

# APPENDIX D

## LAPD FINAL MONITOR REPORT

# OFFICE OF THE INDEPENDENT MONITOR OF THE LOS ANGELES POLICE DEPARTMENT



**FINAL REPORT**  
Issued June 11, 2009

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## I. Introduction

In the decade leading up to June 2001, the Los Angeles Police Department (LAPD) was troubled. Its reputation was blighted by headlines of corruption, excessive use of force, bias and arrogance. The LAPD seemed to be governed by itself, for its own purposes only peripherally related to the community it was sworn to protect. Over the past eight years, on these pages we have reported on the progress, imperfect at times, that the LAPD and the City of Los Angeles have made in instituting various reforms aimed at restoring not only constitutional policing but also the integrity and reputation of the LAPD. We are pleased to report that the LAPD has substantially complied with the requirements of the Consent Decree. We believe the changes institutionalized during the past eight years have made the LAPD better: at fighting crime, at reaching out to the community, in training its officers, in its use of force, in internal and external oversight, and in effectively and objectively evaluating each of the sworn members of LAPD. More specifically, the LAPD has become the national and international policing standard for activities that range from audits to handling of the mentally ill to many aspects of training to risk assessments of police officers and more.

These past eight years have clearly shown that with the right impetus, with goodwill and with a good plan, institutional reformation can be, and in Los Angeles has been, achieved. Most importantly, the past eight years have shown that constitutional policing can effectively coexist with and, indeed, foster the primary role of the police: ensuring the public safety. This report constitutes our final report and recommendation that the City of Los Angeles be found in substantial compliance with the Consent Decree.<sup>1</sup> However, we recommend the termination of the Consent Decree with a caveat. The process and institutions that have been created must be nurtured and strengthened by the City family in the years to come. Benign neglect will endanger the hard-won progress that the LAPD has made. We hope the Transition Agreement,<sup>2</sup> which is crucial to completing the work in the areas of the Department's early warning system,

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<sup>1</sup> This recommendation is made pursuant to the definition of substantial compliance contained in paragraph 179 of the Consent Decree: "'substantial compliance' means there has been performance of the material terms of this Agreement. Materiality shall be determined by reference to the overall objectives of this Agreement. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure to maintain substantial compliance."

<sup>2</sup> A Transition Agreement (TA), which covers those aspects of the Consent Decree for which the City and DOJ have agreed to continued judicial jurisdiction, has been filed with the Court. The TA is subject to the Court's review and potential modification. The TA as submitted specifically covers the areas of Financial Disclosure, TEAMS II and Biased Policing and calls for oversight and reporting on these areas to be provided by the Office of the Inspector General.

biased policing and financial disclosure, also gives further time for proactive leadership to focus on how to continue to maintain and grow the reform of LAPD.

## A. History

In June 2001, the Office of the Independent Monitor of the Los Angeles Police Department was established by order of the Honorable Gary Feess of the U.S. District Court for the Central District of California. The position was created pursuant to a Consent Decree that settled a civil suit brought against the City of Los Angeles by the U.S. Department of Justice (DOJ). The lawsuit sought to obtain injunctive and declaratory relief to eliminate the pattern or practice of misconduct by the LAPD found during an intensive DOJ investigation engendered by, among other events, the Rodney King beating and the Rampart scandal.<sup>3</sup>

Specifically, that investigation found that LAPD was at that time engaged in a pattern or practice of excessive force, false arrests and unreasonable searches and seizures in violation of the Fourth and Fourteenth Amendments to the Constitution.<sup>4</sup> It also found serious deficiencies in LAPD policies and procedures for training, supervising, investigating and disciplining police officers, all of which fostered and perpetuated officer misconduct. In addition, it found that the LAPD had failed to implement a comprehensive risk management system that would identify “at risk” officers; that the Department was not responding properly to citizen complaints of officer misconduct; and that neither the Police Commission nor the Inspector General (IG) had the resources required to provide meaningful oversight of the LAPD. Equally important, especially to the question of how things could be fixed, the investigation found that the majority of LAPD officers were “ethical, hardworking, and responsible individuals, who [had] not, themselves, violated the constitutional rights of the persons they serve[d] and protect[ed].”<sup>5</sup>

The 90-page Consent Decree contained specific provisions directed at correcting the identified deficiencies and created the position of Independent Monitor to act as an agent of the Court and charged the Independent Monitor with overseeing and reporting on the City’s implementation of the reforms required by the Consent Decree.

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<sup>3</sup> 42 USC 14141 authorizes the Attorney General to conduct investigations, and if warranted file civil litigation, to eliminate a “pattern or practice of conduct by law enforcement officers...that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. The Attorney General has delegated this authority to the Special Litigation Section of the Civil Rights Division of the US Department of Justice.”

<sup>4</sup> A copy of the DOJ’s May 8, 2000 letter to the City of Los Angeles outlining the findings of its investigation (hereinafter referred to as the DOJ’s *May 2000 Letter Report*), the civil complaint and the Consent Decree appear as Appendices A, B and C, respectively.

<sup>5</sup> Page 2 of the DOJ’s *May 2000 Letter Report*

Monitoring commenced in July 2001 and was scheduled for an initial period of five years. In May 2006, the Consent Decree was extended for an additional three-year period.<sup>6</sup> Over the past eight years, the Monitor issued 30 quarterly reports<sup>7</sup> covering the progression of the LAPD's compliance with the Consent Decree's mandated reforms. That progression now culminates in our declaration of substantial compliance with the Decree. More importantly, the Monitor believes that the Department, with the local civilian oversight provided by the Board of Police Commissioners and the Office of Inspector General (OIG) as laid out in the City Charter, will ensure that the reforms that have been achieved to date and embedded in the Department as best practices will be able to endure. That being said, while the Monitor is confident in the ability of the Department to maintain the reforms achieved, there are circumstances which could threaten the reforms that have been achieved. These risks are discussed in greater detail in our Conclusion, below.

This final report recounts the significant events of the Consent Decree period, including the crime reduction achieved during that time, and details the basis for our conclusions.

## **B. Involved Entities**

We have arrived at this point through the involvement of a number of different entities working together to reform the Department. The hard work and dedication of the many individuals working for those entities has led to this success. A brief review of those entities is in order.

### **The U.S. Department of Justice**

As noted above, the Special Litigation Section of the Civil Rights Division of the U.S. Department of Justice was the catalyst for reform when it instituted the investigation and subsequent litigation which gave rise to the Consent Decree. The DOJ, through staff attorneys of the Special Litigation Section, was a constant participant throughout the term of the Consent Decree, attending monthly Monitor status meetings, conducting targeted inquires and generally

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<sup>6</sup> At the inception of the three-year extension and again two years into the extension period, certain paragraphs of the Consent Decree for which substantial compliance had been achieved were deemed "inactive," with the ability of the Monitor to resume active monitoring if there were any indications of slippage with respect to compliance in those particular paragraphs.

<sup>7</sup> These quarterly reports can be found at <http://kroll.com/about/library/lapd/>. A "Report Card" showing the compliance findings for each quarter is included as Appendix D.



ensuring that the LAPD and City were meeting their obligations of reform as mandated by the Decree.<sup>8</sup>

## The City of Los Angeles

With more than 3.8 million residents, the City of Los Angeles is the nation's second largest city and the largest city against which litigation alleging police misconduct has been brought by DOJ.<sup>9</sup> The Consent Decree was negotiated in the latter part of 2000 under Mayor Richard Riordan and was approved by the City Council in November of that year. Both of Mayor Riordan's successors, James Hahn and Antonio Villaraigosa, have continued the City's full support of the Consent Decree and its objectives. In addition to the Office of the Mayor, the Office of the City Attorney and the Office of the Chief Legislative Analyst, which represented the City Council, were full participants. Like the Mayor's Office, each agency was fully supportive of the reform process.

## The Board of Police Commissioners

The Board of Police Commissioners consists of five civilian members appointed by the Mayor. The Police Commission serves as the head of the Los Angeles Police Department. While only one member of the Commission has remained over the entire period of the Consent Decree, in its role as head of the LAPD, the Commission has consistently been committed to ensuring that the Department met its obligations of reform. The Commission, and the civilian oversight that it provides, is a pillar upon which the success of the Department's compliance with the Consent Decree has rested. Going forward, the Commission will play a critical role in ensuring against any slippage in the reforms that have been achieved. The composition of the current Commission is ideally suited for this role. It is composed of four prominent attorneys and an icon of the civil rights movement in Los Angeles, is supported by a uniquely qualified and extremely competent Executive Director and has exhibited independence and steadfastness in its commitment to reform. Yet, it is clear that true reform cannot rest on the personalities of political appointees, but rather must be fully ingrained in the system. We will have more to say about that below.

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<sup>8</sup> For a full description of the Special Litigation Section's jurisdiction and activities see <http://www.usdoj.gov/crt/activity.php#spl>

<sup>9</sup> Among other cities that have been the subject of Consent Decrees or Memoranda of Understanding are Detroit, Washington, D.C., Cincinnati and Pittsburgh.

## **The LAPD**

The LAPD serves a city of nearly four million people with an authorized force of approximately 9,300 sworn officers, 3,000 civilian employees and an annual budget exceeding \$1 billion. The LAPD responds to over 900,000 calls for service each year. Today's LAPD is significantly different from the Department that the Monitor found at the beginning of the Consent Decree. The Department at that time was demoralized and badly battered by scandal, with a disciplinary system that was largely regarded as both unfair and ineffective. The Department was suffering from what the March 2000 LAPD Board of Inquiry Report to the Police Commission, Rampart Area Corruption Incident (hereinafter referred to as the March 2000 BOI Report), termed "mediocrity." It was this mediocrity that the Board of Inquiry (BOI) found had bred the lack of integrity leading to the Rampart scandal, an observation undoubtedly applicable to the problems that the DOJ found during its investigation. From the onset, the Department took its responsibilities under the Consent Decree seriously. Shortly after the approval of the Decree by the Mayor and City Council in November 2000, a Consent Decree Task Force was established. This task force became the Consent Decree Bureau and oversaw the establishment of the Audit Division (AD) mandated by the Decree. It was, however, under the leadership of a new Chief, William J. Bratton, who had served as a policing expert on the Monitoring team prior to his appointment in October 2002, that reform truly began its institutionalization throughout the Department. Chief Bratton raised the level of visibility and dedication to the Decree by appointing as a Deputy Chief equivalent a former member of the Board of Police Commissioners and former criminal defense attorney, Gerald Chaleff, to head the Consent Decree Bureau, which was charged with implementation of the Consent Decree provisions. Since his appointment, and notwithstanding occasional setbacks, Chief Bratton has been a staunch supporter of the Decree, repeatedly indicating that the Decree's mandates were nothing more than best policing practices and that the Decree's provisions were "the baseline for, and not the ultimate standard, by which the Department's commitment to excellence w[ould] be ultimately measured."

## **The Office of the Inspector General**

The creation of the OIG was a major reform recommendation of the 1991 *Report of the Independent Commission on the Los Angeles Police Department* (hereinafter referred to as the *Christopher Commission Report*), which was charged in July 1991 with examining the structure and operation of the LAPD in the wake of the Rodney King beating. The OIG was established as an arm of the Police Commission in 1996 and through a series of City Charter amendments now has subpoena power and authority to investigate any matter pertinent to the Police Department. The Consent Decree placed specific mandates on the OIG, most notably in the areas of audits, uses of force and the complaint process. The OIG discharged these mandates well and has acted as a full partner throughout the period of the Consent Decree. Indeed, with the continual improvement over the life of the Consent Decree, the OIG has garnered a national

reputation and is viewed as a model for other cities to emulate. It is anticipated that by working together with the Police Commission, the OIG will take the lead role in ensuring that the reforms achieved under the Consent Decree are maintained and built upon.

## **The Office of the Independent Monitor**

As noted above, the Office of the Independent Monitor was created by the Consent Decree itself. In May 2001, Michael Cherkasky and Kroll Inc. were appointed as the Independent Monitor by the Honorable Gary Feess. Mr. Cherkasky was designated as the Primary Monitor and Jeff Schlanger as the Deputy Primary Monitor. In addition to Mr. Cherkasky and Mr. Schlanger, the monitoring group consisted of professionals covering a range of disciplines, including policing, audit and technology. The monitoring group, which varied in composition over the years, was organized into teams corresponding to the various sections of the Consent Decree. Each team had a liaison in the LAPD Consent Decree Bureau and worked closely with them in obtaining necessary data and access in order to determine the degree of compliance with the individual mandates of their assigned sections.

The Office of the Independent Monitor issued 30 quarterly reports over the past eight years. In each of these, the Monitor reported on pre-designated Consent Decree mandates, examining the progress of compliance with those mandates. After the initial five-year term of the Consent Decree, the Monitor discontinued active monitoring of those mandates with which the LAPD had achieved substantial compliance. Similarly, two years into the extension period, active monitoring of those remaining mandates with which the LAPD had achieved substantial compliance was discontinued.<sup>10</sup> Details of the progression of compliance for the various categories of Consent Decree reform appear in Section II of this report, below.

## **The United States District Court**

The Honorable Gary Feess of the United States District Court for the Central District of California has presided over this matter for the entire time it has been pending.

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<sup>10</sup> A full listing of those mandates, the quarters in which they were examined and an indication of whether substantial compliance with the mandates had been achieved in that quarter is contained in Appendix D hereto.

## C. Constitutional and Effective Policing

One of the more notable aspects of the achievement of substantial compliance with the Consent Decree is the reduction in crime that has been realized over the same time period. The drop in homicides is indicative of drops that have been experienced in other serious felonies. Homicides have, in fact, dropped from 647 in 2002 to 381 in 2008. This trend is continuing into 2009, with a further 30% year-over-year drop through mid-May. While cause and effect can, perhaps, be argued, what is clear is that with proper management, constitutional policing and effective policing can go hand in hand.<sup>11</sup>

## D. A Chronology of Significant Events

There have been many significant events over the term of the Consent Decree. We have included a chronology of those events in Appendix F to this report.

## E. Overview of Compliance Assessments and Recommendations to the Court

As detailed in the section-by-section analysis contained in Section II of this report, below, we believe that overall substantial compliance with the Consent Decree has been achieved.<sup>12</sup> As such, and subject to the terms of the Transition Agreement, we recommend to the Court that the Consent Decree be terminated. We offer our thanks and appreciation to all who have contributed to this substantial effort and made our recommendation possible. We have acknowledged those individuals most centrally involved in the Acknowledgements section at the end of this report.

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<sup>11</sup> Appendix E contains crime statistics for homicide, rape, aggravated assault and robbery. Substantial reductions in each of these crime categories were achieved over the period of the Consent Decree. In addition, a recent study performed by the Harvard Kennedy School ([Policing Los Angeles Under a Consent Decree: The Dynamics of Change of the LAPD, Program in Criminal Justice Policy and Management; The Harvard Kennedy School](#)) contains analyses of trends of both crime statistics and social attitudes over the years of the Consent Decree. It should be noted, however, that neither the Monitor nor the DOJ was interviewed or consulted in the preparation of the Harvard Kennedy School Report.

<sup>12</sup> In addition to the paragraphs of the Consent Decree covered by the Transition Agreement, there remain a few paragraphs of the Consent Decree which have not achieved the >94% compliance rate that was the goal of full compliance. For the most part, those paragraphs which have not reached this level were administrative in nature, and the Department has made significant strides toward compliance over the life of the Consent Decree.

## **II. Overview of Compliance Assessments and Recommendations to the Court**

### **A. Management and Supervisory Measures to Promote Civil Rights Integrity**

#### **1. TEAMS II [Computer Information System]**

The Consent Decree was, inter alia, intended to set standards of conduct for LAPD officers. It was understood by all parties that accumulating good information that accurately and quickly identified those officers at risk for failing to meet those standards was critical for the successful implementation of the Decree. At the same time, there was explicit recognition that the system in use by the LAPD at the time was inadequate for the task of attempting to identify potentially at-risk officers. The *March 2000 BOI Report* recognized the need for an Early Warning System similar to that which had, at times, been deployed in certain major city jurisdictions, including Boston, Denver and Miami-Dade. Both the BOI and the Christopher Commission called for a system that would track officer activities such as personnel complaints, use of force (UOF) incidents and vehicle accidents in order to identify potential problem officers. TEAMS II became a critical success factor for the Decree and one of the most difficult to implement.

#### **Consent Decree Solutions**

The Consent Decree required the City to establish a database, known as the Training, Evaluation and Management System II (TEAMS II), containing relevant information about its officers, supervisors and managers, to be utilized to promote professionalism and best policing practices and to identify and address potentially at-risk behavior.<sup>13</sup>

The Consent Decree also required the Department to prepare and implement a plan for inputting historical data into TEAMS II, including relevant numerical and descriptive information

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<sup>13</sup> TEAMS II was required to contain information related to all lethal and nonlethal uses of force, canine bites, officer-involved shootings, injuries and deaths reviewed by the LAPD Use of Force Review Board (UOFRB), pursuits, collisions, complaints, discipline, commendations, arrest reports, crime reports, citations, claims and lawsuits, assignment, rank and performance evaluation information training, and actions taken pursuant to a review of TEAMS II information, including non-disciplinary actions.

about each item and incident. TEAMS II was required to utilize common control numbers for cross-referencing single incidents from multiple documents, and the City was required to prepare a design document and develop and implement a protocol for using TEAMS II.

The Department was required to enter information in TEAMS II in a timely, accurate and complete manner, to maintain the data in a secure and confidential manner; and to utilize that data pursuant to a protocol that would enable the detection of patterns that would indicate potentially at-risk behavior.<sup>14</sup>

The Consent Decree included a specific timeline for the development and implementation of TEAMS II, as well as a requirement that the LAPD designate a unit responsible for developing, implementing and coordinating LAPD-wide risk assessments.

### **Overall Achievements of the LAPD**

The TEAMS II risk management system was one of the bigger challenges required by the Consent Decree. Los Angeles, like most American cities, had dozens of legacy information systems that were outdated, unreliable and did not communicate with each other. Over the initial five-year term of the Decree and its three-year extension, the LAPD dedicated countless hours and resources to successfully develop TEAMS II. Its development and implementation is certainly among the City and Department's greatest achievements.

TEAMS II was designed as a tool for line supervision across the Department that would promote risk management as a top priority for every supervisor and Commanding Officer (CO) in the Department. The system combines risk-oriented data (uses of force, complaints, etc.) with operational data (arrests, traffic stops, citations, etc.) and is designed to automatically notify supervisory personnel when officers in their command deviate significantly from the norms of their sworn peers. TEAMS II has begun to facilitate a significant change in management practices. It is now incorporated into the LAPD Manual and in the daily business practices of a variety of areas, including promotions, pay-grade advancements, selections to specialized units such as GED, annual performance evaluations, transfers to new commands, daily use by the OIG, reviews by the Risk Management Executive Committee (RMEC) and all UOF and complaint investigations.

The system's success within the Department, and the accompanying recognition from both law enforcement agencies and academia, sets TEAMS II as a model for law enforcement agencies. In fact, the Department is now looked to as a leader in the Early Warning System arena, and

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<sup>14</sup> The City was required to maintain all personally identifiable information about an officer during their employment with the LAPD and for at least three years thereafter, and information necessary for aggregate statistical analysis must be maintained indefinitely.

departments such as Chicago, Detroit and New South Wales, Australia, are looking to the LAPD for guidance in this area.<sup>15</sup>

In order to meet Consent Decree requirements regarding the system, the City developed and deployed five new systems: the Complaint Management System (CMS), the Use of Force System (UOFS), the STOP database, the Risk Management Information System (RMIS) and the Deployment Planning System (DPS). The RMIS gathers data from the new systems, as well as numerous legacy systems, in order to produce relevant information for risk management analysis. The deployment of these systems was completed in the first quarter of 2007. While the timelines set by the Consent Decree were not met, it was always the position of the Monitor that it was more important to implement a well-designed system than one that resulted from haste. As described above, the system has proved that the time taken was worthwhile.

### **Consent Decree Compliance<sup>16</sup>**

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

The Consent Decree also required a Data Input Plan for inputting historical data into TEAMS II. The Data Input Plan was written and approved by all parties in the third quarter of 2003 and included an appendix that described data elements and time periods to be included and the amount, type and scope of historical data, as required. Such historical data was imported into TEAMS II over the course of the last few years for all categories, including complaints, UOF, traffic collisions, vehicle pursuits, arrests, claims and lawsuits, and training.

All five TEAMS II systems were completed and rolled out Department-wide in early 2007. At that time, the Monitor began its assessment of the substantive paragraphs of the Consent Decree related to TEAMS II and found that TEAMS II access to all entities was appropriate and that the TEAMS II policy outlining access was approved and distributed as required by the

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<sup>15</sup> While other departments in the country have “early warning systems” in place, most are manual processes that involve reviewing reports on a monthly or quarterly basis. None are as automated or up-to-date as TEAMS II, which is updated nightly and includes daily reviews of officers.

<sup>16</sup> Some aspects of TEAMS II are subject to the provisions of the Transition Agreement.

Consent Decree. During the third quarter of 2007, the Monitor determined that the presence and accuracy rates for required data elements were in compliance with Decree requirements.

During the first quarter of 2007, the Monitor also attended training sessions for RMIS and the UOFS, and reviewed standard RMIS monthly reports, as well as different ad hoc queries, in order to ensure that TEAMS II has the capability to search and retrieve the information required. The Monitor found relevant and descriptive information about various items and incidents included in TEAMS II, and relevant scanned copies of certain documents were available in RMIS, the UOFS and other systems.

Additionally, the Monitor reviewed 34 different monthly reports produced by RMIS, including four individual summary and comparison reports, 15 different summary and comparison reports for units and/or workgroups and 15 different incident reports.<sup>17</sup> The Monitor determined that these reports met the Consent Decree requirement that TEAMS II have the capability to search and retrieve numerical counts, percentages and other statistical analyses for individual employees, LAPD units, groups of officers, incidents or items and groups of incidents or items. Currently, the TEAMS II staff can run ad hoc queries upon request until such time as RMIS allows these ad hoc reports to be created in its system.

The Consent Decree also required that a common control number be used to link information about a single incident in TEAMS II. The Monitor reviewed working papers for incidents that are associated with other incidents from other source systems that feed the RMIS database and are cross-referenced in RMIS. The TEAMS II staff and Monitor verified that the cross-references that were in the source systems still existed and were working in RMIS.

During the third quarter of 2007, the Monitor conducted a review of some of the TEAMS II protocols<sup>18</sup> by reviewing TEAMS II action items triggered during this time and found some overall issues regarding inconsistencies. Based on this review, the Department began to

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<sup>17</sup> These reports include comparisons of individuals and groups to various incidents or items for a particular date range selected, including but not limited to the number of uses of force to stops and arrests, the number of complaints to stops and arrests and the number of claims and lawsuits to stops and arrests, as well as information on each of the individual incidents.

<sup>18</sup> The Monitor reviewed whether supervisors regularly review and analyze all relevant information in TEAMS II about officers under their supervision to detect any pattern that may indicate that an officer, group of officers or LAPD unit may be engaging in at-risk behavior; whether appropriate managers and supervisors undertake a more intensive review of the officer's performance when at-risk behavior may be occurring based on a review and analysis; whether LAPD managers regularly review and analyze relevant information in TEAMS II about subordinate managers and supervisors in their command regarding the subordinate's ability to manage adherence to policy and to address at-risk behavior; and whether there was routine and timely documentation in TEAMS II of actions taken as a result of reviews of TEAMS II information.



remediate some of these issues by providing a Departmental Notice<sup>19</sup> and informal training to the command staff and all supervisors for further guidance on what constitutes appropriate review of action items and how to properly document such a review. The Monitor reviewed TEAMS II action items again in the third quarter of 2008 and found that all of action items were reviewed by supervisors on a regular basis and analyzed and that these action items were initiated when required. The Monitor found that 91% of the action items reviewed were in compliance with the requirements to conduct a further review when at-risk behavior may be occurring. Of those non-compliant action items, some supervisors or managers did not conduct thorough enough reviews of work histories, did not consider any specific incidents within the work histories and did not document the justification for their dispositions.<sup>20</sup>

The Monitor concluded that all action items were being reviewed and analyzed for adherence to policy and addressing potentially at-risk behavior on every review level by the appropriate managers and supervisors. The Monitor also found that managers were providing both direction and feedback for their subordinates' review and analysis of these action items and their adherence to policy and addressing at-risk behavior. The Monitor, however, did find that 14% of the action items reviewed took more than the maximum allowed time of 60 days for the completion of action item review. This deficiency was successfully addressed during the third quarter of 2008.

The Monitor also reviewed the same action items selected from the third quarter 2008 in order to assess compliance with additional requirements.<sup>21</sup> The Monitor found that the protocols appropriately provide the guidelines required for the numbers and types of incidents requiring a TEAMS II review. The Monitor also found that the protocols appropriately indicate the guidelines required for the follow-up managerial or supervisory actions, including non-disciplinary actions, to be taken based on reviews of the information in TEAMS II. The Monitor conducted a further review of those action items with dispositions other than "no action" and found that those action items with dispositions other than "no action" were appropriately dealt

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<sup>19</sup> Notice titled, "Use of Complaint Information When Responding to RMIS Action Items," November 18, 2008

<sup>20</sup> In the remaining, the supervisors only considered the specific incidents or categories that were triggered, rather than reviewing the employees' entire work histories within that evaluation period and documenting the justification for their dispositions.

<sup>21</sup> The requirements tested included the guidelines for numbers and types of incidents requiring a TEAMS II review by supervisors and managers and the frequency of these reviews; the follow-up managerial or supervisory actions (including non-disciplinary actions) to be taken based on reviews of the information in TEAMS II; the use of TEAMS II information as one source of information in determining when to undertake an audit of an LAPD unit or group of officers; and whether specific actions taken as a result of information from TEAMS II are based on all relevant and appropriate information, and not solely on the number or percentages of incidents in any category recorded in TEAMS II.

with 100% of the time, including resolutions of training, modified or non-field duties, informal meeting and complaints.

The Consent Decree also required that each officer be able to regularly review all personally identifiable data in order to ensure the accuracy of data. The Monitor found these provisions related to access were being met. The Monitor also reviewed a list of requests for corrections to TEAMS II and found the Department in full compliance with requirements related to correcting data errors.

During the third quarter of 2008, the Monitor reviewed the results of an organizational assessment TEAMS II staff conducted in March 2008. In that assessment, TEAMS II staff reviewed total Department-wide action items for the second quarter of 2008 and determined that Central Area Narcotics appeared to be statistically higher than the average of other specialized units for RMIS thresholds.<sup>22</sup> TEAMS II staff, in conjunction with the Risk Analysis Section (RAS), presented this finding to the LAPD RMEC. Through the review process, it was determined that Central Area Narcotics had a low number of stops due to the Narcotics Task Force's use of a Department-approved exception to completing Field Data Reports (FDRs), as stated in the LAPD Manual and Department policy. Additionally, it was determined that supervisors were becoming directly involved in uses of force, rather than serving in a supervisory capacity.<sup>23</sup>

As a result of these findings, the LAPD changed procedures to ensure that FDRs would be required from the Narcotics Task Force, and discussed with supervisors the importance of acting as a supervisor to an incident if possible, rather than getting directly involved in the UOF. TEAMS II staff and RAS continue to look at other specialized units, including gangs, vice and patrol, in each new organizational assessment and will explore alternative ways to review and assess the implementation of protocols regarding organizational assessments. In the organizational assessment conducted in the fourth quarter of 2008, the TEAMS II staff reviewed total Department-wide action items for the third quarter of 2008 and determined that some South Bureau gang units appeared to be higher than the average of other specialized units for RMIS thresholds.<sup>24</sup> TEAMS II staff, in conjunction with RAS, presented this finding to RMEC and it was determined that one Area had a high number of UOF but all were appropriately triggered. These organizational performance assessments are exactly the kind of data-based reviews

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<sup>22</sup> These specific action items referenced here are triggered when comparing the number of stops to the number of complaints and UOF. In this instance, Central Area Narcotics had a higher number of complaints and UOF when compared to the number of stops.

<sup>23</sup> This leads to a higher number of UOF incidents, compared to other Areas, if supervisors are also counted as involved officers in these UOF.

<sup>24</sup> These specific action items referenced here are triggered when comparing the number of UOF and complaints to the number of arrests.

envisioned by the Consent Decree and clearly have the potential of identifying problems in their early stages.

The Consent Decree also required that managers' and supervisors' performance in implementing the provisions of the TEAMS II protocol be taken into account in those individuals' annual performance evaluations. Additionally, whenever any officer transfers into a new Division or Area, the CO of the new division or Area was required to promptly assure a review of the transferred officer's TEAMS II record. The Department decided to develop system-generated action items to address these requirements in order to ease the burden on supervisors and ensure that such requirements are completed in a timely manner. Both types of system-generated action items were deployed Department-wide by June 2008. These action items allowed direct links to not only TEAMS II reports, but also to the Transfer Evaluation Report (TER) forms required for transfers and the performance evaluation forms for annual reviews.

Regarding system-generated action items for annual performance evaluations, the Monitor found that 87% of them were completed within the Department's 60-day requirement from the date of the supervisors' or managers' anniversary date, and 53% of them included assessments of the supervisors' or managers' performance in implementing the provisions of the TEAMS II protocol in their annual performance evaluations. Based on these results, the Monitor concluded that the requirements had not been fully addressed in these annual performance evaluations, nor were the action items related to these annual performance evaluations being completed in a timely manner.<sup>25</sup> To ensure that the implementation of the provisions of the TEAMS II protocol is assessed when evaluating supervisors or managers, TEAMS II has included instructions in the Performance Evaluations Report (PER) to prompt the reviewer to provide a response to this requirement. The Monitor also reviewed system-generated action items for transfers that had been completed in the third quarter of 2008 and found that the Department was not fully meeting the requirements regarding timeliness of the review, supervisory approval, adequate reviews and timely TEAMS II reports.

Requirements to train managers and supervisors, consistent with their authority, to use TEAMS II to address potentially at-risk behavior and to implement the TEAMS II protocol were met in the first quarter of 2007. The Monitor conducted this review again in the second quarter of 2008 and found that all supervisors who were required to do so had taken the RMIS TEAMS II training.

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<sup>25</sup> The Department indicated that these new TEAMS II requirements for the annual performance evaluations will be emphasized in the supervisors' upcoming training courses and in ongoing COMPSTAT meetings in order to ensure that these provisions are adhered to for future reviews.

The Consent Decree also required the City to maintain all personally identifiable information about an officer included in TEAMS II. During the second quarter of 2007, the Monitor reviewed a time period for three separate Deployment Periods (DPs), including all terminated employees' events, comparing such events to a current organizational summary report, and found that the employee events were included in the current data.

The Consent Decree required that LAPD designate a unit within Human Resources Bureau that would be responsible for developing, implementing and coordinating LAPD-wide risk assessments, the operation of TEAMS II and provide assistance to managers and supervisors using TEAMS II to perform the tasks required in the protocol. The Monitor reviewed these requirements over the course of the Consent Decree and reported in the second quarter of 2007 that the RAS within Risk Management Group (RMG) was providing the Department with assistance in connection with TEAMS II, including providing a help desk for LAPD personnel to call when guidance is needed on how to evaluate risk and write a proper narrative to support any conclusions made based on that evaluation.

Lastly, the Consent Decree required that Force Investigation Division (FID) and Internal Affairs Group (IAG) investigators conducting investigations have access to all information contained in TEAMS II, where such information is relevant and appropriate to such investigations. In the second quarter of 2008, the Monitor reviewed working papers provided by the TEAMS II staff regarding their review of pertinent Departmental policy, the TEAMS II Access Control Matrix and TEAMS II User Access Profiles for all FID and IAG investigators and found that all FID and IAG investigators had appropriate access, as required.

The Monitor commends the Department for the significant improvement made during the term of the Decree, which was especially notable from the 2007 evaluation to the 2008 evaluation. As a result of the TEAMS II staff providing new policy, further training and appropriate guidance to the Department, the reviews of action items by managers and supervisors have seen significant improvement in both the required analysis and the appropriate documentation.

## **Recommendations**

The Monitor commends the City, LAPD and specifically TEAMS II staff for their significant achievements in developing and implementing TEAMS II. After a slow start, the LAPD TEAMS II staff have, in the last three years, performed extraordinarily. What remains to be done is to ensure that the TEAMS II system continues to be institutionalized as part of the operations of LAPD. Because of the centrality of TEAMS to reform and the fact that it has not been fully operational for two years, teams will be subject to the terms of the Transition Agreement. Additionally, the Monitor offers the following recommendations to the LAPD, TEAMS II staff, AD and the OIG in connection with utilizing this system and proactively monitoring officers for potential at-risk behavior.

- The Department must promote greater compliance with the timeliness of evaluations generally.
- TEAMS II staff, the Department, AD and the OIG need to continue to carefully review and analyze action items by supervisors, managers and command staff to ensure that supervisors and managers are monitoring and identifying patterns of behavior for potentially at-risk officers. Reviews should be conducted of the documentation of analyses, the justifications for the dispositions of their reviews of these action items and the timeliness of the action.
- These entities should also continue to utilize TEAMS II to conduct their own audits and reviews of individual officers, units and Areas; such audits and reviews should include organizational assessments.
- The City and the Department should continue to monitor peer groups and thresholds to ensure that they are appropriate given the current status of the Department. These peer groups will change as the Department does. In addition, ongoing reviews of action items should be conducted to ensure they remain appropriate.
- The Department, AD and the OIG should attempt to utilize TEAMS II to its fullest capacity. New and powerful ways to use this robust system will hopefully be developed going forward.

## 2. Performance Evaluation System

One of the major findings of the *March 2000 BOI Report* was the failure of LAPD to meaningfully evaluate both its officers and its supervisors. The BOI found that “personnel [were] not being evaluated honestly or accurately – virtually all evaluations would be ranked as excellent or outstanding” and that “because an average evaluation is viewed as poor, those personnel who are evaluated accurately are penalized by the system.” The BOI recommended that the LAPD “restore integrity to [the] performance evaluation system so that it [could] be relied upon as a true measure of performance.”

Similarly, the DOJ’s investigation found that the LAPD “failed to utilize properly other supervision and risk management tools, including meaningful personnel evaluations...and assessments of officers’ history and performance when undertaking actions such as promotions and sensitive assignments.”

## Consent Decree Solutions

The Consent Decree required the LAPD to “develop and implement a plan that ensures that annual personnel performance evaluations are prepared for all LAPD sworn employees that accurately reflect the quality of each sworn employee's performance, including with respect to:

- a. civil rights integrity and the employee’s community policing efforts (commensurate with the employee’s duties and responsibilities);
- b. managers’ and supervisors’ performance in addressing at-risk behavior, including the responses to Complaint Form 1.28 investigations;
- c. managers’ and supervisors’ response to and review of CUOF and Non-Categorical Use of Force (NCUOF) incidents, review of arrest, booking, and charging (ABC) decisions, and review of requests for warrants and affidavits to support warrant applications; and
- d. managers’ and supervisors’ performance in preventing retaliation.

The Decree also required the plan to “include provisions to add factors described in subparts a-d, above, to employees’ job descriptions, where applicable.”

## Overall Achievements of the LAPD

At the inception of the Consent Decree, the requirements for the use of personnel evaluations were contained in Special Order No. 6, *Evaluation Procedure for Officers of the Rank of Lieutenant and Below – Revised*, originally issued on March 10, 1995. In 2004, a revised set of rules was promulgated by the Department.<sup>26</sup> The order included a revised evaluation form in which additional categories of evaluation were added.<sup>27</sup> Additionally, a section was added for details on training provided to the evaluated employee, particularly related to specialized assignments the employee might hold.

In May 2005, the LAPD issued an Office of Support Services Notice titled "Revised Dates for Completing Performance Evaluations for Lieutenants and Below." This notice revised the schedule for completion of performance evaluations by supervisors, requiring all sworn officers to be evaluated during the month in which they were appointed to their current rank, rather than completing all evaluations during the same month for a specific rank.

CRID completed the *Supervisory Performance Evaluations Audit* during the quarter ending June 30, 2008, and the audit was approved by the Police Commission on July 8, 2008. The audit

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<sup>26</sup> Special Order No. 47, *Performance Evaluation Procedures for Lieutenants and Below – Revised*, November 13, 2004.

<sup>27</sup> Specifically, the categories: “sets example of police integrity,” “effective supervisory oversight,” and “effective administrative investigations” were added.

found the Department in non-compliance with the requirements of subparagraphs 54a-d, as well as those of subparagraphs 62a and b, 70c, and 108i. The audit also found that many evaluations were either not completed on a timely basis or not completed at all.

The Department made significant improvements in the Department's performance evaluations process when it issued Special Order No. 44, *Activation of Standards Based Assessment – Lieutenants and Below*, dated November 25, 2008. The new Standards Based Assessment (SBA) focuses on supervisors providing an objective assessment of subordinates and uses documentation other than supervisors' subjective assessments to assess employee performance. The standards provided for officers to be rated as follows in the different subject areas:

- Greatly Exceeds Standards
- Meets or Sometimes Exceeds Standards
- Needs Improvement

The SBA requires documentation such as commendations and comment cards, which are, under these new guidelines, required to be attached to the completed rating form to support ratings of "Greatly Exceeds Standards" or "Needs Improvement." Additionally, COs are required to validate ratings other than "Meets or Sometimes Exceeds Standards" in order to ensure that ratings are not "inflated." The SBA will allow decision-makers to more easily distinguish candidates for promotion and selection to coveted positions. Although there has been no assessment of post-SBA compliance, the Monitor is confident that the implementation of the SBA combined with the oversight of AD, OIG and Police Commission will ensure that the Department continues to improve its performance evaluation system.

### **Consent Decree Compliance**

The Monitor first assessed paragraph 54 during the quarter ending June 30, 2007. As part of the methodology changes that took effect in the fall of 2006, the Monitor included the following subparagraphs in its paragraph 54 assessment:

- 62c: Supervisor Conduct at Search Warrant Services or Categorical Use of Force (CUOF) Incidents
- 70c: Watch Commander Approval of All Booking Recommendations
- 108i: Quality of Supervisory Oversight Regarding Use of Confidential Informants (CIs)
- 116: Competency of Field Training Officers (FTOs) in Successfully Completing and Implementing FTO Training

The Monitor found the Department in non-compliance with paragraph 54, as the performance evaluation rating form and related instruction and training were being developed and not yet completed.

The Monitor again found the LAPD in non-compliance with paragraph 54 during the quarter ending September 30, 2008, based on its review of CRID's *Supervisory Performance Evaluations Audit*.

As described above, the Department issued Special Order No. 44, *Activation of Standards Based Assessment – Lieutenants and Below*, dated November 25, 2008, which addresses the requirements of subparagraphs 62c, 70c, 108i and paragraph 116. The Monitor noted that the SBA provides much-needed enhancements of the Department's performance appraisal process; however, the Monitor withheld a determination of compliance with paragraph 54 during the quarter ending December 31, 2008, pending the Department's implementation of the SBA.

The Monitor is confident that the implementation of the SBA, combined with the oversight of AD, the OIG and the Police Commission, will ensure that the Department continues to improve its performance evaluation system consistent with best policing practice and with the requirements of the Consent Decree.

