



OFFICE OF
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October 20, 2008

The Honorable Antonio Villaraigosa
The Honorable Rockard J. Delgadillo
The Honorable Members of the City Council

Right now the Los Angeles Police Department (LAPD) has about 7,000 rape kits sitting on freezer shelves waiting to be analyzed. Despite having been awarded nearly \$4 million in grant funds for the LAPD's crime lab, this unacceptable backlog still exists.

A rape kit is the physical evidence, often including DNA, that is collected after a sexual assault. Timely testing of rape kits is essential in identifying and convicting perpetrators who are frequently repeat offenders. At least 217 of the untested rape kits have now exceeded the statute of limitations and are useless.

One of the Senators who authored the bill in 2004, which provided the federal grant dollars, said, "If there's a rape kit left sitting on a shelf, there's a victim without justice." Here we have in the City of Los Angeles nearly 7,000 victims waiting for justice.

The rape-kit backlog is not unique to the LAPD and is a problem in other cities and states across the country. That is why the federal government allocated significant grant dollars to police departments that wanted and needed help.

Unfortunately the LAPD lost nearly half a million grant dollars due to the Department's lax oversight of the monies. The LAPD also struggles with spending the grant funds in a timely manner which can easily happen without a focused and funded plan to get rid of the backlog once and for all.

It is beyond disturbing that the thousands of victims who have undergone the invasive ordeal of these 4-6 hour tests do not even know that their evidence is still untested. One of the audit's findings calls out a Penal Code provision that requires the LAPD to make this notification to victims; the LAPD does not do that now.

During the past 15 years I have worked with three different Mayors, all of whom have promised to increase the numbers of uniformed police officers in the LAPD. But what this audit so clearly shows is that a comprehensive public safety plan for the City of Los Angeles must include much more than just additional police officers. You can have all the police officers in the world out on the streets making arrests, and if you have a non-functioning crime lab that can't analyze DNA evidence, the young girls and women of this City cannot and will not be safe.

How is it possible that we are in this situation? The answer is simple and obvious: The City, its elected leadership as well as the Police Department, has not given this issue the attention, resources and priority it deserves.

In the late 1990's the City of New York discovered it had 17,000 untested rape kits. Their mayor declared this situation unacceptable. He found both the political will and the dollars needed to analyze all the backlogged kits and give the necessary resources so that the backlog did not reoccur. This took only three years. Cannot Los Angeles do as well as New York City?!

Sincerely,

A handwritten signature in black ink that reads "Laura N. Chick". The signature is fluid and cursive, with the first name "Laura" and last name "Chick" clearly legible.

LAURA N. CHICK
City Controller



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October 20, 2008

William J. Bratton, Chief of Police
Los Angeles Police Department
Room 619, Parker Center
Los Angeles, CA 90012

Dear Chief Bratton:

Enclosed is a report entitled "Audit of the Forensic DNA Backlog Reduction Grant Program Awards." A draft of this report was provided to your office on October 9, 2008. Comments provided by your Department at the meeting held on October 14, 2008 were evaluated and considered prior to finalizing the report.

Please review the final audit report and advise the Controller's Office by November 20, 2008 on planned actions you will take to implement the recommendations. If you have any questions or comments, please contact me at (213) 978-7392.

Sincerely,

FARID SAFFAR, CPA
Director of Auditing

Enclosure

cc: Anthony Pacheco, President, Board of Police Commissioners
Robin Kramer, Chief of Staff, Office of the Mayor
Jimmy Blackman, Deputy Chief of Staff, Office of the Mayor
Raymond P. Ciranna, Interim City Administrative Officer
Karen E. Kalfayan, Interim City Clerk
Gerry F. Miller, Chief Legislative Analyst
Arif Alikhan, Deputy Mayor, Office of the Mayor
Independent City Auditors



City of Los Angeles Office of the Controller

Audit of the Forensic DNA Backlog Reduction Grant Program Awards

October 20, 2008

Laura N. Chick
City Controller

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AUDIT OF THE FORENSIC DNA BACKLOG REDUCTION GRANT PROGRAM AWARDS

EXECUTIVE SUMMARY

The Audit Division has completed an audit of the Forensic DNA Backlog Reduction Grant Program Awards managed by the Los Angeles Police Department (LAPD or Department). The primary objectives of the audit were to: 1) To determine whether the department utilizes the available grant monies in a timely manner. If the grant monies were not used in a timely manner, determine the reasons; 2) To determine whether LAPD accurately accounts for the grant funds received, whether grant funds are spent in accordance with the grant requirements, and whether the Department is effectively reducing backlogs of rape kits; 3) To evaluate the adequacy of internal controls over the financial management of the Forensic DNA Backlog Reduction Grant Program Awards to ensure timely and accurate accounting reconciliations and reporting of grant activities.

