



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

**300 South Grand Street - Suite 1300
Los Angeles, CA 90071
Phone: 213-687-2600
Fax: 213-687-2616**

**900 Third Avenue
New York, NY 10022
Phone: 212-833-3228
Fax: 212-980-3743**

November 15, 2001

The Honorable Gary Allen Feess
United States District Court
Central District of California
225 E. Temple Street
Los Angeles, California 90012

**Toll Free: 888-209-9526
lapdmonitor@krollworldwide.com**

Re: United States of America, Plaintiff v. City of Los Angeles, California, Board of Police
Commissioners of the City of Los Angeles Police Department, Defendants
No. CV-11789 GAF (RCx)

Dear Judge Feess:

Consistent with our letter of July 25, 2001, and pursuant to paragraph 173 of the Consent Decree, I am forwarding herewith our first Quarterly Report to the Court. This report covers the period from your appointment of the Monitor, June 15 2001, through September 30, 2001.

The next scheduled Quarterly Status Report will cover the period of October 1, 2001 through December 31, 2001. A draft of that Report will be provided to the parties on or before January 30, 2002 with the final report being delivered to the Court on February 15, 2002.

Sincerely,

Michael Cherkasky
Primary Monitor

Enclosure: First Quarterly Report – November 15, 2001

The Office of the Independent Monitor of the Los Angeles Police Department was created by order of the United States District Court for the Central District of California and is charged with the monitoring of and reporting on the progress of the Los Angeles Police Department in complying with the terms of the Federal Consent Decree mandating various reforms.

Distribution List:

Timothy B. McOsker
Chief of Staff
Office of the Mayor
200 N. Main Street, Room 306
Los Angeles, CA 90012

Ronald F. Deaton
Chief Legislative Analyst
200 N. Spring Street
Room 255
Los Angeles, CA 90012

Roberta M. Yang, Deputy Mayor
Office of the Mayor
200 N. Spring Street, Room 303
Los Angeles, CA 90012

Barb Garrett
Office of the Legislative Analyst
200 N. Spring Street, Room 255
Los Angeles, CA 90012

Rockard J. Delgadillo
City Attorney
1800 City Hall East
200 North Main Street
Los Angeles, CA 90012

Chief Bernard Parks
Los Angeles Police Department
Parker Center
Los Angeles, CA 90012

Steven H. Rosenbaum, Esq.
Chief, Special Litigation Section
Civil Rights Division
Department of Justice
P.O. Box 66400, Washington, D.C. 20035-6400

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REPORT OF THE INDEPENDENT MONITOR FOR THE LOS ANGELES POLICE DEPARTMENT



FIRST QUARTERLY REPORT
NOVEMBER 15, 2001

Kroll

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

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I. INTRODUCTION

The Los Angeles Police Department (LAPD) serves a city of 4 million people with an authorized force of approximately 9,000 sworn officers and 3,000 civilian employees. The LAPD responds to 900,000 calls for service each year.

Incidents of police misconduct, including the Rodney King beating and the more recent Rampart scandal, culminated in a probe by the United States Department of Justice (DOJ), which resulted in the present Consent Decree.

The DOJ investigation found evidence of a pattern or practice of police misconduct and civil rights violations. DOJ allegations included improper use of force, improper officer-involved shootings, improper stops and seizures, and arrests that were made without probable cause. In making these allegations, the DOJ recognized that the majority of Los Angeles police officers perform their difficult jobs well.

The DOJ further cited “serious deficiencies” in LAPD procedures for training, supervision, and the investigation and discipline of police officers. The DOJ found that the LAPD failed to identify patterns of at-risk officer behavior and did not respond properly to citizen complaints, and that the Police Commissioners and the Inspector General lacked the resources to provide proper oversight. The City of Los Angeles (the City) denied the allegations.

The City and the DOJ entered into a Consent Decree on November 2, 2000, in order to promote police integrity and prevent conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. The Consent Decree provides specific guidelines designed to remedy the identified deficiencies and reform the conduct of the LAPD. The reforms include:

- tighter controls on gang units;
- strict oversight on use of force;
- shift of responsibility for investigations of misconduct complaints;
- a sophisticated computerized system to identify potential at-risk behavior; and
- data collection relative to pedestrian and motor vehicle stops.

The Consent Decree requires that a Monitor be selected to monitor and report on the implementation of the Consent Decree by the City, the LAPD, the Police Commission, and the Inspector General. See Consent Decree Paragraph (hereinafter CD ¶) 19].

Michael Cherkasky and Kroll Associates have been hired as the Monitor¹ to make certain that the reforms required under the Consent Decree are implemented in an effective and

¹ The Consent Decree defines the Monitor as the entire team performing the monitoring functions. Michael Cherkasky has the designation of Primary Monitor.

timely manner. This is the first in a series of quarterly reports to the Court by the Monitor.

II. EXECUTIVE SUMMARY

The first quarterly reporting period ended on September 30, 2001. During this initial period, the LAPD and the City of Los Angeles have cooperated fully with the Monitor and expended great efforts to institute Consent Decree reforms. The Department has met the applicable deadlines set out in the Consent Decree within a reasonable measure

The meeting of deadlines, however, is not the sole criteria for compliance. The Monitor is working with a consultant hired by the City of Los Angeles and the Department of Justice to develop formal measurement criteria. The goal is to establish a scoring or grading method that is consistent and fair. Until measurement criteria are finalized in February 2002, the Monitor will evaluate progress, but will not "score" or "grade" compliance with specific requirements of the Consent Decree. In addition, the Monitor is scheduled to begin a review of July 1 audits completed by the LAPD on October 1, 2001. The results of these audits will be reported in the next quarter.

This report outlines the organization of the Monitor and provides a general description of the methodology adopted thus far to efficiently and effectively fulfill the Monitor's designated role. Focus issues are then raised, followed by a substantive discussion of the LAPD's progress in instituting reforms.

A. Organization

The Monitor has organized a series of working groups that correspond to specific reforms called for by the Consent Decree. Each group provides a direct liaison with a related task force assigned by the LAPD. Procedures are in place to facilitate the exchange of information and to protect the confidentiality of the work product of both the LAPD and the Monitor.

The Monitoring Team began its work by interviewing a variety of police officers and city officials. Team members met with the Chief of Police, numerous Deputy Chiefs and Commanders within the Department, the Inspector General and many sworn personnel of the LAPD. Meetings were also held with the Mayor, various members of the City Council, the City Attorney, the Public Defender, the District Attorney, the Police Protective League and various community leaders. Team members also reviewed documents and reports, and went out as observers on "ride alongs" with police officers on duty. The time invested to become familiar with issues facing the Department and its officers has allowed the Monitor to begin an informed evaluation of the LAPD.

Even before the effective date of the Consent Decree, the LAPD commendably instituted a series of changes to begin reform and to meet first quarter deadlines. The Department set up a new unit to oversee use of categorical force cases; a reorganized Internal Affairs

Unit, to oversee implementation of the Consent Decree, and a new Audit Division. The Audit Division performed first quarter Audits specified by the Consent Decree.

B. Focus issues

Upon initial review, the Monitor has targeted a few areas of potential concern:

- A great majority of the sworn men and women of the LAPD are committed to compliance with the Consent Decree. However, the Monitor is concerned with a small group who opposes the implementation of meaningful portions of the Decree. Even more disturbing are the few sworn officers who believe that the Rodney King incident was handled by the police "properly" and who view sections of the city as enemy territory.
- A series of reforms remain unimplemented pending resolution of Meet and Confer issues that must be negotiated with the police union. The Consent Decree recognizes the obligation of the City to confer with union representatives, but requires this process to proceed in a timely manner. (CD ¶ 184(c)) The Monitor will track Meet and Confer issues to ensure that compliance with the Consent Decree is not unreasonably delayed.
- The Consent Decree directs the LAPD to continue existing procedures to encourage the filing of all complaints. The decree also sets a target of five months for the completion of investigations absent extenuating circumstances. Despite best efforts, the five-month requirement has not been met.² In fact, there is a large backlog of misconduct complaints that must be investigated and a backlog of completed investigations that have not been entered into the system as "closed." These backlogs are a drain on scarce Department resources and adversely affect the morale of the force. Prior to February 1, 2001, officers who were the subject of open complaints – no matter how frivolous – could not be transferred or promoted within the Department. Effective February 28, 2001, this blanket policy was eased by the Chief of Police. Low morale, and the administrative burden of the backlogs, undermine the LAPD's ability to pursue reforms. These issues are currently under reviewing.³
- The issue of the "3/12" workweek has also been a focal point of concern. The police union would like the option of a three-day work week with 12 hour shifts and maintains that without the 3/12 option the LAPD will not be able to retain its

² The City's position is that the five-month requirement does not apply to cases with an inception date prior to June 25, 2001, the effective date of the Decree. They do, however, readily admit that the target will not be met even for those cases with an inception date after June 25, 2001.

