

LOS ANGELES POLICE COMMISSION

REVIEW OF THE DEPARTMENT'S GANG UNIT INSPECTIONS



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

NICOLE C. BERSHON
Inspector General

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**OFFICE OF THE INSPECTOR GENERAL
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PURPOSE

The Office of the Inspector General (OIG), in accordance with the Transition Agreement and pursuant to its Annual Audit and Review Plan, completed its second review of the Department's gang unit inspections. The first review covered three gang unit inspections completed in 2009, which included Arrest Report packages, detention logs, and the Gang Enforcement Detail (GED) - Supervisor's Daily Reports. This second review covers two gang unit inspections completed in 2010, covering Arrest Report packages and arrests involving interfering with or resisting an officer.

BACKGROUND

The Department entered into a Transition Agreement with the United States Department of Justice, effective July 20, 2009. The Transition Agreement focuses on four areas: gang units, financial disclosure, biased policing, and the Training Evaluation and Management System II. This review involves the gang unit inspections.

The Department has been conducting gang unit inspections for over eight years to test adherence of gang units to policies and procedures. The gang units inspected have included GED units, Community Law Enforcement and Recovery units, the Operations - South Bureau gang unit, and the Criminal Gang Homicide Group gang unit. The entities responsible for conducting and providing supervisory oversight of these inspections since 2003 have been as follows:

Period	Entity Conducting Inspections	Entity Overseeing Inspections
2003 to 2008	Bureau Gang Coordinators	Various ¹
2009	Bureau Gang Coordinators	Gang and Narcotics Division
2010	Internal Audits and Inspections Division (IAID) ²	IAID

From January 1 through November 30, 2010, the Department completed gang unit inspections of Arrest Report packages, arrests involving interfering/resisting, and gang officer training.

REVIEW OBJECTIVES

The OIG reviewed the two gang inspections of Arrest Report packages and arrests involving interfering/resisting, because it considered them to involve the more high-risk areas (i.e., could potentially cause the most significant negative consequences to the Department if the related policies and procedures were not complied with). The OIG reviewed each of the two inspections for the three objectives of completeness, quality, and findings, as described below:

Completeness

- Determine if the inspection tested and reported compliance for all the stated objectives.
- Determine if the inspection samples were selected from complete populations.

¹ Gang Operations Support Division, Special Operations Division, and Civil Rights Integrity Division.

² Since 2005, IAID has also been conducting Area Command Accountability Performance Audits, which also test adherence of gang units to policies and procedures.

Quality

- Determine if appropriate sampling methodologies and testing questions were used.
- Determine if there was evidence of supervisory review of the inspection.
- Determine if the inspection completely and accurately reported the inspection’s purpose, methodology, objectives, results, and detailed findings.

Findings

- Determine if all significant findings identified by the OIG were also identified and reported by IAID.
- Determine if the findings reported by IAID represented valid issues.

The OIG conducted this review in accordance with generally accepted government auditing standards. These standards require that the review is adequately planned, performed, and supervised, and that sufficient, appropriate evidence is examined to provide a reasonable basis for the results and conclusion.

REVIEW OF INSPECTION OF GANG UNIT ARREST REPORT PACKAGES

Inspection Purpose

This inspection was conducted to assess gang unit arrests for legality and compliance with Department policy.

Inspection Methodology and Results

The IAID identified an audit population of 1,580 gang unit arrests made from April 1 to May 31, 2010. From this population, IAID deselected all release-from-custody arrests and randomly selected a sample of 101 arrests. The IAID tested these 101 Arrest Report packages, applying 5 inspection objectives and 24 tests, with the compliance rates reported as follows:

