

JANUARY 2021

URGENT RECOMMENDATIONS ON THE CHICAGO POLICE DEPARTMENT'S SEARCH WARRANT POLICIES

CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL



JOSEPH M. FERGUSON
INSPECTOR GENERAL FOR THE CITY OF CHICAGO

DEBORAH WITZBURG
DEPUTY INSPECTOR GENERAL FOR PUBLIC SAFETY



JOSEPH M. FERGUSON
INSPECTOR GENERAL

CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL
740 NORTH SEDGWICK STREET, SUITE 200
CHICAGO, ILLINOIS 60654
TELEPHONE: (773) 478-7799
FAX: (773) 478-3949

JANUARY 22, 2021

The Public Safety section of the City of Chicago Office of Inspector General (OIG) is charged by the Municipal Code of Chicago (MCC) with reviewing and auditing the Chicago Police Department's (CPD) policies, practices, programs, and training with respect to constitutional policing, discipline, and use of force, and as they affect CPD's integrity, transparency, and relationship with City residents. The Public Safety section may make recommendations to address problems or deficiencies or to make improvements in such policies, practices, programs, and training. MCC § 2-56-230(d).

Accordingly, the Public Safety section has been conducting an inquiry into CPD's execution of search warrants, focusing on the accuracy of the addresses at which they are located. That inquiry is a long-term one and remains ongoing.

In light of the urgent need to prevent serious harm to Chicagoans in the execution of search warrants at the wrong addresses, and in recognition of pressing public concern around these issues, OIG has issued preliminary findings and recommendations to CPD while the larger programmatic inquiry continues.

Specifically, OIG found that CPD's directive on search warrants leaves gaps in CPD members' obligations to verify and corroborate the information upon which they rely in seeking a search warrant. Further, OIG found that the circumstances under which a CPD supervisor must initiate a disciplinary investigation following a problematic search warrant execution are too narrow.

Consequently, OIG recommended that CPD modify its directive on search warrants to require verification and corroboration of information in all circumstances, and broaden the circumstances in which supervisors must initiate an investigation to determine whether discipline is necessary and appropriate when a search warrant execution goes wrong.

In response, CPD Superintendent David Brown accepted both of OIG's recommendations, and indicated that CPD's policies "should be amended to require a CPD member investigate and verify the information used to substantiate a search warrant." Superintendent Brown further stated that CPD "intends to amend its order to expand the circumstances where officers are required to open a [disciplinary] investigation." Superintendent Brown noted that he has formed a "Search Warrant

Committee” and “will engage with the community to listen to their concerns” about CPD’s search warrant practices.

The Public Safety section’s letter to CPD containing its recommendations is attached below in Appendix A. CPD’s response letter is attached in Appendix B.

APPENDIX A: OIG LETTER



JOSEPH M. FERGUSON
INSPECTOR GENERAL

CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL
740 NORTH SEDGWICK STREET, SUITE 200
CHICAGO, ILLINOIS 60654
TELEPHONE: (773) 478-7799
FAX: (773) 478-3949

VIA ELECTRONIC MAIL

December 21, 2020

Superintendent David O. Brown
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

Re: Urgent Recommendations on Search Warrant Policies

Dear Superintendent Brown:

As you know, pursuant to the Municipal Code of Chicago (MCC) §§ 2-56-030 and -230, the Public Safety section of the Office of Inspector General (OIG) is conducting an inquiry into the Chicago Police Department's (CPD) execution of search warrants, focusing on the accuracy of the addresses at which they are executed. OIG's letter of engagement signaling the launch of that inquiry is attached for your convenience.

While OIG's inquiry is a long-term one and remains ongoing, we have arrived at a number of preliminary findings and resulting recommendations which, based upon the nature of the subject matter and the events of recent days, OIG believes too urgent to hold until issuance of a final report.

I. PRELIMINARY FINDINGS

A. VERIFICATION AND CORROBORATION OF SEARCH WARRANT INFORMATION BY A CPD MEMBER

CPD's practices around obtaining and executing search warrants are governed by Special Order S04-19, "Search Warrants." S04-19 provides for three separate search warrant classifications, defined by the source of the information underlying CPD's seeking and obtaining the search warrant:

- John Doe search warrants, where the source of information wishes to remain anonymous throughout the course of obtaining the search warrant and has not received monetary or other compensation for cooperation;
- Unregistered Confidential Individuals, where the source of information has not received monetary or other compensation for cooperation and is not registered with CPD's Bureau of Organized Crime;¹ and
- Registered Confidential Individual [sic], where the source of information is eligible to receive monetary or other compensation for cooperation consistent with established Department policy and is registered with the Bureau of Organized Crime.

Of those three classifications, S04-19 requires that the specific underlying information “has been verified and corroborated by an independent investigation” by a CPD member *only* for John Doe search warrants. For warrants obtained based on information from an Unregistered Confidential Individual or Registered Confidential Individual, S04-19 requires only that the individual “has given repeated, documented, and verified information concerning *prior* criminal activity to a specific Department member or team.” (Emphasis added.)

Furthermore, S04-19 requires that the assigned unit supervisor of the rank of lieutenant or above responsible for reviewing a search warrant and accompanying complaint for approval will “determine whether the search warrant is substantiated by claims of prior use of the particular individual *or* clearly indicates that an investigation undertaken as a result of the information received validates the assertion of probable cause.” (Emphasis added.)

Pursuant to S04-19, therefore, CPD members are required to verify and corroborate by investigation the information underlying a search warrant only when relying upon a John Doe information, and not when relying upon an Unregistered Confidential Individual or a Registered Confidential Individual. This may permit the execution of search warrants which are premised on unverified, uncorroborated information.