³ Special Order No. 36, dated October 29, 2001, has been adopted by LAPD in response to this problem. An examination of this Order and its impact will be addressed in our next report.

officers or attract new recruits. On the other hand, some opponents of the plan believe that the 3/12 schedule will limit the Department's ability to meet reform deadlines. The Monitor has not taken a position with respect to 3/12. Regardless of the resolution of this issue, the Monitor maintains that failure to comply fully with the Consent Decree is absolutely unacceptable, regardless of the reasons for noncompliance. The City of Los Angeles has indicated that they are fully aware of their obligations under the Decree, and that implementation of a flexible work schedule for LAPD will have no affect on its ability to meet its obligations.

- The Decree has mandated that TEAMS II, an "early warning" system designed to identify potentially at-risk officers be developed and implemented on an aggressive schedule. The Monitor, who is designated as a consultant on this project, is working hard with LAPD to insure that TEAMS II is the most robust system available on a cost effective basis. The Monitor has a concern that this complex project is being driven too quickly in an attempt to meet the Consent Decree guidelines, and that more effective long-term solutions, could be implemented, were the scheduled timetables relaxed somewhat.

III. ORGANIZATION AND METHDOLOGY

Establishing good working relationships with the parties to the Consent Decree is a critical first step in performing the monitoring assignment. In addition, it is crucial to invest time at the outset in learning how the LAPD functions and in understanding the historical context and the present challenges facing the LAPD. The Monitor made these items a priority in the first quarter.

It was decided early on and independently by both the LAPD and the Monitor that to effect the Consent Decree mandates it would be necessary to adopt a team approach. After analysis of the Consent Decree requirements, and an initial introduction to the Consent Decree Task Force of the LAPD, the Monitor set up working groups that correspond to specific Consent Decree tasks. These Monitoring Teams liaise with the groups established by the LAPD.

A. Organization

The Monitoring Teams are organized as follows:

- A Team. This group is led by former New York City Police Commissioner William J. Bratton provides primary oversight and consulting services on the development of a computerized Risk Management Information System, "TEAMS II". Lee Curtis assists Mr. Bratton. Mr. Curtis is a Certified Forensic Computer Examiner with 25 years experience as a Special Agent in the Criminal Division of the IRS and an investigator for the Santa Clara District Attorney's High Tech Unit.

- B Team. This is the Audit Team with primary responsibility to review the audits being performed by the LAPD. The Audit Team is led by John A. Verna who is a Public Accountant and Certified Fraud Examiner with a Masters Degree in Business Administration from Cornell University. He has over 20 years of investigative, auditing and consulting experience.
- C Team. This group has primary oversight for vehicle and pedestrian stops and LAPD training procedures. The group is led by Meg Reiss who is a former Assistant District Attorney in New York's King's County District Attorney's Office. Ms. Reiss has broad experience in criminal investigations and trials, and served as a Supervisor in the District Attorney's Investigations Bureau and as a Senior Trial Attorney in the Homicide Bureau.
- D Team. This group has primary oversight of the processing of misconduct complaints consistent with the Consent Decree. Joseph S. Buczek leads the group. Mr. Buczek is a former FBI agent and a certified public accountant. He has three years experience working with Arthur Andersen & Co.
- E Team. This group has primary oversight on Use of Force cases consistent with the Consent Decree. The group is led by Mr. Buczek.
- F Team. This group has primary oversight for confidential informants and the LAPD gang units. The group is led by Robert B. Warren, who is a Certified Fraud Examiner with over 25 years experience as a Special Agent with the Criminal Division of the United States Department of Treasury.
- G Team. This group has primary oversight for a number of miscellaneous items, which include expanded roles for the Police Commission and the Inspector General. The group is led by Daniel H. Carr, who is a former Deputy District Attorney for the Santa Clara County District Attorney's Office. Mr. Carr was assigned to the Gang Violence Suppression Unit and to the Special Operation Homicide Unit.

Michael G. Cherkasky is the Primary Monitor and the President and Chief Executive Officer of Kroll Inc. Mr. Cherkasky is a former Chief of the Investigations Division for the New York County District Attorney's Office, where he investigated and prosecuted major fraud and organized crime cases, including BCCI and John Gotti. Mr. Cherkasky also served in 1997 as the Election Officer for the International Brotherhood of Teamsters and was appointed as the compliance officer for the Long Island Carting Industry in 1994.

Jeffrey R. Schlanger is the Deputy Primary Monitor and Chief Operating Officer of the Security Services Group within Kroll. Mr. Schlanger has over 12 years experience in the

New York County District Attorney's Office. He served as Senior Trial Counsel to the Special Narcotics Prosecutor where he developed and implemented a narcotics homicide unit. He was also assigned as a Senior Investigative Counsel in the Rackets Bureau, where he prosecuted and investigated the notorious New York Westside gang known as the "Westies", and, along with Mr. Cherkasky, John Gotti.

The Monitor has and will continue to consult on a regular basis with Phoenix Police Chief Harold Hurtt and Tom Frazier, former Director of the U.S. Department of Justice's Office of Community-Oriented Policing (COPS) and former Chief of the Baltimore Police Department. These policing experts, along with Mr. Bratton, will provide additional expertise on police practices concerning Consent Decree implementation and monitoring issues facing the LAPD.

B. Methodology

During the first month of the quarter, the Monitor met with the Chief of Police, numerous Deputy Chiefs and LAPD Commanders, and the Inspector General. In addition, meetings were held with various members of the City Council, the Public Defender, the District Attorney, the City Attorney, the Mayor's Office, the Office of the Chief Legislative Analyst, the Police Protective League, and community leaders and representatives of other interested parties.

Regular meetings have been established between the Monitoring Teams and the LAPD Consent Decree Task Force, and monthly status meetings have been established for the exchange of information and concerns of the parties. Because of the consulting role that the Monitor is playing with respect to TEAMS II, weekly meetings are attended by the Monitor.

Members of the Monitoring Teams also began to tour each Division and participated as observers on "ride-alongs." This experience provides valuable insight into the unique problems encountered in each Division, and affords individual officers the opportunity to explain the problems they perceived with the system.

Each of the Monitoring Teams has begun reviewing internal files and reports from the various units for which they are responsible. The goal is to gain an understanding of their existing procedures and how they relate to the organization of the Department as a whole. This understanding now forms the backdrop for evaluation of the LAPD's progress in implementing the Consent Decree.

C. Information Protocols

The Monitor is compiling documents from the LAPD and creating written activity reports for each interview and meeting. In accordance with Consent Decree requirements, the Monitor has developed a series of protocols to govern how that information is handled, and who is allowed access.

The Consent Decree provides that the Monitor shall have access to most Department records.⁴ Information from these sources is confidential and may be highly sensitive. In addition, the Monitor is obtaining confidential information from a variety of sources outside law enforcement. These materials and sources must also be protected.

Procedures to safeguard information include maintaining one secure location for all physical copies of documents, which is kept under lock and key. Electronic documents are maintained on a restricted database. Interview notes, as well as any reporting or analysis, are maintained on a second restricted database. The Monitor regularly compiles a master document list, which includes citations for media articles. Copies of document requests, which are forwarded in the first instance to the City of Los Angeles, are maintained in an electronic file, which is updated regularly.

Access to all information and materials is restricted and available to the Monitoring Team only on a "need to know" basis.

Finally, the background of each monitoring team member is screened to check criminal history and significant civil litigation, as well as driving records and social security number. In addition, each member must sign an acknowledgment form stating that he or she recognizes the nature and sensitivity of the information disclosed in the Monitoring assignment and will abide by the procedures set up to safeguard all documents and reports.

IV. FOCUS ISSUES

A. Meet and Confer

The Meet and Confer process is a mandatory negotiation process imposed by state statute that has been in place for three decades. The Meet and Confer obligation requires that the City provide union representatives with the opportunity to meet and confer on proposed changes in the terms and conditions of employment. Both the City and the union must make good faith efforts to reach agreement. If negotiations reach an impasse, the City is permitted to implement its last best offer by unilateral action.

The City of Los Angeles has submitted a list of over one dozen reforms that have been identified as Meet and Confer issues, which must be negotiated with the Police Protective League (PPL).⁵ There are, additionally, a series of key items that the PPL believes should also be treated and negotiated as Meet and Confer issues.

⁴ Some specific records including those from the Anti-Terrorist Division are not immediately accessible to the Monitor.

⁵ Similar negotiations must take place with collective bargaining units representing command officers and certain civilians within the Department.

The Consent Decree recognizes the obligation of the City to confer with union representatives, but requires that this process proceed in a manner that will permit the City to meet the time requirements of the Consent Decree.

The process between the City and the PPL has begun. The Monitor will track its progress to ensure that the negotiation process does not lead to unnecessary delays that ultimately derail timely completion of critical reforms.