Background

The City was awarded \$3,945,820 in grant awards from the United States Department of Justice (DOJ) from Fiscal Year (FY) 2004 through FY 2007 relating to the Forensic DNA Capacity Enhancement Award, for improving the infrastructure and analysis capacity of the crime laboratory by providing training and purchase of equipment, and the Forensic Casework DNA Backlog Reduction Award, for reducing the DNA backlog through staff overtime and hiring outside consultants. Concerns were raised about the timely use of the grants, in particular, how timely the grants have been used, how much has been applied to reduce the rape kit backlog, and the reasons for DOJ reducing LAPD's FY 2008 grant amount.

Scope

We reviewed the eight grant awards from the DOJ since FY 2004. We performed the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), and the audit covered the period of July 2004 through September 2008. Fieldwork was conducted between August and October 2008.

Summary of Audit Results

In general, the Department has adequate internal controls to ensure that grant funds are spent on eligible expenditures related to the Forensic DNA Backlog Reduction Grant Program Awards. However, we found that due to poor planning and oversight, the LAPD had its FY 2008 grant reduced by \$498,570 which represented over 50% of the amount it was entitled to receive. The DOJ reduced the FY 2008 grant amount because it noted that the LAPD had not been spending monies. As of February 2008, the LAPD had not reported any expenditures on the FY 2006 grants and still had not closed out the FY 2004 and FY 2005 grants. Since the first grant was awarded in 2004, the Department has not spent grant funds in a timely manner.

In addition, there is a large backlog of DNA sexual assault cases that has continued to increase. As of September 4, 2008, the backlog was 7,038 kits. Since the LAPD lost nearly \$500,000 in funding, less monies were available to reduce the backlog of rape kits.

With respect to the grant reduction of \$498,570, the LAPD reports that it has increased its oversight over the DNA grants, developed a comprehensive grant tracking system to allow staff in various Divisions/Units to easily identify spending and administrative problems early on, and provided training to staff involved with the grants to help prevent any future grant reductions in Federal funding.

With respect to the backlog of DNA sexual assault cases, the Department has received donation commitments of \$1.2 million and it is seeking authorization to have an additional \$1 million transferred to the LAPD's general fund accounts. Although this funding is not sufficient to eliminate the backlog, it should help ensure that the backlog does not increase.

Key Findings

- ☐ **Despite being awarded nearly \$4 million in grant funds over the last few years, the backlog of rape kits continues to increase. The backlog is currently 7,038 cases (6,862 related to unrequested cases and 176 related to detective requested cases.) Until about a year ago, the Department did not have a detailed and comprehensive plan to eliminate the backlog.**

The LAPD currently has a backlog of over 7,000 rape kits, and the backlog has increased by 700 to 900 cases each year over the last several years. The Department noted a backlog problem with unrequested rape kits as far back as 2002, and budgeted funds were requested to help reduce or eliminate the backlog, but no timeframe was given to eliminate the backlog which ranged from 1,800 to 2,500 cases.

According to the Department, in approximately mid-2006, LAPD made a policy decision to work all rape kits, not just those related to requests made by detectives.

As a result of the policy decision, the CAO reported to the Mayor in July 2007 the resources that would be required to eliminate the backlog in five to six years. However, the CAO did not recommend that additional funds be allocated to reducing the backlog due to limited funds available. This was the first plan that we noted that had a timeframe for eliminating the backlog.

Subsequent to the July 2007 plan, the LAPD prepared at least three additional plans, one in May 2008, one in September 2008, and one in October 2008. Each plan had a different approach and the resources required to eliminate the backlog. Under the May 2008 plan, the backlog would be eliminated in 30 months. The September 2008 and October 2008 plans indicate that the backlog could be eliminated by the end of June 30, 2013.

The backlog cannot be eliminated with current funding. The Department may receive new sources of funds. Through the Police Foundation, the Department has received donation commitments from two individuals totaling \$1.2 million. In addition, the Department is seeking authorization to have an additional \$1 million transferred to its general fund accounts.

It is important for the City to commit resources to working the rape kits. Penal Code Section 803 states that there is no statute of limitations on the prosecution of the case, if a sexual assault evidence kit is processed within two years of a crime committed after 2000 and a DNA profile has been obtained. However, if the evidence kit is not processed within two years from the date of the offense, there is a ten-year statute of limitations. Currently, the 6,862 backlog includes 5,694 rape kits older than two years. Of these, 217 have exceeded the ten-year statute of limitations. The LAPD agrees that the statute for these rape kits has expired, but it stated that it is possible that these cases may have proceeded based on other evidence for the case.

Until June 2008, the LAPD had only one contractor to perform DNA testing. However, now, with a large increase in the number of DNA tests performed, the Department has three additional contractors.

□ LAPD had its FY 2008 grant reduced by \$498,570 due to poor planning and a lack of oversight.

LAPD should have been awarded \$934,430 for the FY 2008 grant. However, in April 2008, DOJ reduced this amount by \$498,570 to \$435,860 because LAPD had not reported any expenditures on either of its two FY 2006 grants, even though LAPD could have begun spending monies in April 2007.

Spending the grant funds in a timely manner has always been a problem for LAPD due to a lack of proper planning and a lack of oversight. For example, on average, it has taken seven months after the grant award to obtain City Council approval to accept the award. LAPD has never formally consulted with the CAO, City Attorney,

or Council to determine what could be done to expedite this process. Council may have been willing to grant a waiver to the normal process because these are recurring grants, the amount of the grant is known at the time of application, and there are no matching City funds required.

