

LOS ANGELES POLICE COMMISSION
*REVIEW OF THE DEPARTMENT'S
WARRANT APPLICATIONS AND
SUPPORTING AFFIDAVITS AUDIT,
Fiscal Year 2006-2007*



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE DEPARTMENT'S
WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS AUDIT**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree Paragraph 135, reviewed the Los Angeles Police Department's (Department) Warrant Applications and Supporting Affidavits Audit (Audit). The Audit was completed in the second quarter of Fiscal Year 2006/2007 and received by the OIG on December 29, 2006. This review assessed the completeness, findings, and quality of the Department's Audit.

BACKGROUND ON THE DEPARTMENT'S AUDIT

The Audit, conducted by Audit Division, assessed the Department's compliance with Consent Decree Paragraphs 62(b), 71 (a)(b)(c), 72, 128 and 131(c).¹ Audit Division use two different samples to evaluate a total of seven audit objectives. One sample consisted of 72 randomly selected Department-wide search and/or arrest warrants, excluding Gang Enforcement Detail (GED), and the other sample consisted of all 25 warrants with an affiant assigned to a GED. The OIG found these samples to be sufficient to evaluate the Department's adherence to the Consent Decree.

The table below provides a brief description of the Audit's objectives when assessing adherence to the Consent Decree and the results of Audit Division's assessments.²

COMPLIANCE PERCENTAGES REPORTED BY AUDIT DIVISION

Objective No.	Objective Description	CD ¶	Compliance Percentage	
			Department-wide Population ³	GED
1	Completeness of the Warrant Package	71	94%	84%
2a	Canned Language in the Warrant Application and Affidavit	71	94%	84%
2b	Inconsistent Information in the Warrant Application and Affidavit	71	79%	68%
2c	Articulation of the Legal Basis for the Applicable Action in the Warrant Application and Affidavit	71	100%	100%
2d	Other Indicia that Information in the Warrant Document Is Not Authentic or Correct	128	76%	60%
3a	Articulation of Justification for Night Service	71	81%	93%
3b	Warrant Served at Correct Time	71	100%	100%
4a	Warrant Served and Returned within the Required Time	71	97%	100%
4b	Appropriate Use of Confidential Informant	71	100%	100%
4c	Warrant Executed in Proper Order	71	86%	92%
5a	Supervisory Oversight of the Warrant Application/Affidavit	71	96%	88%
5b	Supervisory Oversight of the Applicable Incident	71	90%	83%
5c	Supervisory Oversight of the Post-Incident Review	71	90%	92%
6	Maintenance of the Warrant Tracking Log	72	69%	67%
7	Commanding Officer's Analysis of the Warrant Service	62(b)	49%	33%

¹ To adhere to Consent Decree Paragraph 131(c), Audit Division reported separate compliance percentages for GEDs.

² Not all audit objectives tested were applicable to each search warrant in the sample.

³ These percentages do not include findings related to search and/or arrest warrants served by GEDs.

As noted on the previous page, four of the Audit's objectives were reported as being below the 80 percent level of compliance. According to the Audit, the following are reasons for the lower compliance percentages:

- For Objective 2b (Inconsistent Information in the Warrant Application and Affidavit), the most prevalent anomalies identified by the Audit were inconsistencies between the property sought on the affidavit and the property taken into custody, and inconsistent information between the resulting Property Report and the Receipt for Property Taken into Custody Report (Property Receipt).
- For Objective 6 (Maintenance of the Warrant Tracking Log), the most prevalent anomalies identified by the Audit were that Warrant Tracking Logs were not signed by a Commanding Officer and instances where the supervisor's initials on the warrant application/affidavit did not match the name of the supervisor documented as the affidavit reviewer on the Warrant Tracking Log.
- For Objective 7 (Commanding Officer's Analysis of the Warrant Service), the most prevalent anomalies identified by the Audit were that there was no evidence that an Employee Comment Sheet, Form 1.77 (Comment Sheet) was completed for the supervisor at the warrant location and instances where the warrant packages did not indicate that the Commanding Officer's analysis of the warrant service was made within seven calendar days of the warrant service.

