

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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REPORT CONTENTS:

INTRODUCTION.....1

EXECUTIVE SUMMARY1

I. FOCUS ISSUES2

 A. Non-Compliance in the Gang Units2

 B. Success Stories3

 C. Report Format and Methodology4

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY7

 A. TEAMS II [Computer Information System]7

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW.....10

 A. Use of Force10

 B. Search and Arrest Procedures.....21

 C. Complaint Investigations.....33

 D. Conduct of Investigations.....35

 E. Adjudicating Investigations.....41

 F. Discipline & Non-Disciplinary Action.....44

 G. Internal Affairs Group50

 H. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops51

IV. MANAGEMENT OF GANG UNITS56

V. CONFIDENTIAL INFORMANTS71

VI. DEVELOPMENT OF PROGRAM FOR RESPONDING TO PERSONS WITH MENTAL ILLNESS.....71

VII. TRAINING74

 A. Field Training Officer Program.....74

 B. Training Content.....77



B. Supervisory Training.....82

VIII. INTEGRITY AUDITS.....85

A. Audit Plan.....86

B. Audits by the LAPD90

C. Inspector General Audits96

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL.....99

A. Operations of the Police Commission99

B. Operations of the Inspector General.....102

C. General107

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION110

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORT110

XII. CONCLUSION112

APPENDICES:

- A. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Decree as of the Quarter Ending September 30, 2002
- B. Findings from the Monitor’s Review of the Audit Division’s Warrant Applications & Supporting Affidavits Audit
- C. Findings from the Monitor’s Review of the Office of the Inspector General’s Evaluation of the Detective Service Division’s SEU Arrest Booking and Charging Reports Audit
- D. Monitor’s Proposed Recommendations to Improve Future Audits
- E. Review of Progress on Audit-Related Recommendations Proposed by the Monitor for the Quarters Ending March 31, 2002 and June 30, 2002
- F. CD ¶154 – Status of Recommendations Made by the LAPD and the Office of the Inspector General in the Warrant Applications & Supporting Affidavits Audit and the Arrest, Booking and Charging (“ABC”) Audit

INTRODUCTION

The City of Los Angeles and the Los Angeles Police Department (“LAPD”) entered into a Consent Decree with the Department of Justice on June 15, 2001. The Consent Decree provides specific guidelines designed to institute new policies and procedures and to reform the conduct of the LAPD. Michael Cherkasky and Kroll Associates have been hired as the Monitor to ensure that Consent Decree reforms are implemented in an effective and timely manner. This, the Monitor’s Fifth Report, covers the quarter ending September 30, 2002.

EXECUTIVE SUMMARY

This quarter, the Monitor has expanded its analysis of, and reporting on, the Los Angeles Police Department’s compliance with the Consent Decree. As required by the methodology that was finalized and adopted last quarter, the Monitor will now include an assessment of primary, secondary, and functional definitions of compliance (these terms are explained below, in the Focus Issues section of this report, under “Expanded Compliance Definitions and Measurements”). The Monitor has also added a “Corrections” section at the end of this report (Section XI), which describes corrections to the Monitor’s previous quarterly report, as agreed upon by the Monitor after discussions with the Department of Justice and the City.

Utilizing the measurement criteria described in the methodology, the Monitor examined 85 paragraphs or subparagraphs of the Consent Decree. Of these, the City and the LAPD successfully complied with 32 and failed to achieve compliance with 46. For reasons stated in the body of this report the Monitor withheld a determination of compliance for 7 of these paragraphs or sub-paragraphs.

The measurement criteria revealed continuing problems that have been identified in prior reports, as well as improvements in other areas.

Areas of concern include the following:

- As described in the Focus Issues section of this report, there are serious deficiencies in the daily operations and supervision, as well as the general oversight, of the gang units.
- Training is inadequate in many areas, most notably in the duty to report misconduct, retaliation, and the protections afforded to those who report misconduct.
- The Department is in non-compliance with many Consent Decree requirements related to search and arrest procedures, primarily due to the fact that documentation and supervisory oversight are lacking.
- Despite improvements in quality of audits, the Departments’ audit functions continue to be understaffed, resulting in a backlog of uncompleted audits.

- The development of TEAMS II, the computerized “early warning” system to help track potential at risk behavior, is stymied by the failure to adopt a finalized design document. Eleven months after submitting the initial draft, the basic design plan for TEAMS II has not yet been finalized.

The LAPD has achieved full compliance or shown significant improvements in the following important areas:

- The Audit Division is significantly improving the planning, execution, and reporting of audits.
- Although instances of non-compliance were noted in some areas, the Department is conducting thorough Categorical Use of Force Investigations, resulting in sound conclusions.
- The Police Commission and the Inspector General are meeting various Consent Decree requirements, including those involving review of Categorical Uses of Force and complaint intake.
- The Commission and the Department are tackling problems that the Monitor previously identified regarding complaint processing.

I. FOCUS ISSUES

A. NON-COMPLIANCE IN THE GANG UNITS

The Monitor continues to have serious concerns regarding the daily operations and supervision of the gang units¹, many of which have been discussed in previous Quarterly Reports. As documented in the body of this report (in the “Management of Gang Units” section) specific issues identified by the Monitor during the quarter ending September 30, 2002 include:

- Inadequate chain of command supervision and control;
- Inadequate deployment of gang officers, resulting in failure to provide a consistent officer presence throughout the Department;
- Lack of adequate in-the-field supervision;
- Inconsistent and inadequate record keeping in connection with required information, such as supervisor signatures indicating oversight;
- Deficient and inconsistent monthly audits of gang units; and,
- Inadequate periodic audits of gang units’ work product.

¹ Gang units include Special Enforcement Units (“SEUs”), Community Law Enforcement and Recovery Program (“CLEAR”) and Career Criminal Detail units.

Given the troubled history of the gang units' predecessors, as documented in the Board of Inquiry into the Rampart Area Corruption Incident, and the significant impact of gang violence in this City, it is in the best interest of the Department and the community-at-large to ensure that the gang units are adequately supervised, effectively deployed, and properly reviewed. The Department and the City must make every effort to ensure that this occurs by closely examining the administration and effectiveness of the gang units.

The Monitor also notes that the Department lacks a "master plan" outlining each operational unit's role in the effort to combat gang violence. Ideally, this departmental "master plan" would be part of a larger regional systemic approach to the problem of gang violence that would coordinate regional assets from local, state and federal agencies. At a minimum this coordination and planning must exist among local, state and federal police agencies; local, county and federal prosecutors; and state and federal probation and parole authorities.

Finally, as noted in this Report and in previous Quarterly Reports, the Monitor is seriously concerned with the quality of the regular, periodic audits of the work product of the gang units, as required under paragraph 131. Resource issues are so problematic that no single unit or department appears willing to accept responsibility for these audits. The City and the Department urgently need to address this issue and the Monitor again reiterates the recommendation that the Audit Division take over responsibility for the gang unit audits.

B. SUCCESS STORIES

The Monitor is pleased to report that certain areas of the Department have made great strides recently, as documented in the body of this report. In each of the instances described below, LAPD personnel have demonstrated an exceptional commitment to comply with mandates of the Consent Decree. By their actions, they have shown that through hard work and commitment to the ideals of the Consent Decree, reform within the Department is both attainable and beneficial.

Quality of Audits

As documented in previous Quarterly Reports, the Monitor has identified a myriad of problems with LAPD audits, from the planning stages of audits, through audit fieldwork, up to the final reporting process. Many of the problems have arisen due to the fact that the LAPD's audit personnel have limited audit experience, and audit staff needed to develop the technical expertise required to conduct quality audits.

As described in this current Quarterly Report, the Monitor has noted a significant improvement in the quality of the recently completed Warrants Applications and Supporting Affidavits Audit, as well as in a number of other audits that are currently in progress. The improved quality of such audits is directly attributable to the commitment of Audit Division personnel, who have worked long hours and made a tremendous effort to embrace the guidance provided to them,

notwithstanding the challenges they faced². Under the leadership of Captain Ron Sanchez, the Audit Division is developing into a key component in the LAPD's reform process.

Complaint Reform Process

In its first Quarterly Report, the Monitor indicated that one of the most serious problems facing the LAPD revolved around the way in which it handled complaints against its officers. The Police Commission and the Department have moved with admirable speed in response to that criticism. Special Order 36 was implemented as a short-term solution while longer-term solutions were explored. The fruit of that exploration is a proposed Special Order that revamps the complaint system.

The Special Order was designed to accomplish the following:

- hasten the resolution of minor complaints;
- maintain the ability to track and account for complaints;
- quicken response time to complainants;
- improve communication and understanding with the public, and
- include mediation as a means of resolving certain conflicts and/or complaints.

The Special Order, if implemented, will revise Department policy and procedure regarding the classification, investigation, adjudication and recording of complaints and will establish an Alternative Conflict Resolution process as a method of resolving minor complaints. The Monitor views this attempt at addressing the problems pointed out in our First Quarterly Report as extremely laudable with real potential for resolving those problems while, at the same time, maintaining the integrity of the Consent Decree.

C. REPORT FORMAT AND METHODOLOGY

Expanded Compliance Definitions and Measurements

As described in the Monitor's previous Quarterly Report, the Monitor finalized and adopted a formal methodology, The Methodologies to Aid in Determination of Consent Decree Compliance ("the Methodologies"), which is designed to provide objective criteria to "score" compliance with specific Consent Decree requirements. The Methodologies identify compliance measurement and assessment processes for monitoring compliance efforts with the Consent

² While the quality of audits has improved dramatically as a result of the commitment of Audit Division personnel, resources are still a problem. As documented in this Quarterly Report, the Audit Division continues to be in non-compliance on many audits because the division does not have adequate resources to conduct audits in a timely manner. The Monitor has previously reported on the need for the City and Department to add to the Audit Division Staff.

Decree entered into by the United States Department of Justice and the City of Los Angeles. Among other things, the Methodologies identify task types and state compliance definitions.

Task Type (Field and Data Characteristics)

The Methodologies aggregate the tasks included in the Consent Decree into two types:

- **Operational** tasks are those that will be delivered by police personnel and involve contact with or processing of citizens, and which will be supervised and/or managed by LAPD personnel.
- **Executive** tasks are those constituting oversight and review of police functions—generally accruing to the police chief, the police commission and/or the inspector general.

In addition, these tasks are divided into quantitative tasks, those measurable by statistical processes³, and qualitative tasks, those requiring judgment of the reasonableness of the inputs and outcomes of the tasks, although tangible “counts” of data are possible. In some cases a Consent Decree-mandated action may not involve an exercise of judgment or discretion and thus the question for the Monitor is simply whether the action occurred or not.

Compliance Definitions

Compliance definitions differ, depending on the field characteristic for each task. Compliance definitions for operational tasks consist of three types:

- **Primary** definitions of compliance are viewed as the administrative aspects of compliance. They entail the creation of policy, procedure, rule, regulation, directive or command to “comply” as required by the text of the Consent Decree.
- **Secondary** measures and compliance deal with training, supervision, audit and inspection, and discipline to ensure that a specific policy is being implemented as designed.
- **Functional** compliance definitions require both the primary—policy and directives—and secondary—training, supervision, audit and inspection, and discipline—to be achieved, and the directives must, by matter of evidence, be followed in day-to-day operations of the department.

Thus, for each operational task, three types of compliance definitions (primary, secondary and functional) are developed.

Definitions for executive tasks consist of only one type of compliance: functional. Tasks assigned to executive level functionaries are not assumed to need supporting policy or training. The methodology does not assume that the Chief of Police, the Inspector General or the Police

³ These “quantitative” reviews may involve the Monitor first conducting a “qualitative” assessment of the data or actions being examined.

Commission need training or supervision regarding their executive responsibilities. The nature and type of compliance definitions for all tasks are reported in the methodology.

All tasks identified by the Consent Decree are associated with a specific definition of compliance, based on task type (executive or operational, quantitative or qualitative).

In the report that follows, and in future reports, the Monitor will specifically address all appropriate definitions of compliance for each paragraph of the Consent Decree, separating compliance analysis into four possible sections. The first section will briefly introduce the requirements of the paragraph. The second section will provide a brief background on issues related to the paragraph and the Department's history of compliance with the requirements of the Consent Decree. The third section will address the Current Assessment of Compliance. Finally, the fourth section will, when appropriate, contain the Monitor's proposed Recommendations and discussions relevant to such recommendations; audit-related recommendations are grouped in Appendix D. Although the Monitor's recommendations are not specifically required under the Consent Decree, the Monitor is including them in this report to aid the City and Department in achieving compliance.

Report Card

The report card schedule attached as Appendix A to this report summarizes compliance with each substantive paragraph of the Consent Decree. It shows the assessment of compliance for the last few quarters, including the quarter ending September 30, 2002, and the Monitor's assessment as presented in Appendix A to the Monitor's report for the quarter ending June 30, 2002. The "Status as of Last Evaluation" column provides the most recent evaluation made for each paragraph of the Consent Decree, whether it was made in this quarter or in a prior quarter, or before the Methodologies were finalized. The quarter in which the evaluation was made is also indicated in Appendix A.

If no evaluation has been conducted to date, the Status of Last Evaluation column will either contain the notation "NYE" indicating that the Monitor has not yet completed an evaluation, or it will contain the notation "NR" indicating that compliance with the paragraph is not yet required under the terms of the Consent Decree. If the Monitor has made substantial efforts to evaluate compliance, but is unable to definitively conclude whether compliance has been achieved, the column will contain the notation "DW" - determination withheld - indicating that a determination of compliance is being withheld. The reasons for withholding determination will be documented in the body of the quarterly report.

Finally, Appendix A also identifies the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. This is an estimate based on available information at the date of issuance of this Monitor's report and report card. These estimates are subject to change as information develops and circumstances change.

II. MANAGEMENT AND SUPERVISORY MEASURES TO PROMOTE CIVIL RIGHTS INTEGRITY

A. TEAMS II [COMPUTER INFORMATION SYSTEM]

The Consent Decree mandates that TEAMS II be developed as a successor to the existing computerized information processing system known as the Training Evaluation and Management System (“TEAMS”). The purpose of TEAMS II is to establish a database containing relevant personnel information that will assist the Department in identifying and modifying potential patterns of at-risk behavior (CD ¶39-53).

LAPD designed TEAMS II around a new system called the Risk Management Information System (“RMIS”)⁴. Three new systems are being developed to provide data for RMIS:

- the Complaint Management System (“CMS”),
- the Use of Force System (“UOFS”), and
- the STOP database (used to track pedestrian and motor vehicle stop data).

A variety of existing systems will also feed information into RMIS.

Paragraph 45 requires the City to submit a “design document” to the Department of Justice for approval. One year after the City submitted the initial RMIS Design Document to the Department of Justice, there continues to be a delay in its approval. The Monitor has not made a determination as to the source of the delay of the approval process, but has done everything within its power to aid in the resolution of areas of dispute between the City and the DOJ⁵.

On September 6, 2002, the City submitted the most recent version of the RMIS Requirements/Design Document to the Department of Justice. There remain a few issues, of an original 140, that have not been resolved to the satisfaction of the DOJ. It remains to be seen whether, notwithstanding these few issues, the DOJ will approve the design document.

In the meantime, the City has nonetheless proceeded with the development of various necessary elements of TEAMS II. Specifically, the City has taken the following steps:

- The City has continued to work on the RFP for the construction of the RMIS and expects to release that RFP sometime in January. The City has decided to move forward in releasing the

⁴ RMIS does not comprise the entire TEAMS II system. Various data elements from other sources fall within the definition of TEAMS II and will be monitored for compliance under the terms of the Consent Decree.

⁵ The Chief Legislative Analyst’s Consent Decree Status Report, dated September 16, 2002, states that the Monitor’s Quarterly Report, dated August 15, 2002, inappropriately implied that the City bore full and sole responsibility for delays in the Department of Justice’s approval of the RMIS Requirements/Design document. The Monitor takes this opportunity to specifically repudiate that view. Indeed, the Monitor has not made a judgment as to who is to blame for the delay.

RFP, notwithstanding the lack of final approval of the design from the DOJ, because the unresolved issues have little bearing on the bidders ability to appropriately respond to the RFP. Any subsequent changes to the document will be addressed in addenda to the RFP.

- The City has worked with Information Builders, Inc. to finalize the current Complaint Management Systems (“CMS”) Design Document in preparation for the release of the Request for Proposal (“RFP”) for competitive bid. The RFP will include the production of a new design document, construction of the final system, test plans and training for the CMS. The City projects that the RFP will be released in January 2003.
- The City has been updating the Use of Force System (“UOFS”) design document to reflect modifications in policy and practice. They are also working to develop the RFP for the UOFS so that it may be released with the RFP for RMIS.
- The City continues to do research and testing to determine how to meet the requirements for the security system that will control access to TEAMS II. The City has decided to release an RFP for the development of a new Deployment Period System (“DPS”) and also include enhancement of the Training Management System (“TMS”) in the RFP for RMIS. This will allow the City to compare the costs and efficiencies of the two personnel systems.
- In April, the City signed a contract with KPMG Consulting, Inc. for the restoration and enhancement of the Automated Personnel Records Imaging System (“APRIS”) and the Integrated Crime and Arrest Records System (“ICARS”). KPMG will be improving the scanning capabilities and enabling decentralized access so that all 18 divisions will be able to review data from these systems. At the onset, this task was projected to take 33 weeks to complete. The project is currently running two months behind. The Monitor does not anticipate this delay affecting the TEAMS II project and the City’s compliance with the Consent Decree.

Paragraph 45

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

Background

The City submitted the first draft of the RMIS Requirements/Design Document to the Department of Justice on October 1, 2001. Since that time, the City and the Department of Justice have had ongoing discussions regarding the overall functionality of the system as well as specific data elements necessary to conduct valuable behavior risk assessment. This has resulted in numerous matrices and revised drafts of the design document being shared between the two

parties. The Monitor is following these discussions and has reviewed all drafts of the RMIS Requirements/Design Document and related matrices.

Current Assessment of Compliance

In order to assess functional compliance with the requirements of paragraph 45, the Monitor reviewed the most recent RMIS Requirements/Design Document, dated August 2002, for content⁶. All of the requirements of paragraph 45 are addressed in the current draft.

All items listed under paragraph 41 are addressed either in the August 2002 version of the RMIS Requirements/Design Document and the enclosed Appendix, or in a letter from the City to the DOJ, dated October 18th, addressing Consent Decree requirements being fulfilled in the CMS, UOFS, and APRIS/ICARS systems. The search and cross-referencing requirements of paragraphs 43 and 44 are addressed as a requirement of the RMIS, but a plan for how to make these functional will not be developed until the system is further into the design phase. Appendix A adequately described the data elements, field names, field descriptions, element values, and from which source system the data element will be pulled as required by the Consent Decree.

Determination of compliance continues to be problematic at this time. The City has made a good faith effort at compliance and has submitted a design document that is, for the most part, compliant with the mandates of the Consent Decree. Indeed, most of the issues, which existed in the previous quarter, have been resolved.

Nonetheless, there continues to be disagreement relative to the inclusion of one particular data element as part of TEAMS II. Because of the continued disagreement between the Department of Justice and the City, and the lack of an approved document, the Monitor is continuing to withhold its determination of compliance. The Monitor will continue to help the parties attempt to resolve their outstanding differences relative to the inclusion of the remaining data element. Accordingly, while we are intimately involved and familiar with the status of this paragraph, we are continuing the marking of this item as DW (“Determination Withheld”).

The Monitor will review future revisions to the Design Document to ensure that all provisions continue to be addressed.

Paragraph 50(a)

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

⁶ The RMIS Requirements/Design Document, dated August 2002, was distributed to the Department of Justice and Independent Monitor on September 6, 2002.

City shall submit a response, including the City's position and proposed changes, in response to any Department of Justice written comments within 10 days.

Background

The City submitted their first draft of the RMIS Requirements/Design Document to the Department of Justice on October 1, 2001. The Department of Justice responded to this draft on November 7, 2001. The City answered this response on December 13, 2001 and January 14, 2002. The Department of Justice responded on February 11, 2002. On April 8, 2002 the DOJ invoked the dispute resolution provisions of paragraph 186, providing the City with a 45-day period to respond. The DOJ extended this 45-day period on separate occasions due to progress being made by the parties to resolve the issues. The City submitted an updated draft of the document to the Department of Justice on July 11, 2002 to further discussions regarding revisions. The City submitted to the Department of Justice the most recent version of the RMIS Requirements/Design Document on September 6, 2002⁷. All versions of the RMIS Requirements/Design Document mentioned above were also shared with the Monitor.

Current Assessment of Compliance

The Monitor has been following the discussions between the City and the Department of Justice for the past year, since the first submittal of the RMIS Requirements/Design Document. The RMIS Requirements/Design Document has still not received Department of Justice approval to date, one year after its initial submittal. The City also failed to respond to the Department of Justice's written comments within the 10 days provided by the paragraph 50(a).

The Monitor finds the LAPD to be in functional non-compliance with the provisions of paragraph 50(a).

III. INCIDENTS, PROCEDURES, DOCUMENTATION, AND REVIEW

A. USE OF FORCE

During the current reporting period, the Monitor reviewed the following use of force paragraphs for compliance: 55, 57, 61, 62, 64, 67, 69 and 80. These paragraphs, in summary, mandate new procedures and techniques for conducting a Categorical Use of Force investigation, including interview techniques, reporting requirements, and case review procedures.

The Monitor reviewed sixty-three (63)⁸ completed Categorical Use of Force cases completed between January 1, 2002 and June 30, 2002⁹. Of 63 incidents, 37 were Law Enforcement Related

⁷ Throughout the year, the City and Department of Justice have had numerous informal discussions regarding the design document that are not documented above.

⁸ For 26 investigations, the incident occurred prior to July 1, 2001. For 37 investigations, the incident occurred on or after July 1, 2001.

Injury Incidents, In-Custody Deaths or Law Enforcement Activity Related Deaths; 26 were Officer Involved Shootings that involved either a “hit” or a “no-hit.” The Monitor reviewed summary reports generated by both the Use of Force Review Section and the Criminal Incident Investigative Division (“CIID”), as well as interview transcripts, investigator notes, and a series of reports included in the investigation files.

Overall, even though instances of non-compliance were noted, the Monitor concludes that the CIID is conducting thorough investigations and the Use of Force Review Section and Review Board are making sound conclusions.

Nonetheless, the Monitor notes some areas for concern:

- The Monitor found inconsistencies in the questions put to suspected criminals and the questions put to LAPD officers at the scene. For suspects, the line of questioning often included events of alleged criminality leading up to the use of force incident or events that occurred days prior to the use of force incident. Conversely, when the Monitor questioned why certain LAPD officers in one incident who heard gunshots were not interviewed, the LAPD’s response was that the shots were fired by the suspect prior to the LAPD using force and were unrelated. This is an inconsistent application of investigation techniques.
- The Monitor also found examples of CIID investigators who asked leading questions at the onset of the interview rather than letting the witness first describe what had occurred. This did not occur in every investigation and in fact, appeared more pervasive in pre-Consent Decree investigations. In one pre-Consent Decree investigation, a CIID investigator interviewing two officers involved in a shooting provided the second officer with information obtained from the interview of the first officer.

Paragraph 55

Paragraph 55 mandates the creation of the CIID to investigate all administrative investigations of Categorical Use of Force (“CUF”) incidents¹⁰.

⁹ As defined by paragraph 13 of the Consent Decree. The Monitor did not determine the number of completed incidents that involved either an Accidental Discharge or an Officer Involved Shooting of an Animal.

¹⁰ Paragraph 13 of the Consent Decree defines a Categorical Use of Force as: (i) all incidents involving the use of deadly force by an LAPD officer (“OIS”); (ii) all uses of an upper body control hold by an LAPD officer and can include the use of a modified carotid, full carotid or locked carotid; (iii) all uses of force by an LAPD officer resulting in an injury requiring hospitalization; commonly referred to as a law enforcement related injury or LERI incident; (iv) all head strikes with an impact weapon; (v) all other uses of force by an LAPD officer resulting in death, commonly known as a law enforcement related death or LEARD incident; and (vi) all deaths while the arrestee or detainee is in the custodial care of the LAPD, commonly referred to as an in-custody death or ICD [and]...incidents where a member of the public is bitten by a canine assigned to the LAPD and where hospitalization is required.

Background

The LAPD established the CIID on April 8, 2001.¹¹ Pursuant to the Consent Decree, Special Order 39, dated December 11, 2001, formally established CIID and assigned various responsibilities regarding investigations conducted by CIID. Over several months the LAPD transferred Sergeant IIs, Detective IIs and Lieutenants to CIID. Many of these officers, prior to their transition, were experienced in conducting administrative investigations of incidents involving Categorical Use of Force.

The CIID now consists of three sections:

- one is responsible for investigating all Officer Involved Shooting matters,
- another is responsible for investigating all LERII matters, and
- the third is responsible for administrative matters, including reviewing completed investigations and forwarding information to the Use of Force Review Section.

Current Assessment of Compliance

This quarter, the Monitor reviewed training material developed to train CIID investigators. The training met the requirements for conducting CUF investigations set forth in paragraph 80¹².

Through interviews, the Monitor also established that additional training, referred to as “Assimilation Training”, was afforded to all transitioned CIID personnel and any newly assigned officers. Upon completing training, CIID personnel signed documentation evidencing their attendance at training. The documentation was filed in their respective personnel file maintained within CIID. In total, the Monitor reviewed documentation for 39 of 40 CIID personnel¹³.

The Monitor also noted that CIID personnel had received 24 to 40 hours of either supervisory or detective training. While six officers had received this training within the past 20 months, the remaining officers had attended training in excess of 20 months ago and in some cases several years ago.

On April 8, 2002, the LAPD’s Audit Division released its first Categorical Use of Force Audit Report. The report found the LAPD to be in compliance with paragraph 55. Another audit is expected to be completed during 2002-03.

¹¹ Special Order 39, dated December 11, 2001, formally established CIID and assigned various responsibilities regarding investigations conducted by CIID.

¹² Paragraph 80 mandates taping of all interviews, conducting interviews off-site, conducting appropriate interviews, notification of officers and supervisors, interviews of supervisory personnel, collecting and preserving evidence, and case analysis and reporting

¹³ Documentation evidencing the receipt of assimilation training could not be located for one investigator.

This quarter, the Monitor reviewed approximately 37 completed CUF investigations¹⁴. As required by paragraph 55, all 37 administrative investigations were completed by investigators ranked at least Detective II or Sergeant II.

The Monitor finds the LAPD to be primarily, secondarily and functionally in compliance with all of the provisions of paragraph 55.

Paragraph 57

This paragraph requires the LAPD to conduct a separate criminal investigation of any Categorical Use of Force incident in which the facts suggest sufficient evidence of criminal misconduct.

Background

The LAPD issued Special Order 39 to provide direction for paragraph 57. As documented in the City's Report to the Court dated August 1, 2002, the Police Commission requested clarification with regard to this paragraph. This prompted the issuance of Special Order 15, dated April 10, 2002.

Special Order 15 mandates that the Internal Affairs Group shall assume responsibility for the criminal and administrative investigations, unless the Chief of Police assigns the matter to another Division, such as the Robbery Homicide Division. The Chief of Police is required to notify the Board of Police Commissioners in writing with a copy to the Inspector General, once a matter has been transferred from CIID. A summary of all completed investigations must be forwarded to the Police Commission for its review with a copy also forwarded to the Office of the Inspector General. The 60-day reporting rule, as defined in paragraph 67, applies.