Monies had also not been spent on the FY 2006 grant due to a lack of oversight. For example, Grant staff had mistakenly thought that all the FY 2004 and FY 2005 monies had to be spent before they could begin to spend the FY 2006 funds. LAPD management did not contact NIJ to discuss possible solutions to its problem of not spending the FY 2006 monies.

Sometime around February 2008, NIJ expressed concerns that no monies had been spent on the FY 2006 grants. Based on discussions between NIJ and LAPD, NIJ informed LAPD on April 10, 2008, that it could begin spending monies on the FY 2006 Forensic Casework DNA Backlog Reduction Grant, provided that at least 90% of the FY 2004 and FY 2005 funds had been expended. By the end of September 2007, LAPD had met the 90% requirement for the FY 2004 and 2005 DNA Backlog Reduction Grants. However, for the Capacity Enhancement Grant, NIJ indicated that there is no such restriction on simultaneous expenditures, and we did not note such a restriction in the grant agreement. LAPD could have started using the FY 2006 Capacity Enhancement Grant when the Council approved it in April 2007. However, no expenditures were charged to the grant until April 2008.

As a result of NIJ's approval to begin spending FY 2006 monies and attention from the media, LAPD has accelerated its efforts to utilize the grant funding. Between April 2008 and August 14, 2008, LAPD spent \$447,392 on the FY 2006 grants. In addition, the Department reports that between August 15, 2008 and October 15, 2008, it spent an additional \$602,824 and \$56,822 on the FY 2006 and FY 2007 grants, respectively.

□ LAPD may not be providing required notifications to victims.

The California Penal Code may require that victims be notified if their rape kits will not be tested within two years. The LAPD does not have procedures in place to notify the required victims, and no notifications have occurred. LAPD management stated that notifications have not been made due to a lack of resources.

Review of Report

We met with LAPD management on October 14, 2008 to discuss the contents of the audit report. Department management generally agreed with the findings and recommendations. We would like to thank the Department management and staff for their cooperation and assistance during the audit.

TABLE of RECOMMENDATIONS

	RECOMMENDATIONS	PAGE REFERENCE
	LAPD management should:	
1	Request that the City Administrative Office (CAO) review its most recent plan to ensure the plan is reasonable, achievable, and has an appropriate timeline for eliminating the current backlog and ensuring that a new backlog does not accumulate.	13
2	Closely monitor cases approaching the two-year and ten-year statute of limitations so these cases can be given a high priority for DNA testing.	13
3	Ensure that all eligible contractor costs are first charged to the DNA grant funds.	14
4	Work with the CAO and Council to ensure that the City accepts grant awards in a timely manner.	15
5	Provide closer oversight over the DNA grant funds to minimize the risk of future reductions in Federal funding.	16
6	Consult with the City Attorney's Office and/or other California law enforcement agencies to determine the circumstances under which victims must be notified when LAPD does not intend to analyze DNA evidence from sexual assault victims.	16
7	If necessary, seek additional resources to comply with the Penal Code requirements related to victim notifications.	16
8	Monitor to ensure that transfers from the Police Department Grant Special Revenue Fund to the Reserve/General Fund are made within one month after the end of each quarter and that all monies owed to the Reserve/General Fund are repaid.	17

BACKGROUND AND METHODOLOGY

BACKGROUND

Purpose and Awarding of Grants

On January 23, 2004, President Bush signed the Consolidated Appropriations Act of 2004 which appropriated \$100 million to the United States Department of Justice (DOJ) for a DNA analysis and backlog reduction formula program. From 2004 through 2007, the National Institute of Justice (NIJ), the research, development and evaluation agency of the DOJ appropriated the monies through two programs (the DNA Capacity Enhancement Program and the Forensic Casework DNA Backlog Reduction Program). The purpose of these programs was to assist eligible States and units of local government to reduce DNA case turnaround time and reduce DNA forensic casework backlogs. In 2007, these programs were combined into the Forensic DNA Backlog Reduction Program. In general, the awards are allocated by NIJ to eligible applicants based on crime statistics.

Based on the formula for determining grant amounts, the City was awarded the following amounts:

- FY 2004 - \$1,197,506
- FY 2005 - \$814,775
- FY 2006 - \$1,062,618
- FY 2007 - \$870,921
- FY 2008 - \$435,860 (awarded but not formally approved by Council).

Appendix B provides a breakdown of these amounts by type of grant.

Eligible Expenditures and Reporting Requirements

Eligible expenditures for the DNA Capacity Enhancement Program included laboratory and computer equipment, supplies, contractual services, renovations and training. The monies could not be used to hire new staff or pay salaries or overtime for existing staff, or for administrative expenses exceeding 3% of the award amount. Eligible expenditures from the Forensic Casework DNA Backlog Reduction Program included overtime, travel, contractual services, supplies, and administrative expenses up to 3% of the award amount.

