Memorandum

February 12, 2006

TO: Attorney General Bill Lockyer
State of California, Department of Justice

FROM: Joseph Brann

SUBJECT: Stipulated Judgment – 2005 4th Quarter Report

RE: People of the State of California, etc. v. City of Riverside
Riverside County Superior Court Case No. 355410

Summary

The stipulated judgment has now entered the final quarter of the anticipated five-year monitoring period. It was originally intended that this injunction would remain in effect for five years from the date of entry of the judgment, unless extended upon the motion of the Attorney General and by order of the court for good cause. So that the Attorney General can determine in a timely manner whether this injunction ought to be concluded or extended, I will provide my findings concerning Riverside's progress and compliance in this report.

In previous quarterly reports, the provisions discussed were selected based on the deadlines established, activities undertaken during that particular quarter, or other needs identified. In this report, all provisions that have been monitored will be addressed to provide a fuller picture of what has occurred over the entire time span of the judgment. In the following discussion, I will offer findings regarding compliance achieved and, where appropriate, provide recommendations concerning future actions the City should consider to maintain its' progress and continue responding to needs that still exist.

The provisions (or paragraphs) of the stipulated judgment can logically be grouped based on certain types or categories of issues that were identified by the Department of Justice (DOJ) during the investigation that led to this judgment. The following groupings represent the areas or type of reforms that were viewed as being essential if Riverside was to improve the

quality of policing provided. The categories used here are those that most accurately capture the issues that were originally of concern: "Training," "Accountability", "Supervision and Management," and a fourth category designated as "Other."

The determination regarding whether the City is in full compliance is not based on achieving perfection and unfailing compliance with every element of each provision in the judgment. That is simply not possible or realistic for any organization. What is expected and what has been constantly evaluated is a combination of factors: whether the policies or plans required were developed and implemented; whether the City displays a good faith effort to implement the policies and plans and strives to ensure all employees adhere to these; and whether the organization responds appropriately when deficiencies are noted or problems arise.

For the purposes of this judgment, compliance is based on documented and sustained progress displayed with each of the reforms undertaken and what overall level of success has been achieved by the City. Problems and deficiencies were expected, identified and dealt with over the course of the past five years. Ultimately, the "best" measure of performance and test of the City's compliance was examining how Riverside responded when problems occurred.

TRAINING

¶ 49 – Complaint Policy and Annual Training

This provision of the stipulated judgment required Riverside Police Department (RPD) to develop and implement a plan to provide all managers and supervisors with four hours of annual training on the complaint policy and guidelines for conducting complaint investigations.

This paragraph also specifies that the RPD will require anyone promoted to Sergeant to complete the Peace Officers Standards and Training Commission (POST) Supervisory Course within one year, and send at least two Sergeants per year to the POST Supervisory and Leadership Institute (SLI).

Finding:

This plan was completed and approved on December 19, 2002. With the exception of 2004, annual training in this topic was provided for all

managers and supervisors every calendar year. The delay in providing that training during calendar year 2004 was corrected once the training was conducted in January of 2005.

All sergeants have completed the POST supervisory course. This is now routinely scheduled for new sergeants, either prior to or immediately following their appointment. There have been 35 sergeants promoted since March 2002 and all have attended the POST course as well as the in-house supervisors training course. Additionally, 14 sergeants have attended the Supervisory and Leadership Institute (SLI).

Riverside is in compliance with this provision.

Recommendation:

With the number of new promotions that continue to occur and the inevitable expansion of the RPD as the city continues to grow, the department would benefit from continuing the annual management and supervisory training. An ongoing effort to audit complaint investigations should be carried out and the findings used to educate managers and supervisors of possible failings and improvements needed.

¶ 53 – Training for Sworn Managers/Supervisors

RPD is required to ensure that all sworn managers and supervisors complete the POST-certified 80-hour Basic Supervisory Course, an in-house training course on performance evaluations, and four hours of updated training on this subject every two years.

Finding:

RPD has displayed their commitment to meeting this provision even in the face of City budget difficulties and when state reductions and cutbacks in the POST reimbursement program and training courses were taking place. The department pressed forward during those times and, in addition to conducting in-house training in areas such as Supervisory Management Responsibilities, it did provide updated sessions on conducting performance evaluations. A review of the training courses has shown that all managers and supervisors receive the required four hours of training every two years.

Riverside is in compliance with this provision.

¶ 58 –Critical Incident Debriefings

The Judgment mandated the adoption of a written policy for debriefing all critical incidents, including all uses of lethal force. It includes having a review conducted by command staff, the development of recommendations related to training and equipment and dissemination of the lessons learned.

Finding:

There were several problems noted with the department's compliance with this provision early on in this process. The policy was developed and approved in October of 2001. When some of the early debriefings were observed by the consultant, concerns were identified regarding command staff who were participants in the incidents but then also directed the debriefings. Their rank tended to inhibit the candor and feedback necessary for an open and successful debriefing process. Eventually, protocols were established to promote improved candor and feedback and once RPD personnel became more comfortable with the processes, the quality of the debriefings has improved.

Meeting the mandated deadlines established in the policy and disseminating the lessons learned proved to be a challenge for the agency. Several of the early debriefings were not completed in a timely manner and not all the after-action reports were filed with the training staff. Additionally, the requirement to develop and distribute appropriate training materials within 15 days of receipt of the after-action report was not consistently met.

