the audit in compliance with the requirements of paragraph 128(4).

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

In order to assess compliance with paragraph 128(4) during the current quarter, the Monitor reviewed Audit Division's *MV&PS Data Collection Audit Report* dated June 30, 2004, supporting documents relating to identification of the population, sample selection, audit

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<sup>96</sup> Please refer to the Current Assessment of Compliance for paragraph 127 in the Report for the Quarter Ending June 30, 2003.

workplan and a sample matrix provided to the Monitor. The Monitor also met with representatives of Audit Division to discuss how they identified the audit population and chose their samples. During such discussions, it became apparent that certain documents relied upon by Audit Division had not been provided to the Monitor in the format intended by Audit Division, and this had caused difficulties for the Monitor's evaluation of how Audit Division identified the population and chose its sample.

The above issue was then remedied, and the Monitor was able to choose its sample and request the relevant audit matrices and supporting reports. Such documents were not received by the Monitor until mid-October. As a result of these delays, the Monitor was unable to conclude on its evaluation of Audit Division's *MV&PS Audit* for the purposes of this quarterly report, and expects to complete its evaluation in the quarter ending December 31, 2004.

### **Paragraph 128(5) – Confidential Informant Control Packages Audit**

Paragraph 128(5) requires Audit Division to complete a regular periodic audit of stratified random samples of CI control packages. This audit requires, at a minimum, an assessment for completeness, authenticity, appropriateness of action taken, conformity with Department procedures and quality of supervisory oversight of the CI control packages and compliance with the requirements for handling CIs as noted in paragraphs 108 and 109.

### ***Background***

In the Monitor's Reports for the Quarters Ending December 31, 2001 and December 31, 2002, the Monitor found the Department in non-compliance with the requirements of paragraph 128(5) because the two Criminal Intelligence Group (CIG) CI audits dated July 13, 2001 and September 2, 2002 failed to identify a number of substantive issues and did not conform to acceptable audit standards.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor identified a few aspects related to Audit Division's *CI Control Packages Audit* dated July 14, 2003 that could be improved upon, but ultimately found this audit was compliant with the requirements of paragraph 128(5).

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

In assessing compliance for the current quarter, the Monitor reviewed Audit Division's *CI Control Packages Audit Report* dated June 28, 2004, the related audit workplan and cribsheet, the Monitor's sample of completed audit matrices for active and inactive CI packages, selected security assessment matrices, and other audit working papers including documents relating to audit population and sample determination. The Monitor also reviewed the June 12, 2003 LAPD Informants Manual.



Audit Division's sample comprised randomly selected active CI packages, shared packages and inactive informant packages as selected from the CITSD's total population<sup>97</sup> of all active and inactive CIs as of March 9, 2004.

The Monitor randomly selected samples of 36 active and 46 inactive CI packages from the CI packages in the Audit Division audit and, for each CI package, completed responses to the appropriate active and inactive audit matrix questions. Additionally, the Monitor evaluated the security measures utilized at the seven divisions<sup>98</sup> covered by its sample. The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

- Audit Division appropriately concluded that the Department was non-compliant with respect to the paragraph 128(5) objectives of completeness, authenticity, underlying actions, supervisory oversight and accuracy of the CITSD.
- It was apparent that numerous CI-package shortcomings identified by the Audit Division had been 'corrected' by post-audit revisions to the file. These corrections primarily consisted of adding a sign-out card and updating the CITSD database for a number of AKA's/monikers. As a result, the Monitor was unable to confirm various anomalies identified by the Audit Division since these appeared *not* to be anomalies at the time of the Monitor's review.
- Audit Division's reported findings for active packages were based on its findings for LAPD's active CI packages *and* the shared CI packages. Audit Division's reported findings for inactive packages for four objectives were based on its findings for LAPD's inactive CI packages and shared CI packages, while for two other objectives, the finding for the shared informants were segregated out and reported on separately. The Monitor believes Audit Division should have clarified that their findings for the various objectives were based on different populations.
- The Monitor identified one instance where Audit Division concluded that a package was out of compliance because the auditor had assessed a period of greater than 90 days where no information was received. However, this 90-day period was prior to the start of the audit period for this audit; accordingly, the package should not have been found out of compliance.
- The Monitor identified one package in which information on the informant's birth date was inconsistent with the documentation related to background checks contained in the package, the Informant Information Form and subsequently the CITSD database.

Based on the foregoing, the Monitor finds the LAPD in compliance with paragraph 128(5).

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<sup>97</sup> Audit Division had a list of the population of active informants as of the date they chose their sample so the Monitor was able to confirm the total population of active informants as of March 9, 2004. As the number of active and inactive CIs change from day to day, and the CITSD is unable to re-create a report at a historical date, the Monitor could not confirm the total population of inactive informants as of March 9, 2004.

<sup>98</sup> The seven divisions covered in the Monitor's sample were Rampart, Central, 77<sup>th</sup>, Harbor, Southeast, Narcotics Division, and OCVD.



### ***Proposed Recommendations***

- Audit Division should clarify the relevant period for each audit to ensure that issues related to prior periods are not included in the testing/findings of the current period's audit.
- The sign-out cards that are used to control the handling of CI packages should be modified to also identify the time when the package is signed out or returned for filing. This would allow the CO to determine if the package was kept beyond end of watch.
- When supervisors approve Informant Contact Forms, they should also identify the date of approval.

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

Paragraph 129i requires the Department to conduct regular, periodic audits of random samples of all CUOF investigations, and describes the qualitative factors that should be assessed in such audits, including the timeliness, completeness, adequacy and appropriateness of the investigations. Paragraph 129i also requires the Department to evaluate compliance with paragraphs 67, 69, 80, and 82 to 83; in addition, paragraphs 55 to 59 and 61 to 65 are related to this audit.

### ***Background***

Audit Division completed a *CUOF Investigations Audit* dated April 8, 2002; however the scope of that audit included only one completed investigation. As a result, for the quarter ending June 30, 2002, the Monitor concluded that this examination did not meet the requirements of paragraph 129i and deferred evaluating this paragraph until the next CUOF audit was conducted.

For the quarter ended June 30, 2003, the LAPD was found in non-compliance because the LAPD had not completed a subsequent audit on a regular, periodic basis. For the quarter ended December 31, 2003, the Monitor concluded that Audit Division's *CUOF Audit Report* dated August 22, 2003 was also in non-compliance due to audit scope limitations and the extent of material issues missed by Audit Division.

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

In order to address the requirements of paragraph 129i during the current quarter, Audit Division split its CUOF audit into two reports: an interim audit report dated June 9, 2004 covering those paragraphs that largely address specific process issues and a final audit report dated August 14, 2004 that assesses the quality of the CUOF investigations by CIID staff.<sup>99</sup> For reporting

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<sup>99</sup> The CUOF interim systems audit report assessed the requirements of paragraphs 55, 56, 58, 59, 61 – 65, 67, 69, 83 and 147. Additionally, it assessed portions of paragraphs 128(3) and 129i(a) relating to completeness of information contained and timeliness of completing the investigation respectively. The CUOF final investigations

purposes, the Monitor has similarly split its evaluation of paragraph 129i into two separate evaluations as follows:<sup>100</sup>

- 129i - *CUOF Interim Systems Audit*, and
- 129i - *CUOF Investigations Audit*

Audit Division's *CUOF Investigations Audit Report* dated August 14, 2004 will be assessed in the Monitor's next quarterly report.

For the current quarter's evaluation of paragraph 129i, the Monitor reviewed Audit Division's *CUOF Interim Systems Audit Report* dated June 9, 2004, as well as its underlying CUOF audit working papers.

Audit Division's sample comprised all 24 CUOF investigations completed during the 3-month period from October 1 to December 31, 2003.<sup>101</sup> For two additional audit objectives, Audit Division selected a second sample of 16 CUOF incidents from all CUOF incidents reported during the 3-month period from February 1, 2003 to April 30, 2003.<sup>102</sup> Based on this review, Audit Division found the Department in compliance with the requirements for 10 of the 13 Consent Decree paragraphs reviewed, and in non-compliance with the following 3 paragraphs:

- |               |  |
|---------------|--|
| Paragraph 56  | OIG, Chief and CIID notification protocols not followed or were untimely |
| Paragraph 62  | Incomplete/untimely supervisory analysis                                 |
| Paragraph 147 | As per paragraph 56 above, protocol to notify the OIG was not followed   |

Audit Division further reported that the Department was non-compliant with Department policy requirements for the separation of all CUOF involved and witness officers and for ensuring that CUOF officers referred to BSS do not return to field duty prior to being appropriately cleared by BSS, management and executive personnel.<sup>103</sup>

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audit report assessed the requirements of paragraphs 57, 80 and 82 and the remaining requirements of 128(3) and 129i.