Under the FY 2007 and FY 2008 combined Forensic DNA Backlog Reduction Program, eligible expenditures include salary and benefits of additional laboratory employees, overtime for existing laboratory staff, training, travel, laboratory and computer equipment, renovations, consultant and contractor services, and for administrative expenses not exceeding 3% of the award amount.

The City is required to submit to the NIJ, quarterly performance metrics reports, quarterly financial status reports, semi-annual progress reports, and a final report. Since these are formula grants, the LAPD knows the grant amount at the time of filing the application.

Through June 30, 2008, LAPD had expended and claimed \$2,214,000 in expenditures for the following categories:

Expenses claimed through 6/30/08 for the 8 DNA backlog grants	
Personnel Expenses	\$ 155,360
Travel	119,305
Equipment Expenses	1,048,806
Consultants/Contracts	754,625
Supplies	80,977
Other	54,847
Total	\$ 2,213,920

Goals

For FY 2007¹, LAPD's goals included 1) reducing the time to complete a case (between submission of a DNA analysis request and the delivery of a completed report) from 112 days to 105 days; 2) increasing DNA analysis throughput (average number of DNA samples analyzed per criminalist) for the laboratory and 3) working 183 cases from the backlog of 530 violent crime cases by performing screening and/or DNA profiling using overtime, by utilizing contract laboratory services and by increasing productivity.

For the 2006 DNA Capacity Enhancement Program, LAPD's goals included 1) training 16 criminalists that are currently assigned to Serology/DNA unit in DNA profiling by June 30, 2007 (eight of the 16 criminalists have already received some training); 2) processing 10% more DNA samples in-house in 2007 over 2006 levels.

For the 2006 Forensic Casework DNA Backlog Reduction Program, LAPD's goal included reducing by 147 cases from the backlog of 319 unsolved homicide and sexual assault cases by performing screening and/or DNA profiling by providing overtime to existing personnel or by utilizing contract laboratory services.

In March 2008, the NIJ completed an audit of the FY 2004 and FY 2005 grants. The audit did not note any ineligible expenses and NIJ found that the monies were related to the established goals.

¹ Fiscal Year 2007 refers to the Federal fiscal year which covers the period from October 1, 2007 through September 30, 2008.

DNA Testing Process²

The DNA testing processing begins with a detective submitting a request for DNA testing to LAPD's Serology/DNA Unit (SDU) of the Scientific Investigation Division (SID). For a rape kit, the highest priority cases are those cases where the trial date is approaching, where the suspect works closely with children, or where there is an unknown suspect. The SDU receives approximately 947 requests per year, and approximately 50% are related to a rape kit.

The SDU will first "screen" the case to determine whether the case can be sent to the next stage, "typing"/ "profiling". The purpose of the typing stage is to determine whether the DNA testing results in a "profile" that can be uploaded into the State's Combined DNA Index System (CODIS). This screening process typically takes one week.

To manage its workload, SDU sends some cases to contractors. In the past, SDU would perform the screening on all cases before sending the case to the contractor (Orchid Cellmark, Inc.) However, beginning in August 2008, SDU began sending some cases to a contractor (Bode Technology Group, Inc.) for both screening and typing.

Over the last year, the LAPD has taken an average of 54 days for the contractor to complete testing on the case. A "rush" can be requested on the case. The "rush" can be for five days, ten days, or 15 days. The typical additional cost for a rush is \$600 to \$1,000 per item tested. Examples of cases requested as a "rush" are ones in which a suspect will be released soon from custody or one where the trial date is approaching. The Department does not maintain statistics on the number of rape kits versus other types of cases sent to contractors.

Once a case is returned by the contractor, the SDU must perform a technical review of the results before the upload into CODIS. Cases are only uploaded if the test results in a profile that meets the criteria for uploading. A high percentage of profiled cases do not meet the criteria for uploading. For example, if the DNA is not considered to be crime scene evidence, it is not eligible to be uploaded to CODIS. For a typical case, it takes approximately two to three weeks for eligible cases to be uploaded into CODIS. In summary, it takes approximately three months from the time the SDU receives a request for a DNA test to the time the case is uploaded into CODIS.

For calendar year 2007, SDU uploaded 397 cases. For calendar year 2008 (through the end of August), 248 cases have been uploaded. The table below shows the number of cases typed and uploaded to CODIS since 2004.

² Information for this section of the background section was obtained primarily through interviews with SID staff and a review of various reports and were not audited as part of this review.

Number of cases typed and uploaded to CODIS				
	<i># of cases typed</i>	<i># of sexual crime cases typed (1)</i>	<i>Uploaded to CODIS (2)</i>	<i>% (4)</i>
2004	738	328	133	18%
2005	716	233	168	23%
2006	845	315	228	27%
2007	1199	463	397	33%
2008 (3)	1275	467	372	29%
<p>Source: LAPD. These figures were not audited as part of our review.</p> <p><i>Footnotes:</i></p> <p>(1) These figures are included in the number of cases typed column.</p> <p>(2) These figures relate to the number of cases typed. For example, for 2004, 133 (18%) of the 738 cases typed were uploaded to CODIS.</p> <p>(3) These figures represent annualized numbers.</p> <p>(4) According to LAPD management, these percentages are low because, as discussed above, many cases do not meet the eligibility requirements for being uploaded to CODIS.</p>				

The LAPD attributes the increasing percentage of cases uploaded to CODIS to the fact that since more resources are available for DNA testing, detectives are focusing on cases where there is an unknown suspect. These types of cases result in a higher probability of the results being uploaded into CODIS because unknown suspects are less likely to have records already in CODIS.