Regarding Objective 2d (Other Indicia that Information in the Warrant Document Is Not Authentic or Correct), the most prevalent anomalies identified by the Audit were that the warrant applications did not have the affiant's name typed or printed on the second portion of the warrant applications and/or the "Search Warrant Info" boxes on the bottom of the Property Reports were not complete.

During last year's audit, Audit Division reported similar concerns regarding the affiant's name not being printed in the second portion of the warrant application as an "other related matter" since it "does not pose a significant risk if it is missing." In addition, in last year's audit, Audit Division did not hold warrant packages out of compliance if they had Property Reports with incomplete "Search Warrant Info" boxes, "since the omissions did not affect the completeness of the warrant package." The OIG concurred with Audit Division's rationale in both regards, and in last year's audit, Audit Division reported 100 percent compliance for Objective 2d (Other Indicia that Information in the Warrant Document is Not Authentic or Correct). In contrast, in this year's Audit, Audit Division counted these types of anomalies in its calculation of the compliance percentage for Objective 2d (Other Indicia that Information in the Warrant Document Is Not Authentic or Correct). But this objective is suppose to identify warrants that are not authentic or correct, which is not the case in the OIG's opinion. As these types of findings do not call into question the veracity of information in the warrants, the OIG believes that this area of testwork should have continued to be reported as an "other related matter" or possibly a supervisory oversight concern. Therefore, the OIG believes the actual compliance

percentage for Objective 2d (Other Indicia that Information in the Warrant Document is Not Authentic or Correct) is much higher than the 72 percent reported by the Audit.

Greater detail on Audit Division's methodology and findings can be found in their final Audit Report.

REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of Audit Division's Audit by reviewing the final Audit Report, Audit Work Plan, and Audit Division's Microsoft Access database. The database was used to compile and analyze Audit Division's findings and supporting workpapers. The OIG reviewed a sample of 38 warrant applications and supporting affidavits (23 Department-wide and 15 GED) of the 97 (72 Department-wide and 25 GED) evaluated by Audit Division.⁴

REVIEW RESULTS

COMPLETENESS

To assess the Audit's completeness, the OIG reviewed Audit Division's Audit Report and supporting workpapers to ensure applicable Consent Decree mandates were addressed and the sampled warrants were selected from a complete population.

Consent Decree Mandates Addressed

Per the Department's Annual Audit Plan (Fiscal Year 2006/2007), the Warrant Applications/Affidavits Audit was to assess Consent Decree Paragraphs 62(b), 71 (a)(b)(c), 72, 128 and 131 (a)(e), while meeting the requirement of Consent Decree Paragraph 131(c), which requires the Department to report on the compliance of GEDs separately. While the OIG believes that the Audit addressed the Consent Decree mandates, it notes that 131(a) and (e), which requires the Department to look at GED work products and supervision as a whole, was not fully assessed because the Audit focused specifically on warrant applications and affidavits.⁵ However, Audit Division is currently conducting a GED Assessment Summary that evaluates the findings/supervision of all Consent Decree audits and other GED audits, and that summary should provide an overall assessment of work products and supervision of GEDs.

⁴ The OIG's review of supporting workpapers was based on a randomly selected one-tail sample size calculation with a 95 percent confidence level, an expected error rate of six percent, and a plus precision of seven percent, with samples selected from both the Department-wide and GED populations.

⁵ Consent Decree Paragraph 131 (a and e) mandates that efforts be made to (a) look at the work of the GED as a whole to identify individual officers within GED whose conduct warrants further scrutiny, and (e) audit the roles and conduct of supervisors of these units.

Identification of a Complete Population

Based on the OIG's review of Audit Division's sampling documentation, it appears Audit Division selected from a complete population of warrants issued in July 2006. When selecting its sample, Audit Division assigned sequential numbers to the warrants issued and then randomly selected a sample of warrants from each Area.

FINDINGS

To assess the Audit's findings, the OIG reviewed Audit Division's supporting work papers to ensure there was adequate support for its findings and reviewed the Audit Report to ensure the findings were properly presented. The OIG reviewed a sample of 38 warrant applications and supporting affidavits (23 Department-wide and 15 GED) of the 97 (72 Department-wide and 25 GED) evaluated by Audit Division.

