

LOS ANGELES POLICE COMMISSION

*Review of Audit Division's Warrant
Applications and Supporting
Affidavits Audit
(Fiscal Year 2004/2005)*



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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EXECUTIVE SUMMARY
Office of the Inspector General
Review of Audit Division’s Warrant Applications and Supporting Affidavits Audit

OVERVIEW OF AUDIT DIVISION’S AUDIT

Audit Division (AD) reviewed 98 warrant applications and supporting affidavits and provided the following Department-Wide compliance rates: CD ¶ 62 – Manager Analysis of Supervisor Conduct (90 percent); CD ¶ 71 – Completeness and Authenticity of the Warrant, Underlying Actions, and Supervisory Oversight Over the Planning and Execution of the Warrant (86 percent); and, CD ¶ 72 – Maintenance of Warrant Tracking Logs (96 percent). Pursuant to Consent Decree (CD) Paragraph (¶) 135, the Office of the Inspector General (OIG) reviewed the completeness, findings and quality of AD’s audit.

OVERVIEW OF OIG’S REVIEW

The review found that AD conducted a complete and quality audit and the findings were well supported. However, the presentation of the findings was deficient. The final audit report contained several errors in its Executive Summary Tables and Table Nos. 1 and 2 within the report. Basically, AD utilized the total number of warrants in each warrant group (i.e. General Population warrants (GP) and Gang Unit warrants (¶ 106 Unit)) to calculate compliance percentages for CD ¶s 62 and 71(b)(c) rather than using the actual number of warrants evaluated. This error resulted in multiple overstatements and a few understatements of compliance percentages. The table below illustrates the result of that error.

CD ¶s	AD REPORTED DEPT-WIDE %	ACTUAL DEPT-WIDE %	AD REPORTED GP %	ACTUAL GP %	AD REPORTED ¶ 106 UNIT %	ACTUAL ¶ 106 UNIT %
¶ 62 ¹ Management Analysis	90%	83%	90%	82%	88%	86%
¶ 71b Underlying Actions (Appropriate/Legal)	97%	98%	96%	97%	100%	100%
¶ 71b Underlying Actions (Conformance with LAPD Procedures)	98%	82%	99%	86%	94%	75%
¶ 71c Supervisory Oversight (Incident)	93%	92%	93%	91%	94%	93%
¶ 71c Supervisory Oversight (Post Incident)	93%	86%	90%	82%	94%	100%

Note: The “actual” percentages are based on narrative information found in the body of AD’s report.

¹ AD erroneously excluded test work related to CD ¶ 62 and reported the associated findings in an other related matters section of the report. If AD had utilized the test work, the compliance percentages for CD ¶ 62 would have decreased, as indicated on the next page.

Executive Summary

Review of AD's Warrant Applications and Supporting Affidavits Audit

1.0

Additionally, AD's final report provided a compliance rate based on an assessment of only one part of CD ¶ 62, not the entire paragraph. If AD had utilized its test work related to the timeliness of the manager's analysis and indications of employee comment card completion to calculate compliance with CD ¶ 62, the overall compliance percentage would have been 75 percent Department-wide (78 percent for General Population warrants and 64 percent for ¶ 106 Unit warrants).

The OIG identified these discrepancies on April 4, 2005 and immediately notified AD management. On May 25, 2005, AD submitted Intradepartmental Correspondence for the Chief of Police's signature to amend the calculations presented in its original audit report and executive summary. The OIG did not assess the amendment prepared by AD but is pleased corrective action was taken.

ADDITIONAL CONCERNS

The OIG's review identified three areas of concern, outside the scope of its assessment of the audit, but still warranting comment. First, the OIG was denied access to review the sealed portion of a warrant affidavit, but is in the process of scheduling a meeting with representatives from the City Attorney's Office and the Department to resolve this issue going forward. Second, a majority of recommendations made by AD remain "in-progress" even though the recommendations were made more than one year ago. Third, AD's audit indicates Department supervisors need to better document their review of warrant affidavits, perform more detailed comparisons between Property Reports (Form 10.1) and Receipts for Property Taken Into Custody (Form 10.10), and perform more thorough reviews of warrant applications.