## **Recommendations**

The LAPD has made great strides in improving its performance evaluation system, and the Monitor is confident that the Department will continue to make improvements to its system. The Monitor offers the following recommendations:

- The LAPD should assess the SBA after it has been implemented for one year in order to gauge its effectiveness in the selection of officers to coveted positions such as Gang Enforcement Detail (GED) officers and FTOs.
- The Department should continue to audit compliance with the mandates of subparagraphs 62c, 70c, 108i and paragraph 116.

## **B. Incidents, Procedures, Documentation, Investigation and Review**

### **1. Use of Force**

During the course of its investigation of the LAPD, the DOJ found evidence of a pattern or practice of police misconduct and civil rights violations. DOJ allegations included the improper use of force and insufficient investigation into use of force incidents. The DOJ concluded the



LAPD's pattern or practice of police misconduct included, among other things, the unconstitutional use of force by LAPD officers. Also cited were "serious deficiencies" in training and supervision of officers. In reaching its conclusion, the DOJ reviewed LAPD policy statements, reports on officer-involved shooting (OIS) incidents in which nonlethal force was used, misconduct complaint files in which serious misconduct was alleged, information on civil suits filed against the LAPD and its officers, information on criminal charges filed against LAPD officers, information relating to police training and reports and memoranda prepared by the LAPD, the Board of Police Commissioners and the OIG. These allegations were deeply troubling to all who read of them and were at the heart of DOJ complaint. It has been the remediation of these deficiencies toward which much of the oversight effort has been directed. It is the LAPD's turnaround and notable success in this area that may be the single most encouraging aspect of the last eight years.

### **Consent Decree Solutions**

In an effort to address the conclusions reached by the DOJ, the parties agreed on a number of administrative requirements surrounding CUOF incidents. These administrative paragraphs, collectively known as paragraphs 55 through 69 of the Consent Decree, defined required policies and responsibilities for officers, investigators, supervisors, the OIG and the Police Commission with respect to uses of force, whether lethal or nonlethal.<sup>28</sup> The specific requirements follow.

#### *Establishment of an Investigation Division, Notification and Incident Response*

The LAPD was required to develop appropriate policy to address notification of and response to CUOF incidents. In particular, UOF paragraphs 55 through 61 of the Consent Decree required:

- Creation of a unit (FID), whose main responsibility was to conduct administrative investigations of CUOF incidents, including those formerly conducted by the Robbery Homicide Division (RHD) or the Detectives Headquarters Division (DHD). All CUOF investigations were to be conducted by the FID and the FID was required to be assigned to a unit that reported directly to the CO of Operations Headquarters Bureau (OHB). Investigators assigned to the FID were to be Detectives, Sergeants or other officers of supervisory rank.<sup>29</sup> The CO of the unit could not have direct line supervision for any LAPD

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<sup>28</sup> For purposes of the Consent Decree, lethal uses of force, known as CUOF, are defined as those uses of force involving an OIS, Neck Restraint, Head Strike with an Impact Weapon, Canine Bite requiring hospitalization, In-Custody Death (ICD) and a Law Enforcement Related Injury (LERI) requiring hospitalization. All other uses of force are nonlethal and classified as Non-Categorical Uses of Force (NCUOF).

<sup>29</sup> A supervisor is defined as sworn personnel at the rank of Sergeant I, Detective II or above.

geographic bureau. Finally, all investigators assigned to the unit were to be trained in conducting administrative investigations as specified in paragraph 80 of the Consent Decree;

- Immediate notification to the Chief of Police, the FID, the Police Commission and the OIG whenever there was a CUOF, and prompt “roll out” of FID investigators to all CUOF incidents 24 hours a day. The senior responding FID supervisor was to have overall command of the crime scene and investigation at the scene where multiple units were present to investigate a CUOF;
- A separate criminal investigation of a CUOF where the facts so warranted, which could not be conducted by the OHB Unit;
- Continued notification to the Los Angeles District Attorney’s Office (DAO) whenever an LAPD officer, on or off-duty, shot and injured any person during the scope and course of employment, and whenever an individual died while in the custody or control of an LAPD officer or the LAPD, and a use of force by the officer may have been a proximate cause of the death;
- A request of the appropriate bargaining unit(s) for a provision in its collective bargaining agreement that when more than one officer fires a weapon in a single OIS incident, then each officer should be represented by a different attorney during the investigation and subsequent proceedings;
- Immediate separation of all officers involved in or witness to an OIS until such time the officer(s) provide a statement to an investigator.<sup>30</sup>

#### *Supervisory Oversight of CUOF Incidents and Search Warrants*

In response to its concerns of insufficient supervision, particularly with supervisory oversight for CUOF incidents and the service of search warrants, the Consent Decree required the LAPD, within a seven-day time period, to review a supervisor’s response to either situation and conclude on the appropriateness. The review was to be considered for each supervisor’s annual performance evaluation. Recognizing the seriousness and potential impact of a CUOF, the Consent Decree required the referral of certain officers to the LAPD’s Behavioral Science Services (BSS) Unit for an evaluation prior to being returned to the field.

In line with requiring a review of supervisor response to a CUOF, at the conclusion of a CUOF investigation, an LAPD manager was required to consider an involved officer’s work history,

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<sup>30</sup> LAPD protocol is to permit a very limited public safety statement to the supervisor first to arrive at the scene. This statement is limited in scope to allow the supervisor sufficient information to address the situation, whether static or dynamic. The formal statement provided by an officer may be compelled should the officer decline a voluntary statement.

including information contained in the TEAMS II system, for any disciplinary or non-disciplinary recommendations.<sup>31</sup> Again, in concert with other required reviews, consideration of an officer's history, although administrative in appearance, is an important function – it is data that if collected and digested properly can and will provide insight into trends requiring attention.

#### *Other CUOF Administrative Requirements and Continued Practices*

To ensure the timely and accurate reporting of uses of force, the Consent Decree required self-reporting of uses of force without delay utilizing a UOF form with prescribed data fields to capture the type(s) of force used, to identify the impact area of force and to specifically identify fractures and dislocations. Officers were also required to include use of a bean bag shot gun as a type of force.

In its investigation of the LAPD, the DOJ identified several preexisting best practices implemented by the LAPD:

- Continued Police Commission review of completed CUOF incident investigations;
- Continued reporting of all NCUOF to a supervisor to conduct a timely supervisory investigation of the incident;
- Continued UOFRB review of all CUOF incidents; and
- Continued Chain of Command (COC) review of NCUOF within 14 days of the incident absent any investigation deficiencies.

With regard to Commission review of CUOF investigations, the Consent Decree mandated that an investigation had to be presented to the Commission at least 60 days prior to the running of any applicable statute of limitations.

#### **Overall Achievements of the LAPD**

In December 2001, the LAPD issued Special Order No. 39, *Critical Incident Investigation Division – Established*. This Special Order established and defined the Critical Incident Investigation Division (CIID), which was the unit responsible for conducting administrative CUOF incident investigations, and set the basic parameters of who should attend these administrative investigations. It also established the requirement to separate officers involved in the incident, assigned responsibility with respect to the duty to assess Supervisorial Response to a CUOF and provided direction for the directed referral to the BSS Unit for certain involved and witness

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<sup>31</sup> Prior to the Consent Decree, the LAPD had established the UOFRB and a use of force review policy that, among other things, considered officer CUOF history.

officers to a CUOF. Once this Special Order was established, the Department rather quickly came into compliance with the requirements for OHB to attend all CUOF incidents, notify the Chief, Police Commission and OIG, notify the DAO and cooperate with the District Attorney (DA) on scene and ensure officers were separated.<sup>32</sup>

The LAPD subsequently issued Special Order No. 35, *Duty to Assess a Supervisor's Response to a Categorical Use of Force*, in August 2003 to address the LAPD's lagging compliance with assessing a supervisor's response within the seven-day mandated period. However, the Department continued to struggle to achieve compliance throughout the remainder of the Consent Decree and the subsequent extension.

Between 2002 and 2006 the Department took additional steps to ensure that it remained in compliance with these administrative requirements, including improving their notification system and improving the time frame with which they reported the findings to the OIG and Police Commission.

As a result of findings identified and reported by the Monitor, specifically deficiencies reported by the Monitor related to the overall sufficiency of CUOF investigations and the LAPD's internal review of the CIID, the Department issued Special Order No. 8, *Force Investigation Division – Established*, in March 2006, which deactivated the CIID and established FID. The FID continues to operate under the direction of the Commanding Officer of Professional Standards Bureau (PSB).<sup>33</sup> Specific Department accomplishments related to the FID and its operations during the term of the Decree are described in detail below, and include:

- The LAPD appropriately established, defined selection criteria for,<sup>34</sup> staffed and trained those investigators assigned to the FID, and CUOF incident investigations were appropriately assigned to and managed by FID investigators.
- At the onset of the Consent Decree, the LAPD established a systematic process to address the notification and dispatching of investigators to CUOF incidents. To address continuing struggles with its response times, and in response to the Monitor's recommendation, during 2004 the LAPD enhanced its notification process, equipping necessary personnel with

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<sup>32</sup> The LAPD subsequently issued Special Order No. 15, *Revision to Special Order No. 39 – CIID Investigations*, dated April 10, 2002. This Special Order provided additional guidance requested by the Board of Commissioners to ensure the proper review of a CUOF investigated by the IAG. It also provided additional guidance for officer referrals to the BSS Unit.

<sup>33</sup> The CO of the CIID and its successor, the FID, never maintained geographical responsibility during the duration of the Consent Decree. As such, the LAPD was in compliance with this requirement throughout the term of the Consent Decree.

<sup>34</sup> The LAPD issued Special Order No. 30, *Selection and Assignment to Critical Incident Investigation Division*, in September 2003.

BlackBerry devices enabling the Department Command Post (DCP) to make electronic notifications.

- The LAPD successfully implemented a process whereby officers either involved in, or directly a witness to an OIS, were separated and remained separated pending providing a statement to an investigator.<sup>35</sup> In May 2003, the LAPD issued Special Order No. 19, *Obtaining a Public Safety Statement and Separating and Officer Following a Categorical Use of Force Incident – Established*. This Special Order provided guidance to officers and supervisors on the appropriate line of questioning for obtaining a public safety statement<sup>36</sup> at an OIS incident scene. It also expanded LAPD policy to require all officers involved in or witness to any CUOF to remain separated prior to providing a statement to an investigator. The Monitor commends the Department's adoption of this policy.

For virtually all uses of force reviewed by the Monitor, whether CUOF or NCUOF, the incidents were self-reported. At the onset of the Consent Decree, the LAPD enhanced preexisting use of force forms to capture the additional information required pursuant to the Consent Decree, and the forms were utilized throughout its duration.

With regard to NCUOF, although not a requirement of the Consent Decree, the LAPD recognized the importance of the supervisor's role in the investigation and precluded a supervisor involved in or witness to a use of force from completing the subsequent investigation.

Lastly, the LAPD enhanced FID investigative resources and self-imposed a more robust CUOF investigation completion schedule in an effort to provide completed investigations to the Commission well in advance of the mandated 60-day period.

### **Consent Decree Compliance**

As indicated earlier, this particular section of the Consent Decree includes a number of administrative requirements relative to the Department's response to and investigation of uses of force. To the Department's credit, very early on it built upon preexisting policy and procedure in an attempt to address these requirements. First, the LAPD issued Special Order No. 39, and the Department relatively quickly came into compliance with a number of basic policy requirements in this area, including the requirements for OHB to attend all CUOF incidents; notify the Chief, Police Commission and OIG; notify the DAO and cooperate with the

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<sup>35</sup> In certain incidents the Monitor recognized the logistical burden of transporting a large number of officers and looked to see whether involved officers were separated until questioned.

<sup>36</sup> A public safety statement is elicited by the first responding supervisor from all officers and witnesses to an OIS in order to secure the Area and prevent any further injury.

DA on scene; and ensure officers were separated.<sup>37</sup> The Department first came into compliance with some of these paragraphs in June 2002, and by December 2002, the Department had achieved compliance with many of the administrative requirements surrounding CUOF incidents. As described below, the exceptions to achieving compliance with these administrative provisions of the Consent Decree are the supervisory oversight requirements relative to the review of supervisor response to CUOF incidents, and the confidential psychological evaluation of officers in deadly CUOF incidents. By September 2008, the LAPD had not achieved compliance with these provisions.

Regarding the formulation and responsibilities of the FID, in 2006, the Monitor identified certain UOF paragraphs wherein the LAPD was deemed to be in substantial compliance and were rendered inactive for the purposes of monitoring. Of significance, the Monitor noted the following:

- As described above, the LAPD appropriately established, defined selection criteria, staffed and trained those investigators assigned to the FID. Training observed by the Monitor and deemed sufficient included “Assimilation Training” and Supervisory and Detective training. Evidence of attendance was adequately documented. It was the practice of the Monitor to review all completed CUOF incident investigations, wherein the Monitor noted all were assigned to and managed by FID investigators.
- At the onset of the Consent Decree, although the LAPD established a systematic process to address the notification and dispatching of investigators to CUOF incidents, the Department struggled with its response times. Timely notification was dependent on the DCP’s ability to contact and brief the long list of individuals with a need to know while continuing to meet its other responsibilities. In response to the Monitor’s recommendation, during 2004 the LAPD enhanced its notification process, equipping necessary personnel with BlackBerry devices enabling the DCP to make electronic notifications. Over the course of time, the FID timely dispatched adequate personnel in response to notification of a CUOF. Simultaneously, the LAPD adequately addressed notification to the Chief of Police, the Police Commission, the OIG and the DAO,<sup>38</sup> with few exceptions. Also at the onset of the Consent Decree and throughout its duration, the LAPD provided for cooperation with DAO personnel responding to a CUOF incident.
- In July 2002, the LAPD proposed meeting with the Los Angeles Protective League and the Command Officers Association to discuss providing officers with separate legal representation when more than one officer is involved in an OIS incident. Both organizations declined discussing the matter any further with the LAPD, and throughout the

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<sup>37</sup> Consent Decree paragraphs 56, 58-60

<sup>38</sup> Notification to the District Attorney’s Office was a pre-Consent Decree requirement and practice of the LAPD.

term of the Consent Decree, officers regularly were represented by the same attorney(s) when involved in an OIS.

- With the exception of one reporting period, the LAPD successfully implemented a process whereby officers either involved in or directly a witness to an OIS were separated and remained separated pending providing a statement to an investigator.

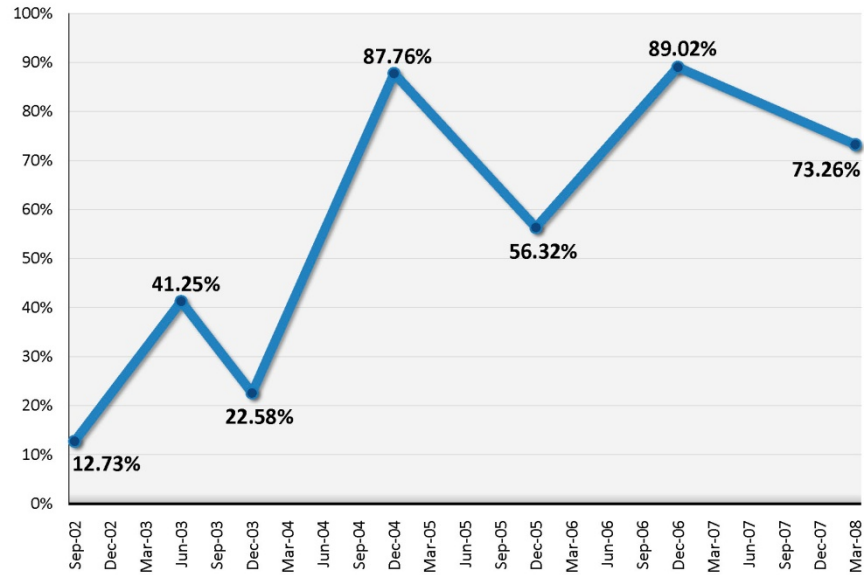
Through continued interviews, observations and review of CUOF investigations, the Monitor reaffirmed the LAPD's continued adherence to the paragraphs establishing and defining the FID. Where plausible, the Monitor alternatively placed reliance on certain *Categorical Use of Force Systems Audit Reports* and related working papers prepared by the LAPD's AD. Prior to placing reliance on AD's findings, the Monitor conducted meta-audits of AD's audits and findings to gain comfort with employed methodologies, analysis and conclusions.

Unlike those paragraphs addressing the formulation of the FID, during the initial five-year evaluation period and continuing through the present, the LAPD did not achieve substantial compliance with the supervisory oversight requirements relative to reviews of supervisor responses to search warrants and CUOF incidents. In reaching this conclusion, the Monitor either requested evidence of a review of supervisory response and oversight for virtually all CUOF incidents and samples of search warrants served during specified time periods or placed reliance on similar analyses completed by Civil Rights Bureau sworn personnel or placed reliance on certain LAPD AD reports. The illustrations below detail the level of compliance achieved by the Department for the entirety of the Consent Decree.<sup>39</sup>

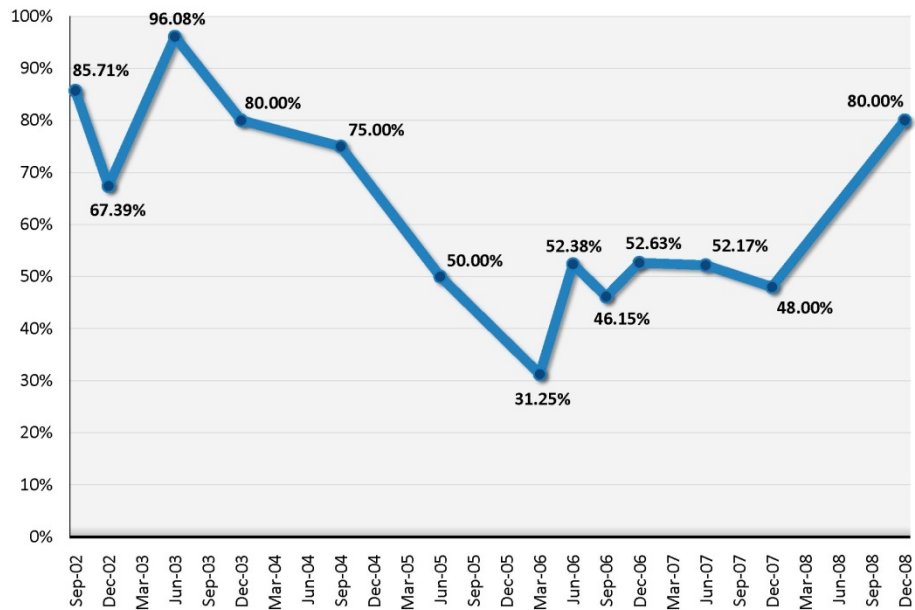
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<sup>39</sup> The Monitor deemed substantial compliance to equate to those paragraphs where the Department has been in compliance for two consecutive years.

### Supervisor Response Search Warrants

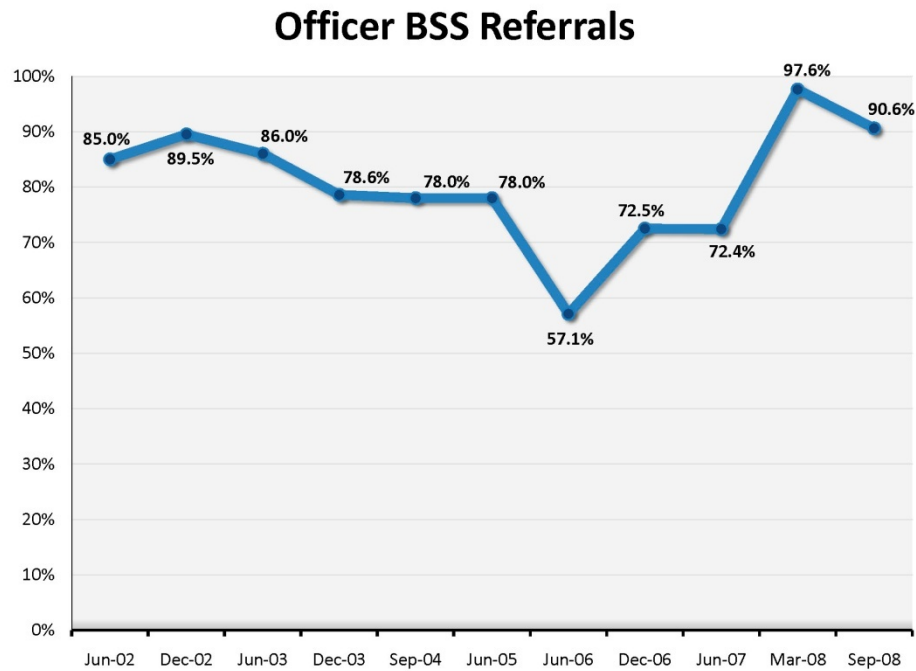


### Supervisor Response CUOF





Although the Department was adept at identifying and referring officers involved in a CUOF for counseling, the LAPD did not achieve substantial compliance in that involved officers were allowed to return to the field prior to clearance by a BSS doctor or the underlying documentation was insufficient and did not permit an assessment of compliance. The following illustrates the LAPD's compliance over the duration of the Consent Decree:



The Monitor notes that the Department issued a Notice by the Consent Decree Bureau, *"Deployment Planning System Enhancement for Categorical Use of Force Incidents,"* dated August 6, 2008. The Notice discusses a DPS enhancement that prevents "non-field certified" employees from being deployed in the field until otherwise advised by the CO of return to field status. The DPS enhancement was designed to address the documentation deficiencies previously identified by the Monitor, AD and CRID's inspections. Given the Department's performance just prior to the implementation of the DPS enhancement compared to performance subsequent to its implementation (97.6% compliance versus 90.6%, respectively), the Monitor was unable to conclude on its effectiveness.

In reviewing officer histories and recommending any disciplinary or non-disciplinary action, the LAPD's record was mixed. In virtually all CUOF incidents reviewed, the Monitor noted sufficient documentation that officer histories were reviewed and considered for non-disciplinary action.

This most frequently consisted of providing officers with varying levels of training to address tactical concerns identified either by the reviewing CO or members of the UOFRB. For those incidents in which the officers' actions were deemed administrative disapproval, the LAPD was inconsistent in documenting review. However, over the course of the Consent Decree, the LAPD was successful overall in considering officer work history and recommending discipline, and achieved substantial compliance.<sup>40</sup> It should be noted that for the majority of the monitoring period, the TEAMS II system was not available for officer history consideration; absent this requirement, the Monitor elected to render this paragraph inactive at the end of the initial monitoring period.

The Monitor noted that reviews of officer actions, particularly those reviews resulting in non-disciplinary action, frequently identified tactical concerns resulting in varying levels of recommended training. It was not always evident once training was ordered that sufficient follow-up occurred to ensure officers received the training. At the Monitor's recommendation, the LAPD implemented procedures to track and document training for future officer work history consideration, and the Monitor has since confirmed documentation of ordered training.

With regard to NCUOF, as mentioned above, the LAPD recognized the importance of the supervisor's role in the investigation and precluded a supervisor involved in or witness to a UOF from completing the subsequent investigation. Although the Monitor identified a handful of investigations wherein a supervisor arriving at the scene was witness to all or a portion of a UOF and conducted the investigation, the investigations were deemed sufficient and unbiased and were brought to the attention of the LAPD. By the end of the initial Consent Decree term, the LAPD and its supervisors demonstrated their ability to timely respond to and investigate the multiple less than lethal uses of force that occur on a daily basis. Therefore, the Monitor found the Department in substantial compliance with this requirement.

For CUOF investigations reviewed, the Monitor noted all were presented to a UOFRB containing appointees with varying levels of experience, expertise and perspective. On occasion, the Monitor observed the UOFRB process, noting that its structure and mandate serve the LAPD and its officers well. Over time, the OIG's role and participation has grown to the level expected at the onset of the Consent Decree. As the Department was always in compliance with this requirement, the Monitor concluded substantial compliance at the completion of the initial five-year term of the Decree.

Lastly, with the exception of two rating periods, the Monitor noted that the LAPD provided the Police Commission, via the OIG, with completed CUOF investigations in a timely fashion. For an approximate one-year period, there were delays in meeting the mandated time frame, largely attributable to the reorganization of the CIID to the FID and resource constraints. The LAPD,

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<sup>40</sup> In assessing compliance with this paragraph, agreement with the appropriateness of discipline administered was not criteria for compliance. Rather, the Monitor weighed multiple variables to include the overall documentation of review.

nonetheless, enhanced FID investigative resources and self-imposed a more robust investigation completion schedule in an effort to provide completed investigations to the Commission well in advance of the mandated 60-day period. In quick order, the LAPD was able to achieve and maintain substantial compliance.

## **Recommendations**

The Monitor recommends that the LAPD continue its practice of prompt notification to the Chief of Police, the Police Commission, the FID, the OIG and the DAO for all CUOF incidents. Additionally, OIG and DAO respondents should continue to be granted access to the incident scene. Although only a requirement for OIS incidents, the Monitor concurs with the LAPD's decision to expand the requirement of separation of involved and material witness officers for all CUOF incidents pending a statement, and recommends this as a continued best practice.

With regard to assessing supervisory response to the service of search warrants and CUOF incidents, the LAPD, with the oversight and assistance of AD and the OIG, should strive to achieve compliance and improve the overall quality of supervisor assessments. As important as it is to assess officer response to certain situations, the Department must similarly assess its supervisors, namely Sergeants and Lieutenants, who typically control incident scenes. Such assessments simply identify what individuals do right and wrong and often offer insight into situations previously not contemplated. Similarly, when considering officer actions for officers involved in a CUOF, equally important to documenting the review is ensuring officers receive the required training.

Lastly, the Department, with the assistance of the OIG or AD must monitor those DPS enhancements designed to ensure that officers are not scheduled for field duty until all administrative obstacles have been addressed and all decision-makers are confident it is within the officer's and the Department's best interest to return to field duty. Although an administrative step, it is nonetheless an important control procedure. Should the DPS enhancement prove ineffective, the LAPD must reassess and devise alternative measures to ensure this requirement is met going forward.

In numerous substantial and material ways, the LAPD has adopted and implemented best police practice in the use of force area, a far cry from the practices of eight years ago. It is crucial that the LAPD continue to police itself in this area, with the assistance of the OIG and outside governmental institutions like the Mayor, the City Council, the City Attorney, and the DA.

## **2. Search and Arrest Procedures**

For a period of time in the late 1990s, "Rampart" was a one-word symbol for out-of-control police corruption in the United States. Lack of controls and poor oversight and training in gang

units and in connection with search and arrest procedures were often cited as facilitating the scandal. The DOJ's investigation found that the LAPD was engaging in a "pattern or practice" of, inter alia, false arrests to include improper seizures of persons, making arrests without probable cause, and improper searches of persons and property with insufficient cause. DOJ concluded that "these types of misconduct occur on a regular basis in the LAPD."

In the *March 2000 BOI Report*, the Operations work group found that the Department Manual did not require supervisory review of a search warrant affidavit before it was submitted to a magistrate, and there was no system in place to track a search warrant unless it was actually served and registered with the County Clerk's Office. The work group also reviewed guidelines for the tactical service of search warrants and found that all operational bureaus required the presence of a Lieutenant at the service of any warrant other than those that are essentially administrative, e.g., telephone records.

The BOI's findings stressed a dire need for greater control and training regarding search warrants, as the preparation, service, and execution of search warrants and probable cause arrest warrants ("Ramey" warrants) is an operational process that exposes the Department to a multitude of risk-management issues. The BOI concluded that the LAPD should ensure adequate management review and oversight, including management review of a search and "Ramey" warrant affidavits prior to submission to a magistrate and should establish a tracking system for all warrants, served or not, to facilitate audit oversight and scrutiny.

Regarding arrests, the BOI recommended that "although booking advice should be obtained from a detective or specialized unit supervisor, booking and report approvals should always be obtained from the Area watch commander who should be responsible for visually inspecting each arrestee." The BOI also recommended that "whenever possible, the supervisor approving a booking should be the same supervisor who reviews and approves the related reports" in order to "[ensure] that sufficient probable cause is articulated in the arrest report and that any evidence seized is properly recorded and booked."

## **Consent Decree Solutions**

### *Warrants*

The Consent Decree reforms in connection with search warrants, Ramey warrants, and return service documents focused primarily on their quality and compliance with procedures. Specifically, the Consent Decree required supervisory review of all search warrants and Ramey warrants, to include the following:

- a. A review for completeness of the information contained therein and an authenticity review to include an examination for "canned" language, inconsistent information, and lack of articulation of the legal basis for the warrant.

- b. A review of the information on the application and affidavit, where applicable, to determine whether the warrant is appropriate, legal and in conformance with LAPD procedure.
- c. A review of the plan for executing the warrant and a review of the execution of the warrant after it occurs (after-action review). In addition, a supervisor was required to be present for the execution of the warrant.

In addition, the Consent Decree required each Area and specialized division of the LAPD to maintain a search warrant tracking log listing each search warrant, the case file where a copy of the warrant is maintained, the name of the officer who applied for the warrant and the name of each supervisor who reviewed the application for the warrant.

### *Arrests*

The Consent Decree required the Department to “continue to require all booking recommendations be personally reviewed and approved by a watch commander as to appropriateness, legality, and conformance with Department policies.” This requirement included three distinct subparagraphs:

- Subparagraph 70a required that “such reviews shall continue to entail a review for completeness of the information that is contained on the applicable forms and an authenticity review to include examining the form for ‘canned’ language, inconsistent information, lack of articulation of the legal basis for the action or other indicia that the information on the forms is not authentic or correct.”
- Subparagraph 70b required that “supervisors shall evaluate each incident in which a person is charged with interfering with a police officer (California Penal Code § 148), resisting arrest, or assault on an officer to determine whether it raises any issue or concern regarding training, policy, or tactics.”
- Subparagraph 70c required that “the quality of these supervisory reviews shall be taken into account in the supervisor’s annual personnel performance evaluations.”

This section of the Decree also required that “all detainees and arrestees brought to an LAPD facility shall be brought before a watch commander for inspection...for injuries as required by LAPD procedures and, at a minimum, ask the detainee or arrestee the questions required by current LAPD procedures, which are:

- 1) “Do you understand why you were detained/arrested?”
- 2) “Are you sick, ill, or injured?”
- 3) “Do you have any questions or concerns?”

If a watch commander was not available, the LAPD was required to “ensure that the person [be] inspected and interviewed by a supervisor who did not assist or participate in the person’s arrest or detention.” The supervisor or watch commander inspecting was required to sign the related booking documentation, which was required to indicate their compliance with these procedures.

## **Overall Achievements of the LAPD**

### *Warrants*

The Department’s efforts to comply with Consent Decree requirements regarding warrants began with the development and establishment of Special Order No. 25, *Search Warrant and Probable Cause Arrest Warrant Procedures*, dated August 10, 2001, which outlined procedures for tracking and monitoring the service of all search and Ramey warrants in accordance with Consent Decree requirements. Special Order No. 25’s search warrant policy was a good first step in institutionalizing supervisory oversight over warrants, and it was the first time the Department had a formalized tracking system for recording and monitoring search warrants.

The Department then published and distributed Special Order No. 28, *Activation of the Warrant Service/Tactical Plan Report*, dated July 15, 2003, which included a new search warrant tactical plan with a supervisor’s debriefing summary section and a CO’s analysis section, as well as a new search warrant tracking log with revised fields clarifying the information necessary to properly complete this log. The new search warrant tactical plan was different from prior tactical plans in that it required the CO to complete an analysis of the incident and a comment sheet for each supervisor who had oversight during the service of the warrant to assess the appropriateness of the service of the warrant.

An additional important aspect of the Special Order No. 28 policy was that it provided the Department’s supervisors and command staff with specific requirements regarding the debrief summary and CO’s analysis, so that there was less ambiguity in what was required for their supervisory review and oversight of the incident and post-incident review. In addition to the CO’s analysis on the tactical plan, Special Order No. 28 makes the CO responsible to ensure the following regarding warrants: presence of a supervisor during execution (Lieutenant if served by a gang unit); maintenance of a single location of warrant tracking logs in their Area or specialized division; accuracy on warrant tracking log of the warrant; provision of approval on warrant tracking log at completion of each DP; and completion of a detailed analysis of the performance of the supervisor at each scene of the service of the search or Ramey warrant on a “Comment Sheet” to be included in the supervisor’s personnel file.

### *Arrests*

In June 2001, the LAPD issued Special Order No. 12, which established specific evaluation procedures for arrests on charges of interfering, resisting arrest, or assault on an officer. Specifically, this order required the watch commander to ask all detainees and arrestees

brought into the division the three questions required by paragraph 73. A division supervisor was required to conduct this interview, even if the arrestee was not brought directly to the division.

In December 2001, the Department issued Special Order No. 42, which revised the detention tank log, the secure detention of juveniles log, and the non-secure detention of juveniles log. The redesign of the detention tank log specifically addressed the Decree requirement that watch commanders question the detainee upon arrival at the division. The new log provided a specific box for the watch commander to document that the mandated interview has been conducted. The order described the procedures required for completing the newly revised detention logs.

The Department issued Special Order No. 18, *Detention Logs – Revised*, on May 19, 2003, in which the secure and non-secure juvenile detention logs were revised to document the arrest charge of a detained juvenile and the name and relationship of the person to whom the juvenile is being released.

## **Consent Decree Compliance**

### *Warrants*

In the first three years of the Consent Decree, the LAPD took immediate steps to identify the problems with the service and tracking of search warrants, and began to develop procedures and guidelines to bring both search warrants and search warrant tracking logs into compliance with these Consent Decree requirements. Early on, the Monitor concluded that the Department was in compliance with requirements regarding completeness of the information on the application and affidavit and whether the warrant is appropriate, legal and in conformance with LAPD procedures. However, the Monitor found that the other requirements of this section were not being met. Specifically, the search warrant packages reviewed lacked a written execution plan when required, lacked supervisory approval or timely supervisor's approval, lacked a written debriefing critique/after-action report when required, lacked a CO's approval or timely CO's approval, lacked required forms within the search warrant package, lacked timely return of the search warrant and had inconsistent information between and among forms within the search warrant package. Regarding search warrant tracking logs, the Monitor found that the information on these logs was either missing, inconsistent with the related warrant or did not include supervisors' approval.

In early 2005, the Monitor reviewed and relied on AD's February 2005 *Warrant Applications and Supporting Affidavits Audit*, after conducting its own meta-audit of AD's audit and findings. AD had findings similar to the Monitor's earlier reported findings that search warrants had incomplete information, lacked documentation of required information for conformance with LAPD procedures and lacked supervisory oversight for approving warrants and post-incident review requirements. However, AD's findings differed from the Monitor's regarding search

warrant tracking logs, as AD found that the tracking logs reviewed were both complete and accurate in terms of their search warrant information. In 2006, the Monitor reviewed AD's subsequent February 2006 *Warrants Audit* and concurred with AD's findings that the Department had achieved compliance with the completeness requirement but was still not in compliance with other requirements, including underlying actions, conformance with LAPD procedures, supervisory oversight and post-incident review. In this audit, AD also found that the completeness and accuracy requirements related to the warrant tracking log were not being met.

The Department did not achieve substantial compliance with the Consent Decree's requirements related to search warrants and the search warrant log at the expiration of the original term of the Decree. As a result, the Monitor continued to assess the Department's compliance with these requirements during the extension to the Consent Decree. The Monitor's first review during the extension was based on AD's December 2006 *Warrant Applications and Supporting Affidavits Audit*. The Monitor concurred with AD's findings that the Department was not meeting the requirements regarding completeness, canned language, inconsistent information, appropriateness, legality and conformance with LAPD procedures, and supervisory oversight of application/affidavit, incidents and post-incident review. In addition, the warrant tracking logs were again *non-compliant* with requirements regarding completeness and accuracy. The Monitor reported that the Department continued to struggle with documentation requirements, as search warrant packages – in varying degrees – continued to fall short of complying with documentation requirements regarding completeness, authenticity, and the appropriateness and legality of officers' actions,<sup>41</sup> as well as requirements regarding supervisory oversight of applicable incidents and post-incident reviews and the completeness and accuracy of the Warrant Tracking Log.

The Monitor reviewed AD's December 2007 and December 2008 *Warrant Applications and Supporting Affidavits Audit*, both of which reported that, similar to the prior audits, the Department was struggling with search warrant and search warrant tracking log requirements. In both years' audits, the Department did not comply with requirements regarding completeness of information, inconsistent information, conformance with LAPD procedures, supervisory oversight of the application/affidavit and post-incident review for search warrants. In addition, the search warrant tracking logs were not meeting the requirements regarding completeness and accuracy of information. The Monitor recognized that although the Department did not meet the requirements regarding supervisory oversight of the application/affidavit and post-incident review, as indicated above, these compliance rates did increase significantly in the 2008 audit from the previous year's audit.

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<sup>41</sup> The Monitor notes that although there were concerns in relation to the documentation of the officers' actions, AD concluded that the Department was in 100% compliance with the articulation of the legal basis for the warrants.



In sum, the Monitor believes that substantial progress has been made on the most material aspects of these provisions, and recognizes that these warrants meet the specific requirements regarding legality. While there is work to be done, the Monitor is confident that the Department can remedy these additional deficiencies in the future with the assistance and oversight of AD and the OIG through, among other things, their continuing quality audits and reviews.

### *Arrests*

In its initial review of compliance with the requirements regarding the watch commanders' inspections of detainees and arrestees (paragraph 73) and requirements regarding supervisors' evaluation of incidents involving specified charges (subparagraph 70b), the Monitor found the LAPD in non-compliance. Regarding the watch commander inspections, the Monitor recommended that the Department reconsider how interviews and inspections are conducted, since the inspections/interviews taking place in the divisions were occurring in the presence of the arresting officer.<sup>42</sup> Regarding subparagraph 70b, the Department interpreted the requirement to mean that the watch commander review was only necessary on cases where these charges are the sole booking charge. The Monitor recommended that Special Order No. 12 be revised to instruct watch commanders to review all cases where the facts make up the elements of these charges and reported that regardless of the final interpretation of this requirement, this revision would not only provide better supervisory oversight but it would assist the Department in its own internal audit process.

In its first review of compliance with subparagraph 70a in 2002, the Monitor found the Department in overall non-compliance. The Monitor found that Special Order No. 13 sufficiently explained the supervisors' responsibilities during the arrest process. However, the Monitor found that the training for Basic Supervisor School and Watch Commander School was unsatisfactory, since neither curricula specifically addressed when and how supervisors should conduct their reviews. The Monitor also relied on AD's September 2002 *ABC Audit*, and agreed with the finding that only 55.5% of the arrest packages reviewed were in compliance. It was clear from this audit that Supervisors were either not adequately reviewing the arrest packages or unable to identify significant issues in the paperwork. The Monitor endorsed AD's recommendation to remind personnel of existing protocol for the completion of documents associated with arrest packages. The Monitor further recommended that this topic be addressed in formal training for both supervisors and the officers.