Support for Findings

Based on the OIG's review, there were some additional findings that Audit Division did not identify and/or report on.

Objective No. 2b - Authenticity of the Warrant Package (Inconsistent Information)

For one warrant package,⁶ the information in the supporting documentation was not consistent with the information in the warrant. Specifically, the affidavit indicated that the victim "positively" identified the two suspects. However, the Arrest Report pursuant to the service of the warrant indicated that when the victim was shown the six-pack of photographs, the victim identified one suspect with 85 percentage certainty and another suspect with 50 percentage certainty. The six-pack photographs were not included in the warrant package and there was no indication that these photographs or the photographic admonition were presented to the magistrate at the time this warrant was approved. Additionally, for one warrant package,⁷ evidence listed on the Property Report was not listed on the Property Receipt. Specifically, a suspect's mail was seized and booked as evidence; however, it was not listed on the Property Receipt.

Objective No. 4 - Conformance with LAPD Procedure

Objective No. 4a - Warrant Served and Returned within Required Time

Once approved by a magistrate, a warrant is valid for ten calendar days and must be served and returned to the court within those ten days. If the warrant is returned after the ten days, it will be considered late unless there is a judicial extension documented on the warrant. Audit Division's Report identified two warrants that were not returned within ten calendar days. The OIG noted four additional warrant packages⁸ that were returned after the required time with no approved

⁶ Warrant No. 06V163.

⁷ Warrant No. 53854.

⁸ Warrant Nos. 53927, F60338, 60263, and 1454.

extension requests. Audit Division erroneously excluded weekends when determining the number of days the warrant was returned; however, weekends are counted unless the 10th day of the return falls on a weekend.⁹ If this is the case, the warrant should be returned by the next business day.

Objective No. 4b - Use of Confidential Informants

- For one warrant package,¹⁰ the sealed pages specifically referred to a “confidential informant” who provided information regarding an assault with a deadly weapon. However, the person who provided this information was not a confidential informant but a “source of information,” and Audit Division did not report this discrepancy.¹¹ Given that the magistrate relies on information provided in a warrant affidavit to give his or her approval, this is a significant discrepancy. It appears that the magistrate approved the sealed pages based on the belief that this person was a Department-approved confidential informant who has proven his or her reliability in the past, but given that this was not the case, the reliability of information provided by the “source of information” who was identified in the sealed pages of the warrant affidavit as being a gang member could be brought into question, especially if he or she has not provided information in the past.
- For the warrant packages where a confidential informant was used, Audit Division, as well as the OIG, reviewed the contact sheets for each confidential informant to ensure that the contact sheets in the informant package were consistent with the sealed pages of the warrant application/affidavit.¹² In addition, the informant package should also document the outcome (e.g., whether a warrant was served) of the information provided by the confidential informant. For two warrant packages,¹³ the OIG noted that the contact dates indicated in the sealed pages of the warrants in which the confidential informant provided information and/or conducted a drug buy were different than the dates documented on the contact sheets. For another warrant package,¹⁴ the sealed pages indicated that two contacts were made with the confidential informant. One contact was for the confidential informant to provide information, the other contact was to obtain narcotic samples from the confidential informant. However, the OIG noted that there was no contact sheet documenting the second encounter in the informant's package.

⁹ The Search Warrant Service Procedures Guide and the Office of the District Attorney's Search Warrant Manual provide this direction.

¹⁰ Warrant No. 06SF139. The OIG contacted the Department Confidential Informant Coordinator and verified that an informant package did not exist for the “confidential informant” referred to in the sealed pages of the warrant affidavit.

¹¹ Audit Division stated that they spoke with the affiant who indicated that he referred to the “source of information” as a “confidential informant” in error.

¹² Contact Sheets, for example will document information provided by a confidential informant and/or drug buys conducted by the confidential informant.

¹³ Warrant Nos. 53854 and COM071706-01.

¹⁴ Warrant No. 1454.