The LAPD was unable to readily determine the number of DNA tests that have been conducted using grant funds. At one time, the Department reported to us that through August 2008, approximately 400 tests had been conducted. However, they later revised this figure to approximately 700 tests, but they were unable to assure us of the accuracy of this figure. The SID acknowledged that it has had problems maintaining reliable and supportable statistics.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this audit were to:

1. To determine whether the department utilizes the available grant monies in a timely manner. If the grant monies were not used in a timely manner, determine the reasons.
2. To determine whether LAPD accurately accounts for the grant funds received, whether grant funds are spent in accordance with the grant requirements, and whether the Department is effectively reducing backlogs of rape kits.
3. To evaluate the adequacy of internal controls over the financial management of the Forensic DNA Backlog Reduction Grant Program Awards to ensure timely and accurate accounting reconciliations and reporting of grant activities.

We reviewed three DOJ grant awards from Fiscal Year (FY) 2004 through FY 2006 relating to the Forensic DNA Capacity Enhancement Award totaling \$1,779,822 and five DOJ grant awards from FY 2004 through FY 2008 relating to the Forensic Casework DNA Backlog Reduction Award totaling \$2,601,858.

The audit was performed in accordance with Generally Accepted Government Auditing standards and covered the period of July 2004 to September 2008. Fieldwork was conducted between August and October 2008.

In conducting our audit, we interviewed management and staff and reviewed applicable laws, regulations, and Departmental procedures to obtain an understanding of the various grant awards and the Department's controls over these grants. We then selected sample transactions to determine whether the Department is complying with the grant requirements.

The remainder of this report details our findings, comments and recommendations.

AUDIT FINDINGS AND RECOMMENDATIONS

Finding #1: Despite being awarded nearly \$4 million in grant funds over the last few years, the backlog of rape kits continues to increase. The backlog is currently 7,038 cases (6,862 related to unrequested cases and 176 related to detective requested cases.) Until about a year ago, the Department did not have a detailed and comprehensive plan to eliminate the backlog.

LAPD'S Serology/DNA Unit (SDU) of the Scientific Investigation Division (SID) consists of 30 criminalists, 13 laboratory technicians and other staff. The unit receives requests from the Department's detectives to conduct DNA testing. During the last year, the SDU received 903 requests. The detective requests can be for a rape kit³ or they could be for another type of case such as a murder or a property crime. As of September 8, 2008, the SDU had a backlog of 517 cases requested by detectives. The 517 cases include 176 rape kits.

In addition to the detective requested case backlog of 517 cases, there is a backlog of unrequested rape kits. This backlog is currently 6,862 and has increased by approximately 700 to 900 cases each year over the last several years. According to LAPD representatives the highest priority cases are those cases where the trial date is approaching, where the suspect works closely with children, or where there is an unknown suspect.

Table 1 shows the backlog of unrequested rape kits since 2003.

Table 1
Unrequested Rape Kit Backlog

	Backlog	Increase per year
2003	3,332	N/A
2004	4,238	906
2005	4,989	751
2006	5,694	705
2007	6,425	731
as of 9/4/08	6,862	437

³ The biological and physical evidence collected from a victim of a sexual assault is collectively known as a "rape kit".

The Department noted a backlog problem with unrequested rape kits as far back as 2002, and budgeted funds were requested to help reduce or eliminate the backlog, but no timeframe was given to eliminate the backlog which ranged from 1,800 to 2,500 cases.

According to the Department, in approximately mid-2006, LAPD made a policy decision to work all rape kits, not just those related to requests made by detectives. As a result of the policy decision, the CAO reported to the Mayor in July 2007 the resources that would be required to eliminate the backlog in five to six years. However, the CAO did not recommend that additional funds be allocated to reducing the backlog due to limited funds available. This was the first plan that we noted that had a timeframe for eliminating the backlog.

Subsequent to the July 2007 plan, the LAPD prepared at least three additional plans, one in May 2008, one in September 2008, and one in October 2008. Each plan had a different approach and the resources required to eliminate the backlog. Under the May 2008 plan, the backlog would be eliminated in 30 months. The September 2008 and October 2008 plans indicate that the backlog could be eliminated by the end of June 30, 2013.

The backlog cannot be eliminated with current funding. The Department may receive new sources of funds. However, even with these potential new sources, this still leaves a shortfall of several million dollars to eliminate the current backlog and to stay current with the workload of incoming cases. Additional potential funding includes:

- Through the Police Foundation, the Department has received donation commitments from two individuals. One donation is for \$200,000 and another one is for \$250,000 a year for four years. Currently, the Department stated that it does not have the capacity to utilize the donations. For example, the Department indicated that their contractors are already operating at full capacity.
- The Department is seeking authorization to have an additional \$1 million transferred to its general fund accounts.