Current Assessment of Compliance

On a monthly basis, the LAPD's Use of Force Review Section provides the Monitor with a listing of all Categorical Use of Force incidents. Similar separate reports are provided to the Monitor by the CIID. Included in these monthly reports are notations on the status of each incident. Over the past year, both the CIID and the Use of Force Review Section documented three Categorical Use of Force incidents that were referred by the CIID to the LAPD's Internal Affairs Group. In all three instances, the CIID identified evidence very early in the investigation that suggested criminal activity and required referral.

The Monitor finds the LAPD to be in compliance with all provisions of paragraph 57. Another audit of this paragraph is scheduled for 2002-03.

¹⁴ The Monitor defines completed CUFs as an investigation forwarded to the Police Commission.

Paragraph 61

Paragraph 61 requires that all involved officers and witnesses to an Officer Involved Shooting (“OIS”) shall be separated and remain separated until they provide a statement. Pursuant to paragraph 178, the LAPD was required to implement this requirement no later than October 15, 2001.

Background

According to the City Attorney’s Office August 1, 2002 report to the Court, separation of officers at an incident “has been LAPD practice for several years and is outlined in the Officer Involved Shootings Manual Published in April 1995.” Special Order 39 provides additional direction on this paragraph’s requirements.

It is LAPD’s practice to elicit a public safety statement from all officers and witnesses to an OIS. The first arriving Supervisor is responsible for requesting this statement from officers in a group setting. The requirement to immediately separate officers at the scene of a shooting is complicated by the need to immediately secure the area and prevent any further injury.

The Monitor, the LAPD and the Department of Justice have agreed that the importance of eliciting a public safety statement temporarily supercedes the need to immediately separate officers¹⁵.

Current Assessment of Compliance

The Monitor reviewed twelve incidents classified as Officer Involved Shootings (“OIS”). In 7 of these 12 incidents the involved officers and witness officers were appropriately separated subsequent to providing a public safety statement. The Monitor was able to determine appropriate separation had occurred by reviewing transcribed interviews of involved officer statements, witness officer statements and supervisor statements. In some instances, separation was documented in the report summary ultimately provided to the Commission. In other instances proof of separation was documented in the underlying file. For 4 of 12 incidents, only one officer was involved and separation was not an issue. For the one remaining incident, involved and witness officers were grouped together until they could be separately transported by a supervisor to the nearest Division for questioning. Based upon the analysis described above, the Monitor finds the LAPD in compliance. The one instance of non-compliance involved an incident that occurred during early July 2001 and was not repeated for the period under review.

The LAPD currently does not have a documented procedure with regard to the public safety statement. As of this writing, the LAPD is reviewing a proposal to introduce training on the appropriate line of questioning to be used in evaluating/accepting the public safety statement.

¹⁵ Paragraph 61 is not applicable to all other Categorical Uses of Force as defined by paragraph 13 of the Consent Decree.

The Monitor found that CIID investigators simply ask the on-scene supervisor whether or not a public safety statement was requested. The investigator did not follow through and inquire of the specific questions asked by the supervisor.

Recommendations

The Monitor recommends that in order to achieve ongoing compliance with paragraph 61 and to provide credibility to the administrative investigation, supervisors and officers should be questioned regarding the supervisor's line of questioning while administering a public safety statement. The Monitor strongly recommends that the Department document specifically what a public safety statement entails in a Special Order or other Department directive to be distributed throughout the Department before the Monitor's next scheduled review. Training on appropriate questions and responses should also be incorporated into officer and supervisor training. The public safety exception cannot compromise the integrity of the investigation parameters must be established to prevent this from occurring.

Paragraph 62

Paragraph 62 requires LAPD managers¹⁶ to analyze the circumstances surrounding the presence or absence of a supervisor¹⁷ at a Categorical Use of Force incident and at the service of a search warrant. Such analysis must occur within one week of the incident.

Background

Over the past 18 months, the LAPD has issued several notices and instituted Special Order 39, "Critical Incident Investigation Division – Established", and Special Order 25, "Search Warrant and Probable Cause Arrest Warrant Procedures" to address the provisions of paragraph 62.

The requirement to report compliance in the supervisor's annual performance evaluation remains a meet and confer item, and is not included in the Monitor's review.

Current Assessment of Compliance

(a) Categorical Use of Force

During the three-month period from January 1, 2002 through March 31, 2002, the Monitor identified 21¹⁸ Categorical Use of Force Incidents¹⁹ that qualified for consideration under

¹⁶ Paragraph 29 of the Consent Decree defines "manager" as an LAPD supervisor at the rank of captain or above.

¹⁷ Paragraph 37 of the Consent Decree defines "supervisor" as a police officer with oversight responsibility for other officers and includes managers.

¹⁸ For paragraph 62, the sample of incidents reviewed occurred during the first quarter of 2002. This sample was separate from the sample selected for paragraph 61.

paragraph 62. The LAPD produced “Intradepartmental Correspondence” for 19 of the 21 incidents. The Monitor reviewed all 19 cases noting that 18 were dated within one week of the incident and all were signed by a Commanding Officer. The one remaining correspondence contained the responding Commanding Officer’s signature; however, it was not completed within one week. For two incidents, there was no documentation of any review by a Commanding Officer.

Although the form of the Intradepartmental Correspondence was not uniform, all case files provided a synopsis of the incident, the name(s) of responding supervisor(s) and a conclusion as to whether or not their actions were appropriate. For all 19 reviewed, the Commanding Officers reasonably concluded that all supervisor actions were appropriate and within Departmental policy.

Given that the LAPD met the requirements for paragraph 62 with regard to Categorical Use of Force incidents for only 18 of 21 incidents, the LAPD did not achieve compliance.

(b) Service of Search Warrants

For the period January 1, 2002 through March 31, 2002 the Monitor identified 401 search warrants and statistically selected 78 for review. Of the 78 selected, 23 consisted of either Ramey (arrest) warrants or search warrants for the production of documents. As such, they were not included in the Monitor’s testing of compliance and, in future periods, will not be included in the population for selecting samples.

Of the remaining 55 search warrants reviewed only seven (7) were in compliance²⁰. This translates into a compliance rate of 12.73%.

For the seven warrants found to meet the requirements of paragraph 62, there was no uniform method used by Commanding Officers to document analysis. Documentation ranged from handwritten notes on search warrant reports to typewritten conclusions, signed or initialed by the Commanding Officer and affixed to the search warrant package. The Monitor recommends that, at a minimum, this analysis be memorialized in an Intradepartmental Correspondence consistent with Categorical Use of Force analyses.

Based on the Monitor’s results preliminarily shared with the LAPD, it is the Monitor’s understanding that the LAPD will issue another Special Order in March 2003 at the earliest, to provide more insight and guidance to clarify the requirements of Special Order 25.

¹⁹ Until such time as TEAMS II is implemented, the Monitor is reliant on the LAPD to identify the number of incidents of a particular type of police activity.

²⁰ For the remaining 48 reviewed very little, if any documentation was relevant to achieving compliance with the Search Warrant provisions of paragraph 62.

The LAPD Audit Division identified compliance issues during its April 2002 audit of Categorical Use of Force incidents. The Audit Division is scheduled to complete a Warrant Application Audit during fiscal 2002-2003.

Although the LAPD meets some requirements of the Consent Decree (written guidance and audit), it has yet to successfully put the newly issued procedures and policies into action. Given this failure, especially with respect to Search Warrants, the Monitor finds that the LAPD is not in compliance with paragraph 62.

Recommendation

Future reviews should scrutinize whether or not the LAPD takes advantage of the opportunity to identify and document areas of improvement that can be seen only at the Commanding Officer's vantage point to include any training recommendations.

Paragraph 64

Paragraph 64 mandates that a manager²¹ review the work history of an officer involved in a Categorical Use of Force regarding disciplinary or non-disciplinary action. The work history to be reviewed includes information contained in TEAMS II²² and the officer's Categorical Use of Force history.

Background

Consideration of an officer's work history is an essential exercise because the LAPD is obligated to identify whether or not an officer, a group of officers or perhaps even a Division requires additional training or other corrective measures to correct recurring deficiencies or whether a high-risk officer may require a referral to Risk Management²³. A review of an involved officer's work history was a pre-Consent Decree LAPD policy²⁴. HRB notice "Commanding Officer Review of Categorical Use of Force" was distributed during August 2001 and provided additional guidance.

Current Assessment of Compliance

This quarter, the Monitor was granted access to observe an open session of a Use of Force Review Board. Four Categorical Use of Force incidents were reviewed and in each case the Board considered the officer's Categorical Use of Force history and work history via their TEAMS report. Also, prior to the Board convening, the Use of Force Review Section completed

²¹ Per Consent Decree paragraph 29, a "manager" is defined as a supervisor ranked Captain or above.

²² As of this report, TEAMS II has yet to be implemented.

²³ Risk Management Division is tasked with identifying officers perceived to be at risk for misconduct based on historical actions that includes an officer's complaint history and use of force history.

²⁴ See "Manager's Guide to Discipline" dated January 2000.

forms that identify all involved officers, their work history on the force, their total years of service and the date, type and resolution of involvement in any previously identified Categorical Use of Force incidents. The forms are referred to as “face sheets” and are included in the packages provided to the Board and are signed by Board members at the conclusion of the session.

The Monitor also held discussions with Consent Decree Task Force members and representatives from the City’s Chief Legislative Office. It was agreed that an officer’s work history should be reviewed at differing points, depending upon whether disciplinary or non-disciplinary action will occur. Non-disciplinary action most likely will occur once the Use of Force Review Board has convened, heard the incident, participated in a closed session and tendered its ruling. It is at this point in time that an involved officer’s work history should be considered. For disciplinary action, it is more appropriate to consider an officer’s history after the incident has been presented to the Police Commission and forwarded to the LAPD Internal Affairs Group for possible additional investigation and resolution. The LAPD is now in the process of fine-tuning its written procedure to better articulate this difference.

Although the LAPD’s Audit Division has yet to audit this paragraph, its preliminary planning identified deficiencies in the LAPD’s format for documenting the Use of Force review.

The Monitor reviewed 37 completed Categorical Use of Force incident investigations in an attempt to determine whether or not officer histories were reviewed for non-disciplinary matters. Most often these matters identified training issues even though the involved officer’s tactics, drawing of a weapon and use of force were found to be “in policy.” For 27 incidents, while reviewing Use of Force Review Section employee notes, or through intra-departmental correspondence, the Monitor was able to determine that the officer’s work history was considered. For all 37 incidents, the Monitor determined that the officer’s Categorical Use of Force history was documented. Based upon our observations and review, it appeared that in each instance work history was reasonably considered.

Although the Monitor concludes that work histories were provided to the Board and considered in its deliberations, the lack of documentation for 10 of the 37 reviewed incidents forces the Monitor to find the LAPD not in compliance with regard to reviewing an officer’s work history when making recommendations regarding non-disciplinary action. The LAPD is aware of this reporting deficiency and has implemented policy changes that will hopefully achieve compliance during the Monitor’s next scheduled review.

During the period January 1, 2002 through June 30, 2002, the LAPD identified 14 officers involved in Categorical Uses of Force incidents adjudicated as administrative disapproval. These incidents were referred to the LAPD Internal Affairs Group for disciplinary action. For all 14 incidents, the LAPD documented that each officer’s work history was considered for disciplinary action. Complaint packages included written documentation that each officer’s past and pending complaint history and their final adjudication were considered. To the extent a complaint history existed, the complaint history was also reviewed to determine whether or not a

pattern of behavior existed. In one instance, the Monitor noted that the involved officer was referred to Risk Management for further consideration.

The Monitor concludes that the LAPD is in non-compliance with the first provision of paragraph 64 but is in compliance with the second provision of paragraph 64.

Paragraph 67

Paragraph 67 requires that the Police Commission continue its practice of reviewing Categorical Use of Force incident summary reports and underlying investigative files. The LAPD is required to provide this information to the Commission no later than 60 days prior to the running of the statute²⁵. In the event that the LAPD cannot meet the 60-day requirement, the Department must provide the Commission with an explanation, a status report and an estimate for when the case will be completed.

The Commission must then determine whether or not the investigation was unduly delayed.

Background

The LAPD has adopted an internal policy that requires that all Categorical Use of Force investigations be completed at least 110 days prior to the running of the statute. This policy was instituted at the request of the Office of the Inspector General in order to allow the Inspector General sufficient time to review each incident and provide feedback to the LAPD.

Current Assessment of Compliance

This quarter, the Monitor reviewed approximately 64 Categorical Use of Force incident investigations completed during the period January 1, 2002 through June 30, 2002. These 64 incidents were comprised of 26 Officer Involved Shootings and 38 Law Enforcement Related Injury Incidents. For all 64 investigations, the required information was submitted to the Police Commission at least 110 days prior to the running of the statute.

The Monitor was able to compare the dates as documented by the LAPD to the Inspector General's internal tracking log without exception. This translates into a Timeliness Rate of 100%. On average, the LAPD provided all required information to the Police Commission 121 days prior to the running of the one-year statute. Given the LAPD's 100% compliance, there were no instances noted that required additional reporting to the Police Commission.

The Monitor finds the LAPD to be in compliance with all provisions of paragraph 67.

²⁵ Section 1070 of the City Charter defines the applicable statutory periods. Generally this is one year unless there are extenuating circumstances

Paragraph 69

Paragraph 69 requires the LAPD to continue its practice of presenting every Categorical Use of Force investigation before the Use of Force Review Board.

Background

Presenting Categorical Use of Force incidents to the Use of Force Review Board was a practice of the LAPD prior to the implementation of the Consent Decree. Pursuant to paragraph 55, the CIID is tasked with conducting an administrative investigation of all Categorical Uses of Force. Once the investigation is completed it is forwarded to the UOF Review Section for additional review. Once this review is complete, a summary report is prepared and the incident is scheduled to be heard by the Use of Force Review Board. The Commanding Officer of the involved officer or officers is also notified of the scheduled incident in order to prepare a presentation of the incident to the Board.

Current Assessment of Compliance

During this quarter, the Monitor observed the presentation of four Categorical Use of Force incident investigations to the Use of Force Review Board.

The cases were presented by the involved officer's Commanding Officer. Before each case began, the Board had received a complete copy of the CIID's report and underlying files, as well as a summary prepared by the Use of Force Review Section. The CIID investigators assigned to the incident, as well as representatives from the Use of Force Review Section and Training Division officers are present and available to answer any questions posed by the Board. A representative from the Inspector General's office also observed each session.

Once each matter had been presented, the Board members went into a closed session that was not observed by the Monitor. During the closed session the Board reaches conclusions on three issues: whether the police tactics were appropriate, whether it was appropriate to draw a weapon and whether the use of force was appropriate. In all three areas, the actions of the involved officer may be deemed either appropriate or out of policy. Once the Board has reached a decision, the session reconvenes and the Board discloses its opinion. The presenting Commanding Officer then provides the Board with the officer's TEAMS history. The Board reviews this information for any patterns of behavior. The Board also considers whether or not there is an historic pattern within the officer's Division. Finally, the Board may recommend training or other non-disciplinary action whether or not any disciplinary or non-disciplinary action was adopted.

For the 63 completed Categorical Use of Force investigations submitted to the Inspector General during the period January 1, 2002 through June 30, 2002, original documentation was signed by

the Board²⁶, and was included in the investigative file maintained by the Use of Force Review Section.

The LAPD is in compliance with the provision of paragraph 69 that requires the presentation of Categorical Use of Force incidents to the Use of Force Review Board.

B. SEARCH AND ARREST PROCEDURES

During the current reporting period, the Monitor reviewed the following search and arrest procedure paragraphs for compliance: 70(b), 71, 72 and 73. These paragraphs mandate supervisory review of all booking recommendations, supporting arrest paperwork, search warrant applications and execution plans.

The Monitor reviewed a sample of booking approvals, arrest paperwork, watch commander logs and detention logs for cases involving charges for resisting arrest, delaying a police investigation and assault on a police officer to evaluate whether or not supervisors were reviewing these cases to see if there were issues regarding policy, training or tactics that necessitated remedial training. The Monitor also reviewed a sample of detention logs to evaluate whether supervisors were interviewing all arrestees/detainees that were brought into the division.

The Monitor concludes that the Department is not in compliance with these mandates. The Department's compliance could be the result of poor documentation of supervisory oversight or because the reviews of paperwork and the interviewing of detainees is actually not being done.

The Monitor also reviewed search warrant packages and the corresponding Warrant Tracking Logs from the LAPD's Audit of Search Warrant Applications dated July 8, 2002. The Monitor found the search warrants in compliance with the requirements of paragraph 71(a) and 71(b) regarding the lack of "canned language," articulation of probable cause and conformance with LAPD procedures. There were areas of concern with paragraph 71(c) regarding the lack of supervisory review of execution plans and execution of the search warrant. In addition, the Monitor found that the LAPD did not meet the requirement that the commanding officers review the written debriefing critique within one week. The Monitor recommended a department-wide standardized checklist for the documents required in the search warrant packages.

Regarding the Warrant Tracking Logs corresponding to the search warrants reviewed, the Monitor found that there was a lack of clarity regarding the required fields of the Warrant Tracking Log and that the supervisors signature requirement were also not met. The Monitor recommended that the Warrant Tracking Log receive further clarification and that the gang officers receive additional training to ensure proper completion of these logs.

²⁶ Such signatures provided evidence that the matter was heard by the Use of Force Review Board.

Paragraph 70(b)

Paragraph 70(b) requires supervisors to evaluate each incident in which an individual is charged with resisting arrest, battery on a police officer, delaying a police investigation and similar charges to determine if the incident raises any issues or concerns regarding training, policy or tactics.

Background

This subparagraph is taken in the context of the entire paragraph 70, which requires supervisors to review all booking recommendations and evaluate the recommendations for appropriateness, legality, and conformance to Department policy. Supervisors are expected to review all arrest reports and all supporting documentation for authenticity, inconsistent information and probable cause. This mandate stems from historical allegations of officers abusing these types of charges to cover up administrative violations and/or criminal activity.

This is the first time the Monitor has reviewed paragraph 70(b). The Monitor was delayed in reviewing this paragraph while the parties attempted to resolve an issue regarding the interpretation of the paragraph²⁷. Because LAPD does not have the systems to identify the cases where the resisting arrest and/or related charges are requested as additional charges, the Department, with the cooperation of the City Attorney and the District Attorney, identified the cases within their respective agencies where these charges were one of the multiple charges filed. The Monitor decided to review a sample of cases with these charges that were booked by the LAPD and filed by the City Attorney and the District Attorney between January 1, 2002 and March 31, 2002. The purpose of the review was to determine which cases supervisors were not reviewing if only cases with the resisting arrest interfering with a police investigation, assault on an officer as the booking charge were reviewed and the concerns associated, if any, if these cases were not examined.

Current Assessment of Compliance

The Monitor's final sample consisted of 76 cases. Upon review of a sample, the Monitor became aware that cases filed by the City Attorney and the District Attorney, where resisting, delaying, interfering, or assaulting was an additional charge, would not be the subject of supervisory review unless there was an incident of force. As a result of conversations with the Department, the Monitor learned that the Department is attempting to address this issue by implementing two additional audits into their audit plan. One audit is incidental to the regular Arrest, Booking, and Charging Audit ("ABC audit"). This quarter, when the Audit Division conducted their ABC

²⁷ The LAPD interpreted the paragraph to mean that supervisors had to review only the cases where the resisting arrest and/or related charges were the booking charge. LAPD only books on one charge, therefore only one count is entered into the booking system. Officers request additional charges in the body of the arrest report but these additional charges are not input into their booking system. The Department of Justice interpreted this paragraph to mean that supervisors should review each arrest where the facts of the case have the elements of a resisting, interfering, delaying an arrest or battery on a police officer regardless of whether or not it is the booking charge.

audit, they conducted an ancillary paragraph 70(b) audit at the same time. The auditors were instructed to pull and review cases from the sample whereby the facts referred to resisting, interfering, or battery on a police officer regardless of whether it was the booking charge²⁸.

In addition, the Department plans to conduct an audit dedicated specifically to paragraph 70(b) issues²⁹. The Department intends to sample cases, with these specific charges, from the District Attorney and the City Attorney as well as their own cases and conduct a separate and distinct audit. Based on these efforts by the Department, the Monitor has decided to reserve decision on the interpretation and methodology for this paragraph. Therefore, a question remains as to whether or not a modification to the currently existing system should be made for better monitoring by the Monitor and the Department for cases that fall into this category.

In order to assess primary and secondary compliance with the mandates of this paragraph, the Monitor requested and reviewed all policy related to training on paragraph 70(b). In addition, the Monitor attended some of the training related to review of arrest and booking procedures for all cases as well as the training on review of cases involving resisting arrest, delaying a police investigation, and battery on an officer as these are the focus of paragraph 70(b). The Monitor concluded that Special Order 12, dated June 20, 2001, entitled 'Evaluation of Arrests for Interfering, Resisting Arrest or Assault on an Officer' clearly outlined the watch commander's supervisory responsibilities for these specific cases if the Monitor were to adopt the Police Department's interpretation of the paragraph where the resisting, interfering or assault was the booking charge. However, Special Order 12 would not be sufficient if the Monitor were to the Department of Justice's interpretation.

After attending several Consent Decree Source Document Training ("CDSDT") and reviewing the curriculum the Monitor found the training to be unsatisfactory. The review of the CDSDT curriculum as well as attendance in the class for the actual instruction proved to be unsatisfactory. Although the CDSDT highlighted the Special Order 12, the classroom instruction did not elaborate on the importance of the Order or explain in any detail how watch commanders should review the paperwork for training, tactics, and policy. Nor did the training instruct watch commanders on how to document the fact that they conducted this review. The Monitor also reviewed watch commander training and the basic supervisor training³⁰. Neither of the curricula addressed when and how supervisors should conduct this review.

The lack of training is evidenced by the fact that in a sample of thirty-three cases³¹ where resisting arrest, interfering with a police investigation, or assault on an officer was the top

²⁸ The findings of this audit have not been published as of this report but the Monitor plans to review the results next quarter.

²⁹ To date an internal audit on this paragraph 70(b) has not been published, this failure contributes to the Department's secondary compliance failure.

³⁰ Sometimes a Sergeant will serve as an acting watch commander if the watch commander is not working.

³¹ The 33 cases is a sample of LAPD and City Attorney cases where the booking charge was either a resisting arrest, interfering with a police investigation or assault on an officer. All of the cases were charged after the distribution of Special Order 12.

charge, only two watch commander log entries indicated that the arrests had been reviewed for training, policy and tactics³². For twelve of the thirty-three cases there was not even an entry in the watch commander log to indicate that the watch commander reviewed this case for any purpose³³. For the remaining twenty-one cases in the sample, the Monitor did not see any instances where the watch commander questioned the appropriateness of the arrest or the tactics used by the officer. In at least four cases, where the booking charges were interfering with a police investigation, battery on a police officer, and vandalism, the arrest, although arguably lawful, should have been questioned for appropriateness and tactics. Although the watch commanders signed off on the booking form, in two of the cases there were no entries in the watch commander log indicating any review of either of these cases. The two cases that were not documented in the watch commander log involved incidents that might have been resolved if the officers made a more significant effort to deescalate the situation rather than exacerbate the situation through aggressive confrontation.

Because a determination has not been made regarding the interpretation of this paragraph the Monitor cannot measure primary compliance because it is dependent on the ultimate mandate of the paragraph.

The Monitor can assess secondary and functional compliance basing the analysis on the Department's interpretation of the paragraph that the watch commander review is only necessary on cases where these charges are the sole booking charge. Using the Department's interpretation of paragraph 70(b), and based on the analysis described above, the Department is not in secondary and functional compliance.

Recommendation

It is the Monitor's recommendation that Special Order 12 be revised to instruct watch commanders to review all cases where the facts make up the elements of these charges. Regardless of the final interpretation of this paragraph, this revision would not only provide better supervisory oversight but it would assist the Department in its own internal audit process.

Paragraph 71

Paragraph 71 sets forth the requirements for supervisory review of all search warrants and probable cause arrest warrants ("Ramey" warrants).

³² Special Order 12 requires the watch commander to document that a review was conducted or if review deemed confidential, then the watch commander must reference all forms associated with the evaluation in the watch commander log.

³³ This review revealed a significant lack of documentation in the watch commander logs. The Monitor discovered that thirty-eight of the cases in the total sample of seventy-six cases had incidents of use of force, which are supposed to be documented in the watch commander log. Nine of these cases were not documented in the watch commander log and in three cases there were no logs located by LAPD. Supervisors are supposed to document significant events during the course of the watch in the log. An "officer involved altercation" is considered a significant event as documented on the first page of each log.

Background

The LAPD completed an audit of search warrant affidavits on June 21, 2001, finding that the search warrants reviewed were in compliance with LAPD procedures and the requirements for paragraph 71. The auditors recommended a system to track the paperwork that should be maintained in search warrant files. The Monitor concurred with these findings.

The LAPD has established training curricula that comply with Consent Decree requirements regarding search warrants.

Current Assessment of Compliance

This quarter, the Monitor began to assess the Department's functional ability to comply with paragraph 71. The Monitor reviewed the LAPD Audit of Search Warrant Applications dated July 8, 2002. The sample audited by the LAPD and the Monitor consisted of 73 search warrant packages for October 2001. The Monitor's findings follow.

Pursuant to Special Order 25, dated August 10, 2001, supervisor's reviews must be completed within one week after a warrant is served³⁴. The Monitor examined the 39 reports that contained debriefing critiques (out of the total sample of 73 packages) and found the following:

- Twenty-six of the thirty-nine reports (66%) included supervisor reviews dated within seven days of the service of the search warrant.
- Seven of the thirty-nine (18%) were dated within thirty days from the service of the warrant.
- One of the thirty-nine (3%) was dated sixty days after the service of the warrant.
- Three of the thirty-nine (8%) were dated between 90 and 120 days.
- Two of the thirty-nine (5%) were dated over 120 days.

Of the 73 search warrants reviewed, 21 were administrative warrants, which were excluded from the review since they did not require a written game plan or debriefing critique/after action report. Of the remaining 52 warrants reviewed, the Monitor reviewed for the following requirements outlined in paragraph 71:

- 1) supervisory review of warrant applications;
- 2) completeness;
- 3) lack of canned language;
- 4) consistent information;

³⁴ Although timeliness is not specifically mentioned in paragraph 71, the Monitor reviewed for the timeliness of supervisory review since this will impact upon the overall reasonableness of the review.

- 5) articulation of legal basis;
- 6) conformance with LAPD procedures;
- 7) supervisory review of execution or game plan;
- 8) supervisory presence during execution; and
- 9) after action review of the warrant.

As summarized in Table I of Appendix B, the Monitor identified a number of instances in which these requirements were not met, although for most of these, the number of instances identified was low and the LAPD was in compliance. However, based upon the following issues identified, the LAPD is in non-compliance with the supervisory oversight requirement of paragraph 71(c):

- 41 out of 52 (79%) search warrant packages included a written game plan; 10 out of these 41 game plans included signatures of the supervisor indicating review.
- 39 out of 52 (75%) search warrant packages included a written debriefing critique/after action report; 11 of these 39 debriefing critiques included signatures of the commanding officer indicating review³⁵.

The Effective Documentation Rate is 60³⁶ out of 73 search warrants reviewed, or 82%.

Both the LAPD Audit Division and the Monitor noted inconsistencies between the Receipt for Property Taken Report and the Property Report, with evidence listed that did not match, or was not listed at all. The LAPD audit found thirty-six search warrant packages that contained both reports. Of the thirty-six, 20 instances were listed in the report as discrepancies between the two reports.³⁷ The Monitor believes that this is a risk management issue especially when the evidence seize is related to drugs, money, and/or guns, as reported in the Board of Inquiry Report.