<sup>100</sup> The historical assessments for CD129i have been applied to both evaluations of the CD129i audits.

<sup>101</sup> Audit Division appropriately deselected 6 CUOF investigations involving animal shootings or accidental discharges. Completed CUOF investigations are those reviewed and approved by the Chief of Police.

<sup>102</sup> The February 1 to April 30, 2003 population was used to assess the requirements of paragraphs 67 and 69, that all CUOF investigations be provided to the Police Commission at least 60 days prior to the running of any statute of limitation on discipline and be reviewed by the UOFRB, respectively. Audit Division identified a total of 25 CUOF incidents during this period. After de-selection of 6 incidents involving animal shootings or accidental discharges, 16 incidents were randomly selected for review from the remaining population of 19 CUOF incidents.

<sup>103</sup> The Consent Decree requirements for paragraphs 61 and 63 relate to only OIS incidents and incidents resulting in death or the substantial likelihood of death, respectively. For officer separation and BSS clearance matters, Department policy extends the paragraph 61 and 63 requirements to all CUOF incidents.

The Monitor randomly selected a sample of 20 of the 24 CUOF investigations reviewed by Audit Division<sup>104</sup> and reviewed all 16 CUOF incidents examined by Audit Division relative to paragraphs 67 and 69. The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

*Strengths:*

- This was an excellent audit report indicative of insightful planning of the audit processes, thorough evaluations, and appropriate follow-up procedures and recommendations.
- The Monitor commends Audit Division for many of its findings and recommendations arising from initiatives that went beyond the required audit scope. Such recommendations, if brought into Department policy, would bring about further operational improvements and reform.<sup>105</sup>
- Audit Division's analysis and recommendations related to its assessment of the promptness by which Department and other entities were notified of CUOF incidents was commendable.<sup>106</sup> Based on Audit Division's finding, LAPD's DCP appropriately revised its notification protocol by elevating the order of notification to the OIG.
- Audit Division correctly identified that TEAMS does not report non-shooting CUOF incidents and undertook procedures to highlight the potential associated management risks. Audit Division also surveyed COs to reveal that many COs inappropriately rely on TEAMS records to obtain officers' CUOF histories.<sup>107</sup> As a result of Audit Division's finding, all COs were notified of such omissions from TEAMS and managers were directed to contact the UOFRS for details on CUOF incidents not reported in TEAMS.
- Where the Consent Decree had ambiguous requirements regarding the timeliness of notifications, Audit Division appropriately considered the issues and established suitable evaluation benchmarks in consultation with involved parties.<sup>108</sup>

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<sup>104</sup> The Monitor's sample was selected using a +/-4% error rate.

<sup>105</sup> Audit Division included the following recommendations: that CUOF incidents of lesser management risk be investigated by COC; that CIID investigations be reviewed by senior officers; that the DCP notification function be performed by non-sworn personnel; and that acknowledgements be required for notifications via the Department's Blackberry email system.

<sup>106</sup> Audit Division accessed communication logs to establish the time of the CUOF incident in addition to relying on various DCP and other logs.

<sup>107</sup> Audit Division identified that LERII, LEARD, head strikes and ICD non-shooting CUOF incidents are not reported on TEAMS, and that some Department managers remained unaware of this omission, with the result that the complete CUOF work history of an involved officer in a CUOF incident may not be assessed when managers consider disciplinary and non-disciplinary action.

<sup>108</sup> Paragraph 56 does not define 'immediate' in the requirement to provide immediate notification to the Chief, CIID, Police Commission and OIG, nor does Department policy. After analysis of the practical aspects of the CUOF notification process, Audit Division established suitable benchmarks to notify the DCP, the Chief, CIID, the Police Commission, the OIG and the DAO.

*Weaknesses:*

- The Monitor identified a few instances whereby Audit Division's conclusions would have been better supported if more work had been done to validate the issues being examined.<sup>109</sup>  
<sup>110</sup> Although these represent weaknesses in Audit Division's work, they were not to the level that would cause this audit to be non-compliant.
- For one OIS incident, several witness officers were transported together. Audit Division appropriately determined this deviation was justified and documented as required by Department policy; however, Audit Division did not report on this incident as a deviation from paragraph 61 of the Consent Decree, nor did Audit Division report on its reasoning for excluding this incident from its findings.<sup>111</sup>

Based on the foregoing, the Monitor finds the Department in compliance with paragraph 129i - *CUOF Interim Systems Audit*.

***Proposed Recommendations***

When CO 15.2s to the UOFRB do not provide sufficient details to validate an officer's return to field duty, Audit Division should include an analysis of the daily worksheets of officers involved in OIS-Hit, LEARD and ICD incidents to confirm that their return to field duty does not precede appropriate clearances.

Audit Division should review UOFRB documents to determine whether the officer's work history was appropriately considered when assessing the disciplinary or non-disciplinary action arising from the CUOF incident.

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<sup>109</sup> In one instance, Audit Division relied on the CO's 15.2 correspondence to the UOFRB to determine whether an officer involved in an OIS-Hit returned to field duty before the receipt of appropriate BSS clearances. This correspondence did not provide specific details to confirm the officer had not been assigned to field duty prior to receiving full BSS clearances. Further follow-up by the Monitor revealed that the officer had not, in fact, returned to field duty before such clearances were obtained; hence, Audit Division did not do sufficient work to validate this.

<sup>110</sup> Audit Division based its paragraph 64 compliance conclusion on its systems review of whether officers' histories were considered in the UOFRB's assessments of the disciplinary or non-disciplinary action to be taken as a result of any CUOF incidents. Audit Division should have relied on the face-page of Form 1.67.0 filed within each UOFRB investigation file by the UOFRS that lists the officers' past CUOF history.

<sup>111</sup> Paragraph 61 requires all OIS witness and involved officers to be separated immediately and continuously until statements are given. Department policy also requires such separation, but permits deviation for justifiable and documented reasons. As discussed in the Monitor's Current Assessment of Compliance for paragraph 61, the Monitor ultimately concluded that this incident was not a violation of paragraph 61, however, the Monitor believes that Audit Division's report should have presented a discussion of this incident.

### **Paragraphs 131a & 131c-2 – GED Work Product & GED ABC Reports Audit**

Paragraph 131a requires the SOSD (formerly the Detective Support Division (DSD))<sup>112</sup> 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 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. Paragraph 131c-2 requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit ABC reports; the qualitative factors that must be addressed in these audits are described in paragraphs 128 and 131e-g.

### ***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. Subsequent to September 2003, the Department completed three successive audits<sup>113</sup> in connection with paragraph 131a. Despite the high quality of these audits, the Monitor continued to find the Department in non-compliance due to the fact that the audits had been conducted by Audit Division rather than by the SOSD as specified within the Consent Decree.<sup>114</sup>

The Monitor has conducted three reviews of the Department's paragraph 131c-2 SEU/GED ABC Reports Audits<sup>115</sup> and concluded non-compliance in each case. The first and second were non-compliant because they were incomplete, deficient in quality and/or were stale; and the third audit was non-compliant because it was conducted by Audit Division rather than the SOSD.<sup>116</sup>

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

In order to assess compliance with paragraph 131a and 131c-2 during the current quarter, the Monitor reviewed Audit Division's *GED Work Product Audit Report* dated June 24, 2004, the

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<sup>112</sup> As described under Management of Gang Units, above, and in previous quarterly reports, SOSD was formerly known as DSD.

<sup>113</sup> These audits were completed on October 3, 2003, January 4, 2004 and March 30, 2004 and reported in the Monitor's quarterly reports ending December 31, 2003, March 31, 2004 and June 30, 2004, respectively.

<sup>114</sup> In prior quarters, the Monitor noted that until the Consent Decree is amended to reflect the fact that Audit Division may conduct these audits, the Monitor must continue to find the Department in non-compliance for such audits. Beginning with the current quarter, the fact that Audit Division is conducting GED audits is no longer an impediment to compliance given that the Consent Decree modification is in the process of being finalized.

<sup>115</sup> These SEU/GED ABC Reports Audits were dated April 1, 2002, March 5, 2003 and March 31, 2004. The first two were completed by the SOSD, and the third was completed by Audit Division.

<sup>116</sup> As mentioned previously, beginning with the current quarter, the fact that Audit Division is conducting GED audits is no longer an impediment to compliance.

audit workplan dated February 2004, the cribsheet from a previous quarter's audit, and selected audit matrices included in the Monitor's sample of reports reviewed.

Audit Division's audit sample comprised 100% of all gang unit work product<sup>117</sup> for the month of February 2004 from the five remaining GED units<sup>118</sup> that had not previously been audited via a paragraph 131a GED work product audit. As of this date, all of the GED units have now been the subject of an audit.