Objective No. 5 - Supervisory Oversight

Objective No. 5a - Supervisory Oversight of the Warrant Application/Affidavit

The OIG noted an additional concern regarding the supervisor's review of the warrant application/affidavit. Specifically, for one warrant package,¹⁵ the sealed pages of the warrant were not initialed. A notation on Audit Division's evaluation document indicated that all pages of the warrant application/affidavit were initialed; however, it appears their answer was based on a copy of the warrant, which did not include the sealed pages.

Objective No. 5b - Supervisor Oversight of the Applicable Incident

The OIG noted an additional concern regarding the supervisor's oversight of the search warrant service. Specifically, for one warrant package,¹⁶ for which four locations were searched, a Tactical Plan Report listed the same supervisor at the four locations at the same time. Audit Division identified this concern but did not report it. Yet, Audit Division identified and reported a similar finding for another warrant service.

Objective No. 5c - Supervisory Oversight of the Post-Incident Review

The OIG noted two additional concerns regarding the post-incident review of the warrant service. Specifically, for one warrant package,¹⁷ the Tactical Plan Report did not have a supervisory review of the debriefing summary, although Audit Division indicated that it did. In addition, Audit Division noted in its evaluation documents that the debriefing summary for another warrant package¹⁸ was insufficient because it was not completed by the supervisor on scene. However, this concern was not reported by Audit Division and there was no rationale as to the reason why.

Objective No. 6 - Maintenance of the Warrant Tracking Logs

The OIG noted some additional concerns with the maintenance of Warrant Tracking Logs that Audit Division did not identify and/or report on. For one warrant package,¹⁹ Audit Division identified but did not report that the name of the supervisor reviewing and approving the warrant application and affidavit on the Warrant Tracking Log did not match the supervisor's initials on the warrant application and affidavit. Audit Division reported this concern for other warrant packages they reviewed. Additionally, for another warrant package,²⁰ Audit Division reported that the name of the supervisor reviewing the application and affidavit on the Warrant Tracking Log did not match the initials of the supervisor initialing the warrant application and affidavit. However, the OIG noted that Audit Division was looking at the wrong line on the Warrant Tracking Log and that the initials of the reviewing supervisor did match the initials on the warrant application and affidavit.

¹⁵ Warrant No. 60263.

¹⁶ Warrant No. F60334.

¹⁷ Warrant No. 60263.

¹⁸ Warrant No. F60334.

¹⁹ Warrant No. 06SF144.

²⁰ Warrant No. 06SF140.

Objective No. 7 - Commanding Officer's (Manager's) Analysis

Per Department policy, Warrant Service/Tactical Plan Reports are to be reviewed by the Commanding Officer to ensure that a supervisor conducted a debriefing and documented the details of the incidents on the debriefing summary report. In addition, the Commanding Officer shall complete a detailed analysis of the performance of the supervisor at each scene of the service of the warrant on a Comment Sheet. Based on the OIG's review, additional concerns related to the Commanding Officer's analysis of one warrant service²¹ (for which ten locations were searched) were noted. Specifically, a Tactical Plan Assignment Roster listed a specific Lieutenant as the officer in charge at one of the locations. However, the Tactical Plan Report indicates a different Lieutenant as the officer in charge for this location and a Comment Sheet was completed for him. However, this Lieutenant was already noted as being at two other locations at the same time. Also, on one of the Comment Sheets, there is no reviewing supervisor's signature or date. Lastly, for another employee's Comment Sheet, the OIG was unable to determine if the employee reviewed it because there were no initials of the employee.

Presentation of Findings

Audit Division presented the Audit's findings in a logical manner, organized by Consent Decree paragraph, and the narrative of the Audit Report supported the findings.

QUALITY

To assess the Audit's quality, the OIG evaluated the quality of both the Audit and the Audit Report.

Audit Quality

Based on the OIG's review, the Audit was properly planned, in that the Audit's methodology allowed for proper assessments of Consent Decree mandates. However, as noted in the findings section, the OIG noted some additional concerns related to the Audit's quality of findings, as follows:

Sealed Warrants

The OIG noted for one Area that the warrant package was maintained in a locked filing cabinet;²² however, the portion that was required to be sealed was stored with the rest of the warrant package and not sealed. This was not noted by Audit Division. During the OIG's last review, the OIG noted inconsistencies with how the Areas stored and maintained the security of sealed portions of warrant applications. The OIG suggested in that review that Audit Division evaluate the practices of securing the sealed portion of warrant applications to ensure the

²¹ Warrant No. F60338.

