

LOS ANGELES POLICE COMMISSION

**ANTI-TERRORISM
INTELLIGENCE SECTION AUDIT,
FISCAL YEAR 2012/2013
(PUBLIC VERSION, OPEN SESSION)**



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**BOARD OF POLICE COMMISSIONERS
ANTI-TERRORISM INTELLIGENCE SECTION AUDIT
FOR FISCAL YEAR 2012/2013
PUBLIC VERSION**

AUDIT PURPOSE

The Office of the Inspector General (OIG) has completed its Anti-Terrorism Intelligence Section (ATIS) Audit (Audit) on behalf of the Board of Police Commissioners (Commission).¹ The purpose of this Audit was to test for compliance with ATIS Guidelines as adopted by the Commission on September 25, 2012.

OVERVIEW OF ATIS

The primary objective of ATIS is the prevention and investigation of terrorist activity and illegal actions that could result in a significant disruption of public order. To achieve this objective, ATIS conducts intelligence investigations that seek to detect, collect, analyze, and disseminate intelligence information. Intelligence investigations focus on the goals of an individual or an organization, whereas criminal investigations focus on specific violations of law.

Depending upon the nature of information that ATIS receives, either of two types of investigation may be initiated. The following table describes the two levels of intelligence investigations, including the criteria and approval levels for opening an investigation, the available investigative techniques, and the time limits for completing an investigation.

LEVELS OF ATIS INTELLIGENCE INVESTIGATIONS		
	INITIAL LEAD INVESTIGATION	FULL TERRORISM INTELLIGENCE INVESTIGATION
Source of Information	Other law enforcement agencies, private citizens, Department employees	Same as Initial Lead
Required Threshold for Opening Investigation	Information is received concerning the possibility that terrorist activity exists, which requires prompt and limited follow-up	Reasonable and articulated suspicion that an individual or organization may be planning, threatening, attempting, performing, aiding/abetting, or financing unlawful acts; the results of which are intended to further their societal objectives, influence societal action, or harass on the basis of race, religion, national origin or sexual orientation
Approval Level	Detective III	Commanding Officer, MCD ²
Investigative Techniques	All lawful investigative techniques may be used.	All lawful investigative techniques may be used.
Time Limit for Completion	60 days	Six months, but may be continued upon completion of a Follow-up Intelligence Report from by the ATIS Officer-In-Charge

¹ The Anti-Terrorism Intelligence Section is within the Major Crimes Division, Counter Terrorism and Special Operations Bureau, Office of Special Operations. See the Department Organization Chart, http://pdinfoweb.lapd.lacity.org/files/Org_Chart/2013/OrgChart08-01-13-DP-9.pdf.

² Major Crimes Division.

AUDIT BACKGROUND

According to Major Crimes Division's (MCD) Intelligence Guidelines, ATIS operations shall be audited at least annually by the Commission. In order to accomplish this objective, the Commission has enlisted the assistance of the Office of Inspector General.

The Commission recognizes the delicate balance between providing effective terrorist prevention protocols and protecting the rights of citizens. Constitutional and statutory rights guarantee every citizen the right to privacy, the expression of ideas and dissension, and the right to associate publicly and privately for any lawful purpose. As such, the Commission has established a policy that strictly prohibits the use of illegal or unauthorized methods of collecting, maintaining, or disseminating intelligence information.

Los Angeles Police Department (Department or LAPD) policy requires that ATIS investigations respect the constitutional and statutory rights guaranteed to every individual. The policy directs that a Full Terrorism Intelligence Investigation file may be opened and maintained on an individual or group only when there is articulated reasonable suspicion that the individual or group may be planning, threatening, attempting, performing, aiding/abetting, or financing acts of terrorism.

SCOPE AND METHODOLOGY

The MCD Intelligence Guidelines were used as the standard for testing ATIS operations for compliance. The Audit judgmentally selected the 12-month period from October 1, 2011, through September 30, 2012, as the testing period. In addition to testing the Intelligence Guidelines, the OIG conducted interviews with selected ATIS and Criminal Investigation Section (CIS) personnel.³ The documentation evaluated in the Audit included:

- a random sample of Initial Lead Investigations initiated during the scope period;
- all Full Terrorism Intelligence Investigations open as of the date of fieldwork;
- all Full Terrorism Intelligence Investigations closed during the scope period;
- all confidential informant packages active during the scope period; and,
- all criminal investigations with a potential terrorism nexus closed during the scope period.

AUDIT RESULTS

Initial Lead Investigations were 100% compliant with all ten tests performed.