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

PURPOSE

Pursuant to Consent Decree (CD) Paragraph (¶) 135, the Office of the Inspector General (OIG) reviewed Audit Division's (AD) Warrant Applications and Supporting Affidavits Audit. The audit was completed in the third quarter of Fiscal Year (FY) 2004/2005 and received by the OIG on March 1, 2005 even though the Chief of Police approved and forwarded the audit to the Police Commission on February 10, 2005.¹ The OIG assessed the audit's completeness, findings and quality.

BACKGROUND ON AD'S AUDIT

Audit Division reviewed 98 warrant applications and supporting affidavits to evaluate completeness, authenticity, underlying actions, and supervisory oversight surrounding the planning, service and follow-up to a warrant. Warrant Tracking Logs were also reviewed to verify completeness of information on the Logs.

Audit Division requested 41 Department entities to submit a copy of their Warrant Tracking Log for Deployment Period 7, 2004 (June 27th to July 24th). Once submitted, AD reviewed the Logs and separated the listed warrants into two distinct groups: CD ¶ 106 Unit warrants (these units are primarily responsible for monitoring and/or reducing gang activity), and General Population warrants. Audit Division audited 16 ¶ 106 Unit warrants and 82 General Population warrants (based on a stratified random sample). Audit Division combined both groups and provided the following Department-Wide compliance percentages:

- CD ¶ 62 – Manager Analysis of Supervisor Conduct (90 percent);
- CD ¶ 71 – Completeness and Authenticity of the Warrant, Underlying Actions, and Supervisory Oversight Over the Planning and Execution of the Warrant (86 percent); and,
- CD ¶ 72 – Maintenance of Warrant Tracking Logs (96 percent).

Greater detail on AD's methodology and findings can be found in their final audit report.

BACKGROUND ON THE OIG'S AUDIT SECTION

The OIG hired a third Assistant Inspector General (AIG) and a Police Performance Auditor IV (PPA IV) in March and May 2005, respectively. Both the AIG and the PPA IV have extensive auditing experience and were assigned to AD prior to accepting their position with the OIG. These individuals were hired to address concerns expressed by the Independent Monitor relative to the quality and timeliness of previous OIG audits/reviews.

¹ The Police Commission received the report on February 28, 2005. The Independent Monitor found the transmittal of this audit non-compliant with CD ¶ 135 in its Quarterly Report for the period ending March 31, 2005.

Normally, the AIG and the PPA IV would refrain from conducting and supervising reviews of AD audits for a certain period of time; however, as the CD requires the OIG to conduct these reviews, that luxury is not available. Nonetheless, the AIG and PPA IV have refrained from conducting or supervising any reviews of AD audits that they actively participated on while assigned to AD.²

PRIOR RECOMMENDATIONS

The OIG's review of AD's Warrant Applications and Supporting Affidavits Audit for FY 2003/2004 made three recommendations, which are listed below along with their status:

Prior Recommendation No. 1 – Review the sealed portion of warrant affidavits.

Status: Implemented. Audit Division audited the sealed portion of warrant affidavits in its FY 2004/2005 audit.

Prior Recommendation No. 2 – All third-party records warrants be deselected from the audit population. **Status: Not Implemented.** Audit Division decided not to implement this recommendation, stating third-party records warrants still have the potential for liability and related risk.

Prior Recommendation No. 3 – The Department should re-examine the policy that prohibits against the use of any “canned language.” **Status: Pending.** Narcotics Division has prepared correspondence to the Office of Support Services requesting a re-evaluation of this Department policy.

REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of AD's Warrant Applications and Supporting Affidavits Audit by reviewing the final audit report, related audit plan/matrices, and supporting work papers.³

On May 25, 2005, the OIG met with AD management to discuss the results of this review. At that time, AD management indicated general agreement with the findings in this report.