²² Warrant No. 06SF139

information is maintained in a consistent and secure manner throughout the Department. However, in Audit Division's Audit, this type of assessment was not performed.

Pre/Post Photographs of Warrant Service

According to the Search Warrant Service Procedures Guide, if photographs are taken, the photographs must be kept in the case folder. The OIG noted that 17 of the 35 warrant packages (excluding three warrant packages that were record requests) documented that photographs were taken during the service of the warrant, but the warrant packages did not contain any photographs. It is recognized that applicable photographs may not have been provided to Audit Division, but given that these photographs represent evidence, the OIG believes that attempts should be made to verify they are being retained. The OIG suggested in our prior review that Audit Division begin to evaluate whether photographs were taken and retained, but that evaluation was not performed as part of their Audit.

Warrant Package Documents

The OIG identified additional concerns related to the inclusion of specific documents in the 38 warrant packages reviewed. For six warrant packages, the OIG noted that supporting documentation (i.e., Crime Report, Arrest Report, Follow-up Investigation Report, etc.) was not included in the warrant package reviewed by Audit Division, as follows:

- For four warrant packages,²³ the affidavits referred to specific incidents which were used to establish probable cause for the search, but the reports documenting these incidents were not included in the warrant package. For example, in one warrant package, the affidavit referred to two prior incidents referencing the Division of Records "DR" number of arrest reports which were used to establish probable cause and to identify the person named in the arrest warrant. Although the OIG was able to obtain these documents to ensure they existed, the OIG believes that Audit Division should have identified these concerns and attempted to obtain the reports when they conducted the Audit.
- For two warrant packages,²⁴ the warrant affidavit referred to photographic evidence (addenda) which was used to establish probable cause but the photographic evidence was not included in the warrant package. In one warrant package, the affidavit referred to a photograph of a handgun where the serial number was obliterated. In another warrant package, the affiant indicated that an identification of a suspect was based on the booking photograph of the brother, not the suspect. The affiant stated that when it was determined that the initial suspect was already incarcerated, he obtained a booking photograph of the initial suspect's brother and determined they both looked alike. However, since only a photograph of one brother was included in the warrant package, it is unknown how closely they resembled each other.

²³ Warrant Nos. F60308, F60334, 53830, and 53845.

²⁴ Warrant Nos. 53904 and 05F147.

Tactical Plan Report

For one warrant package,²⁵ the OIG noted that a supervisor did not approve the Tactical Plan Report. Audit Division's evaluation document indicated that there was supervisory approval; however, the signature box on the Tactical Plan Report was blank. Since Audit Division already reported this package out of compliance for this objective due to another concern identified, this would not affect the reported compliance percentage, but Audit Division should have identified and reported this concern as well.

Evaluation Documents – Reconciliation/Rationale

While reviewing Audit Division's evaluation documents, the OIG identified concerns that Audit Division identified in its evaluation documents but did not report on. The OIG believes that Audit Division should attempt to better reconcile its findings from the evaluation documents to the final Audit Report. In addition, if Audit Division determines that a finding will not be reported, their rationale to support this determination should be documented in their evaluation documents.

Report Quality

The Audit Report properly delineated the Audit's objectives, scope, methodology, and status of prior audit recommendations. The Audit Report was issued in a timely manner (within a year of the Audit Division's last audit) and used a fair and unbiased tone. Also, the Audit Report presented its assessment of the Audit's objectives in a clear manner.

ADDITIONAL MATTERS

The OIG noted some additional concerns that did not affect the quality of Audit Division's Audit, but the OIG believes that these items require further attention from the Department.