It is important for the City to commit resources to working the rape kits. Penal Code Section 803 states that there is no statute of limitations on the prosecution of the case, if a sexual assault evidence kit is processed within two years of a crime committed after 2000 and a DNA profile has been obtained. However, if the evidence kit is not processed within two years from the date of the offense, there is a ten-year statute of limitations. Currently, the 6,862 backlog includes 5,694 rape kits older than two years. Of these, 217 have exceeded the ten-year statute of limitations. The LAPD agrees that the statute for these rape kits has expired, but it stated that it is possible that these cases may have proceeded based on other evidence for the case.

Until June 2008, the LAPD had only one contractor to perform DNA testing. However, now, with a large increase in the number of DNA tests performed, the Department has three additional contractors.

Recommendations

LAPD management should:

- 1. Request that the City Administrative Office (CAO) review its most recent plan to ensure the plan is reasonable, achievable, and has an appropriate timeline for eliminating the current backlog and ensuring that a new backlog does not accumulate.**
- 2. Closely monitor cases approaching the two-year and ten-year statute of limitations so these cases can be given a high priority for DNA testing.**

Finding #2: The Department did not consider charging outsourcing costs against the grant funds before using General Fund dollars.

The Department paid \$1.7 million (\$1.2 million from the General Fund and \$0.5 million from grant funds) from July 1, 2004 to June 30, 2007 to an outside contractor to conduct DNA profiling. Most of these payments were initially charged to the General Fund before the grant programs were accepted by the City Council. However, when the 2004 DNA Capacity Enhancement Grant Program was accepted by the City Council on February 2, 2005, the Department continued to charge \$153,000 to the General Fund from February 2005 to May 2005. In May 2005, LAPD spent \$5,600 of the budgeted \$40,745 in the 2004 Capacity Enhancement Grant Program.

When the 2004 Forensic Casework DNA Backlog Reduction Grant was accepted by the Council on June 3, 2005, the Department could have charged contractor expenses of \$499,490 (up to the budgeted grant contractor fees) to the Grant. Instead, the Department continued to charge \$335,000 to the General Fund from June 2005 to June 2006 and charged only \$46,000 to the 2004 Forensic Casework DNA Backlog Reduction Program in the same period of time.

For the 2005 Forensic Casework DNA Backlog Reduction, Grant was accepted by the Council on May 9, 2006. However, the Department did not charge outsourcing costs (\$93,205) to the Grant until June 2007.

SID explained that there were many restrictions by NIJ in the definition of backlog in the beginning of the program, which may have prevented charging certain outsourcing costs to the grant fund. Nevertheless, the SID could have given higher priority to testing grant chargeable backlog cases, including unrequested rape kits.

Recommendation

- 3. LAPD management should ensure that all eligible contractor costs are first charged to the DNA grant funds.**

Finding#3: LAPD had its FY 2008 grant reduced by \$498,570 due to poor planning and a lack of oversight.

Based on the formula for determining grant amounts, LAPD should have been awarded \$934,430 for the FY 2008 grant. However, DOJ reduced this amount by \$498,570 to \$435,860. The \$498,570 represents the amount of the FY 2006 Forensic Casework DNA Backlog Reduction Grant. At the time the DOJ made the reduction in April 2008, LAPD had not reported any expenditures for the FY 2006 grant (the initial grant period for the FY 2006 grant was October 1, 2006 through September 30, 2007). Consequently, DOJ assumed that LAPD was not using its grant monies, and therefore, it reduced LAPD's FY 2008 grant by a corresponding amount.

Spending the grant funds in a timely manner has always been a problem for LAPD. This is due primarily to two factors; a lack of proper planning and a lack of oversight. These issues are discussed below:

Planning – Obtaining Council Approval

The City's Grants Ordinance requires Council approval to accept and receive grant awards. For the DNA grants, it has taken an average of 204 days for the City to accept the funds after the grant award notification. Specifically for the seven DNA grants we reviewed, on average, it took 72 days from the award notification to submit the transmittal and records to Council for approval, and it took an additional 132 days for Council to approve the acceptance of the grant award. Since the initial grant period is only for 12 months, on average, there has only been five months left in the grant period by the time Council accepts the grant. For four of the seven grants, LAPD did not make a single expenditure before the initial grant period expired. Fortunately, DOJ has extended the grant period each year. Appendix B shows each of the grant's application date, award date and Council approval date.

LAPD has never formally consulted with the CAO, City Attorney, or Council to determine what could be done to expedite the process in obtaining timely approval of grant awards. Council may have been willing to grant a waiver to the normal process because these are recurring grants, the amount of the grant is known at the time of application, and there are no matching City funds required.

It should be noted that our office issued a report on December 4, 2007, entitled "Performance Audit of the City's Grant Seeking and Administration Processes". This report noted Citywide problems with the timeframe for Council to approve acceptance of grants. The report provided various possible solutions.

