

LOS ANGELES POLICE COMMISSION

***REVIEW OF THE DEPARTMENT'S
CONFIDENTIAL INFORMANT
CONTROL PACKAGE AUDIT***



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE DEPARTMENT'S
CONFIDENTIAL INFORMANT CONTROL PACKAGE AUDIT**

PURPOSE

Pursuant to Consent Decree (CD) Paragraph 135, the Office of the Inspector General (OIG) reviewed the Los Angeles Police Department's (Department) Confidential Informant Control Package Audit (Audit) performed by Audit Division (AD). The Audit was completed in the first quarter of 2007/2008 and received by the OIG on September 27, 2007. The OIG assessed the Audit's completeness, findings, and quality.¹

BACKGROUND ON AUDIT DIVISION'S AUDIT

Audit Division conducted their fifth Confidential Informant Control Package Audit and found the Department more than ninety-five percent (95%) compliant with Consent Decree Paragraphs 108, 109, 128, and 131(a, c and e).²

Per Narcotics Division Management, a confidential informant (CI) is defined by the Department as a person who is given specific direction by an officer, whether on one occasion or many, in an attempt to secure information on criminal activity and either requests compensation for information or tasks performed, requests a Letter of Accomplishment on a pending criminal case or is motivated solely by good citizenship. All CIs must be "packaged"³ and approved by management before an officer can direct them to obtain information and/or perform tasks.

Further per Narcotics Division Management, there are two types of CIs that are currently recognized by the Department: citizen informant and criminal informant. A citizen informant's sole motivation is to help make the community a better place to live. A criminal informant has a criminal background and is motivated by personal reasons such as revenge, monetary consideration, or a Letter of Accomplishment for a pending criminal case.

The use of a CI is restricted to non-uniformed personnel assigned to Department investigative entities, such as Area detectives and specialized detective divisions. The CI package is the primary source for documenting the CI's identity, suitability, contact activity, history, and productivity. For every prospective CI, various databases are queried to determine whether they satisfactorily meet criteria (e.g., eligibility, and expected productivity and reliability) established by the Department. Once the prospective CI is determined to be eligible, the package is reviewed and approved by various levels of Department management up to and including the Commanding Officer of Narcotics Division.

Audit Division evaluated all active CI packages and a sample of inactive CI packages and reported both the active and the inactive CI packages to be compliant, by at least ninety-five percent (95%), with the applicable Consent Decree Paragraphs. The table on the next page provides a brief description of the Audit's objectives for assessing adherence to those Paragraphs for active CI packages. The table also provides the related results of AD's assessments.

¹ It should be noted that this Report omits confidential and sensitive information and may be discussed in Open Session.

² To adhere to Consent Decree Paragraph 131(a, c and e), AD separately reported the results for gang-related confidential informant (CI) packages.

³ "Packaged" means that required forms must be properly completed and approved, with a package of these completed forms on file for each CI.

**COMPLIANCE PERCENTAGES FOR ACTIVE CONFIDENTIAL
INFORMANT PACKAGES REPORTED BY AUDIT DIVISION**

Objective	Consent Decree ¶	Compliance Percentage
1. Completeness of Documentation in CI Package	128(1)	100%
2. Authenticity		
2(a) No Canned Language in Narrative in CI Package	128(2a)	100%
2(b) Consistent Information in Documents in CI Package	128(2b)/108	100%
2(c) Justification for Use of CI Documented	128(2c)	100%
2(d) Information in CI Package Authentic and Correct	128(2d)	100%
3. Underlying Actions of Directing Officer Appropriate, Legal and Within Policy	128(3)/108	100%
4. Supervisory Approval of Documents in CI Package	128(4)/108	96%
5. Confidential Informant Database Accurate and Complete	109	99%
6. Handling of Informants		
6(a) Use of Informant by Non-Uniformed Personnel	108(a)	100%
6(b) Completion of Informant Control Package	108(b)	100%
6(c) Chain of Command Approval	108(c)/128	100%
6(d) Assigned Confidential Informant Number	108(d)	100%
6(e) Informant Control Package Secured Adequately	108(e)	100%
6(f) Proper Approval for Retained Packages	108(f)	100%
6(g) Proper Updating of Informant Packages	108(g)	100%
6(h) Documenting Contacts with Informants	108(h)/128	97%
6(i) Supervisor to Meet with Informant	108(i)/128	100%
6(j) Documenting Results of Information Provided by Informant	108(j)/128	100%

Greater detail as to AD’s methodology and findings can be found in AD’s final Audit Report.