Despite the initial difficulties encountered, there have been improvements noted in each of these areas and Riverside is now in compliance with this provision.

Recommendation:

Continuing attention to this policy by senior command staff should be provided to ensure the valuable lessons gleaned from these incidents and the training opportunities they provide are consistently disseminated throughout the organization.

¶ 59 – Field Training Officer Program

This requirement called for the development and implementation of a plan to bring about improvements in the field-training program. This included expansion of the training phases, updating issues to be covered, revisions in the FTO manual, documenting daily observations of the trainees, developing interactive training, and establishing a two-week community policing and problem solving component.

Finding:

All requirements of this provision were met and the plan was approved in December 2002. Subsequently, quarterly meetings and FTO program reviews have been conducted by the department's FTO committee to ensure evolving needs or issues are addressed in a timely manner. The plan has also been modified on at least two occasions to address such issues and recommendations from the FTO committee. Those modifications were reviewed to ensure they were consistent with the requirements of this section and subsequently approved.

Over time, the department has demonstrated a commitment to improving the FTO program by becoming more selective in choosing which officers will serve as FTOs. The selection process today has been built around the organizations mission and core values. The FTOs being selected are those individuals who serve as suitable role models and who have displayed a commitment to the organizations values.

Training staff also regularly evaluate the FTO program in light of POST training requirements to ensure the objectives of the learning domains are met.

RPD has worked closely with staff from the POST Commission to keep this plan current. The agency has also been used as a resource by POST to develop materials for statewide training distribution.

Riverside is in compliance with this provision.

¶ 60 – Diversity Training

RPD was required to implement a plan to continue diversity training within 6 months of the entry of the Judgment and include specific information relevant to the diversity and composition of the Riverside community. A specific component of this training must be devoted to

examining why the community reacted to the manner in which some officers responded to the Tyisha Miller shooting incident.

Finding:

RPD contracted with several outside resources to assist with the development of diversity training programs - including racial, ethnic, cultural and religious issues. Four different four-hour training modules were developed and provided to all agency personnel. That curriculum was approved by POST. Current demographic information for the City was incorporated into this training to ensure participants developed an understanding of the diversity and composition of the Riverside community.

Chief Leach issued a special order to fix responsibility with the Personnel and Training Division for facilitating ongoing training in this subject. A component of that training does address the Tyisha Miller shooting, community reactions to it and organizational deficiencies.

The department went well beyond the minimal requirements in responding to this provision of the judgment. The amount of training provided and the type of external resources utilized promoted a very comprehensive examination of underlying issues involved in dealing with diversity issues in the community.

Riverside is in compliance with this provision.

¶ 63 – Pretext Stop Training

This provision requires the RPD to develop and implement a plan to provide annual training on how to avoid the improper use of pretext stops.

Finding:

RPD established Section 12.1 of the Policy and Procedures Manual and formally established an ongoing commitment to providing annual training in the use of pretext stops. The department also contracted with an outside consultant (Gars Jensen, a Deputy District Attorney with San Bernardino County), who is a recognized expert in this subject area, to develop and present the training. The contract called for this training to be conducted twice annually throughout the course of the stipulated judgment and reviews of the training records and roll call documents showed this requirement has been met.

Riverside is in compliance with this provision.

Recommendation:

Given the ongoing community concerns raised in relation to the traffic stop studies, it is recommended that the department continue to provide this training since new personnel are constantly being hired. The training should be updated, as appropriate, to ensure existing personnel remain abreast of case law and any policy changes that might occur.

¶ 69 – Annual Training in Use of Force

The RPD was required to develop and implement a plan to provide all officers with annual training on use of force and when and how to use less lethal methods of force. Training requirements on this subject must exceed POST requirements.

Finding:

The department's plan was developed and approved by DOJ in December of 2002. RPD also worked closely with POST staff on this training and was selected as a "beta" training site to support POST's efforts to develop interactive multi-media training in this topic area. As a beta site, they served as a pilot project and helped assess the delivery and the impact of the training.

This training is being provided annually, with classroom training sessions and practical application exercises utilized. The topics are covered in a four hour training module and do exceed the POST requirements, both in the hours involved as well as the subject matter covered. Roll call training sessions are routinely utilized to review specific incidents along with recent case decisions and tactical skills awareness.

Riverside is in compliance with this provision. More information concerning this issue can be found in the section on "accountability," which follows.

ACCOUNTABILITY

¶ 47 – Traffic Stop Data Collection

Riverside is required to continue the Traffic Stop Data Collection study that requires officers to report the race and gender of all drivers stopped, document the alleged violation of law that justified the stop, and annually review and analyze the data for the purpose of providing a report to the Attorney General.

Finding:

RPD has continued to conduct the data collection study throughout the course of the stipulated judgment. Riverside continues to contract with Dr. Larry Gaines from California State University, San Bernardino (CSUSB) for the review and analysis of this data.

Each year of this study, the report was submitted to the consultant and DOJ for review and approval. Some questions were raised during these reviews and modifications were suggested for future studies, which Dr. Gaines and RPD staff willingly adopted and subsequently incorporated into the work being done. These annual reports have addressed all issues and questions raised during our reviews and subsequent report have built on the prior studies, thereby providing a very comprehensive and accurate picture of the nature of traffic stops in Riverside. The reports have also addressed the range of methodologies used in similar traffic stop studies across the country and the reasons for the approach that has been followed in Riverside.

