



Audit Report

**USE OF EQUITABLE SHARING REVENUES
BY THE
ORANGE COUNTY, CALIFORNIA REGIONAL
NARCOTICS SUPPRESSION PROGRAM**

GR-90-00-007

November 1999

U.S. DEPARTMENT OF JUSTICE

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Office of the Inspector General
San Francisco Regional Audit Office
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San Bruno, California 94066

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EXECUTIVE SUMMARY

The United States Department of Justice (DOJ), Office of the Inspector General has completed an audit of the use of equitable sharing revenues by the Orange County, California, Regional Narcotics Suppression Program (RNSP). Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized in the course of certain criminal investigations.

We determined that the RNSP generally complied with Department of Justice guidelines. However, we found that:

- All expenses related to asset forfeiture funds are accumulated in one fund. Consequently, the individual expenses are not specifically identified to DOJ asset forfeiture receipts as required in the March 1994 Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies, page 29.
- The RNSP did not track expenditures of the DOJ asset forfeiture funds passed through to other law enforcement entities as required. As a result, we were unable to determine if the funds were properly used, and we question \$317,611 as unsupported.
- The use of DOJ asset forfeiture funds for the purchase of a Cessna 182 surveillance aircraft was not disclosed to the Criminal Division. The narrative descriptions of many of the flights in the flight log books were inadequate.
- On its FY 1998 Federal Annual Certification Report, the RNSP understated equitable sharing receipts by \$28,511.
- The RNSP did not have complete documentation for the transfer of five vehicles as part of its equitable share.

The audit results are discussed in the Findings and Recommendations section of this report. Our audit Scope and Methodology appear in Appendix I.

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INTRODUCTION

The United States Department of Justice (DOJ), Office of the Inspector General (OIG) has completed an audit of the use of equitable sharing revenues by the Orange County, California, Regional Narcotics Suppression Program (RNSP). The audit covered the period from July 1, 1997 through June 30, 1998, the RNSP's fiscal year (FY) 1998. During that period, the RNSP received DOJ equitably shared cash totaling \$1,329,998. The purpose of our audit was to determine if the RNSP complied with pertinent guidelines governing the use of equitably shared assets.

Background

The primary purpose of the DOJ Asset Forfeiture Program is to deter crime by depriving criminals of the profit and proceeds of their illegal activities. A secondary purpose of the program is to enhance cooperation among federal, state, and local law enforcement agencies by sharing federal forfeiture proceeds through the DOJ equitable sharing program. State and local law enforcement agencies may receive equitable sharing revenues by participating directly with DOJ agencies in joint investigations leading to the seizure or forfeiture of property. The amount shared with state and local law enforcement agencies in joint investigations is based on the degree of the agencies' direct participation in the case. The United States Department of the Treasury also administers a similar equitable sharing program based on seizures under the jurisdiction of the United States Customs Service. Our audit was limited to equitable sharing revenues received by the state or local law enforcement agency through the DOJ equitable sharing program.

Although several DOJ agencies are involved in various aspects of the seizure, forfeiture and disposition of equitable sharing revenues, the DOJ Criminal Division's Asset Forfeiture and Money Laundering Section is responsible for issuing policy statements, implementing governing legislation, and monitoring the use of DOJ equitable sharing funds. Generally, the use of equitable sharing revenues by state and local recipient agencies is limited to law enforcement purposes. However, under certain circumstances, up to 15 percent of equitable sharing revenues may be used for the costs associated with drug abuse treatment, drug and crime prevention education, housing and job skills programs, or other nonprofit community-based programs or activities.

FINDINGS AND RECOMMENDATIONS

Use of Equitable Sharing Revenues

All RNSP revenues and expenses related to asset forfeiture funds are accumulated in one fund. Revenues are identified by source. However, the individual expenses are not specifically identified to DOJ asset forfeiture receipts as required in the March 1994 Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies, page 29. The level of record keeping was adequate for us to review individual receipts and expenditures and determine if they were in compliance with guidelines.

During FY 1998, the RNSP expended \$3,176,615 of its equitable sharing revenues, including \$317,611 passed through to 26 other law enforcement agencies. We were told by Orange County Sheriff's Department (OCSD) and RNSP officials that they did not monitor pass-through monies and had no documentation supporting these expenditures. Because of the number of pass-through agencies, we examined the supporting documentation for the largest single pass-through agency which accounted for 17 percent of the FY 1998 pass-through money. We determined that the agency's expenses were unsupported and questioned the entire \$317,611 in FY 1998 pass-through monies as unsupported.

In response to the questioned costs, RNSP officials stated that they were unaware of the requirements for pass-through monies and would immediately begin the necessary steps to obtain the supporting documentation.

RNSP also used funds to purchase a Cessna 182 surveillance aircraft. However, the use of DOJ asset forfeiture funds for the purchase of a Cessna 182 surveillance aircraft was not disclosed to the DOJ Criminal Division. Our review determined that the narrative descriptions of many of the flights in the flight log books were inadequate. RNSP officials stated that narrative descriptions of all surveillance aircraft flights would henceforth be included in the flight log books. Documentation of such action was obtained, reviewed, and the corrective actions confirmed prior to the conclusion of the audit.

Equitable Sharing Receipts

Generally, equitable sharing revenues received by the RNSP were accounted for properly and deposited timely.