² The PPA IV refrained from conducting and supervising this review as he participated on the audit while assigned to AD. As the AIG did not participate on the audit while assigned to AD, she supervised this review.

³ The OIG's review of supporting work papers 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.

FOCUS POINTS

In addition to AD's presentation of findings (discussed further in the report), the OIG's review identified three areas of concern, outside the scope of the assessment of AD's audit, but still warranting comment.

Sealed Warrants

While attempting to review the sealed portion of a warrant affidavit that AD personnel evaluated, the OIG was denied a request to review the warrant based on advice the geographic Area received from the Los Angeles City Attorney's Office. The OIG is in the process of scheduling a meeting with representatives from the Department and City Attorney's Office to resolve this issue going forward.

Based on this and prior reviews, it appears that approximately ten percent of warrants, Department-wide, might have sealed portions of warrant affidavits, resulting in a significant portion of warrants that might not receive any type of oversight.⁴ As sealed portions of warrant affidavits often reference information received from confidential informants, the OIG believes it is extremely important for its staff to review the sealed portions of affidavits and verify that the informants have an active informant file and were properly approved for use by the Department.⁵

Implementation of Recommendations

Audit Division reported that seven of eight recommendations made in its prior audit remained "In Progress." See Page Nos. 2, 3 and 4, of AD's report. The OIG is concerned that a majority of the recommendations continue to remain "in progress" more than a year after AD made the recommendations.

Supervisory Oversight

Audit Division identified several issues indicating the need for additional supervisory oversight, as follows:

- A significant percentage of warrant packages had discrepancies between the Property Report (Form 10.1) and the Receipt for Property Taken into Custody (Form 10.10). Specifically, 12 of 39 (31 percent) General Population warrant packages and three of 12 (25 percent) ¶ 106 Unit warrant packages had inconsistencies between the two documents.

⁴ As the Department does not have a centralized database to track this type of information, the percentage is a very loose approximation.

⁵ As mandated by the CD, the OIG conducts reviews of confidential informant files when assessing AD's Department-Wide Audit.

- Eleven of 98 (11 percent) warrant affidavits did not contain evidence of a supervisor's initials on each page of the affidavit.⁶

Audit Division identified instances in which the warrant applications did not contain evidence of supervisory review. Although Department policy requires supervisors to review the applications, it does not require supervisors to place their initials on the applications. As such, AD did not report these instances in its audit report.

- Nineteen of 98 (19 percent) of the warrant applications had errors or omissions. Specifically, four of 98 (four percent) applications had errors in the first or second area of the application. One error involved an inconsistency between the typed name of an affiant in the first and second area of the application that was different from the affiant name in the signature block. The typed name was not referenced anywhere in the warrant application and affidavit as being a co-affiant. Additionally, 15 of 98 (15 percent) applications contained an omission in the first or second area of the application, as follows:
 1. The first area in the warrant application indicates the affiant has sworn under oath that the facts provided are true and the affiant believes the persons or property sought are lawfully seizable pursuant to California Penal Code (CPC) Section 1524. One application did not have the affiant's name typed or printed in this area.
 2. The second area indicates the affiant has presented proof by the affidavit that there is probably cause to believe the property may be found at the location and is seizable pursuant to CPC Section 1524. Thirteen applications did not have the affiant's name typed or printed in this area and one application did not have a box marked indicating the reason the property was lawfully seizable.

As indicated in AD's report, generally, these types of errors and omissions do not affect the legality of the warrant as they can be corrected in court. However, given the high number of errors/omissions identified, supervisors should provide extra supervisory oversight to ensure the information on the applications is completed and correct.

Recommendation

1. The Department should remind supervisors to compare Property Reports and Receipts for Property Taken into Custody, to review warrant applications for errors and omissions, and to document their review of warrant affidavits by placing their initials at the bottom of each page.

⁶ Audit Division noted that the lack of initials did not mean a supervisor did not review the warrant, and at times it was difficult to determine whether the initials were present due to poor copy quality and faint initials.