The continuing examination of this data over the past four years has enabled RPD to track the findings, report back to DOJ and share the results of the studies with the community in a variety of forums. RPD is benefiting from this research and has established greater credibility in the community, as evidenced by comments offered by attendees, the Human Relations Commission and in the press.

Riverside is in compliance with this provision.

Recommendation:

The consultant believes the City and the RPD should continue to conduct this annual study. There are organizational and managerial benefits stemming from the level of analysis that has been conducted and

the ongoing assessment of how patrol stops differ from traffic unit stops. There are also benefits for the community in that is is gradually developing an improved understanding as to why variations exist in the data from traffic enforcement stops versus investigatory stops. Additionally, the community is developing a fuller appreciation for the level of transparency the RPD has displayed in responding to community concerns.

¶ 48 – Roll Call Monitoring

This provision requires the RPD to develop and implement a plan to systematically monitor roll calls This includes having Watch Commanders present for roll calls; establishing a video system by which command staff could monitor these sessions remotely; and providing zero tolerance of racial, ethnic or sexual jokes.

Finding:

A new department policy, Section 4.46 of the RPD Policy and Procedures Manual, was established to address this provision. The purpose of that policy is to ensure that such briefings consistently occur, required training is conducted, and command staff provides appropriate management oversight. The policy addresses training expectations, the roles and responsibilities of supervisors and managers, and makes it explicit that any inappropriate conduct - including racial, ethnic and sexual jokes - will not be tolerated by the RPD.

Remote, electronic monitoring of roll call sessions was implemented in 2001 when a two-way video system was installed that enables command staff at the headquarters facility to observe and participate in roll calls. Since that time the City continues to grow and the RPD is in the process of expanding its' facilities to accommodate this growth. The City has included funding to install the video monitoring systems in the new patrol facilities.

Since the inception of the monitoring activities, interviews and direct observations have shown that all provisions of this policy have consistently been applied. Contemporary, relevant training is being provided for officers during roll call sessions. Shift rosters are completed every shift and identify issues discussed, training provided and which supervisors or watch commander are present. The consultant has periodically attended roll call sessions (unannounced) and also observed these sessions remotely. Watch commanders were present on all occasions. The rosters and direct observations have also shown that the Chief and other command staff occasionally attend roll calls to discuss various issues.

The department has also cooperated with POST and assisted in developing a DVD training curriculum that was disseminated to agencies throughout the state. RPD was the first agency in the state to have completed this DVD training program.

Riverside is in compliance with this provision.

¶ 50 – Complaint Policy Modifications

RPD was required to modify the complaint procedure to require that the rationale for all credibility determinations would be set forth in the investigative report and the officer's personnel history considered in any credibility determination. Other provisions required the modification of the complaint form to include the complainant's race and gender; a thorough examination of the rationale for any stop or search related to the complaint; ensuring all issues raised in the complaint be addressed; and establishing a system to log and track all complaints or inquiries.

Finding:

The modifications to the complaint procedure (Section 4.12 of the RPD Policy and Procedures Manual), the changes made in the complaint form, and the tracking system for complaints and inquiries were all completed in 2001, with conditional approval provided by DOJ in April 2002. Final approval was given in December 2002 when the training for all supervisors was completed.

Early on, deficiencies and inconsistencies were noted in the quality of credibility determinations by some field supervisors when they were conducting complaint investigations. Credibility determinations were not consistently provided in cases where this was warranted and the personnel history of officers was sometimes ignored when a potential pattern was actually evident. Those concerns were subsequently discussed with staff. The consultant presented training to the supervisors and managers on the complaint policy requirements and addressed questions as to how/when these determinations should be done. Subsequent auditing of complaints showed marked improvement by field supervisors in conducting these investigations and the management reviews also improved. The Internal Affairs (IA) section is more closely monitoring the investigations and now routinely identifies and acts on deficiencies found during their reviews.

Riverside is in compliance with this provision.

Recommendation:

The auditing process (see paragraph 51) for complaints and internal investigations should be used to periodically examine the quality of investigations conducted by field supervisors. This would ensure credibility determinations are routinely made in those cases where discrepancies and inconsistencies are found in statements of the parties involved. Audits should also be used to determine whether supervisors are examining an officer's personnel history when arriving at their findings and whether managers are ensuring this is done prior to providing their recommendations.

It is vital the RPD remain vigilant in holding managers and supervisors accountable for the quality of these investigations. Ensuring they are conducted in a fair, impartial and objective manner will do much to promote community confidence and enhance the department's credibility.

¶ 51 – Audits of Complaints and Internal Investigations

This provision required RPD to establish a plan to systematically evaluate and audit complaint procedures and administrative investigations to assure full compliance with all RPD guidelines and requirements. The stipulated judgment requires at least three audits be conducted annually.

Finding:

This plan was established through a new provision incorporated in Section 4.12 of the Policies and Procedures Manual and related changes were made in the agency's Administrative Guidelines in 2002. The plan was then approved in March 2003.

RPD conducted the required three annual audits each year between 2002 and 2004, and two audits were conducted in 2005. Generally, these audits have focused on various units that routinely deal with the intake of complaints and employee compliance with the procedures that govern the processing of complaints.