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SUMMARY OF RESULTS

Objective	Description	Prior Audit's (FY 2009/10) Compliance Rate		Current Inspection's (FY2010/11) Compliance Rate³	
1. Completeness					
1(a)	Completeness of Arrest Report Package	100%	107/107	100%	101/101
1(b)	Documentation of Property Seized	NA	NA	99%	73/74
2. Authenticity					
2(a)	Consistency of Information	96%	103/107	100%	101/101
2(b)	Canned Language	100%	107/107	100%	101/101
3. Legality of Underlying Actions					
3(a)	Articulation of Reasonable Suspicion for Detention	99%	106/107	100%	101/101
3(b)	Articulation of Probable Cause to Arrest	100%	107/107	100%	101/101
3(c)	Articulation of Legal Basis for Search	98%	55/56	100%	69/69
3(d)	Articulation of Legal Basis for Seizure	100%	48/48	100%	64/64
3(e)	<i>Miranda</i> Rights	100%	107/107	100%	101/101
4. Conformance with Department Procedures					
4(a)	Watch Commander Inspection and Review	96%	79/82	98%	88/90
4(b)	Other Conformance with Department Procedures				
	i. Documentation of <i>Miranda</i> Responses	91%	60/66	99%	71/72
	ii. Documentation of Medical Treatment	89%	25/28	100%	7/7
	iii. Issuance of Receipt for Property Taken Into Custody	98%	45/46	98%	59/60
	iv. Juvenile Arrest Procedures				
	1. Juvenile Arrest Supplemental Report	100%	10/10	100%	15/15
	2. Parental Notification	100%	10/10	100%	15/15
	3. Advisement of Telephone Calls	100%	10/10	100%	15/15
	4. Timeliness of Telephone Calls	100%	9/9	93%	14/15
	5. Correct Detention Area	90%	9/10	100%	15/15
	6. Length of Detention	100%	10/10	100%	15/15
	7. <i>Gladys R.</i> Questionnaire	100%	1/1	100%	1/1
5. Supervisory Oversight					
5(a)	Approval of Arrest Report	99%	106/107	100%	101/101
5(b)	Approval of Booking Approval	99%	81/82	100%	95/95
5(c)	Post-Incident Supervisory Review	88%	94/107	89%	90/101 ⁴
5(d)	On-Scene Supervision	100%	23/23	100%	29/29

³ The IAID reviewed 101 Arrest Report packages in their sample. For each test performed the denominator relates to the total Arrest Report packages with that particular test attribute.

⁴ Per Page No. 19 of IAID's report, 10 of the 11 exceptions pertained to the Arrest Report package not documenting that a Marcy's Rights Card was provided to the victim. On November 4, 2008, California voters passed Proposition 9, which is also known as Marcy's Law – The Victim's Bill of Rights Act of 2008. Marcy's Law mandates that victims of *any* criminal act be notified of the Victim's Bill of Rights and provided a Marcy's Rights Card. The 11th exception concerned an arrest package lacking detail concerning a gang injunction investigation and arrest.

OIG Review Methodology

The OIG randomly selected a sub-sample of 31 arrests from IAID’s sample of 101 arrests. The sample size of 31 was calculated using a one-tail confidence level of 95%, with an expected error rate of 6%, and a plus-precision of 6%.⁵ The OIG re-performed the same tests as IAID on the 31 Arrest Report packages, applying IAID’s 5 inspection objectives and 24 tests.

OIG Review Results

Completeness

The inspection reported compliance for the 5 stated objectives and 24 tests, and the inspection sample was selected from a complete population. Hence, the inspection met the OIG’s standard for completeness.

Quality

Generally, appropriate sampling methodologies and testing questions were used for the inspection, and there was evidence of supervisory review. Also, the inspection completely and accurately reported the inspection’s purpose, methodology, and objectives. However, the OIG had one significant quality-related issue regarding IAID’s reported results. Hence, the inspection did not meet the OIG’s standard for quality.

Incorrect Reported Compliance Rates and/or Quantity of Applicable Arrest Packages Tested

In addition to the OIG’s detailed testing of its sub-sample of the Arrest Report packages, the OIG reconciled the 24 compliance rates reported by IAID to their master schedule summarizing the results for all 101 Arrest Report packages tested. This OIG reconciliation, developed in collaboration with IAID as part of the review process, indicated that 6 of the 24 (25%) reported rates were incorrect, with 4 rates *overstated* by 1 to 5 percentage points and 2 rates *understated* by 1 to 2 percentage points, as follows:

Obj.	Test Description	Incorrect Compliance Rate/Quantity Reported FY 2010/11	Corrected Compliance Rate/Quantity FY 2010/11	Percentage Points Over/ (Under)-stated
<i>Overstated Rates</i>				
2(a)	Consistency of Information	100% (101/101)	95% (75/79)	5
4(a)	Watch Commander Inspection/Review	98% (88/90)	96% (92/96)	2
4(b)i	Documentation of <i>Miranda</i> Responses	99% (71/72)	98% (78/80)	1
5(c)	Post-Incident Supervisory Review	89% (90/101)	88% (120/136)	1
<i>Understated Rates</i>				
1(b)	Documentation of Property Seized	99% (73/74)	100% (72/72)	(1)
4(b)iv ₄	Timeliness of Telephone Calls	93% (14/15)	95% (18/19)	(2)

⁵ This sample size calculation formula is a generally accepted auditing practice. A detailed explanation of each parameter is available from the OIG Audit Section.