No Reference to the Confidential Informant's Number

The OIG noted two warrant packages²⁶ where the sealed pages did not contain a name and/or a number for the confidential informant. Although Audit Division followed up with the affiant to obtain further information, this raises a concern regarding the lack of a confidential informant number being placed in the sealed portion of the search warrant affidavits. This concern was previously identified in the OIG's review of Audit Division's Confidential Informant Audit in 2005 and the OIG recommended that the Department, at a minimum, require the documentation of a confidential informant number in the sealed portion of search warrant affidavits. This would enable Department management and auditors to verify that all confidential informants referenced in the sealed portion of warrant affidavits are Department approved. The Department concluded that they would not implement this recommendation, but given that this concern continues to be identified in this and other reviews, the OIG recommends that it be reconsidered.

²⁵ Warrant No. 53860.

²⁶ Warrant Nos. 1454 and 60263.

Reviewing Supervisors

The OIG was unable to determine for one warrant package²⁷ whether a supervisor reviewed the debriefing summary, because there was only a typed name on the summary and no signature. The Department uses several documents where it requires the documentation of a reviewing supervisor. Audit Division believes that if a document requires a supervisor's review only and not an approval, then a typed name is sufficient. However, the OIG does not believe that a typed name is sufficient and therefore recommends that the Department clarify whether or not a typed name is sufficient in regards to a supervisor's review.

Segregation of Duties

In conducting this review, the OIG noted a potential concern regarding the lack of segregation of duties surrounding the review of debriefing summaries and supervision at the service of a warrant, as follows:

- *Affiant/Supervisor at Service of the Warrant*
The OIG noted that Audit Division reported some Areas as non-compliant if the supervisor at the service of the warrant was also the affiant. Although there is no Department policy or Consent Decree paragraph that states that the affiant and supervisor at scene cannot be the same person, best practice indicates that this duty should be segregated. While the Department's compliance percentages in this area would not have been significantly impacted by Audit Division's reported findings, the OIG recommends that the Department clarify whether or not the affiant and the supervisor at the scene of the service of the warrant can be the same person.
- *Supervisory Review of Debriefing Summary*
The OIG identified 12 warrant packages in which the supervisor who conducted the debriefing of the warrant service also signed off as the reviewing supervisor. The OIG believes that this duty should be segregated. Best practice indicates, and therefore the OIG recommends, that another higher level supervisor or manager should document their review of the debriefing summary so there is an appropriate level of independence.

CONCLUSION

Overall, the OIG found the Audit to be complete. For eight audit objectives/sub-objectives, the OIG identified additional exceptions that Audit Division did not identify and/or report. The OIG does not believe that the overall reported compliance percentages would have been significantly impacted (e.g., a compliance percentage reported above 95% would fall below 95%) with the exception of sub-objectives 4a (Warrants Served Within the Required Time) and 4b (Use of Confidential Informant). With respect to sub-objective 4a, Audit Division did not report at least four additional findings related to the warrants being returned beyond ten days. With respect to sub-objective 4b, the OIG identified concerns with one warrant package documenting the use a source of information as a Department-approved confidential informant and for two warrant

²⁷ Warrant No. F60308.

packages, the date the informant was contacted was inconsistent between the warrant affidavit and the confidential informant package contact sheets. Additionally, one warrant package indicated there were two separate contacts with an informant; however, only one of the two encounters was documented in the confidential informant package. As previously noted, the OIG believes that Audit Division understated the overall compliance percentage (72%) for Objective 2d (Other Indicia that Information in the Warrant Document Is Not Authentic or Correct) and the OIG believes this compliance percentage is much higher.

RECOMMENDATIONS

1. Audit Division should evaluate in their next audit whether the Areas are properly maintaining the security of sealed portions of search warrants.
2. Audit Division should evaluate in their next audit whether photographs of a warrant service, if taken, were properly retained in the warrant package.
3. The Department should re-evaluate whether it should provide official guidance on the amount of confidential informant information that should be placed in the sealed portion of a search warrant and affidavit (e.g., the Confidential Informant Number).
4. The Department should clarify whether or not a typed name is sufficient in regards to documenting a supervisor's review.
5. The Department should clarify whether or not the affiant and the supervisor at the scene of the service of the warrant can be the same person.
6. The Department should require another higher level supervisor or manager to document their review of the debriefing summary so there is an appropriate level of independence.