The agency has been encouraged to examine management and supervisory practices during these audits. While the "letter" of the auditing requirement is being met, one of the stated objectives has not been sufficiently addressed, to wit: "audit procedures shall include inquiry into

whether complaints that are investigated by sergeants who supervise the officers that are the subjects of these complaints are fair, unbiased, and thorough." This issue was discussed with IA and command staff and plans have been made to examine these features more closely in future audits.

Riverside is in compliance with this provision.

Recommendation:

Consistent with the recommendation offered in ¶50, RPD should continue with this policy and routinely audit complaint investigations. These audits should be used to evaluate supervisors and managers adherence with the procedures and determine whether they are meeting expectations based on their positions and responsibilities.

¶ 54 – Performance Evaluations

This paragraph requires RPD to ensure that personnel evaluations are conducted annually and that appropriate action is taken with supervisors or managers who fail to comply with this requirement.

Finding:

The department developed a tracking system to monitor employee performance evaluations. Due dates are tracked and supervisors and managers are provided updates to keep them informed of pending and overdue evaluations.

The level of compliance with this provision has consistently been high. Several audits have been conducted and monthly reports are now issued which show the status of all pending evaluations. Extensions are granted for those evaluations involving personnel who are on long-term sick leave, military duty, etc. The vast majority of evaluations are being completed on time or within 30 days of their due date. Those that have extended beyond this time have been tracked and normally completed within the next report cycle.

Riverside is in compliance with this provision.

¶ 55 – Modifications of Job Specifications

The Department was required to develop and implement a plan within twelve months of the entry of the judgment to modify job

specifications, performance evaluation requirements, and promotional practices so that officers are hired and evaluated, in part, based on displayed sensitivity to all segments of the community.

Finding:

Recruitment materials, position descriptions, and other candidate and employee evaluation materials were modified to address this requirement within the first year of the judgment. The background investigations on applicants, field training evaluation forms and performance appraisal form specifically delve into this area to provide a more complete picture of the individual's suitability in this arena. Additionally, this dimension is being evaluated prior to considering individuals for promotion.

Riverside is in compliance with this provision.

¶ 61 – Extension of Sergeant's Probationary Period

This required the probationary period for RPD sergeants be changed from six months to twelve months.

Finding:

This probationary period for sergeants was changed in October 2001 to require a one-year probationary period.

Riverside is in compliance with this provision.

¶ 62 – Early Warning System (EWS)

The RPD was required to continue with the implementation of its Early Warning System and modify the system to provide that it be triggered by the occurrence of two or more reportable incidents within a twelve-month period.

Finding:

Section 4.55 of the Policy and Procedures Manual describes the EWS, the criteria involved, and specifies that inclusion of an employee in this system will be triggered by two or more reportable incidents within the previous twelve-month period. This policy was completed in September 2001.

The EWS provides an accurate picture of the employee's history with respect to the nature and number of incidents that meet the criteria for that cycle. It includes the total number of incidents the employee has been involved during their service with the city that fall under those criteria (such as complaints, use of force incidents, traffic accidents, suits and claims, etc.). Because it also provides the date of hire and current assignment, this information can help assess whether the employee has an unusual history or level of activity in the reportable categories. If used to the full potential, it can also be quite useful in determining whether trends are present that not only involve the individual employee but may reflect a problem occurring on a given shift or assignment, or even on the part of employees working for a particular supervisor.

Riverside is in compliance with this provision, given that the requirement was to focus was on assessing patterns of behavior or performance on the part of individual employees.

Recommendation:

RPD staff initially expressed concerns about the relatively low threshold for inclusion in this system; however, a decision was made to stay with that threshold until a more complete evaluation of the possible impact of any changes could be conducted. It has since been found that over 60% of field personnel are routinely involved in the EWS review process each quarter. This large number of employees requires significant staff time during the reviews and evaluation cycle. Most employees don't require ongoing scrutiny because patterns or trends are not present and the nature of the activity reviewed doesn't warrant or justify some form of supervisory intervention. Therefore, it is recommended that consideration be given to adjusting the threshold so that less staff time is required and greater attention can be devoted to the relatively small number of employees who are in need of increased attention and intervention.

It is also recommended that other criteria be considered for inclusion in the EWS. Additional kinds of personnel information, or factors, have been incorporated by other agencies using comparable systems. Some of these factors (such as sick time abuse and excessive job injuries) seem to be strongly correlated to other types of performance and behavioral problems that are of concern in the EWS. The identification and application of additional criteria can help the RPD in their efforts to reduce complaints, claims, and other risks to which the agency may be exposed.

Finally, it is recommended the EWS be used to identify and examine patterns and problems that might become evident when reviewing the concentration of incidents on particular shifts or in certain assignments. This may also be of help in identifying possible neglect or failings on the part of the supervisors and/or managers for whom the employees are working.

¶ 67 – Audio and Mobile Video Recorders

This section of the Judgment required RPD to acquire audio recorders that would be carried by all officers and supervisors in the Field Operations Division and development of a policy governing their use. It mandated the acquisition and deployment of 10 mobile recorders and called for the agency to make an effort to secure funding to acquire and expand the usage of these to 25 or more additional vehicles.

Finding:

The audio recording policy was approved in March of 2002 and full deployment of the digital audio recorders occurred during the second quarter of that year. All field personnel have been using the recorders since that time.