B. Complaint Investigation Backlog

During the year 2000, between 5,000 and 6,000 misconduct complaints were initiated against officers of the LAPD. For 2001, these numbers are projected to increase. This increase will occur against a severe backlog of currently pending investigations and a backlog of completed investigations that have not been entered as "closed" in the computer system.

In the face of these numbers, LAPD employees, both officers and civilian personnel, voice concern that the procedures for complaint investigations are burdensome and place an unnecessary drain on LAPD resources. The procedures require all misconduct complaints to be fully investigated - there is no discretion to determine that a complaint might be frivolous on its face thereby eliminating the need for a full investigation.

For sworn supervisory personnel, the foremost concern is that their time is consumed by the investigation of misconduct complaints. Even the most trivial complaint is estimated to take 20 investigative hours.⁶ Time dedicated to investigating complaints represents time not spent training or supervising officers in the field. This generates a vicious cycle. Less time for training and supervision generates more complaints requiring more time spent investigating allegations of misconduct. Several supervisors stated that they see no end in sight.⁷

For civilian and sworn personnel, most notably those working in Internal Affairs, the increase in complaints and their related reporting requirements has placed many sections in a perpetual crisis mode. Faced with staffing deficiencies, it is all they can do to

⁶ The Consent Decree does not require or mandate a full investigation of this magnitude into frivolous or trivial complaints.

⁷ It should be noted that none of the supervisory personnel suggested that complaints not be addressed. They recognize and welcome the process of documenting all complaints and investigating substantive complaints, but prefer the old system where supervisors had the discretion to log frivolous cases for future reference without initiating a full-scale investigation. It should also be noted that none of the supervisory personnel suggested or hinted that they wouldn't abide by the current complaint investigation requirements. Special Order 36, dated October 29, 2001 is designed to alleviate some of the burden created by the current system. A review of that Order will appear in the next quarterly report.

maintain their current workload. Thousands of cases await closure out of the complaint tracking system because assigning new cases and tracking their status takes precedence.⁸

The Internal Affairs Review and Evaluation Section is also backlogged with cases awaiting review. The backlog limits the Unit's ability to perform in-depth analysis or conduct any additional investigative work.

The backlog of pending cases directly affects the morale of the LAPD. An officer who is the subject of an open complaint could not be transferred or promoted within the Department. This issue, if unresolved, threatens the successful implementation of the Consent Decree. The Consent Decree implicitly relies upon the time of sworn supervisory personnel to oversee the reforms.⁹ This cannot occur with the complaint backlog issue unresolved.

Some progress in this direction is being made. The Chief of Police lifted the blanket prohibition against transfers on February 28, 2001 permitting transfers and promotions unless an officer is facing serious allegations that could result in substantial disciplinary action. This policy change provides some latitude with regard to transfers but is far from providing a universal solution to the issue.

C. The "3/12" Work Week

The Los Angeles Police Protective League proposes that the Department adopt a flexible work schedule, which would allow patrol officers the option to work a three-day week with 12-hour shifts. These shifts would be supplemented with officers who choose to remain on a five day 8 hour schedule.

The Police Protective League maintains that the 3/12 work week would improve police morale and relieve the stress of a five-day week. Additionally, they believe that the proposed plan would aid recruitment and help retain current personnel as well as increasing police coverage and enhancing public safety.

On the other hand, those opposing the change are concerned that the 3/12 week could adversely impact the Department's ability to enact Consent Decree reforms, and would eliminate the only vestiges of community policing by severely reducing the availability of Senior Lead Officers. They point out that the resources of the Department are already stretched and that recent attrition and current recruitment difficulties have resulted in declining officer numbers.

⁸ As of January 15, 2001, completed investigations that have not yet be entered into the system as "closed" numbered 2,800. In recent months, the backlog to close completed investigations reportedly has been reduced to 1,800 cases.

⁹ Both Special Order 36 (see note 8, *supra*) and the new computerized system mandated by the Consent Decree have the potential to alleviate some of the burden of processing complaints. TEAMS II will not be operational for at least 18 months.

The city has hired a private consultant firm to examine the proposal. The consultant is in the process of looking at differences in the needs of each Division and unit, and will make recommendations that will include the number of officers who should be offered flexible work schedules. A report is due November 14, 2001.¹⁰

D. TEAMS II

The Consent Decree mandates the development of a computerized "early warning system" that will be designed to identify potentially at-risk behavior of the Department's sworn personnel. "TEAMS II" is a successor to "TEAMS I" -- the Training Evaluation and Management System -- which the City established to compile personnel information in one source.¹¹ TEAMS II is a new system designed to identify patterns of at-risk behavior.

TEAMS II will provide access to reports on use of force, injuries, complaints, civil claims or reviews, all vehicle police pursuits and traffic collisions, the officer's arrests and citations, and finally, on commendations the officer has received from the Department. The goal is to link existing reports and data so that the Department can investigate misconduct and identify and correct patterns of bad behavior.

The overall system that will link database sources is called the Risk Management Information System (RMIS). Two main components of this system are the Use of Force database system and the Complaint Management System. RMIS ultimately will link these two systems and will also be able to access a number of existing police databases.¹²

On March 20, 2001, the City contracted with Liekar Strategic Solutions (LSS) to develop the design for RMIS, as well as the Use of Force System. On July 30, the City contracted with Information Builders, Inc. (IBI) to develop the Complaint Management System (CMS).

¹⁰ The Monitor has spoken with the consultant and has related to the consultant those concerns which were brought to the Monitor's attention by members of the City Council and high-ranking police officials. The City has, in writing, assured the Monitor that the proposed work schedule change will have no impact on the implementation of the Consent Decree.

¹¹ The LAPD is in the process of implementing citywide online access for employees to access TEAMS. This project has been given the title TEAMS 1 ½. The TEAMS 1 ½ report will contain the employee's attendance record, on duty traffic collisions and pursuits, use of lethal force, non-lethal force, discipline, commendations, civil litigation, assignment and rank history and training history. Currently, several database records are out of date or have not been activated. Non-supervisory personnel are given access to their own personal records and Supervisors can access their own records as well as the records of their subordinates. The installation of this system has been a slow process due to system compatibility issues. Citywide access is projected for March 2002.

¹² Concurrently with this design, the LAPD recognizes that it must develop a security system to control access to all components. This system is on hold waiting for the development of a "security module." The "security module" is the backbone of the system and must be developed hand-in-hand with all other relevant database systems. The City is looking for a third sub-contractor to oversee this process.

The development process began with a series of meetings with the LAPD officers and managers who conduct investigations and analyze data. The team also set up weekly meetings to review issues and solicit input. The TEAMS II work group includes representatives from the Mayor's Office, the Chief Legislative Analyst's Office, the City Administrative Office, the Information Technology Agency and the LAPD. The Monitor attends the weekly work group meetings.

On October 1, 2001, the City submitted a RMIS Requirements/Design Document to the Department of Justice and the Monitor. The current design focuses on the Complaint Management System (CMS).

The Monitor will review the specifics of this design protocol during the next quarter, October 1 through December 31, 2001.

In the interim, the Monitor makes the following observations:

The TEAMS II project is a challenge. The City is up against short deadlines, the job is complex, and the program is being written from scratch. It is still unknown at this time if previously designed systems will be able to communicate with the new system. Efforts are also underway to determine the extent to which upgrades must be made to accommodate the volume of information the system will handle.

Another issue that remains unanswered is how the different proposed components of the system will ultimately work as "one." The subcontractors are each focused on the specific tasks necessary to create their separate components. TEAMS II needs a systems expert who not only can determine that the overall RMIS project, as conceived, is viable, but who can then design the overall architecture for the system.

Lastly there is concern with the platform on which the system is being developed. At present the system is being designed around a Windows 95 B platform that will not be supported by Microsoft as early as next year. This presents two potential problems. First, whether the system will be upwardly compatible with newer operating systems, including Windows 98, 2000 and XP. Secondly, whether the system which is being developed is as robust as it could be if it were to be developed on a more advanced platform.¹³

In the midst of these difficulties, the Monitor is concerned that all parties not lose sight of the ultimate goal: to develop a system that will be a tool to identify at-risk police conduct at the earliest possible stage.

¹³ The City has indicated that tests are currently underway to determine the upward compatibility of the system. The City has indicated that because of its current stock of computers and the operating systems contained on those computers it is not fiscally possible to utilize a newer platform for development.

The Monitor also believes that the current design must be tested. Case studies should be run and police investigators should test the proposed system to see if it has the features necessary to meet Consent Decree requirements.

The Monitor will continue to review and consult on the design of TEAM II during the next quarter.

E. Measurement Criteria

The Monitor is working with an outside consultant hired by the City of Los Angeles and the Department of Justice to develop criteria to "score" compliance with the specific requirements outlined in the Consent Decree.¹⁴ The consultant, Dr. James Ginger of Public Management Resources, holds a Ph.D. in Public Administration. He was a sworn police officer with the Evansville, Indiana Police Department and a management services administrator for the San Antonio, Texas, and Police Department. In addition he is currently serving as the Monitor for the Pittsburgh, PA and as co-Monitor for the New Jersey State Police.