For nine other compliance rates, the quantity of applicable Arrest Report packages tested was misstated in the compliance rate table, but there was no impact on the compliance rate reported.⁶

Obj.	Test	Incorrect Qty. of Applicable Arrest Report Packages Reported	Corrected Qty. of Applicable Arrest Report Packages	Qty. Over / (Under-stated)
3(c)	Articulation of Legal Basis for Search	69	72	(3)
3(d)	Articulation of Legal Basis for Seizure	64	67	(3)
4(b)ii	Documentation of Medical Treatment	7	5	2
4(b)iv ₁	Juvenile Arrest Supplemental Report	15	19	(4)
4(b)iv ₂	Parental Notification	15	19	(4)
4(b)iv ₃	Advisement of Telephone Calls	15	19	(4)
4(b)iv ₅	Correct Detention Area	15	19	(4)
4(b)iv ₆	Length of Detention	15	19	(4)
5(b)	Approval of Booking Approval	95	96	(1)

Response of IAID Management: As a result of the OIG’s review and IAID’s collaborative rework, IAID decided to issue an amended report (see page 9).

Other Matter

Not Testing Requirement to Observe Detained Juveniles at Least Once Every 30 Minutes

The Department Manual Volume 4, Section 218.66, “Temporary Detention of Juveniles at Department Facilities” requires that :

Juveniles securely detained in a locked room or enclosure shall be randomly checked by a Department employee not more than 30 minutes following any previous observation, and shall be able to be heard by a Department employee at all times[.] Observation by television monitor is not sufficient. A Department employee shall make random, unscheduled, in-person observations. The time of the observation and the observing employee’s initials shall be recorded on the Secure Juvenile Detention Log, Form 09.05.00.

Testing for compliance with this aforementioned important requirement was not one of the inspection’s tests under 4(b)iv – Juvenile Arrest Procedures, even though the Secure Juvenile Detention Logs were tested. The OIG in its testing noted one juvenile arrest for which the 30-Minute Observations section of the Secure Juvenile Detention Log was inappropriately left blank.⁷

Response of IAID Management: For the next inspection of Arrest Report packages, IAID will test for compliance with this 30-minute juvenile observation requirement.

⁶ For example, for Objective 3(c) - Articulation of Legal Basis for Search, the compliance rate is correctly calculated as 100% regardless whether 69/69 (incorrect) or 72/72 (correct) is used for the numerator/denominator.

⁷ IAID Sample No. 12, OIG Sample No. 5, Hollenbeck Division Booking No. 2341919, DR No. 100410308.

Findings

All significant findings identified by the OIG were also identified and reported by IAID. Furthermore, the findings reported by IAID represented valid issues.

However, the OIG noted the following four findings involving three inspection objectives (identified in the table on page 4) that IAID did not identify and report. As a result of these four significant unreported findings, the inspection did not meet the OIG's standard for findings.

Objective 1(b) – Documentation of Property Seized (Reported Compliance of 99% (73/74))

Seized Marijuana Cigarette Omitted from Property Receipt⁸

An individual was arrested for Health and Safety Code § 11358, cultivation of marijuana. The officers seized and recorded in the Combined Evidence Report section of the Arrest Report five marijuana plants (weighing 1.744 pounds) and a marijuana cigarette weighing 1.2 gross grams. The Property Receipt included the five marijuana plants, but omitted the marijuana cigarette.

Objective 4a – Watch Commander Inspection/Review (Reported Compliance of 98% (88/90))

No Evidence on Detention Log that Watch Commander Asked Required Questions of Arrestee⁹

Per Department Manual, Volume 4, § 216 - Taking Persons into Custody, all persons detained or arrested and transported to a Department facility shall be brought before a watch commander for an inspection and interview. At a minimum, the watch commander shall ask the suspect the following three questions:

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

In the Adult Detention Log entry for the subject arrestee, the watch commander did *not* check the boxes for required questions: 2. *Are you sick, ill, or injured?* and, 3. *Do you have any questions or concerns?*

Objective No. 5c – Post Incident Supervisory Review (Reported Compliance of 89% (90/101))

Seized Firearm Omitted from Receipt for Property Taken Into Custody¹⁰

Regarding a multi-arrest, officers seized a .22 caliber rifle, among other things.¹¹ This rifle, attributed to the arrestee who resided at the residence, was recorded on the Property Report and the

⁸ IAID Sample No. 1, OIG Sample No. 1, Central Booking No. 2302477, DR No. 100199553.

⁹ IAID Sample No. 76, OIG Sample No. 23, Topanga Booking No. 2352541, DR No. 102112049.

¹⁰ IAID Sample No. 11 OIG Sample No. 4, Hollenbeck Booking No. 2341978, DR No. 100410308.

¹¹ A multiple-arrest occurs when more than one suspect is arrested, each with a unique booking number, and all arrestees documented on one associated Department Record.