In 2003, the Monitor withheld a compliance determination with subparagraph 70b, as a final interpretation of the subparagraph's requirements had only recently been made. The Monitor

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<sup>42</sup> The Monitor noted that one of the fundamental purposes of this effort is for the watch commanders to interview the detainees in order to discover if any abuse had taken place at the hands of the arresting officers.

recommended that Special Order No. 12 and the revised training explicitly state the actual charges that fall under the umbrella of subparagraph 70b and clearly indicate that in any instance in which such a charge could be appropriately applied, the requirements of 70b would need to be met. Additionally, the Monitor recommended that the Department develop a means by which to identify all cases in which a 70b offense could be charged in order to allow for a more generous sample to measure compliance.

The Monitor concurred with AD's findings in its 2004 *ABC Reports Audit*, and found the LAPD in compliance with subparagraph 70a but in non-compliance with subparagraph 70b. The Monitor noted that the LAPD developed and implemented a new NCUOF policy and training that, while not developed to specifically address subparagraph 70a, focused on proper completion and oversight of the booking process. Following a review of the new policy, which was finalized on June 11, 2004, and attendance at the training sessions, the Monitor was satisfied that the training adequately addressed secondary compliance requirements with this subparagraph. The Monitor relied on AD's 2005 *ABC Reports Audit*, and found the LAPD in compliance with both paragraph 73 and subparagraphs 70a and 70b during the quarter ending December 31, 2005.

At the end of the initial term of the Consent Decree, the Monitor found the LAPD in substantial compliance with subparagraph 70a and paragraph 73; these paragraphs were no longer actively monitored. The Monitor continued to actively monitor compliance with subparagraph 70b during the extension period.

Based on the findings in successive *ABC Reports Audits* from 2006 through 2008, the Monitor found the LAPD in compliance with subparagraph 70b in 2006, and in non-compliance in 2007 and 2008. The 2008 audit found that 88% of packages it reviewed were in compliance with the requirements of subparagraph 70b. The remainder either contained no documentation of the incidents on the watch commander's daily reports or did not include the watch commander's evaluation of the incident on the Watch Commander's Log. While compliance did not reach the level of >94%, the Department is close to compliance, and the Monitor hopes that the combination of AD, OIG and Police Commission oversight can ensure that the Department retains a process to evaluate California Penal Code § 148 type incidents.

## **Recommendations**

The LAPD has made substantial progress in its oversight of the mainly administrative processes governing search warrants. There remain areas that need strengthening. With the policies and procedures put in place by the Department, and the oversight role of AD and the OIG to ensure that the policies and procedures are followed, the Monitor believes that, going forward, search warrants and warrant tracking logs will be properly prepared, reviewed, served and tracked under these strict guidelines and subject to adequate supervisory oversight. The Monitor offers the following recommendations regarding search warrants and warrant tracking logs.

- The documentation of supervisory oversight in connection with the debriefing summary, CO's analysis and Comment Sheet should include all outlined components of the Department policy and the Consent Decree and be sufficiently specific to ensure that proper supervisory oversight of each individual search warrant and the evaluation of the supervisor's actions are achieved.<sup>43</sup> AD and the OIG should continue their stringent practice of review, but consider the need for more specifics surrounding this supervisory oversight documentation, rather than general nonspecific statements of circumstances in such evaluations.
- The LAPD should provide refresher training to watch commanders and supervisors in order to ensure that all 70b incidents are documented appropriately.

The Department should continue to ensure that the watch commander inspecting a detainee or arrestee be uninvolved with the arrest or detention.

### **3. Initiation of Complaints**

During the course of its investigation, the DOJ determined that the LAPD had in place policy and procedures for the acceptance of complaints. However, the DOJ's investigation also raised serious concerns that not all complaints lodged by civilians or sworn personnel were documented, preventing any investigation and resolution.

#### **Consent Decree Solutions**

This section of the Consent Decree mandated the methods by which the LAPD must receive complaints and maintain complaint materials. The requirements served to enhance the policies and practices already established by the LAPD. Specifically, the LAPD was required to have the capacity to accept any complaint in virtually any form,<sup>44</sup> anonymously, and at various locations.<sup>45</sup> Complaint material must include pre-addressed postage-paid envelopes in easily accessible Los

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<sup>43</sup> The Monitor often found generic statements from supervisors indicating that there were no problems during the service; such statements do not address specifics regarding a particular warrant's execution or the supervisor's oversight. By requiring the inclusion of specifics, the Department will cover any risk management issues that may arise, ensure that supervisors and COs are reviewing each individual search warrant, and allow the search warrants and the personnel files to adhere to both Decree requirements and best police practices.

<sup>44</sup> Receipt must be accommodated whether in writing, in person, by mail, by telephone, facsimile transmission or by electronic mail.

<sup>45</sup> LAPD headquarters, any LAPD station or substation, the offices of the Police Commission and the OIG.

Angeles locations in seven mandated languages.<sup>46</sup> Additionally, complaint materials must be readily available at the request of community groups and public and private centers. Lastly, the public must have continued access to the LAPD's 24-hour toll-free telephonic complaint hotline, and calls to this line must be recorded.

Another route for an individual to claim misconduct by an officer or other employee of the LAPD is to file a civil lawsuit on or claim against the City. All lawsuits and claims filed were required to be communicated to the LAPD so that the underlying allegations could be investigated.

Once a complaint was completed and presented to the LAPD, it had to be assigned a unique complaint number. Any complaint presented had to be accepted without requiring the complainant to sign any form that in any manner limited or waived his or her ability to file a complaint or a civilian lawsuit in court.

The LAPD was required to initiate a complaint against any officer who failed to assist any civilian from filing a complaint, such as refusing to provide complaint material, refusing to accept a complaint or attempting to dissuade the filing of a complaint.

Officers were also required to notify without delay the LAPD whenever they are arrested or criminally charged for any conduct, or named as a party in any civil suit involving their conduct while on duty. Additionally, an officer was required to immediately notify the LAPD if named as a defendant in a civil suit resulting in a temporary, preliminary or final adjudication in favor of a plaintiff complaining of off-duty violence, threats of physical violence or domestic violence by the officer.

Lastly, recognizing that misconduct, in certain situations, might be observed solely by another officer and that officers might be hesitant to report misconduct, the Consent Decree mandated that officers continue to report without delay certain misconduct they witness.<sup>47</sup> Witness officers were required to report alleged misconduct directly to the IAG or a supervisor for completion of a complaint form.<sup>48</sup>

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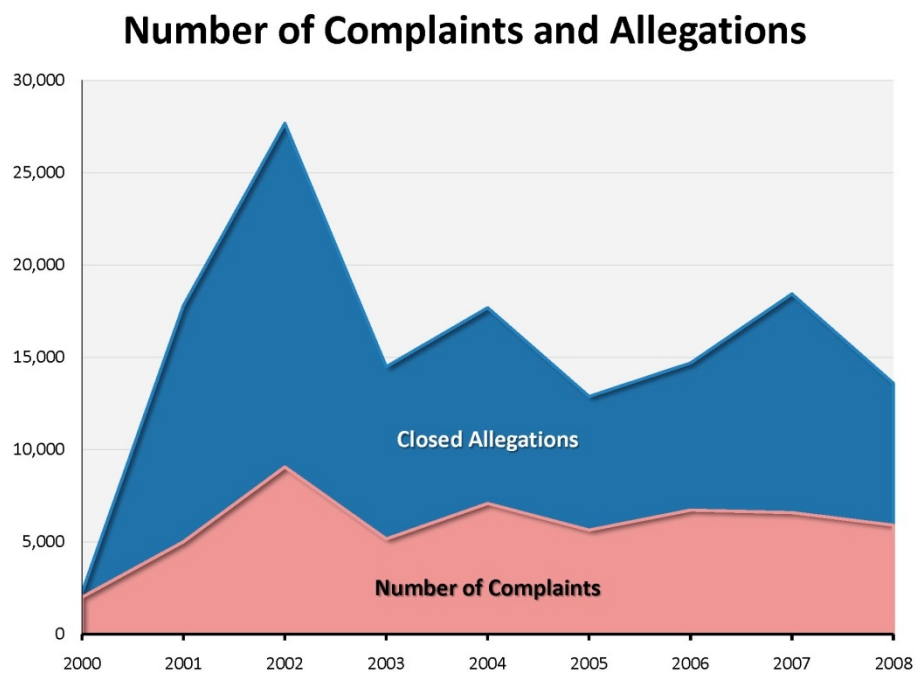
<sup>46</sup> English, Spanish, Japanese, Cantonese, Korean, Tagalog and Vietnamese

<sup>47</sup> Excessive use of force or improper threat of force; false arrest or filing of false charges; an unlawful search or seizure; invidious discrimination; an intentional failure to complete forms required by LAPD policies and in accordance with procedures; an act of retaliation for complying with any LAPD policy or procedure; or an intentional provision of false information in an administrative investigation or in any official report, log or electronic transmittal of information.

<sup>48</sup> This requirement applies to all officers, including supervisors and managers who learn of evidence of possible misconduct through their review of an officer's work.

### Overall Achievements of the LAPD

The LAPD issued Special Order No. 1, dated January 1, 1998, *Revised Definition of Personnel Complaint, Modification of Personnel Complaint Procedures and Revision of Complaint Related Forms*, that, among other things, mandated the reporting of any misconduct, regardless of significance, for investigation. The LAPD subsequently issued Special Order No. 8, dated February 24, 2000, *Complaint Reporting Procedures – Revised*. This policy superseded Special Order No. 1 and simply clarified the difference between public and Department complaints and further defined certain administrative requirements for the complaint intake process. During 2000, the LAPD experienced a significant jump in reported alleged misconduct, which placed a strain on its existing complaint investigation infrastructure, both COC and the IAG. The following chart reports, by year, the number of complaints received by the LAPD and the number of underlying allegations per closed complaint investigation:



Prior to the DOJ's investigation, the LAPD had established a thorough complaint intake process that included requirements to accept a complaint in virtually every required method and locale and to assign a unique case intake number, or CF number, for tracking and referral.

Within short order, the LAPD coordinated the production of complaint material and informative posters in the seven mandated languages and made such information available to the public and community groups. Posters were prominently displayed in all Divisions in all Bureaus.<sup>49</sup>

In July 2001, the LAPD issued Special Order No. 18, *Risk Management Group – Established*. This Special Order centralized the Department’s risk management under the Human Resources Bureau and specifically mandated maintaining liaison with the Office of the City Attorney to, among other things, reduce risk.

With respect to an officer’s duty to report misconduct, the LAPD issued Special Order No. 30, *Duty to Report Misconduct – Revised*, dated September 10, 2001. It, among other things, stipulates that employees “shall continue to report misconduct to a supervisor without delay” and added the provision allowing employees to report misconduct directly to the IAG. This special order also requires an investigating supervisor during the course of a complaint investigation to formulate additional allegations of misconduct if there is reason to believe additional misconduct occurred.

### **Consent Decree Compliance**

As described above, early on during the term of the Decree, the LAPD coordinated the production of complaint material and informative posters and made information available to the public and community groups. On many occasions the Monitor conducted unannounced verifications of complaint materials at various locations, primarily Divisions, and noted that, for the most part, the LAPD was in compliance.<sup>50</sup>

During the term of the Decree, the Monitor reviewed thousands of complaint investigations and not once did it identify any indications that officers asked or required a civilian in any way to execute documentation waiving or limiting their ability to file a complaint with the LAPD or any other entity, or file a lawsuit in court. Officers rightfully informed complainants that it was against the law to knowingly file a false complaint against an officer.

In the course of reviewing Ethics Enforcement Section (EES) audits of the complaint intake process, the Monitor noted instances in which complaints initiated by EES personnel were not always documented on a complaint intake form or, if documented, were not accurate, and the LAPD was held in non-compliance. In those instances where a complaint was not generated, the EES initiated a complaint against the involved officer(s). Similarly, for EES complaint intake

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<sup>49</sup> Special Order No. 19, *Complaint Information Provided in Additional Languages*, dated July 20, 2001.

<sup>50</sup> In some instances complaint material or pre-addressed postage-paid envelopes were not available in the public area of the location assessed. Typically it was a matter of bringing the deficiency to the attention of the Watch Commander who either immediately corrected the deficiency with material on hand or submitted requests for the additional material.

audits wherein the information suggested that an officer was reluctant to take a complaint or used language suggesting an attempt to dissuade, either a complaint was generated against the officer, or the EES concluded another audit was warranted at some point in the near future. Other than those instances identified during the course of EES' work, as well as the Monitor's overall review of complaints (in which a relatively small number included allegations of failing to accept a complaint), the Monitor is confident that the Department is making every effort to accept all complaints and in virtually all instances is doing so.

During early 2003, at a point in time when the LAPD received an allegation that officers were not documenting all complaints received, the Chief of Police directed the EES to significantly increase the number and frequency of intake audits to substantiate or refute this allegation. Although subsequent assessments noted some instances in which officers did not document a complaint, the LAPD's overall performance improved, and ultimately the Monitor held the Department in substantial compliance.

One requirement that the Department struggled with until just recently was its 24-hour toll-free complaint hotline, which was established for the receipt of complaints. The hotline was staffed with sworn personnel to receive complaints during normal business hours, and the system would default to voicemail in the event the call could not be taken. In assessing this requirement, the Monitor often placed reliance on AD's systems audit of the complaint intake process. In these audits, AD often found that the hotline was adequately staffed, but AD identified instances in which complaint forms were not initiated.

During early 2005, the responsibilities of the hotline were transitioned from the PSB to the DCP. At that time, the DCP was not capable of automatically recording all incoming calls. More recently, AD personnel, in the course of conducting their audit, telephonically contacted the hotline, noting that approximately 17% of the time their calls went unanswered or the voicemail system failed to engage and record the call. Analysis of the system identified a card error that was corrected, and subsequent testing by CRID found that the system performed flawlessly.

In order to track civil lawsuits on or claims against the City alleging misconduct by an LAPD officer, the LAPD established an efficient liaison between the RMD and the City Attorney's office, who regularly reconciled the LAPD's Claims/Litigation Information System Report (CLIS) with the City's report. The Monitor found the LAPD fully in compliance with the related requirements on six separate occasions between the quarters ended June 30, 2002 and March 30, 2006.

During the same time period, on five separate occasions the Monitor assessed the Department's compliance with the requirement that officers notify the Department, without delay, any time an officer is arrested or criminally charged for any conduct, named as a party in any civil lawsuit involving their conduct while on duty, or named as a defendant in certain civil suits. The Monitor found the Department in compliance in all five assessments after reviewing complaint

investigations, comparing randomly selected officers with various court indices, and querying claims and lawsuits filed with the City.

In assessing whether officers reported certain types of alleged misconduct by other officers, the Monitor reviewed completed complaint and use of force investigations for indicators that officers knew or should have known, and therefore reported, such misconduct. The Monitor's review spanned the quarter ended June 30, 2003, through to the quarter ended March 31, 2006. Toward the beginning of this assessment period, the Monitor identified some investigations containing information or officer statements suggesting knowledge of misconduct not subsequently reported; however, overall, the Monitor concluded that the investigations were complete and did not contain indicators of officers not reporting misconduct.

#### **4. Conduct of Investigations**

During the course of its investigation of the LAPD, the DOJ found evidence of a pattern or practice of police misconduct and civil rights violations. DOJ allegations included the improper use of force and insufficient investigation into use of force incidents. The DOJ concluded that the LAPD's pattern or practice of police misconduct included, among other things, the unconstitutional use of force by LAPD officers. Also cited were "serious deficiencies" in training and supervision of officers.

The DOJ also noted that the LAPD failed to respond properly to citizen complaints of officer misconduct and conducted inadequate investigations of civilian complaints. As a result, officers were not deterred from engaging in misconduct. Similarly, poorly trained officers were not identified for retraining or counseling. These two factors, when combined, created an environment for misconduct to occur.

In reaching its conclusion, the DOJ reviewed LAPD policy statements, reports on OIS incidents in which nonlethal force was used, misconduct complaint files in which serious misconduct was alleged, information on civil suits filed against the LAPD and its officers, information on criminal charges filed against LAPD officers, information relating to police training, and reports and memoranda prepared by the LAPD, the Board of Police Commissioners and the OIG.

#### **Consent Decree Solutions**

This section of the Consent Decree mandated a number of procedural changes to the manner in which the LAPD was required to conduct investigations of alleged misconduct, NCUOF and CUOF. Consistent with many other paragraphs of the Consent Decree, the mandates served to supplement policy, procedures and practices of the LAPD that preexisted the Consent Decree period. These procedural changes were intended to improve the overall quality and integrity of all complaint and use of force investigations.



Specifically, the LAPD was required to review all complaint face sheets within 10 days of receipt to determine whether they require investigative assignment to the IAG or COC supervisors.<sup>51</sup> For those investigations that included allegations requiring assignment to the IAG, and for all CUOF investigations, the assigned investigator(s) were required to ensure that:

- All interviews were tape recorded or videotaped;<sup>52</sup>
- The scene was canvassed and that complainants and witnesses were interviewed at convenient locations and times that might include their residence or place of business;
- Group interviews were prohibited;
- Involved officers and their supervisors were notified;<sup>53</sup>
- All supervisors were interviewed with respect to their conduct at the scene during the incident;
- All appropriate evidence was collected and preserved with the burden of collection on the LAPD; and
- All inconsistencies in officer and witness interview statements were identified and reported in writing.

For those complaint investigations assigned to the COC, i.e., any investigation not including allegations delineated by paragraphs 93 and 94 of the Consent Decree and for all NCUOF investigations, the LAPD was required to ensure that:

- group interviews were prohibited;
- all supervisors were interviewed with respect to their conduct at the scene during the incident; and

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<sup>51</sup> Paragraphs 93 and 94 of the Consent Decree define certain allegations that must be investigated by the LAPD's IAG. Please refer to the *Internal Affairs Group* section of this report for additional information on investigations requiring assignment to the IAG.

<sup>52</sup> This is required of all complainants, involved officers and witnesses. For certain CUOF investigations LAPD investigators elected to document statements of "heard only" witnesses that in some instances were not recorded. The Monitor concluded this was not a compliance issue.

<sup>53</sup> This requirement applies only to complaint investigations for purposes of paragraph 80. If the complaint is deemed confidential under law, notification will not take place.

- all appropriate evidence was collected and preserved with the burden of collection on the LAPD.

Lastly, if at any time during the course of any investigation of alleged misconduct or use of force the investigating officer had reason to believe misconduct occurred other than that already alleged, the investigator was required to notify his or her respective supervisor and an additional complaint investigation of the additionally identified misconduct must occur.<sup>54</sup>

### **Overall Achievements of the LAPD**

The following policies relevant to complaint and use of force investigations were issued by the LAPD during the Decree's term in an effort to attain compliance with the investigative requirements for complaint investigations and use of force investigations:

- Human Resources Bureau Notice *Categorical and Non-Categorical Use of Force Classifications and Investigative Responsibility*, dated July 30, 2001;
- Administrative Order 12, *Investigating a Personnel Complaint and Evaluating Witness Credibility*, approved by the Police Commission on September 25, 2001;
- HRB Notice, "Administrative Investigation Training," approved by the Police Commission on October 9, 2001;
- Special Order No. 36, *Complaint Reporting Procedures – Revised*, approved by the Police Commission on November 13, 2002;
- Special Order No. 1, *Department Complaint Process – Revised*, dated January 1, 2003;
- *Categorical Use of Force Classifications and Investigative Responsibility*, July 30, 2001;
- Special Order No. 27, *Investigation of Non-Categorical Use of Force Incidents*, approved by the Police Commission on September 25, 2001;
- Special Order No. 18, *Revision to Special Order No. 27, 2001 – Investigating and Adjudicating Non-Categorical Use of Force Incidents*;
- Human Resources Bureau Notice, *Consent Decree Required Information on Non-Categorical Use of Force Investigations*, approved by the Police Commission on January 28, 2003;

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<sup>54</sup> In most instances, this results in the formulation and addition of an allegation or allegations to the existing open complaint investigation.

- Human Resources Bureau Notice, *Non-Categorical Use of Force Reporting Where an Arrest Is Made*, published February 24, 2003; and
- Special Order No. 13, *Non-Categorical Use of Force Reporting – Revised*, dated May 26, 2004.

Despite the promulgation of these policies and procedures, as described below, there were some significant issues in the Department's road to compliance in this area of the Consent Decree. However, the Monitor found the Department in substantial compliance with Consent Decree requirements regarding NCUOF investigations at the end of the initial five-year term of the Decree. As described in more detail below, improvements in NCUOF investigations and the Department's ability to comply with the relevant requirements was due in large part to the Department's commitment to issuing and revising policy and the efforts of its Training Group.

In addition, the PSB continues to randomly audit complaint investigations conducted by IAG investigators in an effort to identify and address deficiencies, similar to the process used for CUOF Investigations, which has proven useful in improving the quality of those investigations.

In December 2008, the LAPD implemented a revised *Biased Policing Investigation Protocol*, which addressed concerns expressed by the Monitor and the DOJ with regard to interviewing all accused officers. The protocol requires investigators to gather and include all documents related to an incident, includes questions that should be asked of the complainant and officers, and requires any complaint that includes an allegation of biased policing to be reviewed by either the LAPD's Criminal Investigation Division or the PSB prior to distribution to the concerned CO. In addition, the PSB continues to randomly audit complaint investigations conducted by IAG investigators in an effort to identify and address deficiencies, similar to the process used for CUOF Investigations, which has proven useful in improving the quality of those investigations.

## **Consent Decree Compliance**

### *Categorical Uses of Force*

Although the Monitor noted some deficiencies in CUOF investigations during its initial review, which occurred during the third quarter of 2002, the Monitor concluded that the overall quality of investigations was sufficient. This trend carried through the Monitor's evaluation that occurred during the first quarter of 2003.

During a subsequent assessment in the third quarter of 2003, the Monitor noted deterioration in the quality of investigations. The Monitor identified instances in which the LAPD did not preserve evidence,<sup>55</sup> identify and report inconsistencies in statements, prohibit group interviews, or report possible misconduct uncovered during the course of the investigation. Indeed, the LAPD was in compliance with only one of the six subsections at the end of this reporting period. Our review of underlying supporting material identified considerable discrepancies when compared to the CIID report, a report ultimately furnished in substance to the Chief of Police and the Police Commission for review and consideration. As a result, the Monitor elected to expand its review of CUOFs during that same quarter and identified additional concerns after having reviewed only three additional investigations, two of which were ICD investigations. To the UOFRB's credit, it identified what appeared to be deficiencies in LAPD jail procedures and recommended a Board of Inquiry and an assessment of jail procedures. Although these requests dated back to mid-2001 and September 2002, neither was addressed until August 2003 following a verbal report by the Monitor to the parties.

Also of concern was the use of RHD detectives to conduct interviews of suspects and witnesses. The Monitor did not question the ability of these detectives to conduct thorough interviews but was concerned that their questioning might be skewed more toward determining whether or not the suspect committed the crime and not whether or not the officer(s) exhibited excessive or unnecessary force.

The Monitor again evaluated the merits of CUOF investigations during the quarter ended March 31, 2004, and determined that the deficiencies in CUOF investigations persisted. The Monitor continued to identify unrecorded witness interviews, insufficient documentation within investigation files, unidentified and unaddressed inconsistencies between witness and officer statements and uninitiated complaint investigations in connection with alleged misconduct identified during the course of the use of force investigation.

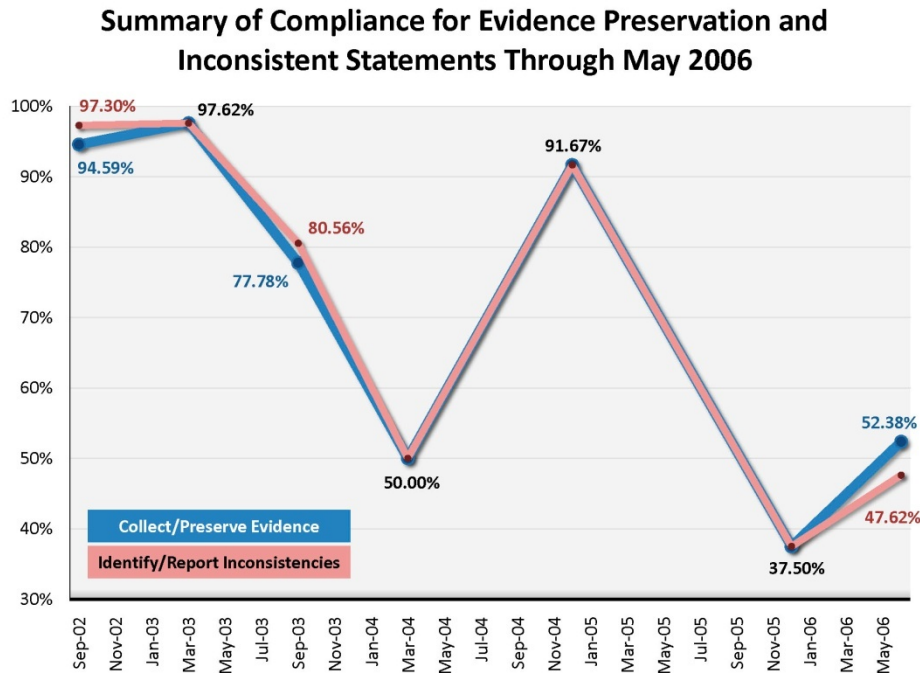
In response to the Monitor's findings, the PSB undertook an immediate independent review of the files and confirmed, in almost every respect, the Monitor's findings. This led to the reassignment of the CIID as a direct report to the Deputy Chief of the PSB. The Deputy Chief subsequently initiated a series of organizational and investigative changes to address the manner in which CUOF investigations were completed.

Another issue identified by the Monitor in the course of reviewing and assessing CUOF investigations involved two separate incidents in which a head strike with an impact weapon went unreported for a significant period of time. Both incidents were initially treated as NCUOFs, and the required protocol was not followed until they were upgraded to CUOFs.

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<sup>55</sup> The Monitor identified and reviewed several eyewitness statements that were not transcribed and were not referenced in the CIID's report. This led to the discovery of multiple occasions in which the CIID failed to identify and report material inconsistent statements and preserve essential evidence.

Of the six requirements delineated in this paragraph of the Consent Decree,<sup>56</sup> the two that strike closest to the core of the integrity of the investigation involve the collection and preservation of evidence and the identification, reporting and addressing of inconsistent statements. The following chart summarizes the history of the Department's compliance with these two requirements:



In mid-2006, the Monitor noted another troubling pattern in the quality of CUOF investigations, this one concerning leading questions. The Monitor noted that FID investigators more frequently utilized leading questions during interviews, particularly officer interviews, which the Monitor noted detracts from the overall quality of the investigation. The OIG also identified the repeated use of leading questions during its independent reviews of CUOF investigations and reported such to the LAPD.

Throughout the duration of the Consent Decree, the Monitor expressed its concern over the use of the hobble restraint device during certain incidents in which the suspects either died or were hospitalized with serious injuries.<sup>57</sup> Although the LAPD had in place specific policy and

<sup>56</sup> Paragraph 80

<sup>57</sup> The Monitor's review of these incidents yielded no evidence to conclude failure to properly place the suspect in a sitting position contributed to their death or hospitalization.

procedure for dealing with suspects who are hobbled, officers in several incidents did not follow procedure. Of note, policy required that any suspect restrained with a hobble device must be immediately placed into an upright seated position as a preventative measure for asphyxia. This is particularly important if the suspect exhibits signs of being under the influence of an unknown substance. In most of the investigations, the line of questioning appropriately included querying the involved officers' knowledge of policy and procedure. However, although these incidents were reviewed by the UOFRB and the Chief of Police, contrary to Department policy, training was not required for any of the involved officers with regard to proper positioning. To the Department's credit, though, in December 2007 it issued an order requiring officers to immediately place a hobbled suspect either in a sitting position or in the left lateral position.

Up to June 2006, the Department experienced setbacks with regard to the quality of investigations and could not show consistent compliance. As a result, the Monitor continued its review of CUOF investigations during the Consent Decree extension period. It was around this June 2006 time period, and continuing for the duration of the extension period, that the Monitor noted a marked improvement in the overall quality of CUOF investigations. Although not perfect, the Monitor felt more comfortable in considering the merits of each individual CUOF investigation as a whole and whether individual items of non-compliance impacted<sup>58</sup> the investigation's overall quality and the ability of the reviewer to properly adjudicate officer actions. By the end of the second year of the extension, the Monitor concluded that, overall, the Department attained sustained substantial compliance with Decree requirements regarding the investigation of CUOF. The LAPD's CUOF investigations rightfully are now recognized as state-of-the-art best practices that are studied by other law enforcement agencies nationwide.

#### *Non-Categorical Uses of Force*

In connection with NCUOF, the Monitor, in its earlier reviews, was unable to easily determine whether or not witnesses were interviewed separately during early assessments of compliance. Although each interview was substantively reported separately, the date, time and location of interviews were not sufficiently documented. As such, the Monitor held the Department in non-compliance absent any additional information. Similarly with regard to evidence, both the Monitor and AD found the Department in non-compliance due to poor documentation procedures, particularly with regard to photographs of either the suspect or involved officers for evidence of injuries or lack thereof. Subsequently, the Monitor initiated a conversation with the CO of Risk Management, who advised the Monitor that the LAPD was aware of the deficiencies and was in the process of amending current policy to address them. The LAPD then developed and implemented Special Order No. 13, *Non-Categorical Use of Force Reporting – Revised*, dated May 26, 2004, which addressed the reporting and documentation issues.

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<sup>58</sup> The Monitor excluded LAPD generated complaint alleging *Failure to Qualify*, *Failure to Appear* or a *Preventable Traffic Collision* from its calculation as these particular complaints are generated monthly.

During late 2003, the Monitor noticed improvements in the quality of NCUOF investigations in connection with documentation of collected evidence, time and place of the interview, and whether a group interview took place. The Monitor commended the LAPD for the marked improvement in the quality and consistency of NCUOF investigations. Much of the credit was attributable to the Department's commitment to issuing and revising policy and the Training Group's review of policy and procedures for completed NCUOF incident investigation.

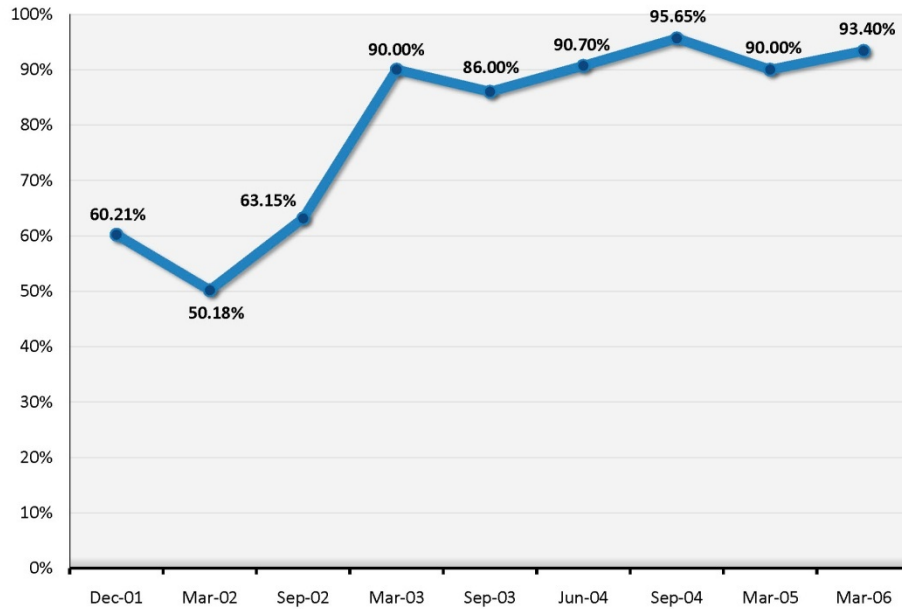
During mid-2005, the UOFRS and the Department's Training Division continued to track and review all completed NCUOF investigations in order to identify deficiencies in the investigations and any training issues. If an investigative deficiency or training need was identified, either UOFRS or the Training Division would contact the appropriate manager via correspondence requesting an explanation or clarification of the issue. At times an officer involved in an NCUOF would receive remedial training from the Training Division.

As a result of these efforts, the Monitor found the Department in substantial compliance with requirements regarding NCUOF investigations at the end of the initial five-year term of the Decree. The consistent quality of the investigations and related quality control review provided the Monitor with sufficient assurance that the LAPD would continue with best practices, and additional monitoring during the Decree extension was not required. Subsequent AD assessments for the most part validated continued adherence to these best practices..

#### *IAG Complaint Investigations*

Beginning with the quarter ended December 2001 and continuing through the quarter ended March 2006, the Monitor, through sampling, reviewed complaint intake face sheets for evidence that the face sheet was forwarded to the PSB for review and classification within the 10-day period mandated by the Decree. As illustrated in the following chart, initially, the LAPD's compliance rate was relatively low, but over the course of time, the Review and Analysis Unit managed to steadily improve the Department's compliance with this requirement. This was accomplished despite an increasing number of complaints and an increasing number of underlying allegations. As a result of these efforts, the Monitor concluded that the Department was in substantial compliance with the requirements related to the review and classification of complaint face sheets at the end of the original five-year term of the Consent Decree. The related paragraphs were no longer actively monitored during the extension.

### Complaint Face Sheet Review



During the initial five-year term of the Consent Decree, the Department issued a number of directives providing guidance to officers and supervisors with regard to complaint investigations. Many of these practices were entrenched in LAPD complaint investigations prior to the Consent Decree, and the Department was largely faced with fine-tuning the requirements and improving overall quality.

Three requirements proved to be the most difficult for the Department and, therefore, were actively monitored during the Consent Decree extension: tape-recording interviews of the complainants, witnesses or officers; collecting and preserving evidence; and identifying and reporting inconsistencies in witness and officer statements. Despite hiring freezes and an increasing caseload, the IAG’s investigators stepped up to the challenge, completing quality complaint investigations. Equally important, the Monitor witnessed steadily increasing improvement in the quality of manager review and related documentation, with some investigations returned to address open items.

During the quarters ended June 30, 2008 and December 31, 2008, at the request of and subsequent to an initial review conducted by the DOJ, the Monitor also reviewed complaint investigations that included an allegation of racial profiling. During its first review, the Monitor identified significant deficiencies in approximately 25% of the completed investigations, calling into question the appropriateness of the review process and the ultimate adjudications. The Monitor also noted disparities in the review and documentation of officer work history.

During its most recent review in December 2008, although significant issues were identified in approximately 10% of the complaint investigations, the Monitor noticed a marked improvement



in the quality of the investigations and rationale for the adjudications. The Monitor notes that the LAPD's implementation of a revised *Biased Policing Investigation Protocol* addressed many of the concerns expressed by the Monitor and the DOJ with regard to interviewing all accused officers.

Based on its reviews and as a result of the various steps taken by the Department, the Monitor concluded that the LAPD achieved and sustained compliance with these three remaining requirements during the extension period.

#### *Chain of Command Complaint Investigations*

In early 2003, the Monitor began its review of COC complaint investigations completed after commencement of the Consent Decree and attempted to determine whether one could reasonably conclude that interviews were conducted separately, evidence was collected and preserved, and the area had been canvassed for witnesses. More often than not, the investigations were not sufficiently or consistently documented with regards to the collection and preservation of evidence. As time progressed, the Department improved the quality of COC investigations, largely through the supervisory review process in which deficiencies were identified and returned to the investigator for correction. By the second quarter of 2006, the Monitor noticed a sustained significant improvement in the quality of COC investigations, particularly with regard to the collection and preservation of evidence. This improvement continued through June 2008, when the Monitor determined that, despite a few discrepancies, the Department had achieved substantial compliance with the requirement regarding COC investigations. The related paragraphs were placed on inactive monitoring status.

On eight separate occasions during the term of the Consent Decree and its extension, the Monitor evaluated the LAPD's compliance with requirements related to the identification of any potential misconduct for additional investigation. In some instances, the Monitor placed reliance on AD's audits. In seven of the eight reviews, the Monitor concluded that the LAPD was in compliance with these requirements. During the three-year extension period, the Monitor communicated to the LAPD all instances it identified in which there was evidence of additional misconduct on the part of an officer yet no indication that additional allegations were formulated to address the additional misconduct identified. The Monitor concluded that these instances identified during the extension period did not impact the Department's substantial compliance with the pertinent requirements.

#### **Recommendations**

In order to maintain and improve the quality of complaint and use of force investigations going forward, the Monitor recommends the following:

- The LAPD should continue to train all investigators assigned to either the FID or IAG, with such training to include many of the requirements of the Consent Decree. Although sometimes time-consuming, the Decree requirements are crucial to ensuring the overall quality of investigations. Training must emphasize the use of open-ended questions with all interviewees. For interviews of officers, investigators must strive to learn the intricacies of policy and be willing to question officers regarding their knowledge.
- The LAPD should continue to train all officers and supervisors on the definition of a CUOF and what is required of officers should a CUOF incident occur.
- The LAPD should continue to train officers and supervisors on the Hobble Restraint device and the proper treatment of individuals on whom the device is administered, particularly if they have exhibited signs of being under the influence of a substance. All officers need to understand the importance of immediately placing any hobbled individual in either the sitting or left lateral position in an effort to prevent asphyxia.
- The LAPD should regularly revisit LAPD jail procedures, particularly those identified as deficient by the UOFRB in connection with certain ICDs to ensure continued best practices when dealing with detainees with health and substance abuse issues. In sum, the Monitor believes that there has been measurable and sustained improvement in this area. The keys to success have been training and improved oversight. Those will be the keys to institutionalizing the gains made so far.

## **5. Adjudicating Investigations**

In line with its findings of inadequate investigations, the DOJ also concluded that poor information led to inadequate and problematic adjudication of civilian complaints. The LAPD's history includes a series of problematic events followed by insufficient investigations and a perception that the public was failed at the adjudication and discipline cycle of events. In reaching its conclusion, the DOJ reviewed LAPD policy statements, discipline reports and misconduct complaint files in which misconduct was alleged.

### **Consent Decree Solutions**

In an effort to address the deficiencies identified by the DOJ in the adjudication of civilian complaints, the parties agreed to a number of procedural changes to the manner in which the LAPD must adjudicate investigations of alleged misconduct. Consistent with many other paragraphs of the Consent Decree, the agreed-upon changes served to supplement existing LAPD policy, procedures and practices. These procedural changes were intended to improve the overall quality and integrity of all complaint investigations.

Upon receipt of a completed complaint investigation, the LAPD was required to review the complainant's and accused officer's statements using standard California jury instructions. Additionally, all complaints were to be adjudicated using a preponderance of the evidence standard, and no complaint investigation could be closed without a final adjudication.<sup>59</sup> For complaints that were withdrawn, filed anonymously, filed by a person other than the victim of misconduct or if the complainant was unavailable to make a statement, the LAPD was required to make reasonable efforts to complete the investigation.

Taking into consideration variables that include an investigation's complexity, the availability of evidence and witnesses, and other extenuating circumstances, the LAPD was required to complete at least 51% of all complaint investigations within 150 days of the complaint initiation date.

