

LOS ANGELES POLICE COMMISSION

**REVIEW OF
THE ARREST, BOOKING, AND
CHARGING REPORTS AUDIT
THIRD QUARTER
FISCAL YEAR 2003/2004**



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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OFFICE OF THE INSPECTOR GENERAL'S
REVIEW OF
THE ARREST, BOOKING, AND CHARGING REPORTS AUDIT
THIRD QUARTER – FISCAL YEAR 2003/2004

I. BACKGROUND

Consent Decree paragraph 128 mandates that the Los Angeles Police Department (LAPD) conduct regular and periodic audits of a stratified random sample of arrest, booking and charging reports for completeness, authenticity, underlying actions, and supervisory oversight. This is the LAPD's fourth Consent Decree related audit of arrest packages. This Arrest, Booking, and Charging Reports audit was scheduled for completion during the third quarter of Fiscal Year 2003-2004 and was completed as scheduled.

II. PURPOSE

As required by Consent Decree paragraph 135, the Office of the Inspector General (OIG) evaluated the LAPD's fourth audit of Arrest, Booking, and Charging Reports for quality, completeness and findings. This audit was completed by Audit Division, signed by the Chief of Police on March 30, 2004, and received by the OIG on April 5, 2004.

III. PRIOR AUDITS

Audit Division has completed three previous audits of Arrest, Booking, and Charging Reports. Many recommendations have been made including continued training, better supervisory oversight and the addition of personnel at Records and Identification Division to assist in maintaining better record keeping and in working with the backlog of arrest packages.

The most recent audit recommended that a Training Bulletin be published reminding personnel of existing protocol for completion of arrest reports. To date, this has not been done, however Audit Division staff is providing training on this issue at Basic Supervisor schools and divisional roll calls.

IV. OVERVIEW OF THE DEPARTMENT AUDIT

The Department's audit focused on Consent Decree requirements set forth in paragraph 128, and risk management issues identified in the LAPD Rampart Board of Inquiry (BOI) Report. Audit Division selected its entire audit population narcotics-related arrests because by their nature, these type of arrests have elements that present increased risk management considerations, to include legal basis for the initial contact, search, seizure of evidence, and Miranda rights admonition. The sample population was selected from a

total of 2,775 arrests made during September 1, 2003 through November 30, 2003¹, for a total of 107² incidents, involving 155 arrest packages.

Audit Division evaluated the arrest packages for completeness; authenticity review; underlying actions for appropriateness, legality, and conformance with Department policy; and evaluation of supervisory oversight. Department compliance with the stated objectives was achieved when 95 percent of the reports met the standards of compliance.

Audit Division found the Department in compliance with completeness and authenticity review, and out of compliance with underlying action/conformance with Department policy and evaluation of supervisory oversight, with 84 percent and 80 percent respectively.

V. **METHODOLOGY**

The OIG identified a random sample of 51 incidents of the 107 incidents audited by Audit Division. When more than one person was arrested in a single incident, all arrest packages were reviewed, resulting in a total population of 73 arrest packages. The OIG also reviewed Audit Division's working papers, including the matrix, crib sheet, and Audit Work Plan (AWP). The OIG utilized Audit Division's matrix and crib sheet when evaluating its selected sample population.

VI. **FINDINGS**

General Findings

Overall, the OIG found that Audit Division's Arrest, Booking and Charging Reports Audit to be thorough and well written. The AWP was sufficiently detailed to address the mandates of the Consent Decree and Department policy and procedure. Based on a review of the audit report (page 5), the OIG noted that Audit Division deviated from its AWP as it relates to Objective 1 – Completeness, and the AWP was not revised accordingly. Audit Division did not consider the lack of City Attorney Disclosure Statements (CADS), Form 5.02.9, and Property Receipts, Form 10.10, from arrest packages when measuring for Completeness of arrest packages (See findings under Completeness - Objective 1). Furthermore, when evaluating Booking Approvals, Audit Division considered the Notice issued on July 15, 2003, by Chief of Detectives, which permitted detective watch commanders to sign Booking Approvals when appropriate, however the AWP indicated that only Area or Jail Watch Commanders were to sign Booking Approvals.

¹ Audit Division's report reflects the audit period as October 1, 2003 through December 31, 2003, however the OIG received correspondence dated May 11, 2004, from the Department correcting the audit period.

² A one-tail test required a population of 93, stratification and rounding up resulted in the final population of 107.

Recommendation:

- It is recommended that whenever an audit deviates from its original AWP, rather than to alter the original AWP, Audit Division and the OIG should complete an after action report subsequent to any audit to note any deviations from the original AWP. This would allow the original document to remain intact and still provide reviewing authorities the reason(s) for changes to the AWP.