B. MANDATED GENERATION OF A LOG NUMBER

As revised in January 2020, S04-19 requires that “if a member becomes aware the search warrant was executed at an address, unit, or apartment different from the location listed on the search warrant, that member will immediately notify the search team supervisor.” The search team supervisor is then required to ensure that a log

¹ S04-19, amended on January 3, 2020, refers to the Bureau of Organized Crime by name. Shortly after that date, however, CPD underwent a structural reorganization, and the Bureau of Organized Crime no longer exists as such. There has been no clarifying or correcting revision of S04-19.

number is generated, initiating an administrative investigation of the incident for the purpose of potential disciplinary action.

The mandate for generation of a log number does not extend to situations in which a CPD member becomes aware that, while a search warrant may have been executed at the located listed on the warrant, the underlying information leading to its execution at that location was inaccurate or in some way faulty.

When a log number is generated for purposes of an administrative investigation, it is assigned a category code, indicating the type of incident at issue. S04-19 does not specify which category code should be associated with log numbers arising out of search warrant executions, and a non-standardized approach compromises any ability to identify and analyze resulting investigations in order to detect trends and improve practices.

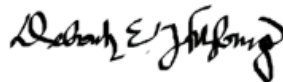
II. RECOMMENDATIONS

Based on these preliminary findings and the urgency of their being redressed, OIG recommends the following:

1. CPD should modify S04-19 to require that the information used to substantiate a search warrant is verified and corroborated by investigation by a CPD member, regardless of the source of that information, and that the investigation be reported and documented in the search warrant file.
2. CPD should modify S04-19 in order to expand mandated reporting and generation of a log number to those circumstances in which a CPD member becomes aware that the information used to substantiate a search warrant was inaccurate or in some way faulty, and to specify the incident category code with which log numbers arising out of search warrant executions are to be associated.

Please respond to these recommendations in writing by January 20, 2021. We look forward to CPD's response, which will be published in accordance with MCC § 2-56-250.

Sincerely,



Deborah Witzburg
Deputy Inspector General for Public Safety
Office of Inspector General

cc: Joseph M. Ferguson, Inspector General, OIG
Dana O'Malley, General Counsel, CPD

APPENDIX B: CPD'S RESPONSE



Lori E. Lightfoot
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

David O. Brown
Superintendent of Police

January 20, 2021

Deborah Witzburg
Deputy Inspector General for Public Safety
Office of Inspector General
740 North Sedgwick Street, Suite 200
Chicago, Illinois 60654

Re: Urgent Recommendations on Search Warrant Policies

Dear Ms. Witzburg:

I am happy to have this opportunity to address the initial recommendations offered by the Public Safety Section of the Office of Inspector General ("PSIG"). As you may be aware the Department is in the midst of a review of not only our order on obtaining and serving search warrants but also the training that officers receive prior to being involved in a residential search warrant. I have formed a Search Warrant Committee headed by the Chief of Patrol, Brian McDermott, and have instructed them to meet to conduct a top-down review of policy, training, resources and every aspect that touches on obtaining and serving a search warrant. This Committee is in its infancy but are poised to have its initial recommendations for policy changes later this month. The group will then continue to meet until I feel that this review is complete and the recommendations have been appropriately implemented. Although I anticipate providing your group with the draft policy upon completion as it is relevant to the ongoing inquiry into CPD's execution of search warrants, I will preview some of the proposed changes to the policy below as they relate to PSIG's initial recommendations.

First, the Department agrees with the PSIG's recommendation that S04-19 should be amended to require a CPD member investigate and verify the information used to substantiate a search warrant. The Department has looked to other jurisdictions such as Buffalo, Cleveland and Oklahoma City as well as internally to the SWAT Unit to review their checklists of materials an officer is required to gather and review to confirm information used to obtain a search warrant or to serve a search warrant. The Department is in the process of drafting a proposed checklist of information required to verify information. This checklist would include not only the list of required items to be verified but also require that supporting documentation be attached. The intention is that once this information is obtained it would then go with the complaint for search warrant to supervising officers for approval.

Second, although the Department agrees that S04-19 should be expanded to include additional mandated reporting and generation of a log number in certain situations, it is important to be specific about what those circumstances should be in order to ensure officers have the appropriate guidance and understanding of expectations as they will be held accountable under this order. In that vein, the Department intends to amend its order to expand the circumstances where officers are required to open a CR investigation. The amended order will require that an officer report and a log number be created in circumstances where an officer becomes aware that the warrant was obtained based on fraudulent information or in circumstances where an officer becomes

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E-mail: police@cityofchicago.org · Website: www.cityofchicago.org/police

aware that the verification process was not followed or falsified. This would be in addition to the current language of the order which requires a log number be generated "if a Department member becomes aware the search warrant was executed at an address, unit, or apartment different from the location listed on the search warrant".

Importantly the Department will engage with the community to listen to their concerns about the service of search warrants and to be more transparent into the changes we are making as an organization. As I have expressed repeatedly it is imperative that we, as a Department, work to regain the trust of the residents of Chicago. I look forward to sharing with you additional progress on this issue and I appreciate the work of your group to help the Department move forward.

I am happy to discuss this matter further if you desire.

Sincerely,


David O. Brown
Superintendent

MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

- administrative and criminal investigations by its Investigations Section;
- performance audits of City programs and operations by its Audit and Program Review Section;
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety Section; and
- compliance audit and monitoring of City hiring and human resources activities and issues of equity, inclusion and diversity by its Diversity, Equity, Inclusion, and Compliance Section.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for violations of laws and policies; to improve the efficiency, cost-effectiveness government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

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