### **Overall Achievements of the LAPD**

In its initial efforts to attain compliance with the investigative requirements regarding complaint investigations, the LAPD issued Administrative Order 12, "Investigating a Personnel Complaint and Evaluating Witness Credibility," on September 6, 2001. This order reiterated certain information already documented in pre-Consent Decree LAPD manuals to better align LAPD policy with Consent Decree requirements. The LAPD continued its efforts towards compliance by issuing additional policy during the first few years of the Decree, including Special Order No. 1 dated January 1, 2003, "Department Complaint Process – Revised." Special Order No. 1 was designed to, among other things, "hasten resolution of minor complaints, hasten responses to complainants, and appropriately and better utilize existing police resources."<sup>60</sup>

At the onset of the Consent Decree, the LAPD faced a considerable backlog of complaint investigations not yet entered into its Complaint Management System. By mid-2002, the LAPD made significant progress in reducing this backlog, recognizing that timely entry into the system was the first step toward timely completion of the investigations.

Toward the end of 2004, the LAPD proposed the use of Settlement Agreements wherein the Department and the involved officer negotiate acceptable terms and the officer agrees not to dispute certain allegations. In return, the officer, or a representative, negotiates a mutually acceptable discipline. The Monitor reviewed certain Settlement Agreements, noting that the discipline, in virtually all instances, was reasonable.

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<sup>59</sup> Acceptable adjudications are *Sustained, Sustained-No Penalty, Not Resolved, Unfounded, Exonerated, Duplicate, No Department Employee, Insufficient Evidence to Adjudicate, No Misconduct* and *Withdrawn by the Chief of Police*.

<sup>60</sup> Other policies issued included Special Order No. 36, November 13, 2001; Chief of Staff Notice, May 9, 2002; Adjudicator's Confidential Work Sheet; and LAPD's Management Guide to Discipline, January 2002.

## Consent Decree Compliance

During 2002, the Monitor commenced selecting samples of complaint investigations for review that included assessing the LAPD's application of witness credibility, preponderance of the evidence and the final adjudication requirements. The Monitor's evaluations during the initial five-year period found that in some complaint investigations, undue preference was given to the officer against whom the complaint was alleged, and proper consideration was not given toward the civilians' or officers' histories, respectively. As such, the Department was held largely in non-compliance, and the Monitor continued to assess compliance with these requirements during the three-year extension period.

Over this same evaluation period, despite the findings of undue preference, the Monitor found that the LAPD, for the most part, adjudicated complaint investigations using the preponderance of the evidence standard and concluded that the LAPD was in compliance with the requirement to use one of the required resolutions. However, the LAPD did not demonstrate sustained compliance during the last two years of the initial term of the Decree, and the Monitor also continued to assess compliance with this requirement during the extension period.<sup>61</sup> This was largely the result of the use of an adjudication category denoted as *Other Judicial Review (OJR)* as reported by the Monitor during the quarter ended September 30, 2005. At that time, *OJR* was one of the agreed-upon adjudications, and it was utilized when a matter was heard in a judicial setting, during which time the underlying allegations of the complaint were ostensibly addressed. The Monitor noted that in several investigations selected for review that were adjudicated *OJR*, the LAPD did not follow its own internal policy, as the investigative files were devoid of documentation that the complainant, the complainant's attorney or the prosecuting attorney were interviewed or approached for interview. Most of the investigations reviewed also had no evidentiary hearing or any other documented review of the facts alleged in the complaint. Lastly, the complaint files were devoid of any specific court transcripts or dockets that would support whether the matter was truly addressed at any judicial proceeding.

The Monitor expressed concern that the *OJR* adjudication was a mechanism that permitted the LAPD to quickly render a decision on a complaint investigation in an effort to meet compliance requirements of the Consent Decree. In response, the LAPD issued Special Order No. 34, *Other Judicial Review as an Adjudication – Revised*, dated November 1, 2007, which rescinded the use of *OJR* as an adjudication.

Throughout the initial five-year term of the Decree, the Monitor reviewed samples of complaint investigations, some of which were initiated anonymously or by third parties. For virtually all reviewed complaints that were anonymous or filed by a third party, the Monitor concluded the Department made a good faith effort to identify the complainant and complete a thorough

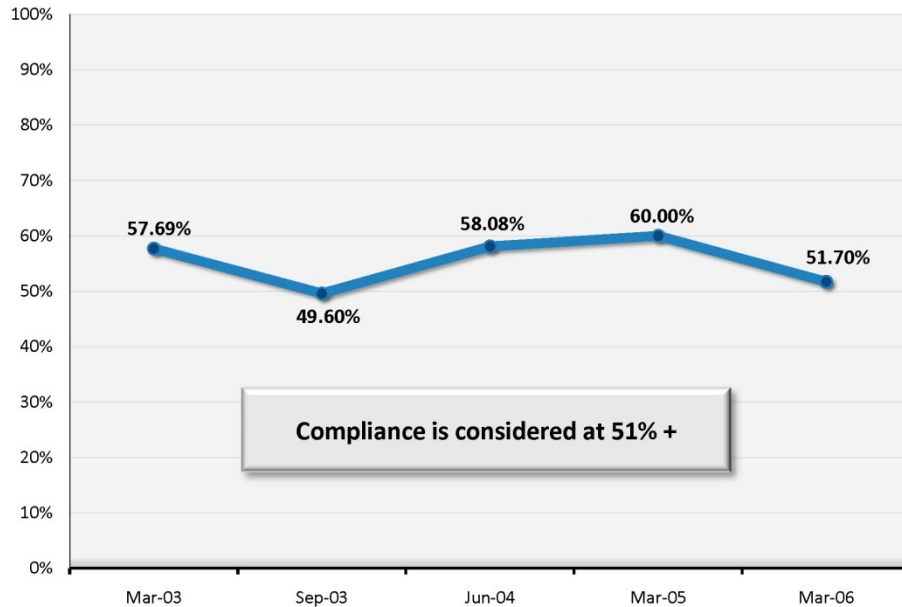
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<sup>61</sup> In assessing the Department's compliance with the undue preference and preponderance of the evidence requirements of the Consent Decree, the Monitor, at times, placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*.

investigation. As a result, the Monitor concluded that the Department was in substantial compliance with the pertinent Consent Decree requirements, and assessment during the extension period for this particular requirement were placed on inactive status.

Beginning in the quarter ending March 31, 2003, and continuing through to the quarter ending March 31, 2006, the Monitor assessed the LAPD's compliance with requirements regarding the timely completion of complaints on five separate occasions. In assessing compliance, the Monitor analyzed reports generated by the LAPD that identified start and end dates for complaint investigations. The Monitor also completed analyses of completion rates separately for IAG-completed investigations versus COC-completed investigations. With the exception of one quarter, more often than not the LAPD completed complaint investigations within the 150-day mandated period. Understandably, IAG investigations are more complex, comprising multiple allegations lodged against multiple individuals, and require more time to collect the necessary evidence for adjudication and discipline. Additionally, IAG investigations require additional administrative mandates, such as tape-recording, not required of COC investigations. As such, the Monitor sought to determine that investigations, in aggregate, more often than not were completed within 150 days. In applying this methodology, the Monitor found the Department in substantial compliance at the end of the initial five-year period. The following chart summarizes the Department's compliance:

## Timely Completion



### Recommendations

The LAPD should remain committed to adequately staffing and training IAG in order to ensure the continued timely completion of complaint investigations. Supervisors must understand it is their duty to investigate and report the facts of each allegation of misconduct without bias. Equally important, reviewers of complaint investigations must take into consideration all facts and continue to reach fair conclusions that in many instances may result in an adjudication of “Not Resolved,” meaning a conclusion cannot be reached whether the officer committed the alleged misconduct.

### 6. Disciplinary and Non-Disciplinary Action

The Christopher Commission found that “the Police Commission receives summaries – prepared by the Department – of disciplinary actions against sworn officers and civilian employees involving charges of improper tactics, excessive force, discourtesy, or other significant misconduct carrying a suspension of five days or more. The Police Commission itself cannot impose discipline on sworn officers. By law, discipline of sworn officers is reserved exclusively for the Chief (subject to Board of Rights procedures and other limits on his discretion). Accordingly, the summaries received by the Police Commission are advisory only.”

The Christopher Commission further reported that, “moreover, the summaries themselves do not encourage involvement by the Police Commission in discipline issues. They consist of a single, brief paragraph on each incident, describing the incident superficially and without any background detail. The incidents are not sorted by type, officer, or division, making it difficult for the Police Commission to spot trends or problem areas. The Police Commission does not have adequate time or resources to analyze the summaries and look for patterns.” The report also indicated that “the Police Commission only receives the summaries about once a month, and they are not current. This system of reporting makes it impossible for the Police Commission to monitor systematically the discipline imposed by the Chief in use of force and other cases...But if the Police Commission cannot monitor disciplinary decisions, then it has no effective way to ensure that its policies are followed.”

The DOJ’s investigation concluded that “LAPD supervisors fail to supervise adequately LAPD officers carrying out their routine policing responsibilities,” and supervisors do not “to the extent necessary, direct, evaluate and monitor officer performance in the field.” The DOJ also found that the supervisory failures of the LAPD created an environment where officers could engage in misconduct without detection.

### **Consent Decree Solutions**

Under the Consent Decree, once a complaint investigation was completed, a manager was responsible for reviewing and evaluating its quality and completeness. This review included identifying underlying deficiencies and training needs. After the review and evaluation, the manager was responsible for implementing appropriate non-disciplinary action or making a recommendation to the proper LAPD entity to implement such action.<sup>62</sup>

After a complaint investigation was reviewed and open items or concerns resolved, the LAPD was required to inform the complainant in writing of its resolution, including the investigation’s significant dates, general allegations and disposition.

The Consent Decree also required the Chief of Police to report to the Police Commission on the imposition of discipline during the previous calendar quarter no later than 45 days from the end of each quarter; a copy of the report was to be forwarded to the IG. The IG was required to review, analyze and report to the Police Commission on each Quarterly Discipline Report (QDR). The Police Commission must review the QDR with the Chief of Police and make an assessment of the appropriateness of the Chief of Police’s actions, specifically with respect to CUOF.

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<sup>62</sup> LAPD Manual Section 3/830.20 and the LAPD’s “Department Guide to Discipline”

## **Overall Achievements of the LAPD**

Prior to the Consent Decree, the LAPD had established a practice of having managers review complaint investigations for quality and completeness and to identify training needs. Sworn personnel at the rank of Sergeant I, Detective II or above received training that included complaint review, documentation of review and documenting disciplinary or non-disciplinary action. It was also the LAPD's policy to provide the complainant with a written notice of an investigation's resolution.<sup>63</sup> Subsequent to the Consent Decree, sworn personnel at the rank of Sergeant I, Detective II or above received training that included complaint review, documentation of review and documenting disciplinary or non-disciplinary action.

Despite having policy in place, the LAPD struggled to comply with the requirements of this section. During the summer of 2003, in an effort to comply with the requirements and to address poor performance, particularly with regard to the complainant notification requirements, the LAPD implemented a policy change directed at the complaint review process. The policy change, among other things, required that a communication be forwarded to the complainant if a complaint remained open after a period of five months. Soon after the implementation of this policy change, the Monitor noticed a marked improvement in the accuracy and quality of the LAPD's communications with complainants. In the summer of 2003, the Department also implemented a requirement that complainants be notified if their complaint had not been completed within a five-month period.

Although the Consent Decree did not require that QDRs be made public, the LAPD opted to make them public documents. The Monitor commended the LAPD for this decision. The LAPD developed a revised QDR, which was generated for the first quarter of 2002, to correct deficiencies that were identified in prior reports by the IG. The Monitor viewed the revisions and additions made by the LAPD as a significant improvement over the previous report. At the end of 2002, the Department made critical modifications to its discipline report database that facilitated the inclusion of narrative summaries in the QDRs. This directly addressed early concerns expressed by the Monitor regarding the timeliness of the information presented in the QDRs and the lack of detail presented.

## **Consent Decree Compliance**

### *Managerial Review and Evaluation*

In order to assess the above requirements, the Monitor requested listings of completed complaint investigations and selected random samples to review. Where possible, the Monitor also placed reliance on the AD's *Complaint Form 1.28 Investigations Audit*. Over the course of

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<sup>63</sup> LAPD Manual 3/820/11 and the Chief of Staff Notice "Referencing the Investigation Date for Complaint Investigations," dated May 9, 2002



the initial five-year term, the Monitor reviewed thousands of complaint investigations and the related manager reviews and letters to complainants. For the most part, manager reviews were sufficient and contained requisite rationale on the officer's actions, with consistent and appropriate recommendations for either disciplinary or non-disciplinary action.<sup>64</sup> This trend generally continued throughout both the initial and extension periods of the Decree.

In all but one quarter, the Monitor determined that the LAPD was in compliance with requirements regarding manager reviews of complaint investigations.

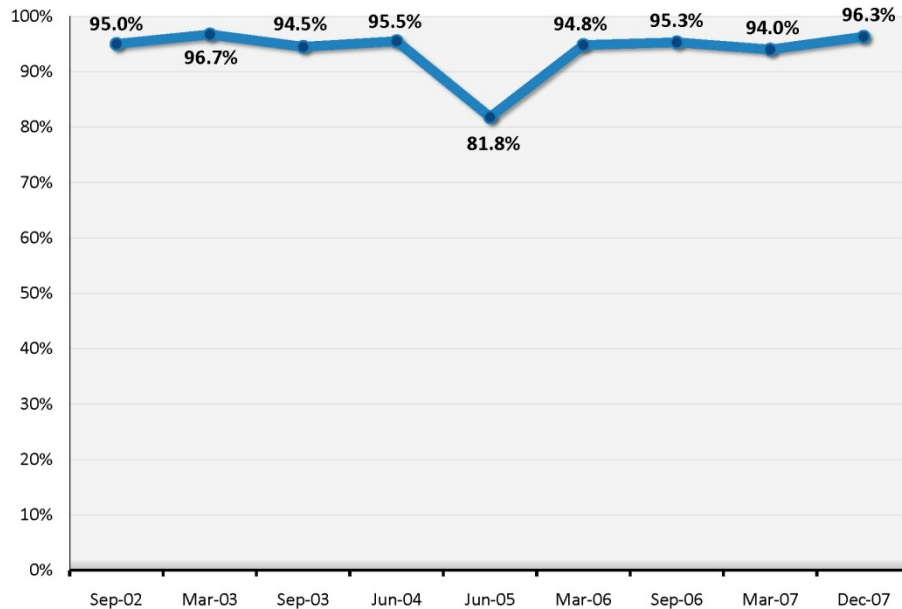
Although the Monitor concluded that the LAPD was in substantial compliance with these requirements at the end of the initial term of the Decree, during its reviews, the Monitor did note several investigations in which the manager either did not identify an incomplete investigation or did not properly document and address a pattern of behavior of misconduct. In some instances, the manager withdrew the investigation based on his or her own interpretation of the facts and knowledge of the officers against whom the complaint was alleged. This prompted the Monitor to extend its assessment of manager review into the extension period.

By the end of 2007, the Monitor concluded that the LAPD attained substantial compliance with requirements regarding manager review of complaints. The related paragraphs were no longer actively monitored during the remainder of the extension. The following graph summarizes the Department's compliance for the periods assessed:

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<sup>64</sup> In most instances, non-disciplinary action consists of recommending training, whether divisional or formal, for the accused officers. Disciplinary action ranged from an Official Reprimand to a termination based on the seriousness of the offense and the officer's work and disciplinary history.

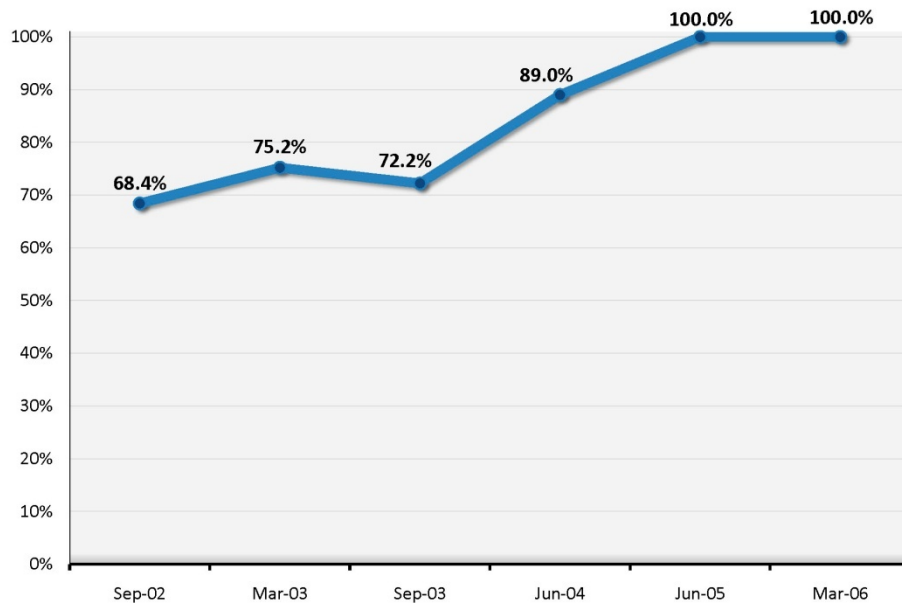
### Complaint Evaluation by Manager



With regard to notification to the complainant once an investigation was completed, in early assessments, the Monitor determined that the policy was not necessarily followed. The Monitor noted that although the communications were sent to the complainant, the communications either did not document all required dates or did not adequately document the general allegations of the complaint.

The implementation of the policy change described above resulted in significant improvements in the LAPD's communications with complainants, and the Monitor found that the LAPD achieved substantial compliance during the last two years of the initial five-year term of the Decree. The following graph summarizes the Department's compliance for the periods assessed:

### Notification to Complainant



#### *Chief of Police and Police Commission Reviews*

Early during the term of the Decree, the Monitor expressed concerns about the timeliness of information presented in the QDRs. The Department continued to report discipline imposed after the case was closed, rather than the quarter in which discipline was imposed, as required. The Department expressed that due to the limitations of the previous complaint tracking system, the timeliness of data entered for use in the QDR did not allow for such reporting. However, the Department represented that the planned CMS would further enhance the timeliness of information included in the QDR.

At the end of 2003, in an effort to enhance the timeliness of QDR information, the Department began closing complaint cases prior to submission to the OIG for review. The IG supported this modification since complaint cases were being selected for review by the OIG on a sample basis, and the IG has the ability to request the Department to reopen a case if, in the IG's opinion, it was appropriate to do so.

The Monitor found that the Department's QDR for the third quarter of 2003 contained inconsistent information and was not timely approved by the Commission. Lastly, the QDRs for the third and fourth quarters of 2004 and 2005 were submitted in a timely manner, provided appropriate statistical data to reflect the outcome of the discipline imposed during the respective quarters and were presented in an adequate format.

During its initial reviews, the Monitor found that the Commission's written assessments of the discipline imposed by the Chief of Police mentioned CUOF cases but made no specific mention of their assessment of the discipline imposed. The IG's reviews of the QDRs for the third and fourth quarters of both 2004 and 2005 were timely, and the Police Commission received and approved the IG's review within the 75-day requirement included in a modification to the Decree.<sup>65</sup>

In sum, prior to the extension of the Decree, the Monitor concluded that the Department achieved substantial compliance with all requirements of this section of the Decree. Except as noted above with respect to requirements regarding manager reviews of complaint investigations, the Monitor did not assess compliance with these requirements during the extension period.

## **Recommendations**

The LAPD should continue its efforts to notify complainants after the initial five-month period of the status of their complaint investigation, whether completed or still in process. This provision allows the complainant, as well as the community, to know that the Department is sensitive to allegations of misconduct lodged by the public.

The Monitor recommends that managers continue to receive training on the review of complaint investigations, with emphasis on rationale and the interpretation and evaluation of witness credibility. Managers must continue to approach and review every investigation completely and impartially, no matter how familiar the facts. Regarding training, managers should look more closely at providing officers with informal divisional or directed training in order to provide them with the skills necessary to performing their duties.

## **7. Internal Affairs Group**

In its *May 2000 Letter Report* to the City of Los Angeles, the DOJ concluded that within the LAPD there were "[s]erious deficiencies in City and LAPD policies and procedures for training, supervising and investigating and disciplining police officers," and these deficiencies "perpetuate and foster officer misconduct." Also of concern for the DOJ was the LAPD's failure to utilize "meaningful personnel evaluations."

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<sup>65</sup> In the first quarter of 2005, the Consent Decree was modified by the Court after agreement by all parties to change the length of time that the Police Commission has to review the Chief of Police's Discipline Report provided by the OIG from 45 to 75 days.

On a daily basis, the LAPD is in receipt of or is otherwise aware of potential misconduct by officers, and it had in place a set of policies and procedures to address misconduct. The Monitor's interpretation of the DOJ's letter is not that there was not a system in place to investigate officers, particularly for alleged serious misconduct, but, rather, that the system in place was not effective.

### Consent Decree Solutions

Prior to the Consent Decree, the IAG historically was tasked with investigating the more egregious allegations of misconduct. The Consent Decree set out to specifically identify those allegations of misconduct that were to be investigated solely by the IAG.<sup>66</sup> Similarly, recognizing the sensitivity of certain allegations involving officer credibility, the Consent Decree mandated IAG investigation of the following:

- A civilian charged with interfering with a police officer, resisting arrest or disorderly conduct and either the prosecutor or the judge dismisses the charge(s) based on officer credibility;
- Instances in which evidence was suppressed because of a constitutional violation involving potential officer misconduct;
- Instances in which an officer was arrested or charged with a crime other than a low-grade misdemeanor; or
- Initiation of a misconduct investigation by a judge or prosecutor during the course of an official proceeding.

Complaint investigations involving serious misconduct understandably require substantial resources and, in many instances, a great deal of time. While in a perfect world any applicant to the IAG would have prior investigative experience, the reality is that this is not always the case. To meet the anticipated increase in IAG responsibilities under the Decree, the LAPD was required to dedicate the necessary resources to IAG. Parallel to this, the LAPD was also required to screen IAG applicants and, when filling positions, take into consideration prior investigative experience and, equally important, the applicant's work history.<sup>67</sup>

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<sup>66</sup> Paragraph 93 of the Consent Decree requires IAG investigation for any of the following allegations whether in a complaint, civil suit or claim for damages: unauthorized uses of force, invidious discrimination, unlawful search, unlawful seizure, dishonesty, improper behavior involving narcotics or drugs, sexual misconduct, theft or retaliation/retribution against an officer or civilian.

<sup>67</sup> Officers applying for IAG positions with a sustained investigation or discipline for the use of excessive force, a false arrest or charge, or an improper search or seizure, sexual harassment, discrimination or dishonesty are disqualified unless the IAG CO justifies their hiring in writing.

Once selected and retained by the IAG, an investigator's initial term of duty was limited to three years. Reappointment was allowed only after sufficient review and documentation attesting to the investigator's competency. An investigator could be removed from their tour of duty at any point in time for acts or behavior that might have disqualified them for selection in the first instance. Investigator evaluations, assessing their competency in following policies and procedures, were to occur regularly with periodic retraining and reevaluation.

Lastly, given that the nature of complaint investigations assigned to IAG, investigators might very likely identify facts indicating criminal conduct. It was required that whenever such facts or indicators were identified, the LAPD was obligated to refer the matter to the appropriate criminal prosecutorial authority for consideration.

### **Overall Achievements of the LAPD**

Just prior to and during the first 18 months of the Consent Decree, the LAPD implemented a number of policies, either in the form of Special Orders, Directives or other communications, to address the structure and staffing of its existing IAG.<sup>68</sup> In April 2001, to address misconduct allegations that arise or occur during court proceedings or involving serious criminal allegations against an officer, the LAPD issued a number of Department-wide directives defining IAG investigative responsibilities. In March 2002, the LAPD issued its transition plan that, among other things, established the IAG's investigative responsibilities to align with the requirements of the Consent Decree.<sup>69</sup> From April 2002 through December 2002 the LAPD orderly transferred investigative authority, pursuant to the Consent Decree, to the IAG.

Beginning with the quarter ending December 31, 2003, the Department was able to significantly reduce accumulated complaint investigations, largely through its commitment to exempt the IAG from a transfer freeze that was in place. The LAPD also continued its pre-Consent Decree practice of allowing a temporary tour of duty for supervisors to cycle through the IAG. This served many purposes, first and foremost of which was to provide the IAG with additional manpower to address accumulated complaint investigations. It also allowed the IAG a narrow time period to identify strong candidates for a permanent transfer to the IAG. These moves helped the Department overcome difficulties it had been having in complying with Decree requirements related to IAG staffing.

The LAPD required all commands, on a weekly basis, to produce a listing of all pending complaints not yet completed nearing the one-year statute deadline. This exercise, which was

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<sup>68</sup> These Special Orders and Directives are referenced in the Use of Force and Conduct of Investigations sections of this report.

<sup>69</sup> On September 27, 2002, the LAPD issued a revised Transition Plan to address transition of claims for damages and theft and dishonesty complaints.

designed to reduce the number of matters submitted past statute, enabled the Department to achieve compliance with Decree requirements governing criminal referrals of misconduct to prosecutorial authorities.

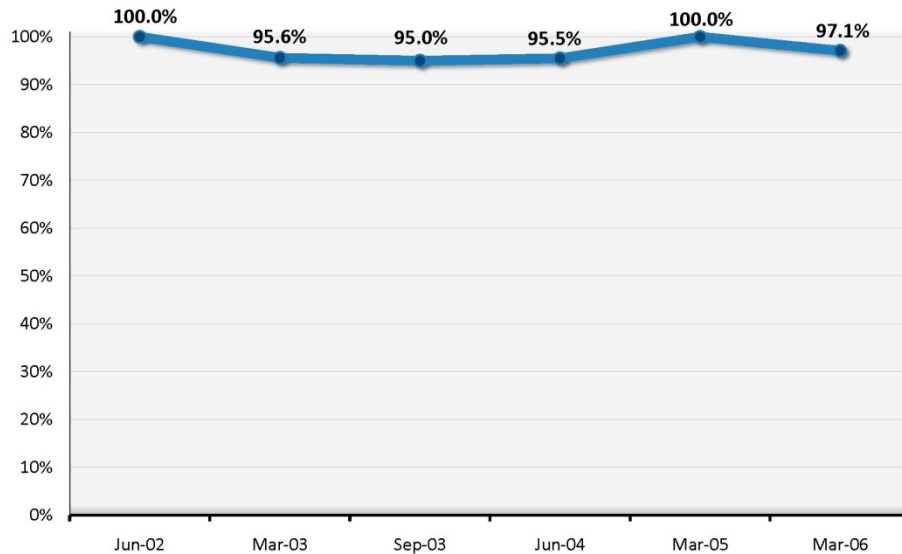
### **Consent Decree Compliance**

Commencing during the quarter ending March 31, 2003, and continuing through the quarter ending June 30, 2006, the Monitor reviewed samples of complaint intake documentation on five separate occasions and determined that the LAPD was in compliance with regard to appropriately assigning investigative responsibility either to the IAG or COC.<sup>70</sup> At the end of the initial five-year period of the Decree, the Monitor concluded that the LAPD was in sustained substantial compliance with this requirement, and the requirements were not actively monitored during the extension. The following graph summarizes the history of compliance for the assignment of investigations to the IAG:

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<sup>70</sup> Occasionally, while assessing other complaint investigation Consent Decree paragraphs, the Monitor happened upon investigations that should have been assigned to the IAG and were improperly assigned to COC. Such instances were brought to the attention of the LAPD.

## Assignment of Complaint Investigations to the IAG



Although the LAPD fastidiously defined the IAG’s investigative authority, it initially struggled to adequately staff the IAG. Through reviews of staffing documentation, personnel transfer orders and interviews of personnel, the Monitor reported staffing was in direct contravention of Consent Decree requirements. Additional assessments of staffing and complaint investigation backlog yielded predominantly non-compliance ratings through the Monitor’s assessment in the quarter ended December 31, 2003. It was during this quarter the Monitor noted a material reduction in accumulated investigations, which was, as mentioned above, largely attributable to the LAPD’s commitment to exempt the IAG from the transfer freeze.

Starting with its evaluation in the quarter ended December 2004 and continuing through a final evaluation in March 2006, the Monitor held the Department in compliance with regard to adequate IAG staffing. As described above, the Department’s achievement of substantial compliance was, in large part, attributable to its continuation of a temporary tour of duty for supervisors to cycle through the IAG and commitment to training.

Again, starting with the quarter ending June 30, 2002, and continuing through the quarter ending March 31, 2006, the Monitor assessed the LAPD’s compliance with requirements for establishing a term of duty in conformity with the requirements of paragraph 99. At the onset of the monitoring period, the LAPD implemented policy requiring an IAG investigator wishing to extend their tour of duty as an investigator to complete a Notification/Request form six months prior to the expiration of their term. In all five assessments, the Monitor noted that for those investigators whose terms exceeded three years, the LAPD maintained documentation of a complete review of the investigator’s proficiency and for the entire period assessed, none of the



officers had a complaint history containing disqualifying behavior. As such, the Monitor concluded the LAPD was in substantial compliance, and the requirements were not actively monitored during the extension.

Prior to the Consent Decree, the LAPD's practice was to evaluate supervisors assigned to the IAG. During the assessment period, although the LAPD's goal was to annually evaluate IAG supervisors, during an earlier assessment period the Monitor noted that although the evaluation was documented, it was late. However, during the remainder of the initial five-year assessment period, the Monitor noted evaluations were completed timely and thoroughly for most investigators. Based on these findings, the Monitor deemed the LAPD in substantial compliance and elected not to actively monitor compliance with this requirement during the extension.<sup>71</sup>

As of the implementation of the Consent Decree, the Los Angeles DAO established a documented protocol for referral of alleged criminal misconduct by law enforcement personnel.<sup>72</sup> During the quarter ended March 31, 2003, and continuing through the quarter ended September 30, 2005, the Monitor assessed the LAPD's compliance with regard to criminal referrals of officer misconduct on three separate occasions and found the LAPD in compliance each time.

Shortly after its initial assessment, allegations surfaced that the LAPD had a history of referring matters for prosecutorial consideration after the statute of limitations expired. Members of the Monitoring team met with PSB representatives and quickly ascertained that the allegations related pre-Consent Decree cases. Furthermore, as mentioned above, the LAPD's move to require all commands, on a weekly basis, to produce a listing of all pending complaints not yet completed nearing the one-year statute deadline was a significant factor in achieving compliance. The purpose of this exercise was to reduce the number of matters submitted past statute. For all three assessments, in the rare instances when the Monitor noted matters were referred past statute, information provided by the prosecutorial authority confirmed the matter was refused, not because of late filing, but rather because there was insufficient evidence. All in all, the Monitor concluded the Department was in substantial compliance with regard to criminal referrals of misconduct to prosecutorial authorities.

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<sup>71</sup> The Monitor also reviewed listings of training sessions attended by investigators for reasonableness and listings of training topics covered that, in the Monitor's opinion, were relevant.

<sup>72</sup> *Protocol for the Referral of Allegations of Criminal Misconduct by Law Enforcement Personnel to the Los Angeles County District Attorney*

## Recommendations

The importance of thorough complaint investigations, particularly of those complaints involving serious allegations, cannot be overemphasized. Such investigations provide the reviewer(s) the necessary information to make important judgment calls that, in some instances, lead to more difficult disciplinary decisions. The LAPD must continue its commitment to adequately staff the IAG and train and mentor its investigators. In many respects the adequacy of complaint investigations, the foundation of which is the investigator's competency, is the catalyst of public trust and the deterrent of unacceptable behavior.

## 8. Non-Discrimination Policy and Motor Vehicle and Pedestrian Stops

One of the major findings of the Christopher Commission was that "the problem of excessive force is aggravated by racism and bias within the LAPD." In the background section of its report, the Commission noted that in August 1965, the Governor's Commission on the Los Angeles Riots said in its report that there is "a deep and longstanding schism between a substantial portion of the Negro community and the Police Department" and recommended that the LAPD hire more minority officers. The Commission also noted the Blake Consent Decree of 1981, in which the LAPD agreed to settle discrimination suits by setting hiring goals for women, African-Americans and Latinos. In its review of patrol car transmissions, the Commission found a significant number of offensive remarks based on the race, gender and sexual orientation of both suspects and fellow officers. Additionally, the Commission found that female officers were having a difficult time being accepted on a full and equal basis. In its interviews, the Commission heard complaints of how African-Americans and Latinos were placed in the "prone-out" position "under circumstances that did not present any risk or harm to the officers and that did not involve a felony warrant." It recounted complaints of being "stopped in parts of the City where they might be considered out of place" and noted "the frequency and manner of use of police dogs in minority neighborhoods." The Christopher Commission made seven recommendations in this area, including that the Chief of Police should seek tangible ways to "establish the principle that racism and ethnic and gender bias will not be tolerated within the Department" and that the LAPD had to "establish a program of cultural awareness training to eliminate stereotypes for all officers."

The *March 2000 BOI Report* noted that "Rampart Area's demographics played a significant role in this corruption incident," as Rampart is "densely populated with predominantly Spanish-speaking people who have immigrated to the United States from Central American countries." It continued that many are "undocumented aliens who fear they will be deported by the police."

### **Consent Decree Solutions**

The Consent Decree required the LAPD to “continue to prohibit discriminatory conduct on the basis of race, color, ethnicity, national origin, gender, sexual orientation, or disability in the conduct of law enforcement activities.” It also required the Department to “continue to require that, to the extent required by federal and state law, all stops and detentions, and activities following stops or detentions, by the LAPD...be made on the basis of legitimate, articulable reasons consistent with the standards of reasonable suspicion or probable cause.” The Consent Decree further mandated that “LAPD officers may not use race, color, ethnicity, or national origin (to any extent or degree) in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person or group,” and they “may not give race, color, ethnicity or national origin undue weight.”

The Decree also mandated that the Department require LAPD officers to complete a written or electronic report each time an officer conducts a motor vehicle or pedestrian stop by November 1, 2001. The data collected was required to include information such as the officer’s serial number; driver’s apparent race, ethnicity, or national origin; driver’s gender and apparent age; reason for the stop; and whether the driver was required to exit the vehicle. This information was also required to be collected if a warrantless search was conducted.

### **Overall Achievements of the LAPD**

While the Department has fallen short of substantial compliance with the Consent Decree requirements in this area, this is clearly not reflective of a lack of effort on the part of the City or the Department. The major problem in determining compliance has rested with the difficulty, despite best efforts, in determining whether biased policing is occurring and, if so, to what extent, if any, it is systemic as opposed to isolated misconduct.

As described below, great strides have, in fact, been made by the City and Department to address biased policing during the eight years under the Decree. Training has been tremendously enhanced, and new rules have been promulgated relating to the investigation of biased policing complaints. In addition, the City and Department have committed to the installation of video cameras in patrol vehicles. It should be noted that there are significant indications that biased policing that may have been occurring at the inception of the Consent Decree has been significantly reduced. Specifically, opinions of minority communities about the LAPD have steadily improved under the Consent Decree.<sup>73</sup> Likewise, the minority composition of the Department has steadily increased.<sup>74</sup> Because substantial compliance was not achieved during the Consent Decree, biased policing is addressed in the Transition Agreement.

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<sup>73</sup> See *Harvard Kennedy School Report*.

<sup>74</sup> *Ibid.*

## Consent Decree Compliance

The Department issued Special Order No. 23 in August 2001, which prohibits all forms of invidious discrimination. Training on field data collection began in October 2001, and the LAPD began collecting motor vehicle and pedestrian stop (MV&PS) data in November 2001, on FDRs. At first, there was a significant backlog of FDRs that had not been entered into the system. The Department released six months of field data to the public. This data was collected from July 1, 2002, to December 31, 2002, on its website, the first such data to be posted.

On its own initiative, the Department committed resources to the development of a Portable Officer Data Device System (PODDS) in the hopes of streamlining the reporting process required by the Decree. The LAPD began using the PODDS device to collect stop data in May 2004.

The Department released a Request for Proposal (RFP) for analysis of the stop data collected from the field by officers completing FDRs<sup>75</sup> on May 14, 2003, with a response date of no later than July 15, 2003.

Training on the new FDR, implemented July 1, 2003, incorporated a significant non-discrimination component. This served to further the Department's commitment to prevent discriminatory practices. The Department incorporated interactive problem-solving training exercises in both CEDP Module VI, "Weapons of Mass Destruction," and Tools for Tolerance II trainings. This thoroughly addressed issues involving discrimination, with a particular emphasis on race. The Module VI training demonstrated to the Monitor that the LAPD is capable of creating and properly executing training that effectively instructs officers about biased policing and the Department's commitment to prevent such practices.

In July 2003, the LAPD redesigned its FDR form to correct design flaws and issued Special Order No. 29, *Data Collection for Motor Vehicle and Pedestrian Stops*. The LAPD began Department-wide training on the new form, as well as training on the Department's non-discrimination policy and the Fourth and Fourteenth Amendments to the U.S. Constitution. All of these were in secondary compliance with the requirements of these paragraphs.

AD completed its first *Motor Vehicle and Pedestrian Stop Data Collection Audit* in August 2003.<sup>76</sup>

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<sup>75</sup> The Department is required to collect specific field data for specified discretionary stops according to paragraphs 104 and 105 of the Consent Decree.

<sup>76</sup> AD also conducted *Motor Vehicle and Pedestrian Stop Audits* and follow-up reviews in 2004, 2005, 2006 and 2007. AD did not conduct a Motor Vehicle and Pedestrian Stop Audit during Fiscal Year 2007-08 due to the City's request and does not plan on conducting one until the fourth quarter of Fiscal Year 2008-09. A more detailed discussion of AD's work on this audit can be found in the audit section of this report under Paragraph 128(4).

The City, working through the Analysis Group, Inc.<sup>77</sup> prepared and released the “Final Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated December 8, 2005. In developing the methodologies contained in the report, the City reviewed the “Proposed Pedestrian and Motor Vehicle Stop Data Analyses Methodology Report,” dated January 19, 2005. Public comments were solicited on that report, and responses to the public comments received. The City also posted the Report on its website.<sup>78</sup>

The Analysis Group, Inc. prepared and released the “Pedestrian and Motor Vehicle Post-Stop Data Analysis Report” on July 7, 2006. The report was also posted on its website.<sup>79</sup> The report analyzed the LAPD’s stop data collected from July 1, 2003, through June 30, 2004. The analysis performed indicated that while controlling for characteristics of the stop generally reduces the racial disparity in post-stop outcomes, significant disparities remain. Specifically, unexplained racial differences occurred most frequently for non-gang officer requests to exit the vehicle, pat-downs/frisks, and higher discretion searches. The report suggested that variables not considered by the study could possibly account for such differences. Still the report ultimately did not fully explain the disparity of the raw numbers or determine to what extent, if any, LAPD police officers were engaging in racial profiling.