The Monitor obtained and reviewed a random sample<sup>119</sup> of 15 of the 179 arrest reports in Audit Division's sample.<sup>120</sup> The Monitor's findings, which have been discussed with Audit Division, are highlighted below:

- Audit Division concluded that the Department was non-compliant with the objectives required by paragraph 131a, as only 86% of the GED work product met the standards for the objectives evaluated by Audit Division.<sup>121</sup> Significant issues identified by Audit Division during its review related to supervisory oversight (92% compliance), whether the underlying actions of the officers were in accordance with Department policy (95% compliance) and completeness (94% compliance). Audit Division found that the GED units achieved 97% compliance in connection with the authenticity or correctness of the reports. With the exception of the items noted below, the Monitor concurs with Audit Division's findings.
- The Monitor noted one instance in which the approving signature that appeared on both the facesheet and the property report of the arrest package was that of a GED supervisor. This is contrary to policy, and was not identified by Audit Division. Audit Division informed the Monitor that this occurred because the arrest in question included a UOF and all such arrests must be approved by a GED supervisor. However, Audit Division concurred that the reason for the exception should have been documented on its matrix.
- The Monitor noted two other instances involving either missing documents or searches conducted that were not referenced in the audit matrix. These discrepancies were not identified by Audit Division.
- The Monitor also noted several questions in which there appeared to be confusion between whether the question was addressing the specific arrestee or the entire incident. Greater clarity in the matrix questions would help to alleviate this problem in the future. Audit Division concurred.

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<sup>117</sup> This included 179 arrest reports, 9 NCUOF reports and 1 search warrant package, for a total of 189 incidents.

<sup>118</sup> Hollenbeck, Southeast, Foothill, Hollywood and Operations-South Bureau.

<sup>119</sup> This sample was selected using a confidence interval of 95% and a 10% error rate.

<sup>120</sup> The Monitor is separately evaluating GED NCUOF reports and warrants as part of its review of the GED Supplemental NCUOF and Warrants audits.

<sup>121</sup> The Monitor notes that this is an improvement over the first, second and third quarterly GED audits, which had overall compliance rates of 61%, 70% and 76% respectively.



Despite the high quality of the recent *GED Work Product Audit*, the Monitor must withhold a determination of compliance with paragraphs 131a and 131c-2, as the samples selected for review by the Monitor were done so using a 95% confidence interval and a +/-10% error rate, rather than a +/-4% error rate required for concluding on compliance.

### **Paragraph 131a – Supplemental GED Work Product Patterns Audits**

There are now three supplemental GED work product patterns audits that have been initiated as a result of findings suggestive of inappropriate conduct from the following GED work product audits:

<i>GED WP Audit Completed</i>	<i>Supplemental Audit Completed</i>	<i>Status</i>
Q1 September 29, 2003	December 5, 2003	Resolution Outstanding
Q2 December 26, 2003	September 28, 2004	Resolved – no concerns
Q3 March 30, 2004	September 17, 2004	Resolved – no concerns

The Monitor commends Audit Division for identifying the patterns that led to the need for these supplemental audits, and also commends Audit Division for its initiative in conducting these supplemental audits. However the Monitor is concerned that the issues identified in the September 29, 2003 audit are not yet resolved.

During the current quarter, the Monitor received Audit Division’s *Supplemental Q2 GED Pattern Assessment Audit* and Audit Division’s *Supplemental Q3 GED Pattern Assessment Audit* dated September 28, 2004 and September 17, 2004 respectively. These reports indicated that there were no concerns related to patterns of conduct similar to those identified in the Rampart Board of Inquiry. The Monitor will assess Audit Division’s findings in its next quarterly report.

### **Paragraph 131b – GED Selection Criteria Compliance Audit**

Paragraph 131b requires the SOSD (DSD) to complete regular periodic audits to assess compliance with the GED selection processes and eligibility criteria set forth in paragraphs 106 and 107<sup>122</sup> for supervisors and officers. Paragraphs 106 and 107 establish the specific audit criteria to be evaluated, including number of years required as a supervisor/police officer, skills required, information/documentation required for review and limits to assignment to GEDs.

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<sup>122</sup> The DSD appropriately noted in its report that paragraphs 106a, e, f, g, h and 107c do not address selection processes or eligibility criteria and were not assessed during the course of this audit. The DSD further noted that paragraph 107c is outside of the scope of this audit; the Monitor noted in its Report for the Quarter Ending March 31, 2003 that paragraph 107c is a “meet and confer” item.



## **Background**

The Consent Decree and the *Annual Audit Plan* for 2002-2003 required the DSD to complete its first annual SEU Selection Processes audit by June 30, 2002. This audit was not completed until June 2003.<sup>123</sup> Accordingly, the Monitor found the DSD in non-compliance with paragraph 131b until June 30, 2003 as a result of the SEU Selection Processes audit not being completed on a “regular, periodic basis.”

During the quarter ending September 30, 2003, the Monitor reviewed the SOSD’s *SEU Selection Process Audit Process Audit* dated April 8, 2003 finding this audit in non-compliance because it was not prepared on a timely basis, the SOSD did not prepare a separate audit workplan or cribsheet, there was a lack of documentation to support the audit findings and the report did not adequately address certain findings.

## **Current Assessment of Compliance**

In assessing compliance for the current quarter, the Monitor reviewed Audit Division’s *GED Selection Criteria Audit* dated June 25, 2004, the related audit workplan and cribsheet, a sample of completed audit matrices for the GED selection packages selected in the Monitor’s sample, as well as audit working papers relating to the audit population and sample determination.

Audit Division identified a total population of 370 GED officers for DP 3, March 7 to April 3, 2004.<sup>124</sup> From this population, Audit Division selected a stratified random sample of 85 non-supervisory officers and 36 supervisory officers to assess objectives 1 and 2.<sup>125</sup> For objectives 3-6, Audit Division selected a stratified random sample of 98 GED packages from the total population of 370 officers.<sup>126</sup>

The Monitor randomly selected samples of 10 supervisory officers and 14 non-supervisory officers and reviewed the appropriate audit matrices and GED selection packages for each officer.<sup>127</sup> The Monitor’s findings, which have been discussed with Audit Division, are highlighted below:

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<sup>123</sup> Although the audit report was dated April 8, 2003, the Chief of Police did not approve the report until June 10, 2003, according to the memo attached to the audit report.

<sup>124</sup> The population contained 333 non-supervisory officers and 37 supervisory officers.

<sup>125</sup> Objectives 1 and 2 test the requirements of Consent Decree paragraphs 106b and 106c, respectively, which articulate the minimum eligibility criteria for non-supervisory and supervisory staff.

<sup>126</sup> Objective 3 to 6 test the requirements of Consent Decree paragraphs 106d, 107a, 107b and 107c, respectively, which limit the tour of duty for a GED officer, require positive evaluation of TEAMS before selection, and require evaluation of the selection process and consideration of sustained complaints during the tour of duty. Audit Division selected their initial sample for objectives 3-6 based on the total population and then added 23 officers (6 non-supervisory and 17 supervisory) to meet the minimum sample size requirements for objectives 1 and 2, resulting in a total population of 121 officers for the first two objectives.

<sup>127</sup> The Monitor’s sample size was determined using an error factor of +/-10%.

- Audit Division chose their sample by identifying all of the GED officers in one deployment period and then determined the sample sizes for the respective objectives based on the total population for objectives 3-6 and based on the total number of supervisory and non-supervisory staff for objectives 1 & 2. Audit Division classified their sample based on the date of selection: 31 officers were selected post August 1, 2003, 51 officers were selected between June 15, 2001 and July 31, 2003 and 16 officers were selected prior to June 15, 2001.
- The Monitor proposes an alternative method for selecting its sample: to segregate the total population based on selection date (i.e. pre and post August 1, 2003) and then choose the sample sizes from the two populations. This would have resulted in Audit Division having a larger sample size to evaluate objectives 4-5,<sup>128</sup> and would have simplified Audit Division's fieldwork and reporting.
- Audit Division appropriately concluded that the Department was in compliance for objectives 1 and 2 (minimum eligibility requirements for non-supervisory and supervisory staff respectively); out of compliance for objectives 4 and 5 (positive evaluation using TEAMS and evaluation of selection criteria) and determination withheld for objective 6 (written consideration of certain complaints).
- Audit Division concluded the Department was in compliance for objective 3 (extended tour of duty) as they based their assessment of compliance using only those extensions that came up for approval after August 1, 2003 when the TEAMS Evaluation Report (TER) was required to assess the extension. The Monitor notes that Audit Division's conclusion excluded 3 officers who came up for extension just prior to the change in procedure on August 1, 2003 and whose extension approval by the Chief of Police was over two months late.<sup>129</sup> The Monitor identified one of these officers in its sample and assessed non-compliance for this particular extension.
- The Monitor noted 6 instances where documentation in the GED selection package was different on the date of the Monitor's review, than on the date of Audit Division's review.<sup>130</sup>
- The Monitor commends Audit Division for using this audit to assess both Consent Decree compliance and to provide a baseline for assessing officers who were selected prior to the

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<sup>128</sup> The Monitor discussed this with Audit Division and they recognized that their sampling methodology had resulted in a limited sample to assess objectives 4-5. However, as they had assessed non-compliance for these two objectives they correctly concluded that they did not need to extend their sample size.