Based upon the analysis described above, the Monitor finds the LAPD to be in primary compliance with all of the provisions of paragraph 71. The Monitor also finds the LAPD to be in secondary and functional compliance with paragraph 71(a) and (b). However, based upon the aforementioned findings regarding supervisory oversight of search warrants, and due to the fact that policies and procedures outlined in Special Order 25 are not being implemented in a manner

³⁵ Although there is no other written mandate requiring signatures of supervisors on either the written game plan or debriefing critique/after action report, there is no feasible method of assessing supervisory review of the aforementioned documents.

³⁶ Number of warrant applications with no problematic indicators (for indicators 1 to 9).

³⁷ The Monitor also identified issues not identified by Audit Division in the July 8, 2002 Audit Report. These issues relate to documents missing from the search warrant packages, such as Property Reports and Receipts for Property Taken into Custody.

responsive to paragraph 71, the Monitor finds that the LAPD is not in compliance with the secondary and functional requirements of paragraph 71(c).

Recommendations

To ensure consistency throughout the Department, the Monitor proposes the following recommendations, some of which were previously proposed by the LAPD Audit Division:

1. *The LAPD should enforce the requirement that a written game plan be included in the search warrant package.*

In the Audit of Search Warrant Applications, dated July 8, 2002, the LAPD states that written game plans are not required and that there is no specified format for debriefing critiques. The LAPD should require that a game plan be written and kept within the search warrant package as required by LAPD Manual 742.10, with the exception of administrative warrants. The game plan should include the name, rank and serial number of the personnel involved in the service of the warrant and provide a space for the signature of the supervisor who reviews the plan³⁸.

2. *Receipt for Property Taken Report and Property Report.*

To curb inconsistencies, the LAPD should provide Department-wide training on how to prepare both reports. The LAPD also should enforce the requirement that the Receipt for Property Taken Report be prepared when evidence is taken into custody.

3. *The search warrant package should contain a standardized checklist.*

Of the search warrant packages reviewed, only the Narcotics and Pacific Divisions maintain a checklist detailing the contents in each package. The LAPD should require that all divisions maintain a checklist with each search warrant package. This will ensure that all documents that support the warrant are attached while allowing a quick review to determine if any documents are missing from the package. Based on the review of the checklists that were attached to the warrants, the checklist should include:

- The date of the service of the warrant
- The warrant number
- The DR No.
- The name of the Detective or Case Agent
- The address of the service of the warrant

³⁸ Along similar lines, the Audit Division used game plans and written debriefing critiques (among other documents) to gather information regarding supervisory oversight. Specifically, the Audit Division looked at whether or not the supervisor signed or initialed the game plan, as well as whether or not the commanding officer reviewed the critique debriefing/after action report.

- The name of supervisor completing the review of the request of the warrant, affidavit, and game plan prior to service
- The name of the supervisor completing the review of the debriefing critique
- The name of the supervisor present at the execution of the warrant
- The affidavit
- The return to search warrant
- The game plan and/or Tactical Operations Plan
- The after action plan/debriefing critique
- The Property Report
- The Receipt For Property Taken Into Custody
- The Arrest Report with supporting documentation such as booking form, probable cause statement, vehicle report if applicable

4. *A standardized written debriefing critique form should be created and required*

Per the Audit Division, some of the divisions requested clarification of what a debriefing critique was and stated that there is no official department debriefing form. Although some divisions documented the debriefing in an Employee Report, Form 15.7, each division documented the pre-search and post-search conditions differently. Based on the review of the debriefing critiques attached and reviewed, the form should include:

- Date, time, location of the debriefing;
- The name of the supervisor in charge;
- Method used to gain entry;
- Pre and Post search conditions;
- Presence or absence of photos;
- Other Law enforcement officers at the location;
- Person arrested at the location if applicable;
- Other witness and citizens at the location
- How the location was secured and by whom;
- Admonition for valuables and reason for investigation;
- The rank of the person reporting;
- The name, rank and date of the supervisor reviewing the report;

- A space for the comments of the Commanding Officer, signature and date attesting the actual review of the report.³⁹

Paragraph 72

Paragraph 72 mandates that each Area and specialized Division of the LAPD shall maintain a log listing:

- 1) each search warrant,
- 2) the case file where a copy of such warrant is maintained,
- 3) the name of the officer who applied for such warrant and
- 4) the names of each supervisor who reviewed the application for such warrant.

Background

In the Monitor's Quarterly Report for the quarter ending December 31, 2001, the LAPD was found to be in primary compliance with the requirements of paragraph 72. At that time the LAPD initiated the Warrant Tracking Log, which is designed to track new procedural requirements for the contents and execution of all Department search warrants. (paragraph 72; Special Order 25, dated August 10, 2001).

In subsequent quarters the Monitor preliminarily reviewed the Warrant Tracking system and the new procedures established to comply with the requirements of paragraph 72. The Monitor found the policies and procedures to be in compliance with the Consent Decree. However, the Monitor found deficiencies in the Warrant Tracking Logs resulting from incomplete or missing information on the log entries.

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 72 during the current quarter, the Monitor reviewed the LAPD Audit of Search Warrant Applications, dated July 8, 2002. Using the same sample, the Monitor compared the search warrants issued with the corresponding Warrant Tracking Logs to ensure completeness and accuracy. The following is a summary of the Monitor's findings.

The working sample of search warrants and Warrant Tracking Logs for Deployment Periods 9-13, 2001 is comprised of 86 search warrants. Of this sample, 13 of these search warrants were sealed and therefore the final sample reviewed was 73 search warrants.

³⁹ Of the search warrant packages reviewed, Van Nuys was the only division that documented the Commanding Officer comments on the debriefing critique report.

The Warrant Tracking Log tracks the date and time; investigator's name and serial number; approving supervisor's name and serial number; booking number; search warrant number; whether or not the search warrant was served; supervisor at scene's name and serial number; warrant return date; and search location address or name and date of birth of the suspect. The Warrant Tracking Log should correspond to the search warrants issued for any given time period.

Pursuant to the requirements of the methodology for paragraph 72, the Monitor calculated a Logging Rate⁴⁰ and Effective Logging Rate⁴¹ for the Warrant Tracking Logs reviewed. Using the total number of search warrants issued, the Monitor found 82 out of the 86 search warrants were logged, producing a 95% Logging Rate. In order to assess whether the warrants were logged appropriately—which necessitates the review of the information contained within the search warrants—the Monitor used the sample of 73 search warrants that were not sealed. The Monitor found 23 out of the 73 search warrants were logged appropriately, producing a 32% Effective Logging Rate.

Based upon the analysis described above, and due to the fact that the policies and procedures outlined in Special Order 25 were not implemented in a manner responsive to paragraph 72, the Monitor finds the LAPD is in primary compliance but not in secondary and functional compliance with paragraph 72. On July 8, 2002, the LAPD's Audit Division released its Audit of Search Warrant Applications. The Audit Division found the LAPD in non-compliance with paragraph 72

Recommendations

The Monitor does not concur with Special Order 25's statement that the Warrant Tracking Log is "self-explanatory". The Monitor found the following discrepancies that illustrate the need for further clarification regarding Warrant Tracking Log procedures:

- Date and Time—it is unclear whether to use the date the warrant was obtained or the date the warrant is served;
- Investigating Officer—it is unclear whether to use the affiant of the warrant or the lead officer at the execution of the warrant;
- Approving Officer—it is unclear whether to use the officer approving the warrant or the officer approving the Warrant Tracking Log;
- Search Warrant Number—it is unclear whether to include the Ramey Warrant number in the case of a Ramey Warrant or to simply write "Ramey Warrant" in this field;
- Search Location/Name & Date of Birth—it is unclear whether to use this field only when searching a location or to list the name and date of birth in the case of Ramey Warrants.

⁴⁰ # of warrants logged / # of warrants issued and identified in sample.

⁴¹ # of warrants logged appropriately / # of warrants logged.

The Monitor recommends the LAPD provide additional training to ensure the proper completion and consistency of the Warrant Tracking Logs.

Paragraph 73

Paragraph 73 mandates the inspection and interview by the watch commander of all detainees and arrestees brought into the division. If the arrest situation prevents an inspection and interview of the detainee/arrestee, a supervisor, other than the arresting officer, must speak with and view the detainee/arrestee. According to the Consent Decree the off-site inspection must be documented in the booking documentation.

Background

The genesis of this mandate stems from allegations of officers abusing or falsely arresting individuals. This review gives supervisors an opportunity to review all individuals brought into police custody.

As discussed in the Monitor's first report dated November 15, 2001, the Department issued Special Order 13 entitled, "Booking Approval Procedure – Revised". This order requires the watch commander to ask all detainees and arrestees brought into the division the following questions:

- Do you understand why you were detained/arrested?
- Are you sick, ill, or injured?
- Do you have any questions or concerns?

A division supervisor must conduct this interview, even if the arrestee is not brought directly to the division. This order also reiterates many of the mandates of Special Order 12 regarding booking approval and arrest report review, although not the specific review required for cases involving resisting arrest, interfering with a police investigation and battery on a police officer. On December 13, 2001, the Department issued Special Order 42, entitled "Detention Logs-Revised," which describes the procedures required for completing the newly revised detention logs.

Current Assessment of Compliance

The Monitor assessed primary compliance with the mandates of paragraph 73 by reviewing all orders issued since the signing of the Consent Decree and the orders were found to explain adequately the requirements of the Consent Decree.

Training on this paragraph and these orders was supposed to be accomplished through the Consent Decree Source Document Training ("CDSDT"). As described in the Monitor's Report for the Quarter Ending March 31, 2002, the early version of the CDSDT was inadequate. One-third of the Department attended this training. The remaining two-thirds of the Department

attended the revised CDSDT, which began in June of 2002. The Monitor finds this revised training is still inadequate as it relates to paragraph 73, because it did not explain the significance or importance of Special Order 42. Furthermore, there is no special instruction in the Watch Commander training curriculum that covers this interview and inspection process.

To measure functional compliance, the Monitor, using the same sample pulled for the Paragraph 70(b), reviewed the seventy-six cases including the arrest paperwork, booking approval, watch commander logs, and detention logs for each case. The ultimate sample size used to determine compliance was reduced to sixty-five cases⁴².

- Of the sixty-five cases reviewed, seven had no detention logs for review despite efforts by the Department to secure them from the divisions.
- Of the remaining fifty-eight cases, fourteen had detention logs but they did not have an interview or inspection for that specific arrestee documented in the log. Eleven of those fourteen cases involved incidents of use of force.
- The forty-four remaining cases had detention log entries. Of these forty-four, only nine cases had comments in the remarks section of the log. Only three of these nine cases had comments from the detainee, whereas the other six were notes from the watch commander indicating “no remarks”, “no comment”, or “refuses to cooperate”.
- Of the thirty-five remaining cases in which there were no comments in the remark section, sixteen involved defendants who had complained of injury, had an injury, or received medical attention. For these cases, the treatment, complaints or injury was either documented in the watch commander log or in the arrest paperwork. Eleven of these sixteen cases involved use of force.
- Finally, of the remaining nineteen cases, there were no comments in the remark section yet none of the defendants in these cases received medical treatment, had injury or complained of injury. Eight of these nineteen cases involved incidents of use of force. None of the accompanying paperwork in any of these fifty-eight cases indicated that an inspection/interview was conducted at another location (i.e. hospital).

Although the Monitor finds the Department to be in primary compliance for paragraph 73, the Department is not in secondary and functional compliance. The training is substandard and the Department has a 75% compliance rate for only entering the defendant in the detention log and a 16% compliance rate for indicating that any type of interview or inspection took place.

⁴² Several cases were removed from the sample because they predated the Consent Decree, others were removed because the defendants were juveniles and reviewed in a separate and distinct detention log that was not available for this review, and some defendants were booked at a different division.

Recommendations

The Monitor recommends that the Department reconsider how interviews and inspections are conducted. The inspection/interview that takes place in the divisions occurs in the presence of the arresting officer. One of the fundamental purposes of this effort is for the watch commander to interview the detainee in order to discover if any abuse has taken place at the hands of the arresting officer. It seems unlikely that a detainee would readily speak out in the presence of the officer that allegedly committed the offense. It seems more prudent, if the Department truly wants to reap the most benefit from their efforts, to have an officer that was not involved in the arrest process bring the defendant before the watch commander. The Department, clearly understanding this theory, since it requires a supervisor other than the supervisor involved in the arrest to conduct the off sight interview/inspection of a defendant.

C. COMPLAINT INVESTIGATIONS

During this quarter, the Monitor began to assess functional compliance with requirements regarding internal complaint investigations. To begin, the Monitor formally requested a listing of all complaint investigations completed during the period July 1, 2001 through June 30, 2002⁴³. In order to facilitate the Monitor's selection of a sample for testing the Monitor requested that Internal Affairs Group investigations be listed separately from chain-of-command investigations. The LAPD identified a list of 597 chain-of-command investigations and 1,037 Internal Affairs cases. Although a total of 1,634 complaint file numbers for closed investigations were provided, only 19 of the complaints were actually reported and investigated post-Consent Decree. All 19 were investigated by the LAPD's Internal Affairs Group. This very limited production resulted in a very limited review of completed complaint investigations by the Monitor. Due to this limited review, the Monitor has elected to discuss preliminary findings for certain paragraphs, however withholds determination of compliance until its next review of complaints slated for the quarter ending March 2003.

During October 2002, the Monitor preliminarily reviewed the LAPD Audit Division's complaint audit working programs. Included was the LAPD Audit Division's defined audit period and sample. The Monitor's one-year period captured the same one-quarter period selected by the LAPD Audit Division's sample was 55⁴⁴.

This discrepancy was discussed with the City, as was the Monitor's concern that the LAPD failed to either provide all information requested or misrepresented the actual rate at which complaint investigations were closed.

⁴³ Until such time as TEAMS II is implemented, the LAPD lacks a centralized system to track police activity. Accordingly, the Monitor is reliant on the LAPD to identify the number of complaint investigations.

⁴⁴ This excluded FTA, FTQ and PTC complaint investigations.

The City has since represented that it was their belief that a technical problem occurred in transferring all of the data to the disk submitted to the Monitor. As of this writing, this issue continues to be reviewed by the LAPD.

Paragraph 74

Paragraph 74 spells out the series of complaint intake process requirements for the initiation of citizen complaints. The LAPD is specifically required to distribute complaint materials in several languages to a variety of community groups and service centers. The Department must accept all complaints whether they are written or oral and is required to maintain a 24-hour toll-free complaint intake hotline and provide complaint forms and information in seven mandated languages.

Officers are also prohibited from requiring a complainant to waive their rights in any form for either filing a complaint or a lawsuit.

Background

As discussed in prior reports, the current complaint system began its evolution with Special Order 1, dated January 1, 1998. Special Order 1 required that all citizen and department complaints must be fully investigated whether or not misconduct was alleged. This broad change of policy generated thousands of complaints per year that required investigation and virtually stagnated/severely slowed the Department's complaint process. The LAPD has since implemented several changes to its complaint system in an attempt to improve the process.

Current Assessment of Compliance

During previous quarters, the Monitor reported that the LAPD obtained partial compliance with this paragraph. Specifically, the Monitor determined that complaint material in mandated languages was available to the public. During this quarter the Monitor began to assess the receipt of complaints and whether or not complainants were required to sign or otherwise agree to a waiver of rights. Using the limited sample provided by the LAPD as prescribed by the Methodologies, the Monitor ascertained, that for all 19 complaints reviewed, the LAPD received them in an acceptable manner prescribed by the Consent Decree. Three were in person; five were verbal; five were written and six were lodged by telephone. All 19 were in English. A review of the complaint and underlying complaint investigation yielded no instances of a complainant being required to sign or agree to any waiver of any sort. While we looked at 19 closed complaint investigations, the Monitor's next review will alter the sampling technique to deal with both open and closed investigations.

As discussed in this report, the Monitor notes that Internal Affairs investigators regularly receive notice of training. A review of attendance rosters confirms attendance at quarterly training.

The Monitor finds the LAPD to be in compliance with the provisions of paragraph 74.

Paragraph 75

Officers are required to either accept a civilian complaint or provide guidance to civilians who so desire to initiate a complaint. Officers are not permitted to dissuade the initiation of a complaint by any civilian. Violation requires the initiation of a separate complaint investigation against the accused officer.

Background

The requirements of paragraph 75 were LAPD policy prior to implementation of the Consent Decree. Since implementation, the LAPD has issued directives⁴⁵ that re-address paragraph 75 requirements along with other Consent Decree complaint investigation issues.

Current Assessment of Compliance

The LAPD, through its Internal Affairs Groups Ethics Enforcement Section, will tailor sting audits to address paragraph 75 issues. Two such audits did indeed occur during the second quarter of 2002 and were documented in the LAPD's Ethics Enforcement Section Quarterly Report dated August 12, 2002.

The LAPD cites its Ethics Enforcement Section as its audit function, and the Monitor does not dispute the importance of this endeavor, as the LAPD is obligated to identify and target officers who discourage the filing of complaints.

In reviewing the sample of 19 completed complaint investigations provided by the LAPD, the Monitor noted no indications in any of the investigations that the officer or officers tasked with taking the complaint violated any of the provisions of paragraph 75. None of the complaints alleged failure to take a complaint.

In reviewing the methodologies⁴⁶ adhered to by the Monitor, it became evident that the sampling of completed complaint investigations is an inadequate method to test compliance with this provision. The Monitor will re-evaluate the methodologies and alter its approach during its next review and is withholding a determination of compliance at this time.

D. CONDUCT OF INVESTIGATIONS**Paragraph 79**

The LAPD must forward all complaints to Internal Affairs within ten (10) calendar days. The Internal Affairs Group is tasked with reviewing each complaint and determining whether to

⁴⁵ LAPD Manual Sections 3/805.25 and 3/810; Special Order 17, dated September 18, 2001; Special Order 36 dated November 13, 2001.

⁴⁶ The Monitor, Department of Justice, the City and LAPD all reviewed and adopted the Methodologies.

remove the investigation to Internal Affairs or release the case to the chain-of-command investigators.

Background

The LAPD has consistently struggled to achieve compliance with the ten-day rule and has acknowledged that through June 2002 it was not in compliance with the ten-day rule. In recent months, the Department has improved its processes and now maintains that it is currently in compliance with the requirements of paragraph 79.

Current Assessment of Compliance

This quarter, the Monitor was able to assess compliance using a very limited population of 19 closed complaint investigations⁴⁷ as prescribed by the methodologies. For 19 cases reviewed, seven were not forwarded to the LAPD's Internal Affairs Groups within the required ten-day period. These complaints were all initiated during the period October 11, 2001 through February 4, 2002.

The LAPD is not in compliance with the ten-day rule for those complaints reviewed and is, therefore, not in compliance with paragraph 79 of the Consent Decree. This is consistent with the LAPD's and the Inspector General's findings for the same time periods.

The LAPD provides training with regard to this requirement, and monthly audits are conducted by the Office of the Inspector General and the Consent Decree Task Force. The LAPD reviewed three months of data for those complaints with a processing time that exceeded 100 days. For all three months reviewed, several, if not most were attributable to regularly occurring complaint issues, such as preventable traffic collisions. For future reviews of this paragraph the Monitor will re-evaluate the agreed upon methodologies and test for compliance using samples of new complaints forwarded to the Inspector General.

Recommendations

The Monitor recommends that the LAPD extend this analysis to all complaints with total processing days greater than ten to determine if this trend encompasses all delinquent complaints. If so, the LAPD might be in a position to significantly reduce delinquencies and achieve compliance for routine complaint investigations, which in the Monitor's opinion, should never take more than ten days to process given their recurring nature.

Paragraph 80

Paragraph 80 describes investigation guidelines that apply to both Categorical Use of Force investigations and complaint investigations as defined by paragraphs 93 and 94. With the

⁴⁷ Until such time as TEAMS II is implemented, the LAPD lacks a centralized system to track police activity. Accordingly, the Monitor is reliant on the LAPD to identify the number of closed complaint investigations.

exception of the requirement to tape or video witness statements, the LAPD is required to implement the new procedures no later than October 15, 2001, 120 days from the effective date of the Consent Decree (CD ¶178) and must commence tape or video recording no later than July 1, 2001 (CD ¶178).

One additional section of paragraph 80(d) applies only to complaint investigations. It requires notification of the complaint to the involved officers and their respective supervisor.

Background

On October 15, 2001, the City issued a status report that advised: “The investigative procedures included in paragraph 80 are consistent with current LAPD practice.”

Current Assessment of Compliance

This quarter, the Monitor reviewed 37 Categorical Use of Force incidents and 19 completed complaint investigations that occurred either on or after July 1, 2001⁴⁸.

The Monitor finds 100% compliance for the following paragraph 80 requirements:

Interviews at Convenient Times and Location

The time and place of interviews was documented on the face page of all transcript summaries reviewed by the Monitor. Nearly all officer interviews were conducted within hours of the incident at the nearest Division. For many third party interviews, the Monitor noted that they occurred on dates subsequent to the date of the occurrence and at places other than the site of the incident. It is presumed either that these individuals requested an interview on a different date than the incident, or that the LAPD opted to interview them at a later date.

Prohibit Group Interviews

A brief synopsis of all individuals present during the interview was included on the face page of each transcript. In two instances, the Monitor noted that a minor who was a witness was interviewed and accompanied by a parent, however, in each case the parent did not participate in the interview. In California, there is no legal requirement to include a parent or guardian when a minor is questioned as a witness⁴⁹. The Monitor agrees with the LAPD’s decision to permit the presence of a parent in both situations. For all other interviews, the Monitor noted witnesses were independently interviewed⁵⁰.

⁴⁸ Until such time as TEAMS II is implemented, the LAPD lacks a centralized system to track police activity. Accordingly, the Monitor is reliant on the LAPD to identify the number of categorical use of force incidents and completed complaint investigations.

⁴⁹ However, should the minor be detained for questioning in a criminal matter as a suspect, California requires the presence of a parent or guardian.

⁵⁰ Officers were permitted to have either a PPL representative or an attorney present during their interview.

The Monitor found two Categorical Use of Force investigations in which it appeared officers were interviewed as a group with only one tape recording referenced. This was compounded by the fact that their statements were not transcribed. Additional research determined that the officers were indeed interviewed separately and that their statements were captured consecutively on the same tape. This issue was discussed with CIID management, who took under advisement the Monitor's recommendation that future reports identify whether or not interviews were conducted separately or as a group.

Interviews of Supervisors Regarding Conduct

For all 37 Categorical Use of Force incidents and 19 complaint investigations subject to compliance evaluation, the Monitor noted that supervisors were interviewed regarding their conduct. Their statements were transcribed or summarized, and the Monitor was able to determine that appropriate interview questions were asked. Questioning included, but was not limited to, determining their time of arrival, who they encountered, any direction they provided and to whom, and whether or not they requested a public safety statement.

The Monitor finds less than 100% compliance for the following paragraph 80 requirements:

Interviews Tape or Video Recorded

Recording interviews is standard practice for the LAPD. Original tapes of recorded interviews are preserved by the LAPD with a copy being forwarded to a contracted third party transcription service⁵¹. Once CIID investigators receive a transcription, they read the transcription while listening to the tape in an effort to correct errors or to interpret statements that the transcriber recorded as unintelligible. Corrections are documented in the investigator's notes section of the report.

For the 37 incidents reviewed, two contained witness statements that were not captured on tape and one contained a suspect's statement that was not captured on tape. A synopsis of the interview, however, was included in the file.

For one of 19 completed complaint investigations reviewed, the Monitor also noted the same pattern – that the interview of the complainant was not tape-recorded.

The Monitor finds the LAPD not to be in compliance with paragraph 80(a), which requires tape-recorded or videotaped interviews of complainants, involved officers and witnesses.

Collect and Preserve Appropriate Evidence

In two separate Categorical Use of Force incidents the Monitor identified a key witness to the incident who was not interviewed by the investigating officers.

⁵¹ Use of a transcription service applies only to Categorical Use of Force investigations.

In one incident, the witness, a law enforcement officer from another state, was a ride-along passenger in a police vehicle. The Use of Force Review Board made an inquiry as to why this individual wasn't interviewed. The explanation given was that his name was unknown. This explanation is unacceptable.

In another incident, two officers were quoted as stating that they did not witness the use of force because they turned their attention to bystanders. For this particular incident, there were no third party witness statements. A review of notes and an interview of two CIID Detectives assigned to the matter determined that CIID personnel indeed canvassed the area for witnesses and attempted to identify the identity of bystanders. Although CIID is ultimately tasked with interviewing witnesses, CIID sworn personnel are rarely, if at all, the first LAPD personnel to arrive on the scene⁵². It is imperative that every officer in the Department, regardless of their status, be cognizant of the need to collect evidence, particularly identifying possible third party witnesses.

Lastly, for one completed complaint investigation reviewed, the Monitor could find no documentation that officers canvassed the scene for witnesses.

Given the above instances of non-compliance coupled with the Inspector General's audit of non-categorical use of forces that identified a similar pattern⁵³, the Monitor finds the LAPD not to be in compliance with paragraph 80(f).

Identify and Report Inconsistencies in Statements

A review of summary reports generated by the CIID and the Use of Force Review Board revealed that material inconsistent statements were identified and reported in 36 of 37 incidents. Inconsistent statements identified included differences between officer and witness statements, officers' statements and witness' statements. A review of complaint investigations yielded similar results.

The Monitor finds the LAPD in compliance with paragraph 80(g).

Paragraph 81

Paragraph 81 requires that certain investigation guidelines set out in paragraph 80 must also apply to complaint investigations and non-Categorical Use of Force administrative investigations. These guidelines include the directive to interview witnesses separately and to properly collect and preserve the evidence.

⁵² Paragraph 80 reads, in part "In conducting all Categorical Use of Force investigations...the LAPD shall...collect and preserve all appropriate evidence, including canvassing the scene to locate witnesses where appropriate..."

⁵³ "In six reports there was an absence of statements from civilian witnesses in incidents that occurred at times and places where numerous witnesses would be expected to have been present...."

Background

The LAPD in its status report to the court referenced several pre- and post-Consent Decree directives that seek to institute the requirements of paragraph 81. The LAPD acknowledges that it has not yet completed audits of complaints to determine whether or not it is functionally in compliance.

Current Assessment of Compliance

During this quarter the Monitor attempted to review completed chain-of-command complaint investigations with respect to paragraph 81. However, the population of closed chain-of-command complaint investigations provided by the LAPD was comprised solely of incidents that occurred prior to the Consent Decree. As a result, the Monitor was unable to conclude whether or not the LAPD is functionally in compliance with this provision of the Consent Decree.

In an attempt to improve the quality of chain-of-command and non-Categorical Use of Force investigations, the LAPD circulates newsletters and checklists among its personnel. The Monitor reviewed attendance records and a schedule of training for Internal Affairs Group personnel noting that four sessions occurred during the period May 2001 to June 2002.

The LAPD Audit Division is scheduled to complete its audit of complaint investigations within the next three months. The Monitor will review the results of the LAPD audit to determine whether or not paragraph 81 was reviewed.

The Monitor was not scheduled to review non-Categorical Uses of Force during the current reporting period.

Paragraph 82

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

Background

The LAPD issued Special Order 39 Section IX(B)(4), dated December 11, 2001, which reiterates LAPD policy in compliance with paragraph 82.