The Audit performed 10 tests for each of the Initial Lead Investigations. The tests were performed to determine whether the investigations were properly documented and approved prior to being initiated, used approved investigative techniques, and were completed within the required timeframes. Additionally, testing was performed to determine if any Initial Lead Investigations were subsequently transferred to the CIS, and if so, to confirm that the transfer occurred because ATIS identified suspected criminal activity.

³ Criminal Investigation Section is a unit within MCD.

Full Terrorism Intelligence Investigations were 100% compliant with all 14 tests performed.

The Audit performed 14 tests for each of the open and closed Full Terrorism Intelligence Investigations. The tests were performed to determine whether the investigations were properly approved prior to being initiated, met the reasonable suspicion threshold, and were adequately documented on the appropriate forms. Additionally, the Audit determined whether all documents collected during the underlying investigation were relevant to the investigation, required reporting was completed, provided appropriate rationales, and met timelines. When investigative techniques such as surveillance were employed, the Audit determined if proper approvals were received.

Confidential Informant packages were 100% compliant with all 17 tests performed.

The Audit performed 17 tests for each of the confidential informant packages. The tests were performed to determine whether each of the confidential informants were properly approved and managed in accordance with Department policy.

Criminal Investigations were 100% compliant with all three tests performed.

The Audit performed three tests for each of the open criminal investigations. The tests were performed to determine whether the ATIS investigators articulated the rationale for determining the investigations were criminal in nature and, prior to transferring to the investigations to the CIS, received proper approvals for closing the intelligence investigations.

PRIOR AUDIT RECOMMENDATIONS

The Commission made three recommendations in the Fiscal Year 2009/2010 ATIS Audit. The first recommendation arose from investigators not adequately documenting reasonable suspicion in the initial intelligence reports. Although the Audit established that reasonable suspicion existed for each intelligence investigation, for 3 of the 11 investigations reviewed, the required documentation was not provided. The Commission recommended that ATIS personnel be provided training to address this issue.

According to MCD, training has been provided to ATIS personnel and is done so on an ongoing basis. The OIG noted that in this year's Audit, reasonable suspicion was adequately documented in all initial intelligence reports.

The second recommendation dealt with the process by which intelligence investigations were closed and transferred to the CIS to be investigated as criminal matters.⁴ During the Audit, it became apparent that the CIS did not have a formalized documentation process by which the CIS supervisors could assess whether the investigations conflicted with or involved intelligence investigations prior to the initiation of a criminal investigation. The Commission recommended a modification to the CIS Case Referral form to capture necessary relevant data and proper approval. In response, MCD has modified the CIS's Case Referral Form. The form now requires the approving supervisor's signature and reasoning for the transfer of the investigation.

⁴ If an ATIS intelligence investigation identifies criminal activity, ATIS must close the intelligence investigation and transfer their information to CIS, which then pursues a criminal investigation. ATIS matters are non-criminal.

The final recommendation was for MCD to review its Intelligence Guidelines to ensure that they are consistent with federal guidelines. In response, MCD has revised its Intelligence Guidelines and 12 Divisional Orders have been reviewed and updated.⁵ According to MCD, every effort was made to embody the principles, ideology, and standards of national intelligence guidelines in the revisions of their Intelligence Guidelines and Divisional Orders.

OTHER MATTER AND RECOMMENDATION

The Audit noted that the Working Folders for the Full Terrorism Intelligence Investigations are retained indefinitely after the Investigations are closed.⁶ To attain the delicate balance between preventing terrorism and protecting the rights of citizens, the OIG recommends that the Department develop a retention/destruction schedule for the Working Folders.

The Department advised that they are finalizing a divisional order to address the retention/destruction of Working Folders. The tentative plan is that each Working Folder will be retained five years after the related Full Terrorism Intelligence Investigation is closed (i.e., becomes inactive). If the Full Terrorism Intelligence Investigation remains inactive for five years, the Working Folder will be destroyed.

MANAGEMENT RESPONSE

This Audit was presented to the Department for its review. The Department agrees with the audit results and recommendation.

CONCLUSION

The results of the Audit reflected compliance with Commission guidelines. Each investigation was opened only after the appropriate threshold was met and closed when ATIS investigators determined that the individual or organization suspected of terrorist activity no longer presented a threat to the City of Los Angeles, or their actions required referral to another law enforcement agency. Moreover, the investigation files were well organized and the file documentation supported the investigation. In addition, all three concerns reported during the prior Audit were adequately addressed.

⁵ The current ATIS Intelligence Guidelines are dated September 2012, and the Divisional Orders are dated from February 2012 through November 2012.

⁶ The Working Folders contains the various investigative materials gathered, received, and developed by the investigating officers.