

LOS ANGELES POLICE COMMISSION

REVIEW OF THE DEPARTMENT'S WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS AUDIT



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE DEPARTMENT'S
WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS AUDIT**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree (CD) Paragraph 135, reviewed the Los Angeles Police Department's (Department) Warrant Applications and Supporting Affidavits Audit (Audit). The Audit was completed in the fourth quarter of Fiscal Year 2008/2009 and received by the OIG on January 2, 2009. The OIG assessed the Audit's completeness, quality and findings.

BACKGROUND ON THE DEPARTMENT'S AUDIT

Internal Audits and Inspections Division (IAID) conducted its seventh Warrant Applications and Supporting Affidavits Audit and assessed the Department's compliance with CD Paragraphs 62(b), 71(a, b and c), 72, 128 and 131(a, c, and e). The table below provides a brief description of the Audit's objectives for assessing adherence to these paragraphs and their related results.

Obj	CD ¶	DESCRIPTION	COMPLIANCE RESULTS			
			2007/2008		2008/2009	
1	71(a)	Completeness	74/83	89%	93/110	85%
2	71(a)/128	Authenticity				
		2(a) - No Evidence of Canned Language	83/83	100%	109/110	99%
		2(b) - No Evidence of Inconsistent Information	66/83	80%	93/110	85%
		2(c) - Articulation of Legal Basis	83/83	100%	109/110	99%
		2(d) - Other Indicia that Information is Inauthentic or Incorrect	66/83	80%	95/110	86%
3	71(b)/128	Underlying Actions Appropriate and Legal	50/51	98%	82/82	100%
4	71(b)/128	Conformance with LAPD Procedures				
		4(a) - Warrant Served within the Required Time	72/73	87%	100/110	91%
		4(b) - Use of Confidential Informants	3/5	60%	3/3	100%
		4(c) - Warrant Executed in the Appropriate Order	40/46	87%	78/82	95%
5	71(c)/128	Supervisory Oversight				
		5(a) - Application/Affidavit	70/83	84%	100/111	90%
		5(b) - Applicable Incident	43/46	93%	78/82	95%
		5(c) - Post-Incident Review	18/46	39%	58/82	71%
6	72	Warrant Tracking Log	74/83	89%	83/111	75%
7	62(b)	Commanding Officer's Analysis	12/46	26%	47/82	57%

Two different samples were used to evaluate a total of seven audit objectives. One sample consisted of randomly selected Department-wide warrants issued in July 2008, which excluded Gang Enforcement Detail (GED) warrants. The other sample consisted of all warrants for the same time period with an affiant assigned to a GED unit.

REVIEW METHODOLOGY

The OIG assessed the completeness, quality, and findings of IAID's Audit by reviewing the final Audit Report, Audit Work Plan, and Microsoft Access database (work papers) used by IAID to document their audit of the warrants. The OIG also reviewed a random sample of 40 warrants (23 non-GED and 17 GED) from the 111 warrants (79 Non-GED and 32 GED) that were audited by IAID.

On March 26, 2009, the OIG met with IAID and discussed the concerns mentioned in this report.

REVIEW RESULTS

COMPLETENESS

To assess the Audit's completeness, the OIG reviewed IAID's Audit Report and supporting workpapers to ensure that applicable CD mandates were addressed and to verify that the warrants selected for testing were taken from a complete population.

Consent Decree Mandates Addressed

Based on the OIG's review, the Audit assessed all pertinent CD paragraphs that were related to warrants.

Identification of a Complete Population

Based on the OIG's review, IAID identified a complete population from which their sample was selected.

QUALITY

The OIG evaluated the quality of both the Audit and the Audit Report.

Audit Quality

The Audit Work Plan, which documented IAID's methodology, indicated that they addressed all of the required CD mandates in the planning of their Audit. Additionally, the Audit was properly planned, performed and supervised.

Report Quality

Based on the OIG's review, the Audit Report properly delineated the Audit's objectives, scope, methodology, and status of prior audit recommendations. The Audit Report was issued in a timely manner (within a year of the IAID's last audit) and used a fair and unbiased tone. Also, for a majority of the objectives evaluated, the Audit Report presented its assessment of the Audit's objectives in a logical and clear manner.

However, for the following three objectives, the OIG would have preferred that the Addenda provide specifics for each finding, as documented in IAID's workpapers, instead of using a generic statement. This would have allowed the reader to better gauge the significance of each finding. IAID management advised the OIG that they would rather retain the generic verbiage for these objectives in the Addenda and provide details of the findings as requested.