FOCUS POINTS

Non-Confidential Informant Program

Audit Division’s Audit identified individuals (called non-confidential informants (NCIs)) who are utilized by the Department. An NCI differs from a traditional CI in that the NCI agrees to submit a written statement for each controlled activity and testify in court, as necessary, while a traditional CI does not.

Audit Division recommended that the Department formally assess the risks associated with the NCI program, and the OIG commends AD for this. In furtherance of this recommendation, the OIG believes, that before additional NCIs are packaged, the Department should:

1. Formally present the NCI program to the Police Commission for their review.

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2. Finalize the draft Special Order containing the policies and procedures associated with the Department's use of NCIs, and then include the contents of this Special Order as a separate section within the Informant Manual. For this Special Order and related Manual section, the Department should consider the following policy provisions:
 - A periodical review of each NCI package for possible overuse of the NCI to help ensure that the risks associated with their use is minimized.
 - A requirement that the Non-Confidential Informant Admonishment and Consent Form be signed by the NCI signifying that the directing officer communicated the additional risks (including the requirement to testify in court, if necessary) when agreeing to be a NCI versus a traditional CI.

Remote Access to Confidential Informant Database

Audit Division recommended that the Department consider developing a computerized system which would provide authorized users secure remote access via the Department network or web based Intranet to the CI database, and the OIG commends AD for this. Currently, the Department utilizes an application installed on a stand-alone computer located at Narcotics Division to access the CI database. Each CI's directing officer is required to hand carry all documents related to the approval and management of the CI to the Narcotics Division headquarters. As this procedure involves numerous hours of driving, the ability to access the CI database from a remote location would streamline the entire process of approving and managing CIs, thereby allowing directing officers to spend more time in the field. However, if this recommendation is approved, stringent controls surrounding any proposed computerized system need to be implemented to ensure that CI information remains secure.

REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of the Audit by reviewing the final Audit Report, Audit Work Plan, and supporting workpapers. The OIG's review of a sample of active CI packages was based on a randomly selected one-tail sample size calculation with a 95 percent confidence level, an expected error rate of six percent, and a plus precision of seven percent. Additionally, the OIG reviewed all active gang crime related CI packages identified by AD. A smaller sample of inactive CI packages was also reviewed, using a plus precision of 10 percent.⁴

The OIG met with AD and Narcotics Division on December 20, 2007, to discuss the results of our review. At that time, they indicated general agreement with the findings presented in this Report.

⁴ Inactive CIs are considered less risky than active CIs, as they are not presently engaged in activities that could subject them or the Department to adverse consequences, such as injury or death to them or the involved officers, or lawsuits against the City.

REVIEW RESULTS

COMPLETENESS

To assess the Audit's completeness, the OIG reviewed AD's Audit Report and supporting workpapers to ensure applicable Consent Decree mandates were addressed and that AD selected the CI packages from a complete population.

The OIG determined that the Audit sufficiently met the requirements specified in Consent Decree Paragraphs 108 (a through j), 109, 128, and 131 (a, c and e). Additionally, the OIG determined that AD selected the active and inactive CIs from a complete population.

FINDINGS

To assess the Audit findings, the OIG randomly selected a sample of active CI packages and all active gang crime related CI packages. Additionally, the OIG randomly selected a sample of inactive CI packages. The OIG performed this testwork to determine if AD adequately identified and reported all relevant issues and if all reported issues were valid. Based on the OIG's review, overall, AD presented the audit findings in a logical manner, and AD identified and properly reported concerns relevant to strategies for managing the day-to-day operations for CIs.

QUALITY

To assess the Audit quality, the OIG evaluated the quality of both the Audit and the Audit Report.

Based on the OIG's review, the Audit was properly planned, performed, and supervised. The Audit Work Plan, which documented AD's methodology, indicated that AD addressed all of the required Consent Decree mandates in the planning of their Audit. In addition, the Audit Report properly delineated the Audit's objectives, scope, methodology, findings, and recommendations. Moreover, the Audit Report was issued in a timely manner in accordance with their annual Audit Plan and used a fair and unbiased tone. Furthermore, the Audit Report presented its assessment of the Audit's objectives in a clear and concise manner.