On October 20, 2008, the ACLU of Southern California released a report prepared by Professor Ian Ayres of Yale University titled “A Study of Racially Disparate Outcomes in the Los Angeles Police Department.” The report consisted of an analysis of the same data that was analyzed by the Analysis Group in 2006. The study found substantial racial disparities in post-stop action. Based on the report, the ACLU made the following recommendations:

- The Department should continue to collect data on stops through TEAMS II. In addition, the Department should make better use of the data to identify officers or units with significant racial disparities by analyzing the data on at least an annual basis.
- The Department must further reform the racial profiling complaint process.
- IG should be given powers and resources to review the complaint investigations in real time.
- The Department should adopt additional anti-bias training focused on helping officers identify and eliminate even latent bias in policing decisions.

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<sup>77</sup> The Analysis Group, Inc. was the vendor selected by the Department to develop a methodology to analyze the field data in order to determine if the disparity can be explained and, if so, what those explanations are.

<sup>78</sup> The Report can be viewed at [www.lacity.org/lapdstops](http://www.lacity.org/lapdstops).

<sup>79</sup> The Report can be viewed at [www.lapdonline.org/consent\\_decree/content\\_basic\\_view/32822](http://www.lapdonline.org/consent_decree/content_basic_view/32822).

- The Department should reduce the disparate impact of consensual searches by requiring officers to inform subjects who they request to search that they have the right to refuse the search.

The Police Commission dedicated a large part of its August 19, 2008 meeting to the topic of racial profiling. Presentations were made by the PSB command staff, the Police Commission Executive Director and an expert on racial profiling. The Commission concluded that disparate treatment exists among different racial and ethnic groups nationwide for both stops and after-stop actions. The Commission noted that law enforcement agencies across the country reported no sustained profiling complaints, primarily because they are virtually impossible to prove. However, the Commission agreed that it would be incorrect to believe that racial profiling is not occurring. Based on that conclusion, the Commission approved the following recommendations:

- The Department must provide a quarterly report to the Commission on the number of complaints of racial profiling received and adjudicated by Bureau and Area.
- The IG must prepare an audit of racial profiling complaints that have been investigated and adjudicated since training has been provided to all Internal Affairs (IA) investigators. This training dealt with utilization of the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- The Department must include a review of the Digital In-Car Video System (DICVS), if available, in the Racial Profiling Investigation Protocol and Racial Profiling Investigation Check List.
- The Department must revise the Alternative Complaint Resolution (ACR) process to allow some complaints of racial profiling to be resolved through mediation.
- The Department must change the term from “Racial Profiling” to “Biased Policing,” The concern was to be more inclusive of other biases, including religion and sexual orientation. Also, the Department must refine complaints of Discourtesy to the specific nature of the misconduct alleged.

As requested by the Police Commission, the LAPD responded to the ACLU’s report at the Commission’s meeting of January 13, 2009. The Department reiterated its commitment to eliminating biased policing by outlining the steps it has taken in this area:

- Focusing recruiting efforts on all areas of the City in order to reflect the diversity of the City.
- Exploring bias in hiring caused by questions in the polygraph portion of background checks.
- Integrating the topic into more than 200 courses for both Recruit and In-Service Training.
- Promoting minorities to command-level positions as more are hired.

- Recording stops through the use of in-car video.

Additionally, IAG updated the *Biased Policing Investigative Protocols*, and the Police Commission approved them at its meeting of December 9, 2008. The protocols, which took effect on January 1, 2009, require officers to articulate their complete reasons for conducting traffic and pedestrian stops. Under the IAG's November 2007 protocols, racial profiling cases were not allowed to be approved for closeout unless the protocols were followed. Additionally, the IAG implemented the following strategies:

- Amended the Complaint Investigation Checklist to include fields that query whether the protocols were followed and whether the Racial Profiling Checklist was included.
- Conducted four Internal Investigations courses that include a four-hour block of instruction on investigating racial profiling allegations.
- Designated an auditor to coordinate review of racial profiling cases to ensure consistency and adherence to the protocols. This individual also compiles information in an ad hoc database to further evaluate racial profiling investigations.
- Conducted occasional undercover surveillance to probe specific allegations of racial profiling.

At the end of March 2009, in an effort to achieve compliance with the data collection requirements of the Consent Decree, the Department developed and implemented Citywide an automated reporting system at the Area level. This system incorporates the collection of stop data as approved by DOJ and provides for its storage in TEAMS II. This system was devised as a result of the Department's inability to analyze and draw conclusions from the aggregate data and the significant expense of replacing the data collection devices, or PODDS. Data collection capability had diminished due to the degradation of the existing hardware at the time, although the Department continued to collect stop data.

Additionally, the City and Department have continued to move toward Department-wide implementation of cameras in cars (DICVS), which the Monitor has strongly endorsed and recommended as a best practice in monitoring potential bias in stops. The DICVS will help protect against biased policing while enhancing officer safety and risk management analysis, and mitigating liability claims. The first phase of the project will deploy cameras in South Bureau patrol vehicles by late summer 2009. All of the hardware and servers are installed in City Hall East and the Southeast, Southwest and 77th Area stations. Cameras have been installed in all patrol cars for Southeast, Southwest, 77th and Harbor Areas. The field testing of cameras by LAPD for functionality began in March 2009. Upon completion of the field tests and verification that the system is operating correctly, Southeast Area will be the first to have complete installation, followed by Southwest, 77th and Harbor Areas shortly thereafter. The Department plans on taking the following steps once the DICVS is in operation:

- Conduct regular audits of the audio and video, in addition to periodic inspections by supervisors.
- Bookmark and review the DICVS data from any incident involving vehicle pursuits, uses of force, incidents resulting in personnel complaints or other significant events.
- Review DICVS data relative to lawsuits or claims for damages.
- Conduct quality of service audits.
- Use DICVS data to identify and/or monitor at-risk officers who are subject to the Risk Management Executive Committee's oversight.
- Afford the OIG unfettered access to the DICVS data.

As mentioned above, the Department has not achieved substantial compliance with the requirements of this section of the Consent Decree, which are included in paragraphs 102-105. As noted in the Reports for the quarters ending September 30 and December 31, 2008, the Monitor is confident that the steps envisioned by the City to enhance the process and provide alternatives to the current method of data collection will, when fully implemented, sufficiently satisfy the requirements of the Consent Decree.

## **Recommendations**

The Monitor commends the City and the LAPD for the significant steps they have taken and the accomplishment they have achieved in their efforts to comply with the Consent Decree requirements regarding biased policing. With new policies and procedures in place, and the continued oversight role of AD, the Police Commission and the OIG to ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented, the Monitor is confident that the Department is on track to comply with these requirements. In addition to the Police Commission requirements noted above, the Monitor offers the following recommendations regarding biased policing:

- The LAPD has plans to equip all patrol cars with in-car video cameras. This initiative is critical and will protect against biased policing while enhancing officer safety and risk management analysis, and mitigating liability claims.
- The Police Commission and/or OIG should conduct a periodic evaluation to assess the effectiveness of the biased policing investigative protocols in order to enhance public confidence in investigations of biased policing complaints.
- The Police Commission should continue to direct the LAPD to provide quarterly updates on efforts to address biased policing.



## C. Management of Gang Units

The Consent Decree reforms in connection with the management of gang units grew out of the Rampart corruption scandal. The LAPD's internal probe into the administrative and operational failures that came to light during the internal investigation into wide-ranging misconduct identified the lack of supervisory oversight of the CRASH units as a significant problem within the Department.

The *March 2000 BOI Report* identified the need for the Department to focus on monitoring and reducing gang activity and establishing a closer working relationship between detectives and gang officers in order to develop a truly investigative gang operation with adequate responses to gang activity. The findings also stressed that a Department-wide audit of gang units should continue, but needed to be more comprehensive in terms of the depth of both subject matter and sampling. Specifically it was recommended that each gang unit's work product be audited to determine responsiveness to gang problems and supervisory practices including the span of control between gang supervisors and officers.

### Consent Decree Solutions

Regarding the management of gang units, the Consent Decree required that each gang unit was to be assigned to an Area or bureau, and managed and controlled by the Area or bureau command staff. The Citywide and Bureau Gang Coordinators (BGCs) were to direct the Bureau-wide and Citywide activities of these units, provide training and technical assistance, and help coordinate and provide information for the audits of these units.

The Consent Decree also established eligibility criteria for the selection of non-supervisory and supervisory officers in these units, and mandated that non-supervisory and supervisory officers were not to be reassigned to a unit until 13 LAPD Deployment Periods had lapsed since their previous gang assignment as an officer or supervisor. In addition, supervisors were 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. The procedures for the selection of all officers to the gang units was to 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.

The Consent Decree also addressed tour limitations for gang personnel. Both supervisors and officers in the gang units were required to have limited tour assignments not to exceed 39 LAPD Deployment Periods. An extension of such assignment for up to three LAPD Deployment Periods was allowed with written approval of the bureau CO, and any longer extension required written approval by the Chief of Police.

Unit supervisors and non-supervisory officers in a gang assignment were to be subject to existing procedures regarding detention, transportation, arrest, processing and booking of arrestees. In addition, a variety of reforms which had been initiated after the *March 2000 BOI Report* were to continue. These included: the wearing of Class A or C uniforms; the use of marked police vehicles for all activities; the requirement to check out and return all field equipment from the Area kit room on a daily basis; the requirement to attend scheduled patrol roll calls; and the requirement to base unit activities out of Area stations and the prohibition against holding arrestees or interview witnesses at off-site locations.

Additionally, gang unit supervisors were required to perform specific daily activities, including providing a daily field presence and maintaining an active role in unit operations. Supervisors were also required to brief the Area watch commander regularly regarding the activities of their units and coordinate unit activities with other Area supervisors. Area managers were required to ensure that supervisors exercise proper control over these units and provide oversight over planned tactical operations.

Lastly, BGCs were required to monitor and assess the operation of all units that address gang activity in their respective bureaus. They were required to inspect and audit at least one Area unit per month and submit audits to bureau, Area, OHB and Detective Support Division (DSD) COs and to the LAPD's AD.

### **Overall Achievements of the LAPD**

The Department has made substantial strides toward a better trained and supervised gang unit and toward compliance. However, the Department has not met the >94% level of compliance for many aspects of the gang unit mandates, and more work needs to be done.

Over the course of the original term of the Consent Decree and its extension, the Department successfully put into place various policies and procedures that established best police practices for the management of gang units, many of which were initiated prior to the formal implementation of the Consent Decree. Those requirements which were met during the initial term included Citywide and Bureau-wide gang unit coordination, some of the minimum selection criteria requirements for gang officers and supervisors, uniform and vehicle requirements, Area kit room procedures, attendance of patrol roll call, keeping base activities in Area stations and not holding arrestees at off-site locations at night.

In addition, during the initial term of the Decree, the Department met challenges which arose. Before the Consent Decree became operative, the review of the Rampart scandal caused the LAPD to reorganize the units that police gang-related crime. These new gang units, called Special Enforcement Units (SEUs), reported to command staff in their respective stations and were supported by the DSD. The Department also established new monitoring procedures and requirements of selection of gang personnel, as well as tour limitations and operational procedures, as required by the Consent Decree.

As a result of the new unit being staffed entirely in March 2000, the Consent Decree's mandate of term limits for these officers became problematic with most personnel scheduled for cycling out during the summer of 2003. Based on the Monitor's recommendation, the LAPD devised a strategy of staggering its deployment periods and prepared an SEU Transition Plan, dated August 16, 2002, which was approved by the Police Commission.

The Department established two additional significant policies related to gang units during the course of the Consent Decree. First, Special Order No. 27, *Selection and Assignment to Gang Enforcement Details*, dated July 10, 2003, established procedures for selection and assignment to a gang unit and tour limitations, per the Consent Decree. Second, Special Order No. 7, *Gang Impact Teams-Established*, dated February 25, 2004, sought to facilitate the development of long-term gang and narcotics enforcement units with increased supervisory oversight and accountability. The units, called Gang Impact Teams (GIT), included GEDs, formerly known as SEUs.

Training for these gang units was also a significant part of the progress made by the Department over the course of the Consent Decree. The Monitor found that the training sessions which had been developed addressed both the Consent Decree requirements related to the gang units and best police practices, and were well-organized, useful and well-executed by the trainers and command staff.

During the term of the Decree, the Department also made significant strides in its management of the gang units. The Department utilized COMPSTAT to hold supervisors accountable for the deficiencies found in BGC Inspections, AD's audits and reviews conducted by the OIG. During these COMPSTAT sessions, supervisors are asked to describe actions they are taking to correct identified deficiencies and to report, at the following meeting, the results from those actions taken. In addition, in their audits and reviews of gang-related activities, AD and the OIG have worked with command staff to remedy deficiencies identified.

### **Consent Decree Compliance**

Early on, the Department struggled significantly with the selection process requirements of the Consent Decree.<sup>80</sup> Improvements were seen in some area with the Department's establishment of Special Order No. 27 in July 2003, which outlined the specific criteria required for the selection process. This policy provided the Department with specific guidelines that helped the Department achieve compliance with the requirements regarding minimum selection criteria for

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<sup>80</sup> Some of the Monitor's early findings included selection packages not being completed, selection packages not including the required forms (i.e., TEAMS record, PER or oral interview), lack of documentation (i.e., written consideration of complaint history, approval signatures or oral interview notes) and a general lack of standardization and uniformity regarding selection procedures.

gang officers and supervisors. However, the Monitor and AD found that the Department continued to struggle with other selection requirements.<sup>81</sup>

By the inception of the extension in 2006, the Department had achieved substantial compliance with several additional selection requirements, including minimum criteria and written consideration of any 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, during the gang officer's assignment in the unit. During the extension period, the Department achieved substantial compliance with several other requirements, including the mandate that eligibility for selection into the gang unit include a position evaluation of the officer's TEAMS record and written consideration of sustained complaint, adverse judicial findings for the high risk areas, as mentioned above. As of the end of the Consent Decree extension period, the Department has not yet achieved compliance with the selection requirements regarding prompt review of any transferred officer's TEAMS I record;<sup>82</sup> and the implementation of a formal, written application process, oral interview(s) and the use of TEAMS II and annual performance evaluations to assist in evaluating the application.<sup>83</sup> AD continues to find these same concerns in its annual GED Selection Criteria Audit; the Monitor hopes that AD's findings can guide the Department into achieving these best police practices in the near future.

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<sup>81</sup> At the end of 2004, the Monitor began reviewing and placing reliance on AD's *Gang Selection Criteria Audit*, the first of which was issued in June 2004. This first audit found, as the Monitor did, that the minimum selection criteria for officers and supervisors were being achieved, but the Department was not yet in compliance with the other selection requirements.

<sup>82</sup> The Consent Decree required a prompt review of a transferred officer's TEAMS I record under one paragraph, but required the review of a transferred officer's TEAMS II record after inception of the TEAMS II risk management system. Therefore, the Monitor reviewed the TEAMS I record requirement initially and then reviewed and reported on the TEAMS II record requirement under that appropriate paragraph after the inception of TEAMS II. Please see the TEAMS II section for further discussion of the progress of this requirement.

<sup>83</sup> In its audit of this area of the Decree, AD found compliance with some of the selection procedures, including documentation regarding contacting UOFRD and inclusion of TEAMS II records and transfer applications. However, AD had concerns with some requirements concerning the formal, written application process, oral interview(s), and the use of TEAMS II and annual performance evaluations considered and documented in their selection packages as required. Issues included lack of written application, lack of current TEAMS II records, lack of performance evaluations, CO approval after selection or lack of approval, no documentation of oral interview, lack of evidence that the UOFRD was contacted and selections approved prior to the oral interview taking place. The Monitor concurred with AD's assessment.

Regarding limited tours in gang units, the Consent Decree mandates that officers cannot exceed 39 DPs, except by written approval from the Chief of Police for any longer period.<sup>84</sup> The Department did not achieve compliance with these requirements during the original term or the extension period. The Monitor found that there were gang officers who exceeded their time limit of 39 DPs in these units and did not have either proper extensions or transfers as required.<sup>85</sup> While the Department has struggled with some of these requirements, the Monitor has not identified any individual in recent years who was selected for a gang assignment but should not have been selected.

During the entire term of the Consent Decree, the Department's gang units have struggled to comply with the Consent Decree's more technical requirements regarding arrest, booking and charging procedures. For the first three years, the Monitor's reviews concluded that the Department lacked arrest documentation and supervisory approval, and the Monitor identified discrepancies among supervisory logs and arrest and detention documentation. In 2004, the Monitor began reviewing and placing reliance on AD's *ABC Reports Audits*, which had findings similar to the Monitor's. Prior to and through the first two years of the extension, the Department did not achieve substantial compliance with the requirements regarding gang unit arrest, booking and charging procedures, nor did they achieve compliance with these requirements in the first two years of the extension. During the last assessment of these requirements, the Monitor reviewed and placed reliance on AD's *September 2008 ABC Reports Audit*, in which AD found overall compliance with all requirements except post-incident review. Although the Monitor continued to have concerns regarding supervisory oversight of arrest procedures due to the Department's continued non-compliance with the supervisory oversight objective, the Monitor commended the Department for achieving much higher compliance ratings over the years and concluded that the LAPD is in overall compliance with the arrest, booking and charging requirements in this final assessment.

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<sup>84</sup> In order to clarify this requirement, the parties agreed that reassignment of an additional 26 DPs was appropriate if the officers met the same eligibility criteria required for initial assignment into the unit and the reevaluation process must include review of the officers' most current TEAMS and performance evaluation reports.

<sup>85</sup> Specific findings were related to lack of approval signatures, missing deadlines and lack of proper documentation (i.e., TEAMS II records and PERs) or appropriate reevaluation. AD's June 2004 *Gang Selection Criteria Audit* identified these same issues, as did subsequent audits. However, AD often reported overall compliance with the tour limitations requirement when the Monitor concluded non-compliance, primarily because AD reported issues regarding appropriate or timely TEAMS II records and PERs under "other related matters." The Monitor has always disagreed with this approach and encourages AD to test entire policies and report accordingly. With the one non-compliant instance related to the supervisor's signature prior to the TEAMS report, and four non-compliant instances related to current TEAMS II or performance evaluation records, the Monitor calculated a compliance rate of 87.2% (34 of 39).

Regarding requirements for uniforms, vehicles, Area kit room, roll call, Area station-based activities and interview locations, the Department quickly achieved compliance with all of these requirements except for Area kit room procedures. Although the Department had early issues with the Area kit room logs, including documentation and inconsistencies, it achieved substantial compliance with these requirements by June 2004 and has remained in substantial compliance with these and all other aforementioned requirements, and compliance with these requirements was not reviewed during the extension period.

In the early years of the Decree, specific issues identified by the Monitor included inadequate chain of command supervision and control; lack of adequate in-the-field supervision; inconsistent and inadequate record keeping in connection with required information, such as officers' daily reports indicating specific activities and supervisor signatures indicating oversight; and inadequate periodic audits of gang units' work product. AD also cited a lack of supervisory oversight of GED warrants and arrests as early as June and October 2004, respectively.

In October 2006, the Monitor began utilizing a new methodology agreed upon by the parties to review gang supervisory oversight. The Monitor began measuring gang supervision by reviewing daily supervisors' logs, audits completed by AD<sup>86</sup> and GED Supervisory Oversight Inspections conducted by CRID, rather than by reviewing gang supervisory logs alone. Prior to the extension, the Department did not achieve substantial compliance with the Consent Decree requirements regarding daily field presence, maintaining an active role, supervisors exercising proper control and oversight over planned tactical operations of the gang units, nor did they achieve compliance with these supervisory oversight requirements during the extension period.

During the extension period, the Department continued to fall short of complying with supervisory oversight requirements based on reviews conducted under the new methodology. AD's *ABC*, *NCUOF*, *SW*, and *GED Work Product Assessment Summaries* in 2005, 2006 and 2007 identified various oversight issues related to post-incident reviews, proper documentation and other inconsistencies with supervision.<sup>87</sup> The *GED Work Product Assessment Summary* in 2005 also identified various issues in regards to supervisory oversight. In 2007, the Monitor found that supervisory approval of daily logs was not present and supervisors' daily field presence was either not properly documented and/or included inaccuracies between the available field time and what was reflected in the supervisors' log narrative.

Although the Department had early struggles complying with requirements regarding the Citywide and Bureau-wide coordination of activities, training, technical assistance and audits of

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<sup>86</sup> These particular audits reviewed include *ABC Audits*, *NCUOF Audits*, *Search Warrant Audits*, *Confidential Informant Audits* and *GED Work Product Assessment Summaries*.

<sup>87</sup> The Monitor also reviewed the *GED Work Product Assessment Summary Audits*, for 2006 and 2005, AD reviewed its own audit reports and *Command Accountability and Performance Audits (CAPAs)* audits and identified numerous issues in regards to supervisory oversight.

gang units, it achieved compliance with these requirements prior to the end of the Consent Decree. However, the Department has consistently struggled with the requirements regarding the BGCs' monitoring and assessing the operations of all units that address gang activity. In the early years of the Decree, not all BGCs were conducting inspections of the Areas for the monthly audits, and those BGCs that were conducting inspections were not aware of the methodologies employed in the audits. The Monitor conducted a review of the BGC audits from all four bureaus for April and May 2002 (eight audits total) found a lack of uniformity in establishing a standards.

After this, steps were taken to improve the gang units' audit function. BGCs outlined the procedures to be used for the bureau gang audits, with AD assisting in the development of audit plans and methodologies, DSD reviewing completed audits and providing feedback and BGCs following up with Area COs regarding problems identified in monthly gang audits. However, the Monitor found that some bureaus did not use the audit matrices, while others used these matrices ineffectually. Although the LAPD continued to improve the quality of these inspections, the Monitor reported in 2005 that there were still deficiencies regarding the sampling and methodology, which the Department acknowledged, and the Monitor recommended that Special Operations Support Division confer with AD prior to each BGC inspection.

Since the Department did not achieve compliance with requirements regarding BGC inspections enduring the initial term of the Consent Decree, the Monitor continued to assess BGC inspections during the extension period. At the end of January 2008, the Department revised the BGC inspection process to review and train the BGCs to address deficiencies. In June 2008, Gang and Operations Support Division (GOSD) had been working directly with the Department Gang Coordinator (DGC), CRID and AD in connection with monthly inspection topics, training, sampling, methodology and inspection matrices for future inspections. GOSD had also developed its own inspection team, the Inspection Coordination and Assessment Unit (ICAU); after the BGC inspection team completes its inspection, ICAU conducts its own review of this sample to ensure the BGC inspection team is completing the inspection correctly. ICAU then follows up with the command staff and the BGC inspectors to discuss any deficiencies found.

By the end of the extension period, although the Monitor indicated that this new process was well-structured, the execution of the process was not yet adequate, as the Monitor continued to identify inconsistencies regarding the execution of the methodology, the answering of matrix questions, reporting and findings. The Monitor has reviewed the work product of the new GOSD staff and ICAU inspection team, including their methodology, instructions and follow-up documentation, as well as CRID's oversight in this process, and is pleased with the improvements that are being made.

Overall, the Monitor concluded that the Department has put into place policy and training that complies with the Consent Decree provisions related to gang units, and the implementation of such procedures has improved over the course of the Decree. While there are deficient areas

left, the Monitor is confident that the Department can remedy these deficiencies in the future with the assistance and oversight of AD and the OIG through among other things, their continuing quality audits and reviews.

## Recommendations

The Monitor offers the following recommendations regarding the management of the gang units and supervisory oversight:

- Going forward, the selection process of gang unit members should adhere to the requirements set out in the Consent Decree, which the Monitor believes are best practices. This includes a formal, written application process and oral interview(s), and consideration of TEAMS II and annual performance evaluations. The Department should continue to guard against insularity of the gang units by reasonably limiting tours for gang unit personnel. Any reappointment to the gang unit must be carefully evaluated and should include a review of all available information regarding the history of the officer.
- The Monitor encourages the Department to continue its focus on achieving appropriate and consistent supervisory oversight in the gang units. This includes supervisory oversight of arrest reports, search warrants, uses of force, CIs, daily operations, field presence and tactical plans, and the utilization of the TEAMS II early warning system. The Monitor also recommends that AD and the OIG continue to closely audit, review and monitor gang supervision, as they currently do in their CAPA and Consent Decree-related audits, and to assist the Department in resolving issues identified. The Monitor recommends that AD's audits closely consider what is risk assessment-based when testing to the related Department policy, as some policies not previously tested are essential to the accountability and oversight aspects of the operations of the Department.<sup>88</sup>
- The Monitor recommends that the Department continue to use BGC Inspections, as well as the CAPAs, in COMPSTAT meetings in order to hold supervisors and command staff accountable for deficiencies identified and to require follow-up in the form of remedies. The Monitor recommends that the BGC Inspections pay particular attention to gang supervision; in monitoring this area, GOSD should identify a better way to assess the quality of gang supervision regarding field presence than their current method of adding up the self-reported hours in supervisory logs. This may require on-site inspections, as well as further review into the supervisors' log narratives, and comparing them with related reports, such as Daily Field Activity Reports (DFARs).

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<sup>88</sup> This is true, for example, in AD's *GED Selection Audit* regarding tour limitation requirements, as agreed to by the parties regarding extensions, as well as its *SW Audit* regarding timeliness and the accuracy of the search warrant tracking log.



## D. Confidential Informants

The *March 2000 BOI Report* identified the improper use of informants as a significant problem within the Department.<sup>89</sup> The BOI found that former LAPD officer Rafael Perez, his partner and other officers in the CRASH gang unit were using informants inappropriately, putting informants in danger and seldom registering their CIs, as required by Department policy. The BOI further found that informant files were kept in various locations in each command, there were no guidelines mandating where the files were to be maintained, and there was no uniform system to track inquiries into those packages. They also found no clear guidelines specifying when an informant file was active or when it became inactive, and each file differed from the next as to content.

Interviews conducted during the BOI showed that the Department supervisors responsible for approving arrest reports lacked an understanding of the Department's policy on the use of informants and failed to recognize and appreciate the legal, risk management, supervisory, training and management issues inherent in the use of informants.

The BOI's findings stressed a dire need for greater control and training on the use and management of informants, for an informant manual which would establish uniform procedures for the use of informants Department-wide, for adequate training for both the officers who use informants and those responsible for their supervision, for supervisory oversight over those CI files on a regular basis and a centralized database for maintaining information on each informant.

### Consent Decree Solutions

The Consent Decree limited the use of informants to non-uniformed personnel<sup>90</sup> and required the submission of the informant control package for review and approval by the CO prior to utilizing any individual as an informant. Such informant control packages were required to be maintained in a secure location with restricted access and required a strict sign-out record and policy for approval by the watch commander.

The Consent Decree also required close supervision of all informant contacts. This included requiring a supervisor to meet with the informant at least once prior to the informant control package being submitted for approval by the commanding officer and requiring investigating

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<sup>89</sup> In the *March 2000 BOI Report*, then-Chief Bernard C. Parks stated that there was "near-universal ignorance" of the LAPD's rules for using informants and "even less comprehension of the dangers inherent in the use of informants."

<sup>90</sup> In 2005, the Consent Decree was modified to allow uniformed officers, under the strict guidelines of the Consent Decree, to utilize informants.

officers to confer with their supervisor prior to meeting with the informant. These investigating officers were mandated to document all meetings, significant contacts and information received from an informant in the control package, and to inform their supervisors of any contact with an informant. The Consent Decree also required the LAPD to establish a permanent Department-wide confidential database listing all LAPD informants and containing their CI numbers, names, aliases and dates of birth. There was also a requirement for the LAPD to publish a Confidential Informant Manual that further defined and expanded the procedures for identifying and utilizing informants, including all of the previously mentioned requirements.

Lastly, the Consent Decree required the LAPD to develop a CI policy that reflected these requirements, to train all appropriate personnel on the policy, to implement such policy requirements in the utilization and handling of all CIs, and to conduct audits of these control packages to ensure such policy and Consent Decree requirements were met.

### **Overall Achievements of the LAPD**

The use of informants is among the more sensitive areas of police work, and the Consent Decree requires the LAPD to use strict controls in the use and handling of CI information, the Monitor commends the LAPD for its achievements in this area. At the inception of the extension period, the Department made substantial strides in its use of informants and the related policies and procedures, although it had not achieved compliance with the >94% requirement in all areas. However, the Department achieved substantial compliance with the utilization and handling of informants during the extension period and over the course of the original term and the extension successfully put into place various policies and procedures that established best police practices for the utilization and handling of informants.

The Department released a Confidential Informant Manual in 2002 that incorporated all of the requirements of the Consent Decree. In 2008, the Department developed a new CI manual, discussed in detail below, that specifically outlines the Consent Decree requirements and provides a best practices approach to the handling of informants. This most recent manual provides specific protocols and improved informant forms that eliminate vagueness and ambiguity found in previous manuals, which resulted in confusion among officers handling informants. Based on a recommendation by the Monitor, the Department consolidated the Active Informant Database and the Undesirable Informant Database and updated the system to allow automated queries of information, eliminating the need for manual searches. This also facilitated a more coordinated tracking of all Department informants, and allowed the centralized personnel at Narcotics Division who are responsible for maintaining two databases to report informant information in a single database environment.

Based on the Monitor's recommendation, the Department developed and included in each informant package an instruction sheet with a checklist to remind officers of their documentation obligations. This system serves not only to remind officers of that which needs to be done but also provides a relatively quick method for supervisory review.

In addition, one of the early concerns of both the Department and the Monitor regarding informants was related to the small number of CIs maintained by the LAPD. The Monitor reported in its second quarterly report (Report for the Quarter Ending December 2001) that it noted a dramatic decrease in the number of available active informants.<sup>91</sup> Over the course of the Consent Decree, the Department has since increased its overall number of CIs while at the same time adhering to Consent Decree requirements.

The Department has developed sound policies and has trained on the implementation of those policies to provide officers and supervisors with the knowledge and tools to properly utilize and handle informants.

The Department now maintains all informant packages centrally at Narcotics Division, allowing for stricter supervisory oversight of these informant packages to ensure that Consent Decree requirements and LAPD procedures are met. Supervisory approval is received regularly on all package submissions and contacts with informants, and contacts with informants and documentation of information received are timely filed.

### **Consent Decree Compliance**

In the first three years of the Consent Decree, the LAPD took immediate steps to identify the problems associated with CIs and their control packages, and to develop procedures and guidelines to bring both new and existing packages into compliance with Consent Decree requirements. First, the LAPD Criminal Intelligence Group completed an audit of the CI packages in July 2001 and found that there was no standardized method to maintain informant packages. Although the Department issued a policy in January 2000 regarding the use of informants, which outlined standardized procedures to monitor informant files, and another policy in September 2001 regarding the establishment of a CI tracking system database for all CIs, neither policy was effectively implemented by the Department.

In February 2002, the Department attempted to address the lack of standardization by establishing a new policy regarding the use of informants and implementing a new Informant Manual. Shortly thereafter, the Monitor conducted a review of all CI packages maintained Department-wide and found a very low compliance rate with the requirements related to utilizing and maintaining informants. Although the Department had not yet achieve compliance with many of the requirements, it did achieve compliance with a few fundamental and important procedures, including establishing a CI number and an informant control package for each informant, admonishing each informant that he or she may not violate any laws in the

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<sup>91</sup> The Monitor identified a number of factors that may have contributed to the decline in numbers, including the diversion of resources as a result of the need to respond to terrorism threats post-9/11; shortage of experienced, trained gang officers during this time period; and officers in uniform being restricted from maintaining informants.

gathering of information, maintaining all CI packages in a locked and secure location, and ensuring no informants were maintained by unauthorized uniformed officers.

During this same time, the Monitor also conducted a review of the CI database and the Undesirable Informant database and found that the databases contained inaccuracies in the informant information and were missing required information for the informants. The Monitor recommended that all active informant packages be brought up to the standards of both the Consent Decree and the Department's Informant Manual dated February 26, 2002, and that supervisors throughout the ranks be held accountable for failures in this area.

Over the next few years, although the Department slowly improved in its efforts at complying with Consent Decree requirements, the Monitor continued to express concerns that compliance with various fundamental requirements in this area was not yet where it needed to be. Although no substantive failures were uncovered relating to misuse of CIs or other impropriety, the informant control packages continued to be deficient, many packages were missing relevant documentation, and the CI Manual needed revision to clarify requirements and procedures for maintaining informant control packages and the handling of informants. Training on the Informant Manual was occurring in only two Department courses, and the Monitor recommended that training be offered and made mandatory for all officers permitted to manage informants. The Monitor also recommended that the CI and Undesirable Informant databases be properly maintained and all required information captured. The Department worked hard to rectify the deficiencies in the informant packages and databases, but problems with documentation and accuracy of information continued to persist throughout 2003.

By the middle of 2004, the LAPD had made considerable improvements in supervisory oversight and maintenance of CI packages, and relevant training had taken place in March and April 2004 on the LAPD's newly revised Informant Manual dated June 2003. During this same time, the LAPD's AD was in the process of auditing Departmental compliance with the various components of the Consent Decree. In September 2004, the Monitor reviewed AD's *Confidential Informant Control Package Audit*, dated June 28, 2004, and found that AD identified the same issues with the informant packages and the informant databases that the Monitor had previously reported, including lack of documentation and supervisory approval of informant meetings and information and inaccuracies with the database information. In short, the Department had improved greatly but still fell slightly short of substantial compliance with Consent Decree requirements in this area.

Throughout 2005, the Monitor, AD and the OIG all noted that the Department continued to struggle in the area of supervisory oversight of CIs. Issues identified included lack of supervisory approval on payment forms, contact forms and sign-out cards; lack of supervisory approval prior to meeting with an informant; and missing forms and inconsistencies with regard to payments made to informants. However, the Monitor determined that the Department achieved substantial compliance with requirements related to the CI database, since the database's information and the informant packages were now both inclusive and accurate.

At the end of 2006, the Monitor, concurring with AD's findings in its *Confidential Informant Control Package Audit*, dated June 29, 2006, reported that although there was a significant delay in filling out contact forms in informant packages, overall, the maintenance and documentation of the CI packages had significantly improved from the prior years' reviews.

Another requirement regarding CIs was that supervisors who manage officers who handle informants be evaluated for this task on their annual performance evaluation. In CRID's Supervisory Performance Evaluations Audits for 2006, 2007 and 2008, they found that this requirement was not taking place appropriately, and the Monitor concurred.

The LAPD issued a revised Informant Manual in March 2008, which further outlines specific requirements regarding informants and helps to ensure adherence to these requirements, and also provides a best practices approach to the handling of informants that will carry the Department forward after the term of the Consent Decree extension expires. In addition to the development of a new manual, the Department also addressed the Monitor's and AD's findings regarding the delay in filing contacts with informants in the control packages. In June 2007, the Department, specifically Narcotics Division, put a procedure in place for sending interdepartmental correspondence to commanders and controlling officers to follow up on contact sheets not received within 30 days of a contact with a CI. The Department also adhered to requirements regarding documentation of contacts with informants, information provided by informants and the results of investigations conducted pursuant to the information provided; supervisory approval of such contacts with informants and the information provided; and maintaining access to such control packages.

By the end of 2008, the Monitor, AD and the OIG all concurred that the Department had achieved substantial compliance with all Consent Decree requirements relating to CI.

## **Recommendations**

The Monitor, as stated above, commends the LAPD for the accomplishments it has made in achieving compliance with Consent Decree requirements regarding the utilization and handling of CIs, the CI database and the CI Manual. With the policies and procedures in place, and the oversight role of AD and the OIG to ensure that the policies and procedures are followed, deficiencies corrected and recommendations followed up, the Monitor is confident that going forward CIs will be properly maintained under these strict guidelines and subject to adequate supervisory oversight. The Monitor offers the following recommendations regarding CIs, which are applicable to the Department, AD and/or the OIG where noted, or all three if not specified.

- The Department should consider training on the Informant Manual for other Department personnel who may encounter the need to understand the strict guidelines surrounding informants. These informant requirements should also be offered annually in Roll Call training.

- The Monitor urges that any policy changes, including the issuance of a new CI Manual, be approved and distributed prior to implementation, and that AD and the OIG ensure this takes place in their own future reviews.
- The Department needs to ensure that supervisors and managers overseeing officers who handle informants are getting evaluated on this task in their annual performance evaluation. AD and the OIG need to review and report on this process taking place.
- The Monitor commends the Department for ensuring that NCIs are appropriately managed in accordance with the same policies and guidelines as CIs, and recommends that this continue.

## **E. Development of Program for Responding to Persons with Mental illness**

Calls for reform in the way that the Department dealt with the mentally ill were made in the wake of a high-profile LAPD shooting incident that occurred in May 1999, involving a mentally ill 55-year-old homeless woman. The woman was stopped by two LAPD bicycle officers in Wilshire Area to determine if she was pushing a stolen shopping cart, and one of the officers shot and killed her after she had allegedly lunged at him with a 12-inch screwdriver. Chief Bernard Parks found the incident in policy notwithstanding Inspector General Jeffrey Eglash's conclusion that the woman did not pose a lethal threat to the officer and his partner. The Board of Police Commissioners voted 3-2 in finding the shooting out of policy. Department critics wanted to know why the officers had not used nonlethal means to subdue her. Her family subsequently filed a wrongful death lawsuit, and the City Council approved a \$975,000 settlement of that litigation.

### **Consent Decree Solutions**

In order to improve the LAPD's dealings with the mentally ill, the Consent Decree required the LAPD to evaluate best practices from other law enforcement agencies in the United States, including training, policies and procedures for dealing with persons who may be mentally ill. The requirement extended to reviewing specific incidents in other jurisdictions. The LAPD was also required to report the results of these evaluations to the Police Commission, including proposed changes to training, policies and procedures for dealing with persons who may be mentally ill. Lastly, the Decree required the Department to complete an audit to evaluate LAPD handling of calls and incidents involving persons who appear to be mentally ill and to incorporate the findings and recommendations.

## Overall Achievements of the LAPD

The LAPD achieved success in reaching substantial compliance with all Consent Decree requirements during the initial term of the Decree. Specifically, the Department, through a contract with Lodestar Management Research, thoroughly researched best practices throughout the United States and responded to recommendations of the DOJ and the Monitor relative to proposals for new policies and procedures. In addition, with the launch of a number of successful initiatives in this area, the specifics of which are detailed in the next section, the Department now has the recognized best practice in law enforcement for this subject area.

## Consent Decree Compliance

The LAPD submitted a RFP in July 2001 seeking a contractor to evaluate successful programs in other jurisdictions and study the procedures and training in place at the LAPD. In December 2001, the LAPD selected Lodestar Management Research (Lodestar) to prepare a report of their findings, which was to be forwarded to the Chief of Police who would then make recommendations to the Police Commission and then forward the report to the City Council and the Mayor. Lodestar was also tasked with reviewing the LAPD's training, policies, practices and procedures, and conducting a review of select incidents involving the LAPD's contacts with persons who may have been mentally ill.