Dr. Ginger is developing, in consultation with the Monitor, draft written criteria that will determine what constitutes "compliance." This process involves breaking down the requirements of the Consent Decree into elemental pieces that can be methodically measured. These score keeping measures will include sampling criteria, designations for sample sizes, and mechanisms for documenting qualitative reviews. The goal is to develop measurements that are consistent, unbiased and fair that the Monitor can utilize for determining compliance.

Dr. Ginger has met with representatives of the LAPD and the City of Los Angeles to become familiar with the operations of the Police Department. The Monitor is working closely with Dr. Ginger to facilitate this process and to coordinate Dr. Ginger's measurement concepts with the Monitor's own strategy and methodology.

On August 28, 2001, Dr. Ginger produced a first draft of the "Methodology Development Process." Based on a review of the Consent Decree and the processes being developed by the LAPD to comply, Dr. Ginger broke the tasks to be assessed into two types: operational and executive. Those two categories are, in turn, divided into quantitative tasks (measurable by statistics) or qualitative tasks (those requiring a judgment of reasonableness).

For each task, Dr. Ginger proposes developing data collection procedures; specific measures to assess compliance; and a definition of what "compliance" is.

¹⁴ While Dr. Ginger was retained by the City of Los Angeles and DOJ, he reports directly to the Monitor who has control over and responsibility for the development of measurement criteria.

Meetings were scheduled to occur on this draft September 12, 2001. As a result of our national tragedy, this process has suffered a minor delay. As of September 30, those meetings were re-scheduled for October 11. Final methodology is scheduled for completion by February 1, 2002. It is expected that, despite earlier delays, this deadline will be met.

The remainder of this report reviews the reforms instituted to meet the requirements of the Consent Decree.

V. SUBSTANTIVE PROVISIONS

A. Use Of Force

1. Categorical Use of Force Incidents

LAPD officers are required to report all incidents where force is used and whether that force is "Categorical" or "Non-Categorical." (CD ¶ 55).

Categorical Use of Force cases are incidents involving:

- Officer Involved Shootings ("OIS");
- use of force injuries requiring hospitalization ("LERI");
- in-custody deaths;
- use of force resulting in death ("LEARD")
- upper body control holds;
- canine bites requiring hospitalization; and
- head strikes with an impact weapon

On April 8, 2001, the LAPD created a new police unit called the Critical Incident Investigation Division (CIID) to investigate all Categorical Use of Force cases. Consistent with the Consent Decree, this Division will handle all Categorical Use of Force administrative investigations. If misconduct is suspected at any point during these investigations, the case is immediately transferred to Internal Affairs.

The new CIID unit has been staffed with personnel from the Detective Headquarters Division and the Robbery Homicide Division. Consistent with the Consent Decree, these officers are senior personnel with previous experience investigating Use of Force cases. (CD ¶ 55 (c)). A preliminary review for the period January 1, 2001 through August 3, 2001 confirms the transfers into CIID ranked at least Detective II or Sergeant II.

The new CIID unit became fully operational in April and is capable of rolling out to Categorical Use of Force incidents 24 hours a day. Consistent with the Consent Decree, the LAPD has drafted a special order that defines the unit's investigation responsibilities.

Consistent with the Consent Decree, the LAPD has generated a revised form to report non-categorical use of force incidents. (CD ¶ 66). The new form lists the "bean bag" shot gun as a type of force, and requires an officer to include additional details in the description of any physical injuries. This new form is a July 1 deadline item and was finalized September 1, 2001.

The Consent Decree requires the LAPD to continue to notify the Los Angeles District Attorney's Office when an officer shoots and injures a person, and when an individual dies in custody and the officer's use of force may be the proximate cause of death. (CD ¶ 58). The LAPD began a program with the District Attorney's Office in March 2000, which requires immediate notification and an immediate response by district attorney personnel to the scene in incidents of officer-involved shootings and in-custody deaths. The draft Special Order outlining the functions of the CIID reiterates these procedures.

The Monitor interviewed a number of officers and supervisors in CIID and the Use of Force Review Section. The Monitor also reviewed a series of reports relating to the Categorical Use of Force: the "OIS Statute Date Report" which tracks the one-year time limit for case resolution;¹⁵ the "OIS Case Tracking System" which identifies the incident date, officer(s) involved and the status of the investigation; and the "LERI Case Tracking System Report," which provides the same information for law enforcement related injuries.

For the period May 23 through September 19, 2001, the Monitor reviewed the "Categorical Use of Force Notification Log," which provides information on notifications to the Inspector General of Categorical Uses of Force. The notifications are generated by the LAPD Command Post. This log indicates whether or not the Inspector General actually rolled out to the incident. For all incidents listed during this review period, the Inspector General is reported as not responding.¹⁶

Based on these preliminary reviews, the Monitor has developed an interim methodology to begin to evaluate compliance with Categorical Use of Force provisions of the Decree.¹⁷ This evaluation will proceed during the next quarter.

¹⁵ The Use of Force Section maintains an "Officer Involved Shooting Statute Date Report." Its purpose is to monitor the incident cognizant of the one-year statutory requirement for invocation of discipline. The report also provides information regarding the type of incident, e.g., a dog was shot, accidental discharge, hit, no hit. It also provides information on the status of the investigation. The Independent Monitor identified one incident, number 068-00, which will exceed the one-year limit.

¹⁶ In response to the Consent Decree, the Inspector General's Office indicated that it is reformulating its protocol on "roll outs" to Categorical Use of Force incidents. In the interim, the Inspector General has not rolled out to these incidents. The Monitor has been informed that IG rollouts resumed in early November despite the fact that the protocols are not yet complete.

¹⁷ Final methodology will await Dr. Ginger's work product.

a) Presence of a Supervisor

Paragraph 62 of the Consent Decree requires managers to analyze the circumstances surrounding the presence or absence of a supervisor at a Categorical Use of Force incident to determine whether the supervisor's response was appropriate. This review must be completed within one week of the occurrence of the incident.

The Monitor will review these procedures during the next quarter.

b) Psychological Consultation

The Consent Decree requires the LAPD to continue to refer all officers involved in serious Categorical Use of Force Incidents to psychological consultation. (CD ¶ 63). A preliminary review of logged Categorical Use of Force Incidents for the period May 23, 2001 through September 19, 2001, identifies numerous incidents that should qualify under this requirement. During the next quarter, the details of these incidents will be reviewed to determine: i) if in fact, the incident required referral; ii) if so, did the referral take place; and iii) if so, did the officer(s) go to the referral.

2. Non-Categorical Use of Force Incidents

Non-Categorical Use of Force cases include all uses of force which are not categorical. Under the Consent Decree, Non-Categorical Use of Force incidents will continue to be investigated by supervisory personnel in the officer's chain of command. (CD ¶ 68).

In the first instance, it is the officer's responsibility to report all use of force incidents to their supervisors. Supervisors are responsible for notifying the Watch Commander. The incident is then logged. Current Department policy requires that the completed log be periodically forwarded to the Use of Force Section.

The purpose of the summary log is to alert the Use of Force Section that an investigation is pending. The log is designed to be used to monitor the completion of an investigation for each Non-Categorical Use of Force incident.

Once a Use of Force report for Non-Categorical incidents is received by the Use of Force Review Section, civilian personnel enter information extracted from the report into TEAMS. TEAMS sorts this information and generates a report entitled "Non-Lethal Use of Force Summary." This is a quarterly report that provides summary information on Non-Categorical Use of Force incidents, including injuries and the most commonly used Non-Categorical force.

The Monitor reviewed files and conducted interviews with personnel from the Use of Force Section and the Human Resource Bureau. The Monitor found that Summary Logs were submitted to the Review Section only rarely, and were not reconciled with the Use of Force Investigation Reports. The last time this reconciliation took place was in 1989.

This lapse leaves unanswered the question of whether there have been incidents of Non-Categorical Use of Force that went unreported. If so, misconduct may have occurred that was never investigated or referred to Internal Affairs. The Monitor will review this issue during the next quarter.

Recognizing this control deficiency, newly appointed personnel in the Use of Force Section have implemented new procedures and strengthened existing policies to make certain that Use of Force Summary logs are submitted and ultimately reconciled with investigation reports. Commencing July 2001, these procedures require the logs to be filed regardless of whether there were any reportable incidents during the deployment period. A spreadsheet was created to track compliance.

A new Use of Force manual incorporating these new policies will be released Department-wide in the beginning of 2002.