We reconciled the DOJ Comprehensive Asset Tracking System (CATS) listing for the 12 month period ending June 30, 1998, to supporting documentation including the RNSP listing of equitable sharing receipts for FY 1998. We determined the CATS listing

understated the RNSP FY 1998 receipts by \$115,848. The DOJ CATS report listed receipts of \$1,214,150 while the audited amount was \$1,329,998. Because of timing differences, the CATS report did not include all fiscal year 1998 RNSP receipts and did include substantial FY 1999 RNSP receipts. Additionally, two FY 1998 CATS entries were incorrectly understated by \$113,434 and two FY 1999 CATS entries were understated by \$59.

Reporting Requirements

The FY 1998, Federal Annual Certification Report was submitted by the RNSP timely. However, in its FY 1998 report, the RNSP understated equitable sharing currency receipts by \$28,511. The audited amount was \$1,329,998. The understatement was largely due to RNSP FY 1998 DOJ asset forfeiture receipts getting deposited into the incorrect asset forfeiture account. The RNSP official responsible for preparing the report concurred with our finding.

Our review of expenditures showed that RNSP had five vehicles that were obtained through asset forfeiture. The United States Marshals Service (USMS) did not complete a DAG-72 - Decision Form for Transfer of Federally Forfeited Property to recommend and approve sharing percentages for vehicular assets transferred to the RNSP. The RNSP should request a DAG-72 to ensure inclusion of the vehicles in the DOJ CATS.

Recommendations

We recommend that the Assistant Attorney General, Criminal Division:

1. Review the RNSP expense accounting to determine if it is acceptable.
2. Remedy the \$317,611 in questioned costs related to unsupported FY 1998 RNSP pass-through expenditures.
3. Ensure that the RNSP accurately reports equitable sharing receipts on its Annual Certification Reports.
4. Ensure that the RNSP has a DAG-72 for all vehicles obtained through asset forfeiture.

VIEWS OF RESPONSIBLE OFFICIALS

Use of Equitable Sharing Revenues

In response to the \$317,611 in questioned costs related to unsupported asset forfeiture funds passed through to other law enforcement entities, RNSP officials stated that they were unaware of the requirements for pass-through monies and would immediately begin the necessary steps to obtain the supporting documentation.

OCSD and RNSP officials acknowledged the accumulation of expenses in one fund and are considering ways to comply with the requirement to identify expenses by source of funds.

Equitable Sharing Receipts

There were no audit findings.

Reporting Requirements

The RNSP official responsible for preparing the report concurred with our finding related to the understatement of currency receipts and agreed to ensure the accuracy of future reports. OCSD financial personnel generated amended accounting entries that corrected the location of the misdirected DOJ asset forfeiture deposits. Supporting documentation was obtained, reviewed, and the corrective actions were confirmed.

SCOPE AND METHODOLOGY

We conducted our audit in accordance with Government Auditing Standards and included such tests as were considered necessary to accomplish our objectives. Our audit covered the period of July 1, 1997 through June 30, 1998.

In conducting our audit, we relied on computer-processed data contained in the DOJ CATS for the purpose of determining equitable shares received by the RNSP. We did not establish the reliability of data contained in the CATS system as a whole; however, when the data used is viewed in context with other available evidence, we believe the opinions, conclusions and recommendations in this report are valid.

We performed audit work at several facilities including the OCSD and RNSP headquarters located in Santa Ana, California. To accomplish the objectives of the audit, we: (1) interviewed OCSD, RNSP, and Orange County officials; and (2) examined, on a test basis, revenues, interest earned, and expenditures of DOJ equitable sharing funds received by the RNSP. In addition, we reviewed laws, regulations and guidelines governing the accounting for and use of DOJ equitable sharing funds, which included the following three major guidelines issued by DOJ:

- *Accounting for Federal Asset Forfeiture Funds, A Guide for State and Local Law Enforcement Agencies*, dated July 1991;
- *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies*, dated March 1994; and
- *Addendum to A Guide to Equitable Sharing*, dated March 1998.

We did not test internal controls and compliance with laws and regulations for the California OCSD and RNSP as a whole. The OCSD and RNSP are units of the Orange County, California government and were included in a county-wide audit conducted by the county's independent auditor. The results of this audit were reported in the Single Audit Report that accompanied the Comprehensive Annual Financial Report for the fiscal year ended June 30, 1998. The Single Audit Report was prepared under the provisions of Office of Management and Budget Circular A-133. We relied upon the independent auditor's assessment, which disclosed no material weaknesses related to equitable sharing receipts. However, the 1997-98 list of Federal Financial Assistance for the OCSD did not include asset forfeiture funds received from the Department of Justice or the Department of Treasury as required. OCSD officials acknowledged the deficiency and said it will be corrected. OCSD officials said all asset forfeiture funds will be included in the FY 1999 schedule of Federal Financial Assistance.

SCHEDULE OF DOLLAR-RELATED FINDINGS

	AMOUNT	PAGE
QUESTIONED COSTS		
Unsupported Pass-Through Monies	\$317,611	2

***QUESTIONED COSTS** are defined as expenses that do not comply with law or other official requirements, or are unsupported by adequate documentation, or are unnecessary or unreasonable for the intended purpose. They can be recoverable or non-recoverable.*