Current Assessment of Compliance

The Monitor reviewed 19 closed complaint investigations and found that the requirements of paragraph 82 were not applicable as no additional allegations of misconduct arose separate from the underlying incident.

The Monitor identified one complaint investigation that arose in the course of a Categorical Use of Force investigation. This complaint investigation was prompted by the LAPD's ruling of the matter as out of policy, and there were additional allegations outside the scope of the use of force. The matter remains pending.

The Monitor also notes that three Categorical Use of Force administrative investigations, at a very early stage in the investigation, were referred to the LAPD's Internal Affairs Group for continued investigation.

Non-Categorical Use of Force incidents were not reviewed during the current reporting period. The LAPD Audit Division is scheduled to complete its first complaint investigation audit by the end of calendar 2002.

The Monitor elects to withhold a determination of compliance given the limited production of completed complaint investigation.

E. ADJUDICATING INVESTIGATIONS

Paragraph 84

As part of the adjudication phase of the complaint process, once a complaint investigation is completed, the LAPD is required to review the complainant and the accused officer(s) and using standard California jury instructions, assess their credibility. No familial relationship bias may be applied nor may an officer's statement be viewed automatically as more credible than a witness statement.

Background

The LAPD issued Administrative Order 12 on September 6, 2001 that reiterated certain information already documented in pre-Consent Decree LAPD manuals⁵⁴ to better align LAPD policy with Consent Decree requirements. As reported in its August 1, 2002 report to the Court, the City and the LAPD are in the process of developing better procedures to better document witness credibility. The Monitor hopes that the City's and LAPD's definition of "witness credibility" includes evaluating officer credibility as this, too, is a paragraph 84 requirement. The Monitor acknowledges that under certain circumstances, specifically the lodging of an anonymous complaint, the LAPD may not be able to identify the complainant, and as such, cannot evaluate the complainant's criminal history. Also, not every situation will include a familial relationship or one officer statement versus one witness/complainant statement. In these instances, the Monitor will identify that those provisions of paragraph 84 are simply not applicable.

⁵⁴ Department Management Guide to Discipline (January 2000) and Complaint Investigations Guide for Supervisors (October 2000).

Assessment of Compliance

In reviewing the 19 Internal Affairs Group completed investigations, the Monitor noted that the LAPD was in compliance for most of the provisions with the exception of documenting that civilian criminal histories were considered. For seven of 19 investigations reviewed, the Monitor could not determine whether or not the history was obtained and reviewed. Given that evaluating the civilian history is an integral part of the intent of paragraph 84, the Monitor finds the LAPD to not be in compliance.

Recommendation

The LAPD, specifically the Commanding Officers, should better document whether or not the history was considered, and the reasons if not considered.

Paragraph 85

Paragraph 85 requires all complaints be adjudicated using a preponderance of the evidence standard, enumerates how a complaint shall finally be adjudicated, and states that no complaint investigation shall be closed without a final adjudication⁵⁵.

Background

All completed complaint investigations are reviewed by the LAPD's Internal Affairs Review and Evaluation Section and by the Office of the Inspector General. LAPD procedures provide for final adjudication based on a preponderance of the evidence standard.

Current Assessment of Compliance

For the 19 Internal Affairs Group completed investigations reviewed by the Monitor, all used a preponderance of the evidence standard and in all instances were adjudicated using approved LAPD procedures. Consistent with other complaint related areas, training was afforded to Internal Affairs Group on a quarterly basis, and at various supervisory schools. Accordingly, the Monitor finds the LAPD to be in compliance with paragraph 85.

The LAPD Audit Division anticipates it will complete an audit of this function in 2002/03.

⁵⁵ The Consent Decree mandates that complaints shall be adjudicated as "sustained", "sustained – no penalty", "not resolved", "unfounded", "exonerated", "duplicate", or "no Department employee". The LAPD's current dispositions include those mandated by the Consent Decree as well as "Insufficient Evidence to Adjudicate", "no misconduct", "other Judicial Review" and "Withdrawn by the Chief of Police". These additional dispositions represent a continuation of LAPD policy and new policy released during October 2001.

Paragraph 86

Paragraph 86 mandates the LAPD to use reasonable efforts to investigate complaints that are either withdrawn, filed anonymously, filed by a person other than the victim of misconduct, or if the complainant is unavailable to make a statement, and that such complaints are not a basis for adjudicating a complaint without further investigation.

Background

The LAPD issued Administrative Order 12, entitled “Investigating a Personnel Complaint and Evaluating Witness Credibility”, dated August 29, 2001 and approved September 25, 2001, and Special Order 36, which reiterate the requirements of paragraph 86.

The Monitor has not previously evaluated this paragraph for compliance.

Current Assessment of Compliance

This quarter, the Monitor reviewed 19 closed complaint investigations. Six investigations involved third party complaints, three were anonymous complaints and three complaints were withdrawn.

For third party complaints, the Monitor determined that the LAPD’s investigation included reasonable efforts to fully investigate the complaint. In two cases, the allegations were sustained. For the remaining four, the investigation was adjudicated as either “not resolved” or “insufficient evidence⁵⁶.”

The Monitor reviewed three anonymous complaint investigations. Two complaints were adjudicated as unfounded and the LAPD identified the anonymous complainant in the course of its investigation⁵⁷. For the remaining complaint, the matter was adjudicated as “no department employee.” Again, the Monitor’s review determined the LAPD conducted as thorough an investigation as possible under the circumstances.

Lastly, the Monitor reviewed three investigations that were withdrawn. For two investigations, the matters were withdrawn internally by the LAPD. For the third complaint reviewed, the complainant requested the withdrawal of the complaint. Again, for all three matters, as thorough an investigation as possible was conducted and documented.

Given that only three such complaints were identified as a result of the limited sample, the Monitor withholds a determination of compliance until its next review.

⁵⁶ See the Monitor’s discussion of adjudicating complaint investigations under footnote 46.

⁵⁷ The Monitor views this as evidence of LAPD’s effort to completely investigate anonymous complaints.

Paragraph 87

Taking into consideration variables that include an investigation's complexity, the availability of evidence and witnesses, and other extenuating circumstances, the LAPD is required to complete at least 51% of all complaint investigations within five months.

Background

In an effort to provide guidance and to streamline the complaint process, the LAPD has issued several directives seeking to implement the requirements of the Consent Decree, including Administrative Order 12, September 25, 2001; Special Order 36, November 13, 2001, and most recently Chief of Staff Notice dated May 9, 2002.

Despite these initiatives, the LAPD has struggled to complete the timely entry of complaint investigation data into its case tracking system. During the first six months of the Consent Decree, the Department maintained a significant backlog of complaint investigations that had not been logged onto the system. The backlog has been reduced significantly since that time and the LAPD now maintains that it is in compliance with the time requirements of paragraph 87.

Current Assessment of Compliance

The LAPD Audit Division has slated an audit of complaint investigations to be completed by the end of calendar 2002. No prior audits have been conducted.

During this quarter, the Monitor reviewed 19 closed complaint investigations that originated subsequent to July 1, 2001. For all 19 investigations reviewed, the Monitor found the investigation was documented as completed within 150 days from the date that the complaint was lodged placing the LAPD in compliance with paragraph 87 for the period reviewed.

F. DISCIPLINE & NON-DISCIPLINARY ACTION**Paragraph 88**

Paragraph 88 requires the Chief of Police to report to the Police Commission the imposition of discipline during the previous calendar quarter no later than 45 days from the end of each quarter and that a copy of the report shall be forwarded to the Inspector General.

Background

As reported in the Monitor's Quarterly Report dated May 15, 2002, the Monitor expressed concerns about the timeliness of information presented in the Quarterly Discipline Report and the manner in which discipline imposed was broken down. The Department of Justice articulated similar concerns in a letter to the City of Los Angeles.

Department of Justice also expressed concern that the monthly reports on Administration of Internal Discipline attached to the quarterly Discipline reports did not contain the level of detail required by the Consent Decree. Department of Justice relied on the Consent Decree mandate that the reports “contain at least the level of detail included in the August 1999 report.” That report contained brief narrative summaries of misconduct cases.

Current Assessment of Compliance

Timeliness

Discussions have been ongoing with LAPD personnel concerning the timeliness of the information included in the Quarterly Discipline Report. The LAPD represents that there is no current backlog of closed complaint cases waiting to be entered into the Internal Affairs Group database. Data entry backlog consists of normal processing of completed cases as they are returned from the Office of Inspector General after its review.

Although the Department should be commended for its efforts to reduce backlog, the discipline reporting process still centers on closed cases. Paragraph 88 is clear that discipline should be captured for reporting purposes in the quarter in which it is imposed. What is not clear is how the adjudication process impacts the reporting process.

Analysis of Discipline Imposed

The LAPD submitted a revised Quarterly Discipline Report, which was generated for the first quarter 2002 and submitted to the Monitor for consideration. The revised report contained two additional tables and an additional appendix as follows:

- A table entitled “Allegation Summary by Employee Rank” displays the type of misconduct by rank with no description of any discipline imposed.
- A table entitled “Discipline Imposed Listed by Allegation Type” displays the type of misconduct and the discipline imposed.
- An appendix entitled “Sustained Complaints Listed by type and Rank” lists the type of misconduct by rank and discipline imposed. The appendix is also divided between complaints with one sustained allegation and lists complaints with multiple sustained allegations.

The Monitor views these revisions and additions as a good attempt toward compliance with the provisions of paragraph 88(a). Additionally, making the distinction in the new appendix between whether single or multiple sustained allegations are involved gives a better understanding of the discipline imposed.

Narrative Summaries

The Consent Decree requires “at least the level of detail included in the August 1999” Internal Affairs Group Report on Administration of Internal Discipline. Compliance with paragraph 88 of the Consent Decree requires that the Quarterly Discipline Report must include narrative summaries of the misconduct cases. Such summaries are not available. The Department and the City maintain that inclusion of narrative summaries would require employee resources that are not available. The summaries are not otherwise available and would have to be created specifically for this report.

The Monitor found that the Administrative Records Section inputs narrative summaries of the misconduct alleged in complaints into a Microsoft Access database during the initial processing of complaints. At the conclusion of the complaint investigation process a disposition is input for each complaint closed utilizing an “Allegation Disposition” screen in the Access database. This screen contains a description field that provides for narrative input.

An additional concern is that providing summaries of misconduct runs the risk of identifying the officers involved. The Monitor maintains that identification based on brief summaries and without intimate knowledge of the misconduct would be extremely difficult, particularly in view of the number of complaints filed. Special provisions could be made for an exception to the narrative summary on a case-by-case basis.

For example, the Inspector General’s review of the Discipline Report is publicly available and is discussed in open session before the Police Commission. Depending on the issues covered, it contains not only narratives of officer misconduct but also narratives of Categorical Use of Force incidents.

Although the Consent Decree does not require that the Quarterly Discipline Report be a public report, the LAPD opted to make it a public document. The Monitor commends the LAPD for this decision. Since the Quarterly Discipline Report is a public document, the Monitor believes that the public should be able to make judgments about the relative severity of complaints versus the discipline imposed. Without the summaries of misconduct, this cannot be accomplished.

Based upon the analysis described above, the Monitor finds that the LAPD is moving closer toward compliance with the requirements of paragraph 88. However, at this time the LAPD is still not in functional compliance.

Recommendations

Timeliness

To add some clarity, the Monitor believes that if the adjudication process changes the discipline imposed by the Chief, it should be captured and reported in the quarter the Chief either agrees with the adjudication or downwardly departs from what is adjudicated. The adjudication process should be tracked and noted in the Discipline Report.

Utilizing the 2nd Quarter 2002 Discipline Report data, the Monitor recommends that the Department reexamines and focuses on when the Chief of Police made his final determination of discipline during the quarter. This would include all complaints during the quarter in which the Chief made a disciplinary decision that became final and did not elect for the complaint to go to a Board of Rights; or the Chief made a disciplinary decision following a Board of Rights adjudication. Closed cases not fitting this profile would be excluded. This would allow for comparison between reports and would allow the Monitor in the next quarter to review the impact this type of reporting would have on timeliness.

Narrative Summaries

The Monitor recognizes that misconduct allegations entered into the database at the beginning of the complaint process may change during the process. Consequently, the Monitor recommends that during the next quarter the Department consider entering summaries of the misconduct found at the conclusion of each complaint investigation utilizing the description field in the "Allegation Disposition" screen. These summaries could then be retrieved for the purpose of preparing either the monthly Administration of Internal Discipline reports and/or the Quarterly Discipline Report.

The Monitor recommends that the summaries that will ultimately be input by the Administrative Records Section be prepared by the officers responsible for conducting the complaint investigation, thus reducing the workload of the Review and Evaluation Unit and the need for additional resources.

Paragraph 89

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

Background

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

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

Current Assessment of Compliance

Each quarter, the Inspector General identifies potential areas of concern found in reviewing the Quarterly Discipline Report. Current issues, include the following⁵⁸:

- Clarification of procedures for investigation of racial profiling complaints (Review of 2nd Quarter 2002).
- Proportionality of discipline imposed for Categorical Use of Force incidents (Review of 2nd Quarter 2002).
- Potential misuse of Policy/Procedure disposition classification (Review of 1st Quarter 2002).

Each quarter, the Police Commission discusses discipline issues with the Chief of Police in closed session and prepares a written summary of the discussions. It was represented to the Monitor that included in the summary is the Police Commission's assessment of the appropriateness of the disciplinary actions taken by the Chief of Police. The assessments are used in the annual evaluation of the Chief of Police.

This quarter, the Monitor examined four Police Commission assessments covering the disciplinary actions taken by the Chief of Police in the 2nd quarter 2001, 3rd quarter 2001, 4th quarter 2001, and 1st quarter 2002. For the 4th quarter 2001, the Monitor noted that there was no statement by the Police Commission in its written assessment concerning the appropriateness of the disciplinary actions taken by the Chief of Police.

During the period examined, the Police Commission reviewed discipline concerning 43 Categorical Use of Force incidents determined to be out-of-policy or administratively disapproved. However, only one assessment (1st Quarter 2002) mentioned the Police Commission's evaluation of the discipline imposed in these cases.

In addition, the Monitor found the Police Commission's assessment of discipline appeared to lack continuity between the assessments. Some of the follow up issues raised and discussed in one assessment left the Monitor in a quandary as to whether they were addressed in subsequent closed sessions.

The Monitor found that the Inspector General and Police Commission were in functional compliance with the provisions of paragraph 89 concerning review, analysis, and reporting to the Police Commission and the Police Commission's review of the Discipline Report. However, for the reasons stated above, the Monitor found lacking the Police Commission's written assessments of the discipline imposed by the Chief of Police, particularly pertaining to Categorical Use of Force cases⁵⁹.

⁵⁸ These concerns may be the subject of further review by the Monitor pursuant to paragraph 154 of the Consent Decree.

⁵⁹ Since the Police Commission's written assessments will be the basis for a portion of the annual evaluation of the Chief of Police, it is particularly important that they at a minimum conform to the provisions of the Consent Decree.

Paragraph 90

Paragraph 90 requires that LAPD managers⁶⁰ shall continue evaluating complaint investigations to identify underlying problems and training issues, and, if necessary, to administer non-disciplinary action.

Background

In its August 1, 2001 report, the City asserted that procedures of this paragraph were already the policy of LAPD.

The LAPD regularly holds supervisory training that is provided to those individuals at the rank of Sergeant, Detective and above. This training includes issues identified through the complaint investigation process. The LAPD Audit Division has developed an audit process to assess conformance with paragraph 90. The Audit Division is scheduled to complete its audit of complaints by the end of December 2002.

Current Assessment of Compliance

In reviewing the sample of completed complaint investigations the Monitor noted evidence that all complaint investigations were reviewed by Management, as defined by the Consent Decree. Also noted, although not in every investigation, were recommendations on issues such as training and additional investigative procedures.

The Monitor finds the LAPD to be in compliance with paragraph 90.

Paragraph 91

Paragraph 91 requires the Department to inform the complainant of the resolution of the complaint investigations.

Background

Providing a written notice to the complainant of an investigation's resolution is an on-going LAPD practice⁶¹. The Monitor has reviewed complaint investigations completed during prior reporting periods. For this limited review the Monitor found that complainants were notified of the final outcome of all complaint investigations. The Monitor noted that not all communications included the complaint file number needed as a reference for future questions or concerns.

Training for paragraph 91 is provided at various supervisory schools and is at the appropriate level.

⁶⁰ Defined as a supervisor at the rank of captain or above.

⁶¹ The City cited the LAPD Manual Section 3/820.11 and the Chief of Staff Notice "Referencing The Investigation Date for Complaint Investigations" dated May 8, 2002.

Current Assessment of Compliance

During the current reporting period, the Monitor reviewed 19 completed complaint investigations in which the complaint was lodged either on or after July 1, 2001. For the 19 complaint investigations reviewed the Monitor found a significant deficiency in notification to the complainant. For 13 of 19 investigations, one or more of the requirements of paragraph 91 were not satisfied. For 7 of 19 investigations, none of the requirements of paragraph 91 were satisfied.

This represents a serious problem. Any progress made by the LAPD in completing complaint investigations to the satisfaction of the Consent Decree, and ultimately the community, could be negated without a timely, accurate and complete disposition notice to the complainant.

The Monitor finds the LAPD to be not in compliance with the requirements of paragraph 91, notwithstanding that a complaint investigation audit is scheduled for completion during 2002-03.

G. INTERNAL AFFAIRS GROUP

Paragraph 93

Paragraph 93 requires the reallocation of complaint investigations⁶², between the Internal Affairs Group and Chain-of-Command supervisors. The LAPD has until December 31, 2002 to transition all required investigations.

Background

The LAPD's documented transition plan⁶³ set a schedule to transition paragraph 93 investigations to the Internal Affairs commencing April 1, 2002 with completion by December 31, 2002. The LAPD must balance transferring investigative responsibility with available resources and with the compliance requirements of paragraph 87.

Current Assessment of Compliance

The Monitor reviewed Internal Affairs Group training schedules and attendance records for the period May 2001 through June 30, 2002 noting that training modules referencing the Consent Decree were scheduled. The LAPD's Audit Division has represented that it will complete its audit of the complaint process by the end of calendar 2002.

Twelve of the 19 complaint investigations reviewed by the Monitor using the prescribed methodologies qualified for special treatment pursuant to paragraph 93. And, all 12

⁶² Unauthorized uses of force, invidious discrimination, unlawful search, unlawful seizure, dishonesty, domestic violence, improper behavior involving narcotics or drugs, sexual misconduct, theft and an act of retaliation or retribution.

⁶³ "Internal Affairs Investigation Transition Plan" approved March 12, 2002.

investigations were indeed assigned to and investigated by an Internal Affairs Group investigator. Therefore, the Monitor finds the LAPD to be in compliance with paragraph 93.

The Monitor will re-evaluate the methodologies during its next review of this paragraph.

Paragraph 94

The Consent Decree requires that certain misconduct investigations be completed solely by Internal Affairs investigators. Paragraph 94 describes the types of incidents that should be investigated, including the initiation of a complaint investigation by prosecutors or judges involving officer credibility or alleged misconduct, and the initiation of a complaint for officers arrested or charged with either felony or certain misdemeanor crimes.

Background

Since approximately April 17, 2001, the LAPD has issued several department wide directives that address paragraph 94 requirements as well as forwarding letters to prosecuting agencies and the public defender's office regarding notification procedures.

Current Assessment of Compliance

During the current period, the Monitor identified only one complaint investigation of the 19 reviewed that qualified for consideration pursuant to paragraph 94⁶⁴. The matter involved the arrest of an officer and the misconduct investigation was assigned to and completed by the LAPD's Internal Affairs Group and adjudicated as sustained. Given that only one investigation provided by the LAPD and reviewed by the Monitor qualified for paragraph 94 review, the Monitor is withholding its assessment of compliance.

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

Paragraphs 102 and 103 require the Department to continue to enforce their non-discrimination policy. Paragraphs 104 and 105 direct the Department to collect specific field data on all police officer initiated stops of motor vehicles and pedestrians.

Because of the failure to publish an RFP for data analysis and the lack of an internal audit process to measure compliance with the policy, the Department is not in compliance with paragraphs 102 and 103. Under no circumstances is the Monitor stating, through this finding, that the Department is not enforcing its non-discrimination policy nor have there been any findings, to date, that the Department is in violation of the non-discrimination policy.

The Department began collecting specific field data on all police initiated motor vehicle and pedestrian stops on November 1, 2001. In all prior reports the Monitor has not found the

⁶⁴ As discussed previously, the Monitor is reliant on the LAPD to identify the number of complaint investigations.

Department in compliance with the mandates of paragraphs 104 and 105 due to the failure to establish a viable database for all the collected data. This quarter, through the combined efforts of the City and the Department, a complete database containing all records from July 1, 2002 through September 30, 2002 with a 3% error rate exists. Although in compliance for this quarter, there is still a backlog of approximately 200,000 reports collected prior to July 1, 2002 that have not been entered into the database. The Monitor reserves the right to re-visit this finding of compliance should the Department fail to make the necessary efforts or propose an appropriate solution to remedy this situation.

Non-Discrimination Policy

Paragraph 102

Paragraph 102 requires that the Department continue to prohibit discriminatory conduct in the conduct of law enforcement activities, specifically stops and detentions.

Paragraph 103

Paragraph 103 requires implementation of a more specific policy. The policy allows LAPD officers, only when engaging in suspect-specific activity, to take into consideration the race, gender, ethnicity, or national origin of (an) individual(s) to identify that person(s).

Background

Since the Monitor's first report dated November 15, 2001, the Department has not been in compliance with paragraphs 102 and 103. The finding of non-compliance is based on the Department's failure to establish an accurate database⁶⁵ ("the database") containing the data collected by officers in police-initiated motor vehicle and pedestrian stops, the absence of an internal audit process, and the failure to publish a Request for Proposal for Data Analysis ("RFP for Analysis")⁶⁶. The Monitor is in no way contending that the LAPD has engaged, or is engaging, in discriminatory activity.

In previous quarters the Monitor reviewed the Department's relevant policy and orders related to its non-discrimination policy and found the Department to be in primary compliance with the Consent Decree. The Monitor also reviewed the Department's training curriculum related to paragraphs 102 and 103. Much of the training on the Department's anti-discrimination policy was incorporated into the Department's training on motor vehicle and pedestrian stops, such as presented during Consent Decree Source Document Training and the Department's training on

⁶⁵ The objective is to store the information collected under paragraph 104 and 105 into a database until it can be determined how to analyze the data.

⁶⁶ The Department plans to release a Request for Proposal seeking to determine if the motor vehicle and pedestrian data can be analyzed and if so, the methodology that would be used.

the STOP database⁶⁷. In addition, non-discrimination policy training was also incorporated into some of the Department's eight core schools, including Recruit Training, Field Training Officer School, Basic Detective School, Basic Supervisor School, Detective Supervisor School, Watch Commander School, Command Development, and the Continuing Education Delivery Plan Modules I-V ("CEDP I-V")⁶⁸. The training on the non-discrimination policy in the above-mentioned schools was not adequate because none of the relevant lesson plans included interactive problem-solving exercises focusing on topics relevant to an officer's duties related to conducting motor vehicle and pedestrian stops. The Monitor considers these exercises integral to the learning process in this area; the training is not adequate absent them⁶⁹.

Current Assessment of Compliance

In addition to training, the Department is required to have in place an internal supervisory and annual audit process in this area to review conformance to paragraph 102-105. To date, the Department does not have such an audit process. The Inspector General's Review of Quarterly Discipline Reports, dated September 16, 2002, includes a review of all racial profiling complaints completed and closed during the first quarter of 2002. This is not an audit measuring the Department's compliance or non-compliance with its non-discrimination policy.

The methodology for paragraphs 102 and 103 requires the Department to release an RFP for analysis of the collected field data. The Department claims the RFP is in the final stages of development; nevertheless, it has not been released.

The Monitor finds the Department to be in primary compliance but not in secondary compliance with the provisions of paragraphs 102 and 103. The Monitor has not yet evaluated the Department's functional compliance for these paragraphs.

⁶⁷ The STOP program is a program designed by ITD and programmed by ITA. STOP provides officers with the means to update Field Data Reports, allows for the manual entry of unscannable reports, provides auditing capabilities, generates various detailed reports concerning erroneous and missing reports, and loads scanned corrected data into the database.

⁶⁸ CEDP is in-service training organized in the subject matter based modules required. This training is mandatory for Lieutenants and below except for CEDP V, which is required of all members of the Department including civilian members. The focus of CEDP V is ethical decision making. Ultimately, the Continuing Education Division will develop eight CEDP modules.

⁶⁹ In September 2002, the Monitor was informed that the Department developed and initiated roll call training on discrimination that includes interactive exercises, has not been reviewed by the Monitor. Since the Monitor has not yet reviewed the training, it is not included in the current assessment of compliance. Next quarter, the Monitor plans to review and attend the training session and will report our findings in the next quarterly report.

Motor Vehicle and Pedestrian Stops

Paragraph 104

Paragraph 104 mandates that by November 1, 2001 the Department shall require officers to complete a report⁷⁰ each time they conduct a motor vehicle stop.

Paragraph 105

Paragraph 105 mandates that by November 1, 2001 the Department shall require officers to complete a report each time they conduct a pedestrian stop.

Background

The Department began collecting data on November 1, 2001 and has continued to do so since that date. Despite these collection efforts, the Monitor, until this report, has not found the Department in compliance with paragraphs 104 or 105. Non-compliance was primarily due to the serious delays and deficiencies in the scanning and data extraction process related to the Field Data Reports (“FDRs”), which rendered the database unusable and led to serious concerns regarding the integrity of the data that was entered into the system.

Current Assessment of Compliance

While the Department struggled to rectify the problems associated with the scanning and extraction of data, the City and the Department, working together, developed a comprehensive strategy to reduce the officer initiated error rate, which also contributed to the problems with the database. Through training, internal audits, and the continuous upgrading of the STOP application, the Department was able to significantly reduce the officer-initiated error rate.

In July, the City and the Department identified a new vendor, Scantron, to assume the scanning and data extraction responsibilities from U.S. Data Source, the Department’s original vendor on this project. A successful trial period was conducted in August and Scantron assumed full responsibility for the scanning and data extraction of all new FDRs. U.S. Data Source will continue to work on the old FDRs in their possession. Due to these developments, the error rate of the entire database, which contained 651,639 field data reports as of September 30, 2002, was 3%. The error rate for the quarter beginning July 1, 2002 through September 30, 2002 was 1%

⁷⁰ The report utilized by the LAPD is a Field Data Report, which is a paper form used by officers to gather specific information relating to pedestrian and motor vehicle, stops. The information includes: the individual’s apparent age, apparent ethnicity, apparent race or national origin, gender, reasons for the stop, whether the driver was required to exit the vehicle, whether a pat down/frisk was conducted, action taken and whether the driver is required to exit the vehicle, whether the driver was asked to submit to a consensual search of his or her person, vehicle and/or belongings and, if so, whether he or she granted such permission; and other items relative to consensual and non-consensual searches.

Despite the recent accomplishments by the Department in this area, there is still a backlog of approximately 200,000 records. Currently in U.S. Data Source's possession are 122,534 rejected files and 82,930 missing files⁷¹. Although it is unclear when these files were specifically collected, it is known they were collected between November 1, 2001 and June 30, 2002. The Department must make a decision as to how it is going to manage this situation if U.S. Data Source is unable to successfully correct and recover these files.