Oversight – Misunderstandings of grant provisions and communication issues

As of March 31, 2008, LAPD had not reported any expenditures for either of the two FY 2006 grants, despite the fact that Council had approved acceptance of the grants over one year earlier. LAPD's grant coordinator was under the belief that the FY 2006 funds could not be used until the FY 2004 and FY 2005 monies had been fully utilized. This information was communicated to the SID. As a result, SID did not charge any amounts against the 2006 grants.

As of December 31, 2007, there was \$231,224 in unspent funds on the 2005 DNA Capacity Enhancement Grant and \$3,221 in unspent funds on the 2005 Forensic Casework DNA Backlog Reduction Grant. LAPD did not have proper oversight over the grant monies. For example, LAPD management did not contact NIJ regarding the issue of unspent funds to discuss possible solutions, such as a waiver to the grant restrictions.

Sometime around February 2008, NIJ expressed concerns that no monies had been spent on the FY 2006 grants. Based on discussions between NIJ and LAPD, NIJ informed LAPD on April 10, 2008, that it could begin spending monies on the FY 2006 Forensic Casework DNA Backlog Reduction Grant, provided that at least 90% of the FY 2004 and FY 2005 funds had been expended. By the end of September 2007, LAPD had met the 90% requirement for the FY 2004 and 2005 DNA Backlog Reduction Grants. However, for the Capacity Enhancement Grant, NIJ indicated that there is no such restriction on simultaneous expenditures, and we did not note such a restriction in the grant agreement. LAPD could have started using the FY 2006 Capacity Enhancement Grant when the Council approved it in April 2007. However, no expenditures were charged to the grant until April 2008.

As a result of NIJ's approval to begin spending FY 2006 monies and attention from the media, LAPD has accelerated its efforts to utilize the grant funding. Between April 2008 and August 14, 2008, LAPD spent \$447,392 on the FY 2006 grants. In addition, the Department reports that between August 15, 2008 and October 15, 2008, it spent an additional \$602,824 and \$56,822 on the FY 2006 and FY 2007 grants, respectively.

LAPD reports that it has implemented new procedures that should help prevent any future grant reductions in Federal funding. For example, it has increased its oversight over the DNA grants, developed a comprehensive grant tracking system to allow staff in various Divisions/Units to easily identify spending and administrative problems early on, and provided training to staff involved with the grants.

Recommendations

LAPD management should:

- 4. Work with the CAO and Council to ensure that the City accepts grant awards in a timely manner.**

- 5. Provide closer oversight over the DNA grant funds to minimize the risk of future reductions in Federal funding.**

Finding #4: LAPD may not be providing required notifications to victims.

Subdivision (d) of Section 680 of the California Penal Code states, "If the law enforcement agency elects not to analyze DNA evidence within the time limits established by subparagraphs (A) and (B) of paragraph (1) of subdivision (i) of Section 803, a victim of a sexual assault offense specified in Section 261, 261.5, 262, 286, 288a, or 289, where the identity of the perpetrator is in issue, shall be informed, either orally or in writing, of that fact by the law enforcement agency."

The LAPD does not have procedures in place to notify the required victims, and no notifications have occurred. It appears that the Penal Code requires the victim notifications if DNA testing does not occur within two years. As stated earlier, there are currently 5,694 rape kits older than two years. LAPD management stated that notifications have not been made due to a lack of resources.

Recommendations

LAPD management should:

- 6. Consult with the City Attorney's Office and/or other California law enforcement agencies to determine the circumstances under which victims must be notified when LAPD does not intend to analyze DNA evidence from sexual assault victims.**
- 7. If necessary, seek additional resources to comply with the Penal Code requirements related to victim notifications.**

Finding #5: LAPD did not return \$7,467 in advanced monies it borrowed from the Reserve Fund.

LAPD accounts for its grants in the Police Department Grant Special Revenue Fund #339. For each Forensic DNA Backlog Reduction Grant, LAPD receives advances from the City's Reserve Fund or General Fund until it receives reimbursement from DOJ. The amount advanced equals the grant award. As funds are received from the DOJ, the LAPD transfers funds from the Grant Special Revenue Fund to the Reserve/General Fund to reimburse the fund.

We noted that \$7,467, related to three grants, has not been transferred to the Reserve/General Fund even though these grants were closed out over three months ago. The LAPD indicated that for two of the grants, the Contracts and Grants Section prepared

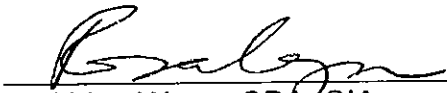
the memo to the Controller's Office to reimburse the Reserve/General Fund. However, the memos were never transmitted to the Controller's Office due to an oversight. The LAPD made the request to have the \$7,467 returned to the Reserve/General Fund upon our inquiries into the status of these funds during our fieldwork.


We also found that it normally takes at least two months (in two instances, the Department took nine months) for the Department to transfer the monies to the Reserve/General Fund after monies have been received from NIJ. We believe that one month after the end of the quarter should be sufficient time to make the reimbursement.