<sup>129</sup> The Monitor believes that even though the Department, at the time of the extension, did not require a TER, the 15.2 documenting the approved extension should have been issued on a timely basis. The Monitor therefore believes the Department is out of compliance relative to paragraph 106d, and accepts that this is inconsistent with Audit Division's conclusion, which excluded these extensions because Audit Division's conclusion related only to extensions that came up for approval *post* August 1, 2003.

<sup>130</sup> The Monitor discussed this issue with Audit Division and they will develop a system to track the documents they review in future audits in order to assist the Monitor in evaluating if information was added to or taken away from the package between the date of Audit Division's audit fieldwork and the Monitor's review thereof.

requirements of both the Consent Decree and Special Orders 23 and 27. However, the Monitor found this added significantly to the complexity of the audit and the report thereon.

- The Monitor identified one instance where an officer was selected after August 1, 2003 and Audit Division assessed the package was compliant with Special Order 27, which requires a formal documented interview. The Monitor did not believe the documentation contained within the selection package was sufficient to document an interview took place.
- The Monitor identified 8 administrative issues that have been discussed with Audit Division.

Although the *GED Selection Criteria Audit* was a quality audit that satisfied most of the requirements of paragraph 131b, the Monitor must withhold a determination of compliance, as the samples selected for review by the Monitor were done so using a 95% confidence interval and a +/-10% error rate, rather than a +/-4% error rate required for concluding on compliance.

### **Paragraphs 131c-1, 131c-3 & 131c-4 – GED Audits of Warrant Applications & Affidavits, UOF Reports and MV&PS**

Paragraph 131c requires the Department to conduct regular, periodic audits of a stratified random sample of all gang unit warrant applications and supporting affidavits, UOF reports, MV&PS and CI control packages. The qualitative factors that must be addressed in these audits are described in paragraphs 128 and 131e-g.

### ***Background***

In March 2004, Audit Division reported on its Department-wide audit of warrant applications and supporting affidavits. In August 2003 and December 2003, Audit Division reported on its Department-wide audits of NCUOF reports. In August 2003, Audit Division reported on its Department-wide audits of MV&PS reports. In July 2003, Audit Division reported on its Department-wide audit of CIs.

In the Monitor's Reports for the Quarters Ending December 2003, March 2004 and/or June 30, 2004, the Monitor found that although the samples used in the Department-wide audits included gang unit officers, such audits did not meet the requirements of paragraphs 131c-1, 131c-3, 131c-4, and 131c-5, as they were not conducted by SOSD, did not address specific gang unit issues, and no specific conclusions were articulated relating to gang unit findings.

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

*Supplemental GED Warrant Applications and Supporting Affidavits Reports Audit (CD131c-1) & Supplemental GED NCUOF Reports Audit (CD131c-3)*

Audit Division completed a *Supplemental GED Warrant Applications Audit* dated June 29, 2004, and a *Supplemental GED NCUOF Audit* dated June 28, 2004, which the Monitor understands

were intended to meet the requirements of paragraphs 131c-1 and 131c-3. The Monitor understands that Audit Division intends to issue another supplemental audit of these topics to address NCUOF and warrants identified in the *GED Work Product Audit* for the quarter ending June 30, 2004. As a result, the Monitor is deferring its evaluation of these topics until the quarter ending December 31, 2004.

#### *GED MV&PS Audit (CD131c-4)*

Audit Division recently completed a Department-wide paragraph 128(4) *Motor Vehicle and Pedestrian Stop Audit* dated June 30, 2004 that is intended to meet the requirements of paragraph 131c-4. During the Monitor's review of this report, the Monitor noted that Audit Division reported its findings for the GED units separately from its findings for the whole population. As indicated previously in relation to paragraph 128(4), the Monitor has not completed its evaluation of Audit Division's paragraph 128(4) audit. As a result, the Monitor will evaluate compliance with paragraph 131c-4 in its next quarterly report.

#### **Paragraphs 131c-5 & 131d – GED Confidential Informant Control Packages Audit**

Paragraph 131c-5 requires the SOSD (DSD) to complete a regular periodic audit of a stratified random sample of gang unit CIs, and paragraph 131d requires the SOSD (DSD) to audit the use of CIs by gang units to assess compliance with paragraph 108.

#### ***Background***

The DSD completed its first and only gang unit use of CI audit as required by paragraph 131d on May 29, 2002. The Monitor reviewed that audit during the quarter ending December 31, 2002, finding the DSD in functional non-compliance with paragraph 131d, as the audit scope was too narrow and the audit lacked sufficient depth.

For the quarters ending December 31, 2002 and March 31, 2003, the LAPD was found in non-compliance with the Consent Decree requirement to conduct audits for paragraph 131c-5 on a "regular, periodic basis".

For the quarter ended September 30, 2003, Audit Division submitted a report dated July 14, 2003 that addressed the Department-wide audit of CI control packages and informed the Monitor this was intended to address the requirements of 131c-5 and 131d. The Monitor found Audit Division in non-compliance as there was no mention in the audit report covering memoranda that this audit was meant to address paragraphs 131c-5 and 131d, and no specific gang related issues were addressed or concluded upon for the SEU active and inactive packages.

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

In its *CI Control Packages Audit Report* dated June 28, 2004,<sup>131</sup> Audit Division identified that 2 CI packages selected for review related to GED informants and appropriately reported its findings related to these packages separately. The Monitor notes that Audit Division appropriately found the Department out of compliance for these packages and followed up with the Division that used these informants to ensure the packages were brought into compliance.

The Monitor commends Audit Division for taking on the responsibility for performing certain gang unit audits, including the gang unit CI control packages audit, and for the steps it has taken to meet the requirements of paragraphs 131c-5 and 131d.

Based on the foregoing, and in light of the Monitor's conclusion of compliance for Audit Division's paragraph 128(5) *CI Control Packages Audit*, the Monitor finds the Department in compliance with paragraphs 131c-5 and 131d.

## **C. INSPECTOR GENERAL REVIEWS & AUDITS**

During this quarter, the Monitor assessed the timeliness of transmittal of the LAPD audits to the OIG (as required by paragraph 135), and also assessed the timeliness and quality of the following OIG reviews and audits:

### *Paragraph 135*

- OIG's review of the *EES' Sting Audit Reports* for the Quarters Ending December 31, 2003 and March 31, 2004
- OIG's review of Audit Division's *Warrant Applications and Affidavits Audit*
- OIG's review of Audit Division's *Q3 2003-04 ABC Reports Audit and Supplemental Audit*
- OIG's review of Audit Division's *Q2 2003-04 NCUOF Audit*
- OIG's review of Audit Division's *Complaint Form 1.28 Investigations Audit*
- OIG's review of Audit Division's *Q3 GED Work Product Audit*

### *Paragraph 136ii*

- OIG's *Complaints Audit*

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<sup>131</sup> Please refer to the Current Assessment of Compliance for paragraph 128(5), above, for information relating to this audit.

As described in detail below, notwithstanding the diligence of many of the OIG's staff, none of the OIG's recent reviews or audits are compliant with the requirements of the Consent Decree.

The Monitor first reported concerns with the OIG's audits and reviews early in the term of the Consent Decree. In the Monitor's Report for the Quarter Ending March 31, 2003, the Monitor identified the OIG's lack of suitable resources as a factor contributing to this. Since then, the City has been unable to effectively address the OIG's resource-related concerns, and the timeliness and quality of the OIG's work has made limited improvement.

While the OIG is attempting to establish quality control practices that should alleviate the recent quality concerns, the Monitor believes that without adequate resources this will be difficult to accomplish. The Monitor's recent findings illustrate this.

### **Paragraph 135 – OIG Evaluation of LAPD Audits**

Paragraph 135 requires the Department to provide the OIG with copies of certain audit reports within one week 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 one week of their completion. The Monitor continued to find the Department in non-compliance during the quarters ending March 31, 2003 through December 31, 2003, as well as the quarter ending June 30, 2004. The Monitor found the Department in compliance during the quarter ending March 31, 2004.

#### ***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 audits issued during the quarter ending September 30, 2004, as listed in the table below, and communicated directly with the OIG to confirm the dates of receipt.