The Monitor was unable to assess functional compliance due to the unavailability of complaint samples and the time constraint related to pulling a data sample as required by the monitoring methodologies. To measure functional compliance, the Monitor is required to review all Internal Affairs pedestrian and motor vehicle complaints sampled to measure compliance under paragraph 74. The sample, from Internal Affairs, consisted of 19 complaints filed between October 11, 2001 and February 14, 2002. None of these cases related to motor vehicle or pedestrian stops. In addition, the Monitor must select a sample of field data reports and analyze the accuracy of the information collected on the data. Due to time constraints, the Monitor was unable to pull a sample and review data in this quarter, but is working with the Department in pulling a sample of field data reports and all related paperwork for review next quarter.

Although the Consent Decree does not specify either written or electronic reporting, the Department has been making steady progress towards developing a program to capture the FDR data electronically. As reported in the Monitor's last report, the Department had released a request for proposal for hand held data collection devices. On July 17, 2002, eleven proposals were received. An evaluation committee comprised of members from the City Legislature's Office, the Mayor's Office, Management Services Division, Information Technology Division and Information Technology Agency is reviewing the proposals. Once the review is complete, the evaluation committee will present the proposals to an executive committee made up of City leaders and the Captains from the Divisions mentioned above. This committee will select the vendor and is currently scheduled to meet October 28, 2002.

The Monitor finds the Department to be in primary, and secondary compliance with paragraphs 104 and 105 based on its achieving a complete database since July 1, 2002. Because there are in excess of 200,000 records collected but not currently contained in the data set, the Monitor is continuing its determination of non-compliance. The Monitor will continue to closely follow the City's efforts to recapture this data.

⁷¹ Missing in the sense that U.S. Data Source picked up the hard copy of the reports from the Department scanned the reports, sent them to the Department but because of too many errors the Department sent them back to U.S. Data Source. U.S. Data Source is unable to locate all the files that were sent back to the Department. The LAPD is in possession of the hardcopies of these reports.

IV. MANAGEMENT OF GANG UNITS

During this quarter, the Monitor reviewed the LAPD's management of gang units⁷², including supervisory oversight, the selection process of SEU officers, daily operations, and the monthly audits of gang units. Based upon the serious issues identified in each of these areas, the Monitor is concerned that gang units are not being adequately supervised.

The selection process for SEU officers lacks uniformity and standardization department-wide. Selection packages were lacking required documentation such as TEAMS Reports and Complaint Histories, and the requirements for written supervisory review of pending or sustained complaints was not met.

The Monitor identified a number of additional areas of concern regarding the daily operations of the gang units, most notably a lack of field supervision. The deployment of the gang units does not address the need for consistent presence and field supervision is lacking even during the limited deployment that exists. There are administrative concerns such as lack of supervisors' signatures documenting oversight of officers' activities. Lastly, the Monitor did not receive requested documentation necessary for review of paragraphs 106 and 107, such as Daily Field Activity reports and Sergeants' Logs, contributing to the findings of non-compliance.

The responsibility of the monthly audits of the gang units lies with the Bureau Gang Coordinators. The Detective Services Division has issued directives to the Bureau Gang Coordinators regarding the standardized procedures to be followed when conducting such audits, however the Monitor notes that such directives have not been consistently followed. One of these directives identified that the Detective Services Division was required to prepare quarterly progress reports to summarize and evaluate these monthly audits, with the first one being due by July 15, 2002. The Monitor has been informed by the Detective Services Division that no such reports have been prepared as of this writing.

The Monitor found that some of these audits did not include methodology, did not attach work papers showing what they reviewed and did not state the dates of on-site inspections or who performed the review. The Monitor recommends that a standardized procedure be utilized for Bureau Gang Coordinators to conduct the monthly gang units.

Paragraphs 106(a) and 106(h)

Paragraph 106(a) mandates that each unit shall be assigned to an Area or Bureau, and shall be managed and controlled by the Area or Bureau command staff. The Citywide and Bureau Gang Coordinators direct the bureau-wide and citywide activities of these units, provide training and technical assistance, and are involved in coordinating and providing information for the audits of these units.

⁷² Gang units include Special Enforcement Units ("SEUs"), Career Criminal Detail ("CCD"), Community Law Enforcement and Recovery Program.

Paragraph 106(h) mandates Bureau Gang Coordinators monitor and assess the operation of all units in their respective bureaus that address gang activity.

Background

The Monitor's second report, dated February 15, 2002, addressed the LAPD's audits of SEU work product, dated June 30, 2000 and June 22, 2001. Because these audits were completed prior to the finalization of the Methodologies, the Monitor made definitive findings regarding compliance with the requirements of paragraphs 106(a) and 106(h). The Methodologies regarding these paragraphs were finalized in April 2002.

In subsequent reports, the Monitor discussed SEU officers' lack of sufficient training and in-field supervision as well as new operating procedures. The LAPD has been revising their gang training to incorporate Consent Decree requirements; however, these revisions have not been completed.

The Monitor has not evaluated paragraphs 106(a) and 106(h) for compliance until now.

Current Assessment of Compliance

In order to assess primary, secondary and functional compliance with the mandates of paragraphs 106(a) and 106(h) during the current quarter, the Monitor requested and received materials relating to Bureau and Citywide Gang Coordinator activities including training materials and Bureau gang monthly audits. The Monitor received and reviewed the audits for April and May 2002; there were no audits conducted for June per the direction of the Detective Support Division.

The Monitor also reviewed Administrative Order 3, dated March 6, 2000, entitled "Activation of the Special Enforcement Unit."

In the Monitor's assessment of compliance with the secondary requirements of paragraph 106(a), the Monitor conducted interviews with the Bureau and Citywide Gang Coordinators. We discussed the responsibilities of these positions including training and coordination of the gang units and reviewed various documents provided by the Department. The Monitor identified several areas of concern regarding supervision and control over these units, deployment of gang units and Bureau Gang Coordinator oversight.

Citywide Gang Coordinator/ Deployment

The Citywide Gang Coordinator stated to the Monitor that he can promulgate policies and limitations, but he cannot give direction to the Bureau Gang Coordinators or the area captains, and therefore is not responsible for their daily activities. The Citywide Gang Coordinator also informed the Monitor that he is not assessing effectiveness of the gang units as required by Administrative Order 3. The stated reason is that due to the low number of SEU officers assigned and deployed in any given division, it is impossible to assess their effectiveness. The

Monitor disagrees with this position, since an assessment should be possible even if one officer is assigned and deployed.

As part of its review, the Monitor examined the deployment of the gang units. Administrative Order 3 requires the Citywide Gang Coordinator to “monitor deployment and performance of gang...personnel to determine effectiveness”. The Monitor reviewed the deployment for the gang units using Deployment Periods 4, 5 and 6, 2002 and found numerous dates on which no gang units were deployed and several dates on which less than half of the 18 gang units were active, including:

- Saturday, June 15th there was 1 of 18 divisions working citywide;
- Saturday, June 22nd, there were 3 of 18 divisions working citywide; and,
- Department-wide there were 6 of 12 Saturdays when there were no gang units deployed in an entire bureau.

The Monitor had also hoped to address the effectiveness of the gang units while deployed, but the gang arrest statistics and other additional documentation were not received from the LAPD in an accurate or timely fashion. This delay caused the Monitor to limit the deployment review of the gang units to Fridays and Saturdays.

On August 29, 2002, the Citywide Gang Coordinator and Detective Support Division held a citywide gang seminar for all SEU officers. This seminar was held in lieu of regular gang training by the Continuing Education Division, which was halted in January 2002. This seminar was well presented and the Monitor commends those officers and command staff who presented the seminar.

Bureau Gang Coordinators / Audits

Administrative Order 3 requires Bureau Gang Coordinators to “review all arrest reports and use of force reports.” Bureau Gang Coordinators have told the Monitor they are not assessing effectiveness of the gang units, as required by Administrative Order 3, stating that this is the responsibility of the Area Captains, who in turn will notify the Bureau Gang Coordinators if there is a problem with their gang unit’s effectiveness. Two Bureau Gang Coordinators told the Monitor that they only review about half of all the arrest reports.

Not all Bureau Gang Coordinators are conducting inspections of the Areas for the monthly audits. Some of those that do conduct inspections are utilizing staff to do so, which is acceptable. However, certain Bureau Gang Coordinators who utilize staff are not aware of the methodologies employed in the audits, nor are they aware of the audits findings; they submit the audits to Detective Support Division with no knowledge of the audits’ content. This practice is unacceptable. In addition, Bureau Gang Coordinators are not following up with the Area Captains on issues identified in the monthly gang audits. This lack of follow-up eliminates the ability to resolve problems and ensure compliance in future audits.

The Monitor conducted a review of the Bureau Gang Coordinator audits from all four bureaus for April and May 2002 (eight audits total) to ensure they constituted a meaningful and substantive review of gang unit activity. These audits should reasonably address the substantive elements of paragraph 106, establish a standard for each item, and include a measure, a data collection methodology, an analysis, and recommendations regarding each item.

The Monitor identified the following issues regarding the audit reports reviewed:

- Four of the eight audits stated the criteria they used in their review.
- Two of the eight audits indicated how they drew their random sample.
- Four of the eight audits attached work papers or source documentation of their review.
- None of the audits indicated who conducted the on-site inspections or the dates of these assessments.
- One of the eight audits indicated which Consent Decree paragraphs were being assessed, articulated how the personal inspection was performed, and listed the methodology used for assessing compliance.

Detective Support Division noted that the audits prior to June 2002 had no direction or uniformity. On June 3, 2002, Detective Support Division issued correspondence to help resolve these problems.

The Monitor finds the LAPD to be in primary compliance with paragraph 106(a), since Administrative Order 3 adequately addresses the responsibilities of the Bureau and Citywide Gang Coordinators. The Monitor finds the LAPD to be in primary compliance with paragraph 106(h), since Administrative Order 3 establishes the provisions for the monthly audits of the Bureau Gang Coordinators.

Based upon the analysis described above, and the fact that the policies and procedures outlined in Administrative Order 3 are not being implemented in a manner responsive to paragraphs 106(a) and 106(h), the Monitor finds the LAPD in non-compliance with the secondary and functional requirements of these paragraphs.

Recommendations

The Monitor proposes the following recommendations:

- The Bureau Gang Coordinators should implement the June 3, 2002 Interdepartmental Correspondence issued by Detective Support Division. This document outlines the procedures to be used for the gang audits and should be utilized as a guideline for future gang audits;

- The Bureau Gang Coordinators should follow-up with each of the area commanding officers regarding any problems found in the monthly gang audits to improve future audits and/or the daily operations of the gang units.
- The Detective Support Division should review the gang audits after they are submitted by the Bureau Gang Coordinators and provide any feedback for improving the audits and/or the operations of the gang units;
- The Bureau Gang Coordinators should receive proper training on how to address the requirements of Administrative Order 3, including assessing the effectiveness of the gang units and how to conduct the monthly gang audits;
- Deployment of resources must be consistent with an overall strategy for combating gang violence and addressing patterns of criminal activity; and
- The Monitor reiterates its recommendation from the previous Quarterly Report that the LAPD's Audit Division should oversee the performance of these audits, and should call upon the subject matter expertise of the Bureau Gang Coordinators for the performance of such audits.

Paragraph 106(b)

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

Background

The LAPD established the minimum eligibility requirements for all SEU personnel in Administrative Order 3 dated March 6, 2000. The Monitor found that these provisions adequately address the requirements of paragraph 106(b) for primary compliance.

Current Assessment of Compliance

In order to assess secondary and functional compliance, the Monitor requested and reviewed the SEU non-supervisory officers' selection and personnel packages from April 1, 2002 to June 30, 2002. The Monitor reviewed a total of sixteen packages. In assessing compliance with the selection criteria the Monitor found a number of discrepancies within the reports and record-keeping, making it impossible to ascertain whether or not the officers selected fit the selection criteria.

The discrepancies are as follows:

- One officer had a complaint found in their personnel package that was not listed on either the TEAMS Report or the Complaint History.
- One officer had no selection package and, consequently, no TEAMS Report or Complaint History for review.

- One officer's TEAMS Report in both the selection package and the personnel package had three illegible pages.
- Four officers did not have a Transfer Applicant Data Sheet (15.88) in their selection packages, and there was no indication that the officers' reassignment requirements were evaluated. However, their personnel packages did in fact confirm that their reassignments were within provisions of paragraph 106(b).

Based on these findings, Monitor finds the LAPD out of compliance with the secondary and functional requirements of paragraph 106(b).

Recommendations

The Monitor proposes the following recommendations for the selection of SEU personnel:

- Standardization of the SEU selection process to ensure uniformity throughout the Department and compliance with paragraph 106(b).
- Proper training regarding the eligibility criteria for the selection process and the appropriate documents to be included in the selection packages.
- Update the Training Management System and other tracking records to accurately reflect the officers' training, proficiencies and other similar criteria.

Paragraph 106(c)

Paragraph 106(c) mandates the eligibility criteria for selection of a supervisor in a gang unit. In addition, without the prior written approval of the Chief of Police, an individual may not be selected as a supervisor in these units until 13 LAPD Deployment Periods have elapsed since the individual's previous assignment in these units as an officer or supervisor.

Background

In the Monitor's first Report for the quarter ended September 30, 2001, the LAPD was found to be in primary compliance with the requirements of paragraph 106(c). The LAPD established the minimum eligibility requirements for SEU personnel in Administrative Order 3 dated March 6, 2000, and these provisions adequately address the requirements of paragraph 106(c).

Current Assessment of Compliance

In order to assess secondary and functional compliance with the mandates of paragraph 106(c) during the current quarter, the Monitor requested and reviewed the SEU supervisors' selection and personnel packages for those supervisors selected to a gang unit from April 1, 2002 to June 30, 2002.

The Monitor reviewed a total of four packages for supervisors that were selected to a gang unit from April 1, 2002 to June 30, 2002. In assessing compliance with the selection criteria including, but not limited to, experience, leadership, and supervisory and administrative skills and reassignment, the Monitor found a number of discrepancies within the reports and record keeping making it impossible to ascertain whether or not the supervisors selected fit the selection criteria. The discrepancies are as follows:

- One supervisor had a no Complaint History (due to the inaccuracies with the TEAMS Reports, this Complaint History is necessary for review).
- Two supervisors had pending complaints; and there was no indication of review of these complaints were reviewed at the time of selection.
- One supervisor did not have a Transfer Applicant Data Sheet (15.88) in their selection package, and there was no indication that the officer's reassignment requirements were evaluated. However, their personnel packages did in fact confirm that their reassignments were within provisions of paragraph 106(c).

Based on these findings, the Monitor finds the LAPD out of compliance with the secondary and functional requirements of paragraph 106(c).

Recommendations

The Monitor's recommendations proposed in connection with paragraph 106(b) apply equally to paragraph 106(c).

Paragraph 106(d)

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

Background

The LAPD faces a staffing crisis in 2003 that results from the majority of the officers in the gang units being assigned to the new SEUs in March 2000 under the mandates of the Consent Decree. All of these officers could potentially be simultaneously rotated out in the summer of 2003. The Monitor previously recommended that the LAPD devise a strategy of staggering its deployment periods to avoid this impending problem. In response, the LAPD has prepared an SEU Transition Plan, dated August 16, 2002, which has been approved by the Police Commission.

Current Assessment of Compliance

In order to assess primary, secondary and functional compliance, the Monitor requested and received materials relating to policies and procedures for the tour assignment of current SEU officers.

The Monitor reviewed Administrative Order 3, dated March 6, 2000, "Activation of the Special Enforcement Unit", which established the provisions for limited tour assignments for SEU officers not to exceed 39 Deployment Periods without written approval of the bureau commanding officer.

With the creation of SEUs in March 2000, the earliest time that any SEU officer should be reassigned is March 2003. The Monitor reviewed a reassignment schedule for SEU officers and current SEU rosters, which list all SEU personnel by date of original assignment and the date scheduled for reassignment out of the gang units.

Each SEU officer on roster is currently scheduled to transfer from his or her unit on or prior to the limited 39 Deployment Periods. In March 2003, the Monitor will begin reviewing the actual reassignments of these SEU officers to non-gang units.

The Monitor finds the LAPD to be in primary, secondary and functional compliance with the provisions of paragraph 106(d).

Paragraph 106(e[iv])

Paragraph 106 sets forth a series of requirements for officers who work within the SEU units, including paragraph 106(e[iv])m which mandates that unit supervisors and non-supervisory officers shall continue to check out and return all field equipment from the Area kit room on a daily basis.

Background

The provisions for paragraph 106(e[iv]) were not evaluated until this current quarter.

Current Assessment of Compliance

In order to assess primary, secondary and functional compliance with the mandates of paragraph 106(e[iv]), the Monitor requested and received materials relating to Area kit room field equipment including Area Kit Room Logs, Daily Worksheets and Daily Field Activity Reports. The Monitor reviewed a stratified sample of dates from deployment periods 4, 5 and 6, 2002.

The Monitor found the following:

- Three Daily Worksheets were missing from the sample of 108 deployment days reviewed.
- Six Daily Activity Reports were missing from the sample of 108 deployment days reviewed.
- 64% of the police vehicle shop numbers and rover numbers assigned to gang officers deployed in the field were consistent throughout the documents reviewed.

- 81% of the gang officers that were deployed (in marked vehicles) were assigned vehicle numbers according to the documents reviewed.

The Daily Worksheets and Daily Field Activity Reports were reviewed to determine which gang officers were assigned which equipment. Because of the inconsistencies found regarding the assigned equipment numbers, the Monitor was unable to determine from the Area Kit Room Logs, which assigned equipment was checked out and returned by the officers at the end of the watch

Based upon the analysis described above, the Monitor finds the LAPD to be in primary compliance, but not in secondary and functional compliance with the provisions of paragraph 106(e[iv]).

Paragraph 106(f)

Paragraph 106(f) addresses the daily activities of gang unit supervisors.

Background

The Monitor's Report for the quarter ending March 31, 2002 discussed SEU officers' lack of training, in-field supervision, and newly implemented operating procedures. The LAPD has been revising its gang training to incorporate Consent Decree requirements; however, this training has not been completed as of this report. The Monitor has not previously evaluated paragraph 106(f).

Current Assessment of Compliance

In order to assess primary, secondary and functional compliance with paragraph 106(f) during the current quarter, the Monitor requested and received materials relating to daily field presence and gang unit activities for Deployment Periods 4, 5 and 6, 2002.

The Monitor also reviewed Administrative Order 3, dated March 6, 2000 and found it addressed the primary requirements of paragraph 106(f) regarding the responsibilities of the Bureau and Citywide Gang Coordinators.

In assessing secondary and functional compliance, the Monitor reviewed Daily Worksheets ("DWSs"), Daily Field Activity Reports ("DFARs"), Sergeant Logs, and Watch Commander Logs relating to gang unit operations. The Monitor reviewed a stratified random sample of dates for Deployment Periods 4, 5 and 6, 2002. The Monitor found the following:

Material Issues:

- Supervisors provided a field presence in 30 out of 86 deployment days reviewed⁷³.
- Total field presence time was 4,725 minutes out of a possible 54,180 minutes reviewed.
- 97 entries by gang officers for activities listed on Daily Field Activity Reports were written as “gang suppression” or “did so” without any specific details⁷⁴.
- Supervisors provided the required signature for the end of watch on 62 out of 102 Daily Field Activity Reports, or 60% of the time.

Administrative Issues:

- The total number of gang officer days available to be deployed was compared with the number of deployment days reviewed. There were 811 officer days reviewed out of a possible 1,212 officer days available. Of the remaining 401 gang officer-days, 327 of them were listed as off-duty, sick, on vacation, or loaned out, and the additional 74 officer-days were unaccounted for⁷⁵.
- Of the 108 deployment days reviewed, there was 1 day that the gang officers deviated from Administrative Order 3; in this case, the officers were in plain clothes. Although there was indication of approval for this deviation in the Watch Commander Log, there was no mention of the gang officers being in plain clothes or of prior approval for this deviation in the Sergeant’s Log.
- Only 439 of the 549 pedestrian stops recorded on the Daily Field Activity Reports listed the corresponding field data report number. Some gang officers listed the field data report numbers in the booking number field, not distinguishing between the two.
- Signatures of the supervisor and Watch Commander on the Sergeants Logs’ were present on 76 out of 86 logs.
- Signatures of the supervisor on the Daily Activity Field Reports were present on 62 of 102 logs.
- In 47% of the reports reviewed, individual times entered on the Daily Field Activity Reports by gang officers, when aggregated, did not match the total watch time worked, as entered on the report.

⁷³ Of the 108 Sergeants Logs requested, 22 were missing from the sample received. In addition, of the 108 Watch Commander Logs requested, 13 were missing from the sample.

⁷⁴ This issue raises a concern with officer accountability and was previously raised in the Board of Inquiry into the Rampart Area Corruption incident public report.

⁷⁵ The reason that these 74 gang officers were unaccounted for is not known at this time, although the Monitor agrees with the possibility that it is simply a recording issue.

- Of the 108 Daily Worksheets requested and necessary for review, 3 were missing from the sample.
- Of the 108 Daily Field Activity Reports requested and necessary for review, 6 were missing from the sample.

The Monitor also conducted a review of CAL-Gang Training for all gang officers who have access to and utilize the CAL-Gang tracking system. The Monitor found a lack of documentation and tracking on the part of the Department and the Training Management System regarding CAL-Gang training. The Monitor then used the User Agreements provided by Detective Support Division to further assess which officers had this training⁷⁶. Because the Training Management System printouts are used in the selection process of officer candidates for placement in the gang units and for reassignment within these gang units, the Monitor compared the User Agreements and the listings in the Training Management System. The Monitor reviewed this training within the context of paragraph 106(f), as it directly relates to unit supervisor's oversight of the training of their units' officers.

The Monitor found the following regarding the 301 officers listed on the SEU roster as of August 12, 2002:

- 77 officers are listed in the Training Management System as having had the CAL-Gang training as of August 20, 2002.
- 224 officers are not listed in the Training Management System as having had the CAL-Gang training as of August 20, 2002.
- 172 officers have a CAL-Gang User Agreement but are not listed in the Training Management System.
- 75 officers have a CAL-Gang User Agreement and are listed in the Training Management System.
- 52 officers do not have a CAL-Gang User Agreement and are not listed in Training Management System.
- 2 officers do not have a CAL-Gang User Agreement but are listed in the Training Management System.
- 233 officers are listed on the user list as having used the CAL-Gang tracking system as of August 8, 2002.
- 68 officers are not listed on the user list as having access to the CAL-Gang tracking system as of August 8, 2002.

⁷⁶ These User Agreements are signed and dated by each officer on the last day of the CAL-Gang training, as a promise of security and confidentiality regarding the system.

The CAL-Gang System is integral to intelligence gathering for gang activity. The effectiveness of gang officers is dependent upon the correct use of the system. It is clear that the Department is not keeping accurate records of officers' CAL-Gang training⁷⁷.

Based on the analysis described above, the Monitor finds the LAPD to be in primary compliance, but in non-compliance with the secondary and functional requirements of paragraph 106(f).

Paragraph 106(g)

Paragraph 106(g) provides area managers with responsibility for the Unit Supervisors.

Background

The Monitor's Report for the quarter ending March 31, 2002 discussed SEU officers' general lack of sufficient training, in-field supervision and training in the new operating procedures. The LAPD was revising their gang training to incorporate the Consent Decree requirements; however, this training has not been completed as of this report.

The Monitor has not evaluated paragraph 106(g) for compliance until now.

Current Assessment of Compliance

In order to assess primary, secondary and functional compliance, the Monitor requested and received materials relating to area managers' supervision of the gang units. The Monitor reviewed Administrative Order 3, dated March 6, 2000 and found it addressed the primary requirements of paragraph 106(g) regarding the responsibilities of the area managers.

In order to assess secondary and functional compliance, the Monitor reviewed LAPD requirements relating to commanding officer oversight. Special Order 25, dated August 10, 2001, states that within one week of serving a search or Ramey warrant, a commanding officer shall provide any observations or comments for inclusion in a written debriefing critique.

The Monitor found the LAPD in functional non-compliance with commanding officer review for written debriefing critique requirements of paragraph 71.

In addition, Special Order 25 states that commanding officers shall "maintain the log for their command in the area or specialized division office" and "ensure that each...warrant prepared under his/her command is recorded and properly updated on the log". The Monitor found the LAPD in functional non-compliance with the warrant tracking log requirements of paragraph 72.

⁷⁷ Through Detective Support Division, the Department has stated to the Monitor that their Training Management System records regarding CAL-Gang training have not been updated and they are currently trying to rectify the situation.

Administrative Order 3, dated March 6, 2000, lists a number of different responsibilities for commanding officers including ensuring supervisory presence in the field and proper selection of SEU personnel, and ensuring adequate supervisory control of the SEU. The Monitor found the LAPD in functional non-compliance for paragraph 106(b), 106(c), 106(e [iv]), and 106(f) relating to the previously mentioned responsibilities of commanding officers.

The Monitor finds the LAPD to be in primary compliance with paragraph 106(g). However, based upon the findings regarding commanding officer supervision, and the fact that procedures outlined in Administrative Order 3 are not being implemented in a manner responsive to paragraph 106(g), the Monitor finds the LAPD in non-compliance with the secondary and functional requirements of paragraph 106(g).

Paragraphs 107(a) and 107(c)

Paragraph 107(a) 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.

Paragraph 107(c) 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

Since paragraphs 107(a) and (c) are "meet and confer" items, the Monitor has not previously assessed compliance with these paragraphs.

Current Assessment

As described above, paragraph 107(a) and (c) are meet and confer items. Accordingly, the Monitor is not currently assessing compliance with these paragraphs but is, instead, providing the following observations and recommendations.

The Monitor reviewed personnel and selection packages of sixteen non-supervisory officers and four supervisors who were selected to a gang unit between April 1, 2002 and June 30, 2002. The Monitor found the following:

- 3 of 20 selection packages included a written explanation of sustained or pending complaints. 16 of 17 selection packages remaining had sustained or pending complaints with no written explanation.

- 18 of 20 selection packages reviewed had a TEAMS report⁷⁸.
- One officer had a complaint found in his/her personnel package that was not listed on either the TEAMS Report or the Complaint History⁷⁹.
- One officer had no selection package.
- Two supervisors had pending complaints and no indication of review of these complaints at the time of selection.

Recommendations

The Monitor proposes the following recommendations regarding the selection of SEU personnel:

- The SEU selection process should be standardized to ensure uniformity throughout the Department, and compliance with paragraph 106 and 107.
- Training regarding eligibility criteria for selection and the appropriate documents to be included in the selection packages.
- Regular updates to the Training Management System and other tracking records to accurately reflect officers' training, proficiencies and other similar criteria.

Paragraph 107(b)

Paragraph 107(b) mandates that the procedures for the selection of all officers into 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 has not previously assessed compliance with paragraph 107(b).

Current Assessment of Compliance

The Monitor reviewed compliance with paragraph 107(b) in conjunction with the assessment of compliance with the mandates of paragraph 106(b) and (c) during the current quarter. The Monitor requested and reviewed the SEU supervisors and non-supervisory officers' selection and personnel packages for those selected to a gang unit from April 1, 2002 to June 30, 2002 to assess compliance with paragraph 106(b) and (c).

The Monitor first notes that an Interdepartmental Correspondence dated October 15, 2001 was sent to all Bureau Commanding Officers from the Department Gang Coordinator regarding

⁷⁸ Until TEAMS II becomes operational, the Monitor used the current TEAMS printout for review.

⁷⁹ Due to the inaccuracies with the TEAMS Reports, this Complaint History is necessary for review.

