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U.S. Department of Justice



Audit of the Henry County Sheriff's Office's Equitable Sharing Program Activities New Castle, Indiana

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**AUDIT OF THE
HENRY COUNTY SHERIFF'S OFFICE'S
EQUITABLE SHARING PROGRAM ACTIVITIES
NEW CASTLE, INDIANA**

EXECUTIVE SUMMARY*

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) Audit Division has completed an audit on the use of DOJ equitable sharing revenues by the Henry County Sheriff's Office located in New Castle, Indiana. Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized in the course of certain criminal investigations. As of January 1, 2014, the Henry County Sheriff's Office reported a beginning balance of \$517,659 in DOJ equitable sharing funds on hand. During the period of January 1, 2014, through December 31, 2015, the Henry County Sheriff's Office received a total of \$404,740 in DOJ equitable sharing revenues to support law enforcement operations. During the same period, the Henry County Sheriff's Office reported expenditures of \$802,206 in equitable sharing funds, including funds transferred to other local law enforcement agencies. The majority of the equitable sharing funds received and expended by the Henry County Sheriff's Office were associated with the Pro-Active Criminal Enforcement (PACE) team, a local highway drug interdiction task force comprised of the following four law enforcement agencies in the state of Indiana: Henry County Sheriff's Office, Hancock County Sheriff's Office, Greenfield Police Department, and Richmond Police Department.

The objective of the audit was to assess whether the Henry County Sheriff's Office accounted for equitable sharing funds properly and used such revenues for allowable purposes as defined by the applicable regulations and guidelines. Our audit examined activities occurring between January 1, 2014, and December 31, 2015. We found that the Henry County Sheriff's Office did not fully comply with the 2009 Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide) with respect to accounting for equitable sharing receipts and the allowable use of equitable sharing funds. Specifically:

- The Henry County Sheriff's Office did not have sufficient internal controls and formal policies and procedures to govern the accounting and use of the DOJ equitable sharing funds received.
- The Henry County Sheriff's Office did not separately account for its DOJ equitable sharing activities in the official accounting records, as specifically required by the Guide.
- Although the DOJ equitable sharing revenues were deposited into an interest-bearing bank account, the Henry County Sheriff's Office did not

* Redactions were made to the full version of this report for privacy reasons. The redactions are contained only in Appendix 3, the auditees' responses, and are of individuals' names.

compute the interest income earned on the funds received and did not ensure that the interest income was handled in accordance with the Guide.

- As of October 2016, Henry County had not submitted its fiscal year (FY) 2014 or FY 2015 Single Audit Report and failed to include its DOJ equitable sharing activities in its FY 2013 Single Audit Report.
- The Henry County Sheriff's Office purchased items for the other law enforcement agencies participating on the PACE Team, which is impermissible according to interim guidance issued in July 2014. Therefore, we questioned expenditures totaling \$145,545.
- The Henry County Sheriff's Office used DOJ equitable sharing funds to pay the higher salary and fringe benefit costs of the officer assigned to the PACE team rather than the lesser salary and fringe benefit costs of the officer hired to backfill the task force officer's regular position, as required by the Guide. As a result, we questioned the difference of \$40,875 in personnel costs as unallowable.
- The Henry County Sheriff's Office submitted its FY 2014 and FY 2015 annual certification reports in an incomplete, inaccurate, and untimely manner.

In addition to examining the Henry County Sheriff's Office's administration of DOJ equitable sharing funds, we reviewed the DOJ equitable sharing funds that were transferred by the Henry County Sheriff's Office to the other local law enforcement agencies participating on the PACE team. Of the \$802,206 in total reported expenditures, the Henry County Sheriff's Office transferred \$378,720 to other local law enforcement agencies. According to the Guide, the recipients of transferred funds must use the funds for allowable purposes. We identified that a portion of these transferred funds were used for unallowable purposes. Specifically:

- The Hancock County Sheriff's Office used the transferred funds to pay a stipend to its PACE team officer over and above the individual's regular salary. Therefore, we questioned \$5,200 as unallowable.
- The Richmond Police Department used the transferred funds to pay the salary and fringe benefit costs of an officer assigned to the PACE team without backfilling that officer's position. Therefore, we questioned \$121,432 in salary and fringe benefit costs as unallowable.

Our report identifies a total of \$313,052 in dollar-related findings and contains 12 recommendations that address the weaknesses we identified. We discuss our findings in detail in the Findings and Recommendations section of the report. The audit objective, scope, and methodology are included in Appendix 1. In addition, we requested a response to our draft report from the Henry County Sheriff's Office, Hancock County Sheriff's Office, Richmond Police Department, and Greenfield Police Department, and the responses we received are appended to this report as Appendix 3. We also requested and obtained a response from DOJ's Criminal Division, which is included in Appendix 4. Our analysis of these responses,

as well as a summary of actions necessary to close the recommendations, can be found in Appendix 5 of this report.