CD ¶	Audit Description	Date of Approval of Audit Report by Chief of Police	Date Audit Report Received by OIG	# Days to OIG Receipt
CD113	<i>Audit of Police Contact with Mentally Ill</i>	Jul 9, 2004	Jul 15, 2004	6 <b>v</b>
CD131c-3	<i>Supplemental GED NCUOF Work Product Audit [Transcribed statements]</i>	Aug 2, 2004	Aug 8, 2004	6 <b>v</b>
CD127	<i>Ethics Enforcement Section Quarterly Sting Report</i>	Aug 10, 2004	Aug 11, 2004	1 <b>v</b>
CD129i	<i>CUOF Investigations Audit Report</i>	Aug 13, 2004	Aug 27, 2004	14 <b>x</b>
CD131a	<i>Supplemental GED Work Product Audit to Address Patterns Found in the Q3 GED Work Product Audit</i>	Sep 17, 2004	Oct 15, 2004	17 <b>x</b>
CD131a	<i>Supplemental GED Work Product Audit to Address Patterns Found in the Q2 GED Work Product Audit</i>	Sep 28, 2004	Oct 15, 2004	17 <b>x</b>
CD128(2)	<i>Arrest Booking and Charging Reports Audit</i>	Oct 8, 2004	Oct 13, 2004	5 <b>v</b>

**v** = Compliant: **x** = Non-Compliant

Based on the foregoing, the Monitor finds the Department in non-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 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.<sup>132</sup> 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, which tracks the Monitor’s determinations for all of the OIG reviews evaluated in each quarter:

<sup>132</sup> 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 a determination of compliance during the quarter ending June 30, 2003.



<i>Monitor's Report for the Quarter Ending</i>	<i>Monitor's Determination</i>	<i>Basis</i>
March 31, 2002	Non-compliant	Deficient quality
June 30, 2002	Not assessed	N/A
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
March 31, 2004	Non-compliant	Deficient quality for 3 of 4 reviews conducted
June 30, 2004	Non-compliant	Deficient quality for all of the 4 reviews conducted

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

During the current quarter, the Monitor assessed the quality and timeliness of the following OIG reviews:

- The OIG's review reports, dated April and July, 2004 respectively, of the *EES' Sting Reports for the Quarters Ending December 31, 2003 and March 31, 2004* (CD97 and CD127).
- The OIG's review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004 (CD128(1)).
- The OIG's review reports, dated May 26, 2004 and August 11, 2004 respectively, of Audit Division's *Arrest Booking and Charging (ABC) Reports Primary and Supplemental Audits* dated March 30, 2004 and June 24, 2004 (CD128(2)).<sup>133</sup>
- OIG's review report, dated April 9, 2004, of Audit Division's *NCUOF Audit* dated December 30, 2003 (CD128(3), CD129ii).
- OIG's review of Audit Division's *Complaint Form 1.28 Investigations Audit* dated March 30, 2004 (CD129iii).
- OIG's review of Audit Division's *Q3 GED Work Product Audit* dated March 30, 2004 (CD131a).

As described in detail below, the Monitor finds the OIG in non-compliance with the requirements of paragraph 135b because of quality deficiencies and/or timeliness problems with each of the reviews listed above.

<sup>133</sup> These audits were evaluated by the Monitor during the quarter ending June 30, 2004.

*The OIG's Review of EES' Sting Audit Reports (CD97 & CD127)*

In order to assess compliance related to the OIG's review of two of the EES' recent sting audit reports, the Monitor reviewed the OIG's reports and related audit working papers for two *EES Sting Audit Reports* as follows:

- The OIG's report dated April 28, 2004 on its review of the *EES Sting Audit Report* for the quarter ending December 31, 2003, and a random sample of 10 of the 22 EES sting audit reports examined by the OIG; and
- The OIG's report dated July 20, 2004 on its review of the *EES Sting Audit Report* for the quarter ending March 31, 2004, and a random sample of 11 of the 30 EES sting audit reports examined by the OIG.

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

- The OIG issued its reviews of these audits approximately two months after the issuance of each EES report. This is an improvement over the timeliness of the previous *OIG Sting Audit Reviews*, which took six months to issue.
- Neither of the OIG's audit reviews adequately addressed the quality, completeness and findings of the EES' sting audits as set out in the points that follow.
- Supervisory oversight issues relative to the conduct of the sting audits were not addressed.<sup>134</sup>
- In three of the sting audits for the quarter ending March 31, 2004, the Monitor noted inconsistencies and/or inaccuracies between the audio-tapes or undercover agent's notes and the report narrative that were not identified by the OIG. In another instance, notes required to support the information contained in the EES sting audit report were not included in the file and conversations were not taped. In addition, the OIG failed to identify a sting audit that required further follow-up.<sup>135</sup>
- The OIG failed, in both quarters, to evaluate the use of TEAMS as required by paragraph 97.
- Certain incidental policy/procedure failures appear to have gone unnoticed and/or were unreported by either the EES or the OIG. For example, audio and video-tapes were not all

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<sup>134</sup> The OIG did not identify: sting audit requests that were approved by the CO either on the day of the sting or after the execution of the sting; inappropriate equipment authorizations; and missing or incorrect signatures on audit reports.

<sup>135</sup> One sting audit did not include complaint follow-up investigation paperwork, as a result, the Monitor was unable to fully evaluate the outcome of the sting relative to whether the follow-up action was appropriate.

write-protected<sup>136</sup> and deviations from the sting audit's operational plan were not adequately addressed.

- For three specific sting audits, the OIG suggested that additional training be provided and/or more efficient systems be put in place to better handle complaint intakes. The Monitor concurs with these suggestions.
- The OIG's review of the EES' sting audit report for the quarter ending March 31, 2004 included a useful summary of the status of "all complaints resulting from previous integrity audits," including those from the current quarter; however this summary is incomplete and inaccurate. It omitted the failures from the previous quarter, and reported one incident as "neglect of duty" that should have been reported as a complaint intake "administrative failure."
- There were two sting audits that were listed as ongoing in the EES sting audit for the quarter ending December 31, 2003 that were not addressed in the EES report for the quarter ending March 31, 2004, even though at least one of these audits was concluded during the subsequent quarter. The OIG did not identify that these audits were not addressed.
- While the Monitor noted improvements in the quality of the OIG's audit matrix for the quarter ending March 31, 2004 compared to the previous quarter, the OIG's matrix could be further improved through better wording or more specificity. In addition, better grouping or arrangement of the OIG's matrix questions would likely improve the quality of the OIG's reporting, and provide a better connection between the OIG's detailed working papers, and the findings presented in the OIG's report. Although the March 31, 2004 report was better than the previous report, it was still difficult to follow the OIG's findings from its working papers through to its report.
- For the quarter ending December 31, 2003, the OIG did not prepare a workplan or cribsheet. These documents were prepared for the OIG's review of the sting audits conducted during the quarter ending March 31, 2004.
- Neither of the OIG's audit reviews evaluated the sufficiency or appropriateness of the EES' overall sting audit strategy for the quarter.

Based on all of the deficiencies identified above, the Monitor finds the OIG in non-compliance with the qualitative provisions of paragraph 135b related to its reviews, issued in April and July 2004, of the *EES Quarterly Sting Audit Reports* for the quarters ending December 31, 2003 and March 31, 2004, respectively.

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<sup>136</sup> The failure to write-protect either audio or video-tapes was noted in 4 of the 9 random audits reviewed by the Monitor for the quarter ending December 31, 2003 and in 6 of the 11 random audits reviewed by the Monitor for the quarter ending March 31, 2004.

*The OIG's Review of Audit Division's Warrant Applications and Affidavits Audit (CD128(1))*

On August 11, 2004, the OIG issued a report on the findings from its review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004. This report was retracted in early September so that the OIG could further evaluate its findings on this audit. On September 30, 2004, the OIG issued a revised report on this audit, which essentially reversed the conclusions in its August 11, 2004 report.

While the Monitor has not yet reviewed in detail the OIG's work related to these reports, the Monitor is able to make the following observations:

- The OIG's review of Audit Division's March 30, 2004 *Warrants Audit* was not completed on a timely basis. August 11, 2004 is more than four months after the issuance of this audit, and September 30, 2004 is a full six months after Audit Division's audit report was completed.
- The OIG's quality control processes are not working if the OIG can issue a report that is later retracted and reversed.

The Monitor understands that resource constraints and recent personnel changes impacted the quality of the work that led to the issuance and retraction of the OIG's August 11, 2004 report. This situation underscores the need for suitable resources in the OIG to perform the audit reviews, and it also underscores the need for a suitable quality control review process.

Based on the foregoing, the Monitor finds the OIG in non-compliance with the timeliness requirement related to the OIG's review of Audit Division's *Warrant Applications and Affidavits Audit* dated March 30, 2004.