On July 15, 2002, the LAPD submitted its report on the Consent Decree Mental Illness Project (CDMIP) to the Police Commission, containing the Department's findings and recommendations. The report and related funding requests were approved by the Police Commission on October 8, 2002. The Department's findings included a judgment that LAPD's incident tracking systems, including UOF, 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," and issued a number of recommendations. These recommendations included centralizing authority for the Mental Health Crisis Response Program (MHCRP) under the supervision of the CO, Detective Services Group (DSG); expanding the System-wide Mental Assessment Response Team (SMART)<sup>92</sup> citywide; and expanding the Crisis Intervention Team Pilot Program (CIT), which was then located in the Central Area, to include the Van Nuys Area. The LAPD then requested Lodestar to provide additional analysis to assist in the development of evaluation criteria and an "evaluation tool" for expansion of the CIT program citywide, in the

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<sup>92</sup> SMART was a collaborative effort between the Department of Mental Health (DMH) and the LAPD to respond to calls involving persons who may be mentally ill.

light of concerns expressed by the DOJ and the Police Commission's request that the LAPD respond to the DOJ's concerns.<sup>93</sup>

During the first quarter of 2003, a four-hour Department-wide training session was provided to all field personnel at the level of Lieutenant and below in connection with the Department's philosophy and new policies and procedures concerning encounters with persons who may be mentally ill. The training included assessment and de-escalation skills specific to those encounters. A Mental Illness Update was provided in 2006 for all personnel who attended this course in 2003. During the summer of 2003, the Department adopted the MHCRP title in centralizing its programs and an MHCRP Coordinator was appointed. Additionally, a Department-wide philosophy/mission statement was developed; the CIT Program was extended from Central Bureau to Van Nuys, West Los Angeles and Harbor divisions; and the related 40-hour training course was implemented in these three Areas. Also in 2003, a new database was established by the Mental Evaluation Unit (MEU) to document encounters by CIT Officers with persons who may be mentally ill. Communications Division Order No. 10 was issued to implement procedures for handling calls involving persons with mental illness.

The Department's Mental Illness Program Implementation Plan was completed in November 2003. It addressed and reported on the status of all the Department's Mental Illness Project recommendations approved by the Police Commission in 2002 and the *Mental Illness Program Audit* required under Consent Decree paragraph 113. By December 2003, the Department implemented a review of all completed NCUOF and CUOF investigations involving persons who may be mentally ill and the UOF Form (face sheet) was modified to include additional indicators of impairment.

The LAPD's Information and Technology Division (ITD) received and installed a new computer server for MEU's database and tracking system, which became operational in April 2004. On May 10, 2004, the Board of Police Commissioners directed the Department to expand MEU/SMART to provide coverage 20 hours a day, seven days a week<sup>94</sup>. Beginning in November 2005, the MEU developed a SMART Pilot Program in which a SMART Unit<sup>95</sup> was assigned to Central Division three days a week during the hours of 7 a.m. to 3 p.m. The program's goal was to provide assistance to Central Division's Patrol<sup>96</sup> in its daily encounters with persons who may

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<sup>93</sup> In July 2002, the DOJ informed the City of its concerns with the LAPD report based in a comparison of that report to the analysis and recommendations contained in Lodestar's report.

<sup>94</sup> The MEU/SMART does not have coverage between 0200 and 0600. In 2005, there were 499 involuntary holds on individuals with suspected mental illness between these hours.

<sup>95</sup> SMART Units include both LAPD and Los Angeles County DMH personnel.

<sup>96</sup> Central Division was selected since it has the highest number of calls for service that involve persons suffering from mental illness.



have a mental illness. When such a person is identified, the SMART Unit conducts an assessment of the individual and then seeks appropriate care.

As of early 2005, the CDMIP team implemented a new proactive program designed to identify and deal with those persons who had a high volume or pattern of repeated LAPD calls for service, and coordinate their access to available mental health services. The DMH, DAO, City Attorney and other entities were involved in this program. Once those individuals were identified, the various Departments and agencies engaged in a “full court press” to proactively seek out and get help for them, including getting the person confined for treatment. In January 2005, the CDMIP coordinator reviewed the MEU database and identified 67 individuals who have been placed in at least six involuntary holds. These individuals had also been the subject of numerous arrests and/or radio calls, which resulted in a significant drain on patrol resources. The initial estimate indicated that these individuals represented 5,000 hours of lost patrol resources. By developing the Crisis Assessment and Management Program (CAMP), which addressed the needs of these individuals, the Department sought to create a system to better track these individuals and direct them to the appropriate mental health services instead of the criminal justice system. The CAMP Pilot Program began operating on September 18, 2005. The most significant success of the CAMP Program has been the reduction of time spent by patrol officers handling repeat calls for service involving persons with suspected mental illnesses. In mid-2008, CAMP became a permanent Unit within the Crisis Response Support Section.

The Monitor commends the Department for integrating SMART to the extent it has. As recently as 2006, SMART would arrive at the scene of crisis calls, such as suicides in progress or a barricaded suspect, and would be dismissed by the Incident Commander as “not needed.” As the program evolved, watch commanders and incident commanders learned the value of SMART Teams. SMART Teams have proven to be an invaluable tool for providing information and helping to develop strategies for reducing the potential for violent encounters between law enforcement and persons with suspected mental illnesses. SMART personnel also monitor dispatch calls and often respond to calls for service involving persons with suspected mental illnesses without being requested. This provides SMART the ability to assist patrol personnel and Incident Commanders at the early stages of critical incidents and may reduce injury to an individual who is taken into custody, while providing them with the appropriate mental health services, as opposed to being incarcerated.

As of December 31, 2008, the LAPD has expanded its MEU-related training. On a quarterly basis, MEU conducts CIT Training, a 24-hour POST certified course, which is open to outside law enforcement agencies. Several e-learning courses were completed during 2008 and 2009 and distributed Department-wide. A segment on supervisor responsibilities regarding handling calls for service involving the mentally ill was added to the Supervisor and Watch Commander Schools. Courses geared toward SWAT officers, as well as detention and dispatch personnel were provided late in 2008 in order to enhance their respective understanding of mental illness. MEU in partnership with the Autism Society of America has provided training to over 1,000 Department personnel on Autism Awareness. MEU has continued to carry out regular Roll Call

training to patrol personnel with an overview of MEU functions and patrol officer responsibilities.

The MEU has made significant advances in its program during the full term of the Consent Decree, and the LAPD continues to be in the national forefront of this important policing issue. The Monitor commends the Department and the dedication of those individuals who have been involved and associated with the LAPD's Mental Health Project.

## **Recommendations**

Simply put, the LAPD should continue to do what it has been doing.

## **F. Training**

### **1. FTO Program**

In regards to training, the Christopher Commission reported that there was "disturbing evidence that many FTOs openly perpetuate the siege ('we/they') mentality that alienates patrol officers from the community." The Commission also found that absent a requirement of one-and-a-half years experience and passing a test, "there were no other formal criteria for eligibility for FTO positions" or FTO "disqualification based on officers' disciplinary records." Among the Commission's recommendations were that "uniform criteria for selection of FTOs should be established" and that "successful completion of FTO School should be required before an FTO begins training probationers."

The *March 2000 BOI Report* focused considerably more time on supervisory training. The BOI noted that officers newly assigned to FTO duty should be given priority to attend FTO School. This was to ensure that they would not conduct their duties without being trained on them.

## **Consent Decree Solutions**

The Consent Decree required the LAPD to continue to implement formal eligibility criteria for FTOs, including demonstrated analytical skills, demonstrated interpersonal and communication skills, cultural and community sensitivity, diversity and commitment to police integrity, as well as a positive evaluation on the officer's TEAMS II record. The Consent Decree also stated that "FTOs may be removed during their tenure for acts or behaviors that would disqualify the officer from selection as an FTO." Lastly, the Decree required the LAPD to continue to implement a plan to ensure that FTOs receive adequate training and regular and periodic retraining to carry out their duties. This training must include training to be an instructor and training in LAPD policies and procedures.

### **Overall Achievements of the LAPD**

Training is an investment in the future of any police department. The LAPD has been tremendously successful in its effort to improve its training function. The Monitor is very optimistic that this success will build a great base for LAPD's future excellence. Field training is a crucial topic in the Consent Decree, as recruit training has far-reaching implications for the future of the LAPD.

On February 26, 2004, the Police Training and Education Division (PTE) assumed responsibility for FTO update school from Training Division. At this time the attendance rate for FTO update school was less than 30%. Upon assuming responsibility, PTE immediately organized the training list and contacted the training coordinators to get the officers into the classroom. Based on these efforts, in less than two months, PTE was able to raise attendance to 94%. As a result of PTE's extraordinary effort, the Department achieved compliance with certain FTO training requirements during the quarter ending March 31, 2004.

As a result of deficiencies identified, during the quarter ending September 30, 2005, the Monitor recommended that the LAPD centralize the administration of the FTO program so that LAPD management could more effectively identify, supervise and train FTOs. By the quarter ending December 31, 2005, the Monitor noted significant improvements. All of the FTO selection packages reviewed contained references that indicated TEAMS I reports had been reviewed prior to selection, and none of the officers selected as FTOs during the period reviewed had a sustained administrative investigation, adverse judicial finding or instance of discipline that fit the requirements of this subparagraph. As a result, the Monitor concluded that all of the officers reviewed were qualified to serve as training officers and found the LAPD in compliance with all related requirements.

During the quarter ending March 31, 2006, the Monitor found the LAPD in compliance with additional requirements, as FTOs found non-compliant in previous testing had either sufficiently rehabilitated their work performance to a satisfactory level and were qualified to perform as FTOs, or were prohibited from serving as FTOs through internal Departmental processes. During this period, the LAPD created a centralized FTO Unit at the Training Academy, commanded by a Lieutenant. The centralization of selection, training and record keeping of FTOs was a major step forward in management of the FTO Program.

As an extension to the FTO program, exchange and interaction with senior lead officers (SLOs) is introduced when the field training probationary period begins. The exposure to SLOs is very beneficial in combination with the FTO, as the new probationer learns how to apply policing procedures, including community policing skills. Currently in 2009, all SLOs attend the FTO course so they meet the State of California standards to allow SLOs to train recruit officers. Generally, new probationary officers are assigned and partnered during their probation with SLOs after their first 24 weeks of field training.

Although the Department had not achieved substantial compliance with all requirements regarding FTOs during the initial term of the Consent Decree, as a result of the efforts of the FTO Unit and the improvements implemented by the Department, the Department was able to achieve substantial compliance with all requirements during the extension.

### **Consent Decree Compliance**

The Monitor originally had difficulty evaluating these paragraphs because the Department's computer system did not identify FTOs to distinguish them from P-IIIs not serving as FTOs. This made sample selection impossible. In its Report for the Quarter Ending September 30, 2002, the Monitor reported that the Department would apply a new identifying code to existing and future records so FTOs could be identified.

Early assessments of compliance with Consent Decree requirements regarding FTOs revealed that the Department needed to make significant improvements in order to comply with those requirements. The Monitor found that selection files were not documenting that candidates were selected because they possessed the skills required, the Department had not developed a curriculum to fulfill the full number of hours required for FTO update training, FTO attendance at available courses was inadequate, annual performance evaluations were insufficient for some FTOs, and serious sustained complaints should have, but did not, disqualify some FTOs from the program. The Department subsequently developed the final eight hours of FTO update training, which began in January 2003, though it still reported insufficient officer attendance.

As described above, the PTE assumed responsibility for FTO update school in February 2004 and the Department soon achieved its first finding of compliance with requirements in this area. The Monitor also found the LAPD in compliance with additional requirements during the quarter ending June 30, 2004, as all FTO selection packages reviewed contained references that indicated TEAMS I reports had been reviewed prior to selection.

Despite these achievements, the Department continued to struggle with many of the requirements in this area. Significantly, the Monitor determined candidates possessed the necessary skills required of an FTO in 17 of 22 selection packages reviewed, and the Monitor identified a considerable number of FTOs who should not have been training probationary officers, as the officers in question were found administratively responsible for, among other things, fraud, domestic violence, inappropriate touching of a co-worker, false statement, inappropriate use of position for personal gain and enlisting a probationary officer to lie in an investigation.<sup>97</sup> Furthermore, although the LAPD was able to identify the total number of officers who were serving or had once served as FTOs, it was unable to identify the officers selected to serve as FTOs for the period requested for the Monitor's testing.

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<sup>97</sup> Some of these offenses resulted in significant suspensions, including 60 days and 88 days. In addition, the Monitor learned that at least two of the officers in a sample selected for review had never attended the 40-hour FTO School.

During the quarter ending March 31, 2005, the Monitor found the LAPD in noncompliance with requirements regarding FTO de-selection, as the Monitor identified a considerable number of FTOs who should not have been training probationary officers.<sup>98</sup> The Monitor then found the LAPD in compliance with this requirement during the quarter ending March 31, 2006. As described above, the Department's efforts to centralize selection, training, and record keeping of FTOs significantly improved the management of the FTO Program, which led to the Department achievement of compliance with the various requirements of this section of the Decree.

Since the LAPD had not achieved substantial compliance with all requirements during the initial term of the Consent Decree, the Monitor continued to actively monitor the pertinent paragraphs during the extension period.

During the extension, the Monitor found the Department in compliance with requirements regarding formal eligibility criteria for FTOs during the quarters ending December 31, 2006, and December 31, 2007; with requirements regarding the FTO de-selection during the quarters ending June 30, 2007, and June 30, 2008; and with requirements regarding an FTO training plan during the quarters ending September 30, 2007, March 31, 2008, and September 30, 2008. As a result, the Department achieved substantial compliance with the requirements of these paragraphs, and the Monitor discontinued active monitoring of them during the remainder of the extension period.

## Recommendations

The Monitor, as stated above, enthusiastically commends the LAPD for the accomplishments it has made in achieving compliance with the field training requirements. Policies and procedures are in place, and the oversight roles of AD, the Police Commission and the OIG clearly ensure that policies and procedures are followed, deficiencies are corrected and recommendations are implemented. The Monitor is confident that going forward, the Department will ensure that field training by the LAPD follows the "best practices" of law enforcement. The Monitor offers the following recommendations regarding the FTO program:

- The LAPD should ensure that FTOs are evaluated annually using the new Standards Based Assessment.

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<sup>98</sup> The officers in question were found administratively responsible for, among other things: fraud, domestic violence, inappropriate touching of a co-worker, false statement, inappropriate use of position for personal gain and enlisting a probationary officer to lie in an investigation. Some of the above-mentioned offenses resulted in significant suspensions, including 60 days and 88 days. In addition, the Monitor learned that at least two of the officers in the sample had never attended the 40-hour FTO School.

- The LAPD should have COs continue to review complaints sustained against currently serving FTOs in order to ensure their continued fitness for training probationers.
- The LAPD should continue to track FTO training and update training to ensure that FTOs remain fully trained in their duties and can impart the most up-to-date information to their recruit officers.

## 2. Training Content

The Christopher Commission reported that “the Department neither mandates nor monitors in-service training,” and noted that “Division commanders have discretion to conduct in-service days and to design the training program” and “there is no consistency in the usefulness of these programs across the Department.” The Commission recommended that the Academy “should take responsibility for roll call and other in-service training,” “develop detailed training outlines that every division would use,” and “have instructors available to assist watch commanders to implement those training programs.”

The BOI focused a considerable amount of time on training content and reported that “several supervisors noted the imbalance in favor of tactical training tended to perpetuate the siege mentality among the officers” in their divisions. The *March 2000 BOI Report* included several recommendations related to ethics and integrity training, including that “the Department must develop a comprehensive training program on ethics, integrity, mentoring, and leadership, to be given annually as a supplement to Area training efforts; all Department employees should receive greatly increased training in the areas of ethics and integrity and that training should be fully integrated into our regular training programs; and classroom instruction on ethics should be reinforced through other training opportunities such as commanding officer presentations during standardized roll call training, discussion in supervisory meetings, monitoring and auditing the work environment, and workshops in divisional training days that encourage frank discussions about this issue.”

### Consent Decree Solutions

The Consent Decree required the LAPD to “continue to provide all LAPD recruits, officers, supervisors and managers with regular and periodic training on police integrity,” including “the duty to report misconduct” and “cultural diversity.” The LAPD was also required to train all members of the public scheduled to serve on the Board of Rights (BOR) in police practices and procedures. Additionally, the Decree stated that “the City may establish a plan to annually provide tuition reimbursement for continuing education for a reasonable number of officers in subjects relevant to this Agreement, including subjects which will promote police integrity and professionalism.” Lastly, the Decree required the LAPD to “establish procedures for supervisors and officers of the LAPD to communicate to the LAPD Training Group any suggestions they may have for improving the standardized training provided to LAPD officers.”

### **Overall Achievements of the LAPD**

Again, the Monitor finds that the LAPD has had tremendous success in this training function. As a direct result of the Consent Decree, a basic blueprint for reforming the Department was outlined. Training was a core component of bringing about organizational change, and effective training was critical to institutionalizing those reforms. In 2001, there was not one law enforcement agency in the country using e-learning as a means of disseminating consistent training. Likewise, there were no law enforcement academies in the United States using an integrated approach to training on the various disciplines. Adult learning theory was not consistently modeled by any state or federal agencies as a means of training officers. The LAPD, however, embraced the recommendations of the RAND Report and began to research best practices in training.

As a result, eight years after the inception of the Decree, the LAPD uses adult learning theory and critical-thinking/problem-solving skills in all aspects of training. The Department researched and formed an e-learning unit that is now the cutting edge in distance learning in law enforcement, producing approximately 20 courses annually. The Department also created and staffed the first curriculum design unit of its kind that standardizes all lesson plans, incorporates adult learning theory, case studies and scenario exercises wherever feasible. It is also responsible for cross-staffing for consistencies in laws, policies and procedures to ensure that all lesson plans are consistent throughout the organization.

Recently, the Department launched its first ever learning management system, which will allow completely standardized lesson plans to be available and used by all trainers in the organization and will serve as a “one-stop shop” for employees to access annual training calendars. This system will also provide the capability to design a course catalogue, so that all employees will have the ability to plan their career paths and understand the training requirements for the various paths, as well as know when courses will be presented and how to fairly apply for such training and educational opportunities.

### **Consent Decree Compliance**

Although considered a permissive requirement, the Monitor found the LAPD in compliance with the requirement to establish a plan to annually provide tuition reimbursement for continuing education in subjects that promote police integrity and professionalism, as it established a tuition reimbursement program. The City announced the initiation of a tuition reimbursement program on June 28, 2001. It began receiving requests for reimbursement shortly thereafter. The Monitor found that the City approved most requests and properly denied the rest for a variety of administrative deficiencies, e.g., no proof of payment, no transcript submitted, course not completed.

As required by the Consent Decree, the Department implemented several procedures for communicating suggestions to the Training Group. The Department was receptive to suggestions and willing to develop training based on actual needs and, in fact, integrated seven suggestions into the training curriculum. In February 2002, the Continuing Education Division, along with the California Commission on Peace Officer Standards and Training, developed a revised Basic Supervisory School as a result of course evaluations and student interviews. The training that resulted required each Sergeant candidate to participate in two one-day ride-alongs with an experienced Sergeant.

After early struggles in complying with requirements regarding police integrity training, the Department made significant strides in improving and enhancing it this training over the term of the Decree. By 2003, the Department developed an interactive learning exercise that adequately addressed misconduct, the duty to report misconduct and the protections afforded to those who report misconduct and incorporated this exercise in CEDP Module VI, titled "Weapons of Mass Destruction." An exercise in the course required the class to break into small discussion groups to discuss legality of a stop, department policy prohibiting racial profiling, duty to report misconduct, retaliation and protections afforded to those that report misconduct. The Department also took significant steps toward monitoring its own compliance and began to get ahead of schedule with regard to officer attendance at a training module. Eventually, the Department successfully developed a training program with a comprehensive curriculum, a novel delivery plan, and measurements in place to ensure adequate attendance and consistent, quality training, and in 2005, a 90-minute web-based e-learning training module on police integrity was introduced, which enabled the Department to train greater than 95% of its personnel in six weeks. In 2006, the LAPD continued scheduling field, supervisory and command staff training for a number of in-service training modules that included portions of or all of police integrity training requirements, including the Workplace Discrimination and Retaliation Prevention Course, Risk Management/Civil Liabilities Three-hour Course, Vehicle Stops and End of Pursuit Tactics.

Beginning in the quarter ending September 30, 2002, the Monitor found the LAPD in non-compliance with the training requirements related to civilian BOR members. The Monitor found that the training was inadequate, especially in the area of tactics and Department policy, as it did not provide Board members with the requisite knowledge for them to fulfill their membership expectations. As a result, prior to the extension, the Monitor found the Department in substantial compliance with all requirements in this section of the Decree except for the requirements regarding training for civilian members of the BOR.

With the Monitor's participation, Police Commission staff developed lesson plans for civilian BOR training to meet the requirements regarding the training of Board members. An all-day training session was held on March 31, 2007, attended by 45 of the newly selected examiners, DOJ personnel and a member of the Monitoring Team. The three hearing examiners who did not attend the training attended a separate training session presented by the Police Commission's Executive Director. These efforts led the Department to achieve compliance with the pertinent requirements during the quarter ending March 31, 2007, and the Department



remained in compliance during subsequent assessments. As a result, the Department achieved substantial compliance with the BOR-related training requirements during the extension.

### **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the training content requirements. With the policies and procedures in place, the oversight role of AD, the Police Commission and the OIG will ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented. The Monitor is confident that going forward, the Department will be proactive in ensuring that training content continues to emphasize police integrity. The Monitor offers the following recommendations regarding training content:

- The LAPD should continue to ensure that new civilian members of the BOR receive training in police practices and procedures.
- The LAPD should continue to communicate to Training Group any suggestions from supervisors and officers on how to improve training programs.
- The LAPD should continue its adult learning and scenario-based approach to police integrity training.

### **3. Supervisory Training**

The *Christopher Commission Report* stated that “sergeants, lieutenants, and captains are expected to be leaders as well as administrators and should therefore receive formal leadership training including command accountability.” The report further stated that “supervisory and command officers must learn to be role models, to recognize problems in other officers, and to assist troubled officers through such difficulties.” The commission found that “the training emphasis is on administrative skills” and “not leadership or accountability,” and recommended that “command accountability and effective supervisory techniques should be the primary focus of the training of sergeants, lieutenants, and captains.”

In its *May 2000 Letter Report* to the City, the DOJ wrote that “serious deficiencies in City and LAPD policies and procedures for training, supervising, and investigating and disciplining police officers foster and perpetuate officer misconduct” and that “many supervisors do not have the training necessary to perform their supervisory responsibilities and correct deficiencies.”

The *2001 BOI Report* also focused a considerable amount of time on supervisory training and found that “over 230 sergeants ha[d] not attended the Supervisory Development Course” and “many of those sergeants ha[d] been in the field as supervisors for a year or longer with no

formal instruction on their duties.” The BOI recommended that “consideration...be given to reorganizing the Supervisory Development Course from a four-week block of instruction to a program of smaller blocks of instruction spread out over a longer period of time.” The BOI also recommended that “a one to three day introductory course...be developed for new sergeants, detectives II and non-sworn supervisors” and “no one...be permitted to work as a supervisor until he or she attends the course.”

### **Consent Decree Solutions**

Regarding supervisory training, the Consent Decree required the LAPD to “provide all officers promoted to supervisory positions, up to and including the rank of Captain, with training to perform the duties and responsibilities of such positions.” Such training was to be provided before they assumed their new supervisory positions. The Consent Decree also required the LAPD to provide regular and periodic supervisory training on reviewing the reports addressed in the Decree, incident control and ethical decision-making. Lastly, the Decree required the LAPD to “ensure that any supervisor who performs, or is expected to perform, administrative investigations, including chain of command investigations of uses of force and complaints, receive training on conducting such investigations.”

### **Overall Achievements of the LAPD**

The first step the LAPD took in its efforts to comply with Consent Decree’s supervisory requirements was to issue a notice, dated July 2, 2001, stating that members must be trained prior to assuming a new position. However, early in the term of the Decree, the Monitor found an insufficient number of officers were receiving supervisory training prior to assuming their posts, and some supervisors had last received training as far as 10 years previously. By the end of 2003, the Department had greatly improved its ability to train supervisors prior to assuming their duties.

As described in a focus issue in the Monitor’s Report for the Quarter Ending June 30, 2004, both the Monitor and the DOJ attended a training session on June 8, 2004, in which snide and inappropriate comments were overheard being made by several Supervisors. The Departmental response to the complaints of the Monitor and DOJ was admirable – upon learning of these remarks, the Department sent a clear and resounding message to its members that such sentiments expressed during these classes would not be tolerated. Specifically, on June 10, 2004, two days after the incident occurred, training coordinators were retrained. It was made clear that the comments expressed by the offending Supervisors reinforced the perceptions of those on the “outside” that the culture of the LAPD had not changed. The need for trainers to take responsibility for their classrooms and establish a professional environment was reinforced. The trainers were assured that they would have the support of the command staff, training group, CRID and Office of Human Resources should they need to “take on” a difficult student, especially one of a higher rank. In addition, the Chief of Police held a meeting

with all of the Command staff on June 15, 2004, reiterating his requirement of professionalism and respect, in the field as well as in the classroom. The Chief also circulated a letter on June 29, 2004, and a video in the beginning of August, to all members of the Department in which he stated that the behavior described to him was “unnecessary and unacceptable” and that “openness and transparency to the community must be reflected both inside the confines of our organization, including the classroom, as well in our field contacts.” This incident is an example of the attitude shift and strides the LAPD has made in the area of supervisory training.

The LAPD’s *Standardized Quarterly Supervisor Training*, launched in the fourth quarter of 2003 and still in place, provides information relative to the duties of all supervisors. To date, topics have included FDRs, UOF Reporting, Detention Log Review, Performance Evaluation Reporting Guidelines, Complaint Investigation Procedures and Police Officer Selection to FTO and GED Units.

### **Consent Decree Compliance**

During the quarters ending March 31, 2002, and March 31, 2003, the Monitor found the LAPD in non-compliance with the requirement to provide supervisory officers with relevant training prior to assuming new supervisory positions. The Monitor found that an insufficient number of the officers evaluated received supervisory training prior to assuming their posts. The Monitor reported similar findings during the quarter ending September 30, 2003, but withheld a compliance determination due to the need to ascertain whether the officers who had not received training signed affidavits stating that they refrained from performing supervisory duties until after they had received training. During the quarter ending December 31, 2003, the Monitor found the Department in compliance with this requirement, as 96% of promoted members received requisite training prior to promotion. The Monitor then found the Department in non-compliance with the requirement during the quarter ending September 30, 2004, and in compliance during the quarter ending September 30, 2005.

The Monitor found the Department in compliance with the requirement to provide regular and periodic supervisory training on reviewing the reports addressed in the Decree, incident control and ethical decision-making for the first time during the quarter ending September 30, 2003, as a sufficient number of supervisors had received the appropriate training on a regular and periodic basis. The Monitor found the LAPD remained in compliance with this requirement during subsequent assessments conducted during the remainder of the initial term of the Decree.

The Monitor found the Department in compliance with investigatory training requirements for supervisors for the first time during the quarters ending June 30, 2004, and then again during the quarter ending September 30, 2005. In both instances, the Monitor found that a sufficient number of supervisors received the appropriate training.

The Monitor concluded that the Department achieved substantial compliance with the supervisory training requirements of the Consent Decree by the expiration of the initial term of the Consent Decree. As a result, the Monitor did not actively monitor compliance with these requirements during the extension period.

## **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the supervisory training requirements of the Consent Decree. Policies and procedures are in place, and the oversight role of AD, the Police Commission and the OIG will ensure that the policies and procedures are followed, deficiencies corrected and recommendations implemented. The Monitor is confident that the Department will be proactive in ensuring that quality supervisory training in the LAPD will continue to take place. The Monitor offers the following recommendations regarding supervisory training:

- The LAPD should continue to ensure that supervisors are trained on how to conduct administrative investigations.
- The LAPD should continue to track supervisory training and update training to ensure that they remain fully trained in their duties.

## **G. Internal and External Oversight/Monitoring**

### **1. Ethics Enforcement Section Integrity Audits**

The DOJ's *May 2000 Letter Report* to the City of Los Angeles concluded that the LAPD "failed to supervise officers properly by failing to identify and respond to patterns of at-risk officer behavior." The DOJ continued to discuss the necessity of an adequate early warning system and the fact that the LAPD's current system was insufficient.

#### **Consent Decree Solutions**

In order to validate patterns of at-risk officer behavior, whether that risk is flagged by an early warning system, identified via consideration of an officer's work history, or reported by the public, the LAPD was required to establish a discrete unit responsible for conducting random and targeted ethics audits of officers. Of greatest concern were patterns of at-risk behavior that included unlawful stops, searches, seizures (including false arrests), uses of excessive force or discouraging the filing of a complaint or failing to report misconduct or complaints. The LAPD was required to develop and initiate a unit responsible for conducting such audits before July 1, 2001.

Once implemented, the LAPD was required to submit quarterly reports detailing the unit's efforts, and such reports were to be timely submitted to the Police Commission and the IG by the Chief of Police for review and consideration.

### **Overall Achievements of the LAPD**

At the onset of the Consent Decree, the LAPD established what is now commonly known as the EES.<sup>99</sup> Within the LAPD's organizational structure, this unit reports directly to the Deputy Chief of the LAPD's PSB.

The EES was tasked with conducting both random and targeted "sting audits."<sup>100</sup> Random audits assess officer conduct without any specific officer in mind whereas targeted audits are directed at officers identified through analysis, research or referrals<sup>101</sup> considered potentially at risk.

Prior to undertaking a targeted audit, the EES supervisor tasked with managing the audit first makes a determination whether the suspected behavior meets the defined at-risk criteria. If so, subsequent planning and consideration determines whether a staged scenario is appropriate for capturing the results of an audit.

As outlined in the "Integrity Audit Guide," EES developed specific procedures required of all of its audits as follows:

- Final Report with conclusion signed by Lieutenant of EES.
- Integrity Audit Request documenting the topic of the audit and the audit approach. This request requires review and approval by several levels of EES supervisors with the final approved by the CO of PSB.
- Site Survey identifying the desirable location(s) to stage an audit and the locations of the nearest police station and hospital for officer safety purposes.

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<sup>99</sup> Special Order No. 22, *Ethics Enforcement Section, Internal Affairs Group – Established*, dated August 1, 2001.

<sup>100</sup> Initially, in order to establish a data source for conducting "sting audits," EES staff entered information contained in over 5,000 complaint face sheets in order to conduct analysis to identify possible patterns of misconduct by officers.

<sup>101</sup> Referrals for sting audits may be generated through several sources, including, but not limited to: prior complaints, LAPD supervisors and managers, Risk Management Group, utilizing TEAMS data, as well as directly from other officers. Ideally the new TEAMS II system, by virtue of containing more consistent data and logic versus TEAMS, will identify officers deemed "at risk" for random or targeted audit.

- Operational Plan describing each component of the audit and the role of each EES participant. Also addresses safety concerns, the requisite equipment, as well as the briefing and staging areas.
- Video and/or audio equipment requests.
- TEAMS report(s) of the targeted and/or involved officer(s).
- History of any complaints and/or other reports that lead to the audit.
- Investigator notes, including a chronological log of the audit.

In 2002, the Monitor noted that sworn officers assigned to EES, particularly undercover officers, did not have access to counseling services of the LAPD's BSS. Undercover officers may require such support given the demands and stress placed on their performance and possible risk can be overwhelming. Also, officers completing a tour of duty with EES may encounter anxiety about re-entering the LAPD work force. The Monitor recommended that the LAPD arrange for counseling services for EES officers. In response, the LAPD provided EES personnel with access to BSS psychologists specifically assigned to PSB personnel. Recently, the Special Operations Division developed an integration/re-integration program for all EES officers working in an undercover capacity. With training and BSS assistance, undercover officers, whether transitioning into or out of the EES, are prepared for the psychological demands.

During mid-2003, the Chief of Police received information that complaints from the public were not always accepted at all the Divisions. As a result, the EES was tasked with significantly increasing the number of random complaint intake audits for all Divisions in order to determine whether employees were complying with this requirement.

Throughout the term of the Decree, the EES, the OIG and the Monitor met to discuss expectations when conducting and reviewing future complaint intake audits, whether random or targeted. The parties also discussed circumstances in which information on complaint forms contained inaccurate or incomplete information and EES' analysis and conclusions.<sup>102</sup> In 2005, all three parties agreed to include another audit classification, "pass-substandard." This finding acknowledged that although officer response to the audit was compliant, deficiencies were nonetheless noted requiring address. These deficiencies were typically administrative in nature.<sup>103</sup>

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<sup>102</sup> Up to this point in time, the EES reported audits as *Pass, Fail, Administrative Fail or Inconclusive*.

<sup>103</sup> Certain audits identified officer actions that did not conform with Department Policy and Procedures outside the scope of the intended audit. For many of these instances, the EES CO contacted the officer's CO to report the findings.

EES audits of officer conduct have contributed to the overall goals and objectives of the LAPD, specifically through conducting audits designed to test the integrity and “at-risk” behavior of officers and Department employees. Numerous officers were found to be exonerated of any alleged misconduct. Conversely other audits confirmed suspected or reported at-risk behavior, and ultimately those officers were disciplined. The Monitor noted a wide range of penalties imposed as a result of sustained complaints. Lastly, in all sting audits wherein the actions of officers were determined to be criminal in nature, the matters were referred to the DAO.

### **Consent Decree Compliance**

Throughout the entire monitoring process, members of the monitoring team regularly met with the CO and other personnel assigned to EES.<sup>104</sup> The Monitor was regularly extended tours of its facilities, demonstrations of its equipment and apprised of any developments with the unit. The Monitor also observed a targeted audit that included the pre- and post-audit briefings.

In assessing compliance, the Monitor reviewed and relied upon EES “*Risk Evaluation Reports*,” video and audio tapes, complaint investigations, use of force investigations and undercover officer notes. In 2005, the Monitoring Team tasked with reviewing EES audits commenced placing reliance on the OIG’s review of and reporting on the EES. In general, the Monitor and OIG were in agreement on the overall implementation, execution and scope of the EES audits.

Throughout the initial five-year term of the Decree, the Monitor held the LAPD in compliance with the Consent Decree reporting provisions for the EES. In reaching this conclusion, the Monitor reviewed quarterly *Ethics Enforcement Section Quarterly Reports* and related communications to the Police Commission and OIG.

Similarly, for the entire eight-year review period, the Monitor held the LAPD largely in compliance with regard to the unit’s formation and operation. Although the Monitor did not always agree with the unit’s approach to an audit or the ultimate conclusion reached, overall, the Monitor concluded that the unit was functioning as desired and designed. However, beginning in 2007, the Monitor reported a declining number of “at-risk” behavior audits conducted by the EES. Specifically, in the Monitor’s report for the quarter ended December 31, 2008, the Monitor noted no audits were conducted for unlawful stops (including racial profiling) and few audits were conducted to evaluate searches, seizures and uses of excessive force.

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<sup>104</sup> Many investigators have prior experience as IAG investigators as well as prior surveillance experience.

## Recommendations

- For audits of the complaint intake process, the Monitor recommends documentation of all audit findings involving all Department employees, from the initial intake of the complaint through all supervisors responsible for documenting the complaint in logs and reports. The Monitor also recommends and encourages the EES to develop a wider array of scenarios, particularly when auditing more than one Division within the same Bureau.
- The Monitor continues to recommend that the LAPD consider assigning certain audit responsibilities, such as neglect of duty audits not specifically mandated by paragraph 97, to units other than PSB. Consideration should also be given to assigning random complaint intake audits to other Department divisions or sections.
- In designing and planning audits, EES should also consider the locales used when conducting audits designed to test misconduct, such as excessive force, unlawful searches, unlawful arrests, unlawful seizures and enforcement of immigration laws. Many times audits were staged in areas with high vehicular or pedestrian traffic, leading the Monitor to conclude that the audited officer was less likely to exhibit misconduct given the potential for witnesses in close proximity.
- When EES was initially formed, there was sufficient equipment for conducting audits; however, additional, sophisticated equipment was soon needed in order to facilitate more sophisticated and complex audits. The Monitor recommends that the Department continue to invest in additional high-tech equipment as the complexity of scenarios evolves.
- As mentioned above, the Monitor reported a recent decline in the number of “at-risk” behavior audits conducted by the EES. The Department should consider how to best use EES as a resource in conducting these types of audits, including “biased policing” audits. There may be a need to provide specialized training to EES personnel in the design, development and implementation of such audits to ensure their effectiveness.

## 2. Audit Division Oversight

In preparing the *March 2000 BOI Report*, the Operations work group used audits to gather information, identified where the Department had failed to maintain the resources necessary to conduct these audits on an ongoing basis, and recommended that audits be used in the future to detect other failures in the Department’s systems.<sup>105</sup> Specifically, the BOI identified that

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<sup>105</sup> The BOI Report noted that “if there is one aspect that has been more discouraging than others, it is the degree to which our employees are failing to follow established Department procedures. That failure is compounded by the failure of their supervisors and managers to oversee their work.” See page 347 of the *March 2000 BOI Report*.



there had been serious erosion in the quality of and emphasis on audits and inspections over the years, and recommended that the audit systems at the Department, Bureau, Area and Divisional levels had to be significantly expanded. Additionally, the BOI identified that the current practice of allowing commands to “self-audit” rarely provided meaningful data. The BOI also identified that the Department’s Audit Guide must be updated and redistributed to all Department commands, a new Department audit schedule must be established, and these audits must be tracked and evaluated by the bureau inspection units. The BOI also recommended that the Operations bureaus and Areas should have well-trained and properly supervised full-time audit units to identify deficiencies in critical functions. The Board concluded that without a routine system of in-depth audits, the Department would be unable to ensure the quality of the employees’ work or hold their command structure accountable for the performance of their commands.

### **Consent Decree Solutions**

The Consent Decree outlined very specific audit requirements that were drawn from the concerns identified and recommendations proposed by the BOI, including:

- The Chief of Police was required to submit to the Police Commission, with a copy to the OIG, an Annual Audit Plan listing all specified Consent Decree audits to be conducted by the LAPD in the upcoming fiscal year, other than sting audits;
- The LAPD was required to establish an audit unit with sufficient resources to allow it to develop the Annual Audit Plan, coordinate, schedule, conduct and complete timely audits as outlined in the Annual Audit Plan and additional audits as may be required by the Chief of Police;
- AD was required to serve as a resource to other LAPD units wishing to conduct an audit, and to perform periodic assessments of the quality of these other audits; and
- The Chief of Police was required to provide to the Police Commission and the OIG quarterly audit status reports that described the current status of the audits listed in the Annual Audit Plan, and any significant results.

The Consent Decree also required that the LAPD perform regular, periodic audits of numerous aspects of policing, including warrants, arrests, uses of force, stops, CIs, complaints, gang units, financial disclosure and police training.<sup>106</sup> Each audit was required to examine a variety of issues, but a common theme among them all was the requirement to assess and report on

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<sup>106</sup> These audits are detailed in paragraphs 128, 129, 131, 132, 133 and 134.

compliance with other Consent Decree provisions and to identify incidents suggestive of inappropriate police behavior or a lack of supervisory oversight.

### **Overall Achievements of the LAPD**

The Monitor believes that the LAPD has established and institutionalized a best police practice internal audit unit that will be a critical governor to ensure future self-correction by the LAPD.