REVIEW RESULTS

COMPLETENESS

To assess the audit's completeness, the OIG reviewed the audit report and supporting work papers to ensure CD mandates were addressed and that the audit used a complete population to audit and/or select its samples.

Consent Decree Mandates Addressed

Per the Department's Annual Audit Plan (AAP) Status Report – Second Quarter FY 2004/2005, AD's Warrant Applications and Supporting Affidavits audit was to assess CD ¶s 62(b), 71(a)(b)(c), and 72, while meeting the audit requirements specified in CD ¶s 128 and 131(a)(c)(e)(f). The OIG determined the audit sufficiently met the audit requirements specified in CD ¶s 128 and 131(a)(c)(e), and assessed CD ¶s 62(b), 71(a)(b)(c) and 72.⁷

Although the AAP for FY 2004/2005 indicated that AD's Warrant Applications and Supporting Affidavits Audit would meet the audit requirement specified in CD ¶ 131(f), the audit did not. Consent Decree ¶ 131(f) requires an assessment of the supervisor's response during the service of a search warrant and an examination of relationship between particular officers working together or under particular supervisors to determine whether additional investigation is needed to identify at-risk practices.

The OIG does not believe this type of Department-wide audit would lend itself to make such an assessment. Audit Division also recognized this limitation and the AAP for FY 2005/2006 indicates AD will address CD ¶ 131(f) by conducting a Gang Enforcement Detail (GED) Work Product Assessment Summary in the first quarter of FY 2005/2006.⁸

Identification of a Complete Population

As the Department does not have an automatic or manual Department-wide warrant tracking system, AD's ability to identify a complete warrant population was limited. Audit Division relied on Area/Division Warrant Tracking Log information to identify warrants. The absence of a Department-wide Warrant Tracking System significantly decreases the reliability one can place on the findings of this audit, and the OIG agrees with AD's recommendations to maintain Search and Ramey warrants in a centralized location and to utilize the Detective Case Tracking System to track Search and Ramey warrants Department-wide. Given this limitation, the OIG's assessment of completeness was based on the Area/Division Warrant Tracking Logs.

⁷ Although the audit report did not specifically mention CD ¶ 131(a) or (e), the OIG determined the audit sufficiently covered the specified audit requirements.

⁸ This assessment will be based on a review of findings in all FY 2004/2005 Department-wide ¶ 128 audits and AD's GED Command Accountability Performance Audits that assess the work products completed for an entire GED.

The OIG determined AD identified and properly requested Warrant Tracking Logs from the primary Department entities that prepare and serve warrants, identifying 148 General Population warrants and 16 ¶ 106 Unit warrants.

That being said, the OIG noted that AD's final report did not specifically state that the ¶ 106 Unit population only included warrants authored by an officer assigned to a GED or Community Law Enforcement and Recovery (CLEAR) Unit and excluded warrants authored by officers/detectives assigned to other units under the Gang Impact Team (GIT) umbrella. The OIG believes this distinction should have been provided to the reader of the report.

Conclusion

Overall, the OIG determined the audit addressed applicable CD mandates and, based on a review of the Warrant Tracking Logs, it appears AD identified complete warrant populations. Nonetheless, due to the higher risk management issues associated with ¶ 106 Unit warrants, the OIG believes AD should consider reviewing the geographic Area GED Supervisor Daily Reports during its next audit to help confirm that all ¶ 106 Unit warrants are identified and evaluated.

FINDINGS

To assess the audit's findings, the OIG reviewed AD's supporting work papers to ensure there was adequate support for findings and reviewed the report to ensure the findings were properly presented.