Ten digital mobile video recorders (MVRs) were acquired and deployed during the third quarter of 2003. The department also initiated a request to obtain funding for three additional MVRs at the same time. The funding for those devices was eventually obtained under a USDOJ Community Oriented Policing (COPS) technology grant and the three additional MVRs were deployed in the first quarter of 2004. The department has continued to seek funding for additional devices and the City Manager gave a verbal commitment to the RPD in 2005 to provide this funding. A new model MVR is currently being tested by RPD. Upon completion of the evaluation, the department announced its' intention to move forward with a purchase that would increase the number of MVRs in use to 35. As this report was being completed, the Chief advised the City has taken steps to budget an additional $500,000 for the department to acquire and implement mobile video recorders in up to 120 additional patrol units.

Initially, some officers avoided using the audio recorders and did not honor the policy requirements. This resulted in closer monitoring by the consultant and, ultimately, required corrective actions by supervisors and managers. The resistance diminished over time, especially as officers

began to realize the benefits of using the devices for investigatory purposes as well as to document their own actions and protect themselves from false complaints and allegations of misconduct. Management has also found the devices to be especially helpful when conducting administrative investigations and for training purposes.

Audits of complaint investigations and various field incidents have shown the devices are now routinely used, in accordance with policy requirements.

Riverside is in compliance with this provision.

¶ 68 – Command Accountability

The RPD is required to maintain a command accountability structure that supports and promotes internal accountability with 24-hour management oversight and ensures consistent management supervision for all watches.

Finding:

Evidence of the agency's compliance with this provision can also be found in those sections of the judgment that deal with mandated supervisory staffing ratios (¶ 52) and the role and staffing of the watch commander position (¶ 57). Those requirements are discussed in the next section of the report (Supervision).

Command accountability is being improved through a Management Accountability Program (MAP) established by Chief Leach in 2003. This program ensures managers are held accountable for the performance of their staff and their progress in meeting the goals and objectives set for the RPD. The program involves a regular and ongoing review of the performance and progress of the various field operations units in their efforts to address crime and disorder issues in the community and in meeting the goals and objectives established in the department's strategic plan.

Command staff convenes at the end of each 28-day cycle to review crime data, evolving trends and discuss unit performance and resources required to address these issues. A master schedule of the MAP sessions has been established and is followed. The meetings are not restricted to agency personnel. Public officials, community members, outside personnel and even the media have been in attendance, which provides a higher level of transparency as well as heightened public accountability.

Riverside is in compliance with this provision.

¶ 69 – Use of Force

Although this requirement was also addressed under the Training heading, the application of the training involved and policy considerations warrant further discussion in this section. There is solid evidence of changes in organizational performance and improvements in police use of force practices. As the monitoring activities evolved from assessing the development of policies and plans into actual measurements of organizational performance and/or assessing the impact of the changes sought, increased attention has been focused on evaluating use of force incidents to establish what effect this has had. The consequences of the training and effects measured are discussed below.

Finding:

The following table provides an overview of the status and findings from use of force investigations over the past six years (annualized data from one year prior to the judgment and each year since then).

Reportable cases documented involve any incidents where force ranging from "hard hands" blows and "takedowns" to less-than-lethal and deadly force is used. Almost all use of force incidents have been found to be within the department's policies governing the application of force and no significant trends are evident based on this data. The category of "other" represents those cases where the administrative review found the use of force to be inconsistent with the department's policy. The pending cases found in 2004 and 2005 are those investigations that are still open and have not yet been completed.

To ensure the reader has an accurate picture of the department and the frequency with which force has been used, it is important to note that overall police activity, especially officer initiated activities, declined significantly in 2000 and 2001. Thereafter, the overall calls for service and officer generated activities have been increasing. This logically results in a greater number of investigations being conducted and other increased opportunities for interaction which can lead to officers using force to make an arrest or to protect themselves and others.

TABLE 1
All Use of Force Incidents

	In Policy	*Other*	*Pending*	*Total*
2000	133	1		134
2001	138	3		141
2002	170			170
2003	137	3		140
2004	187	1	4	192
2005	148	1	30	179

In Table 2, a more detailed examination of specific forms or types of force is provided and additional insights can be gleaned from this data. The number of officer involved shooting (OIS) incidents has been relatively stable throughout the monitoring period and has actually declined over the past three years. However, because this category of force involves such a small number of incidents annually and it tends to be driven by the actions of suspects rather than officer options, it is not reliable as an indicator of either agency trends or officer performance.

TABLE 2
Use of Force Incidents by Type

	OIS	*Carotid*	*Chemical Irritant*	*Impact Weapons*	*Less Lethal*	*Tasers*
2000	1	17	22	18	2	8
2001	3	9	18	16	7	11
2002	5	15	22	19	8	5
2003	7	30	25	16	5	10
2004	4	39	28	27	3	15
2005	2	40	21	24	1	14

Categories of force that have shown an increase involve the use of carotid restraints, impact weapons and Tasers. However, it should be noted that the increase in the number of these incidents is not disproportionate to the overall increase in police activity previously described. RPD's use of force levels are also generally lower than those

found in comparable communities and among similar agencies that track this data.

The final category of use of force involves the deployment of canines. Table 3 provides a comparison of the number of canine deployments, surrenders by arrestees, and apprehensions (bites), along with a ratio of bites to deployments. This data is provided only since 2003 because of changes that were made in how this data is calculated.