B. Search And Arrest Procedures

1. Search warrants

The Consent Decree mandates new procedures to ensure that search warrants are supported by sufficient evidence and that requests are not composed with "canned" language. (CD ¶¶ 70 - 71). The Consent Decree requires supervisory review for each stage of the execution of the warrant: drafting of the affidavit; execution; return of an accurate inventory; and post-execution report. Id.

The Consent Decree also requires supervisory officers to review the performance of the on-scene supervisors. (CD ¶ 62). This review must be completed within one week of the occurrence of the incident. Id.

Consistent with the Consent Decree (¶ 72), Special Order 25, dated August 10, 2001, specifically outlines the duties of commanding officers:

- maintain the Warrant Tracking Log;
- ensure that each search and Ramey warrant¹⁸ is recorded;
- analyze the supervisor's response to service of the warrant; and
- include observations on the debriefing critique prepared by the supervisor.

The Monitor will review these procedures during the next quarter, October 1 through December 31, 2001.

¹⁸ Special Order 25 and Consent Decree Paragraph 71 define "probable cause to arrest warrants" (LAPD manual 4/725.12) as "Ramey" warrants. People v. Ramey, 16 Cal. 3d. 263 (1976).

The LAPD has conducted its Audit of year 2000 search warrant applications. The Monitor has scheduled a review of this audit for the next quarter.

2. Arrest and Booking Procedures

The Consent Decree requires that LAPD Watch Commanders continue to review and approve all booking recommendations and arrest reports. (CD ¶ 70). The Consent Decree mandates that specific review procedures must be followed for persons charged with interfering, resisting arrest, or assault on an officer. *Id.* The Consent Decree also requires Watch Commanders to continue to interview and inspect all detainees, and provides specific instructions on reviewing arrest reports, including a prohibition against the use of "canned" language. (CD ¶ 73). In addition, the Consent Decree mandates a new policy requiring Watch Commanders or Supervisors to sign the arrest/booking paperwork to indicate that the inspection and interview has been conducted. (CD ¶ 73).

Pursuant to these requirements, the LAPD issued Special Order 12, dated June 20, 2001, which establishes specific evaluation procedures for arrests on charges of interfering, resisting arrest, or assault on an officer. (CD ¶ 70(b)) Supervisors must evaluate procedures in these cases to determine whether procedures or policies on tactics or training for such arrests must be re-addressed.

The LAPD also issued Special Order 13, dated June 20, 2001, which requires the Watch Commander to continue to screen booking/arrest paperwork and inspect and interview all detainees.¹⁹

The Monitor spoke with Watch Commanders from several Divisions and learned that it is their practice to interview detainees in the presence of the arresting officer. The Monitor questions whether the arresting officer should be present for this interview or whether defendants will be intimidated from revealing misconduct.

The Monitor will review the operation of these new procedures during the next quarter.

The LAPD conducted its Audit of Arrest, Booking and Charging reports for the time period between January 1, 2001 – June 30, 2001. The audit included the review of paperwork from 994 arrests. Of the 480 felony arrests evaluated, the audit reported that only 31 reports had the initials and serial number of the supervisor approving the paperwork.

¹⁹ Special Order 13 does not require the Watch Commander to sign the booking documentation to attest compliance with the new inspection and interview procedures. This is an item specifically mandated as a July 1 requirement by the Consent Decree (paragraph 73). The Department's Management Services Division reportedly is drafting a special order to revise the jail detention log, which will contain this instruction.

Although this audit predates the signing of the Consent Decree, the requirement to sign off on paperwork was established by Special Order 10 issued March 29, 2000 and is reiterated in Special Order 13, dated June 20, 2001. The results of the audit show that the majority of supervisors are not following this direction. This issue will be a focus of the Monitor's review during the next quarter.

C. Internal Affairs Group

The Internal Affairs Group ("IAG") has oversight responsibility to manage all complaints filed against LAPD officers. Historically, the overwhelming majority of the complaints filed were investigated by chain-of-command supervisors. While this will still be true under the Consent Decree, the Decree mandates that certain categories of cases – including unauthorized use of force; unlawful search or seizure; the suppression of evidence; discrimination – be handled directly by IAG. (CD ¶¶ 93-94).

The Consent Decree also outlines certain best practices with respect to complaint procedures, and provides for a transition period to accomplish the reassignment of personnel to IAG. Complaints involving officers in gang units and complaints relating to use of force are to be given priority in reallocating complaint investigations to IAG. (CD ¶ 95).²⁰

a) Reorganization of IAG

The reallocation of complaint investigations to IAG was initiated by a Memorandum dated May 18, 2001, which states IAG's core mission: "to produce quality investigations in a timely manner."

Consistent with the Consent Decree, the LAPD reorganized by adding five new units and upgrading two existing sections:

Complaint Classification Unit – Classifies all complaints received by LAPD within ten days of receipt.

Review and Evaluation Section – Quality Control: reviews completed investigations for thoroughness; monitors consistency in the application of discipline; tracks criminal filings.

Analytical and Audit Unit – Statistical analyses, routine reporting and special reports, including the *Quarterly Discipline Report*.

Ethics Enforcement Section – Integrity audits.

²⁰ The transition of these cases reportedly occurred on October 1, 2001.

Family Violence Unit – Administrative and criminal investigations of “domestic violence” cases.

Training Section – Provides training to all LAPD personnel and specialized, in-depth instruction to all IAG investigators.

Advocate Section – Responsible for providing administrative support associated with Board of Rights hearings. Also responsible for completing projects and research requests for public documents and coordinating training with the Police Commission staff.

Preliminary interviews and reviews of LAPD internal documents indicate that these sections have been established and are already functional. New training initiatives relating to IAG's expanded functions are reportedly in progress.

These functions have not been audited by the Monitor.

The Monitor is aware that one "integrity audit" operation has been conducted by the Ethics Enforcement Section (EES). The officers whose integrity was tested passed the audit.²¹

b) Computerized Case Tracking System

An effective and efficient Department wide case tracking system remains in the development stage. There are existing systems that independently capture and monitor significantly similar information, however they are not compatible with each other.

For example, within IAG there is the Complaint Investigation Tracking System (CITS) and an Automated Complaint Tracking System (ACTS). Information on CITS cannot be accessed from the ACTS system. ACTS is also independent of the Department's existing TEAMS system. The same information must be separately entered into both databases. The Review and Evaluations Unit maintains an additional database to track completed investigations. This database is not "write protected" and can be accessed by virtually anyone with knowledge of a user name and password.

Given the inflexibility of these systems, extracting statistical information beyond the standard “canned” reports must be done "ad hoc" through a tedious, time-consuming process. One individual advised that a “task force” was needed to manually extract information from files to generate new data. When resources are stretched, the time required to manipulate these systems presents a practical barrier to meaningful analysis of

²¹ The details of Integrity Audits will not be revealed in Quarterly reports. In future reports, the Monitor will indicate the number of integrity audits conducted and summarize the results.

statistical information. This places the LAPD in a reactive position in evaluating complaint trends.²²

The current answer to the systems incompatibility issue is a centralized complaint tracking system to be known as the Complaint Management System (CMS). In theory, CMS will replace all existing LAPD complaint management systems compatible and serve as a source system to the Risk Management Information System. The current forecast for an operational system is February 2003.

c) Staffing Requirements

The LAPD must increase staffing for IAG to carry out the expanded functions mandated by the Consent Decree. Implementation of an Integrity Assurance Plan, which the LAPD adopted in August 2000, added some personnel and the 2001-2002 budget provided funding for additional staff.²³

To date, interviews with IAG personnel establish that existing staffing levels are still short of target levels. In part, it is reportedly difficult to attract officers to IAG because some officers suffer an effective net reduction in pay with the transfer to IAG. Also, many IAG personnel are assigned to Parker Center, which is reportedly an inferior and, for most officers, remote work environment.

In an effort to attract personnel, the Department offers promotions with a transfer to IAG. Officers ranked as Detective I or Sergeant I move up to Level II. This promotion results in a pay increase for Level I officers.

The Consent Decree provides for a period of transition to increase IAG staffing. Investigation responsibilities will expand only as resources become available. (CD ¶ 95). The deadline to fill new staff positions and complete the transfer of complaint investigation to IAG is December 31, 2002.

D. Initiation Of Complaints

The Consent Decree directs the LAPD to continue existing procedures to allow for the easy filing of all complaints. (CD ¶ 74). The reach of those practices is expanded by publishing complaint forms in three additional languages and providing materials to

²² Customized reports also must be coordinated through LAPD's Information Technology Division (ITD). ITD is responsible for servicing the needs of the entire Department and is "always backlogged." Program changes cannot be addressed for months even though information is needed immediately.

²³ The Integrity Assurance Plan provided 40 additional IAG positions related to complaint investigation processes. Of those 40 positions, 35 have been filled. In FY 01-02, an additional 42 IAG positions were authorized for FY 01-02. The FY 01-02 budget includes specific funding for the FY 01-02 positions. Of the 42 positions authorized, 14 have been filled. There are 16 positions "on-loan."

community groups and centers. Id. The Consent Decree requires that in all instances where an officer tries to discourage a witness from coming forward or refuses to accept a misconduct complaint, that a separate complaint alleging that discouragement or refusal be filed. (CD ¶ 75).