However, in reviewing AD's Audit, the OIG noted that it did not have a matrix question addressing whether the accomplishments noted in a CI's Letter of Accomplishment were supported by information documented in Informant Contact Forms, such as the number of arrests and contraband seized. As the information contained in the Letter of Accomplishment can have a significant impact on the outcome of a pending criminal case, a matrix question to assess the integrity of the information contained in the Letter of Accomplishment appears to be warranted.⁵

⁵ For one CI package, the OIG noted that the CI's accomplishments included in his/her Letter of Accomplishment did not agree with the corresponding Contact Forms included in the package. The letter indicated that the CI provided information which resulted in the seizure of 40.37 gross grams of powder cocaine; however, the contact sheets for this CI indicated that the Department only seized 9.78 gross grams of powder cocaine. In this instance, the CI was also incorrectly given credit for cocaine totaling 30.59 gross grams purchased during two controlled buys. According to Narcotics Division's current practice, the CI only receives credit for the narcotics that were seized as a result of a search warrant and not for narcotics that they purchased from drug dealers during controlled buys. This Letter of Accomplishment, however, was dated after AD completed their fieldwork for the audit. Nevertheless, we believe this type of assessment should be included in their next audit.

ADDITIONAL MATTERS

In conducting our review, the OIG also identified the following:

- For one CI package, an Informant Contact Form documented that a male officer conducted a pre-operational and post-operational visual search of a female CI for a controlled buy of narcotics. According to the Informant Manual, at a minimum, a CI shall be given a pat-down search for weapons and contraband prior to the CI's participation in a field investigation. The type of post-operational search is left to the discretion of the directing officer, which would include a visual search. The Informant Manual further states that during field investigations, which are not pre-planned, where exigent circumstances exist, the directing officer may allow an officer of the opposite sex to conduct a visual search of the CI. As there was no indication on the Informant Contact Form that the field investigation was not pre-planned nor that exigent circumstances existed, it appears that attempts should have been made to have a female officer present to perform, at a minimum, a pre-operational pat-down search. It should be noted that AD did not review this contact form as the contact occurred after they reviewed this CI's package.
- The Department is currently operating pursuant to a draft version of the Informant Manual, pending final approval from the Department. An Informant Manual containing formalized policies and procedures represents a basic management control over this program by providing authorized guidelines for the proper management of CIs. The Department should make every effort to finalize the document and submit it to the Police Commission for their approval.

CONCLUSION

Overall, the OIG found the Audit to have been complete and performed in a quality manner, as it appears to have been carefully planned and thoughtfully executed. Furthermore, the OIG found that the Audit findings were well supported with the proper amount of detail.

RECOMMENDATIONS

Prior Recommendations

The OIG's review of AD's Confidential Informant Control Packages Audit for the fourth quarter, Fiscal Year 2004/2005 resulted in 14 recommendations. The recommendations that remain outstanding relate to revising the Informant Manual to address the following matters:

- Ensure that an active CI does not have any outstanding warrants.
- Require that the package for a CI working toward a Letter of Accomplishment include the arrest report for the pending case and a copy of the Letter of Accomplishment, if/when it is approved.
- For CIs working for monetary consideration, stipulate on Contact Sheets when/why they are paid and when/why they are not paid.
- Include in the Informant Manual the information required to be documented on the Exceptional Handling Report for a CI who is on probation and/or parole.

- Ensure that the supervisor who met with the CI also signs the Exceptional Handling Report.

The draft version of the revised Informant Manual contains all of the OIG's outstanding recommendations. Assuming that the final version of the Manual also contains all of the OIG's outstanding recommendations, the OIG will consider these recommendations implemented.

Current Recommendations

Based on our review, the OIG recommends that before additional NCIs are utilized, the Department should:

1. Formally present the NCI program to the Police Commission for their review.
2. Finalize the draft Special Order containing the policies and procedures associated with the Department's use of NCIs, and then include the contents of this Special Order as a separate section within the Informant Manual. For this Special Order and related Manual section, the Department should consider the following policy provisions:
 - A periodical review of each NCI package for possible overuse of the NCI to help ensure that the risks associated with their use is minimized.
 - A requirement that the Non-Confidential Informant Admonishment and Consent Form be signed by the NCI signifying that the directing officer communicated the additional risks (including the requirement to testify in court, if necessary) when agreeing to be a NCI versus a traditional CI.
3. Expedite the process for publishing the draft version of the Informant Manual, ensuring all necessary approvals are promptly obtained.