TABLE 3
Canine Deployments/Apprehensions

	Deployments	Surrenders	Apprehensions/ Bites	Ratio of Deployments to Bites
2003	480	134	10 (2%)	48:1
2004	614	99	15 (3%)	36:1
2005	1090	77	8 (.7%)	136:1

In 2003, RPD canines apprehended subjects 28% of the time they were deployed and this resulted in bites 2% of the time. In 2004, the canines apprehended subjects 15% of the time they were deployed and bites occurred in slightly less than 3% of those incidents. In 2005, subjects were apprehended in 7% of the deployments and bites occurred in less than 1% of those deployments. The overall ratio of deployments to bites was 48:1 in 2003, 36:1 in 2004 and 136:1 in 2005.

There was also a 12% increase in the number of canine deployments between 2003 and 2004 and a 77% increase between 2004 and 2005.

As noted in the previous discussion concerning ¶69, Riverside is in compliance with this provision.

SUPERVISION AND MANAGEMENT

¶ 52 – Staffing Ratio

The RPD is required to maintain a staffing ratio of at least one supervisor for every seven officers in the patrol division.

Finding:

This provision was developed because it was recognized that the RPD was consistently suffering from a low ratio of supervisors to officers. It was viewed as one of the more significant factors that contributed to poor levels of supervision and inadequate oversight of officers in the field. Supervisory staffing levels had been compromised over time because of budget considerations. It appears the policymakers and administrative staff responsible for those decisions did not consider what the ultimate consequences might be and how this could affect the actions and behavior of inexperienced or poorly trained officers.

RPD has struggled at times to maintain the staffing ratio identified but significant improvements have been noted over the past year. Throughout much of the monitoring period, the department was not meeting the required staffing ratio of supervisors to officers for approximately 10-13% of the shifts. In the past year, this ratio has shown steady improvement. This figure has declined from 14% of the shifts during the 4th quarter of 2004 to only 4% of the shifts during the fourth quarter of 2005.

It is not realistic to expect that every shift will meet the desired ratio because of unanticipated absences. Generally, it has been found that when the supervisory ratios exceed the desired level these shifts are rarely experiencing a ratio greater than one supervisor to 7.5 officers. The average staffing ratio for each shift tends to be around 1:5.

Riverside is in compliance with this provision.

Recommendation:

Riverside should make a concerted effort to maintain this ratio in the patrol division on a continuing basis. Patrol is where the newer and least experienced officers are assigned and over the past five years, the average age and experience level in patrol has declined. That is also true of the supervisors because retirements are increasing and more promotions made to replace individuals who are departing, many of whom are in the supervisory or management ranks. It is likely this trend will continue for the foreseeable future because of the City's participation in the PERS "3% at 50" retirement plan for public safety personnel. This retirement plan can result in officers achieving their maximum retirement benefits as early as the age of 50 and this is encouraging people to retire sooner and move into other careers.

Given the problems that gave rise to the creation of the stipulated judgment, it is especially important the City maintain adequate levels of supervision in the field. It is crucial the City ensures there are sufficient numbers of qualified supervisors available to guide a workforce comprised of largely inexperienced employees. This has proven to be one of the most effective remedies to correct past problems and it should be viewed as a highly cost-effective, risk-management strategy by the City.

¶ 57 – Lieutenant Watch Commanders

This policy requires that the Watch Commander position be routinely staffed by someone at the rank of lieutenant or higher. It does allow sergeants to fill that assignment during emergencies or on occasions that have been pre-determined and approved, as specified by written policy.

Finding:

As with ¶ 52, this provision was also developed to compensate for a significant deficiency in the area of management oversight. It had been common for the organization to assign sergeants to the serve in the role of watch commander. This resulted in peers consistently "supervising" each other - a practice which all too often results in little or no management accountability. The practice became routine rather than an exception. Sergeants were hesitant to fulfill the actual obligations of the watch commander role because of peer pressures and relationships. They did not view themselves as being accountable for the actions of their peers so the role was essentially compromised.

Over the past five years, the watch commander's role has normally been staffed with lieutenants and even, on some occasions, by Captains. There are occasions where a lieutenant is not immediately available for all or part of the shift and advance approval is given to have a sergeant staff that function. When this occurs, a lieutenant is often placed in an "on-call" status and remains available to respond should there be an unusual occurrence or need.

In the vast majority of cases where sergeants are called upon to staff this position, it is normally only for a part of the shift. Quite often, the watch commander from the previous shift will be held over for part of the next shift and/or the watch commander from the next shift will be called upon to arrive early.

Similar to the situation with the sergeants staffing ratio, it is not realistic to expect every shift to be staffed by a lieutenant watch commander. However, the agency has made a significant effort to reduce the number of occasions where a lieutenant is not staffing this function. The percentage of shifts where a lieutenant is not available for all or part of the shift has consistently been in the range of 10-14% each quarter.

The department has increased the number of lieutenant positions in the organization to help ensure greater managerial oversight is available in the field and so they can readily respond to major incidents. The number of authorized lieutenant positions has increased by eight since the stipulated judgment took effect. This has enabled the department to adequately staff the watch commander's positions while also creating area commander roles in which lieutenants work more closely with the community to advance community-policing programs and foster improved geographic accountability.

Riverside is in compliance with this provision.

OTHER

¶¶64-66 – Strategic Plan

The provisions in these paragraphs called for the development of a Strategic Plan, within one year of the date of entry for the stipulated judgment, to guide the implementation of RPD's community oriented policing program. The plan must also reasonably calculate the resources and programs required to support this effort, create a dedicated training fund to ensure compliance with the training plan, and ensure the agency has and continues to maintain an effective span of control.

