

LOS ANGELES POLICE COMMISSION

***REVIEW OF THE DEPARTMENT'S
ARREST, BOOKING, AND
CHARGING REPORTS AUDIT,
Fiscal Year 2009-2010***



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
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PURPOSE

The Office of the Inspector General (OIG), pursuant to its Annual Audit and Review Plan, reviewed the Los Angeles Police Department's (Department) Arrest, Booking and Charging Reports Audit (Audit) that was conducted by Internal Audits and Inspections Division (IAID). The Audit was completed in the First Quarter, Fiscal Year 2009/2010 and received by the OIG on October 9, 2009. This review assessed the completeness, quality and findings of the Department's Audit.

BACKGROUND

This was the ninth Arrest, Booking and Charging Reports Audit conducted by IAID. The objective of the Audit was to assess the legality of actions taken by officers throughout the arrest process, which involved the initial contact, detention, search, arrest, admonition of *Miranda* warnings and booking of arrestees. IAID noted that while many other requirements factor into an arrest of a person, they do not directly affect the legality of an officer's actions, such as compliance with operational/tactical procedures and administrative requirements. The objectives of the Audit were based on assessed risk, with particular attention given to the completeness of arrest reports, authenticity of report content, legality of officer actions, conformance with Department procedures and supervisory oversight.

IAID randomly selected a statistically valid sample of 107 arrest report packages (arrest packages) from Deployment Periods Nos. 6 and 7 (May 24 to July 18, 2009) to determine if the arrest packages met the standards for the objectives outlined in Table 1.¹ Unlike the prior year's audit, the selected sample included both Gang Enforcement Detail (GED) and Non-GED arrests reports. IAID noted that although 22 of the 27 objectives governing arrest, booking and charging reports had a compliance rate of 95%,² the same level was not met for Objectives 4(b), 4(d)(i), 4(d)(ii), 4(d)(v)(6), or 5(c).³

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¹ Table 1 provides a brief description of the Audit's objectives and reported compliance rates.

² A compliance rate of 95% was adopted as the acceptable standard of compliance for quantitative tasks under the requirements of the Consent Decree.

³ Objective 4(b) tests for adherence to Department policy relative to arrests for obstructing, resisting arrest or assault on an officer; Objective 4(d)(i) tests for documentation of *Miranda* warnings; Objective 4(d)(ii) tests for documentation of medical treatment; Objective 4(d)(v)(6) tests for juvenile detention in secured and non-secured confinement areas; and Objective 5(c) tests for post-incident supervisory document review.

TABLE 1 - SUMMARY OF IAID COMPLIANCE RATES

| Objective | Description | Rate 2008/2009 | | Rate 2009/2010 | |
|--|---|---------------------------|------|---------------------------|------------|
| 1. Completeness | | | | | |
| 1(a) | Completeness of Arrest Report | 203/205 | 99% | 107/107 | 100% |
| 2. Authenticity | | | | | |
| 2(a) | Consistency of Information | 203/205 | 99% | 103/107 | 96% |
| 2(b) | "Canned" Language | 205/205 | 100% | 107/107 | 100% |
| 2(c) | Authenticity of Other Indicia | 205/205 | 100% | 107/107 | 100% |
| 3. Legality of Underlying Actions | | | | | |
| 3(a) | Articulation of Reasonable Suspicion for Detention | 205/205 | 100% | 106/107 | 99% |
| 3(b) | Articulation of Probable Cause to Arrest | 205/205 | 100% | 107/107 | 100% |
| 3(c) | Articulation of Legal Basis for Search | 122/125 | 98% | 55/56 | 98% |
| 3(d) | Articulation of Legal Basis for Seizure | 103/104 | 99% | 48/48 | 100% |
| 3(e) | Miranda Rights | 205/205 | 100% | 107/107 | 100% |
| 4. Conformance with Department Procedures | | | | | |
| 4(a) | Watch Commander Inspection and Review | 187/190 | 98% | 79/82 | 96% |
| 4(b) | Arrests for Obstructing, Resisting Arrest, or Assault on an officer | 57/65 | 88% | 1/3 | 33% |
| 4(c) | Transportation of Arrestees to Non-Detention Facilities | 205/205 | 100% | 107/107 | 100% |
| 4(d) | Other Conformance with Department Procedures | | | | |
| | (i) Documentation of Miranda Responses | 134/136 | 99% | 60/66 | 91% |
| | (ii) Documentation of Medical Treatment | 50/54 | 93% | 25/28 | 89% |
| | (iii) Recovery, Disposition, and Handling of Property/Evidence | 104/104 | 100% | 45/47 | 96% |
| | (iv) Issuance of Receipt for Property Taken Into Custody | 104/104 | 100% | 45/46 | 98% |
| | (v) Juvenile Arrest Procedures | | | | |
| | (1) Juvenile Arrest Supplemental Report | 32/32 | 100% | 10/10 | 100% |
| | (2) Parental Notification | 32/32 | 100% | 10/10 | 100% |
| | (3) Advisement of Telephone Calls | 32/32 | 100% | 10/10 | 100% |
| | (4) Timeliness of Telephone Calls | 29/32 | 91% | 9/9 | 100% |
| | (5) Length of Detention | 32/32 | 100% | 10/10 | 100% |
| | (6) Correct Detention Area | 32/32 | 100% | 9/10 | 90% |
| | (7) Gladys R. Questionnaire | N/A | N/A | 1/1 | 100% |
| 5. Supervisory Oversight | | | | | |
| 5(a) | Approval of Arrest Report | 205/205 | 100% | 106/107 | 99% |
| 5(b) | Approval of Booking Approval | 188/188 | 100% | 81/82 | 99% |
| 5(c) | Post-Incident Supervisory Review | 173/205 | 84% | 94/107 | 88% |
| 5(d) | On-Scene Supervision | 39/39 | 100% | 23/23 | 100% |