Special Enforcement Unit Selection Procedure. This correspondence attempted to establish standardization of the SEU selection process and compliance with paragraph 107(b). The Monitor recognizes that this correspondence is a step towards establishing standardization of the SEU selection process and is part of the LAPD's continuing efforts at standardization and uniformity. Nevertheless, it is not being implemented as a means of conducting the selection process at this time, perhaps due in part to it not being a standing order.

The Monitor reviewed selection and personnel packages of sixteen non-supervisory officers and four supervisors that were selected to a gang unit from April 1, 2002 to June 30, 2002. For paragraph 107(b), which requires a formal, written application process, oral interview(s) and the use of TEAMS II⁸⁰ and annual performance evaluations to assist in evaluating each selection, the Monitor found the following, which have a direct impact upon current compliance:

- 4 of 20 selection packages reviewed included indication or documentation of an oral interview.
- One officer had no selection package.

In addition, since there were no completed selection packages available for reviews (i.e. all selection packages were found to be lacking required documentation), the Monitor was unable to assess the reasonableness of the selection process.

The Monitor also identified the following issues that do not currently impact upon compliance since they involve "meet and confer" items but are included here for informational purposes:

- 16 of 20 selection packages reviewed included performance evaluation reports.
- None of the 16 performance evaluation reports included were signed by appropriate supervisors.
- 18 of 20 selection packages reviewed had a TEAMS report.
- One officer had a complaint found in his/her personnel package that was not listed on either the TEAMS Report or the Complaint History. (Due to the inaccuracies with the TEAMS Reports, this Complaint History is necessary for review.)
- One supervisor had a "no Complaint History" and due to the inaccuracies with the TEAMS Reports, this Complaint History is necessary for review.

Based upon the analysis described above, and the fact that policies and procedures outlined in Interdepartmental Correspondence are not being implemented in a manner responsive to paragraph 107(b), the Monitor finds the LAPD in non-compliance with the primary, secondary and functional requirements of paragraph 107(b).

⁸⁰ Until TEAMS II becomes operational, the Monitor used the current TEAMS printout for review.

Recommendations

The Monitor's proposed recommendations relative to paragraph 107(a) and (c) apply to paragraph 107(b).

V. CONFIDENTIAL INFORMANTS

The Monitor will assess the LAPD's procedures for handling informants in its report for the quarter ending December 31, 2002.

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

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

The Consent Decree further mandated that the Department prepare a report for the Police Commission detailing its findings and recommending changes in policies, procedures, and training regarding police contact with persons who may be mentally ill with the goal of de-escalating the potential for violent encounters. In addition, recommendations were to include proposals on potential methods for tracking calls and incidents dealing with persons who may appear to be mentally ill.

The LAPD's report to the Police Commission concerning the Mental Illness Project was submitted timely by July 15, 2002. The report contained the Department's findings and recommendations. On September 24, 2002, the LAPD submitted a supplemental report to the Police Commission indicating that \$1.9 million would be required to implement revised recommendations concerning the Mental Illness Project. The report and funding requests were approved at the October 8, 2002 meeting of the Police Commission subject to subsequent reopening of the topic to address the concerns of the Department of Justice.

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

Paragraph 112

The Department is required to prepare a report for the Police Commission detailing the results of an evaluation of successful programs in other law enforcement agencies across the United States dealing with police contacts with persons who may be mentally ill, as well as an evaluation of LAPD training, policies and procedures for dealing with persons who may be mentally ill.

Background

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

The Department's findings included a judgment that LAPD's incident tracking systems, including Use of Force, did not readily identify incidents that involved persons who may be mentally ill. As a result, the ability to evaluate the effectiveness of the LAPD's response and to identify trends or training issues was limited. The Department also found that there "may be better methods of training to ensure a greater understanding and sensitivity regarding persons who may be mentally ill."

Among its recommendations, the Department advocated the following:

- Centralized authority for the Mental Health Crisis Response Program ("MHCRP") supervised by the Commanding Officer, Detective Services Group ("DSG").
- Citywide expansion of the System-wide Mental Assessment Response Team ("SMART") which is a collaborative effort between the Department of Mental Health ("DMH") and the LAPD that responds to calls involving persons who may be mentally ill.
- Expansion of the Mental Evaluation Unit ("MEU") which assists police officers in screening persons with whom they come in contact that are suspected of having a mental illness.
- Assignment of a lead officer (Coordinator) to supervise and coordinate the Department's MHCRP.
- Expansion of the Crisis Intervention Team Pilot Program ("CIT"), which is currently located in the Central Area, to include the Van Nuys Area.
- Evaluation of tracking systems including the Consolidated Crime Analysis Database ("C-CAD"), the dispatch system, Use of Force forms, and the SMART/MEU incident tracking system.
- Review, revision and implementation of training programs for officers including the current CIT Pilot Program 40-hour training curriculum.
- Enhanced dispatch training to better facilitate initial identification and dispatching of calls involving persons who may be mentally ill.

On July 29, 2002, the Department of Justice informed the City of its concerns with the LAPD report. Department of Justice comments were based on a comparison of the LAPD report to the analysis and recommendations contained in their consultant's report. The letter articulated the following:

- The report did not explain the LAPD's rejection of a two-layered response (referring to citywide implementation of SMART and CIT) to persons in mental health crisis.
- The report did not adequately explain the Department's failure to recommend a citywide expansion of the CIT Program.
- The report did not adequately explain whether and how LAPD would achieve full coverage by SMART units.
- The report did not include an adequate proposal for improving the Department's dispatch system.
- The report failed to address the recommendation for an integrated system to track calls and incidents made by the Department's consultant.

On July 30, 2002, the LAPD made a presentation to the Police Commission concerning its findings and recommendations. The Police Commission requested that the LAPD respond to the Department of Justice concerns and report back to the Police Commission.

Current Assessment of Compliance

The City's response to the Department of Justice is pending. On September 24, 2002, the LAPD submitted a supplemental report to the Police Commission indicating that an additional \$1.9 million to implement revised recommendations concerning the Mental Illness Project would be required. The report and funding requests were approved at the October 8, 2002 meeting of the Police Commission subject to subsequent reopening of the topic to address the concerns of the Department of Justice.

As a result, the LAPD will seek additional analysis from its Consultant to assist in development of evaluation criteria and an "evaluation tool" for expansion of the CIT program citywide. The CIT Program will be expanded to Van Nuys Area in January 2003 and be evaluated at the completion of a six-month review period. Training will begin in October 2002.

Position authority and funding will be sought from the City Council and Mayor for:

- authorization of a Consent Decree Mental Illness Project Coordinator (Lieutenant II);
- eighteen additional positions in the Detective Services Group;
- expansion of the SMART/MEU Program to 24, thereby providing at least one SMART unit in each geographic bureau, 24 hours a day, seven days a week; and

- computer system modifications for data collection and tracking. If approved, the Consolidated Crime Analysis Database (“C-CAD”) will be modified to include a new report type called “mental illness.” A new “MO” code will be added to identify mental illness as a factor that could be present in any incident. In addition, the MEU data system will be modified to document incidents and better connect to other systems.

As part of the data collection and tracking system, the Mental Illness Project Coordinator will review all completed Non-Categorical and Categorical Use of Force investigations in which the responding officer perceived that the individual involved may have been mentally ill.

Although the Department has made substantial progress, the Monitor withholds determination of functional compliance with the provisions of paragraph 112 pending resolution of Department of Justice concerns⁸¹.

VII. TRAINING

A. FIELD TRAINING OFFICER PROGRAM

Paragraphs 114-116 focus on the eligibility and training of Field Training Officers (“FTOs”). FTOs are police officers at the rank of P III (senior police officer rank) who are assigned to work with a P1 officer (a probationary officer out of the academy). FTOs work with their probationary officer on a daily basis throughout the P1’s probationary period. FTOs are responsible for their field training and are required to evaluate the P1’s performance on a daily basis. These paragraphs are written to ensure that the officers chosen to be FTOs, who are essentially responsible for the professionalism, skill and quality of the future department, are qualified and appropriately trained to educate newer members of the Department. During a time of reform it is especially critical that FTOs are carefully selected and properly trained since they will be integral to the development of new officers and the thorough implementation of the Department’s new policies and practices. The Monitor was unable to determine, from the FTO selection packages provided, that the Department was selecting FTOs based on the criteria outlined in paragraph 114. Therefore, the Monitor did not find the Department in compliance with this paragraph.

⁸¹ The monitor is currently reviewing Department of Justice concerns and shares the concern about the Department’s failure to recommend the deployment of CIT citywide. The CIT Pilot Program Evaluation Report dated January 9, 2002 was very positive about the program. It was noted that UOF incidents were “remarkably low” for CIT officers. When untrained officers were partnered with trained CIT officers, many of the untrained officers expressed interest in receiving CIT training. The untrained officers saw benefits to CIT type training even when not dealing with persons who may be mentally ill. Additionally, the Monitor is concerned about how calls and incidents will be integrated with the dispatch system and how they will be tracked in the future. This will be reviewed during the next quarter.

Paragraph 114

Paragraph 114 requires the Department to continue implementing formal eligibility criteria during the FTO selection process. If an officer is to be considered for an FTO position, he or she must demonstrate analytical skills, interpersonal and communication skills, cultural and community sensitivity, diversity, and commitment to police integrity.

Background

The Monitor, prior to this report, had not reviewed this paragraph.

Current Assessment of Compliance

In order to assess compliance with this paragraph, the Monitor requested and received the FTO selection packages⁸² from January 1, 2002 through June 30, 2002. There were a total of 23 selection files from this time period. The Monitor reviewed each file with a focus on the actual evaluation process, as documented by each interviewer on evaluation sheets and his or her comments. It was impossible to determine from the selection packages that the interviewers were basing their evaluations and their selection on any of the traits mandated by the Consent Decree.

The evaluation form used by the interviewers highlights different characteristics and skills that the FTO candidates possess. The interviewers, of which there are three present during each interview, use a pre-printed form that lists various characteristics a candidate should have during their evaluation process. They are required to circle an applicable trait that the officer has demonstrated during the interview process and designate a grade such as “outstanding, satisfactory” etc. But for the category that requires an assessment of the officer’s understanding of the Department’s core values, which one could interpret as police integrity, none of the other criteria address the qualities highlighted in paragraph 114. In addition to the interviewer circling the preprinted characteristics, there is a comment section for the interviewer to elaborate on his or her conclusions; the Monitor found that this was often left blank. When comments were included, they did not address any of the qualities specified in paragraph 114.

None of the documentation in these selection files proves that the candidates were selected because they possess the skills described in paragraph 114. Because it does not appear that the FTO selection process is focusing on the criteria outlined in that paragraph, the Monitor does not find the Department to be in compliance with this paragraph.

Paragraph 116

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

⁸² The FTO selection package is supposed to contain the FTO candidate’s personnel file, including his or her TEAMS I printout, as well as the questions and evaluation/comment sheets used by the interviewers during the interview process. Not all of the files contained this information.

Background

FTOs are required to attend a 40-hour POST⁸³- mandated school, as well as “regular and periodic”⁸⁴ re-training on these same topics. POST dictates that the FTO Update School must consist of 24 hours of classroom work.

Prior to this report, the Monitor was unable to review this paragraph due to significant difficulties experienced by the Department in identifying this community of officers. As explained in the Monitor’s Report for the quarter ending June 30, 2002, FTOs are PIII officers and are classified solely as PIIs in the Department’s computer system without any specific code to indicate that they serve the Department as an FTO. Consequently, the Department had no means by which to identify FTO officers using its current computer system. To resolve this, with the help of the then Chief of Police Martin Pomeroy, each division searched, by hand, through its records to identify its respective FTOs over the course of the last year, July 1, 2001 through June 30, 2002. The Monitor has been informed that a new identifying code will be applied to existing and future records so FTOs may be more readily identified.

Current Assessment of Compliance

In order to assess compliance with paragraph 116, the Monitor reviewed the FTO training curriculum for both FTO School and the classes for the Update School to ensure that they reasonably address FTO training needs⁸⁵. The Monitor noted several significant deficiencies in this curriculum. For one, retaliation is not adequately addressed nor is there a learning lesson on this subject. What the curriculum describes as “Putting Crooks in Jail” or “Noble Cause Corruption” does not have a learning lesson, only a small discussion group that does not reconvene to discuss conclusions. The small discussion groups create the potential for an officer to leave the room misunderstanding Department policy and standards because they are never clearly stated. The discussion groups need to reconvene and a clear and consistent standard must be stated and explained to the class. Although there is some discussion in the training regarding negative consequences of fraternization, the training in the lesson plan does not sufficiently address the consequences of disparate treatment of probationary officers. The majority of FTO training is geared towards training the instructor on “how to train”. Even though the majority of FTO training is geared towards training the instructor on ‘how to train’, the Monitor believes the subject matter training on retaliation, noble cause corruption, and disparate treatment of probationary officers is critical and should be expanded in the existing lesson plan.⁸⁶

⁸³ POST stands for the California Commission on Peace Officer Standards and Practices, which must approve police training throughout the state of California.

⁸⁴ For the purposes of this paragraph, ‘regular and periodic’ means every two years. This definition is consistent with the POST definition for ‘regular and periodic’ and what the Los Angeles Police Department considers appropriate.

⁸⁵ FTO School, CEDP I and CEDP II have been POST approved.

⁸⁶ The belief that FTO training can only be “train the trainer” instruction is refuted by the fact that all of the LAPD POST approved FTO update training (CEDP I & II) is subject matter training not ‘train the trainer’ instruction.

In order to assess whether FTOs are actually attending the required training, the Monitor chose a random sample of 90 FTO officers from the total community of 1,300 FTO officers serving from July 1, 2001 through July 1, 2002.

Of the 90 officers reviewed, 88 attended FTO School. The 2 officers who did not receive any training were promoted in October of 2000 and June of 2002. In addition, 2 of the 88 officers received less than 40 hours of training, which is below the POST mandate. Accordingly, a total of 4 officers have not attended FTO School, resulting in a 95% compliance rate. Additionally, 14 officers received training prior to promotion (the remaining 74 officers received training after being promoted and assuming the responsibilities of an FTO). The majority of the officers received training between 2 and 12 months after assuming their position. However, there is one officer who did not receive training until 12 years after promotion.

POST mandates that the Department provide 24 hours of update training. POST has accepted that CEDP I and CEDP II, which are each 8 hours, qualify for 16 of the 24 hours. However, the Department has not developed the class that qualifies for the remaining 8 hours. Therefore, the Department is not in compliance for the Update training⁸⁷. In addition, 7 of the 90 officers have not attended all of the available courses resulting in a 91% compliance rate for the available Update training.

Based upon the above analysis, the Monitor finds that the Department is not in functional compliance with paragraph 116.

B. TRAINING CONTENT

Paragraphs 117 and 118 focus on the content of integrity training and Board of Rights training respectively.

Paragraph 117 requires all sworn personnel to be trained annually on duty to report misconduct, retaliation, cultural diversity, community policing, integrity in report writing, constitutional requirements, the Department's non-discrimination policy and interactive ethical decision-making. Upon review of the curriculums, the Monitor found significant deficiencies in the training curriculum, especially in the area of duty to report and retaliation. Based on this review, the Monitor determined that there was no combination of training classes that an officer could attend that would satisfy the mandates of paragraph 117, therefore the Monitor found the Department not in compliance for this paragraph.

Paragraph 118 requires all civilian members of the Board of Rights to undergo training in police practices and procedures. As there was no formal curriculum, the Monitor reviewed the materials provided by the Department in response to our request for "all training materials" for civilian members of the Board of Rights. Upon review, the Monitor found the training did not

⁸⁷ The Department's original plan was to create a three day school for Update Training, however when the training modules were accepted by POST for 16 of the 24 hours they abandoned that plan and decided to write an eight hour class to supplement CEDP I and CEDP II. As of September 30, 2002, the class had not been developed.

sufficiently cover the Department's practices and procedures to satisfy the demands of paragraph 118.

Paragraph 117

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

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

Background

The Monitor has not reviewed this paragraph prior to this quarter.

Current Assessment of Compliance

To facilitate measuring compliance, the Monitor requested and received from the Department a list of all classes that address paragraph 117. The Department responded with a list of twenty-five mandatory and optional classes. Upon review of this list with a member of the Continuing Education Division, it was discovered that three of the classes on the list are under development and several of the optional classes are provided by outside agencies, therefore the department does not have access to the curricula⁸⁸.

⁸⁸ Field Training Officer Update School was on the list but the Department is no longer going to create a three-day school. Because POST has approved the CEDP modules having 16 of the required 24 hours of update training, the Department only needs to develop an 8-hour school. Gang Awareness School, which is optional, is still under development. The Monitor is unclear why the Department included non-existent classes on the list as satisfying the requirements of paragraph 117.

The Consent Decree requires that the training be delivered on a ‘regular and periodic basis’, which the Monitor has defined for the purposes of this paragraph as annually⁸⁹. Because of the Department’s training cycles, the only way an officer can receive ‘regular and periodic’ training is if they attend at least one of the core eight classes and then a Continuing Education Delivery Plan Module (“CEDP”) or one of the optional classes⁹⁰. Therefore, the Monitor focused the initial curriculum review on the mandatory classes which included, in addition to the core eight classes and the CEDP modules, Non-Categorical Use of Force training (“NCUF”), Consent Decree Source Document training (“CSDST”), and Tools for Tolerance. If the mandatory classes satisfied the requirements of paragraph 117 then the Monitor would review the available curricula for the optional classes and then measure functional compliance. On the other hand, if the mandatory classes do not meet the Consent Decree standards then it is not necessary to review the curricula for optional classes, because no possible combination of classes would sufficiently train an officer on the Consent Decree mandates on a ‘regular and periodic’ basis.

Because recruits make up the smallest portion of the Department and the majority of their training is dictated by POST, recruit training was reserved to be reviewed last. However, due to the deficiencies in the other mandatory training, the Monitor did not complete the review of the recruit training in the context of paragraph 117 during this reporting period. The Monitor will report on the review of recruit training in its next Quarterly Report.

Upon review of the curriculums of the core eight schools the Monitor noted common deficiencies among all the lesson plans regarding the duty to report misconduct, what constitutes retaliation, and the protection afforded to someone who reports misconduct. The Monitor also identified additional deficiencies in a number of lesson plans, among them:

- Except for the Tools for Tolerance training, the mandatory training is very weak in the area of cultural diversity. In several of the lesson plans, this topic is only discussed in the context of the Department’s civil liability, rather than what constitutes appropriate interaction with the community.
- None of the mandatory lesson plans, including Tools for Tolerance, adequately address community policing.
- The quality and coverage of ‘integrity in report writing’ varies between classes. For example, this training is sufficient in FTO School, Basic Supervision School and NCUF training. Although integrity in report review is listed in the objectives of the Watch Commander curriculum, it does not appear anywhere else in the lesson plan. As stated

⁸⁹ The Monitor believes that this integrity training is especially critical during a period of reform. The mandates of paragraph 117 can be integrated into the Department’s in-service training modules (i.e. CEDP I-V). This definition of ‘regular and periodic’ is subject to revision should the training needs of the Department change over the life of the Consent Decree.

⁹⁰ The core eight classes consist of: Recruit training, Field Training Officer school, Basic Supervisor school, Basic Detective school, Detective Supervisor school, Watch Commander school, and Command Development. Except for CEDP V, the CEDP modules, which were designed to provide in service training to officers to meet the requirements of the Consent Decree, are mandatory for Lieutenants and below.

earlier, Watch Commander School has no training on the role and importance of the watch commander log.

- Paragraph 117 requires that the training contain examples of ethical dilemmas faced by officers and if feasible, include interactive exercises. The CEDP modules successfully achieve this mandate through interactive exercises using, among other things, the FATS machine, the taser and tactics training. FTO School is replete with real life scenarios couched in one-on-one language case studies and mentoring. However, there is nothing to ensure that the correct answers in terms of ethics, reporting, responding and documenting are communicated to every FTO candidate in the class and from class to class. Basic Supervisor School is plagued with a similar deficiency, which has a great deal of course material for small discussion groups but nothing in the lesson plan that indicates the groups reconvene and present to the class in the context of department policy and standards so that everyone is trained consistently.

The monitor has prepared a detailed review of the courses and deficiencies noted, and has discussed this review with the Department.

After review and attendance at the CSDST, the Monitor did not find this training satisfied any of the mandates of paragraph 117.

Finally, as part of functional compliance, the Department is required to have an internal inspection and audit process designed to identify indicators of effectiveness or ineffectiveness in training for the mandates of paragraph 117. The Monitor specifically requested that the Department outline their internal inspection and audit process⁹¹. The Monitor received a response from Commander Gascon, Training Group dated August 30, 2002 that stated that the Director of Police Training and Education is tasked with the responsibility of designing general methods of evaluating the effectiveness of training in the field. The response stated that Training Group has made repeated personnel requests to accomplish this goal but these demands have remained unanswered, therefore no inspection/audit process has even been designed.

Based on the analysis above, the Department is not in compliance with paragraph 117 because there is no combination of any classes that would satisfy the requirements of paragraph 117 nor is there any internal audit process in existence to measure the quality of the training.

Paragraph 118

Paragraph 118 mandates that the Department properly train all civilian members who sit on the Board of Rights⁹² (“Board”) in police practices and procedures.

⁹¹ The Monitor recognizes that a full compliance audit, similar to those conducted by the Audit Division, is not required.

⁹² The Board of Rights is the Departments disciplinary body that adjudicates personnel complaints.

Background

The Monitor had not reviewed this paragraph prior to this quarter.

Current Assessment of Compliance

Measuring compliance for paragraph 118 requires the Monitor to review the Board of Rights training, verify that it adequately equips each public member with the requisite knowledge to fulfill their membership expectations, and ensure that the public members are attending the training before becoming active participants. The Monitor requested a list of the public Board of Rights hearing examiners, their class attendance and a copy of the training curriculum. The Monitor received a list of the civilian Board members and the dates that they attended the training. There are 55 civilian members assigned to the Board. Five of the fifty-five Board member's names were withdrawn from the pool because they had not attended training but will be included once they have completed training. Seven members, who are included in the pool, must attend training again because they were re-appointed to the Board.

Because a written training curriculum does not exist, the Monitor was provided a copy of the "Civilian Hearing Examiner Training Day Syllabus"⁹³. The Monitor relied on a review of this syllabus, as well as interviews conducted by the Monitor with individuals within the Department who are knowledgeable about the training and Board of Rights procedure⁹⁴. Attention was paid to how the handout materials related to the training⁹⁵. According to the agenda, the training begins at 9 a.m. and finishes around 12:30 p.m. Presentations and discussions about the Board manual and Board procedures consist of approximately one hour and ten minutes. Training on legal issues, including but not limited to recent 1070 City Charter changes, Board members' ability to amend charges, "Brady" issues, and the Department's Core Values and their incorporation into police officers' daily activities, also lasted for one hour and ten minutes.

The Monitor evaluated the quality of the training in the context of Board procedures. The Monitor learned that the sworn Board examiners are selected from the rank of Captain and above and the pool of candidates consists of everyone in the Department, of the appropriate rank, except the officer's immediate supervisors and those supervisors involved in the administrative investigation. Four officers are chosen from the pool and the defending officer is allowed to choose the two sworn panel members from the four presented. A list of three civilian examiners are presented to the Officer representative and the Department advocate, they each have one preemptory strike and the remaining civilian will sit on the panel. Because of what appears to be

⁹³ The syllabus also contains a training agenda, with brief explanations of what is covered in given time slots.

⁹⁴ The Monitor was unable to attend the training at the time of this review as the August 29, 2002 class was canceled and the next class has not been scheduled as of the writing of this report.

⁹⁵ The handout materials included: Department Manual, Board Manual, Department Guide to Discipline, Penalty Guide, Administrative Order 21 titled "False and Misleading statements defined", City Attorney Advisories on "Brady v. Maryland", "City of Los Angeles v. Taylor", Closed Hearing Pattern of Conduct, Questioning of the Accused by Board of Rights members, Ex Parte Communications, and Office of the Chief of Police Memorandum No. 1 "Impact of Employee Conduct on Credibility as a Witness."

inadequacy in the training, especially in the area of tactics and Department policy, the Monitor is concerned that the civilian Board members will rely too heavily on the sworn Board examiners, who are chosen by the defending officer.

The agenda review coupled with the Department interviews indicates to the Monitor that the training provided to the civilian members of the Board does not provide the requisite knowledge for them to fulfill their membership expectations and therefore the Department is not in compliance with paragraph 118.

B. SUPERVISORY TRAINING

The Consent Decree mandates that all supervisors must be adequately trained, every two years, in ethics, incident control and report review. The Monitor found deficiencies in much of the training in the area of ethics and in some cases, report review. Despite these findings, the Monitor determined, based solely on a review of the training curricula, there was still a combination of classes that an officer could take that would satisfy the requirements of paragraph 122. Using the Department's criteria, the Monitor, using a stratified random sample of 92 supervisors weighted by division, analyzed each officer's class attendance to determine if they attended 'regular and periodic' training to satisfy paragraph 122. Consequently, the Department is not in compliance with a 75% compliance rate.

Paragraph 123 mandates that all supervisors, who perform administrative investigations, are trained in conducting these investigations. The Department supplied a list of classes that it believed satisfied the requirements of this paragraph. After reviewing all the curriculums suggested by the Department, the Monitor concluded that the training was insufficient to meet the goals of paragraph 123 and there was no combination of classes that an officer could take to satisfy these mandates.

Paragraph 122

Paragraph 122 mandates that the Department adequately train, on a regular and periodic basis⁹⁶, all Supervisors on reviewing reports, incident control, and ethical decision-making.

Background

The Monitor had not reviewed paragraph 122 prior to this quarter.

Current Assessment of Compliance

The Monitor assessed compliance for this paragraph by reviewing the relevant training curricula for the specified subject matter area, which was identified by members of the Continuing

⁹⁶ The Monitor is applying the POST definition of 'regular and periodic' as every two years, which is consistent with the Department's definition.

Education Division. The Monitor reviewed the following: Detective Supervisor School (“DS”), Basic Supervisor School (“BS”), Watch Commander School (“WC”), Command Development School (“CD”), Internal Affairs training (“IAG”), Non-Categorical Use of Force training, CEDP Modules I-IV, Cultural Tools for Tolerance, and West Point Leadership⁹⁷. The Monitor reviewed the curricula to verify that it “reasonably addresses” the needs of supervisory personnel in the Department.

Based solely on a review of the training curricula⁹⁸, the Monitor concluded that the DS, BS, WC, CD and CEDP I-IV were satisfactory in the area of incident control. Ethical decision-making was adequately addressed in CEDP I-IV, West Point Leadership, and Cultural Tools for Tolerance. The Monitor noted common deficiencies among BS, DS, WC, and CD in this subject area especially because the curriculums did not describe any interactive learning lessons in these classes, which the Monitor believes is a crucial element of this training. Report review was adequately covered in BS, DS, CD, CEDP I, IAG, and non-categorical use of force investigation training. Upon the completion of the Monitor’s review of the curriculum, the conclusion was reached that there is a combination of training that officers could take that would satisfy the mandates of paragraph 122.

Next, the Monitor selected a statistically viable sample of supervisors, which included a stratified random selection of officers with the rank of D-II, Sergeant, Lieutenant, Captain, Deputy Chief, and Assistant Chief⁹⁹ weighted by division. The Monitor analyzed the training data of this group of officers to determine if they have received the appropriate training on a ‘regular and periodic’ basis. The sample consisted of 92 Los Angeles Police Department Supervisors¹⁰⁰.

