

LOS ANGELES POLICE COMMISSION

**EXECUTIVE LEVEL REVIEW  
OF DEPARTMENT'S  
WARRANT APPLICATIONS AND  
SUPPORTING AFFIDAVITS AUDIT**



Conducted by the

**OFFICE OF THE INSPECTOR GENERAL**

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Fiscal Year 2009/2010**

**PURPOSE**

The Office of the Inspector General (OIG), pursuant to its Annual Audit and Review Plan, performed an executive level review of the Los Angeles Police Department's (Department) Warrant Applications and Supporting Affidavits Audit, Fiscal Year 2009/2010, completed by Internal Audits and Inspections Division (IAID). This Audit was signed by the Chief of Police on December 29, 2009, and approved by the Board of Police Commissioners on January 19, 2010.

**BACKGROUND**

Internal Audits and Inspections Division conducted its eighth Warrant Applications and Supporting Affidavits Audit (Audit) pursuant to its Annual Audit and Inspection Plan for Fiscal Year 2009/2010. The Audit was conducted to evaluate search and Ramey warrants for legality and conformance with Department policies and procedures as they relate to the preparation, service, and oversight of warrants.<sup>1</sup> Special Order No. 7, 2009, Warrant Service/Tactical Plan Report Procedures, was utilized as the basis for IAID's 15 test objectives/sub-objectives.

To conduct the Audit, IAID selected a statistically valid stratified random sample of 79 warrant packages completed during June 2009. The selected sample included Gang Enforcement Detail (GED) and non-GED warrants. In prior audits, the sample was bifurcated between GED and non-GED warrants and reported separately. As IAID conducts Command Accountability and Performance Audits which cover the GED units as a whole, IAID determined that it was not necessary to bifurcate the warrant sample and report it separately.

The OIG has found that previous IAID Warrant Applications and Supporting Affidavits Audits were thorough in identifying possible high-risk issues. However, the resulting audit reports also contained certain low-risk and/or minor findings that, in the OIG's opinion, did not necessarily rise to the level of reportable issues. Each time the OIG raised this concern with IAID management, they were informed that IAID had taken a more conservative approach when reporting findings in these prior audits because of the high-risk issues surrounding search warrant procedures that had been raised in the Board of Inquiry Report (March 2000) as well as by the Independent Monitor.

As discussed below, in its most recent review of IAID's Search Warrant and Affidavits Audit, the OIG again found the audit to have been thorough but also indicated its belief that the Audit contained certain low-risk and/or minor findings which the OIG did not believe were reportable.

As a result, the OIG discussed with IAID management the possibility of IAID re-evaluating its criteria for reportable findings. Among other things, the possibility of IAID not reporting in the

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<sup>1</sup> A Ramey warrant authorizes officers to enter a private residence to affect an arrest (See People v. Ramey, (1976) 16 Cal. 3d 263, 275).

resulting audit report a finding that is determined to be both low-risk and minor was discussed. In addition, it was discussed having IAID evaluate each finding based on the totality of circumstances present within the work product being audited. If IAID determines that certain findings are low-risk and minor, they may wish to separately communicate these findings in writing to the audited entity. The OIG believes that such a revised approach would increase the overall value of IAID's audit reports to Department management while still adhering to government auditing standards. Internal Audits and Inspections Division management was open to these suggestions and is considering their incorporation in future audits.

The table on the next page provides a brief description of IAID's audit objectives/sub-objectives and their related results.

### IAID's Reported Compliance Rates by Objective

Objective	Description	2009/2010		IAID Risk Level Assigned to Findings
		Packages Meeting Standard/Packages Evaluated	Percentage Meeting Standard	
1	COMPLETENESS	76/79	96%	Low
2	AUTHENTICITY			
(a)	Canned Language	79/79	100%	NA <sup>2</sup>
(b)	Inconsistent Information	69/79	87%	Moderate to High
(c)	Articulation of Legal Basis	79/79	100%	NA <sup>2</sup>
(d)	Authenticity of Other Indicia	79/79	100%	NA <sup>2</sup>
3	LEGALITY OF UNDERLYING ACTION	39/39	100%	NA <sup>2</sup>
4	CONFORMANCE WITH DEPARTMENT PROCEDURES			
(a)	Warrant Served/Returned in Time	73/79	92%	Low
(b)	Use of Confidential Informant	8/11	73%	Moderate to High
(c)	Warrant Executed in Appropriate Order	38/39	97%	Low
5	SUPERVISORY OVERSIGHT			
(a)	Application/Affidavit	42/79	53%	Low
(b)	Applicable Incident	38/39	97%	Moderate to High
(c)	Post Incident	32/39	82%	Moderate to High
6	WARRANT TRACKING LOG			
(a)	Completeness of Warrant Tracking Log	79/79	100%	NA <sup>2</sup>
(b)	Warrant Tracking Log Approved in Time	14/30	47%	Low
7	COMMANDING OFFICER'S ANALYSIS	18/39	46%	Moderate to High