METHODOLOGY

To assess the completeness, quality, and findings of the Audit, the OIG reviewed 40 of the 107 arrests packages in the IAID sample. The sample was randomly selected and calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 5%.

The OIG conducted this review in accordance with generally accepted government auditing standards. These standards require that the review is adequately planned, performed and supervised, and that sufficient, appropriate evidence is examined to provide a reasonable basis for the results and conclusion.

OBJECTIVES

The OIG review assessed the Audit for three objectives: completeness, findings and quality. The primary sub-objectives are described below:

Completeness

- Determine if the Audit tested and reported compliance rates for the 27 objectives used to evaluate arrest packages for legality and conformance with Department policy.
- Determine if the audit samples were selected from a complete Department-wide population of arrest packages.

Quality

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

Findings

- Determine if findings were correctly and completely identified and reported for instances in which compliance was not achieved with respect to the objectives governing arrests, booking and charging reports.
- Determine if reported findings represented instances in which compliance was not achieved with respect to the objectives governing arrests, booking and charging reports.

RESULTS

Completeness

The Audit tested and reported compliance rates for the 27 objectives governing arrests, booking and charging reports. Based on interviews and document review, the Audit sample was selected from a complete Department-wide population of arrest reports. As such, the Audit met the OIG's standard for completeness.

Quality

Appropriate sampling methodologies were employed to select a random sample of arrest reports. Interviews and documents revealed evidence of adequate supervision. The Audit completely and accurately reported the Audit's purpose, methodology, objectives, results, detailed findings and status of prior recommendations. As such, the Audit met the OIG's standard for quality.

Findings

Findings were correctly and completely identified and reported for the 27 objectives governing arrests, booking and charging reports. As such, the Audit met the OIG's standard for findings.

The OIG concurred with the Audit findings however; the OIG identified an issue worthy of comment.

Issue 1 – Objective 4(d)(v)(3), Advisement of Telephone Calls

As provided in the Audit, "Department policy requires that juvenile arrestees be advised of the legal right to make three telephone calls within three hours."⁴ During its review, IAID evaluated 10 Juvenile Arrest Supplemental Reports to determine whether juvenile arrestees were advised of the right to make three telephone calls within three hours. The Audit noted, "Each (100%) of the 10 juvenile arrest packages met the standard for this objective."⁵

IAID interpreted that portion of Objective 4(d)(v)(3) regarding the one-hour time period to make the first two telephone calls to a parent and to an attorney as commencing once the juvenile arrestee had been taken to a place of confinement.

The OIG believes, however, that the relevant Department Manual Section is ambiguous as to when the one hour requirement commences. Department Manual Section 4/658.17 states in relevant part:

Immediately after being taken to a place of confinement, except where physically impossible, no later than one hour after he/she has been taken into custody, the minor shall be advised that he/she has the right to make at least two telephone calls from the place where he/she is being held, one call completed to his/her parent or guardian, a responsible relative, or his/her employer, and another call to an attorney.

The Department Manual, which mirrors Section 627(b) of the California Welfare and Institutions Code (WIC), is unclear as to the specific circumstance in which the one-hour time period commences.⁶ IAID interprets the time period as beginning once the arrestee reaches a place of confinement. An alternative interpretation, and the interpretation adopted by Juvenile Division, is that the time requirement commences with police custody of the juvenile.

According to Juvenile Division, the advisement of the right to telephone calls must occur immediately after the juvenile has been placed into police custody. Moreover, Juvenile Division has interpreted "a place of confinement" as the physical location of custody, regardless of whether

⁴ Department Manual Section 4/658.17 requires juvenile arrestees be advised of their right to make three telephone calls within three hours, including the right to make two telephone calls, one to a parent/guardian and one to an attorney, within one hour.

⁵ IAID Arrest, Booking and Charging Reports Audit, Page 17.

⁶ Per Office of the Chief of Police Notice, April 11, 2008, the Department adopted language "consistent with Welfare and Institution Code Section 627(b)."

that location is in the field or at a police station.⁷ When it is impractical (e.g., tactical operations continue and it would be unsafe to transport the arrestee, driving time to the place of confinement exceeds the one hour time requirement, etc.) to advise juvenile arrestees of their right to telephone calls or to facilitate the telephone calls, Juvenile Division has interpreted Department policy to allow an officer to make the advisement outside of the one hour time restriction as long as the rationale underlying the delay is articulated in the report.