After the inception of the Consent Decree, the Department formally established an audit unit (AD) on July 6, 2001. At that time there were 28 authorized positions, of which 11 were initially filled by sworn professionals and some administrative personnel. In July 2001, AD submitted its first audits. The Monitor concluded that these first audits had a flawed audit process, used inadequate samples and included questions that yielded imprecise results. These problems continued until September 2002, when the Monitor concluded that AD had significantly improved the planning, execution and reporting of its audits. The LAPD was able to accomplish these and future improvements by implementing various strategies to develop its resources and skills, including:

- Providing AD's staff with appropriate resources, including computer equipment and training in auditing and statistical methods.<sup>107</sup> AD personnel, along with personnel from the OIG and DSD, received four days of training from the Institute of Internal Auditors in 2001-02. Additionally, sworn members of AD began obtaining professional audit designations.<sup>108</sup>
- Hiring civilian staff with auditing, accounting and statistical experience, as recommended by the Monitor.<sup>109</sup> This allowed AD to develop a multidisciplinary team that combined civilian auditors who had auditing backgrounds with sworn officers who had policing backgrounds.
- Implementing improvements to the audit process including: clarifying the audit matrix questions used, developing reference materials that better defined critical areas being assessed, developing work papers for tracking and reporting audit results, developing a process for reviewing completed audit work at various stages during the audits, ensuring the audits included recommendations for the Department to review and implement, and developing a management process for reporting back to the various LAPD Areas being audited.

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<sup>107</sup> The Monitor recommended in February 2002 that AD contact the Institute of Internal Auditors to obtain information about audit training courses.

<sup>108</sup> The Captain and one of the Lieutenants in AD were the first to obtain their Certified Government Auditing Professional (CGAP) certifications from the Institute of Internal Auditors in 2003.

<sup>109</sup> The first civilian auditor joined AD in November 2002.

During 2003, the Monitor concluded that AD's audit process was continuing to improve, as many of the audits that were previously outstanding were completed and some audits met the qualitative requirements. In December 2003, AD assumed responsibility for the gang-related audits as recommended by the Monitor in 2002 because AD's processes were better than the DSD's/DOSD's, and because many DSD/DOSD audits were either not completed or were below an acceptable standard.<sup>110</sup>

By June 2004, AD was submitting audits on a timely basis, each of which was a quality audit.<sup>111</sup> The Monitor also found that the gang audits completed by AD were quality audits, but could not conclude they were in compliance as the Consent Decree required the gang audits to be completed by DOSD. Thus, the Monitor concluded that each of the paragraph 128, 129 and 131 audits submitted to June 2004 were quality audits.

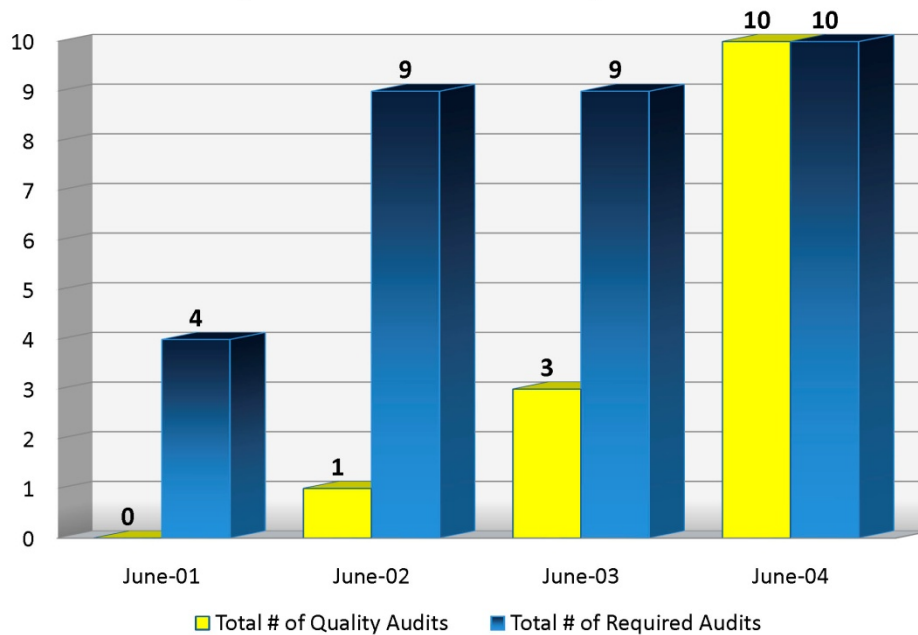
The above improvements resulted in an increase in the number of quality audits from 2001 to 2004, as reflected in the chart below:

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<sup>110</sup> This change was formalized by the court with modifications to the Consent Decree on June 2, 2005.

<sup>111</sup> Despite the significant improvements between 2001 and 2004, the Monitor identified some deficiencies, as a few audits due in 2003 were not completed on a timely basis; AD did not provide the support necessary for the Department to complete a quality paragraph 113 audit, resulting in excess Department time and resources used to complete the audit; and AD did not complete the quarterly status reports for the Police Commission. Consequently, although each of AD's audits was a quality audit, the Monitor did not conclude compliance on paragraph 124.

### Quality Audits to Total Required Audits



In light of the improvements in the timeliness and quality of AD’s audits and the reliability of the audit results, commencing in September 2004, for certain audits produced by AD for which the scope of an AD audit directly addressed the requirements of a given Consent Decree paragraph, the Monitor elected to evaluate AD’s audit work and findings and, if appropriate, rely on such findings in assessing compliance with that paragraph.<sup>112</sup> Instances of such reliance upon AD’s results were clearly indicated in the Monitor’s reports.

In addition to completing timely, quality audits, AD took other steps to enhance its professional approach, reputation within the LAPD and other police services, and its effect on the Department, including:

- Offering a four-day Police Performance Auditing Course, starting in September 2004. This program, which is one of the leading police performance auditing courses in the United States, has been offered on a quarterly basis since then.<sup>113</sup> It has been attended by 414

<sup>112</sup> This is consistent with paragraph 162 of the Consent Decree, which states, “In performing its obligations as required by the Consent Decree, the Monitor shall, where appropriate, utilize audits conducted by the LAPD for this purpose.”

<sup>113</sup> The Police Performance Audit program was certified by the California Commission on Peace Officer Standards & Training and by the Michigan Commission on Law Enforcement Standards in late 2004/early 2005. It covers auditing standards, audit work plans, interviews, audit fieldwork and analysis, report writing and the review process. This

LAPD employees and 251 employees from 42 other law enforcement agencies throughout the United States and Canada. AD also developed and offered an Intermediate Law Enforcement Auditing Course in 2007.

- Performing additional non-Consent Decree audits of gang units, CAPAs, the results of which are reported to the Police Commission. These audits review the practices of specific gang units on a quarterly basis and support the gang audit requirements of subparagraph 131a. The first CAPAs were completed in October 2004 and several have been completed on a quarterly basis since then.
- Formalizing its standards by developing an Audit Charter. This Audit Charter outlines AD's role, the requirement for independence, the goal of complying with Generally Accepted Government Auditing Standards (GAGAS), AD's access to records, and the scope of audits. It was originally approved by the Police Commission in January 2006 and was updated and re-approved in October 2007.
- Developing an Audit Protocol that set the standards for LAPD's audits, which was approved in April 2006. The protocol outlines the requirements for audit staffing, audit team member responsibilities and the audit process. It also includes direction on how AD conducts audits and covers topics such as audit planning, population identification and sampling methods, data collection and audit reporting.
- Participating as founding members of the International Law Enforcement Auditor's Association (ILEAA) and coordinating the first ILEAA conference in August 2007.
- Supporting its sworn and civilian professionals in their efforts to continue their training and improve their audit expertise.<sup>114</sup> Additionally, since March 2007, AD's professionals, through the Association of Local Government Auditors (ALGA), participated in peer reviews of the audit quality control systems for the City of Phoenix, City of Dallas and the City of Richmond, Virginia. AD is preparing to have a peer review of its audit quality control system by a team from ALGA.

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course has been attended by 414 LAPD employees and 251 employees from 42 other law enforcement agencies throughout the United States and Canada.

<sup>114</sup> As of April 2009, 24 current employees of Audit Division held 41 certifications as a Certified Fraud Examiner (CFE), Certified Internal Auditor (CIA), Certified Public Accountant (CPA), Certified Governmental Auditing Professional (CGAP), Certified Fraud Specialist (CFS), Certified Government Financial Manager (CGFM), Certified Law Enforcement Auditor (CLEA), Certified Information Systems Auditor (CISA) and/or Certified Financial Crimes Investigator (CFCI).

- Responding to requests by other departments within the City Group and other external city agencies to conduct audits and provide consulting services.<sup>115</sup> Additionally, representatives from other Police Departments have met with senior management of AD to gain insights regarding how to establish an audit division and how to successfully complete an audit.

The Monitor provided varying degrees of input into these developments.

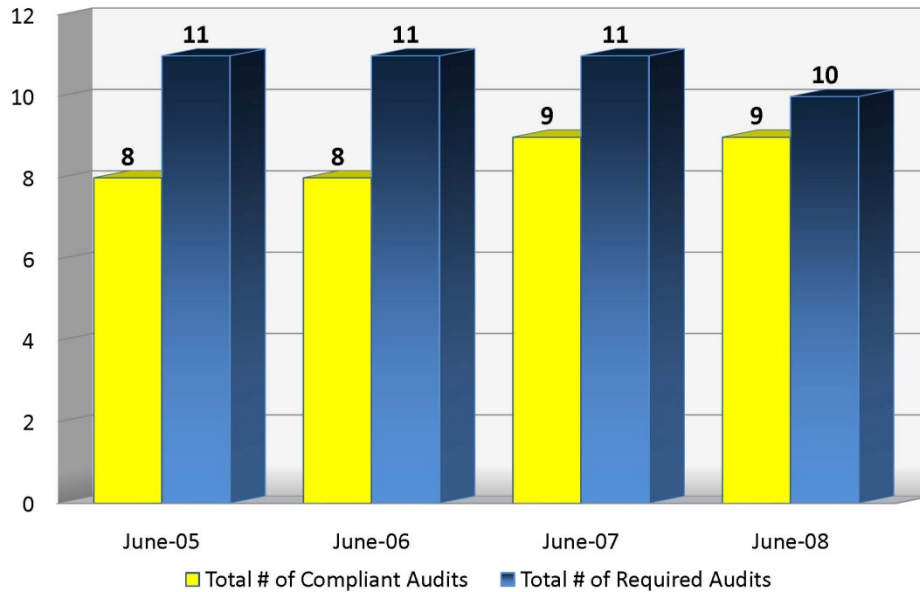
Despite the significant progress made by AD up to June 2004, during the next two years, the percentage of compliant audits decreased, as only eight of the required 11 audits were timely quality audits.<sup>116</sup> Although a determination of compliance was withheld with regard to one of the audits in each period, two audits in each year were found in non-compliance for a variety of reasons, including changes in how AD approached the audit, changes in Department policy resulting in greater interpretational concerns, and the Monitor's identification of new areas of concern that were not previously identified. As a result, although most of the audits were compliant, the overall number of compliant audits to total audits completed decreased in 2005 and 2006 as shown in the chart below.

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<sup>115</sup> In July 2007, audit personnel from Fiscal Operations Division were reassigned to AD to form a new team designated as the "Fiscal Audit Section." This team is lead by a Police Performance Auditor from AD. Additionally, AD was requested to conduct an audit that reviewed the policies and procedures for the Arson Unit of the Los Angeles Fire Department. This report was presented to the City of Los Angeles Board of Fire Commissioners in April 2009.

<sup>116</sup> The audits that were not found to be in compliance by June 2005 were AD's *Confidential Informants Control Packages Audit* and *Complaint Form 1.28 Investigations Audit*. The Monitor withheld a determination of compliance on AD's *CUOF Investigations Audit*. The audits that were non-compliant by June 2006 were AD's *Warrant Applications and Supporting Affidavits Audit* and AD's *Complaint Form 1.28 Investigations Audit*. The Monitor withheld a determination of compliance for AD's *GED Work Product Assessment Summary*.

### Compliant Audits to Total Required Audits



A determination of compliance was withheld for one audit in each of 2005 and 2006.

Notwithstanding that a few audits were non-compliant in 2005 and 2006, by June 2006 AD issued a total of 30 quality Consent Decree audits of which 26 had been submitted in the past three years (of the 32 total required audits). As many of the audits were in compliance for two years, the Monitor concluded that the Department had achieved substantial compliance with the pertinent paragraphs. The Monitor then revised its methodology for those areas/audits that were in substantial compliance for two consecutive years prior to the June 2006 extension. For some of these audits, the Monitor revised its methodology to perform a general review of the quality of the audit to gain assurance that the underlying areas being audited did not require active monitoring and that the quality of the audit had been maintained; for other audits, the amount of testing was reduced. For those audits that had not achieved substantial compliance, the Monitor continued with a full review of the audit report and associated documents.

Between June 2006 and June 2008, the audits that had been found in substantial compliance by June 2006 remained in substantial compliance. Additionally, by June 2008, the Monitor concluded that AD had achieved substantial compliance with three additional audit-related subparagraphs. To date, but for subparagraph 131a, AD has achieved substantial compliance with each of the Consent Decree paragraphs that require AD to conduct an audit. At the same time, AD has met all other requirements, including preparing annual audit plans and quarterly status reports for the Chief to provide to the Police Commission, and has acted as a resource to CRID and other departments to assist them in reviewing their processes and inspections so that the Department can achieve compliance. Furthermore, AD has acted as a resource for other

police departments on how to establish an audit unit. Based on these accomplishments, AD had led the way in how performance audits should be conducted.<sup>117</sup>

### **Consent Decree Compliance**

As described in the preceding section, the LAPD's AD achieved significant professional growth as an audit team over the past eight years. This development, which has had far-reaching effects throughout the Department, is reflected in the number of audits that were found in compliance as shown in the charts above. While AD's overall progress towards issuing compliant audits varied depending upon the type of audit, the audits generally fell into one of the following three categories:

- Audits conducted pursuant to paragraphs with which substantial compliance was achieved by June 2006 and limited reviews or reduced monitoring was conducted thereafter;
- Audits conducted pursuant to paragraphs with which substantial compliance was not achieved by June 2006 or which had other risks and required continued active monitoring; and
- Audits that have not yet been completed, as LAPD policy has not been developed, or which were one-time audits.

This next section describes AD's progress with the audits in each of these three categories.

#### *Audits That Were Substantially Compliant by June 2006*

There were five audits that the Monitor concluded were substantially compliant by June 2006: the *ABC Reports Audit*, *NCUOF Reports Audit*, *CUOF Systems Audit*, *Complaint Form 1.28 Systems Audit* and *GED Selection Criteria Audit*. The Monitor concluded that the first two of these audits could be subsequently monitored during the extension of the Consent Decree using a limited review of AD's audit methodology, while the other three could be subsequently monitored using smaller sample sizes than were used by the Monitor in its testing to June 2006.

#### *Substantially Compliant Audits Monitored With Limited Reviews of AD's Audit Methodology*

AD first achieved full compliance with the Department-wide and gang-related requirements relative to its *ABC Reports Audits* and its *NCUOF Reports Audits* in 2004 and 2005. Since these audits were found in compliance for two consecutive years, the Monitor concluded in June 2006

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<sup>117</sup> AD's significant development over the past eight years has also been recognized by the American Society for Public Administration, Los Angeles Metro Chapter, as it awarded AD with the Henry Reining Outstanding Organization Award on May 15, 2008.



that the Department was in substantial compliance with the required subparagraphs. The Monitor further determined that subsequent audits of these topics required only limited reviews of the audit methodology during the extension of the CD, rather than active monitoring. The purpose of the Monitor's limited reviews was to determine if AD used the same methodology as it had in prior compliant audits. The limited reviews consisted of comparing the current audit report, work plan, audit matrices and population documentation with the prior year's audit report, work plan, audit matrices and population documentation to determine if any change in methodology or findings warranted further review.

In each of the three years of the extension of the Consent Decree, the Monitor's limited review of audits did not identify any concerns that suggested these audits were not of the same quality as prior compliant audits. As a result, the Monitor concluded that the Department remained in substantial compliance with these paragraphs.

#### *Substantially Compliant Audits Monitored Using Reduced Testing*

In order to meet the Consent Decree requirements relative to the *CUOF Audit* and the *Complaint Form 1.28 Audit*, in June 2004 and December 2005, respectively, AD began splitting these audits into two reports: an interim audit report that covered those paragraphs that largely address specific process issues and a final audit report that assessed the quality of the CUOF investigations or the Complaint Form 1.28 investigations. By June 2006, AD's *CUOF Systems Audit* was found in compliance three times<sup>118</sup> and its *Complaint Form 1.28 Systems Audit* was found in compliance twice.<sup>119</sup>

The Monitor concluded that AD's subparagraph 131b *GED Selection Criteria Audit* was a compliant audit for the first time in December 2004 and then again in September 2005.

While each of these audits was in compliance for two consecutive years by June 2006, the Monitor concluded that it needed to monitor the audit methodology, as well as a sample of the topics tested in these audits, as these audits either reviewed paragraphs that were not in compliance or reviewed higher risk areas. Although the Monitor was confident that the audits would remain substantially compliant, to ensure this was the case, the Monitor completed a review of the report, audit work plan, audit matrices and population documentation as it did for the limited reviews and then conducted additional testing by selecting a sample of items to review AD's conclusions in relation to each item in the sample. The Monitor reduced its sample size from reviews of prior audits by using a one-tailed test and an error factor of +/-7% rather

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<sup>118</sup> The Monitor assessed compliance in September 2004, June 2005 and June 2006.

<sup>119</sup> The Monitor concluded that these were compliant audits in March 2005 and March 2006. The Monitor also concluded in June 2004 that AD's *Complaint Form 1.28 Audit*, which assessed both the systems and the quality of the investigations, was also compliant.

than using an error factor of +/-4%. This significantly reduced the size of the Monitor's samples from those used in prior reviews of these audits.

Based on the Monitor's reviews of these audits during the extension, the Monitor concluded that the Department remained in substantial compliance with these subparagraphs.

*Audits That Were Not Substantially Compliant by June 2006 or Audits with Other Risks*

There were four audits that the Monitor concluded were not substantially compliant by June 2006 and one audit which had other risks associated with it. The four audits which had not achieved substantial compliance consisted of AD's *Warrant Applications and Supporting Affidavits Audit*, *Confidential Informant Control Packages Audit*, *Categorical Use of Force Investigations Audit* and the *Complaint Form 1.28 Investigations Audit*. The Monitor concluded in June 2006, that although AD's *Motor Vehicle and Pedestrian Stops Audit* had achieved substantial compliance, there were other risks associated with this audit; accordingly, the Monitor concluded that this audit should continue to be actively monitored.

*Warrant Applications and Supporting Affidavits Audit*

AD's July 2002 *Warrant Applications and Supporting Affidavits Audit* was the first audit report issued by the LAPD that the Monitor concluded was a compliant audit. Although another *Warrant Applications and Supporting Affidavits Audit* was not issued until March 2004, the Monitor found this audit and the subsequent audit issued in February 2005 in compliance. However, the Monitor concluded that the February 2006 *Warrants Application and Supporting Affidavits Audit* was not in compliance, as the Monitor identified numerous instances of non-compliance within the packages that were not identified by AD. Consequently, the Monitor could not conclude that the Department was in substantial compliance by June 2006, and the Monitor continued to actively review subsequent audits.

The Monitor concluded that AD's December 2006 *Warrant Applications and Supporting Affidavits Audit* was non-compliant, as it contained numerous anomalies within the individual warrants, as well as packages in which the COs' analyses or the supervisors' debriefing summaries were insufficient. In its next two reviews, the Monitor concluded that AD's December 2007 and 2008 *Warrant Applications and Supporting Affidavits Audits* were compliant notwithstanding some concerns identified regarding supervisory oversight.<sup>120</sup> While these concerns would not have changed AD's overall conclusions, in light of the concerns expressed by the BOI regarding supervisory oversight, the Monitor recommends that AD continues to ensure in its assessment of supervisory oversight that the comments in the supervisor's debrief, CO's analysis and the comment card are specific to the search warrant and the supervisor in charge

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<sup>120</sup> Although AD had appropriately concluded the Department was not compliant with supervisory oversight, in some packages the Monitor identified other concerns in relation to the quality of the supervisors' debrief summaries and a lack of specificity in relation to the commanding officer's analysis and comment cards.

of the warrant and that they address the Department's policy requirements. Since this audit has been in compliance for two years in a row, the Department is now in substantial compliance.

#### *Motor Vehicle and Pedestrian Stops Audit*

The Monitor found AD's 2005 and early 2006 *Motor Vehicle and Pedestrian Stops Audits* in full compliance with the requirements of the Consent Decree to review the general population of stops and gang officers' stops. As a result, the Department achieved substantial compliance with the relevant subparagraphs by June 2006. However, since the Department was reviewing how the stops data were collected and whether or not the data could be used to assess if this Department's officers were racially profiling, the Monitor concluded that subsequent *MV&PS Audits* should continue to be actively monitored.

AD's first audit of this topic issued during the extension, the December 2006 *MV&PS Audit*, was in compliance with the requirements relating to Department-wide stops, but the Monitor withheld a determination of compliance in relation to the gang officers' stops, as AD's findings were based on a review of only one GED officer. AD did not submit a subsequent *MV&PS Audit* in December 2007 or December 2008 as the Department was changing how it collected the data needed to complete this audit. Going forward, once the Department has finalized the procedures for collecting data related to motor vehicle and pedestrian stops, AD will need to review the procedures and design an audit to test if they are being followed.

#### *Confidential Informant Control Package Audit*

The Monitor concluded that AD's June 2003 and June 2004 *Confidential Informant Control Packages Audits* were compliant audits. However, AD's June 2005 *Confidential Informant Control Packages Audit* was not in compliance, as the Monitor disagreed with how AD assessed and reported compliance for several substantive paragraphs, and AD did not identify various anomalies within individual CI packages. Consequently, the Department had not achieved substantial compliance with the required subparagraphs by June 2006, and the Monitor continued to actively review subsequent audits during the extension. The Monitor determined that AD's June 2006 and September 2007 *Confidential Informant Control Packages Audits* were in compliance; as a result, the Department achieved substantial compliance and the Monitor conducted a limited review of this audit in September 2008, concluding that the Department continued to be in compliance.

#### *CUOF Investigations Audit and Complaint Form 1.29 Investigations Audit*

The Monitor found AD's 2004 *CUOF Investigations Audit* and its 2004 *Complaint Form 1.28 Investigations Audit* compliant, but these were the only audits of these topics that were compliant through June 2006. Other audits of these topics prior to this date were non-compliant for a variety of reasons, including incomplete scope and issues that were not

identified by AD. Consequently, by June 2006, the Department was not in substantial compliance with the Consent Decree paragraphs requiring these investigative audits.

The Monitor found AD's *CUOF Investigations Audit* in compliance in September 2006 and 2007 and, as a result, conducted only a limited review of the subsequent audit in September 2008. The Monitor found AD's *Complaint Investigations Audit* in compliance in June 2007 and June 2008. As a result, the Department achieved substantial compliance with the Decree requirements relative to these audits.

#### *GED Work Product Assessment Summary*

In September 2003, December 2003 and March 2004, the Monitor found AD's *GED Work Product Assessment Summaries* were quality audits, but could not conclude they were compliant audits because they were conducted by AD rather than DOSD, contrary to the requirements of the Consent Decree. The Monitor concluded that AD's June 2004 audit was compliant after it was determined that the Court would approve a change in the Consent Decree to allow such audits to be completed by AD. In each of these four audits, AD assessed four or five GED units at a time.<sup>121</sup>

Subsequent to this, AD changed its approach to this audit by using its CAPAs as the primary source of information for these audits, which reviewed one or two Areas' gang officers' work product each quarter. Although the Monitor generally agreed that AD could use its CAPAs for its *GED Work Product Assessment Summary*, the Monitor identified a number of concerns and weaknesses with AD's approach since 2004. During this period, the Monitor, AD and the OIG met on numerous occasions to discuss the intent of the pertinent Consent Decree requirements and the findings that should be included in audits conducted pursuant to them. While AD made significant progress with this audit, there were two Areas about which the Monitor and AD were unable to agree, primarily relating to what information needs to be included and analyzed in this audit.<sup>122</sup> As a result, the Monitor found the Department in non-compliance with Consent Decree requirements relative to this audit in December 2005, March 2008 and December 2008 and withheld a determination of compliance between December 2005 and December 2007 either because AD was going to submit a second phase of the report or was due to issue a new report with new methodologies.

In its quarterly reports, in light of the inconsistencies in AD's approach to this audit, the Monitor has provided the following guidance regarding the basic requirements for the *GED Work Product Assessment Summary*:

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<sup>121</sup> At that time, the Monitor understood that AD would be submitting a summary report that pulled the results of each of these quarterly reports together, as well as assess other requirements of paragraph 131a.

<sup>122</sup> AD believes this disagreement is due to philosophical differences regarding what this Consent Decree paragraph requires.

- This audit must assess and report on the work product of all gang units, including an analysis of trends or patterns among officers, supervisors and/or areas whose work product appears to contain indicia of untruthfulness or other forms of misconduct, including breaches of the law, LAPD policies and procedures or the Consent Decree, or whose work product otherwise merits further review;
- This audit must assess and report on the work product of the BGCs, specifically their subparagraph 106h inspections; and
- This audit must assess and report on the findings from any paragraph 128 audits or BGC inspections that appear to contain indicia of untruthfulness or other forms of misconduct by any GED units or individuals.

Although the *GED Work Product Assessment Summaries* conducted over the past four years have addressed one or more of these requirements, they have not addressed all of these requirements at the same time.

#### Other Audit Paragraphs

##### *Audit of Police Officer Training*

The Consent Decree required the Department to conduct audits within 18 months of the effective date of the Consent Decree of police officer and supervisor officer training, using independent consultants to determine how the LAPD training could be improved to reduce incidents of excessive use of force, false arrests and illegal searches and seizures and make greater use of community-oriented policing training modes that take into account factors such as cultural diversity.

The Department hired RAND as the independent consultant to complete the training audit. After evaluating RAND's review, the Monitor concluded that RAND's report was not specific enough to the LAPD, despite comments from both the Monitor and the LAPD. However, subsequent to this, the Monitor worked with the LAPD to define the training requirements and found the LAPD in compliance with Consent Decree requirements in December 2004.

##### *Audit of Skeletal Fractures*

The Consent Decree required the Department to conduct audits within 18 months of the effective date of the Consent Decree of all uses of force resulting in skeletal fractures known to the LAPD, including the frequency of occurrence of skeletal fractures, medical care provided and quality, thoroughness, disposition and timeliness of the chain of command investigation and review of uses of force resulting in fractures.

The Monitor initially found the Department's *UOF-Skeletal Fractures Audit* non-compliant in March 2003, as it did not address many of the criteria required by the Consent Decree. The

Monitor next reviewed compliance with this paragraph in March 2005 in connection with a request by the DOJ that the Monitor perform an additional review to determine if skeletal fractures that occurred as a result of a NCUOF were subjected to sufficient oversight by the Department. The Monitor withheld its determination of compliance due to the small number of incidents that occurred after the issuance of Special Order No. 13, *Non-Categorical UOF Reporting – Revised*, which prevented the Monitor from determining if the investigations met the intent of paragraph 134. Subsequently, the City and the DOJ requested that the Monitor determine whether the intent of this paragraph and its one-time audit requirement had been met. In September 2005, the Monitor concluded that the intent of this paragraph was to determine whether sufficient scrutiny was provided by the Department of uses of force involving skeletal fractures. The Monitor concluded that with the introduction of Special Order No. 13 and the higher level of scrutiny it requires, the intent of this paragraph was met.<sup>123</sup>

#### *Audit of Financial Disclosure*

As described in section 5, below, the Financial Disclosure Audit was not completed and financial disclosure is subject to the Transition Agreement.

### **Recommendations**

The Monitor commends AD for all of its accomplishments over the past eight years. AD's highly professional audit team has not only worked to make the LAPD a better department through its audits, training and reviews, it has also assisted numerous other police agencies and community organizations to develop their own audit resources. While the Monitor is confident that AD has the processes and the people in place to ensure that it will continue to maintain the quality of its audits going forward, AD will be facing new challenges when the Department is no longer under the Consent Decree. As it faces these challenges, AD will need to address a number of significant areas as it transitions to conducting audits required by the Department. These issues include reviewing its audit standards, the standards it uses to evaluate LAPD's policing practices, revisiting its audit plan, maintaining an independent mindset and addressing any potential conflicts that may arise as a result of combining AD with the Inspections group.

#### *Standards Used to Conduct the Audits*

AD has indicated in its audit reports that it has been using Generally Accepted Government Auditing Standards (GAGAS) since January 2007.<sup>124</sup> Additionally, as described earlier in this

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<sup>123</sup> In September 2005, the Monitor introduced a new report card category "Compliance with Intent," which was utilized in situations where the Consent Decree requires a one-time effort that upon initial review did not meet the requirements, but has since been found to meet the functional intent of the paragraph.

<sup>124</sup> The Monitor's reviews did not address whether AD conformed to GAGAS, as the Monitor's reviews were confined to assessing whether the audits complied with Consent Decree requirements.

report, AD developed an Audit Charter and Audit Protocol which codifies AD's role within the Department, its overall audit standards, documentation access, staff requirements and responsibilities.

During the past eight years, the Consent Decree mandated that AD complete its audits in accordance with the specific requirements of paragraphs 128, 129 and 131 of the Consent Decree. AD therefore used these requirements to define the framework for its audit objectives. AD may wish to continue to use this framework for its audit objectives in future audits. Either way, AD should codify the specific standards that it intends to follow in the conduct of its audits, ideally within their Audit Protocol. In this way, its audits will be governed by GAGAS, by its Audit Protocol and by its Audit Charter, which will form the framework by which AD conducts its audits and will help to ensure that AD continues to issue quality audit reports that assess whether or not the Department is compliant with its policies and procedures.

#### *Standards Used to Evaluate the LAPD's Policing Practices*

The framework for AD's audits to date has been based primarily on an evaluation of the LAPD's policing practices compared to the standards described in the Consent Decree and further clarified by the Department's policies. In other words, the Consent Decree represented "the standard" for AD's Consent Decree-mandated audits. Although AD has referred to the Department's policies and procedures in its audits, historically it has generally reported a breach in policy as an "Other Related Matter" rather than as a compliance issue.

When the Department is no longer governed by the Consent Decree, the Department's policies and procedures will represent "the standard." As AD makes this shift in its audits, AD will need to update its audit matrix questions and compliance reporting structure so that it evaluates the Department's policing practices based on the LAPD's policies and procedures.<sup>125</sup> In this way, AD's audits will address the BOI's recommendation that audits be conducted to determine whether the Department is following established policies and procedures. Furthermore, as AD will now have a choice as to what parts of a policy will be tested in its audit objectives, the Monitor recommends that if AD elects to not test certain parts of a policy,<sup>126</sup> this information

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<sup>125</sup> AD could continue to use the Consent Decree as the standard for any topics that are not fully addressed in a policy.

<sup>126</sup> In some cases, in particular with AD's *Warrants Application and Supporting Affidavits Audit*, the Monitor identified areas within the policy that AD does not test, as it does not believe there are risks associated with these areas. For example, whether the supervisor's debrief is prepared within 24 hours of the search warrant service and whether the warrant tracking log contains all the information required by policy.

should be included in the audit report so that management is aware of this fact and can assess the implications.<sup>127</sup>

### *Audit Plan*

Currently AD plans to continue with the same audits that were required by the Consent Decree, as well as the CAPAs, through to June 2011. During this period, AD should assess if it is appropriate to continue with these same audits or if there are other audits that should be considered. In conducting this assessment, the Monitor suggests that AD look at various risk-based models to decide which audits to conduct. Some of the factors that AD may want to consider include:

- Are there audits in which the Department is fully compliant with the requirements tested and which AD could consider reducing the frequency of the audits, e.g., every second year rather than every year?
- Should AD focus on other areas of risk that may be identified in other audits, through complaints (either from the public or within the Department), or through other activities of the LAPD that are identified by the Department, the OIG, the Police Commission, the City or the public?
- Are there other entities, including the inspections area, that review related topics that provide additional oversight, which may allow AD to divert its resources to areas that do not receive additional review?
- Can AD provide insight into other areas, as recommended in this report, that AD has not previously reviewed, e.g., the LAPD performance appraisal process?
- Can AD make further use of TEAMS II in its audits?

### *Independent Mindset*

One of the greatest challenges for any audit team is that it continues to remain independent and skeptical in thought and action. To ensure AD maintains an independent mindset when conducting its audits, AD has introduced a robust analysis that covers different points of view. Since AD must serve as an independent body that will test whether the Department is complying with its own policies, it is particularly important for AD personnel to continue to remain skeptical and challenge reasons for substandard actions by Department personnel.

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<sup>127</sup> While AD's risk assessment may result in a decision by AD to only audit higher risk areas, AD should clearly describe the scope of their audits and should inform management regarding those sections of the policies that are not being tested. Currently, AD only defines the parts of the policy that are tested.



### *AD's Structure*

AD is now operating under a new structure, having merged with the inspections area into one combined division. There are advantages to this arrangement, as all audits and inspections are to be coordinated out of one division, allowing for standardization and consistency and the elimination of duplicate audits/inspections; however, the structure may also produce conflicts if AD is tasked with assessing the inspections, as is the case with the BGC Inspections. The Department will need to address this apparent conflict. The Department will also need to ensure that AD remains independent of investigative bodies such as FID and IAG so that it can continue to evaluate the work of these divisions.

Given the success of AD during the past eight years, the Monitor is confident that it will appropriately address these challenges going forward.

## **3. Inspector General Reviews and Audits**

The BOI concluded that the IAG, the IG, Department staff and command officers share responsibility to monitor and detect corruption within the LAPD. The BOI also concluded that the OIG should be provided sufficient staff to augment and support IAG's risk management monitoring efforts. Lastly, the BOI noted that the IG's role in the review of OIS cases needed to be defined and this role may include periodic audits of the process of investigating an OIS.

### **Consent Decree Solutions**

The Consent Decree addressed the responsibilities of the OIG in a number of areas, with a particular emphasis on the requirement to review and conduct various audits. It required the Department to provide to the IG copies of various audits required under the Decree,<sup>128</sup> so that the IG could review and evaluate each audit's quality, completeness and findings, and provide its evaluation of the audit to the Police Commission. In addition, the OIG was required to conduct its own audits of CUOF, NCUOF and Complaint Form 1.28 investigations.

In relation to TEAMS, the Consent Decree required the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform specific tasks required by the Consent Decree. It also required the OIG to periodically use TEAMS II to conduct audits of the LAPD and to review LAPD

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<sup>128</sup> This included all reports of specified audits prepared by the LAPD (which included those audits required under paragraphs 128, 129, 131, 132, 136, 137 and 138) and audits prepared in compliance with paragraphs 111, 113, 125, 126, 133 and 134. The IG was also authorized to request a copy of any other LAPD audit and evaluate it, at its discretion or at the direction of the Police Commission.

unit-specific and officer-specific audits,<sup>129</sup> as well as examine or identify at-risk practices as determined by trends within a unit or between and among units using the same criteria.

The Decree also required that the OIG be notified in a timely manner of all CUOF, and authorized OIG personnel to be present as an observer on CUOF roll-outs and at any UOFRB meeting.

Lastly, the Consent Decree required the OIG to receive, record and track complaints from LAPD employees alleging retaliation for reporting possible misconduct or at-risk behavior.

### **Overall Achievements of the OIG**

At the commencement of the Consent Decree, the OIG was a marginalized and thus ineffective operation that had little relevancy to how the LAPD performed. Today, the OIG is a respected partner in reform.

As the term of the Consent Decree began, the OIG set out to develop the policies and protocols that would enable it to fulfill its mandate to review UOF and complaint investigations<sup>130</sup> However, during the first two years of the Consent Decree, the OIG struggled with the requirements to review the Department's audits and conduct its own audits. As a result, the Monitor concluded that the OIG did not meet the requirements of the Consent Decree. In making this conclusion, the Monitor noted numerous issues: the OIG's audit samples were selected independently from the audit samples used by AD; the OIG's conclusions that the Department's audits were "generally thorough and complete" or "adequately addressed the issues set forth in the Consent Decree" were not supported or were inconsistent with findings in its reports; the OIG did not identify numerous deficiencies in the Department's audit reports, nor did it perform any population completeness tests; and, lastly, the OIG did not complete its reviews of the Department's audits and its own reviews of CUOF and NCUOF incidents and complaints on a timely basis.

By December 2003, although the OIG had achieved compliance with certain Consent Decree paragraphs related to its reviews of the Department's audits, resource constraints caused the OIG to be several months behind in its evaluations of many audits submitted by the Department, and more than a year behind in completing its own independent audits. This

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<sup>129</sup> These audits are to review officers demonstrating at-risk behavior as determined by their history of administrative investigations, (ii) misconduct complaints, (iii) discipline, (iv) uses of lethal and non-lethal force, (v) criminal or civil charges or lawsuits, (vi) searches and seizures, (vii) racial bias, (viii) improper arrests, or (ix) any other matter requested by the Police Commission or, subject to Charter section 573, any other improper conduct or at-risk behavior the IG has reason to believe exists.

<sup>130</sup> The OIG's Use of Force section developed a protocol on rollouts to UOF incidents. The LAPD also produced Special Order No. 17, which requires IAG to provide the IG with all complaint intake information.

pattern continued through to September 2004, when the Monitor expressed concern that the OIG had not yet effectively performed some of its mandated functions and questioned the OIG's ability to effectively oversee the LAPD given its inadequate resources.

In response to the issues raised by the Monitor, starting in 2004, the OIG began to develop tools to assist its staff in reviewing the Department's audits, conducting their own audits, and reviewing use of force investigations and complaint investigations. These tools consisted of matrices with questions that guided the auditor/reviewer through the documents they were looking at and a manual for conducting reviews, which was issued in the spring of 2005. In addition, in late 2004, the OIG commenced a reorganization of its entire office. This process involved converting existing "Management Analyst" positions into "Special Investigators" and "Police Performance Auditors," and recruiting candidates with the necessary legal, auditing and/or policy backgrounds to directly address the expertise issues that were preventing the OIG from achieving compliance in each area of oversight. Once an appropriate team of professionals was in place, the OIG developed a plan to approach the required reviews. For the OIG's audit team, this involved first issuing timely quality reviews of LAPD audits, and then addressing the requirements for completing its own reviews of NCUOF incidents and complaints. At the same time, the OIG's Use of Force section implemented the use of a matrix in conducting reviews of UOF incidents.

During the same period that the OIG was developing its resources and restructuring its team, the OIG worked in conjunction with the Monitor and the DOJ to change paragraph 136 to require the OIG to review rather than audit CUOF incidents, NCUOF incidents and complaints. Additionally, the focus of these reviews was changed to provide the OIG with more latitude in what the reviews would consider.