*The OIG's Review of Audit Division's ABC Reports Audit (Primary and Supplemental<sup>137</sup>) (CD128(2))*

In order to assess compliance related to the OIG's review of Audit Division's *Arrest Booking and Charging Reports CD128(2) Audit*, the Monitor reviewed the OIG's reports<sup>138</sup> on its review of Audit Division's *ABC Reports Audits*,<sup>139</sup> as well as the OIG's audit matrix questionnaire responses from the Monitor's sample of 42 arrest reports.<sup>140</sup>

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<sup>137</sup> In the late stages of its primary audit, Audit Division concluded that a supplemental audit review of the same population was required to address concerns relating to the issuance of "Receipt For Property Taken Into Custody" (10.10) forms. In this supplemental audit, Audit Division found that the Department continues to be non-compliant with Department policy regarding the issuance of these forms.

<sup>138</sup> Primary OIG review report dated May 26, 2004 and supplemental OIG review report dated August 11, 2004.

<sup>139</sup> Primary LAPD audit report dated March 30, 2004 and supplemental LAPD audit report dated June 24, 2004.

<sup>140</sup> The Monitor randomly selected a sample of 42 OIG audit matrices from the OIG sample of 73 based on a +/-4% error rate.

The OIG's review comprised the same 73 ABC Reports previously reviewed by the Monitor in its assessment of Audit Division's *ABC Reports Audit* in the quarter ending June 30, 2004.<sup>141</sup> These were selected randomly from all narcotics-related arrests during the period September 1, 2003 through November 30, 2003.<sup>142</sup>

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

- The OIG's review appropriately utilized Audit Division's audit matrix questionnaire to guide its assessment of Audit Division's reports for quality, completeness and findings. However, the OIG's quality review process was inadequate, as there were 18 instances, spanning 13 questions and 6 arrest reports, where the OIG did not evaluate Audit Division's work and/or the OIG's findings were not documented. In each of these instances, the questions were substantive in nature and related to risk areas identified in the Rampart inquiry. The Monitor was advised that staffing shortages prevented the OIG from performing suitable quality review procedures before issuing its report on this audit.
- The OIG disagreed with Audit Division's conclusion that the Department was in 100% compliance for the completeness objective, because Audit Division excluded the receipt for property taken into custody forms (Form 10.10) when addressing this objective. The OIG concluded that this exclusion was contrary to the completeness requirement of the Consent Decree.<sup>143</sup> The OIG's post-review meeting with Audit Division did not resolve this issue. During the Monitor's evaluation of Audit Division's *ABC Reports Audit* for the previous quarter, the Monitor identified Audit Division's exclusion of property receipts in assessing completeness, but ultimately agreed that this issue was sufficiently addressed via the supervisory oversight objective. However, upon further review, the Monitor now agrees with the OIG's position on this issue.
- The Monitor agrees with the OIG's finding that the ABC audit matrix (and related cribsheet) lacked clarity, and frequently gave rise to inconsistent responses among the auditors.<sup>144</sup>

Based on the foregoing, the Monitor finds the OIG in non-compliance with the qualitative provisions of paragraph 135b related to its reviews, dated May 26, 2004 and August 11, 2004 of Audit Division's *ABC Reports Audits (Primary and Supplemental)* dated March 30, 2004 and June 24, 2004, respectively.

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<sup>141</sup> This sample was selected using an error rate of +/-4%.

<sup>142</sup> Both the Monitor and OIG concurred that the restricting of this audit population to only narcotic-related arrests was appropriate for this one time; the next ABC reports audit will include all arrests.

<sup>143</sup> Audit Division conducted a supplemental audit, which revealed that 31% of the arrest packages were missing a Form 10.10. Audit Division concluded that the missing forms impacted the supervisory oversight objective, while the OIG concluded that they impacted both the supervisory oversight and completeness objectives.

<sup>144</sup> In its Report for the Quarter Ending June 30, 2004, the Monitor identified these as interpretational issues.

*The OIG's Review of the Non-Categorical Use of Force Reports Audit (CD128(3)/129ii)*

In order to assess compliance with the qualitative provisions of paragraph 135b for the current quarter relative to Audit Division's paragraph 128(3)/129ii audit, the Monitor reviewed the OIG's report dated April 9, 2004 on its review of Audit Division's *NCUOF Audit* dated December 30, 2003 and selected OIG audit working papers. The Monitor also considered its Monitor's findings arising from its previous review of a sample of 59 NCUOF investigations.<sup>145</sup>

The OIG's review comprised 71 of the 148 NCUOF investigations that were as addressed in Audit Division's *NCUOF Audit*.<sup>146</sup> The Monitor reviewed a random sample of 44 of these NCUOF reports.

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

- The Monitor identified 7 reports that contained errors resulting from missing information available in the use of force report, the failure to correctly summarize findings in the OIG's report or the failure to apply information from the crib sheet. This results in a non-compliance rate of 84% out the 44 reviewed.
- The Monitor commends the OIG for its follow-up with Training Division to clarify Special Order 27 in relation to the issue of supervisors who pre-planned the event subsequently conducting the UOF investigation. In their matrices OIG staff identified four instances not identified by Audit Division that involved supervisors who participated in the pre-planning of an event and who subsequently conducted the related UOF investigation. However, the Monitor notes that the OIG reported only two of these instances and did not report on the other two instances. One of these incidents was not reported because the OIG's working papers contained an error. The Monitor could not determine why the OIG did not report the fourth incident.
- The Monitor noted 4 instances involving, two matrix questions, in which the OIG missed the guidelines provided by Audit Division in its crib sheet and, as a result, the OIG assessed the question incorrectly.
- The Monitor noted that the OIG reviewed the TEAMS reports of each employee in each incident in the OIG's sample to ensure the accuracy of how the UOF report was entered in TEAMS, as well as to follow-up on any training recommended. While the Monitor commends the OIG for taking this extra step in reviewing each of the UOF incidents, the Monitor notes that by reviewing TEAMS for each of the incidents in its sample, rather than

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<sup>145</sup> This sample had been previously reviewed by the Monitor during its review of Audit Division's Audit of NCUOF reports for paragraphs 128(3)/129ii; the Monitor's findings were included in the Monitor's Report for the Quarters Ending March 31, 2004 and June 30, 2004.

<sup>146</sup> Audit Division's sample comprised 100% of the NCUOF reports for incidents that occurred in February 2003.



the sample chosen by Audit Division,<sup>147</sup> the OIG did not specifically assess the quality, completeness and findings of Audit Division's testing of TEAMS.

- The Monitor agrees with the OIG that some of the questions on Audit Division's audit matrix were ambiguous and the corresponding explanations on the cribsheet did not provide the guidance required to evaluate the policy, procedure or Consent Decree mandate that the matrix question was designed to examine.<sup>148</sup> This contributed to numerous administrative discrepancies identified by the OIG relative to Audit Division's findings.
- The Monitor identified a total of 23 instances where the OIG disagreed with Audit Division's findings that were either administrative in nature or were material errors on questions that Audit Division had included to capture additional Department information related to the UOF. In these instances, the Monitor agreed with Audit Division's findings and considered that the OIG was being overly critical, and was taking too literal an approach rather than considering the substance of Audit Division's assessment.

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 *NCUOF Reports Audit* dated December 30, 2003.

*OIG's Review of Audit Division's Complaint Form 1.28 Investigations Audit (CD129iii)  
and Audit Division's Q3 GED Work Product Audit (CD131a)*

On March 30, 2004, Audit Division issued audit reports on its findings from its *Complaint Form 1.28 Investigations Audit*, and its *Q3 GED Work Product Audit*. The Monitor reported on these audits in its Report for the Quarter Ending June 30, 2004, concluding that these audits met the qualitative requirements of the Consent Decree.<sup>149</sup>

By late October, almost seven months after the issuance of these audits, the OIG has been unable to complete its review and evaluation of the quality, completeness and findings of these audits because of resource constraints.

Based on the foregoing, the Monitor finds the OIG in non-compliance with the timeliness requirement related to the OIG's reviews of Audit Division's *Complaint Form 1.28 Investigations Audit*, and Audit Division's *Q3 GED Work Product Audit*, both dated March 30, 2004.

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<sup>147</sup> Audit Division randomly selected 15 sample reports to test TEAMS. The OIG did not evaluate Audit Division's work.

<sup>148</sup> In its report for the quarter ending March 31, 2004, the Monitor found the matrix questions and cribsheet were easier to evaluate and less subjective than in the prior audit. However, the Monitor believes, based on this review, that there should still be additional clarification in the cribsheet to improve consistency among the auditors.

<sup>149</sup> Although both of these audits were quality audits, the Monitor concluded that the GED Work Product audit was non-compliant with the requirements of the Consent Decree because the audit was performed by Audit Division rather than being performed by the SOSD.