The following summarizes issues identified by the OIG during its review of the Department's audit.

Audit Population

The OIG acknowledges that narcotics-related arrests contain increased risk management issues and concurs with Audit Division's decision to limit the scope of their audit to these types of arrests. Given the significant work involved in any audit, limiting an audit's focus allows for a more detailed review of specific areas with a smaller population.

The OIG verified completeness of the population by reviewing the printout of the Consolidated Criminal Analysis Database provided to Audit Division by Information Technology Division (ITD), which listed the Department-wide population of arrests for the identified narcotics related charges during the established audit period. The OIG verified that arrests that were deselected by Audit Division were not narcotics related. The OIG identified a Release from Custody Report (RFC)³ that should have been deselected as part of the audit population because it fell outside of the audit period.

Matrix/Crib Sheet

The OIG found Audit Division's matrix to be detailed and included questions to address the mandates of the Consent Decree as well as Department policy and procedure. However, the OIG found that the associated crib sheet was not sufficiently detailed to guide the auditor through the audit process resulting in varying responses by both Audit Division and OIG auditors. For example, the crib sheet explains that Miranda procedures require documentation of four responses at a minimum and that the first four are required to be documented in the report. The fifth response would only be included when a Miranda waiver is sought. The crib sheet further clarified that in addition to the suspect understanding his/her Miranda rights, the report should include **how** the suspect waived them. Thus, if an Arrest Report indicates "The defendant was read his rights per Form 15.02, and waived them" the auditor would mark "No," because the reader is unable to determine **how** the defendant waived his rights. Likewise, if the Arrest Report indicates a partial response such as "Yes" "No," the auditor should mark "No" because Department policy demands responses to all three⁴ questions. The crib sheet did not clarify what

³ Audit Division Control Number CENT - 3.

⁴ In fact, at the time of this audit, as noted in the crib sheet, the Department requires answers to all four questions.

would constitute each of the “Yes” responses provided in the matrix, allowing for multiple interpretations. In fact, Audit Division auditors often disagreed with each other and/or the Project Manager and the OIG. In addition, Audit Division selected a “Yes” response when less than four responses were given which should have resulted in a “No” response (See Appendix 1).

Completeness - Objective 1

Audit Division determined that 100 percent (%) of the audit arrest packages met the standard for the Completeness Objective. Contrary to the AWP (*Objective 1 – Completeness, Measure*) the OIG noted that Audit Division did not consider the lack of Property Receipts and CADS, when measuring Completeness of the arrest package. The Property Receipts were excluded because Audit Division concluded based on a preliminary analysis that officers were confused over the issuance the Property Receipts when the incident involved an arrestee discarding narcotics evidence and/or multiple arrestees. Audit Division further noted that the absence of CADS in an arrest package did not pose any risk management issues and does not challenge the legality, authenticity, or validity of an arrest.⁵ Audit Division further noted that it excluded CADS from consideration because of the variety of ways this document is processed and the inability to determine with any certainty if the document was or was not completed as required by Department Manual Section 5/5.02.9. Audit Division determined that an arrest package would meet the Compliance Objective if it included the Arrest Report Face Sheet or RFC, the narrative or RFC continuation, and the Booking Approval (if booked).

While the OIG may concur that the absence of these forms may not challenge the legality, authenticity, or validity of an arrest, Department policy and procedure⁶ does require the completion of these forms and further requires that they be maintained with the associated arrest report. Audit Division defined in its AWP that Completeness would be measured by the inclusion of various documents including these two forms. The OIG believes that there is an associated risk involved by not issuing Property Receipts as they provide a check and balance for property seizures. The OIG further notes that the confusion over the issuance of Property Receipts has been identified since at least the third Arrest, Booking, and Charging Reports audit completed in October 2002. The OIG believes Audit Division should have included its findings in the audit report and further believes that the Department should take appropriate action to address this issue.

⁵ Audit Division is currently conducting a study on the issuance of Property Receipts and its findings will be reported during early May 2004.

⁶ Department Manual Section 4/510.10, clearly states that “*the original of the Form 10.10 shall be included as a page of the original Property Report, Form 10.1; Notice to Appear/Release From Custody Report, Form 5.2.2; or Arrest Report, Form 5.2, when evidence to be booked is listed.*” Department Manual Section 5/5.02.9, provides that “*Officers shall complete a City Attorney Disclosure Statement for every adult arrest report completed, both felony and misdemeanor.*” Department procedure further indicates that the original form (CADS) be attached to the original arrest report.