Finding:

Although the judgment called for development of this plan within the first year, the consultant advocated and DOJ agreed to defer this until all other provisions of the judgment had been met. The reason for deferring the strategic plan was to ensure that other elements of the judgment, which would affect this plan, were in place. This allowed additional time for the organization to address staffing needs, structural changes, and mechanisms required to move the plan forward once it was crafted. It also provided an opportunity for the community to participate in the development of the plan and fostered a sense of shared ownership. Further, it allowed time to provide employee training and direction to staff

that could ensure success in implementing those activities for which they would be responsible.

The formal approval of RPD's Strategic Plan was granted on October 20 2004. Subsequently, the stipulated judgment was amended in Riverside County Superior Court to incorporate the Plan into the judgment, as required by paragraph 66.

The Strategic Plan now serves as the agency's blueprint for implementation of its' community policing philosophy and carrying forward most of the reforms developed through the stipulated judgment. The Plan articulates a clear vision for the department and the community; identifies the goals that were crafted in concert with the community and approved by the City Council; establishes specific objectives that must be pursued in implementing the plan; and identifies timelines and those who are responsible for carrying out the tasks involved. It also resulted in the creation of a tracking system to measure the progress of the parties as they strive to bring this plan to fruition.

The creation and implementation of the community policing strategic plan is of singular importance for the RPD and the community. It is the primary tool that has been put into place through the judgment that will ensure the continuation of those reforms that have proven to be so critical and instrumental in driving organizational progress and change over the past five years.

Riverside is in compliance with this provision.

Recommendation:

Every effort should be made by the City of Riverside to ensure the Department's Strategic Plan is treated as a major city priority and fully implemented and funded. Steps should be taken to provide for ongoing monitoring and evaluation of the progress in implementing this Plan, and reports should be routinely provided to the City Council and the community regarding that progress.

¶ 70 – Deployment and Research of Less Lethal Weapons

Riverside was required to develop and implement a plan to purchase and deploy a sufficient number and types of less lethal weapons to ensure that officers have several options available when responding to situations in

which force must be used. RPD must continue to explore new technologies in the area of less lethal weapons.

Finding:

RPD purchased a variety of less-lethal weapons systems and deployed these consistent with the new policy that was developed (Section 4.49 of the RPD Policy and Procedures Manual). The policy established the procedures for deployment of these tools along with officer and supervisor responsibilities during and following their deployment, management reviews of these incidents, and procedures for ensuring appropriate medical attention is rendered.

Training in the use of these tools was provided. Periodic refresher training and updates ensure all individuals authorized to use these devices possess the necessary skills and knowledge to appropriately use them. That training consists of both classroom instruction and practical exercises. Written testing and demonstrated proficiency are also required of all personnel who are trained and certified in the use of this equipment.

As can be seen in the use of force tracking under paragraph 69, less lethal weaponry has been judiciously applied by the department and the documentation provided of those incidents has been thorough. There has been only one incident during the past five years where the deployment of this technology was found to be of concern. It is a tribute to the organization and the employees engaged in that incident that certain decisions and actions were questioned because they were not viewed as being consistent with policy and training. A thorough review of the incident ensued and appropriate follow up action was taken to prevent the possibility of repeating any errors that were identified.

Riverside is in compliance with this provision.

Recommendation:

While there has been some research conducted involving less-lethal technology following the department's procurement of their original equipment, documentation of this is lacking. Newer versions of less lethal equipment and technologies are now available and research and development efforts are continuing by vendors. The RPD should formalize their research into less lethal weapons by affixing responsibility for this with a particular unit (possibly training or special operations).

Documentation of that research and information on products and new policies should be filed and maintained by that unit.

Conclusion:

When the monitoring process began in July of 2001, there were a few City officials and employees who maintained that the incidents that gave rise to the stipulated judgment were aberrations – unusual and isolated cases that were not likely to be repeated. Those individuals did not believe or want to acknowledge that these occurrences were in any way associated with failures in RPD's management accountability, policies or training.

One early consequence of the public scrutiny that ensued and the investigations that were launched by both the California and U.S. Departments of Justice was a tendency for RPD employees to fall into a "de-policing" mode. Enforcement and officer-initiated activities dropped significantly. The department's management at that time did not rapidly respond to the early indicators of this declining performance.

Others recognized that the deficiencies identified during the investigation were directly related to poor management and training, and they displayed a desire to bring about needed change. However, some of those individuals felt they were either not in a position to drive that change or they believed there was a lack of political will and commitment at the level of the policy-makers to provide the budgetary resources necessary to bring about needed improvements. Those perceptions and behaviors began to change once a new Chief, Russ Leach, was appointed and members of the department started to respond to the leadership he displayed.

Chief Leach embraced the judgment and the opportunities it presented. He viewed the judgment as a vehicle that could help drive needed change. In addition, he communicated a clear message in the organization and to the community that the RPD would commit to implementing and carrying out the reforms identified. He has played a pivotal role in the organization's progress by working to ensure that all stakeholders (members of the RPD, the community and city officials alike) remain engaged and actively work on honoring their obligations and commitments to the reforms that were mandated.