The LAPD issued Special Order 17, dated July 17, 2001, and Special Order 19, dated July 20, 2001, which reiterate existing procedures and adopt the requirements set out by the Consent Decree.

Special Order 17, consistent with paragraph 75 of the Consent Decree, mandates that a complaint filed:

- when an officer fails to assist the public in filing a complaint;
- when an officer attempts to dissuade the public from filing a complaint; and
- when an officer refuses to accept a complaint.

Special Order 19 adds three new foreign languages to the language publication list for Complaint of Employee Misconduct form and related pamphlets and posters. These materials will now be distributed and displayed in seven languages.

The Consent Decree also requires that the LAPD record all calls received on the Department's 24-hour toll-free telephone complaint hotline. (CD ¶ 74). The Department began recording calls as of July 1, 2001 and has purchased new equipment which will be installed sometime in the Winter of 2001-2002, in order to better facilitate the recording. It is noted that this action was taken months ahead of the six-month deadline outlined in the Consent Decree.

Finally, paragraph 77 of the Consent Decree expands the circumstances under which an officer is obliged to notify the Department of potential misconduct issues.

E. Conduct Of Investigations

The Consent Decree provides a series of specific instructions relating to the conduct of complaint investigations. (CD ¶¶ 79-83). These instructions are currently published in the LAPD Guide for Supervisors dated October 2000. Among other things, the Guide instructs chain of command investigators to interview supervisors with respect to their conduct at the scene of the incident and prohibits the practice of conducting group interviews. The Guide also provides that the burden of collecting and preserving evidence is on the LAPD, and not the complaining witness.

The new guidelines for Internal Affairs reportedly will incorporate these instructions.

F. Adjudicating Complaint Investigations

All completed misconduct complaints are reviewed by the employee's Commanding Officer for review and adjudication. The adjudication process begins when the Commanding Officer after notifying the officer involved, makes his recommendations for appropriate disciplinary action. This recommendation is forwarded to the Bureau Commanding Officer.²⁴ The Bureau Commander reviews the recommended action and forwards the complaint file to the Review and Evaluations Unit of IAG and then to the Chief of Police for final determination.

At any stage in this process, the complaint may be returned to the field for further investigation. Serious complaints are referred to a Board of Rights, however, the individual officer also has the right to request an appeal to the Board of Rights in any case in which suspension is recommended. Until recently, the LAPD was required by statute to complete this process within one year. Recent City charter amendments, however, now allow for a tolling of the statute under circumstances where there is a criminal matter pending or where the alleged misconduct involves civil litigation which names the LAPD member as a party defendant.

The Consent Decree provides specific guidelines on the complaint investigation process, which include two items with critical due dates of July 1, 2001.

The first July 1 deadline requires all complaint investigations to be completed within five months unless specific circumstances – such as the complexity of the case, or the availability of evidence – explain the need for an extended inquiry. (CD ¶ 87).

This five-month time requirement has not been met.²⁵

Interviews of Department personnel at all levels collectively advised that the LAPD is backlogged with unresolved complaint investigations. In 1998, the Chief of Police implemented Special Order 1, which required that all complaints be investigated and documented on a Form 1.28.²⁶ Prior to 1998, commanding officers had the discretion to decide which complaints would be investigated. Incidents that were not investigated were recorded in a Sergeant's Field Log, which still is maintained within each Division.

²⁴ Complaints investigated by Internal Affairs are referred for review within IAG.

²⁵ The City argues that the five-month target is only applicable to cases taken in after the effective date of the Decree, June 25, 2001. They have no expectation, however, that even with respect to such cases the five-month target will be met in the near future. Existing protocols establish a 60-day timetable to complete initial complaint investigations in order to allow time for the review process and any appeal to be completed within one year. (LAPD Manual and the *Complaint Investigations: A Guide for Supervisors* last updated October 2000).

²⁶ Paragraph 16 of the Consent Decree effectively continued this requirement.

With the initiation of Special Order 1 complaints have increased 300% over the period between January 1, 1998 through June 30, 2001. Estimates place the number of complaints received during 2001 at over 6,000.²⁷

The second July 1 deadline relates to the standards to determine credibility. (CD ¶ 84). The Chief of Police issued an Administrative Order, dated August 9, 2001, which reiterates existing LAPD policies and includes specific directives outlined in the Consent Decree. LAPD procedures now specifically state that an officer's statements will not be given automatic preference and that a complaint based solely on an account which is disputed by the officer will not be rejected on its face.

G. Discipline & Non-Disciplinary Actions

Paragraph 88 of the Consent Decree establishes new requirements for the *Quarterly Discipline Report* that the Chief of Police submits each quarter to the Police Commission and the Inspector General. The Chief of Police must report on all discipline imposed. In accordance with the schedule set by the Consent Decree, the Chief of Police submitted quarterly reports dated February 15, 2001, May 15, 2001 and August 15, 2001. A preliminary review and comparison of the *Quarterly Discipline Reports* dated May 15, 2001 and August 15, 2001, indicates a concerted effort by LAPD to realign its reporting requirements, and disclose in detail the elements called for by the Consent Decree.

The content and integrity of the data contained within each *Quarterly Discipline Report* will be audited in the future.

The May 15, 2001 Report introduced new methodology to capture data which relates only to the quarter under review. Because of the lag time in entering otherwise completed investigations into the computer system, the new methodology of tracking and reporting would reportedly yield more accurate statistics regarding completion of complaints. We are informed that, as such, the Department will revise its previously filed reports.

The Monitor will review the revised reports when they become available.

H. Non-Discrimination Policy And Motor Vehicle And Pedestrian Stops

The LAPD prohibits discriminatory conduct. LAPD officers may not make pedestrian or vehicle stops based solely on race, color, ethnicity or national origin. The Consent Decree directs the LAPD to continue these policies and mandates data collection with the

²⁷ As of January 15, 2001, completed investigations that have not yet been entered into the system as "closed" numbered 2,800. In recent months, the backlog to close completed investigations by entering them into the system reportedly has been reduced to 1,800 cases.

ultimate goal of determining whether racially biased stops are being made. (CD ¶ 102) The Department issued Special Order 23 dated August 8, 2001, which prohibits all forms of invidious discrimination. Special Order 23 has been distributed to each Division and is to be incorporated into roll call training.

Data collection is set to begin November 1, 2001.

The Department's Management Service Division is working with the Information and Communications Services Bureau and the Information Technology Division to coordinate this task. As of November 1, all officers who initiate discretionary pedestrian or motor vehicle stops as defined in the Consent Decree must fill out a form to collect data on race, ethnicity, the reasons for and the results of the stop. This form is called a field data report.

The form proposed by the LAPD is in compliance with the statistical requirements outlined in the Consent Decree. (CD ¶ 104) However, the Consent Decree does not require and accordingly the form does not request the name or address of the person stopped by the police. Without this information, verification of paragraphs 102 and 103 of the Decree will be extremely difficult except in instances where a citation is issued or a field interview report is completed, and data can be cross-referenced with the citation or field interview report.²⁸

The field data reports will be printed in duplicate and bound into books. Each report is given a preprinted sequential number to use as a tracking mechanism. At the end of each tour, the duplicate copies will be submitted to the officer's supervisor. The bound book will be retained and ultimately turned into record keeping within each Division. The duplicate copies will be forwarded to a subcontractor working for the City of Los Angeles.²⁹ The subcontractor's job is to scan these reports into a stand-alone database that will be maintained by the City.

The Department has developed a program to train officers in how to use field data reports. The training will be based on a developed curriculum which includes a video explaining the form and the reason that LAPD officers must begin collecting field data. Training is scheduled to begin October 3, 2001.

²⁸ When an arrest is made, an officer must fill out a field interview report, which includes the name and address of the individual arrested. It is within the officer's discretion to complete a field investigative report when conducting a stop without an arrest. Likewise, pedigree information is contained on any citation issued. It is unclear to the City and LAPD how many pedestrian or motorist stops currently occur outside of these two situations. The Monitor will attempt to devise a strategy to determine compliance in such circumstances. It should be noted that the issue of whether to require the names and addresses of persons in this category was discussed during negotiations between DOJ and the City and rejected because of privacy concerns, notwithstanding the fact that pedigree information has historically been collected on Field Interview Reports in non-arrest and non-citation situations.

²⁹ U.S Data systems is the City's subcontractor that currently processes the City's traffic citations.

The LAPD is working to develop a handheld digital device called a personal digital assistant (PDA). It is expected that PDAs ultimately will replace the written form used for the field data reports. The Department has conducted a pilot program to evaluate the technology and determine the best method to capture field information with the least impact on field operations. The pilot program concluded June 29, 2001. The results of that study have been incorporated into a draft Request for Proposal (RFP), which will be sent to vendors and published on the Department's website. The RFP will be issued in the next quarter.