### **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***

The Monitor last assessed compliance with paragraph 136ii during the quarter ending March 31, 2004, at which time the Monitor found the Department in non-compliance primarily due to the staleness and lack of timeliness of the OIG’s first audit.

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

In order to assess compliance during the current quarter, the Monitor reviewed the OIG’s *Complaint Form 1.28 Investigations Audit Report* dated July 27, 2004, planning documents, completed audit matrix questionnaires for those complaint investigations included in the Monitor’s sample, other audit working papers relating to the OIG’s sample and follow-up correspondence related to the OIG’s audit findings. The Monitor also listened to a selection of audiotapes relating to witness interviews from the Monitor sample. The Monitor’s sample comprised 15 of the 92 complaints in the OIG’s sample.<sup>150</sup>

The scope of the OIG’s audit included complaint investigations initiated after December 31, 2002 that were completed and closed during the period December 1, 2003 to February 29, 2004.

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

#### ***Sample Selection***

- The OIG identified 1,262 completed complaint investigations during the audit period, some with multiple allegations. The OIG selected a stratified random sample of 87 of these complaint investigations, encompassing 92 allegations, based on the level of risk associated with each allegation.<sup>151</sup> The OIG’s sample included 70% that were classified as high risk,

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<sup>150</sup> This sample size was selected using a plus or minus 10% error factor.

<sup>151</sup> The OIG stratified its sample based on a risk assessment model in which complaints were classified as high, medium or low based on the OIG’s assessment of the impact or severity of the complaint. For example, high risk complaints included allegations of false imprisonment and racial profiling, medium risk complaints included allegations of officer dishonesty and neglect of duty, and low risk complaints included allegations of improper remarks and insubordination. The OIG appropriately deselected Failure to Appear (FTA), Failure to Qualify (FTQ) and Preventable Traffic Collision (PTC) and internal administrative complaints from its sample.

25% medium risk and 5% low risk. Additionally the OIG included all four of the complaint investigations conducted by Metropolitan Division in their sample.

- The OIG also randomly selected 46 complaint investigations for assessment of the appropriateness of the investigator's paraphrasing of witness interview statements in comparison to audiotapes of the interviews.
- The Monitor commends the OIG for implementing the Monitor's prior recommendation and using a sample that was stratified by risk. However, the Monitor notes that the OIG's *Complaint Form 1.28 Investigations Audit Report* does not present its findings on a stratified basis.
- The Monitor noted a sampling error in which the OIG selected a sample of a sample regarding tape reviews. This error makes the OIG's findings from its tape reviews statistically invalid.

#### *Audit Findings*

- The Monitor agrees with the OIG's conclusion that the summarized statements for taped interviews were inaccurate and incomplete, but notes that the OIG's report did not include an analysis regarding which entities were responsible for the majority of the inaccuracies, nor did the OIG's report include an analysis identifying the review process that such statements go through before the adjudication process is completed.<sup>152</sup>
- Although the Monitor agreed with most of the OIG's findings as expressed in its report and audit matrices, the Monitor noted several clerical discrepancies in the OIG's matrix responses and the following six substantive issues that were not noted by the OIG:
  - For 2 complaint investigations, no reasonable efforts were made to interview all relevant witnesses.
  - For one investigation, all relevant data was not included in the file.
  - An illegal search was not addressed in another investigation.
  - Lost/stolen money was not addressed in another investigation.
  - For one complaint investigation where the original complaint was lost, an adjudication was made in lieu of this document.
- There was no clear audit trail in most of the complaint files to determine whether notification letters were actually sent out. The Monitor noted that the OIG staff relied on PSB's CIS database or a copy of the letter in the file to determine whether notification letters were sent

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<sup>152</sup> The Monitor notes that the OIG's Complaint Intake and Review Section reviews numerous complaint investigations prior to adjudication.

to complainants regarding status of complaints outstanding after five months, or the final adjudication of complaints. However, the Monitor notes that this only proves that a letter had been produced, not whether a letter was actually sent. Accordingly, the Monitor has concerns with the OIG's determination of compliance with regards to all evidence being collected and analyzed, that all complainants are being notified of the outcome of the investigation and that the investigation was properly adjudicated.

Based on the foregoing, the Monitor finds the Department in non-compliance with paragraph 136ii of the Consent Decree.

### ***Proposed Recommendations***

In light of the deficiencies identified by both the OIG and the Monitor in the paraphrasing of taped interviews, the Monitor recommends that the complaint investigation process be re-thought and/or that additional resources are established within the OIG's complaint intake and review team to listen to taped interviews and compare them to the information contained in the investigation file, so that additional investigative steps can be undertaken, where necessary, *before* the complaint is adjudicated.

## **IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL**

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### **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.

During 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. During 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. During the quarter ending June 30, 2004, the Monitor assessed the Police Commission's, and the IG's, review and evaluation of CUOF, as well the related reporting requirement.

During the current quarter, the Monitor assessed the Police Commission's review of audits and policies and procedures, its evaluation of the Chief of Police, and its investigation of misconduct complaints filed against the Chief. The results of our current assessments follow.

#### **Paragraph 143 – Police Commission Review of Audits, Policies & Procedures**

Paragraph 143 requires the Police Commission and the IG to review certain Consent Decree audits, to consider the results of such audits in its annual evaluation of the Chief of Police, and to review and approve all new or changed LAPD policies and procedures. For ease of reference, the Monitor has split its reporting on paragraph 143 into three components:

- Paragraph 143a assesses the Police Commission's review of the Consent Decree audits;
- Paragraph 143b assesses the Police Commission's inclusion of audit results in its evaluation of the Chief of Police; and
- Paragraph 143c assesses the Police Commission's review and approval of new/changed policies and procedures.

The Monitor's assessments of paragraphs 143a and 143c follow.<sup>153</sup>

### **Paragraph 143a – Police Commission Review of Audits**

Paragraph 143a requires the Police Commission and the IG to review the specified audit reports, the sting audit reports, and the audits required by paragraphs 111, 113, 125, 126, 133, and to determine whether any changes or modifications in LAPD policies are necessary.

### ***Background***

For the quarters ending December 31, 2002 and March 31, 2003, the Monitor found that the Police Commission lacked a system to track audits to ensure that they were completed and provided to the Police Commission on a timely basis, most of the audits received by the Police Commission were not being reviewed on a timely basis, and the lack of minutes/transcripts for the Police Commission's meetings meant that the Monitor was unable to assess the Police Commission's oversight of the impact of such audits on LAPD's policies. As a result, the Monitor found the Police Commission in non-compliance with the provisions of paragraph 143a.

For the quarter ending September 30, 2003, the Monitor found the Police Commission in non-compliance because it had not yet developed a process to track the LAPD's and OIG's audits and reviews. The Monitor provided guidance to the Police Commission's staff to assist them in developing a spreadsheet to address this.

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

During the current quarter, the Monitor performed limited testing to determine whether the Police Commission had developed a process to track the LAPD's audits and reviews. Although a spreadsheet was recently developed for audits expected to be issued from April 1, 2004 through June 30, 2005, the analysis was incomplete,<sup>154</sup> with the result being that the Police Commission and its staff were unaware of the status of many of the audits/reviews expected to be issued by the LAPD and/or OIG.

Based on the foregoing, the Monitor continues to find the Police Commission in non-compliance with paragraph 143a.

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<sup>153</sup> The Monitor was also scheduled to review compliance with paragraph 143b during the current quarter. However, this review was postponed given that, as explained in the Current Assessment of Compliance with paragraph 144, below, the annual review of the Chief has not yet been conducted.

<sup>154</sup> Several LAPD audits, OIG audits and OIG reviews were missing from this analysis.

**Paragraph 143c – Police Commission Review of Policies and Procedures**

Paragraph 143c requires the Police Commission to review and approve all new LAPD policies and procedures, as well as changes to existing policies and procedures that are made to address the requirements of the Consent Decree.

***Background***

The Monitor last assessed compliance with paragraph 143c during the quarter ending September 30, 2003, at which time the Department was found in functional compliance.

***Current Assessment of Compliance***

During the current quarter, the Monitor received information requested from the Department relating to new policies and procedures presented to the Police Commission under the provisions of this paragraph. The information provided by the Department revealed that between September 1, 2003 and September 30, 2004, the Department established one new policy/procedure and made eight changes to existing policies/procedures. The Monitor has requested information from the Police Commission relating to new Department policies and procedures, and will compare the Police Commission's records to that of the Department's records to determine compliance with this paragraph.

Based on the foregoing, the Monitor withholds a determination of compliance with paragraph 143c.