With the implementation of the changes described above, the OIG's compliance levels improved dramatically. The OIG achieved compliance with both the timeliness and quality criteria of its requirement to review the Department's audits in September 2005. After this, the OIG made significant strides in 2005 and 2006 in successfully implementing its role, and completed 16 timely reviews of the audits completed by AD and the EES. Additionally, the OIG conducted its first compliant reviews of complaints and CUOF and NCUOF incidents starting in March 2006 and June 2006. Each of these reviews and audits provided insightful comments, conclusions and recommendations to the Police Commission. By June 2006, the Monitor concluded that the OIG had developed a professional audit team that included police performance auditors and special investigators with the expertise to ensure that the OIG meets its mandate.

By June 2007, the OIG had completed a total of 30 quality reviews of Department audits. The OIG also continued to conduct quality reviews of CUOF, NCUOF and complaints. By July 2008, as a result of the number of compliant reviews, the Monitor concluded that the OIG had achieved substantial compliance with pertinent Consent Decree requirements and elected to conduct only limited reviews of selected OIG reports to ensure that the Department's compliance was maintained during the remainder of the extension period.

## Consent Decree Compliance

As described above, the OIG's transition to a team that consistently produced quality reviews and audits was achieved through a number of major initiatives and the development of a plan to address problems identified by the Monitor and to achieve compliance with Consent Decree requirements. This plan was implemented in various stages, starting first with its review of the Department's audits, then with the requirement to conduct its own reviews of UOF and complaints, and, lastly, once TEAMS II was implemented, with the requirements for the OIG to review the Department's use of TEAMS II and to use TEAMS II to conduct audits of the LAPD or to review LAPD unit-specific and officer-specific audits conducted by the LAPD.

### *Requirement to Provide Timely Reviews of AD's and the EES' Audits*

The Monitor concluded that the OIG's review of the Department's audits was in compliance for the first time in December 2002.<sup>131</sup> Although compliance was achieved based on the quality of the reviews conducted, the OIG did not submit quality reviews on a timely basis until June 2005. Subsequent to September 2005, although there were a few quarters in which the OIG did not submit its review on a timely basis, the Monitor consistently found that the OIG's reviews were quality reviews. From June 2006 onwards, the OIG submitted timely quality reviews of audits conducted by both AD and the EES.

### *Requirement for the OIG to Conduct Reviews of Complaints and CUOF and NCUOF Incidents*

As indicated above, the OIG completed its first compliant review of complaint investigations in March 2006. This occurred after the OIG implemented its restructuring strategy described in the preceding section. In June 2006, the OIG submitted a quality NCUOF review and the OIG's reviews of each CUOF incident, which were provided to the Police Commission, were determined to be quality reviews. Since that time, the Monitor concurred with most of the OIG's findings and concluded that the OIG continued to submit quality reviews of CUOF incidents, NCUOF incidents and complaints, notwithstanding significant disagreement from the Department regarding the findings from these reviews, both prior to the OIG issuing its reports and afterwards.<sup>132</sup> This ability to remain independent of the Department is a cornerstone of the OIG's future success.

### *Requirement to Review the LAPD's Use of TEAMS II Protocol*

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<sup>131</sup> This finding was based on the OIG's October 2002 review of AD's *Search Warrants and Supporting Affidavits Audit*, the OIG's November 2002 review of the Criminal Intelligence Group's *Confidential Informant Control Packages Audit* and the OIG's August 2002 review of DSD's *Gang Unit Use of Confidential Informants*.

<sup>132</sup> In some instances, during the closeout meetings and when the OIG's reports became public reports, the OIG has received substantial criticism for its findings from areas that were dissatisfied with the findings. This is to be expected given the OIG's oversight role.

Once TEAMS II was fully implemented in the spring of 2007, the OIG commenced its audit of TEAMS II, which requires the OIG to audit the quality and timeliness of the LAPD's use of TEAMS II to perform the tasks identified in paragraph 47. In this audit, the OIG split its review into two reports: a Phase I report, which covered system-generated action items, and a Phase II report, which covered supervisor-generated action items and routine system-generated action items.<sup>133</sup> The Monitor agreed with this approach and similarly split its evaluation of paragraph 137 into two separate evaluations.

The OIG submitted its TEAMS II Phase I audit in November 2007, its Phase II audit in June 2008 and another Phase I audit in October 2008. The Monitor concluded that each of these audits were compliant, and the Monitor provided input to the OIG regarding areas in which the OIG could improve its reviews. The Monitor anticipates that the OIG will address these requirements in the OIG's future TEAMS II audits.

#### *Requirement for the OIG to Use TEAMS II to Conduct and Review Audits*

The Monitor withheld a determination of compliance with requirements for the OIG to use TEAMS II to conduct and review audits in September 2008. In December 2008, the Monitor found the OIG in compliance with the requirement to examine and identify officers with at-risk behavior, but withheld a determination of compliance with the requirement to examine and identify trends. The Monitor and the OIG subsequently met and the OIG outlined a strategy for approaching the trending requirements which the Monitor concurs with.<sup>134</sup> Going forward, the OIG and Department will need to implement this strategy and the DOJ will need to confirm that the OIG has conducted sufficient review of at-risk practices or trends within units or between units. The Monitor is of the opinion that if the OIG implements this strategy, it will meet these requirements.

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<sup>133</sup> At the time the OIG issued its first TEAMS II report, it originally intended to include only supervisor-generated action items in the Phase II report. However, after the OIG issued its Phase I report, increased automation of TEAMS II significantly reduced the number of supervisor-generated action items but increased the number of system-generated action items. These new system-generated action items are not generated as a result of an officer exceeding a threshold, but as a result of a promotion or transfer. As a result, they are routine and involve less risk. These lower risk action items were also assessed in Phase II, along with any supervisor-generated action items.

<sup>134</sup> The strategy involves the OIG obtaining and reviewing action item reports on a semi-annual basis to identify areas that appear to be at risk for one of the criteria listed in paragraph 138a. After preparing a report of their findings, the OIG will submit this report along with suggested areas for discussion to RMEC for review and follow-up with the appropriate Department Captain or other senior management who should respond to the report in a reasonable time.

## Recommendations

Over the past eight years, the OIG has developed into a team of professionals that continues to consistently conduct quality reviews of Department audits and audits of the Department's CUOF, NCUOF and complaints. The OIG has also taken on other special projects, including reviews of specific incidents such as the MacArthur Park May Day incident that occurred in 2007. The Monitor believes the OIG is well-positioned to continue its role of civilian oversight of the Department and to take on further responsibilities previously held by the Monitor. At the same time, the Monitor worries about the independence of the OIG under a different Police Chief or a different Police Commission. The City family needs to look at potential structural changes that can ensure independence in the future.

In order to be successful at this role, it is critical that the OIG remain independent and challenge the findings of FID, AD, IAG and other groups within the Department. For the most part, the OIG has accomplished this task in the past three years, notwithstanding significant feedback from the Department in response to reports that are less than favorable. This has ensured that the Department has addressed shortcomings in how it conducts internal investigations and audits of various areas.

Going forward, like AD, in order to ensure the best use of its resources, the OIG will need to assess which reviews it should continue to conduct and its approach to these reviews. The OIG may wish to maintain the same reviews, or it may be appropriate to take on additional reviews. As recommended above in relation to the OIG's reviews and use of TEAMS II, the OIG is still fine-tuning its approach to reviewing these requirements. The Monitor recommends that the OIG continues to challenge itself and the Department in how they use TEAMS II as a tool to improve the Department's ability to recognize at-risk officers and units. The Monitor commends the OIG for its progress and supports the OIG in continuing to develop as one of the primary oversight bodies of the LAPD.

## 4. Police Commission Oversight

The *Christopher Commission Report* dedicated an entire chapter to the status and role of both the Police Commission and Chief of Police, and their relationship with each other and other City entities. The Christopher Commission identified numerous systemic problems in relation to how the Police Commission functions and provides oversight. These included the inability of the Police Commission to review and monitor disciplinary matters, failure to provide sufficient information to the Police Commission so that it could effectively monitor the Department's uses of force or make policy recommendations. The Christopher Commission also reported that "although the Police Commission is responsible for reviewing and approving the Department's annual budget, it has insufficient resources to participate meaningfully in the budget

process,”<sup>135</sup> and cited a lack of ability on the part of the Police Commission to ensure that a recommended policy change was implemented by the Department. Overall, the Christopher Commission concluded that “the Police Commission – while given broad authority over the Department and its Chief – has neither the resources nor the real power to perform effective oversight and control.”<sup>136</sup>

The BOI focused on the role of the Police Commission in reviewing OIS incidents in order to ensure a complete, thorough and impartial examination of how these incidents are reviewed. This process includes reviewing the Chief of Police report<sup>137</sup> and issuing a report of the incident.

Although the DOJ’s *May 2000 Letter Report* did not specifically refer to the role of the Police Commission, the DOJ indicated that they interviewed members of the Police Commission as part of its investigation, which cited deficiencies in LAPD policies and procedures that resulted in multiple concerns regarding supervisory oversight and an overall failure to implement a system that would identify and respond to patterns of at-risk officers. Since the Police Commission is the ultimate oversight body for the LAPD, these concerns suggested problems with the oversight provided by the Police Commission.

### **Consent Decree Solutions**

The Consent Decree required the Police Commission to review and evaluate all CUOF to determine conformance with LAPD policies and procedures, and the requirements of the Consent Decree. The Commission’s findings were to be included in a publicly available annual report.

The Police Commission was also charged with reviewing various audits to determine whether changes in LAPD policies were necessary; all such changes were to be approved by the Police Commission. In addition, the Police Commission was required to conduct annual reviews of the Chief of Police and was also charged with investigating complaints against the Chief of Police. While conducting its annual review of the Chief of Police, the Police Commission was required to consider the Chief’s responses to UOF incidents, complaints of officer misconduct, assessment and imposition of discipline, and other specified matters.

The Commission was also required to continue to review and approve the LAPD’s budget requests.

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<sup>135</sup> See page 192 of the Report of the Independent Commission on the Los Angeles Police Department, 1991.

<sup>136</sup> See page 207 of the Report of the Independent Commission on the Los Angeles Police Department, 1991.

<sup>137</sup> For each CUOF incident, the Chief issues a report analyzing the incident and assessing whether or not there are concerns with the officers’ tactics.

## Overall Achievements of the Police Commission

On March 20, 2001, the Police Commission passed an Action specifically requiring that the review of CUOF investigations must include a determination that the officer acted in compliance with the Consent Decree and report its findings to the Chief of Police regularly. After review of each CUOF, the IG prepares an analysis of the incident and forwards it to the Commission as their independent review. The IG's analysis, the Chief's recommendations and the FID report are presented to the Police Commissioners for their review and adjudication. Discussions regarding the incidents are held with the Chief of Police in closed session. Overall, disagreements concerning the ultimate outcome of an incident are rare.

The Police Commission's Annual CUOF Reports have contained a great deal of informative information. The first report reviewed by the Monitor was for incidents which occurred and/or reviewed by the IG and Police Commission during 2001. The Monitor found that report to be especially informative when discussing gender, ethnicity and age of both the suspects and officers involved in the CUOF incidents.

The OIG noted that it was difficult to track training for officers involved in CUOFs when it had been recommended by the Chief of Police. As a result, the Commission directed the Department to develop a process to ensure that all directed training was tracked.<sup>138</sup> The OIG also began to track that officers had actually received the training and requested that the Department report the status of the training to the Commission on a monthly basis.

The Police Commission initially had problems developing a system to track audits conducted by the LAPD and reviews or audits conducted by the OIG. The Monitor provided assistance in developing a process to track these audits in September 2003, and the Police Commission presented its system to the Monitor in September 2004. By September 2005, the Police Commission had successfully implemented this system so that it could track all audits and reviews. Since that time, the Police Commission has continued to refine its system to ensure that it reviews all audits, considers if any changes in policy are needed as a result of the audits, and receives feedback from the Area command staff explaining any deficiencies identified in the audits and the steps taken to resolve these deficiencies.

Early in the Consent Decree, the Monitor also found that there was no tracking system at the Police Commission that could be compared with the records maintained by the IG to determine if all complaints received by the Police Commission were forwarded to the OIG. During the quarter ending December 31, 2002, the Monitor recommended that a record-keeping system be put in place at the Police Commission to track all misconduct complaints filed against the Chief of Police in order to allow for comparison with records maintained by the Inspector General and

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<sup>138</sup> Implementation of Special Order No. 17, *Training Update Subsequent to a CUOF*, provides officers with training for issues raised during the initial stages of CUOF investigation. Training is required to be provided within 21 days of the incident.



contained on the Chief's TEAMS Report. Early in 2003, the Police Commission established a log for the purpose of tracking complaints filed with the Commission against the Chief of Police.

## **Consent Decree Compliance**

### *Police Commission's Review of Categorical Use of Force Incidents*

The Monitor reviewed CUOF packets that were submitted to the Police Commission on several occasions during the term of the Decree. In all instances, the packets were complete, containing all the necessary and appropriate documentation in order to evaluate the incident. As a result, in March 2006, the parties to the Consent Decree agreed that the Department had achieved substantial compliance with this requirement.

During most reviews conducted during the Decree, the Commission's Annual CUOF Report was found to address most Consent Decree requirements with regards to the publication of the report; however, there were delays in the publications of the 2002 and 2003 Annual Reports due to staffing problems of the OIG. Although these reports were of a quality nature once published, the delays resulted in a determination of non-compliance. As a result the Monitor continued to audit this requirement during the extension. The Monitor found that subsequent Annual Reports were in compliance with requirements regarding timing and content. As a result, the Monitor concluded that the Department was in substantial compliance with Decree requirements by the quarter ending March 31, 2008.

### *Police Commission's Review of Consent Decree Audits*

Up to September 2004, the Police Commission had either not developed a process to track the LAPD's and OIG's audits or the resulting analysis was missing several LAPD audits and OIG audits and reviews. Consequently, the Police Commission and its staff were unaware of the status of many of the audits/reviews expected to be issued. As a result, the Monitor found the Department in non-compliance with requirements regarding the Commission's reviews of Decree audits.

In September 2005, the Monitor determined that the Police Commission had developed a system for tracking the audits that contained most of the required information. Upon reviewing additional information in December 2005, the Monitor determined that the Police Commission had reviewed and approved all appropriate audit reports and considered if any changes in policy were needed. As a result, the Monitor concluded for the first time that the Department was in compliance with the audit review requirements.

The Monitor continued to review compliance with these requirements during the Consent Decree extension, as the Department had only achieved compliance once prior to the extension. In September 2006, the Monitor identified that the Police Commission had refined its system for tracking audits and again found the Department in compliance. By September 2007, in addition

to tracking the audit and review reports, the Police Commission instituted a system whereby command staff was required to appear before the Police Commission to explain any deficiencies and provide progress reports of actions taken to resolve the deficiencies. Based on these successes, in July 2008 the Monitor concluded that the Police Commission was effectively performing its oversight role relating to the recommendations from the audits and the Department was in substantial compliance with these requirements; the Monitor further concluded that active monitoring of compliance with these requirements was no longer required during the balance of the extension.

*Police Commission's Inclusion of Audit Results in Its Evaluation of the Chief of Police*

The Monitor first concluded the Department was in compliance with the requirement to include the audit results in the evaluation of the Chief of Police in December 2003. In June 2005, the Monitor withheld a determination of compliance as there was no specific indication that the Police Commission had considered the results of the audits in its evaluation, but the Monitor was informed that this information had been considered. The Monitor found the Department in compliance again in December 2005, as the Chief's review specifically considered the results of the audit. As a result, in June 2006, the Monitor concluded the Commission was in substantial compliance with this requirement, and did not actively monitor compliance with the requirement during the extension.

*Police Commission's Review and Approval of New/Changed Policies and Procedures*

In March 2003, the Monitor found the Commission was not in compliance with this paragraph, as the review of the policies and procedures was not completed on a timely basis. However, in September 2003, December 2004 and December 2005, the Monitor determined that the Commission was in compliance, in that they had reviewed and approved all new policies and that all special Orders and Procedures adopted by the Police Commission were date-stamped as approved by the Board of Police Commissioners. As a result, in June 2006, the Monitor concluded the Commission was in substantial compliance with this requirement, and did not actively monitor compliance with the requirement during the extension.

*Police Commission's Annual Review of the Chief of Police*

The Police Commission's annual review of the Chief of Police for the period covering July 1, 2002 through June 30, 2003, encompassed six distinct areas of performance, considered the requirements of the Consent Decree and included consideration of the Police Commission's assessment of the appropriateness of discipline imposed by the Chief. The Monitor concluded that this annual review was compliant with the Decree requirements. The Police Commission subsequently completed compliant annual reviews of the Chief of Police covering the periods

July 1, 2003 through June 30, 2004, and July 1, 2004 through June 30, 2005.<sup>139</sup> As a result, the Monitor concluded that the Department achieved substantial compliance with these requirements prior to the extension of the Decree, and the Monitor did not actively assess compliance with these requirements during the extension period.

*Police Commission's Investigation of All Misconduct Complaints Against the Chief*

Due to the sensitive nature of complaints filed with the IG<sup>140</sup> against the Chief of Police, the City only provided documentation directly to the Chief Monitor or his Deputy.

The LAPD was found to be in non-compliance with these requirements during the quarter ending June 30, 2003, due to discrepancies between the Chief's TEAMS Report and databases maintained by IAG and the OIG, and between documentation kept by the Police Commission and OIG. The Monitor found the complaint investigations to be thorough and of good quality, although one complaint was terminated due to the Chief's retirement. The Monitor found no policy or procedure in effect concerning the termination of complaint investigations upon the retirement of a Chief of Police. The IG represented to the Monitor that all future investigations will continue regardless of the Chief's employment status. The Monitor again found the Department in non-compliance during the quarter ending September 30, 2004, because the OIG had no written protocol for the investigation of, and reporting on, complaints against the Chief of Police.

The Monitor found the LAPD in compliance with requirements regarding the Police Commission's investigation of misconduct complaints against the Chief during the quarter ending June 30, 2005. The Deputy Monitor reviewed the status of OIG complaint investigations against the Chief of Police and determined that the OIG put into place written protocols for the investigation of, and reporting on, complaints against the Chief. The Deputy Monitor also reviewed the pending complaints against the Chief of Police and found them to be compliant with those protocols and with appropriate standards of investigation.

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<sup>139</sup> In the review covering July 1, 2003 through June 30, 2004, there was no specific indication that the Police Commission considered its assessment of the appropriateness of discipline imposed by the Chief in its evaluation. The Executive Director of the Police Commission indicated that he believed that this was considered, even if it was not specifically declared in its written evaluation. The Commission's next review for the period July 1, 2004 through June 30, 2005 specifically considered the Chief's responses to UOF incidents and complaints of officer misconduct, assessment and imposition of discipline.

<sup>140</sup> The OIG conducts investigations concerning misconduct complaints filed against the Chief of Police and maintains files pertaining to each investigation. At the conclusion of each investigation, the IG makes a recommendation to the Police Commission as to the appropriate disposition of the complaint. The Commission may adopt the recommendation of the IG or determine a different disposition.

At the end of the initial term of the Consent Decree, the Monitor found the Department in substantial compliance with these requirements, and compliance with them was not actively monitored during the extension period.

*Police Commission's Review and Approval of the LAPD's Budget*

The Monitor found during 2002, 2003, 2004 and 2005 that the Police Commission reviewed and approved LAPD budget requests before submission to the City. Each year, the Monitor noted the requested amount, the size of the increase from the prior year and date the approved budget request was forwarded to the City. As a result, the Monitor concluded that the Department achieved substantial compliance with this requirement prior to the extension of the Decree, and the Monitor did not actively assess compliance during the extension period.

## **Recommendations**

The Monitor commends the Police Commission for assuming a larger oversight role in the LAPD operations. In moving forward, the Monitor offers the following recommendations:

Since the Police Commission is the final authority on all activities related to the LAPD, the Police Commission must remain independent and impartial, but at the same time remain involved at a supervisory level in the activities of the LAPD and the COP. The current Police Commission has consistently shown the level of review and involvement needed. The Monitor encourages the Mayor and City Council to ensure that the future members they appoint and confirm to the Police Commission have the necessary skills, training and interest in the activities of the LAPD and the Chief of Police to maintain this level of review.

## **5. Financial Disclosure**

The Consent Decree required regular and periodic financial disclosures by all LAPD officers and other LAPD employees who routinely handle valuable contraband or cash and periodic audits of such disclosures. In addition, the LAPD was required to periodically audit a random sample of such disclosures to ensure their accuracy.

On January 17, 2006, the issue of financial disclosure came before the Court in the form of a motion filed jointly by the City and DOJ to amend the Decree as allowed by the "Meet and Confer" process required by California law. The City indicated that the proposed amendment to the Consent Decree was the product of that Meet and Confer process. The Monitor opposed the amendment in its February 16, 2006 filing because, in the Monitor's judgment, it did not fulfill the intent of the paragraph, which as written represents best practice with the potential of preventing corruption in susceptible positions in ways that the proposed amendment did not. The Court denied the motion to amend at a March 21, 2006 hearing, leaving the paragraph as unfulfilled and in non-compliance.

At the end of the initial period of the Consent Decree, the Monitor, with the approval of the parties, planned to actively monitor paragraph 132 during the extension period pending the full implementation of appropriate financial disclosure. Subsequent to the Court's decision, the City was unfortunately unable to reach an agreement with the Police Protective League on the appropriate parameters of financial disclosure, which led to the unilateral adoption by the Police Commission of the current policy.

On December 20, 2007, the issue moved forward with the proposal by the Police Commission of a policy intended to appropriately address the requirements of the paragraph. The Police Protective League took the position that the proposal violated California law and various meet and confer provisions, and filed suit in State Superior Court that same day seeking judicial intervention to prevent the adoption of the policy. The policy allows a two-year grace period for officers currently serving in affected units, thereby allowing officers who so object to the requirements to seek assignments in other units of the Department. The Monitor wrote at the time that "because of this grace period, it will not be possible to meet the requirement of two years of substantial compliance during the term of the current extension of the Decree. Accordingly, it is possible that the Court will require an extension of this provision to ensure two years of substantial compliance."

On January 15, 2008, the Los Angeles City Council asserted jurisdiction over the financial disclosure policy approved by the Police Commission but dropped its objection to the plan on February 6, 2008. Judge Feess granted a temporary restraining order on the implementation of the financial disclosure policy on June 13, 2008, and then decided on August 22, 2008 not to block the plan. The Police Protective League appealed the decision and on September 12, 2008, the 9th Circuit Court of Appeals put the financial disclosure policy on hold pending appeal. On February 27, 2009, the 9th Circuit rejected the Police Protective League's bid to block financial disclosure, and the LAPD vowed to implement the plan within 30 days.

As a result of the activity described above, substantial compliance with financial disclosure requirements has not been achieved, and the requirements are one of the subjects of the Transition Agreement.

## **6. General**

In addition to identifying the need to establish the AD and conduct audits on a regular basis, the BOI report identified that it was critical to track the implementation of recommendations from previous audits so that command staff do not make the same mistakes over and over again.

## **Consent Decree Solutions**

The Consent Decree required the City and the Department to take appropriate, timely and reasonable steps to implement recommendations and remedy deficiencies noted in reviews, audits and reports issued by the Police Commission, the IG, and the Department under the Consent Decree.

## **Overall Achievements of the LAPD**

Initially, the City disagreed that this paragraph required any action by the LAPD. Notwithstanding this, CRID developed a Recommendations Tracking System (RTS), which was used to generate an *Audit Recommendations Status Report* for the Police Commission. This report listed each of over 500 recommendations from the LAPD and OIG's audits and reviews, tracked the steps undertaken to address such recommendations and identified which recommendations were to be implemented. Additionally, the OIG implemented a separate system in early 2005 to track the audit recommendations made from its confidential reviews of the EES quarterly reports. Over the term of the Decree, the LAPD has continued to update and improve the system, first by creating a more sophisticated database to better track the extensive number of recommendations generated by AD and the OIG and then by enhancing the information within the system to ensure that the relevant parties were aware of who was responsible for ensuring each recommendation was addressed by the Department.

## **Consent Decree Compliance**

In December 2002, the Monitor reported that there were numerous recurring deficiencies identified in successive audits that were not yet addressed, and neither the City nor the Department had developed a process to track the LAPD's implementation of recommendations emanating from audits and other reviews and reports required by the Consent Decree.

The Monitor reported in September 2003 that the LAPD had developed a system to track recommendations and to correct deficiencies identified in the LAPD's audits, but this process was incomplete, as there was not yet a process to track the OIG's audit recommendations and actions thereon.

The Monitor found the Department in compliance with paragraph 154 for the first time in December 2004 and again in December 2005, after reviewing CRID's *Audit Recommendations Tracking Reports* for each of the four preceding respective quarters and printouts from the OIG's recommendations tracking system for the EES audits. By December 2006, the Monitor identified that CRID had expanded the system to include other non-Consent Decree audits. The Monitor continued to find the Department in compliance with paragraph 154 in December 2007 and December 2008. As a result, the Department achieved substantial compliance with this requirement.

## Recommendations

CRID and the OIG have each created a database and system for ensuring that recommendations from reports are assigned, tracked, reviewed and assessed as to whether or not they should be implemented. The Monitor commends CRID and the OIG for creating these systems and encourages both bodies to maintain these systems.

## H. Community Outreach and Public Information

The Christopher Commission reported that the LAPD's approach to policing was a "professional approach" that emphasizes crime fighting and "isolated the police from the communities and the people they serve." The Commission wrote that although "this style of policing produces results," it "does so at the risk of creating a siege (we/they) mentality that alienates the officer from the community." The commission recommended that the LAPD move toward a community policing model that "treats service to the public and prevention of crime as the primary function of police in society." The commission wrote that "using a community-based style of policing, LAPD officers can continue to be active and energetic in preventing crime, as well as reacting to it, without unnecessarily aggressive confrontations with the public."

The *March 2000 BOI Report* noted a need for a community police approach, and noted that CRASH operations appeared to be lacking community involvement and community outreach. Due to the demographics of Rampart Area, the BOI wrote that the predominantly Spanish-speaking Central American immigrants, many of whom are undocumented aliens who fear deportation by the police, were "inherently reluctant or fearful of making complaints," thus allowing "corrupt officers [to be] freer to operate without the fear of being caught." A common theme in the report was that "officers must be reminded of the community problem-solving goal, especially those working in 'elite assignments' where the culture is viewed as more aggressive and seems to work under a different set of rules."

### Consent Decree Solutions

The Consent Decree required the Department to conduct a Community Outreach and Public Information program for each LAPD geographic Area. This program was to consist of open public meetings to inform the public about the provisions of the Decree and the methods of filing a complaint against an officer, and to provide information on the LAPD and LAPD operations in order "to enhance interaction between officers and community members in daily policing activities." These meetings were to be held each quarter in each of the 18 geographic Areas in the first year of the Decree, and one meeting in each Area held annually thereafter. The City was also required to publish notice of the meetings.

The Department was also required to prepare and publish on its website semiannual public reports. These reports were to contain aggregate arrest, stops and UOF statistics broken down by each LAPD geographic Area and for the OHB and by the race/ethnicity/national origin of the citizens involved. The LAPD was also required to post results of Consent Decree specified audits, a summary of all discipline imposed during the period reported by type of misconduct, and any new policies or changes in policies made by the Department to address the requirements of the Decree, as well as the City's semiannual status reports to the Court and the Independent Monitor's quarterly reports.

Lastly, the LAPD was required to continue to utilize community advisory groups in each geographic Area and to meet quarterly with the communities they serve, and to establish a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in the city.

### **Overall Achievements of the LAPD**

At the outset of the Decree, the LAPD took immediate steps to comply with Consent Decree's community outreach requirements. First, the LAPD issued Administrative Order 8, dated July 25, 2001, which organized the Department's outreach programs and established new procedures that compliance with the Decree's requirements. Significantly, before the end of the first quarter of the Decree (September 30, 2001), all 18 LAPD geographic Areas scheduled and held their first Consent Decree-required community meetings, in which they presented all required information. The Department continued to hold the required community meetings during the remainder of the original term of the Decree.

On October 2, 2001, the first semiannual LAPD report was published on the Department's website, documenting the time period January 1 through June 1, 2001. In this report, the Department complied with the following publication requirements:

- Aggregate statistics by geographic Area;
- Report of specified audits and any corrective actions taken;
- Summary of all disciplinary actions; and
- New policies and procedures.

The Media Relations Group met in October 2001 and again in November 2001; the group included seven members from the various council districts and three members of the LAPD.

During the quarter ending December 31, 2001, the LAPD's Community Affairs Group published meeting schedules both on the City's and the Department's website well in advance of the actual meeting dates. Schedules were also posted in 11 citywide newspapers in the following languages: English, Farsi, Japanese and Spanish. Some divisions augmented the City's list of



publications and advertised in additional publications that were representative of their community. For example, the Southeast Division advertised their meeting in *New Times LA*, *African Times*, *LA Weekly*, *Herald Dispatch*, *LA Watts Times* and *Para Ti*. The Monitor found that although some divisions were thorough in documenting their efforts to comply with the Consent Decree, other divisions did not document where and when they placed flyers or who had presented at their meetings. Although meeting content was to focus on LAPD operations, each Division determined the subject matter to be covered. The Wilshire Division's meeting titled "Racial Profiling or Data Collection? Find out what the Consent Decree requires of the LAPD" was especially timely with the beginning of data collection in November 2001.<sup>141</sup>

The Media Advisory Group met on March 22, 2002, and again on November 22, 2002. The Monitor noted that only four people attended the latter meeting. The LAPD also successfully publicized and held quarterly Media Advisory Group meetings during the quarter endings March 31, 2003, and June 30, 2003.

Although the LAPD continued to post on its website much of the information required by the Consent Decree, not all of the required information was included. Information collected from pedestrian and vehicle stops was not posted, preventing the LAPD from complying with pertinent requirements during the quarters ending March 31, 2002; June 30, 2002; September 30, 2002; and December 31, 2002. The Monitor recommended that the Department organize all required reports/postings under one hyperlink to simplify access to this information. The Monitor found the LAPD in compliance with these requirements during the quarter ending March 31, 2003, as by that point the LAPD's website now contained all the required information, including: pedestrian and traffic stop data for the period evaluated, a summary of all discipline imposed during this period, reports of audits completed during the period, and new policies or changes in policies made by the Department to address the Consent Decree for the relevant six-month period. The Monitor found that the website continued to contain all of the required information during all subsequent assessments made during the remainder of the original term of the Decree.

The LAPD publicized and successfully held a Media Advisory Group during the quarter ending September 30, 2003, which focused on outreach to the city's Korean community. Two

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<sup>141</sup> During the quarter ending March 31, 2002, the Monitor discovered alarming evidence that certain officers were making negative statements at community meetings about the Consent Decree and the Monitor. They portrayed the Decree as a frivolous exercise imposed from outside that the LAPD must endure for the next five years, rather than an opportunity for substantive reform. In striking contrast, the Monitor noted that an officer responsible for a meeting in the Foothill division made a thorough and quite professional presentation, explaining that the Consent Decree had been imposed as a result of the Rodney King and the Rampart scandals, and because the government believed the Department had engaged in racial profiling. He told the audience that "all of the points included were good and it would not hurt the Department to implement them."

representatives from Councilmember Jan Perry's office attended. However, no meeting was held during the quarter ending December 31, 2003, due to a lack of response from Media Advisory Group members.

### **Consent Decree Compliance**

As described above, within the first six months of the Decree, the Department enacted new policies to provide for the required community meetings and publishing of information to the Department's website. And, by the first quarter of 2003, all of the requirements of the Decree, including the posting of all required information on the Department's website were in compliance.

The Monitor found the Department in compliance with requirements regarding community advisory groups and a media advisory working from December 2002 to September 2003, but found the Department in non-compliance in December 2003, as a meeting was not held due to the lack of response from Media Advisory Group members. However, the parties requested an amendment to this requirement, among others, in their Joint Request to Amend the Consent Decree Pursuant to Paragraph 180 of the Consent Decree, filed with the Court on April 15, 2005.<sup>142</sup> On June 2, 2005, the Court approved the amendment, which added "through the third year of the Consent Decree" to the original text in order to read, "The Department shall establish a media advisory working group to facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles through the third year of the Consent Decree."

As a result, the Department achieved substantial compliance with all requirements of this section of the Decree by the expiration of its original term, and the Monitor did not actively monitor compliance with these requirements during the extension period.

### **Recommendations**

The Monitor commends the LAPD for the accomplishments it has made in achieving compliance with the requirements in the area of community outreach. Policies and procedures are in place, and the oversight role of AD, the Police Commission and the OIG continues to ensure that the policies and procedures are followed, and that deficiencies are corrected and recommendations

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<sup>142</sup> The parties wrote in their filing that "the media advisory group was appropriate during the first year of Decree implementation" and that "the media group has served its purpose, as illustrated by the media's unwillingness to attend meetings." As "efforts to work with the media to facilitate delivery of information to all Los Angeles communities are now better served by other LAPD public relations efforts," they wrote, "the requirement for a media advisory group should sunset at this time."

are implemented. The Monitor is confident that the Department will continue to be proactive in the area of community outreach, and offers the following recommendations in this regard:

- The LAPD should continue posting all required information on its website. The Department may consider having the information available for those members of the public who do not have Internet access.
- The LAPD should maintain its partnership with Community Police Advisory Boards (CPABs) for all Areas and continue to report to the Police Commission on their activities.

### **III. Conclusion**

Over the past eight years, the Monitor has approached the oversight of LAPD as being controlled by the specific mandates of the Consent Decree and the overall intent of the Decree. The mandates of the Decree, as found in its 90 pages, were operationalized in a 200-plus page methodology that required hundreds of specific actions by the LAPD, and described the metrics by which the Monitor was to statistically measure progress toward >94% compliance. This disciplined and technical approach was at times frustrating for all parties, but the granularity was necessary in order to ensure that real reform was taking hold across the Department. At the same time, the Monitor never lost sight of the overall intent of the Decree: to help transform the LAPD into a department that effectively fights crime while honoring and protecting the rights of the residents of Los Angeles.

In the areas of officer-involved shootings and use of force investigations, training, auditing, handling of the psychologically disturbed, complaint acceptance and investigations, the use of Early Warning Systems and risk assessments, and the role of an Inspector General, Los Angeles is a model for best practice policing in the United States and abroad. But these areas of improvement may still be too granular if it causes us to miss the more subjective changes in attitude and realization of responsibility that we have seen over the past eight years. Eight years ago, respect for civil rights by the LAPD was, at times, viewed as a reason for non-policing. We heard, for example, how officers would not make stops if they were required to complete Field Data Reports on stops they were making. We saw, while on ride-alongs, the mentality of an occupying force on the part of the officers and a not unsurprising resentment and distrust of police on the part of those being occupied. Today, there is not just general acceptance of the best practice policing that the Consent Decree has fostered but, for the most part, a willing adoption and understanding of the importance of these practices in fighting crime effectively by creating goodwill in the community. Today, communication with, respect for and caring about the community is the standard practice of a new LAPD.

With this Final Report, the Monitor recommends to the Court that the City of Los Angeles and its Police Department be found in substantial compliance with the Consent Decree and, consistent with the Transition Agreement, be released from its strictures. Our recommendation to the Court is made not because every paragraph has been fully complied with, or because there is no need for continued reform, or that there is absolute certainty about the future of LAPD. Rather, the Monitor recommends the finding of substantial compliance because we believe that the City and Department have complied with the material intent of the Consent Decree. While there is still room for additional reform, as required by the Transition Agreement, we believe that the significant accomplishments to date have brought us to the point where, with oversight provided by the Police Commission and Office of Inspector General, the LAPD can, itself, effectively maintain and advance reform while at the same time ensuring the public's safety.

Our recommendation does not come without reservations. We believe the Transition Agreement is crucial to complete the work on three important initiatives: Teams II, biased policing and financial disclosure. In addition, we are mindful that, inevitably, changes in the factors and personalities that have brought about reform will occur. The consistency of the oversight of the Federal Court, the Department of Justice and the Monitor will end, and there will, at some point, be a new Police Commission, a new Police Chief and a new Mayor. The question is: Will the institutions of Los Angeles, under new management, be able to protect and enhance the reforms that have been achieved? The City and its stakeholders must give careful and continuing consideration to the question of how to best perpetuate the changes that have been made. How can a vigorous and independent Inspector General and Police Commission be assured? What steps can be taken to further promote the institutionalization of internal audit, training, non-biased policing and the use of TEAMS II? While these are issues outside the scope of the Consent Decree, they are challenges that must be met in order to make the past eight years meaningful and the reforms achieved enduring.

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That which has been achieved could not have been done without the dedication of the vast majority of the men and women of the LAPD. Specifically, the Monitor extends its thanks to the following police personnel who were most intimately involved in bringing reform to LAPD: In addition to Chief Bratton, former Chief Bernard C. Parks and former Interim Chief Martin Pomeroy. From the LAPD Consent Decree Bureau (with rank at the time): Police Administrator III Gerald Chaleff, Executive Secretary Armida Lomeli, former secretary Sally Greer, Lt. Scott Sargent, Lt. Brian Pratt and Lt. Rosa Moreno. From the LAPD Audit Division (with rank at the time): Capt. Ron Sanchez, Capt. Walt Schick, Capt. Jodi Wakefield, Lt. John Baronowski, Lt. Tina Nieto, Lt. Kelly Muldorfer, Lt. Art Sandoval and Police Performance Auditor IV Erin Kenney and all of AD's project managers and other audit team members. From the Civil Rights Integrity Division and Consent Decree Bureau (with rank at the time): Capt. Scott Kroeber, Capt. Sandy Jo MacArthur, Capt. Kevin McClure, Lt. Jeff Greer, Lt. Len Hundshamer, Lt. Robert Lopez, Sgt II Alex

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A number of members of the Monitor's team, in addition to Mr. Cherkasky and Mr. Schlanger have served for the entire eight years of the Consent Decree. These include Tom Frazier, our designated policing expert and former Commissioner of the Baltimore Police Department; Joe Buczek, a former agent with the Federal Bureau of Investigation, who headed our Use of Force and Complaints Team; and Christi Gullion, who ultimately led the TEAMS II, Search Warrant, Gang Unit and Confidential Informants teams. Hazel de Burgh served for all but the first six months of the Consent Decree as head of the Monitor's Audit Team. In addition, Penny Cookson served for more than five years as one of the core members of our Audit team and, for more than three years, assumed responsibility for managing the day-to-day operations of the team. Meg Reiss served for four years leading our Training and Biased Policing Teams, before leaving to become Executive Assistant District Attorney in Nassau County, New York. In addition there were many members of the team whose stays were relatively short, but whose contributions were significant: Edward Nagel, David Horner, Terry Penney and Andrew Shin on the Audit Team; and Lee Curtis, Daryk Roland and Kelly McBride on TEAMS II. A special thanks to Rene Salazar, who has served the team extremely well in a variety of both administrative and substantive capacities, and to Kathy Grillo who worked closely with Joe Buczek on the Use of Force and Complaints aspects of the Decree. Lastly, Ron Filak has worked tirelessly, mostly behind the scenes, and has provided invaluable assistance in the editing of this Final Report and the vast majority of our quarterly reports. Biographies of the current members of the Monitoring team appear in Appendix G.

Most importantly, the Monitor would like to thank the residents of Los Angeles whose quest for true reform throughout this process has been our driving force.