The Department will, in the near future, request proposals for assistance in determining appropriate methodology for analyzing collected stop data.

I. Management Of Gang Units

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

The Department also established new monitoring procedures and instituted minimum eligibility requirements for SEU personnel. The Consent Decree directs the LAPD to continue these practices and provides for the adoption of additional requirements in the selection of SEU personnel. (CD ¶ 106) These requirements were adopted by Administrative Order 3, dated March 6, 2000, even before the Consent Decree was finalized or adopted.

Assignment to a gang unit is considered an elite post. The requirements for eligibility are strict and these groups are known for their talent and dedication. The SEUs have become a prestigious assignment for officers seeking to advance their careers.

The LAPD has completed Audits of eight of the 18 currently existing SEU station units. The Monitor has scheduled a review of these audits for the next quarter, October 1 through December 31, 2001.

The Monitor interviewed several officers and managers regarding the requirements of the Consent Decree. The general view is that the implementation of the requirements of the Decree will help to bring consistency to the different stations where the SEUs operate.³⁰ There is also consensus among those officers and managers that the best model for ideal operations is CLEAR -the Community Law Enforcement and Recovery Unit.

³⁰ The Monitor observed that most officers work in crowded offices with substandard equipment. At one station, pencils for file work had to be donated by local support groups.

CLEAR is a task force established by a federal grant, which coordinates the efforts of the gang unit with the District Attorney's office, the Parole Board, and Probation. The key to the unit's success is cooperation. CLEAR provides a means to bring several disciplines together to respond to gang-related crimes. From the beginning of every investigation, the background of the suspect is part of the equation, and there is a legal review of the sufficiency of the evidence developed for warrant applications. The work product of this unit is superior; the search warrants issued are thorough and complete. To the extent that it is practical, the procedures and methodologies developed by CLEAR should provide a model for the LAPD.³¹

J. Confidential Informants

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

Confidential Informant files or "packages" are maintained under lock and key by the commanding officer at each Division and station house. The files are accessible only to officers on a "need to know" basis with the approval of the commanding officer. Access to informant files is recorded and each meeting with an informant is documented.

The Consent Decree requires the LAPD to develop a stand-alone Department-wide database containing information on all confidential informants, except those listed by the Anti-Terrorist Division or those used in conjunction with other agencies. (CD ¶ 109). A restricted database has been established and all current informants have been entered into the system. Informants are classified as active, inactive, or "undesirable." Officers who wish to use an informant who has not worked with an officer in the last 90 days must now check the informant's status in order to determine whether an informant has been classified as undesirable.

The Consent Decree mandates close supervision of all informant contacts. (CD ¶ 108). LAPD procedures require supervisors to meet with each confidential informant at least once before an information control package qualifying a new informant is submitted to the commanding officer for approval.³² Supervisors must also confer with investigating officers before they meet with an informant. The supervisor's oversight of confidential informants is now a requirement for performance evaluations.

³¹ It should be noted that the CLEAR program is in jeopardy because of the evaporation of federal funding for the project.

³² Each confidential informant is assigned a Confidential Informant (CI) number.

The Monitor will review the supervision of informant contacts in the next quarter, October 1 through December 31, 2001. The Monitor also has requested copies of accounts for payments to confidential informants.

Pursuant to the Consent Decree, LAPD completed an Audit of year 2000 confidential informant packages. The Monitor has scheduled a review of that audit for the next quarter.

The Consent Decree mandates that the LAPD publish a Department-wide manual setting out the procedures for handling confidential informants. (CD ¶ 110). A department-wide manual has been drafted and is currently being reviewed. Distribution of the manual is anticipated on or about December 15, 2001.³³

K. Development Of Program For Responding To Persons With Mental Illness

The Consent Decree requires LAPD to evaluate successful programs for responding to persons with mental illness in other law enforcement agencies across the United States and to recommend changes in LAPD procedures with the goal of de-escalating the potential for violent encounters with mentally ill persons. (CD ¶ 111). The LAPD must complete this evaluation within one year of the date of the Consent Decree. Id.

On July 18, 2001, the LAPD submitted a request for proposal seeking a contractor to evaluate successful programs in other jurisdictions and to study the procedures and training in place at the LAPD.³⁴ Three proposals were accepted and it is anticipated that the contract will be awarded on or about November 1, 2001.

The consultant will be required to prepare a report of findings and recommendations, which will be forwarded to the Chief of Police who will then make recommendations to the Police Commission which will then forward its report to the City Council and the Mayor.

The Consent Decree also requires an audit to evaluate LAPD's handling of calls and incidents involving mentally ill persons. (CD ¶113). This audit must be conducted within one year of receipt of the consultant's report, but in no case more than 32 months after the date of the Consent Decree.

³³ The Narcotics Division maintains the largest number of informant files and has compiled its own Division guidelines. These guidelines are extensive and specific on all aspects of informant use. Officers throughout the LAPD refer to the Narcotics Division guidelines.

³⁴ The original bidders on the RFP were deemed to be non-responsive due to non-compliance with standard city contract requirements. The RFP was re-released on August 27, 2001.

K. Training

1. Field Training Officer Program

The Consent Decree requires the LAPD to continue to implement formal training and establish eligibility criteria for Field Training Officers (FTOs). (CD ¶ 114). The criteria shall include reference to TEAMS II when it is available.

The LAPD has drafted a notice on the FTO selection and removal process, which is currently under review. In addition, the Department has proposed a three-day FTO training course to update the existing FTO training, which is a 40-hour course, taught twelve times year. The proposed three-day curriculum was reviewed by the California Commission on Peace Office Standards and Training (POST) and returned to the LAPD for revisions. The course is currently under review by the LAPD's Continuing Education Division.

The Monitor will review selection and training of the FTOs during the next quarter.

2. Training Content

The Consent Decree requires the LAPD to continue to provide periodic training on police integrity. (CD ¶ 117).

On March 9, 2001, the LAPD notified its commanding officers that all course materials must be reviewed for compliance with the Consent Decree and to ensure that course curriculums were standardized and met a certain quality threshold. On April 12, the LAPD held a workshop to develop standards for a comprehensive lesson plan. Lesson plans were to be reviewed by the LAPD Training Group on May 15. Unsatisfactory lesson plans were returned June 15. Courses not approved by June 30, 2001 will not be taught until the Training Group approves new course materials.

The Consent Decree requires the LAPD to implement a formal procedure to submit suggestions for improvements for the Department's standardized training courses. (CD ¶ 120). The LAPD published a notice dated July 3, 2001 entitled "Employee Suggestion Procedures," which sets out several methods to submit suggestions to the Training Group. The Monitor will review this process during the next quarter.

The Consent Decree recognizes that the City may initiate a tuition reimbursement program for sworn officers and civilian personnel who pursue further education. (CD ¶ 119). The objective of the program is to encourage personnel to improve their job performance and their potential for promotion within the Department.

The City announced the initiation of a tuition reimbursement program on June 28, 2001 and by September 30 had received 33 requests for reimbursement.

3. Supervisory Training

The Consent Decree specifically addresses two issues regarding supervisory training:

- training for all officers promoted to a supervisory position must be given before the promotion takes place;³⁵ (CD ¶ 122).
- supervisors must receive regular training on key issues, including Use of Force, Complaint Investigations, and ethical decision making. (CD ¶ 123).

The LAPD issued a notice dated July 2, 2001, which states that officers must be trained prior to assuming a new position. This practice has already been implemented.

The Monitor will audit this practice and also review training for supervisors during the next quarter.

L. Audits

In addition to its existing audit procedures, the Consent Decree directs the LAPD to establish an Audit Division within the office of the Chief of Police. (CD ¶ 124). The Audit Division will develop an Annual Audit Plan, which will include audits mandated by the Consent Decree. The first audits were scheduled for July 1, 2001.

The LAPD Audit Division was formally established by Special Order 16, dated July 6, 2001. The Audit Division is responsible for developing the Department's Annual Audit Plan; coordinating and scheduling audits directed by the Chief of Police, as well as the audits specified in the Audit Plan; serving as a resource; and periodically assessing the quality of audits performed by other units.

A preliminary review indicates that the Audit Division oversaw the audits scheduled for July 1, and that the reports issued on schedule.

The Monitoring Audit Team has met with members of LAPD's Consent Decree Task Force to coordinate a plan for detailed work to review the audits performed by the LAPD. The audits included a review of the following:

- year 2000 search warrant applications;
- year 2000 arrest, booking and charging reports;
- year 2000 confidential informant control packages; and
- year 2000 special enforcement units (gang related activities).