### SCOPE

This OIG executive level review, its second, is similar to a full-scope review as it effectively and critically analyzes and tests IAID's final report and supporting work papers for Quality, Completeness, Findings, and other related risk-management issues. The scope and methodology

<sup>2</sup> IAID reported 100% compliance with these objectives; therefore, findings were not applicable.

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is reviewed to ensure the audited activities are adequately identified and compared to prior reports for consistency. Reported findings and recommendations are assessed to determine whether they appear reasonable and supported with the appropriate evidence. However, an executive level review, unlike a full-scope review, does not involve detailed testing of a large, statistically valid sample of audit items. Detailed testing is generally limited to a few audit items. Nonetheless, should the executive level review reveal an area of concern, the scope of the review would be expanded to fully explore those areas that merit further review and evaluation.

The OIG conducted this executive level review in accordance with generally accepted government auditing standards. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. Also, these standards require that the review is adequately planned, performed, and supervised and that sufficient, competent, and relevant evidence is obtained to provide a reasonable basis for the findings and conclusions.

## **METHODOLOGY**

The OIG assessed the Completeness, Quality, and Findings of IAID's Audit by reviewing the final Audit Report, Audit Work Plan, and workpapers prepared by IAID. Additionally, the OIG focused on IAID's 15 reported findings and supporting workpapers related to Objectives 2(b), 4(b), 5(b), and 5(c), as IAID reported these findings as moderate to high risk.

The reported moderate to high-risk findings and supporting workpapers related to Objective 7, Commanding Officer's Analysis, were not included in the scope of OIG's review because the OIG believes that IAID adequately identified the underlying issue and made the appropriate related recommendation. The low compliance rate of 46% was attributed to the lack of documentation in Comment Sheets as required by Special Order No. 7, 2009. Internal Audits and Inspections Division recommended that "Planning and Research Division review the language of Special Order No. 7, 2009, pertaining to Comment Sheet requirements, to allow managers to focus on areas of exceptional performance or specific deficiencies relating to supervisory oversight during the service of a warrant."

## **OBJECTIVES**

The OIG review assessed the Audit for three objectives: Completeness, Quality, and Findings. The primary sub-objectives for this executive level review are described below:

### **Completeness**

- Determine if the Audit, including the Audit Report, Audit Work Plan, and supporting workpapers identified and addressed all applicable audit objectives associated with the risks related to the preparation, service, and oversight of warrants.

### Quality

- Determine if appropriate sampling methodologies and testing questions were used.
- Determine if the Audit adequately reported the Audit's purpose, methodology, objectives, summary of findings, detailed findings, and status of prior recommendations.
- Determine if there was evidence of supervisory review.

### Findings

- Determine if reported findings correctly represented significant instances in which compliance was not achieved with respect to the IAID's stated objectives.<sup>3</sup>

## **RESULTS**

### Completeness

The Audit identified and addressed all applicable audit objectives associated with the risks related to the preparation, service, and oversight of warrants. As such, the Audit met the OIG's standard for Completeness.

### Quality

The Audit utilized appropriate sampling methodologies and test questions to select and test a random sample of search warrant packages. The Audit adequately reported the Audit's purpose, methodology, and status of prior recommendations.<sup>4</sup> Furthermore, there was evidence of supervisory review throughout the Audit to ensure that the Audit Plan was carried out by the audit staff. As such, the Audit met the OIG's standard for these aspects of Quality.

The OIG noted that the Audit Report presented its assessment of the Audit's objectives in a logical and clear manner; however, for Objectives 2(b) - Inconsistent Information and 5(c) - Post-Incident Supervisory Review, the OIG would have preferred that greater detail had been provided in the Audit Report Addenda to allow the reader a better understanding of the risks associated with the reported findings.

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<sup>3</sup> In assessing IAID's reported Audit findings, the OIG applied generally accepted government auditing standards which state, "Auditors should report the significant findings developed in response to each audit objective. In reporting the findings, auditors should include sufficient, competent, and relevant information to promote adequate understanding of the matters reported and to provide convincing but fair presentation in proper perspective. Auditors should also report appropriate background information that readers need to understand the findings."

<sup>4</sup> The OIG's review of IAID's prior Audit Report indicated that there were no current recommendations and all prior recommendations were adequately addressed.