Support for Findings

The OIG reviewed AD's work papers for 23 General Population and 11 ¶ 106 Unit warrants. The OIG agreed with nearly all of AD's assessments related to the warrants and confirmed that nearly all findings identified by AD were properly included in the final audit report. That being said, the OIG identified four additional findings that should have been reported in AD's final report.⁹

- One warrant package contained an incomplete Receipt for Property Taken into Custody (Form 10.10) when compared to the Property Report (Form 10.1). Audit Division concurred, stating that this was an oversight. The finding should have been reported in the Other Related Matters – The Property Report versus the Property Receipt Section of the report.
- Two warrant packages involved the seizure of weapons that were not specifically listed in the warrant's affidavit. Although it appears that the weapons were properly seized, the associated Property Reports did not delineate the weapons as "unlisted." Pursuant to

⁹ The sealed portion of one affidavit could not be reviewed as discussed in the Focus Points Section of this report. Restatements were only made if a finding changed a CD compliance percentage.

Department policy, the seizure of any property not authorized by a magistrate should always be articulated in the Property Report as "Seized Pursuant to the Search Warrant – Unlisted." Audit Division concurred, stating that this was an oversight. This finding should have been reported in the Other Related Matters – Description of Property Seized Section of the report.

- One warrant package was identified that did not contained articulation to justify night service. Audit Division indicated that the service was justified through disclosure of the suspect's criminal history, but agreed that this issue should have been reported in the Other Related Matters – Night Service Justification and Authorization Section of the report. It is important to note that the OIG believes the night service was justified when the affidavit is read in its entirety.
- One warrant package did not include all supporting documents. Specifically, the affidavit mentioned an earlier third party warrant that was not included in the package. Audit Division concurred, stating that this was an oversight. The finding should have been reported in the Paragraph 71a (Completeness of Information Contained – Supporting Documentation Section of the report. The CD compliance percentage for the General Population would have changed from 100 percent to 99 percent.

Presentation of Findings

Audit Division's final audit report contained several errors in its Executive Summary Tables and Table Nos. 1 and 2 within the report. Basically, AD utilized the total number of warrants in each warrant group (i.e., General Population and ¶ 106 Unit) to calculate compliance percentages for CD ¶s 62 and 71(b)(c) rather than using the actual number of warrants evaluated per the narrative of the report. This error resulted in an overstatement of multiple compliance percentages and a few understatements. Table No. 1 on the next page illustrates those errors, broken down by Department-wide, General Population (GP), and ¶ 106 Unit compliance percentages.

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TABLE NO. 1 - AD REPORTED VERSUS ACTUAL COMPLIANCE PERCENTAGE

CD ¶s	AD REPORTED DEPT-WIDE %	ACTUAL DEPT-WIDE %	AD REPORTED GP %	ACTUAL GP %	AD REPORTED ¶ 106 UNIT %	ACTUAL ¶ 106 UNIT %
¶ 62 ¹⁰ Management Analysis	90%	83%	90%	82%	88%	86%
¶ 71b Underlying Actions (Appropriate/Legal)	97%	98%	96%	97%	100%	100%
¶ 71b Underlying Actions (Conformance with LAPD Procedures)	98%	82%	99%	86%	94%	75%
¶ 71c Supervisory Oversight (Incident)	93%	92%	93%	91%	94%	93%
¶ 71c Supervisory Oversight (Post Incident)	93%	86%	90%	82%	94%	100%

Note: The "actual" percentages are based on narrative information found in the body of AD's report.

Additionally, AD's final report provided a compliance percentage based on an assessment of only one part of CD ¶ 62, not the entire paragraph. Specifically, that paragraph requires managers to analyze the circumstances surrounding the presence or absence of a supervisor at (a) a Categorical Use of Force incident, and (b) the service of a search warrant, further requiring the analysis to take place within one week of occurrence and the supervisory conduct to be taken into account in each supervisor's annual personnel evaluation.

Although AD reviewed the Warrant Service/Tactical Plan Report to evaluate the timeliness of the manager's analysis and for indications that an employee comment sheet was completed for the supervisor, the results were reported in an other related matters section of the report. As such, the associated findings did not impact the Department's compliance with CD ¶ 62. Contrary to the Warrant Applications and Supporting Affidavits Audit, AD's Categorical Use of Force Systems Audit, issued in the same quarter, evaluated employee comment sheet completion and included the results in its determination of compliance with CD ¶ 62.