While not directly a Consent Decree compliance issue, the OIG believes that it is important to ascertain the level of compliance with Department policy and procedure. A primary function of the Department is the arrest and successful prosecution of criminal offenders. The CADS form is pivotal in the discovery process. It is so critical that the Department revised the CADS Form in Special Order No. 42, October 10, 2003, *City Attorney Disclosure Statement, Form 5.02.9 – Revised*, to include additional information. The OIG analyzed Department compliance and discovered that 31 percent of the 73 reviewed required the CADS Form and it was not present.

Authenticity Review - Objective 2

Canned Language (2a)

The OIG concurs with Audit Division's findings that there were no instances of canned language.

Inconsistent Information (2b)

Audit Division identified several instances of inconsistent information, however they did not include the inconsistencies in the audit report. Audit Division did not include inconsistencies that did not impact the legality of the arrest or reflect missing evidence. For example, Audit Division did not find it anomalous if an item was included on the property report but not noted in the narrative of the arrest report. Audit Division indicated that the property report is a page of the arrest report.

The OIG identified an arrest report in which the serial number noted on the property report did not correspond with the serial number for the same supervisor noted on the arrest report. Audit Division did not follow-up on this issue because as previously noted they indicated that the property report is a page of the arrest report, and as such the property report would not have required a signature. The OIG did not concur with this finding and has forwarded correspondence to the Commanding Officer, West Los Angeles Area, to verify the authenticity of the supervisor's signature.

Articulation of Legal Basis (2c)

Based on a review of its sample population, the OIG concurs with Audit Division's findings as follows:

- **Reasonable Suspicion for Detention and Probable Cause for Arrest.** The OIG concurs with Audit Division's findings that in each incident evaluated there was reasonable suspicion for the detention and in all but two instances there was sufficient probable cause for arrest. The OIG did not identify any additional incidents not noted by Audit Division.
- **Miranda Rights Were Not Violated.** The OIG concurs with Audit Division's finding that there was no evidence that Miranda rights were violated. The primary

issues associated with Miranda as it relates to this audit are the proper documentation of the Miranda admonition as required by Department policy and procedure involving narcotics arrestees, and the attempt to obtain a statement. Audit Division found that Department employees are not consistently complying with this procedure. Audit Division reported, and the OIG confirmed that the requirement to Mirandize all narcotics-related arrestees was discussed at length in Continuing Education Delivery Plan (CEDP) Module VII. Audit Division also found that officers are not correctly documenting the Miranda question responses verbatim as required by policy. The Department is continuing to address this issue through a variety of training forums.

- **Sufficient Legal Basis Articulated for All Searches.** The OIG concurs with Audit Division's finding that in all cases where a search was conducted there was sufficient legal basis articulated for the search. The OIG concurs with Audit Division's assessment that officers use the term "patdown" after they have established a greater search authority resulting from probable cause to arrest. The OIG further concurs that all commands should continue training officers on the correct articulation to justify a patdown search or effect an arrest when justified and perform a custody search.
- **Seizure of Evidence is Appropriate and Legal.** Audit Division reported that all seizures of property and/or evidence was legal. However, Audit Division acknowledged in some instances there was poor articulation for the reason some items were seized, specifically non-narcotics items such as pagers and cell phones. The OIG noted these same issues yet nevertheless found that in most cases it was relatively apparent why items were seized.

Other Indicia that the Information in the Document is not Authentic or Correct (2d).

Audit Division did not find any instances where an officer completed any form that required a supervisor or watch commander's signature and the OIG concurs.

- **Sufficient Documentation of the Watch Commander Approving Booking.** The OIG concurs with Audit Division's finding that, consistent with Department policy, all arrests that required a booking approval had a name and serial number of a supervisor in the appropriate section of the report.

Evaluation of the Underlying Actions for Appropriateness and Conformance with Department Policy - Objective 3

Articulated Searches Conducted within Department Policy

Audit Division identified one instance in which there was little articulation as to how drug paraphernalia was discovered and removed from the arrestee's vagina by the searching Detention Officer. Audit Division appropriately followed-up on this issue. Based on a review of its sample population, the OIG did not identify any searches that appeared to have been conducted improperly.

The Appropriate Documentation of the Arrestee's Responses to the Miranda Admonition

Audit Division noted that in 25 out of 119 times a suspect was advised of his/her Miranda rights, it was not properly documented. The Department issued Special Order No. 33, 2001, *Admonition of Miranda Rights – Revised* on October 3, 2001. Certainly sufficient time has passed to disseminate the proper procedure for documenting Miranda responses. The lack of compliance with Department procedures continues to demonstrate the lack of supervisory oversight of post incident reports. The OIG believes the Department should take corrective action and hold the supervisor accountable for these failures if we are to see progress in this area.