Findings

The OIG reviewed IAID’s 15 reported Audit findings and supporting workpapers related to Objective 2(b) - Inconsistent Information, Objective 4(b) - Use of Confidential Informant, Objective 5(b) - Supervisory Oversight of Applicable Incident, and Objective 5(c) - Post-Incident Supervisory Oversight to assess if reported findings accurately represented significant instances in which compliance was not achieved. The OIG completed the same audit tests performed by IAID and reviewed all relevant documentation for each warrant package in which IAID reported a finding. The OIG did not concur with nine findings reported by IAID. As such, the Audit did not meet the OIG’s standard for Findings. Had the disputed findings not been reported by IAID, the Audit’s reported compliance rates for objectives 2(b) and 4(b) would have increased, as per the following table:

Objective	IAID’s Reported Compliance Rate	No. of Disputed Findings	Adjusted Compliance Rate
2(b) - Inconsistent Information	87% (69/79)	7	96% (76/79)
4(b) - Use of Confidential Informant	73% (8/11)	2	91% (10/11)
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The details of the nine disputed findings are presented by objective on the following pages.

**Objective 2(b) – Inconsistent Information**Background

Internal Audits and Inspections Division’s Audit Procedures for Objective 2(b) states, “Significant inconsistencies were defined as conflicting or omitted information from either the affidavit or supporting documents that might call into question the authenticity of the warrant. A package did not meet the standards for this objective if there were any significant inconsistencies.” Hence, the OIG, in reviewing each reported finding, applied the same standard. The OIG believed that in each of the following warrants, the reported findings did not call into question the authenticity of the warrant.

Disputed Findings

*Warrant 58845:* The purpose of this warrant was to seize third party cellular phone records, and these records were in fact seized. Internal Audits and Inspections Division reported in the Addenda: “Evidence seized was inconsistent with the evidence sought.” Internal Audits and Inspections Division’s workpapers accurately indicated that the Follow-up Report to the Arrest Report documented an incorrect cellular phone number for the records requested by the affiant. However, as the correct cellular phone number was documented ten other places in the warrant package, this appears to have been an inadvertent, non-consequential error.

*Warrant 58891:* The purpose of this warrant was to seize items related to a burglary investigation. Internal Audits and Inspections Division reported in the Addenda: “Not all

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evidence seized was listed on both the Property Report and the Receipt for Property Taken into Custody Form (Property Receipt)." Internal Audits and Inspections Division's workpapers noted that an iPod player was listed once on the Property Report but listed twice on the Property Receipt. However, the OIG's review of this warrant package revealed that a duplicate Property Receipt listing this iPod player, along with more than a dozen other items, was placed in the package. The insertion of this duplicate Property Receipt appears to have been inadvertent and of no consequence.

*Warrant 58770:* The purpose of this warrant was to seize items related to an investigation of a shooting incident. Internal Audits and Inspections Division reported in the Addenda: "Not all evidence seized was listed on both the Property Report and the Receipt for Property Taken into Custody Form." Internal Audits and Inspections Division's workpapers correctly noted that the Property Report and Property Receipt were not consistent. Specifically, IAID noted that the Property Receipt was missing four items that were listed on the Property Report. However, three of the items on the Property Report were empty boxes that had contained live ammunition. The ammunition was correctly listed on both the Property Report and Property Receipt. The fourth item not listed on the Property Receipt was a mortgage bill, seized to establish ownership of the residence. The four missing items from the Property Receipt appear to be inconsequential.

*Warrant 58865:* The purpose of this warrant was to seize items related to a robbery investigation. Internal Audits and Inspections Division reported in the Addenda: "Inconsistent documentation of currency on the Property Report and Receipt for Property Taken into Custody Form." In the OIG's examination of the Property Report, it appeared that the currency amount was initially written as \$86, which was then lined through and re-written correctly as \$84. The Property Receipt also correctly stated the currency amount as \$84. The original documentation of \$86 appears to have been appropriately corrected and, therefore, is inconsequential.

*Warrant 09SR116:* The purpose of this warrant was to seize items related to a narcotics investigation. Internal Audits and Inspections Division reported in the Addenda: "Inconsistent documentation of currency on the Property Report and Receipt for Property Taken into Custody Form." Internal Audits and Inspections Division's workpapers indicated that the Property Report, Property Receipt, and the associated Arrest Report correctly listed the total amount of \$667 seized. However, IAID's workpapers further indicated that the associated Arrest Report incorrectly itemized a portion of the denominational detail (two \$10 bills instead of two \$5 bills). This error appears to be immaterial.