In measuring compliance for this paragraph, the Monitor relied on the classes that the Department stated satisfied the mandates of the Consent Decree rather than the classes the Monitor determined adequately satisfied each subject matter. If the Department achieved functional compliance based on their own class evaluation, the Monitor would analyze the data using the classes the Monitor determined were satisfactory. If the Department was found not to be in functional compliance by their own standards then it would not be necessary to conduct a review based on the Monitor’s criteria.

The Monitor analyzed the data to determine if these officers attended the relevant training on report reviewing, ethical decision-making, and incident control on a “regular and periodic” basis¹⁰¹. The Monitor found that the Department’s overall compliance rate for this paragraph, based on class attendance of 75%.

⁹⁷ The Department identified other courses, but neither course attendance nor curricula were available making it impossible to be factored into the Monitor’s assessment.

⁹⁸ The Monitor did not attend actual training sessions for this assessment.

⁹⁹ The Chief of Police was also included in the larger community of officers but was not ‘randomly’ selected when the sample was chosen.

¹⁰⁰ The Department defines supervisor, for the purposes of the Consent Decree, to be D-IIs, Sergeants and above.

¹⁰¹ The Monitor considered the following classes for each subject:

The Monitor finds the Department is not in compliance with paragraph 122. Although it is possible to take a series of classes that satisfy the ‘regular and periodic’ training in ethics, incident control, and report review, not enough officers have been adequately trained.

Paragraph 123

Paragraph 123 mandates that the Department provide supervisors who perform or are expected to perform administrative investigations receive training that equips them with the requisite knowledge to conduct use of force and personnel complaint investigations.

Background

The Monitor had not reviewed paragraph 123 prior to this quarter.

Current Assessment of Compliance

The Monitor assessed compliance for paragraph 123 by reviewing the relevant training curricula for the specified subject matter area, which was identified by members of the Continuing Education Division. The Department identified Detective Supervisor School, Basic Supervisor School, Watch Commander School, Command Development School, IAG, and Non-Categorical Use of Force training as the classes that meet the requirements of paragraph 123. The Monitor reviewed the curricula to verify that it “reasonably addresses” the needs of supervisory personnel in the Department.

The Monitor determined, from the review of this curriculum, that this training was insufficient to meet the mandates of the Consent Decree. The Consent Decree mandates that chain of command supervisors, who are required to conduct both complaint investigations and use of force investigations, are properly trained to conduct said investigations and responsibility for the investigation of particular types of complaints defined under paragraphs 93 and 94 rest with IAG. However, none of the courses, including the newly revised IAG training, properly educate chain of command supervisors or members of IAG on the different categories of complaints and the elements of the violation. Absent an understanding of the elements of a violation, it is difficult to establish proof of its commission.

Similarly, there is no training on findings and dispositions (i.e. sustained, not sustained, exonerated, unfounded, no finding), which is essential for the preparation of the statement of charges and a proper finding and disposition. Without training all supervisors on the findings

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- Report Review: Basic Supervisor School, Detective Supervisor School, Watch Commander School, Command Development School, Internal Affairs Training, and CEDP I-IV.
 - Ethical Decision Making: Basic Supervisor School, Detective Supervisor School, West Point Leadership, Internal Affairs Training and Tools for Tolerance.
 - Incident Control: Basic Supervisor School, Watch Commander School, Command Development School, and Internal Affairs Training.

and dispositions, there is no accountability for errors in these processes. This is not training that should just be given exclusively to IAG supervisors -- it is essential that all supervisors and commanders receiving or investigating complaints have been instructed regarding which complaints must be retained and which complaints must be referred. Chain of command supervisors conducting complaint investigations that change complexion mid-investigation need to know whether to refer the investigation to IAG.

The Department is not in compliance with the mandates of paragraph 123 based on a review of the curriculum. There is no possible combination of any of the training, whether recent or current, that would provide adequate training for an officer. Prior to the publication of this report, the Monitor has shared its analysis with the Department and will work with the Department towards compliance in this area.

VIII. INTEGRITY AUDITS

During this quarter, the Monitor assesses the Department's compliance with the following audit-related paragraphs of the Consent Decree:

- Paragraph 124 – Audit Plan & Responsibilities;
- Paragraph 128(1) - Search Warrant Applications & Supporting Affidavits Audit;
- Paragraphs 128(4)&(5) and 129(ii)&(iii) – Other LAPD Audits Required to be Completed by the LAPD's Audit Division;
- Paragraphs 131(a),(c-1),(c-4),(c-5),(d),(e),(f)&(g) – Gang Unit Audits Required to be Completed by the LAPD's Detective Support Division;
- Paragraph 131(c-2) – DSD's SEU ABC Audit;
- Paragraph 135 – Office of the Inspector General Evaluation of LAPD Audits (for this quarter, the evaluation of the DSD's SEU ABC Audit);
- Paragraphs 136(i)&(ii) – Other Audits Required to be Completed by the Office of the Inspector General; and,
- Paragraph 154 – Identified Deficiencies.

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

A. AUDIT PLAN

Paragraph 124

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 Inspector General, a listing of all scheduled audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits. Paragraph 124 also describes the following:

- the review and approval process for this Annual Audit Plan and any amendments thereto;
- the role of the LAPD's Audit Division relative to the conduct of such audits, and
- how such audits are to be documented.

Background

In early 2001, the Audit Division of the LAPD was formed with a mandate to conduct audits as required by the Consent Decree, as well as other audits considered necessary for integrity assurance by the Chief of Police and/or his designates. In May 2001, an ambitious Annual Audit Plan was submitted to the Board of Police Commissioners for the period July 2001 to June 2002¹⁰² – this scheduled the completion of 12 audits required by the Consent Decree¹⁰³, and 12 operational audits in areas that were found to be problematic historically. There were a total of 38 audits on this Annual Audit Plan (including audits that were scheduled for more than once per annum).

In the Monitor's Report for the quarter ending March 31, 2002, the Monitor noted the inability of the LAPD to complete the audits scheduled for 2001-02 due to resource constraints. By March 31, 2002, the Audit Division had 32 members on staff, despite receiving approval for up to 48 members. The Monitor's Report recognized that "the Audit Division is still in a developmental stage and that Audit Division personnel have made substantial efforts to comply with the Consent Decree..." The Monitor also expressed that many of the deficiencies identified relating to audits conducted to that time "could have been prevented if additional skilled resources had been available as part of the Audit Division's team."

To address these deficiencies, the Monitor identified and proposed recommendations in an Appendix to its Report for the quarter ending March 31, 2002. Further audit-related recommendations were proposed by the Monitor in an Appendix to its Report for the quarter ending June 30, 2002. These recommendations are all presented in précis form in Appendix E to this Monitor's Quarterly Report, along with notes on the progress made relative to each of these recommendations.

¹⁰² This was submitted before June 1, 2001 as required by CD ¶124.

¹⁰³ Some of these audits were scheduled to be completed more than once per annum.

Current Assessment of Compliance

In order to assess compliance with paragraph 124 for the current quarter, the Monitor requested, received and reviewed the following:

- the Annual Audit Plan for fiscal 2002-03 (namely the period July 2002 to June 2003) as submitted to the OIG and the Police Commission on June 25, 2002;
- the Quarterly Updates on the 2001-02 Annual Audit Plan as submitted to the Police Commission;
- the minutes of the Police Commission meetings at which the Annual Audit Plan and Quarterly Updates were discussed;
- a summary of the training provided by the LAPD Audit Division to other entities within the LAPD; and
- several of the audit reports issued throughout the year¹⁰⁴.

The Monitor also held discussions with representatives of the LAPD Audit Division and the Police Commission.

The Monitor's findings relative to our assessment of paragraph 124 are set out below in the following four categories:

- The content and submission of the Annual Audit Plan for 2002-03;
- The review and approval of the Annual Audit Plan and Quarterly Updates;
- The role of the LAPD's Audit Division; and
- The content of the LAPD's audit reports.

Content & Submission of the Annual Audit Plan for 2002-03

The Annual Audit Plan for 2002-03 was submitted to both the OIG and the Police Commission by July 1, 2002 as required by paragraph 124 – this was approved by the Police Commission on July 10, 2002.

This Annual Audit Plan for 2002-03 includes all the audits that are required to be included based on the requirements of paragraph 124, with the exception of the Police Training Audit, which is not listed in the 2002-03 Annual Audit Plan. This audit is required by paragraph 133 to be completed by December 15, 2002 by independent consultants who have substantial experience in

¹⁰⁴ The Monitor's findings from the review of such audit reports has been addressed in each of the preceding Monitor's Quarterly Reports, and is also addressed below in respect of the Monitor's review of the Warrant Applications and Supporting Affidavits Audit as required by CD ¶128(1).

the area of police training (and is being performed by Rand). This audit should also be included in the 2002-03 Annual Audit Plan in order to achieve compliance with paragraph 124.

In addition, the Gang Unit Work Product Audit required by paragraph 131 is identified in the LAPD Annual Audit Plan as one audit, whereas paragraph 131 specifies at least nine components to this audit. In 2001-02, a separate Gang Unit Annual Audit Plan was developed, but a similar document was not developed for 2002-03. Further, the Monitor notes that no one is accepting responsibility for the completion of certain of these Gang Unit Audits¹⁰⁵ – a problem that is exacerbated by the lack of specificity in the 2002-03 Annual Audit Plan relative to the Gang Unit Audits.

Review and Approval of the Annual Audit Plan & Quarterly Updates Thereto

Quarterly Updates to the Annual Audit Plan for 2001-02 were issued to the OIG and the Police Commission covering the activities of each completed quarter, as well as the plans for the next quarter (including any amendments to the 2001-02 Annual Audit Plan). These reports identified that certain audits were either being delayed or postponed, and resources were identified as an issue in such reports.

None of these Quarterly Updates were approved by the Police Commission until May 28, 2002, even though they were received by the Police Commissioners on a timely basis¹⁰⁶. The Monitor further notes that only the forward-looking Quarterly Updates were approved in this manner; the historical Quarterly Updates were not approved.

Role of the LAPD's Audit Division

Certain of the early audits required to be completed by the Consent Decree in 2001 were initially conducted by divisions other than the Audit Division.

The provisions of paragraph 124 indicate that “audits contemplated by the Annual Audit Plan may be conducted by the Audit [Division] or by other LAPD Units, as appropriate, provided, however that the Audit [Division] shall take over responsibility for conducting those audits contemplated by paragraphs 128 and 129 once that [Division] is established.” The 2002-03 Annual Audit Plan identifies that all of the paragraph 128 and 129 audits required by the Consent Decree were the direct responsibility of the Audit Division, with the following exceptions:

- The Non-Categorical Use of Force Audits required by paragraph 128(3) and paragraph 129(ii) are identified in the 2002-03 Annual Audit Plan as the direct responsibility

¹⁰⁵ Although the Audit Division is willing to accept responsibility for the Gang Unit Audits, they cannot do so because the audits required by paragraph 131 are mandated to be conducted by the Detective Services Division; the Detective Services Division is unable to accept responsibility for such audits without additional resources/support.

¹⁰⁶ Such Quarterly Updates were issued from September 2001 through April 2002.

of Risk Management Group; two audits are on the audit plan for 2002-03: the audit for 2001-02 as well as the audit for 2002-03¹⁰⁷; and

- The Confidential Informant Control Packages Audit required by paragraph 128(5) is identified in the 2002-03 Annual Audit Plan as the direct responsibility of the LAPD's Criminal Intelligence Group.

These audits are currently allocated to other Groups mainly because the Audit Division does not yet have its full complement of personnel, and because the Audit Division is backlogged with the requirement to complete audits for 2001-02 as well as audits for 2002-03 in the current fiscal year.

By September 30, 2002, Audit Division comprised a total of 31 personnel, which is slightly less than the number of personnel deployed in Audit Division by March 31, 2002. The Audit Division has approval to hire 9 additional civilian personnel¹⁰⁸, and is in the process of identifying and selecting suitable candidates. By September 30, 2002, the Audit Division did not have approval to hire the remaining 7 or 8 personnel required to fully staff the Audit Division to 48 personnel.¹⁰⁹

Notwithstanding the Audit Division's lack of resources, the Audit Division has been acting as a resource to other divisions performing the above and other non-Consent Decree audits, including:

- providing technical assistance regarding how to conduct and report on such audits;
- periodically assessing the quality of audits performed by other LAPD units;
- inviting members of the DSD and OIG to attend training arranged for Audit Division personnel; and
- providing audit-related training¹¹⁰ to Bureau Gang Coordinators, Basic Supervisors, Communications Division, Risk Management Group, Fiscal and Support Bureau, Uniformed Support Division, and the geographic divisions.

Content of the LAPD's Audit Reports

Based on the Monitor's review of the audit reports issued during the period from July 2001 to June 2002 (as commented upon in the Monitor's Reports for the quarters ending September

¹⁰⁷ Based on discussions with Audit Division, we understand that the 2001-02 audit is now in the process of being transitioned to Audit Division, and the 2002-03 audit will become the responsibility of Audit Division.

¹⁰⁸ This is consistent with the Monitor's earlier recommendation that additional personnel hired by the Audit Division should have auditing, accounting and statistical experience, in order to ensure that Audit Division will ultimately comprise a multi-disciplinary blend of uniformed and civilian personnel.

¹⁰⁹ The Monitor understands that in early November, such approval was granted.

¹¹⁰ At least 600 personnel attended such training from July 2001 to June 2002.

2001, December 2001, March 2002, and June 2002), each of these audit reports identifies the audits' methodologies, data sources, analytic methods and conclusions. Most of such audit reports also include recommendations. The Monitor is pleased to note the overall improvement in the quality of the audit reports submitted – as discussed in further detail below relative to our review of the Warrant Applications and Supporting Affidavits Audit (see CD ¶128(1)).

Overall Assessment of Non-Compliance

In summary, the Monitor finds that the LAPD is not in functional compliance with the provisions of paragraph 124 for the reasons set out below:

- There is one audit that is not included in the 2002-03 Annual Audit Plan (as required by paragraph 133);
- There is a lack of specificity relative to the Gang Unit Work Product Audits in the 2002-03 Annual Audit Plan;
- The Quarterly Updates to the Annual Audit Plan were not reviewed and approved by the Police Commission on a timely basis;
- There are several audits that are meant to be conducted by Audit Division that are being conducted by other LAPD Units; and
- Although progress has been made relative to the process of hiring new personnel, the resource problems have not yet been alleviated.

B. AUDITS BY THE LAPD

Paragraph 128(1)

Paragraph 128 enumerates the areas where the Department must conduct regular, periodic audits and describes the qualitative factors that should be assessed in such audits. Specifically, paragraph 128(1) mandates an audit of warrant applications and supporting affidavits.

Background

On June 21, 2001, Criminal Intelligence Group completed a Department-wide audit of the search warrant affidavits to measure adherence to LAPD policies and procedures as well as specific items detailed in the Consent Decree. The Monitor reviewed this audit and reported the findings in the Monitor's second report, dated February 15, 2002.

LAPD auditors found that virtually none of the audited units were able to track or verify the number of search warrant affidavits written during 2000. There was no system in place to log or maintain search warrant records. The Criminal Intelligence Group recommended that the Department institute guidelines to log, track, and document the service and return of the

warrants. The Criminal Intelligence Group further recommended a system to outline the paperwork that should be maintained in search warrant files.

The following changes were made as a result of the audit:

- Management Services Division (“MSD”) published Special Order 25 on August 10, 2001. This order establishes the Warrant Tracking Log, Form 08.17.05, to log and track all Department-generated search and Ramey warrants; and,
- Investigative Analysis Section (“IAS”) is amending the Search Warrant Procedures Guide to incorporate the requirements of SO No. 25, on August 10, 2001, and outline related Department-mandated procedures. The amended guide is scheduled for publication in November 2002.

In its Report for the quarter ending December 31, 2001, the Monitor identified and reported numerous problems with both the audit process and the documentation surrounding Search Warrants. Among the issues identified:

- there was no accurate or verifiable record to track search warrants;
- the location of the supporting affidavits was frequently unknown;
- most audit team members had no prior training in auditing, did not have a clear understanding of what “stratified random sampling” was, and did not have guidance on how to properly strategize, execute and document the audit work;
- the methodologies and matrices used by the auditors contained poorly constructed questions that resulted in imprecise responses; and,
- numerous working paper discrepancies and lack of supporting documentation.

Current Assessment of Compliance

In order to assess compliance with paragraph 128 during the current quarter, the Monitor requested, received and reviewed the Search Warrant Applications & Supporting Affidavits Audit report dated July 8, 2002. In addition, the Monitor received and reviewed the 73 search and Ramey warrant packages audited by LAPD Audit Division as well as any supporting documentation for the month selected for the audit, October 2001, pursuant to paragraph 128.

A description of the Monitor’s independent review of the search warrant and Ramey warrant packages, as it relates to paragraph 71 and 72, is included with those paragraphs above.

The Monitor performed a detailed review of the audit report, audit working papers, and the search warrant packages to determine if the audit addressed the requirements of paragraph 128. The Monitor found that Audit Division audit processes improved significantly in the planning stages of the audit. The Audit Division prepared a matrix form and “crib sheet” that were used to train the auditors prior to commencing the audit. The matrix form addressed all

substantive/risk management issues identified in paragraph 128 such as completeness, authenticity review for canned language, inconsistent information and legal basis, as well as conformance with LAPD procedures. To ensure completeness of the population, the Audit Division contacted the court to determine what systems were in place to track the warrants. In addition, Audit Division confirmed that warrants sealed, were actually sealed by the court.

Further, the Monitor found that the quality of the audit report submitted had substantially improved. The report shows that Audit Division stratified the population not only by bureau and area, but also by tactical search warrants, non-tactical search warrants, administrative warrants and Ramey warrants so that they could better assess risk management issues. The report also included detailed descriptions of problem areas and thoughtful recommendations, exceptional follow-through on completeness issues (such as sealed vs. not sealed warrants), and a thorough analysis of findings.

In sum, the Monitor found that the Audit Division properly planned and documented the planning stages of the audit, accurately sampled the population and took the necessary steps to ensure the completeness of the population. Finally, the Audit Division also documented the risk management issues identified, such as canned language and supervisory oversight.

Based upon its review, the Monitor finds that the Department is in functional compliance with paragraph 128(1) as it relates to the audit of warrant applications and affidavits used to support warrant applications. The Monitor found a few non-substantive issues that were not identified by Audit Division. These, as well as other findings from the Monitor's assessment of the Search Warrants and Supporting Affidavits Audit are included in Appendix B.

The Audit Division found the LAPD out of compliance with respect to completeness of the information contained within each search warrant package, inconsistencies and supervisory oversight. The Monitor agrees with the Audit Division's findings and endorses the recommendations made.

The Monitor met with the Audit Division to discuss its findings and proposed recommendations; Appendix D contains the Monitor's recommendations relative to improving the quality of this and other audits.

Paragraph 128(4)&(5) and 129(ii)&(iii)

As described above, paragraph 128 enumerates the areas where the Department must conduct regular, periodic audits and describes the qualitative factors that should be assessed in such audits. Specifically, paragraph 128(4) mandates an audit of motor vehicle and pedestrian stops, and paragraph 128(5) mandates an audit of confidential informant control packages.

Paragraph 129 similarly enumerates further areas where the Department must conduct regular periodic audits and describes the qualitative factors that should be assessed in such audits. Paragraph 129(ii) mandates an audit of all Non-Categorical Use of Force investigations, and paragraph 129(iii) mandates an audit of all Complaint Form 1.28 investigations.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, these audits were required to be completed by the LAPD's Audit Division by June 30, 2002. As reported in the Monitor's Report for the quarter ending June 30, 2002, all of these audits were deferred to the quarter ending September 30, 2002 and beyond, so the Monitor found the LAPD to be in non-compliance with the Consent Decree requirement to conduct such audits on a "regular, periodic" basis.

Current Assessment of Compliance

One of the above audits was completed and issued to the Monitor on September 13, 2002: a department-wide Confidential Informant Control Packages Audit Report (CD ¶128(5)). Although this Audit was completed before September 30, 2002, the report for this audit was not provided to the Monitor with sufficient time to complete our review of this audit by the date of issuance of the Monitor's report for this quarter. Accordingly, the Monitor will perform this review for the next quarter ending December 31, 2002.

Although progress was made on the remaining audits required to be completed by the Audit Division by June 30, 2002, none of these audits were completed by September 30, 2002:

- Motor Vehicle and Pedestrian Stops Audit (CD ¶128(4)) – improvements made to data collection issues; reliability testing in progress; audit deferred until database stabilizes
- Non-Categorical Use of Force (CD ¶129(ii)) – planning performed; fieldwork in progress
- Complaint Form 1.28 Investigations Audit (CD ¶129(iii)) – planning in progress

Until such time as these audits are completed, the Monitor continues to find the LAPD to be in functional non-compliance with these paragraphs of the Consent Decree.

Paragraph 131(a),(c-1),(c-4),(c-5),(d), (e),(f),(g)

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

- Paragraph 131(a) mandates an audit of Gang Unit Work Product.
- Paragraph 131(b) mandates an audit of Gang Unit Selection Criteria Compliance.
- Paragraph 131(c-1) mandates an audit of Gang Unit Warrant Applications and Supporting Affidavits.
- Paragraph 131(c-2) mandates an audit of Gang Unit Arrest, Booking and Charging Reports.
- Paragraph 131(c-3) mandates and audit of Gang Unit Use of Force Reports.

- Paragraph 131(c-4) mandates an audit of Gang Unit Motor Vehicle and Pedestrian Stops.
- Paragraph 131(c-5) mandates an audit of Gang Unit Informant Control Packages.
- Paragraph 131(d) mandates an audit of the use by Gang Unit of Confidential Informants.
- Paragraph 131(e) mandates an audit of the Roles and Conduct of Gang Unit Supervisors.
- Paragraph 131(f) mandates an audit of the Supervisory Review of Gang Unit Incidents.
- Paragraph 131(g) mandates that the above audits include Conclusions and Recommendations.

Background

There are basically three types of audits that are required to be conducted by the DSD:

- Those that are similar to the department-wide audits conducted for paragraph 128 – namely the audits required via paragraph 131(c-1),(c-2),(c-3),(c-4) and (c-5);
- Those that are required to assess compliance with paragraph 106, 107 and 108 – namely the audits required via paragraph 131(b) & (d); and
- The remaining audits that are specific to the work product of the gang units – namely the audits required via paragraph 131(a),(e),(f) & (g).

As required by the Consent Decree, most of these audits were required to be completed by the LAPD's Detective Support Division on a "regular periodic basis". The Monitor interprets this to mean that such audits must be completed on at least an annual basis¹¹¹. Since the Consent Decree was entered into effective June 2001, and the first of such department-wide audits were completed by July 1, 2001, the Monitor therefore expects that the first gang unit audits would be completed within one year by June 30, 2002. The two exceptions are the audits required for paragraph 131(b) and (c-3) – assuming that the deadlines for the gang unit audits mirror the deadlines for the Department-wide audits, these audits are not required to be completed until November 1, 2002.¹¹²

As reported in the Monitor's Report for the quarter ending June 30, 2002, the audits required for paragraph 131(c-1),(c-4)&(c-5) and for paragraph 131(a),(e),(f)&(g) were deferred to the quarter ending September 30, 2002 and beyond, so the Monitor found the LAPD Detective Support Division to be in non-compliance with the Consent Decree requirement to conduct such audits on a "regular, periodic" basis. The audit required for paragraph 131(c-2) is addressed in a separate section below. The audit required for paragraph 131(d) was received by the Monitor on July 11, 2002, but has not yet been evaluated.

¹¹¹ The LAPD and the DOJ concur with this interpretation.

¹¹² These audits have not yet been completed, and are therefore not addressed any further in this report.

Current Assessment of Compliance

For those audits that were deferred that are similar to the department-wide audits conducted for paragraph 128 – namely the audits required via paragraph 131(c-1), (c-4) and (c-5):

- Gang Unit Warrant Applications & Affidavits Audit (CD ¶131(c-1)): A Department-wide Warrant Applications and Affidavits Audit was completed as reported earlier in this Monitor’s Quarterly Report, but this audit did not specifically address the special needs of a gang-related audit;
- Gang Unit Motor Vehicle & Pedestrian Stops Audit (CD ¶131(c-4)): Planning is currently in progress for the Department-wide audit as discussed above, but the Monitor is not aware of any plans to separately address the special needs of a gang-related audit; and,
- Gang Unit Informant Control Packages Audit (CD ¶131(c-5)): As discussed above, a Department-wide audit was recently completed for paragraph 128(g) that is believed to also consider the special needs of a gang-related audit; the Monitor will review this audit for the next quarter ending December 31, 2002.

Accordingly, with the exception of the latter audit for paragraph 131(c-5), until such time as these audits are completed, the Monitor continues to find the LAPD DSD to be in functional non-compliance with these paragraphs of the Consent Decree.

For the audit required via paragraph 131(d), namely the Gang Unit Use of Confidential Informants Audit, this audit was received by the Monitor prior to June 30, 2002, but has not yet been assessed. The Monitor will review this audit during the quarter ending December 31, 2002.

For the remaining audits that are specific to the work product of the gang units – namely the audits required via paragraph 131(a), (e), (f) & (g), there has been no Department-wide gang unit audit since the last audit that was completed in June 2001. Accordingly, until such time as these audits are completed, the Monitor continues to find the LAPD DSD to be in functional non-compliance with these paragraphs of the Consent Decree.

Paragraph 131(c-2)

Background

In the Monitor’s Report for the quarter ending June 30, 2002, the DSD was found to be in non-compliance with the requirements of paragraph 131c(2) due to a number of quality deficiencies identified in their SEU Arrest, Booking and Charging (“ABC”) Audit.

The Monitor identified a total of 111 reports that did not meet the DSD’s review criteria¹¹³ because they were Releases from Custody (“RFC”), Misdemeanor Warrants (“MW”) and

¹¹³ 78 were identified but not reviewed by the DSD; an additional 33 were identified when the Monitor assessed the completeness of these 78.

Alleged Probation Violation Notices (“APVN”). Although the DSD did not review any of these 111 reports, the Monitor reviewed a stratified random sample of 70 of the 111 reports to identify and assess potential risk management issues. By August 15, 2002 (i.e. the date of the Monitor’s previous Quarterly Report), the procedures relating to this review were incomplete. This review is now complete, and we report our findings below.

Current Assessment¹¹⁴

We identified an issue with one of the 70 reports reviewed, which included charges for “Possession of Marijuana less than 1 oz”. This report was not supported by either a “Property Report” nor “Receipt for Property Taken into Custody” relating to the evidence seized. On September 12, 2002, the Monitor requested copies of all related documentation archived with Records & Identification (“R&I”) to ascertain whether such documents were missing from the originals as well, and to determine whether this represents a concern. By the date of this report, we were not provided with such documents.

The Monitor will conduct the necessary follow-up to resolve this and expects to report our findings in the Monitor’s next Report for the quarter ending December 31, 2002.

C. INSPECTOR GENERAL AUDITS

Paragraph 135

Paragraph 135 requires that the Inspector General be provided with copies of specific audit reports, so they may evaluate all such audits to assess their quality, completeness, and findings. These findings are to be reported promptly in writing to the Police Commission.