The Appropriate Reporting and Booking of Evidence

Audit Division found that in all reports articulating the seizure of property and/or evidence, items were booked, returned to the rightful owner, or otherwise disposed of in a manner consistent with Department policy/procedure. However, Audit Division noted deficiencies in property reporting under the sub-heading Inconsistent Information for one arrest package. Also, on another report (Control No. ND-5), Audit Division answered questions about the property receipt but the receipt was not included in the package and the OIG was unable to verify the information.

Appropriate Use of Informants

The OIG concurs with Audit Division's finding that there was no evidence that uniformed personnel used an informant.

Appropriate Documentation of a UOF Occurrence

The OIG verified that the one incident that resulted in a use of force was properly reported and that an investigation was conducted. The OIG did not evaluate the use of force investigation for quality, completeness and findings.

Evaluation of the Underlying Actions for Appropriateness and Conformance with Department Policy - Objective 4

The OIG concurred with Audit Division's findings related to supervisory oversight. The deficiencies were well documented in the audit report. The OIG further notes that the lack of compliance with Department policy and procedure related to property reports, property receipts and inadequate documentation of Miranda further support the notion of a lack of supervisory oversight as it relates to post incident reports.

Juvenile Arrests Considerations

The OIG did not identify any issues related to juvenile arrests related to Miranda rights, telephone calls, timeliness of telephone calls, parent/guardian notification and length of detention. The OIG did identify a discrepancy not noted by Audit Division involving the inaccurate assessment of the length of time a juvenile was detained (Control Nos. WIL-2, WIL-2A), however neither juvenile was detained beyond the six-hour time period. An additional concern identified by the OIG involved a juvenile who informed the watch commander that he had back pain. The watch commander noted the back pain on the detention log, however, there is not additional information as to the cause and/or treatment of the pain. Audit Division confirmed with Sylmar Juvenile Hall, where the subject was taken, that medical staff at that facility would have been able to treat the back pain if necessary.

VII. POST AUDIT MEETING WITH AUDIT DIVISION

A post-audit meeting was held with Audit Division staff on May 4, 2004, to discuss the OIG's findings. The discussion included the clarification of issues identified by Audit Division and/or the OIG and an update on the follow-up requests made by Audit Division to the Areas/divisions. Audit Division concurred with most of the OIG's findings, particularly as it relates to the matrix, crib sheet and AWP. Audit Division concurred that the AWP should have been revised to exclude CADS and Property Receipts as a necessary document when measuring Completeness of the arrest packages, however it stands behind its decision to exclude both of these documents as a measure for the Completeness Objective for the reasons noted in the audit report. As noted in this report, the OIG does not concur with the exclusion of these documents, particularly the Property Receipts.

VIII. CONCLUSION

The OIG found that Audit Division designed an audit that adequately addressed the mandates of the Consent Decree as well as most policies and procedures required by the Department pertaining to the completion and maintenance of documents related to arrest packages. The only significant area of disagreement between Audit Division and the

OIG relates to Audit Division's exclusion of Property Receipts as a measure for Completeness of the arrest packages. Audit Division did not indicate that Property Receipts should not be issued, but noted that based on its preliminary findings there appears to be confusion over the issuance of this form particularly when the incident involves an arrestee discarding evidence or multiple arrestees. Instead of noting the number of times this form was missing from an arrest package, Audit Division excluded the form altogether, which put the Department at 100% compliance as it relates to Objective 1 – Completeness. The OIG notes that the lack of adherence to Department policy and procedure over the issuance of this form has been identified in previous audits, particularly the Department's third audit of Arrest, Booking, and Charging Reports audit conducted in October 2002. The OIG believes that this form should have been included as a measure for Completeness of the arrest packages as this form is required to be a page of the related arrest report and that there is an associated risk involved by not issuing Property Receipts as they provide a check and balance for property seizures. The OIG believes the Department should take appropriate action to address this issue.

The OIG commends Audit Division for taking a proactive approach by conducting a review of arrest reports for the same population to determine any trends and/or patterns by narcotics supervisors signing the reports. The OIG concurs with Audit Division that arrest packages were compliant with the legal mandates regarding search, seizure, detentions and arrests.

IX. ACTION TAKEN

Correspondence was sent to the Commanding Officer, West Los Angeles Area, to confirm the authenticity of the approving sergeant's signature on the Property Report noted above.

X. RECOMMENDATIONS

- It is recommended that whenever an audit deviates from its original AWP, rather than to alter the original AWP, Audit Division and the OIG should complete an after action report subsequent to any audit to note any deviations from the original AWP. This would allow the original document to remain intact and still provide reviewing authorities the reason(s) for changes to the AWP.

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