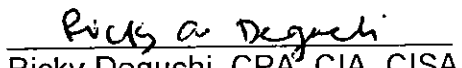
Recommendation


- 8. LAPD management should monitor to ensure that transfers from the Police Department Grant Special Revenue Fund to the Reserve/General Fund are made within one month after the end of each quarter and that all monies owed to the Reserve/General Fund are repaid.**

Respectfully submitted,


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October 6, 2008

APPENDIX A

OFFICE OF THE CONTROLLER

Audit of the Forensic DNA Backlog Reduction Grant Program Awards

Ranking of Recommendations

Finding Number	Description of Finding	Ranking Code	Recommendations
			LAPD management should:
1.	Despite being awarded nearly \$4 million in grant funds over the last few years, the backlog of rape kits continues to increase. The backlog is currently 7,038 cases (6,862 related to unrequested cases and 176 related to detective requested cases.) Until about a year ago, the Department did not have a detailed and comprehensive plan to eliminate the backlog.	U	1. Request that the City Administrative Office (CAO) review its most recent plan to ensure the plan is reasonable, achievable, and has an appropriate timeline for eliminating the current backlog and ensuring that a new backlog does not accumulate.
		U	2. Closely monitor cases approaching the two-year and ten-year statute of limitations so these cases can be given a high priority for DNA testing.
2.	The Department did not consider charging outsourcing costs against the grant funds before using General Fund dollars.	U	3. Ensure that all eligible contractor costs are first charged to the DNA grant funds.
3.	LAPD had its FY 2008 grant reduced by \$498,570 due to poor planning and a lack of oversight.	N	4. Work with the CAO and Council to ensure that the City accepts grant awards in a timely manner.
		N	5. Provide closer oversight over the DNA grant funds to minimize the risk of future reductions in Federal funding.
4.	LAPD may not be providing required notifications to victims.	N	6. Consult with the City Attorney's Office and/or other California law enforcement agencies to determine the circumstances under which victims must be notified when LAPD does not intend to analyze DNA evidence from sexual assault victims.
		N	7. If necessary, seek additional resources to comply with the Penal Code requirements related to victim notifications.

5.	LAPD did not return \$7,467 in advanced monies it borrowed from the Reserve Fund.	N	8. Monitor to ensure that transfers from the Police Department Grant Special Revenue Fund to the Reserve/General Fund are made within one month after the end of each quarter and that all monies owed to the Reserve/General Fund are repaid.
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Description of Recommendation Ranking Codes

U- Urgent- The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

N- Necessary- The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. The recommendation should be implemented within six months.

D- Desirable- The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

N/A- Not Applicable

List of Grant Awards from Department of Justice
Expenditures through October 15, 2008

APPENDIX B

	Program	Grant Amount	Grant Period	Grant Application Date	Grant Award Date	City Council Approval	1/05-6/05	7/05-12/05	1/06-6/06	7/06-12/06	1/07-6/07	7/07-12/07	1/08-6/08	7/08-8/14/08*	Total Expenditures through 8/14/08	8/15/08-10/15/08^	Total Expenditures through 10/15/08
1	2004 DNA Capacity Enhancement	\$527,799	7/1/04-3/31/08~	6/14/04	9/21/04	2/2/05	\$5,600	\$31,121	\$99,877	\$276,685	\$102,385	\$10,370	\$271	\$-	\$526,308	\$-	\$526,308
2	2005 DNA Capacity Enhancement	687,975	10/1/05-3/31/08~	after 6/16/05	9/19/05	5/9/06				12,574	180,218	263,959	230,181		686,932		686,932
3	2006 DNA Capacity Enhancement	564,048	10/1/06-3/31/09~	7/10/06	9/8/06	4/11/07							50,463	138,703	189,166	362,483	551,649
4	2004 Forensic Casework DNA Backlog Reduction	669,707	7/1/04-9/30/07~	6/16/04	9/21/04	6/3/05	874	26,564	229,693	178,305	225,555	5,960			666,952		666,952
5	2005 Forensic Casework DNA Backlog Reduction	126,800	10/1/05-9/30/08~	after 6/16/05	9/19/05	5/9/06				15,402	8,392	99,785	3,200		126,779		126,779
6	2006 Forensic Casework DNA Backlog Reduction	498,570	10/1/06-3/31/09~	7/10/06	8/25/06	3/21/07							156,485	101,741	258,226	240,341	498,567
7	2007 Forensic DNA Backlog Reduction	870,921	10/1/07-3/31/09~	6/21/07	8/20/07	1/16/08									-	56,822	56,822
8	2008 Forensic DNA Backlog Reduction	435,860	10/1/08-3/31/10	5/15/08	9/4/08	In Progress									-		-
	Total	\$4,381,680					\$6,474	\$57,685	\$329,570	\$482,966	\$516,551	\$380,074	\$440,600	\$240,444	\$2,454,364	\$659,646	\$3,114,010

* Per LAPD's report to the National Institute of Justice.

~Original grant period was extended.

There are 2 other grants (the 2005 DNA Expansion Grant and the 2007 Solving Cold Case with DNA) awarded by the DOJ. Since these two grants are not directly related to the reduction of the DNA backlog, they are not covered by this audit.

^ Information provided by LAPD management and was not audited as part of this review.