Background

In the Monitor’s Report for the quarter ending March 31, 2002, the Office of the Inspector General was found to be out of compliance with the requirements of paragraph 135 due to quality deficiencies noted in the two audit reviews conducted by the Office of the Inspector General in that period; specifically, the Office of the Inspector General’s review of the LAPD’s Use of Force Audit and the Office of the Inspector General’s review of the LAPD’s Arrest, Booking and Charging (“ABC”) Audit. Since then, the Office of the Inspector General completed its review of the SEU ABC Reports Audit, but the Office of the Inspector General’s report was not completed with sufficient time for it to be assessed by the Monitor during the quarter ending June 30, 2002. This report is assessed below.

¹¹⁴ As described below, we are reporting on work that was outstanding since the last Monitor’s report for the quarter ending June 30, 2002—this does not change our assessment of compliance. Therefore, we are not assessing compliance for this paragraph at this time.

The Office of the Inspector General is currently reviewing the LAPD's Search Warrant Applications & Supporting Affidavits Audit. The Monitor expects to assess this during the next quarter.

Current Assessment of Compliance

In order to assess compliance with paragraph 135 during the current quarter, the Monitor performed a detailed review of the Office of the Inspector General's report, audit working papers, and a stratified random sample of 90 of the Office of the Inspector General's sample of 188 SEU ABC reports. The Monitor's report for the quarter ending June 30, 2002 addresses the Monitor's findings relative to our review of the Detective Support Division's SEU ABC Reports Audit.

In summary, the Monitor finds the Office of the Inspector General to be in functional non-compliance with the provisions of paragraph 135. Although the Office of the Inspector General has made significant improvements in its assessment processes, the Office of the Inspector General failed to address a number of issues in their review of the Detective Support Division SEU ABC Reports Audit:

- they failed to identify and/or report on 18 discrepancies that were overlooked by the Detective Support Division;
- they failed to identify 75 issues that were not tested by the Detective Support Division; and
- they failed to identify that the population of SEU ABC reports reviewed by the Detective Support Division was incomplete.

Accordingly, the Office of the Inspector General's review of the Detective Support Division audit did not adequately evaluate the quality, completeness and findings of the Detective Support Division's SEU ABC Reports Audit. Further details from the Monitor's review of the Office of the Inspector General's assessment are set out in Appendix C, and the Monitor's proposed recommendations for continued improvement are identified in Appendix D.

Paragraph 136

The first part of paragraph 136 is related to paragraph 142, which requires the Office of the Inspector General to continue its practice of reviewing all Categorical Use of Force investigations. The Monitor's assessment of compliance for this first part of paragraph 136 is addressed in paragraph 142 of this Quarterly Report.

The remainder of paragraph 136 requires the Office of the Inspector General to conduct a regular periodic audit and review of a stratified random sample of all Non-Categorical Uses of Force, and Complaint Form 1.28 investigations. In their review, the Inspector General shall assess the quality, completeness, and findings of the investigations and whether they were completed in a

timely manner and properly adjudicated. These findings are to be reported promptly in writing to the Police Commission.

Background

As required by the Consent Decree and the Annual Audit Plan for 2001-2002, the audits required by paragraph 136(i) and (ii) were required to be completed by the Office of the Inspector General by June 30, 2002. As reported in the Monitor's Report for the quarter ending June 30, 2002, these audits were deferred to the quarter ending September 30, 2002 and beyond, so the Monitor found the Office of the Inspector General to be in non-compliance with the Consent Decree requirement to conduct such audits on a "regular, periodic" basis. This is similar to the finding discussed above for certain audits required to be completed by the LAPD Audit Division and the LAPD Detective Support Division.

Current Assessment of Compliance

The Office of the Inspector General completed its audit of Non-Categorical Use of Force Reports (CD ¶136(i)) in the quarter ending September 30, 2002. The report for this audit was not provided to us with sufficient time to complete our review of this audit by the date of issuance of the Monitor's Report for this quarter. The Monitor will perform this assessment in the next quarter.

The Office of the Inspector General has made progress on the Complaint Form 1.28 Investigations Audit (CD ¶136(ii)) including planning the audit, identifying how to select a sample from the population of complaints, and identifying the type of issues to be subjected to an audit, however the audit was not completed by September 30, 2002. Until such time as this audit is completed, the Monitor continues to find the Office of the Inspector General to be in functional non-compliance with paragraph 136.

Paragraph 139

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

Background

The Monitor reviewed compliance with paragraph 139 for the first time during this quarter.

Current Assessment of Compliance

Retaliation complaints received by the Inspector General were reviewed for the period June 2001 through August 2002. During that period 17 complaints were received from LAPD employees

alleging retaliation. The Inspector General determined that all 17 complaints indicated possible retaliation. Of those, 13 are still under investigation by the LAPD. Two are under investigation by the LAPD and are being monitored by the Inspector General. One was investigated by the LAPD and the Inspector General agreed that no retaliation was found. No action was taken on one in which retaliation was claimed, but no specific allegations were made.

Office of Inspector General staff tracks retaliation complaints on a computer database and maintains complaint files. A chronological record of the investigative process is recorded in each complaint file. Investigative documents are also included.

The Inspector General has developed draft protocols for retaliation complaint investigations to ensure the confidentiality of the identity of the person reporting retaliation. The draft protocols have been forwarded to the Police Commission for consideration.

The Inspector General also maintains a Policy and Procedures Manual that covers special considerations when dealing with retaliation complaints.

The Monitor finds the Office of Inspector General is in functional compliance with the provisions of paragraph 139.

IX. OPERATIONS OF THE POLICE COMMISSION & INSPECTOR GENERAL

A. OPERATIONS OF THE POLICE COMMISSION

The Consent Decree affirms that the Police Commission shall review and evaluate all Categorical Uses of Force and determine whether an officer's conduct conforms with LAPD policies, procedures, and the requirements of the Consent Decree. Annually, the Police Commission is required to issue a publicly available report detailing its findings regarding these incidents. Since the Commission has delegated to the Office of Inspector General primary responsibility for the review of Categorical Use of Force investigations, the Office of Inspector General prepared the Annual Categorical Use of Force report that was issued in May 2002. It covered Categorical Use of Force incidents reviewed by the Commission for the year 2001. During this quarter, the Monitor completed its review of the report.

Additionally, the Police Commission is charged with reviewing various audits as outlined in the Consent Decree to determine whether any changes in LAPD policies are necessary. The Commission shall approve all new LAPD policies and procedures and changes to existing policies and procedures that are made to address the requirements of the Consent Decree. The Monitor has not yet evaluated these provisions of the Consent Decree. However, they are scheduled for review in the next quarter.

The Police Commission conducts annual reviews of the Chief of Police and is responsible for the investigations of all misconduct complaints filed against the Chief. These reviews have been postponed by the Monitor, but will be revisited in the next quarter.

Finally, the Commission reviews and approves the LAPD's budget requests. The Monitor's review of this provision will begin in the next quarter.

The Consent Decree affirms that the Inspector General shall review and evaluate all Categorical Uses of Force and provides that he shall be notified of all such incidents in a timely manner. He may observe all Categorical Use of Force "roll outs" and may attend Use of Force Review Board meetings. His reviews and evaluations are reported to the Police Commission for their consideration.

During this quarter, the Monitor completed its review of Categorical Use of Force notifications to the Inspector General, "roll outs," and audit procedures to insure proper notification.

The Consent Decree provides for the acceptance of misconduct complaints by the Inspector General, including those alleging retaliation. In addition, the Consent Decree affirms that the LAPD shall continue to provide complaint intake information to the Inspector General. During this quarter, the Monitor reviewed complaints (including retaliation complaints) received by the Inspector General for the period June 2001 through August 2002. Additionally, the Monitor completed its review of complaint intake information provided to the Inspector General by the LAPD.

Although the Police Commission may use its staff or authorized contractors to conduct investigations of misconduct complaints filed against the Chief of Police, it has been represented to the Monitor that currently such investigations are conducted by the Office of the Inspector General. The Monitor's review of investigations of misconduct complaints filed against the Chief of Police was postponed, but will be revisited in the next quarter.

The Consent Decree requires the Inspector General to keep the Police Commission informed of the status of all pending investigations and audits to be performed by the Office of the Inspector General under the provisions of the Consent Decree. This provision was scheduled for review during this quarter. However, it was postponed and is rescheduled for the next quarter.

Paragraph 142

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

Background

After review of each Categorical Use of Force, the Inspector General prepares his own analysis of the incident and forwards it to the Police Commission Executive Director. The Executive Director reviews each incident and has the option to prepare a separate memorandum containing

comments pertinent to the matter. He then forwards his comments, if any, along with the Inspector General's analysis, and the Department's report, to the Police Commission for consideration.

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

During the last quarter, the Monitor received and commenced its review of the Police Commission's Annual Report regarding Categorical Use of Force incidents reviewed by the Police Commission in 2001. That review is now completed.

Current Assessment of Compliance

During 2001, the Police Commission reviewed 108 Categorical Use of Force incidents and adopted a different finding from the Chief of Police in two of those cases. The Police Commission found 16 cases out of policy and/or administratively disapproved. In 15 of those cases the Police Commission agreed with the recommendations of the Chief of Police.

The Monitor found the report to be informative when discussing gender, ethnicity and age of both the suspects and officers involved in Categorical Use of Force incidents. The Monitor also commends the report for its discussion of future issues that may be relevant and useful for discussion in the next report.

Concerning Officer Involved Shootings ("OIS"), the report concluded "there is a consensus on most OISs (sic) among the Chief of Police, the Office of the Inspector General, and the Police Commission. Disagreements concerning the ultimate outcome of an incident as in or out of policy are rare."

The report concluded with a discussion of three additional issues that were identified during the course of reviewing Categorical Use of Force incidents. These issues encompass topics that may be the subject of further review by the Monitor pursuant to paragraph 154 and include the following:

- Procedures for advising the Police Commission of Board of Rights decisions concerning Categorical Use of Force incidents that are in conflict with Police Commission determinations.
- Informal Area training versus formal training following Categorical Use of Force incidents.
- Inconsistencies with respect to reporting LERI incidents on officers' TEAMS reports.

The Monitor finds the Police Commission in functional compliance with the provision of paragraph 142 concerning the Police Commission's Annual Report regarding Categorical Use of

Force incidents. During the next quarter, the Monitor will review the Police Commission and Inspector General reviews and evaluations of individual CUF incidents.

Paragraph 144

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

Background

The Police Commission conducted a 5-year review of the Chief of Police as part of the reappointment process. The City deemed the information sensitive, but agreed to provide documentation directly to the Chief Monitor or his Deputy. The review will be conducted in the next quarter.

Paragraphs 96 & 145

Paragraph 96 states that investigative duties allocated in paragraphs 93 and 94 shall not apply to investigations of misconduct complaints lodged against the Chief of Police and that such investigations shall be directed by the Police Commission.

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

Background

During the 3rd quarterly review, the Monitor had requested documentation concerning complaints filed against the Chief of Police from the Inspector General and the LAPD. The Inspector General provided the information requested. The City deemed sensitive their portion of the information requested, but agreed to provide documentation directly to the Chief Monitor or his Deputy.

Because of the sensitivities surrounding the retention of Chief Parks and the selection of a new Chief of Police, the review was postponed. The Monitor's review will continue in the next quarter.

B. OPERATIONS OF THE INSPECTOR GENERAL

The Consent Decree affirms that the Inspector General shall review and evaluate all Categorical Uses of Force and provides that he shall be notified of all such incidents in a timely manner. He may observe all Categorical Use of Force "roll outs" and may attend Use of Force Review Board

meetings. His reviews and evaluations are reported to the Police Commission for their consideration.

During this quarter, the Monitor completed its review of Categorical Use of Force notifications to the Inspector General, “roll outs,” and audit procedures to insure proper notification.

The Consent Decree provides for the acceptance of misconduct complaints by the Inspector General, including those alleging retaliation. In addition, the Consent Decree affirms that the LAPD shall continue to provide complaint intake information to the Inspector General. During this quarter, the Monitor reviewed complaints (including retaliation complaints) received by the Inspector General for the period June 2001 through August 2002. Additionally, the Monitor completed its review of complaint intake information provided to the Inspector General by the LAPD.

Paragraph 147

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

Background

As reported in the Monitor’s Report for the quarter ending December 31, 2002, discrepancies were found when comparing the Inspector General’s Categorical Use of Force Notification Log with the Department’s 24 Hour Log, the OIS Case Tracking System, and the LERII Case Tracking System. Specifically, 14 incidents were identified that appeared on the LERII System, but not on the Inspector General’s Log. Seven incidents were identified that appeared on the OIS System, but not on the Inspector General’s Log. Three incidents were identified that appeared on the Inspector General’s Log, but not on either the LERII or the OIS systems.

In December 2001, the Monitor met with the Inspector General to discuss its findings concerning discrepancies in the logs. In February 2002, the Inspector General’s Notification Log was modified from its original version. Two new reporting forms (Critical Incident Notification Form and Critical Incident Response Investigation Form) were added to the system and the log was transitioned into an index summarizing limited information contained on these forms.

The Critical Incident Notification Form (“CINF”) contains more specific information than that provided by the original log. It is now the primary log for notification data. The Critical Incident Response Investigation Form (“CIRIF”) documents Office of the Inspector General “Roll Outs.” The Index and associated forms document all CUF incident notifications and the results of any “Roll Outs” in one central location.

Current Assessment of Compliance

The Monitor reviewed the Office of the Inspector General Categorical Use of Force Notification Log/Index for the six-month period January 1, 2002 through June 30, 2002. During this period Office of the Inspector General staff rolled out to 13 Categorical Use of Force incidents.

The Log/Index included copies of the Department Command Post (“DCP”) Incident Notification Logs and/or CINFs for each incident requiring notification to the Inspector General.

The Inspector General is now documenting its audits of Categorical Use of Force notifications from the Department. The Critical Incident Investigation Division (“CIID”) case tracking logs are reviewed by Office of the Inspector General staff to identify all Categorical Use of Force investigations initiated during the period reviewed. The case tracking logs are compared to the Department Command Post logs and the Inspector General’s Categorical Use of Force Notification Log/Index to determine if all Categorical Use of Force notifications have been made to the Inspector General.

The Monitor reviewed four audits covering March, April, May, and June 2002. No discrepancies were noted during the March, May and June audits.

The April audit noted that eight of ten Categorical Use of Force notifications were made as required. The two notifications that were not received occurred on the same day and the Office of the Inspector General staff member who was taking notifications on that day did not receive a page for either incident. The audit concluded that the lack of notification was due to a pager malfunction. In order to mitigate future problems, the Department Command Post was provided with secondary contacts in the event that the primary contact does not respond to a page within 30 minutes.

The Monitor compared Categorical Use of Force incident information independently obtained from Department Command Post logs for the period January 1, 2002 through March 31, 2002 to the Inspector General’s Categorical Use of Force Notification Log/Index for the same period.

Thirty incidents were identified from the Command Post logs. Fifteen incidents involved the use of deadly force (9 OIS with hits, 6 OIS with no hits), two involved in-custody deaths, six were law enforcement related injuries (“LERI”), three involved accidental discharges, and four involved dog shootings. It was determined that the Inspector General was notified of all 30 incidents.

The monitor finds the Inspector General in compliance with the provisions of paragraph 147 concerning notification and observance of Categorical Use of Force “Roll Outs.” The paragraph 147 provision that requires notification to the Police Commission of all non-conformances with LAPD policies and procedures and the Consent Decree will be evaluated in the next quarter.

Paragraph 150

Paragraph 150 instructs the Inspector General to accept complaints from LAPD officers regarding matters that the Inspector General has authority to investigate. The Inspector General is also required not to disclose the identity of complainant's except under certain circumstances.

Background

The Inspector General maintains in his office reception area blank complaint forms, brochures briefly explaining the complaint process, and postage paid envelopes addressed to the Internal Affairs Group.

Current Assessment of Compliance

Complaints received by the Inspector General were randomly reviewed for the period June 2001 through August 2002. During that period, the Inspector General opened 340 complaint files. These represented complaints of misconduct alleged by LAPD personnel, including retaliation complaints.

The Monitor's review found that the Inspector General tracks complaints and maintains records of the complaints brought to their attention by LAPD personnel. Complaints are forwarded to Internal Affairs Group as required. The Inspector General maintains a Policy and Procedures Manual for handling complaints filed with his office.

Whenever complainants request confidentiality, Office of the Inspector General staff explain the complainants' duty to adhere to chain-of-command procedures when reporting misconduct and advise complainants that by the very nature of the complaint they might be identified. It is also explained to complainants that the Inspector General is not afforded an absolute privilege protecting conversations with them as a matter of law.

The Monitor finds that the Office of Inspector General is in functional compliance with the provisions of paragraph 150.

Paragraph 152

Paragraph 152 states the LAPD shall continue to provide the Inspector General with all complaint intake information within one week after its receipt by Internal Affairs and that the Inspector General shall review such information to ensure that complaints are received in compliance with LAPD policies and procedures, and the terms of the Consent Decree.

Background

As reported in the Monitor's Report for the quarter ending March 31, 2002, the Monitor reviewed the Inspector General's Complaint Intake Log for August 2001 to identify instances where the Department may not have provided complaint information. In December 2001, the

Monitor met with the Inspector General to discuss its findings that not all complaint intake information had been forwarded to the Inspector General as required by the Consent Decree. Since that time, the Inspector General has made it a priority to follow up on missing complaint intake information.

The Inspector General has instituted an "Out of Sequence Report" to track CF numbers in order to identify complaint face sheets that are not provided by the Department. As of May 28, 2002 it was represented to the Monitor that there were no missing face sheets. As of July 15, 2002 it was represented to the Monitor that there were only 4 missing face sheets.

Current Assessment of Compliance

The Monitor reviewed the Office of Inspector General complaint intake procedures and log for the three-month period April 1, 2002 through June 30, 2002.

Currently, complaint intake information is input on a daily basis into a database as it is received from Internal Affairs Group. A Complaint Intake Log is generated within 10 to 15 days after the end of each month. The log tracks Consent Decree requirements concerning the 10 day requirement for the submission of complaints to Internal Affairs Group and the 7 day requirement for submission of complaint intake information to the Inspector General.

Additionally, a monthly Out of Sequence Report is generated showing CF numbers of complaint face sheets not received by the Inspector General. Office of Inspector General staff follows up with Internal Affairs Group on complaints having CF numbers shown on the Out of Sequence Report that have not been received. The Monitor found that Office of Inspector General and Department staffs have been working closely to resolve missing face sheets.

Each month Office of Inspector General staff generates two memoranda concerning the status of the complaint intake information provided by Internal Affairs Group. One memorandum contains out of sequence CF number information. The other contains the final status of the complaint intake information received for each month. These memoranda are included in the monthly logs.

The Monitor found that the monthly log is not always reprinted after all out of sequence complaints are received and input into the Office of Inspector General database for a particular month. This results in some confusion when viewing the paper copy of the logs maintained by the Inspector General. However, it appears that problems encountered in the past concerning missing complaint intake information have been corrected. Therefore, the Monitor found the Inspector General is in compliance with the provisions of paragraph 152¹¹⁵.

¹¹⁵ The monitor recommended that Out of Sequence Reports be generated on a daily or weekly basis so that feedback could be given to IAG staff in a more timely fashion concerning missing complaint intake information. This would allow IAG staff to start work sooner than month-end to located missing complaint information. The Monitor also recommended a paperless log to eliminate the multiple printing of updated logs after out of sequence complaints are subsequently received for previous months and input into the Office of the Inspector General database. Out of Sequence Reports showing the total number of outstanding complaints at any given time would

Paragraph 153

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

Background

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

Current Assessment of Compliance

Paragraph 153 was scheduled for review during this quarter. However, the review was postponed and will be conducted during the next quarter.

C. GENERAL**Paragraph 154**

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

Background

Since the implementation of the Consent Decree, there have been numerous reports issued pursuant to the Consent Decree that identify recommendations to correct deficiencies at various levels within the LAPD – including recommendations targeted at certain divisions within the LAPD, recommendations that apply department-wide, recommendations targeted at the Audit Division, and recommendations targeted at the Office of the Inspector General. The authors of such reports include representatives of the Consent Decree Task Force, various auditors within the LAPD and the Office of the Inspector General, the City, and various other parties. Subsequent reports issued by such authors often track the progress, or lack thereof, of the targets in implementing such recommendations.

Beginning with this report, the Monitor reviews recommendations made in one report that have been addressed in a subsequent report/review. The focus in this Monitor's report is on audit-

maintain the integrity of the log. These reports could be run for any period of time desired including quarterly and yearly time frames.

related recommendations in connection with two successive audits¹¹⁶; next quarter, and for all future Monitor's reports, the Monitor plans to also address recommendations made that are not necessarily connected to any audit.

Current Assessment of Compliance

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

- the Criminal Intelligence Group's Warrant Applications & Affidavits Audit conducted in June 2001 and the Audit Division's subsequent audit conducted in July 2002 (as required by CD ¶125(a) and CD ¶128(1));
- the Inspector General's evaluation of the June 2001 Warrant Applications & Affidavits Audit (as required by CD ¶135);
- the Audit Division's Arrest, Booking & Charging Reports Audits conducted in June 2001 and December 2001 (as required by CD ¶125(b) and CD ¶128(2)); and
- the Inspector General's evaluation of the above Arrest, Booking & Charging Reports Audits (as required by CD ¶135).

Warrant Applications & Affidavits Procedures

On June 21, 2001, the Criminal Intelligence Group ("CIG") completed its first audit of the LAPD's Warrant and Affidavits Applications. They made nine recommendations as summarized in Appendix F:

- five dealt with supervisory oversight – as discussed in the Audit Division's subsequent audit completed on July 8, 2002, the LAPD's supervisory oversight of warrant applications and affidavits is deficient;
- three dealt with standardized processes for tracking search warrants and the contents of a search warrant file – as discussed in the Audit Division's subsequent audit, these recommendations were not consistently applied department-wide; and
- one recommended that future warrants audits be conducted on a semi-annual basis – this was not complied with as the subsequent audit was completed approximately one year later.

The Office of the Inspector General's evaluation of the June 2001 Warrant Applications & Affidavits Audit included five recommendations that are also listed in Appendix F:

¹¹⁶ The Warrant Applications and Supporting Affidavits Audit conducted in June 2001 and July 2002, and the Arrest, Booking and Charging Reports Audits conducted in June 2001 and December 2001, as well as the Office of the Inspector General's evaluation of such audits.

- three dealt with the audit processes to be followed for search warrants audits – all of which have been implemented;
- one dealt with the creation of a warrant tracking system – which has also been implemented, but is not consistently used department-wide; and
- one dealt with the contents of each search warrant package – this has been partially implemented, but the current review revealed that documents were missing from several search warrants audited.

Arrest, Booking & Charging Procedures

In the Audit Division's ("AD") first Arrest, Booking & Charging Reports Audit dated June 26, 2001, the AD made six overall recommendations to the LAPD. Based on our review of the AD's subsequent ABC Audit Report dated December 27, 2001, the Monitor noted the following:

- one of the June 2001 recommendations was implemented by the LAPD;
- one of the recommendations do not appear to have been implemented (based on the AD's report); and
- four of the recommendations were partially implemented (i.e. not implemented across all areas within the department).

Similarly, in the Office of the Inspector General's first ABC Consent Decree Audit review dated August 1, 2001, the OIG made two recommendations, one that was directed to the Audit Division (relating to the audit), and the other to the LAPD (relating to operations). Based on our review of the OIG's subsequent ABC Audit report dated February 28, 2002, the Monitor noted that the AD adopted the recommendation made by the OIG. The second recommendation, directed at the LAPD, was a recommendation previously made by the AD, and was not referred to in the second ABC Audit reports prepared by the AD and the Office of the Inspector General, referred to above.

Based on the foregoing, the subsequent reports issued by the AD and Office of the Inspector General do not fully address whether the recommendations from prior audits were implemented. Further, there are several recommendations that were not implemented on a timely basis. Accordingly, the Monitor finds the LAPD to be in non-compliance with the functional requirements of paragraph 154 relative to the LAPD's procedures for Warrant Applications and Supporting Affidavits and Arrests, Bookings and Charging.

Appendix F identifies the status of the recommendations made by the LAPD and the OIG in connection with the Warrant Applications & Supporting Affidavits Audit and the Arrest, Booking and Charging ("ABC") Audit.

X. COMMUNITY OUTREACH AND PUBLIC INFORMATION

Paragraph 156

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

Background

Since the Monitor's first quarterly report, for the Quarter Ending September 30, 2001, the Department has not been in compliance with this paragraph, since it has been unable to publish data collected from officer-initiated pedestrian and motor vehicle stops.

Current Assessment of Compliance

Due to the difficulties that have plagued the collection process until recently, the Department has been unable to post the data collected pursuant to paragraphs 104 and 105. Therefore, the Monitor continues to find the department in non-compliance with paragraph 156.

The Monitor recommends that the Department organize all reports/postings mandated by paragraph 156 under one hyper-link so as to simplify access to this information.

XI. CORRECTIONS TO PREVIOUS QUARTERLY REPORT

The Monitor issues the following corrections to the Monitor's Report for the Quarter Ending June 30, 2002 after discussions among the Monitor, the City, and The Department of Justice.

Paragraph 45

Background

Paragraph 45 required the City to prepare a TEAMS II design document that satisfies certain specified Decree requirements, and to obtain approval of the design document from the Department of Justice (which approval may not unreasonably be withheld).

Error

The report card for the quarter ending June 30, 2002 indicated that the City was in compliance with paragraph 45.

Correction

Determination of compliance is problematic at this time. The City has made a good faith effort at compliance and has submitted a design document that is, for the most part, compliant with the

mandates of the Consent Decree. Yet there has been disagreement relative to the inclusion of a number of data elements as part of TEAMS II. Because of the disagreement between the Department of Justice and the City, and the lack of an approved document, the Monitor is withholding its determination of compliance (“DW”). The Monitor will continue to help the parties attempt to resolve their outstanding differences relative to the inclusion of the certain data elements.

Paragraphs 106 (b) and (c); 107(b); and, 115

Background

Grades were not assessed for paragraphs 106 (b) and (c) (gang units), 107(b) (gang units), and 115 (FTO removals) on the Report Card for the quarter ending June 30, 2002.

Error

The report card for the quarter ending June 30, 2002 lists the following grades:

Paragraphs 106(b) and (c) as “NR” for review "not required at this time;" paragraph 107 as review “NR” and "Phase II pending;" and, paragraph 115 as "No Monitoring Task."

Correction

The correct scoring for these paragraphs is “NYE” for "not yet evaluated." The monitor will address the paragraphs in current and future Quarterly Reports.

Paragraph 131(d)

Background

Paragraph 131(d) require the Department to conduct “regular, periodic” audits of the use of confidential informants by the gang units to assess compliance with paragraph 108. An audit had been conducted and forwarded to the Monitor, but was not assessed during the quarter ending June 30, 2002.

Error

The report card for the quarter ending June 30, 2002 indicated that the City was in non-compliance with Consent Decree paragraph 131(d).

Correction

The correct scoring for paragraph 131(d) should have been “NYE” for “not yet evaluated.”

Paragraph 154***Background***

Paragraph 154 requires that the City "take appropriate, timely and reasonable steps" to remedy deficiencies identified in Decree-mandated reviews, audits, and reports.

Error

The report card for the quarter ending June 30, 2002 listed "No Task" for this paragraph.

Correction

The correct notation for paragraph 154 should have been "NYE" for "not yet evaluated."

XII. CONCLUSION

The LAPD continues to be non-compliant with a number of provisions of the Consent Decree. We have highlighted some of these deficiencies in our focus section and have noted some significant successes as well. We believe all the settling parties are committed to compliance. We are more convinced than ever that with proper management full compliance can be achieved.