The OIG noted that the Department Juvenile Arrest Supplemental Report⁸ provides, in relevant part:

The arresting officer shall be responsible for immediately advising the juvenile of the right to complete three telephone calls within three hours of the time of arrest. Officers shall ensure that the two telephone calls are completed WITHIN ONE HOUR AFTER [BEING] TAKEN INTO CUSTODY – ONE TO AN ATTORNEY AND ONE TO A PARENT, GUARDIAN, RESPONSIBLE RELATIVE OR EMPLOYER.

When the OIG applied the one-hour time period as articulated by Juvenile Division to IAID's audit sample, the OIG identified two juvenile arrest packages in which juvenile arrestees were not immediately advised of their legal right to make three telephone calls or allowed to telephone a parent and attorney within the first hour of being taken into custody. In Arrest Package No. 10-WVAL-03, a juvenile was arrested for vandalism at 9:45 p.m., after the victim positively identified him during a field show-up. At 12:30 a.m., the arresting officer advised the juvenile arrestee of his right to three telephone calls, but did not articulate the circumstances, if any, underlying the delayed advisement of the right to calls. Similarly, in Arrest Package No. 12-77th-01, a juvenile was arrested for burglary at 4:05 p.m., after a witness positively identified him during a field show-up. At 6:40 p.m., the arresting officer advised the juvenile arrestee of his right to three telephone calls, but did not articulate the circumstances underlying the delayed advisement of the right to these calls.

RECOMMENDATION

Department Manual Section 4/658.17 outlines the requirement that officers advise juvenile arrestees of their legal right to make three telephone calls within three hours, two of which must occur within the first hour of custody. Department policy, drafted in relevant part from language contained in Section 627 (b) WIC, is ambiguous as to when the one-hour time requirement begins. As a result of this ambiguous language, confusion exists when determining if the juvenile arrestee received the required telephone calls within the appropriate time period. Specifically, it is unclear if the one-hour time requirement begins at the time the juvenile reaches a confinement facility or if the time requirement begins at police custody. To ensure that juvenile arrestees are properly advised of these rights, the OIG recommends that the Department clarify the policy language in Department Manual Section 4/658.17, provide Department-wide training to adequately apprise officers of the

⁷ "An arrest occurs when you take a person into custody. This requires either (1) that you physically restrain or at least touch the person or (2) that he submits to your authority." California Legal Sourcebook, Chapter 2.239(a) (2006).

⁸ The Juvenile Arrest Supplemental Report form (70-05.02.06) is a required report to be included in juvenile arrest packages.

policy requirements and ensure pre-printed forms (e.g., the Juvenile Arrest Supplemental Report) are consistent with existing policy.

DISCUSSION

IAID's Sampling Methodology

The OIG noted that IAID modified sampling methodology for two of the populations tested in the prior year's audit. The following changes were noted:

148 PC Sample

- Last year, IAID selected and reviewed a separate sample of 65 arrest reports, each containing 148 PC arrests as the primary charge. Department policy requires that watch commanders evaluate each incident in which a person is charged with committing a crime for obstructing, resisting arrest or assault on an officer.⁹ Watch commanders are required to evaluate these incidents to determine whether they raise any issues or concerns regarding training, policy or tactics.
- This year, IAID did not select and review a separate sample of 148 PC arrest reports. Rather, IAID utilized its sample of 107 arrest packages to evaluate the rate of occurrence within the general population of these incidents which included primary charges and "additional filings" of 148 PC arrests. IAID determined that three of the arrest packages included charges of obstructing, resisting arrest or assault on an officer. IAID's review revealed that in two of the three arrests, the 148 PC charges were "additional filings" and in both of the "additional filings" cases the reports did not meet Department standards for pre-booking evaluation. IAID concluded:

"The risk associated to arrests for obstructing, resisting arrest or assault on an officer appear to be less significant when these charges are requested as 'additional filings' to the primary charge. A higher risk is associated with arrests for which these charges are the primary charge and the reason a person is deprived of his/her liberty."

GED Sample

- Last year, IAID selected, reviewed and reported on a separate sample of 92 GED arrest packages to supplement their non-GED sample of 113 arrest packages. Results of the bifurcated samples were then reported separately.
- This year, IAID reviewed a Department-wide sample of 107 arrests, without separately auditing and reporting a GED component. IAID opined that as it conducts a Command Accountability and Performance Audit for each division which tests the objectives contained in the Audit, it was no longer necessary to bifurcate the Audit sample and report on GED and non-GED arrest packages separately.

⁹ Department Manual Section 4/216.23.

MANAGEMENT'S RESPONSE

IAID is in general agreement with the OIG audit and its recommendation.

CONCLUSION

The OIG's review of 40 arrest packages revealed that IAID appropriately identified and reported all significant findings. This is commendable considering that each arrest package was audited for 27 objectives. Overall, the OIG concluded that the Audit was complete, of good quality and the findings were appropriately reported.