*Warrant 09LAT0131:* The purpose of this warrant was to seize items related to a narcotics investigation. Internal Audits and Inspections Division reported in the Addenda: "Inconsistent documentation of currency on the Property Report and Receipt for Property Taken into Custody Form." Internal Audits and Inspections Division's workpapers indicated that the Property Report documented that \$20 was seized during the search while the Property Receipt reflected a seizure of \$25. The OIG's review revealed that this \$20 was correctly noted as having been seized during the search in total and corresponding denominational detail in the itemized listings of both the Property Report and the Property Receipt. On the top of one of the Property Receipts, and not in the itemized listing, \$25 was incorrectly noted as having been received from this suspect. This discrepancy appears inadvertent and was minor.

*Warrant 58817:* The purpose of this warrant was to seize items related to a homicide investigation. Internal Audits and Inspections Division reported in the Addenda: "Inconsistent documentation of valuables on both the Property Report and the Property Receipt." Internal Audits and Inspections Division's workpapers stated that the issues related to their audit of this warrant package were minor and further indicated that the Property Receipt is not as detailed as the Property Report but that all evidence seized was correctly listed on the Property Receipt. However, despite IAID's workpaper's conclusion, it was reported. The OIG's review revealed that there was sufficient information on the Property Report to reconcile the items listed on the Property Receipt.

#### **Objective 4(b) – Use of Confidential Informants**

##### Background

Internal Audits and Inspections Division's Audit stated under the Audit Procedures for Objective 4(b): "[Search warrant] packages were reviewed for evidence that the Confidential Informants (CIs) were handled according to Department policy. [The package did not meet standards for this objective] if the warrant did not articulate the reliability and corroboration of the CI, if the CI was used by personnel in a uniformed assignment, or the CI package did not exist or document the warrant as action taken."

##### Disputed Findings

*Warrant 58715:* The purpose of this warrant was to seize items related to a narcotics investigation. Internal Audits and Inspections Division reported in the Addenda: "The warrant was not documented as action taken in the informant package." Internal Audits and Inspections Division's workpapers indicated the informant package, specifically the Informant Contact Form, was not updated with the results of the search warrant.<sup>5</sup> The OIG's review of the search warrant package revealed that the CI used to help develop the probable cause for this search warrant was working for monetary consideration. According to the Department's Confidential Informant Manual, for a CI working for monetary consideration, an Informant Contact Form is not required to be updated with the results of the search warrant. An Informant Contact Form is only required to be updated with the results of the search warrant if the CI is working for a Letter of Accomplishment.<sup>6</sup> Therefore, the OIG believes that this matter was not reportable.

*Warrant 58799:* The purpose of this warrant was to seize items related to a firearms possession/trafficking investigation. Internal Audits and Inspections Division reported in the Addenda: "The warrant was not documented as action taken in the informant package." Internal Audits and Inspections Division's workpapers indicated the informant package, specifically the

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<sup>5</sup> An Informant Contact Form is used to document the results of a contact between the handler and the CI. A contact refers to a controlled situation in which the handler arranges for the CI to buy narcotics or meets (telephonic or in person) with the CI to obtain information about a suspect or crime.

<sup>6</sup> Per the LAPD Informant Manual, "A Letter of Accomplishment is a method of compensation for an informant who is motivated by a pending criminal case. The informant's cooperation and accomplishments are documented and presented to the District Attorney's Office for review and consideration."

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Contact Sheet, was not updated with the results of the search warrant. The OIG's review of the search warrant package revealed that the CI used to help develop the probable cause for this search warrant was working for monetary consideration. Therefore, the Contact Sheet was not required to be updated. As such, the OIG believes that this issue was not reportable.

### **IAID MANAGEMENT'S RESPONSE**

As previously noted in the Background on Page No. 1, during the Consent Decree, this particular annual Audit had been held out of compliance by the Federal Monitor three times for not identifying and reporting certain issues. Hence, to avoid further non-compliance determinations by the Federal Monitor, IAID management adjusted this Audit in recent years to be more aggressive in identifying and reporting issues, including some issues that the OIG believes should not have been reported. Going forward, IAID will consider excluding certain less significant issues from its Audit Report, and instead communicating them to Division/Bureau management via other means.

### **CONCLUSION**

Based on the OIG's executive level review of IAID's Warrant Applications and Supporting Affidavits Audit, the Audit met the OIG's standard for Completeness and Quality. The OIG reviewed 15 findings reported by IAID as moderate to high risk. The OIG did not concur with nine of these 15 findings. As such, IAID's Audit did not meet the OIG's standard for Findings.