- Objective 2(b) – Inconsistent Information: IAID reported for 16 of the 110 warrant packages reviewed, “Not all evidence seized was listed on both the Property Report and Receipt for Property Taken into Custody Form (16/110),”¹ “Supporting documentation was not consistent with the affidavit (2/110)”² and “Evidence seized was inconsistent with evidence sought (4/110).”³ For one other warrant package, it was reported, “The Warrant Service Tactical Plan contained inconsistent information regarding search conditions.”⁴ However, the information that formed the basis of these findings was not included.
- Objective 5(c) – Post-Incident Review: IAID reported for seven of the 82 warrant packages reviewed, “The Debriefing Summary did not address all of the required issues,” without specifically indicating the required issues that should have been addressed in the Debriefing Summary.⁵
- Objective 7 – Commanding Officer's Analysis: IAID reported for 17 of the 82 warrant packages, “The Comment Sheet did not adequately address the commanding officer's analysis of the supervisor's response to the warrant service,” without specifically indicating the criteria that IAID used to determine compliance with this objective.⁶

For Objective 4(b) – Use of Confidential Informant (CI), IAID identified a warrant package, which documented the use of a Non-Confidential Informant (NCI), to be out of compliance. However, IAID did not believe that the Consent Decree was applicable to NCIs so they did not include this finding in their overall Department-wide compliance determination in the Executive Summary and the Audit Report. The Report of the Independent Monitor for the Quarter Ending September 30, 2008 indicated, “going forward, the Monitor will assess findings of both NCIs and CIs together in determining compliance with [the Consent Decree].” The OIG believes that IAID should have reported this finding in the Executive Summary and Audit Report, which would have caused the Department-wide compliance rate for Objective 4(b) to be reported as 75% (3 of 4) instead of 100% (3 of 3).

¹ Warrant Nos. 57163, 57156, 57203, 57226, F62466, COM072108-08, 08V0216/3887, 08V0221, 08V0242, 08LAT0102, 57249, 08SR188, 80223, 57243, 57273, 57173

² Warrant Nos. 57226, COM072108-08

³ Warrant Nos. 57156, 08LAT0102, 80223, 57273

⁴ Warrant No. 08SR172

⁵ Warrant Nos. 57208, 08LAT0102, 57139, 57278, 57250, 57292, 57241

⁶ Warrant Nos. 57163, 54314, 57264, F62418, F62465, COM072408-01, COM080608-04, COM073008-03, COM080708-01, COM072108-08, 08SR167, 57249, 57278, 57250, 57230, 08SR171, 57173

FINDINGS

To assess the Audit reported findings, the OIG randomly selected a sample of 40 warrant packages, which included 23 non-GED and 17 GED warrant packages. The OIG performed this testwork to determine whether IAID adequately identified and reported all relevant issues and whether all issues were valid. Based on the OIG's overall review, IAID presented the audit findings in a logical manner, and IAID generally identified and reported concerns relative to the preparation, service, and oversight of warrants. However, the OIG identified one issue that IAID did not report that should have been reported. Conversely, the OIG noted one issue that IAID reported that should not have been reported. The two issues reported below would not have affected the overall compliance determination for this objective, which was assessed by IAID to be 57%.

Objective No. 7: Commanding Officer's Analysis – CD ¶62(b)

Warrant No. COM073008-02 – IAID did not report that the warrant package did not include an Employee Comment Sheet completed by the Commanding Officer documenting his/her response to the warrant service by the at-scene supervisor. IAID inadvertently noted in their workpapers that an Employee Comment Sheet was not required. According to Special Order No. 28, 2008, an Employee Comment Sheet is required to be completed by the Commanding Officer documenting an analysis of the performance of the supervisor at each scene of the service of the warrant.

Warrant No. 57195 – IAID reported that the warrant package did not include an Employee Comment Sheet completed by the Commanding Officer documenting the response to the warrant service by the at-scene supervisor. This warrant was issued to search two residences, and based on a review of the Warrant Service/Tactical Plan Report, the "Supervisor at the Scene" was the same for both residences. The warrant package included two completed Employee Comment Sheets by the Commanding Officer that documented the response to each warrant service location by the at-scene supervisor. Hence, it appears that the Department complied with the Special Order.

CONCLUSION

Overall, the OIG determined that the Audit was properly planned, performed and supervised. The OIG would have preferred that the Addenda for three of the audit objectives provide specifics for each finding instead of using a generic statement. This would have allowed the reader of the Audit Report to better gauge the significance of each finding.