

OAKLAND POLICE DEPARTMENT

Office of Inspector General



Search Warrant Audit

March 25, 2015

Memorandum

To: Chief Sean Whent
From: Office of Inspector General
Date: June 2, 2015
Subject: Search Warrant Audit

By policy and necessity, officers must possess sound knowledge of the legal requirements associated with obtaining a search warrant in order to prevent the suppression of evidence, protect the Constitutional rights of persons, and maintain public confidence in the Department's ability to carry out the police function in an ethical and legal manner. Similarly, law enforcement agencies must maintain accountability and control over the processes which facilitate search warrant procedure and tracking. In March of 2015, under the direction of Acting Lieutenant Tony Souza, the Audit and Inspections Unit of the Office of Inspector General (OIG) completed an audit to determine the Department's compliance with its policy as set forth in Departmental Training Bulletin I-F, Obtaining a Search Warrant.

To conduct the audit, the audit team examined a sample of search warrants served in 2014 and completed a report of findings and recommendations.

Since audit completion, I have implemented or forwarded recommendations to cause further, sustained and increased compliance: the Training Section is currently tracking POST search warrant training of newly hired officers; coordination is underway within the Field Training Unit to incorporate required training as part of an officer's field training curriculum, and the Policy and Publication Unit was made aware of the recommended modifications to policy as found within this report.

Respectfully,



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OFFICE OF INSPECTOR GENERAL
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EXECUTIVE SUMMARY

On January 1, 2015, the Audit and Inspections Unit of the OIG initiated an audit of the Oakland Police Department's compliance with Training Bulletin I-F; OBTAINING A SEARCH WARRANT. The bulletin sets forth the guidelines for obtaining a search warrant and dictates the review and tracking procedures.

The current audit found significant compliance with policy. The supervisors and commanders assured review of warrants prior to being presented to a judge. The CID commander and CID administrative personnel reviewed completed/served warrants and associated inventory forms and forwarded copies to OIG. The Search Warrant Approval Tracking Sheet (TF-3343) allows all personnel involved to track and manage search warrants and creates a necessary check and balance.

The audit resulted in several recommendations to sustain compliance with established review and tracking procedures: ensuring training on search warrant fundamentals continually exists for all newly hired officers, and modifying existing policy to identify a responsible person or unit to oversee the required training process.

PURPOSE

The purpose of the inspection audit was to determine if the Oakland Police Department is adhering to its guidelines for obtaining a search warrant, as set forth in the Departmental Training Bulletin I-F.

BACKGROUND

Departmental Training Bulletin I-F requires the OIG to conduct compliance audits annually and it requires an annual external audit. The two most recent audits were completed in April 2014 by an external audit consultant and in December 2013 by OIG. The most recent search warrant policy is Departmental Training Bulletin I-F, which was revised on November 12, 2010.

The April 2014 external audit found excellent compliance with policy and training, with only one recommendation:

- The search warrant tracking sheet should be modified to reflect the date the search warrant was returned to the court.

The December 2013 OIG audit also found high levels of compliance, with only one recommendation:

- The Training Division should ensure that newly hired officers are completing the “Search Warrant Fundamentals” course as required, and it should follow up with any officers who show an “incomplete” next to their name on the POST roster.

SCOPE AND POPULATION

Scope

The audit focused on the Department's policy and practices in its review and tracking of search warrants. Departmental Training Bulletin I-F and the Search Warrant Approval Tracking Sheet (TF-3343) were used as guidelines. OIG reviewed search warrants and associated tracking sheets and inventories from January 2014 to December 2014.

Review Population

At the time of the audit, there had been 455 completed and served search warrants year to date. The warrants were generated by personnel from all areas of the Department. Since there were a large number of warrants, they were grouped. The included groups are as follows; Burglary, CRT (Crime Reduction Team), Felony Assault, Gang, Homicide, Patrol, Robbery, and Special Victims Unit.

Using a one-tail test, a sample of 80 warrants was selected to achieve a 95% confidence level with an error rate of +/- 4%. In an attempt to get a varied cross section of the warrants, proportional sampling was used. The table below identifies the proportional sample.

Group	# of Warrants in Population	# of Warrants in Sample
Burglary	51	9
CRT	63	11
Felony Assault	54	10
Gang	35	6
Homicide	148	26
Patrol	29	5
Robbery	51	9
Special Victims	24	4
Total	455	80

The warrants for each group were randomly selected using the number randomizer located on the <http://www.randomizer.org/index.htm> website.

The breakdowns of the different types of search warrants by group are as follows:

GROUP	TYPE OF WARRANT	# OF WARRANTS
Burglary	Cell phone	4
Burglary	guns	3
Burglary	Property	6
Burglary	Drugs	1
CRT	Cell phone/tracker	2
CRT	guns	8
CRT	Property	8
CRT	Drugs	8
CRT	Steagald	1
Felony Assault	Property	9
Felony Assault	Guns	8
Felony Assault	Cell phone	1
Gang	Vehicle tracking	1
Gang	guns	5
Gang	Property	5
Gang	drugs	4
Gang	Person	1
Homicide	Cell phone	8
Homicide	guns	14
Homicide	Property	16
Homicide	Electronic records	2
Patrol	Person	1
Patrol	Guns	3
Patrol	Property	4
Patrol	Drugs	3
Robbery	Cell phone	2
Robbery	Guns	2
Robbery	Property	7
Robbery	Person	2
Special Victims	Cell phone	4
Special Victims	Property	1