**Paragraph 144 – Police Commission Annual Review of Chief of Police**

Paragraph 144 requires the Police Commission, while conducting its annual review of the Chief of Police, to consider the Chief's responses to UOF incidents and complaints of officer misconduct, assessment and imposition of discipline and those matters described in paragraphs 67, 88, 89, 106, 124, 127, and 143 of the Consent Decree.

***Background***

The Monitor last assessed compliance with paragraph 144 during the quarter ending December 31, 2003, at which time the Monitor found the Department in compliance.

***Current Assessment of Compliance***

During the current quarter, the Police Commission informed the Monitor that the annual review of the Chief of Police has not yet been completed. On October 26, 2004, the Commission is scheduled to consider information provided by the Chief of Police related to his evaluation on those items specifically identified in this paragraph of the Consent Decree.

The Police Commission advised that its evaluation of the Chief of Police was delayed in part due to the Chief of Police's request to have his review moved to a "calendar year" schedule, consistent with that of his direct reports (e.g. Assistant Chief, Deputy Chief.) It was recently determined, however, that the City Charter requires a "fiscal year" review period for the Chief of Police (and certain other "Managers").

Based on the foregoing, the Monitor withholds a determination of the Department's functional compliance with paragraph 144. Upon completion of the Police Commission's evaluation of the Chief of Police, the Monitor, or his Deputy, will undertake a review to determine compliance with this paragraph.

### **Paragraph 145 – Police Commission Investigation of Misconduct Complaints Filed Against the Chief of Police**

Paragraph 145 states that the Police Commission shall investigate all misconduct complaints against the Chief of Police and may use its staff, the OIG, or authorized contractors to conduct such investigations.

#### ***Background***

The Monitor last assessed compliance with paragraph 145 during the quarter ending June 30, 2003, at which time the Department was found in functional non-compliance. The Monitor attempted to assess compliance with the paragraph during the quarter ending June 30, 2004 but withheld a determination of compliance pending review of misconduct complaints filed against the Chief of Police.

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

Due to the potentially sensitive nature of complaints filed against the Chief of Police, the City only provides documentation directly to the Chief Monitor or his Deputy. During the current quarter the Deputy Monitor reviewed the status of OIG complaint investigations against the Chief of Police. This review revealed that the OIG has no written protocol as to the receipt and investigation of, and reporting on, complaints against the Chief of Police. The OIG has agreed to promulgate written protocols relative to this important function.

Based on the foregoing, the Monitor finds the Department in functional non-compliance with paragraph 145.

## **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.

During the quarter ending September 30, 2003, the Monitor assessed the IG's acceptance of complaints lodged by LAPD officers. During 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. During the quarter ending June 30, 2004, the Monitor assessed the Department's compliance with the majority of Consent Decree provisions regarding the operations of the IG.

During the current quarter, the Monitor assessed compliance with the Consent Decree requirements that the LAPD provide the IG with complaint intake information on a timely basis and that the IG review complaints for compliance with LAPD policies and procedures and the terms of the Consent Decree. The results of our current assessments follow.

### **Paragraph 152 – Providing Complaint Intake Information to the IG**

Paragraph 152 requires the LAPD to continue to provide the IG with all complaint intake information within one week after its receipt by PSB; the IG must review such information to ensure that complaints are received in compliance with LAPD policies and procedures and the terms of the Consent Decree.

### ***Background***

The Monitor last assessed the Department's compliance with paragraph 152 during the quarter ending June 30, 2003, at which time the LAPD was found in functional compliance.

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

During the current quarter, the Monitor reviewed the OIG complaint intake procedures and log for the period June 1, 2004 through September 30, 2004. The Monitor determined that complaint intake information continues to be input on a daily basis into the OIG tracking database as it is received from PSB. Within 10 – 15 days after month-end, a Complaint Intake Log is generated. The log tracks the Consent Decree's 10-day requirement for submission of complaints to PSB and its 7-day requirement for submission of complaint intake information to the OIG.

Additionally, a monthly Out-of-Sequence report continues to be generated showing CF numbers of complaint face sheets not received from PSB. The OIG continues to follow up with PSB staff concerning missing complaint intake face sheets.

The OIG should be commended for establishing an Access database by which it tracks the intake of complaints. This new database captures key identifying information related to the complainant and the accused, and documents the manner in which the complainant was contacted by OIG (e.g. phone call, follow-up letter, etc.) Additionally, the new database allows for complaints to be tracked by “misconduct” codes, which are entered upon intake of the complaint.

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

### C. GENERAL

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.

During the current quarter, the Monitor’s evaluation entailed a review of LAPD’s recent recommendation status reporting. The results of our current assessment follow.

#### **Paragraph 154 – Recommendations to Improve Deficiencies**

Paragraph 154 requires the City and the Department to take appropriate, timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the IG, and the Department under the Consent Decree. The Monitor notes that the City’s position is that paragraph 154 is not required to be monitored; the Monitor’s view is that this paragraph should be monitored by examining:

- a. whether a suitable process is in place to track audit-related recommendations and the implementation thereof;
- b. whether appropriate, timely and reasonable steps have been undertaken to implement recommendations and remedy deficiencies emanating from successive audits completed by the LAPD or OIG;
- c. whether a suitable process is in place to track recommendations emanating from other reviews and reports required by the Consent Decree; and

- d. whether appropriate, timely and reasonable steps have been undertaken to implement recommendations and remedy deficiencies emanating from other reviews and reports required by the Consent Decree.

### ***Background***

In the Monitor's Report for the Quarter Ending December 31, 2002, the Monitor reported that there were numerous recurring deficiencies identified in successive audits that were not yet implemented, and the Monitor reported that neither the City nor the Department had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree. Accordingly, the Monitor concluded that the City and LAPD were in non-compliance with paragraph 154.

In the Monitor's Report for the Quarter Ending September 30, 2003, the Monitor reported that the LAPD had developed a system to track recommendations to correct deficiencies identified in LAPD's audits, but this process was incomplete, as there was not yet a process to track the OIG's audit recommendations and action thereon. Accordingly, the Monitor concluded that the City and LAPD were in continued non-compliance with paragraph 154.

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

During the current quarter, the Monitor evaluated whether a suitable process is in place to track audit-related recommendations and the implementation thereof (component a., above).

As suggested by the Monitor in 2002, CRID developed a Recommendations Tracking System (RTS), which is used to generate an *Audit Recommendations Status Report* for the Police Commission. This report lists the recommendations from the recent LAPD audits and reviews, and tracks the steps undertaken to address such recommendations. This report was originally issued on a monthly basis, and was later changed to a quarterly report. The most recent version of this report, dated June 1, 2004, covers the period ending March 31, 2004. An updated report for the period ending June 30, 2004 is currently outstanding.

The Monitor reviewed the *Audit Recommendations Status Report* for the period ending March 31, 2004 and compared it to the LAPD's and OIG's audit and review reports issued from July 1, 2003 through March 31, 2004. The Monitor notes that:

- it includes all of Audit Division's recommendations;
- it generally incorporates the OIG's recommendations from its reviews of LAPD's audit reports; and
- it includes all of the OIG's recommendations from its paragraph 136 audits.



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The Monitor notes, however, that the OIG's recommendations from its March 8, 2004 review of Audit Division's *MV&PS Audit* were not included in the *Audit Recommendations Status Report* for the period ending March 31, 2004. These were entered late into the RTS.

The Monitor has not yet evaluated the tracking processes related to other, non-audit-related, LAPD or OIG reports and will continue this evaluation in the quarter ending December 31, 2004.

## **X. COMMUNITY OUTREACH AND PUBLIC INFORMATION**

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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.

In the Monitor's Report for the Quarter Ending June 30, 2004, the Monitor reviewed the LAPD's compliance with the Consent Decree requirement to hold annual meetings in each Area to inform the public about the provisions of the Consent Decree and the various methods of filing a complaint against an officer. The Monitor is scheduled to again assess compliance with this requirement during the quarter ending June 30, 2005. The Monitor is scheduled to again assess compliance with the requirement to prepare and post certain semiannual reports on its website during the quarter ending December 31, 2004.

## XI. CONCLUSION

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As evidenced by the focus issue included in this report, the Monitor is keenly aware that in order to have true reform that lasts long after this Monitorship has ended, the City's civilian and internal oversight envisioned by the Consent Decree must be truly effective. This includes not only the Office of the Inspector General, but also the Police Commission and LAPD's Audit Division. Indeed, until each of these "three legs of the stool" are operating as envisioned, substantial compliance, in the Monitor's view, cannot be achieved. The Monitor's partial reliance on Audit Division audits this quarter is evidence of our belief that Audit Division is close to being prepared to handle its oversight responsibilities going forward. In coming quarters, we will continue to focus on the viability and vitality of each of these entities in order to ensure that they are each prepared to oversee the reforms that the parties have worked so hard to implement.