¹⁰Audit Division erroneously excluded test work related to CD ¶ 62 and reported the associated findings in an other related matters section of the report. If AD had utilized this test work, the compliance percentages for CD ¶ 62 would have been decreased, as indicated on the next page.

If AD utilized its test work related to the timeliness of the manager's analysis and indications of employee comment sheet completion to calculate compliance with CD ¶ 62, the overall compliance percentage would have been 75 percent Department-wide (78 percent for General Population warrants and 64 percent for ¶ 106 Unit warrants).¹¹

The OIG identified these discrepancies on April 4, 2005 and immediately notified AD management. On May 25, 2005, AD submitted Intradepartmental Correspondence for the Chief of Police's signature to amend the calculations presented in its original audit report and executive summary. Audit Division should ensure this amendment is properly reflected on its website as well. The OIG did not assess the amendment prepared by AD but is pleased corrective action was taken.

Conclusion

Overall, the OIG determined the audit's findings were properly supported, but the presentation of the audit's findings was deficient. Although the narrative provided accurate information related to the audit's findings, there were numerous errors in the summary tables and deficiencies with AD's assessment of CD ¶ 62. As various entities rely on AD's Department-wide audits to assess the Department's progress in meeting CD mandates, it is imperative to ensure that these calculations are accurately reported.

QUALITY

To assess the audit's quality, the OIG evaluated both the audit and report's quality.

Audit Quality

The audit was properly supervised and planned, in that the audit's methodology allowed for proper assessments of applicable CD paragraphs. Although the OIG identified one warrant, authored by a GIT detective, that was improperly included in the ¶ 106 Unit population and two warrants from the General Population that were inadvertently excluded from AD's sample selection, overall, the sampling methodology appeared adequate.

Reliability of CD ¶ 72 Compliance Percentage

The OIG believes it is important to include a comment regarding the reliability of compliance percentages for CD ¶ 72 and Commanding Officer approvals of the Warrant Tracking Logs. Basically, AD relied on the Logs submitted by Department entities to evaluate the completeness of Log information. As Department entities submitted these Logs directly to AD, the reliability of this audit evidence lessened. Generally, audit evidence is more reliable if an auditor

¹¹ Audit Division reviewed the Warrant Service/Tactical Plan Report for indications of employee comment sheet completion. Even though a better approach would have been to review employee folders, that approach would have been difficult given the multiple commands involved in the audit. Even so, inclusion of this testwork more accurately reflects the Department's compliance with CD ¶ 62.

(unannounced) directly obtains the information from the audit entity. This should not give the impression that the information on the Logs was changed/added by the audited entities after AD's request because the OIG has no reason to believe that occurred. However, readers of the report should be cognizant of the decreased reliability of the audit evidence used to assess CD ¶ 72.

Report Quality

The report delineated the audit's objectives, scope, methodology, and the status of prior audit recommendations. Audit Division was unable to obtain the views of commanding officers prior to issuing the report and, given the numerous commands evaluated during by the audit, it was not feasible. However, in future audits, AD should consider disclosing that the findings were not discussed with commanding officers.

The report was issued in a timely manner (within a year of AD's last audit), used a fair and unbiased tone, and was found to be convincing and concise. Even so, the report's clarity would have improved if AD used summary sections in the report narrative to summarize overall compliance percentages for CD paragraphs. This type of summarization could have helped to identify the summary table discrepancies before report issuance.

Conclusion

Overall, the OIG determined that AD planned, conducted, and reported the information in a quality manner.¹²

RECOMMENDATION

1. The Department should remind supervisors to compare Property Reports and Receipts for Property Taken into Custody, to review warrant applications for errors and omissions, and to document their review of warrant affidavits by placing their initials at the bottom of each page.

¹² As discussed earlier in the report, the OIG identified errors with AD's presentation of findings. Those issues were not considered in the OIG's evaluation of report quality as this Section focuses more on report attributes rather than presentation of findings.