Reference Material

- Department Training Bulletin I-F; OBTAINING A SEARCH WARRANT
- Search Warrant Approval Tracking Sheet (TF-3343)
- Search Warrant Audit, dated April 22, 2014 (External Audit Consultant)
- Search Warrant Audit, dated December 30, 2013 (OIG)

AUDIT OBJECTIVES AND FINDINGS

Audit Objective 1

Department Training Bulletin I-F requires officers to complete a Search Warrant Approval Tracking Sheet for every search warrant. Each Search Warrant Tracking Sheet requires the following:

- I. Informant File Number if applicable
- II. Supervisor review/approval prior to presentation to a judge
- III. First-Level Commander review/approval prior to presentation to a judge
- IV. CID Commander review after service of warrant
- V. CID Administration review/scan after service of warrant
- VI. Notation of Chemical Analysis Report if applicable

Findings

- I. Informant File Number if applicable:*

Of the warrants reviewed, ten of them involved the use of a confidential informant. Of those ten warrants, four of them had sealed affidavits with the words "Not disclosed" where the informant number was required on the tracking sheet; indicating that the approving judge concurred with the need to make the identity of those used to establish probable cause confidential to everyone but the warrant author and the Court. The other six warrants listed the appropriate applicable informant number.
- II. Supervisor review/approval prior to presentation to a judge:*

All of the Search Warrant Tracking Sheets had a supervisor's approval signature prior to being presented to a judge.
- III. First-Level Commander review/approval prior to presentation to a judge:*

All of the Search Warrant Tracking Sheets had a commander's approval signature prior to being presented to a judge
- IV. CID Commander review after service of warrant:*

All of the Search Warrants were reviewed by the CID Commander. All of the Search Warrant Tracking Sheets had a dated signature by the CID Commander completed after the respective warrant service.
- V. CID Administration review/scan after service of warrant:*

All of the Search Warrant Tracking Sheets were signed and dated by CID Administrative personnel and scanned into a PDF.

VI. Notation of Chemical Analysis Report if applicable:

Not applicable. Of the 80 warrants reviewed, none of them required a chemical analysis. Subsequently, no Chemical Analysis Reports were completed and none were noted on the Search Warrant Tracking Sheets.

Audit Objective 2

All search warrants require the approval of a judge prior to service.

Findings

All of the search warrants were served after being reviewed and approved by a judge.

Audit Objective 3

When applicable, a Chemical Analysis Report will be attached to the affidavit.

Findings

Not Applicable – None of the warrants required chemical analysis.
See Review Objective 1-VI for further details.

Audit Objective 4

All search warrants require an inventory form.

Findings

All of the warrants included a completed inventory form.

Audit Objective 5

All completed/served search warrants are to be forwarded to OIG.

Findings

Search warrants are maintained by CID and OIG has access to them as needed for review and audit purposes.

Audit Objective 6

All scanned copies residing on the server are to be legibly preserved for future reference.

Findings

All of the copies were located on the CID server. However, two of the copies were only partially legible.

Audit Objective 7

All sworn members shall complete an online "Search Warrant Fundamentals" course through the POST Learning Portal website.

Findings

The training report provided by POST for their "Search Warrants Fundamentals" course, dated February 9, 2015, showed that newly sworn members since November 2012 have not completed the course. It appears that only two officers have completed the course since 2012.

A Chief's Memorandum dated November 12, 2010 states that "Supervisors are responsible for ensuring their subordinates read and understand the revision of Departmental Training Bulletin I-F, Obtaining A Search Warrant and that they access the POST Learning Portal for the required training." The Memorandum states that the "Evaluation Coordinator shall be the commander of the Bureau of Investigations".

Since the Memorandum was published in 2010, the Bureau of Investigations was eliminated, so there is no designated evaluation coordinator.

Audit Objective 8

Training Section shall develop and present additional courses as needed to meet the training needs of the Department.

Findings

The Department hosted two Search Warrants "A Through Z" classes. This class is a comprehensive sixteen-hour search warrant course, and is POST certified, but not mandatory.

The course covered topics such as:

- What is a search warrant?
- Who can get one?
- What can you seize?
- How do you seal a search warrant?
- When it is appropriate to seal a warrant or parts thereof?

- Essential basics of what is needed for a solid warrant that will withstand Judicial review.

Audit Objective 9

Officers shall observe statutory and administrative requirements regarding returning to the issuing court the original search warrant and inventory of evidence seized pursuant to the search warrant (Penal Code 1534)

Findings

A selected sample of search warrants from each group was provided to the Alameda County Superior Court to determine if officers were turning in their search warrants and inventory sheets. Of the 32 search warrants provided to the County, the Clerk had access to 17 of them. Due to the way the County tracks the returned search warrants and which Court location they are stored in, it was not possible to confirm if all 32 search warrants were returned.

- 17 search warrants were found and all but one had an attached inventory sheet. The 16 warrants that had an attached inventory sheet were turned in within the time lines outlined in Penal Code 1534
- 6 search warrants were sealed and could not be reviewed
- 5 search warrants were stored in other locations so could not be reviewed
- 4 search warrants were unable to be located by the Clerk

RECOMMENDATION

1. In order to comply with existing policy, all officers hired since 2012 should complete required POST training on search warrant fundamentals. Newly hired officers should complete this required training as part of their Field Training Program curriculum and training.
2. Training Bulletin I-F names the Bureau of Investigation– a Bureau which no longer exists - as the policy evaluation coordinator. Policy should be evaluated for modification on recommendation points #1 and #2.