Firearms Supplemental Property Report prepared for this arrestee. However, this rifle was omitted from the Receipt for Property Taken Into Custody (Property Receipt) provided to this arrestee.¹²

*No Evidence that Marsy's Rights Card Provided to Victim*¹³

On November 4, 2008, California voters passed Proposition 9, which is also known as Marsy's Law – The Victim's Bill of Rights Act of 2008. Marsy's Law mandates that victims of **any** criminal act be notified of the Victim's Bill of Rights and provided a Marsy's Rights Card. Per Special Order No. 43, 2009, effective August 24, 2009, criminal act victims are to be issued a Marsy's Rights Card. This requirement was reiterated as a Standardized Roll Call Training Lesson Plan in Deployment Period 11, 2009.

For one Arrest Report package in the OIG's sample, there was no evidence that a Marsy's Rights Card was provided as required to the victim, who was medically treated for a gunshot wound to his left arm. A suspect was arrested for Penal Code § 187(A), attempted murder.

Other Matter

Although IAID did not identify and report the one aforementioned Marsy's Rights Card finding, IAID did report 10 other Marsy's Rights Card findings for the 25 applicable arrests involving victims. The OIG concurs with IAID's recommendation that "Personnel and Training Bureau provide supplemental training concerning Department polices on Marsy's Law."

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¹² Per IAID's audit instructions regarding "Post Incident Supervisory Review," if the arrestee selected in the primary sample was part of a multi-arrest report, the related arrestees should be evaluated for any risk management issues associated with their arrests.

¹³ IAID Sample No. 46, OIG Sample No. 13, Southeast Booking No. 2293661, DR No. 101809839.

REVIEW OF INSPECTION OF GANG UNIT ARRESTS INVOLVING INTERFERING/RESISTING

Inspection Purpose

This inspection was conducted to assess for compliance with Department policies gang unit arrests involving interfering with or resisting an officer.

Inspection Methodology and Results

The IAID identified an audit population of 109 gang unit arrests made from September 14, 2008, through November 1, 2009, involving interfering/resisting as the primary charge.¹⁴ The IAID tested each of these 109 arrests for five objectives, with the reported compliance rates as follows:

Objective	Description	Compliance Rate
	Determine if:	
1	The same watch commander's name and serial number appeared on the Arrest Report and Booking Approval.	95% (104/109)
2	The Arrest Report contained the signature and serial number of the approving supervisor.	99% (108/109)
3	The Watch Commander's Daily Report contained an entry documenting the arrest.	96% (105/109)
4	The Watch Commander's Daily Report entry addressed policy, tactics, and training.	87% (91/105)
5	A Use of Force report was generated for each reportable use of force.	100% (85/85)

OIG Review Methodology

The OIG randomly selected a sub-sample of 31 arrests from IAID's sample of 101 arrests. The sample size of 31 was calculated using a one-tail confidence level of 95%, with an expected error rate of 6%, and a plus-precision of 6%. The OIG re-performed the same tests as IAID on the 31 arrests, applying IAID's five inspection objectives.

OIG Review Results

Completeness

The inspection reported compliance for the five stated objectives, and the inspection sample was selected from a complete population. Hence, the inspection met the OIG's standard for completeness.

¹⁴ Penal Code §§ 69 Obstructing or Resisting by Threat or Violence; 148(a-d) Resisting, Delaying or Obstructing an Officer; 241(c) Assaulting a Peace Officer; 243(b) Battering a Peace Officer; and 244.5(c) Assaulting a Peace Officer with Stun Gun or Less Lethal Weapon.

Quality

Appropriate testing questions were used, and there was evidence of supervisory review of the inspection. Also, the inspection completely and accurately reported the inspection's purpose, methodology, objectives, results, and detailed findings. Hence, the inspection met the OIG's standard for quality.

Findings

All significant findings identified by the OIG were also identified and reported by IAID. Furthermore, the findings reported by IAID represented valid issues. Hence, the inspection met the OIG's standard for findings.

RESPONSE OF IAID MANAGEMENT

The management of IAID generally agreed with the results of the OIG's review. As a result of one issue identified in the review, that 6 of the 24 (25%) reported Arrest Report package compliance rates were incorrect, IAID management decided to issue an amended report for this inspection, and IAID expects that the amended report will be issued promptly.

As the OIG has reviewed the amended report and was consulted throughout the drafting process, and agrees with the major points of the amended report, the OIG will not be issuing a review of IAID's amended report.

CONCLUSION

The OIG concluded that the inspection of gang unit Arrest Report packages *did* meet the OIG's standard for completeness, but did *not* meet the OIG's standards for quality and findings. The OIG noted one significant quality-related issue and four findings not reported by IAID.

The OIG concluded that the inspection of gang unit arrests involving interfering/resisting met the OIG's standard for completeness, quality, and findings.