The support and backing of the City Council has also been a major factor and driving force behind the improvements experienced to date. Although there have been changes in the Council's composition since this process was launched, it has remained steadfast in its commitment to

implementing the reforms. The Council has provided the funding required for the RPD to acquire the technology, equipment and personnel resources needed to achieve the objectives. During this time, the City experienced several changes in the City Managers position. Despite the instability associated with that position, the Council did not let this become an obstacle to meeting its obligations and commitments.

During the early stages of the judgment it was apparent a number of deficiencies existed within the RPD management and supervisory ranks, especially when it came to exhibiting ownership and accountability for the operations and performance of the department. Over time, there has been steady progress in this area. The importance of management accountability has been consistently emphasized by the Chief, who has stressed his expectation that supervisors and managers are responsible not only for their own performance but also for the behavior and performance of their subordinates. While the adoption of sound policies, contemporary policing practices and providing necessary training have all been factors in helping drive this change, it will only be sustained if there is an ongoing effort made to continue developing the department's management team. City officials must also be willing to display their continuing commitment through actions that will ensure that necessary resources, staffing and training are provided in the future.

Members of the community continue to voice concerns about the future of the department. I have encountered some in the community who express reservations about the City's ability and willingness to maintain the reforms that have been undertaken. Some of those individuals also display varying levels of confusion about what the judgment actually consists of and whether all the reforms undertaken were driven by the judgment. As an example, there are those who believe the creation of the Community Police Review Commission (CPRC) was dictated by the judgment. In fact, this was created by the City Council and it was subsequently incorporated into the City Charter. Nonetheless, some in the community fear that this and other efforts will be abandoned should the judgment be dissolved.

Certainly, there are some who do not believe the reforms are well rooted or likely to continue. However, the test for determining whether the injunction will be dissolved should not be based merely on an expression of concern from some quarters. The relationships between the community and city officials will be healthier and more productive when those who have these concerns willingly bring them forward and offer the city and the department the opportunity to respond and address these issues openly.

Per ¶1 of the judgment, the determination concerning the dissolution must be based on the City of Riverside's "full compliance with the terms of the judgment". As the Attorney General's consultant in this matter, I recommend the judgment be dissolved. I base this recommendation on the specific findings (listed above) I have arrived at concerning each of the provisions of the judgment. I believe Riverside has reached the point where it is in full compliance with the judgment.

Although I believe dissolution of the judgment is now justified, the City must continue to implement all the plans, policies and procedures required by the stipulated judgment. Additionally, the City should implement or carry forward the recommendations that have been offered in this report. This would benefit all parties involved. It would provide the community with additional assurances the City is sincerely committed to maintaining the reforms and that the resolve exists to continue these efforts beyond the life of the judgment.

There are significant cost benefits the City has realized and will continue to experience by maintaining the reforms. Although initially there were increased costs incurred by the City that are directly associated with the stipulated judgment, there have also been significant savings realized over time. Often, such savings are hidden or not immediately apparent. Possibly the best example of this can be found in a reduction of costs associated with claims and litigation involving the police department.

The City Attorney, Greg Priamos, has documented some of these reductions and stated, "There has been a significant decrease in the number of police civil liability suites beginning in Fiscal Year 2000-01 to present. The decrease has been most noticeable during the terms of the Stipulated Judgment. Mr. Priamos provided data showing the number of tort litigation cases for the City as a whole declined from a high of 60 in FY 1993-94 to a low of 26 in FY 2004-05 (and a total of 16 for FY 2005-06, to date). Of particular relevance is the fact that police civil liability cases were averaging 12 per year (or 20-30% of the total cases) prior to the judgment, whereas now the average has been less than 4 per year (or less than 15% of the total) since the judgment was implemented.

The direct costs have dropped as well. In 2000-01, the amount to settle excessive force claims/lawsuits involving the RPD was over $3.8 million (this includes the Tyisha Miller case). Over the course of the past <u>five fiscal</u> years, the total cost for settling comparable claims was $484,300 (or $96,800 per year).

Obviously, this very tangible and meaningful figure represents a significant savings to the City due to the reforms. The City should consider this, along with cost savings being realized in other areas, as the return on their investment (ROI) in the reforms they funded. Whereas not all of the costs associated with the reforms involve recurring or ongoing costs, the savings actually do represent ongoing and cumulative savings stemming from improved policing tactics and practices. This then becomes a funding source to maintain the reforms and even address future expansion needs in the RPD that will certainly result from population growth that is occurring. In addition, other revenue enhancements are likely to occur as the City's reputation as a safe and desirable place to live is strengthened through good police practices.

In closing, I want to acknowledge the City's decision to continue with the work done by the unit formerly known as the Attorney General's Compliance Task Force (AGCTF). That unit has proven to be a valuable resource for the Chief and his command staff. The people who have served in the Task Force have played a major role in moving the reforms forward, fostering improved accountability throughout the organization, and they have worked closely and effectively with the consultant throughout the monitoring process. The role of the task force is now evolving into one where the unit will be more directly engaged in auditing department programs, policies and procedures. This body will henceforth be known as the Audit and Compliance Unit and it will continue to report directly to the Chief. The City made a sound decision when they decided to keep this resource in place.

The RPD is a very different and improved law enforcement agency today. The stipulated judgment put the RPD on the right path. However, it is imperative that the RPD and its officers and employees, City officials, and the community of Riverside, if they are truly going to function as co-producers of public safety, continue to work together to ensure that the RPD stays on that path and continues to improve.