Based on a preliminary review of the LAPD unit reports, the Monitoring Audit Team has developed an approach to determine the accuracy and completeness of the audits

³⁵ Captains must at least begin their training before assuming new responsibilities.

completed July 1. Fieldwork to conduct this detailed review is scheduled to begin October 1, 2001.

In general, the objectives and planned work for the Monitoring Audit Team include the following:

- evaluation of the Audit Division;
- evaluation of the development and implementation of the Annual Audit Plan;
- evaluation of the completeness and accuracy of the LAPD audits;
- evaluation of the review of the audits by the Inspector General;
- verification of review by the Chief of Police and the Police Commission.

The Monitor's review of the audits will determine whether the LAPD auditing approach is rational and meets generally accepted auditing standards.

M. Operations Of The Police Commission And The Inspector General

1. The Police Commission

The Consent Decree requires that the Police Commission continue to review Categorical Uses of Force cases and institutes the creation of a new annual public report detailing the Commission's findings on use of force. (CD ¶ 142).

On March 20, 2001, the Commission passed an Action specifically requiring that the review of Categorical Use of Force cases must include a determination that the officer acted in compliance with the Consent Decree. The Commission will report its findings to the Chief of Police regularly, and will issue its first annual report in draft form by February 15, 2002.

The Police Commission is responsible for reviewing and evaluating the performance of the Chief of Police on an annual basis. The Consent Decree specifies a number of new criteria to be included in the performance evaluation for the Chief of Police. (CD ¶ 143). Among other things, the Commission specifically shall consider the Police Chief's response to use of force incidents and officer misconduct, his imposition of discipline, his supervision of gang units, and his use of audits. (CD ¶ 144).

The Commission states that the new criteria set forth in the consent decree will be included in the year 2001 evaluation.³⁶ The Police Commission is developing new evaluation criteria for 2001 to meet this requirement.³⁷

³⁶ The Monitor was informed that the Police Commission has already conducted their annual review of the Chief of Police for the year 2000.

³⁷ The new criteria should be provided to the Chief of Police in advance of his performance evaluation.

The Police Commission is also responsible for investigating misconduct complaints filed against the Chief of Police. Currently there are no written procedures for processing these complaints, which are handled on a case by case basis.

On May 17, 2001, the Chief of Police submitted to the Commission the Annual Audit Plan for fiscal year 2001/2002. The Audit Plan provides an annual schedule for the completion of all audits required by the Consent Decree.³⁸

The Police Commission will review all audit reports generated by the LAPD to monitor the functioning of critical operations. The Consent Decree institutes several specific audits that must be completed by certain dates or on a regular periodic basis.³⁹ (CD ¶ 143).

The Monitor is scheduled to verify and evaluate the Police Commission's review of the LAPD Audits during the next quarter.

Review and approval of LAPD budget requests also is a continuing responsibility outlined in the Consent Decree. (CD ¶ 146). The Police Commission's position of Commission Budget Analyst, which has primary responsibility within the Commission for this task, is currently vacant, but should be filled shortly

2. The Inspector General

The Consent Decree expands the role of the Inspector General's office in regard to Use of Force cases and complaint investigations as well as mandating that the office review all audit and discipline reports completed pursuant to the requirements of the Decree. (CD ¶ 147).

a) Categorical Use of Force

The Consent Decree provides that the Inspector General is entitled to participate as an observer on Categorical Use of Force "roll outs." Id. The Inspector General's office is developing a protocol on rollouts, which will include notification to the Police Commission of compliance issues. The protocol is due October 15, 2001. In the interim, the Inspector General's Office indicated that it will not participate in Categorical Use of Force rollouts.⁴⁰

The Inspector General's office maintains a log of all notifications of Categorical Use of Force rollouts. Reportedly this log is periodically compared to the LAPD "24 hour log" to ensure that all roll outs have been reported. The Inspector General's office reportedly

³⁸ The only audit not included in the plan relates to paragraph 113 of the Consent Decree, which requires an audit of new procedures to handle persons who may be mentally ill. Under the Consent Decree, this audit is scheduled for following fiscal year.

³⁹ See Paragraph 143 of the Consent Decree.

⁴⁰ As of November 8, 2001 the Monitor was advised that the Inspector General had begun rolling out.

implemented this practice in June 2001 but the comparison process is not documented at present.

The Monitor will review this practice during the next quarter.

The Consent Decree also provides that the Inspector General may attend Use of Force Review Board meetings and has the right to interview witnesses at the conclusion of the hearing. (CD ¶ 148) The Inspector General maintains that his office historically has the right to interview Review Board witnesses, and has done so in the past. The Inspector General will continue this practice.

The Monitor will review these issues during the next quarter.

b) Complaint Investigations

LAPD officers have a duty to report misconduct complaints through their supervisor or IAG. The Consent Decree provides that the Inspector General shall accept complaints from officers⁴¹. (CD ¶ 150) The Consent Decree also provides that the officer may request confidentiality. Id. The Inspector General has the duty to maintain confidentiality unless such disclosure is unavoidable. This process is designed to ensure that sensitive issues are addressed and that individuals who provide information are protected against possible retaliation.

Pursuant to the Consent Decree, the LAPD issued Special Order 17, dated July 17, 2001, which provides that Internal Affairs Group shall provide the Inspector General with "all complaint intake information" within one week of receipt of the complaint. (CD ¶ 152)

The Inspector General historically has reviewed intake information to monitor complaint investigations. The Inspector General's office maintains this information in an internal database, which is used to track the one-week deadline and to determine whether the office receives information on all complaints filed. The Inspector General uses the sequential "CF" number assigned to misconduct complaints to track complaints filed. If there is a gap in the numbers, the Inspector General's office will request the missing complaint from Internal Affairs.

The Inspector General also is responsible for reviewing all audits performed by the LAPD, including the audits specified by the Consent Decree.

The Monitor is scheduled to evaluate the Inspector General's review of the LAPD audits during the next quarter.

⁴¹ The reporting and acceptance of a complaint by the Inspector General does not relieve an officer from the obligation of reporting misconduct to his/her supervisor or IG.

N. Community Outreach And Public Information

1. Community Meetings

The Consent Decree directs the LAPD to conduct a Community Outreach program for each LAPD geographic area, which will include one open community meeting each quarter for the first year of the Consent Decree and one meeting annually after the first year. (CD ¶ 155)

The LAPD issued Administrative Order 8, dated July 25, 2001, which organizes the Department's outreach programs and establishes new procedures in compliance with the requirements of the Consent Decree. All 18 LAPD geographic areas scheduled and held community meetings before the end of the first quarter on September 30, 2001.⁴² Each meeting presented information on the Consent Decree and the procedure to file commendations and misconduct complaints. The meetings were advertised in advance and published on the City and LAPD websites. The Department published notice of the meeting schedules in the Los Angeles Times.⁴³

The Monitor did not verify adequate publication in local newspapers that serve the diversity of languages and ethnic cultures in the communities. This will be reported on in the next quarter. LAPD's Community Affairs Group (CAG) has recently implemented a system to verify that each Division has placed meeting advertisements in the local papers. The Monitor will review these procedures during the next quarter.

All 18 geographic areas have scheduled their next quarter community affairs meetings. The meeting schedule will be posted on the LAPD website by October 24, 2001.

2. Website

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. The Department has 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.⁴⁴

⁴² Due to the attack on the World Trade Center on September 11, 2001, the Hollenbeck meeting was rescheduled to September 26, 2001. Notice of the new meeting time was published in the city newspaper.

⁴³ The print for this advertisement was extremely small and difficult to read. The Consent Decree Task Force represents that this will be remedied in the next quarter.

⁴⁴ The website is required to publish both the Monitor's report and the City's report. Neither report had been issued by September 30, 2001. However, the semi-annual report does indicate that the reports are expected and will be published.

The following groups are responsible for the website data collection:

Management Services Division

(no data collected for first six months)

Human Resources Bureau**Information Technology Division****Audit Division****Internal Affairs Group****Consent Decree Task Force****Field Data****Use of Force Statistics****Arrest Statistics****Audit Summary****Discipline Statistics****Consent Decree progress****Monitor Report****City Status Report**

3. Media Advisory Group

Paragraph 157 of the Consent Decree mandates that CAG create a Media Advisory Group to “facilitate information dissemination to the predominant ethnicities and cultures in Los Angeles.” The group was not established during the first quarter. However, on October 17, 2001, Lt. Horace Frank of the Media Relations Group held the first meeting of the newly formed Media Relations Group, whose members are representatives from each district and a representative from the Mayor's office.

VI. CONCLUSION

The first quarter of monitoring activity has been marked by noteworthy cooperation and apparent good will of all of the parties. While there are areas of significant concern, the Monitor believes there is genuine interest of the parties in achieving the goals of the Consent Decree and effectuating its provisions. Over the next quarter the Monitor will continue to familiarize itself with the Department, audit appropriate parts of its operations and will be developing compliance measurement criteria for all substantive provisions of the Decree.