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AUDIT OF THE HENRY COUNTY SHERIFF'S OFFICE'S EQUITABLE SHARING PROGRAM ACTIVITIES NEW CASTLE, INDIANA

INTRODUCTION

The Department of Justice (DOJ) Office of the Inspector General (OIG) Audit Division conducted an audit on the use of DOJ equitable sharing funds by the Henry County Sheriff's Office located in New Castle, Indiana. The audit covered the Henry County Sheriff's Office's participation in the DOJ Equitable Sharing Program during fiscal years (FY) 2014 and 2015.¹ As of January 1, 2014, the Henry County Sheriff's Office reported a beginning balance of \$517,659 in DOJ equitable sharing funds on hand. Between January 1, 2014, and December 31, 2015, the Henry County Sheriff's Office received a total of \$404,740 in equitable sharing revenues and reported total expenditures of \$802,206 in equitable sharing funds.² The majority of the equitable sharing funds received and expended by the Henry County Sheriff's Office were associated with the Pro-Active Criminal Enforcement (PACE) team, a local highway drug interdiction task force comprised of the Henry County Sheriff's Office, Hancock County Sheriff's Office, Greenfield Police Department, and Richmond Police Department.

DOJ Equitable Sharing Program

Because asset forfeiture deprives criminals of the profits and proceeds derived from their illegal activities, it is considered by DOJ to be one of the most powerful tools available to law enforcement agencies. A key element of DOJ's asset forfeiture initiative is the equitable sharing program where the Department and its components share a portion of federally forfeited cash, property, and proceeds with state and local law enforcement agencies.³

State and local law enforcement agencies receive equitable sharing funds by participating jointly with DOJ agencies on investigations that lead to the seizure and forfeiture of property. Once an investigation is completed and the seized assets are forfeited, the assisting state and local law enforcement agencies can request a share of the forfeited assets or a percentage of the proceeds derived from the sale of forfeited assets. Generally, the degree of a state or local agency's direct participation in an investigation determines the amount or percentage of funds shared with the agency.

¹ The Henry County Sheriff's Office's fiscal year begins on January 1 and ends on December 31.

² The total reported expenditures include \$378,720 that was transferred to other local law enforcement agencies.

³ The U.S. Department of the Treasury and the U.S. Department of Homeland Security also administer federal asset forfeiture programs.

Three DOJ components work together to administer the equitable sharing program: (1) the U.S. Marshals Service (USMS), (2) the Justice Management Division, and (3) the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS). These three components are responsible for issuing policy statements, implementing governing legislation, and monitoring the use of DOJ equitable sharing funds. The USMS is responsible for transferring asset forfeiture funds from DOJ to the receiving state or local agency. The Justice Management Division manages the Consolidated Asset Tracking System (CATS), a database used to track federally seized assets throughout the forfeiture life cycle. Finally, AFMLS tracks membership of state and local participants, updates the equitable sharing program rules and policies, and monitors the allocation and use of equitable sharing funds.

Before requesting a share of the seized assets, a state or local law enforcement agency must first become a member of the DOJ Equitable Sharing Program. To participate in the program, agencies sign and submit to DOJ an equitable sharing agreement and certification form. The agreement must be renewed annually, and by signing and submitting the agreement, the officials of participating agencies certify that they will use equitable sharing funds for law enforcement purposes.

Henry County Sheriff's Office

Henry County is located in east central Indiana – approximately 50 miles east of Indianapolis, Indiana. According to the 2010 census, Henry County's population was 49,462. The Henry County Sheriff's Office is located in New Castle, Indiana, the county seat. As of April 2016, the Henry County Sheriff's Office was comprised of 62 employees.

In 2009, the Henry County Sheriff's Office, along with three other local law enforcement agencies in Indiana, formed the PACE team to use highway interdiction strategies to combat drug trafficking enterprises and other criminal enterprises traveling through these jurisdictions. During FY 2014 and FY 2015, the PACE team was comprised of one sworn law enforcement officer each from the Henry County Sheriff's Office, Greenfield Police Department, Hancock County Sheriff's Office, and Richmond Police Department. The majority of the DOJ equitable sharing funds administered by the Henry County Sheriff's Office were associated with the efforts of the PACE team.

OIG Audit Approach

Our audit examined the Henry County Sheriff's Office's equitable sharing activities occurring between January 1, 2014, and December 31, 2015. We tested compliance with what we considered the most important conditions of the DOJ Equitable Sharing Program. Unless otherwise stated, we applied the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide), issued by AFMLS in April 2009, and the interim guidance on the permissible use of

funds, issued by AFMLS in July 2014, as our primary criteria. The Guide and interim guidance identify the accounting procedures and requirements for tracking equitably shared monies and tangible property, establishes reporting and audit requirements, and defines the permissible uses of equitably shared resources.

To conduct the audit, we tested the Henry County Sheriff's Office's compliance with the following aspects of the DOJ Equitable Sharing Program:

- **Accounting for equitably shared resources** to determine whether standard accounting procedures were used to track equitable sharing assets.
- **Compliance with audit requirements** to ensure the accuracy, consistency, and uniformity of audited equitable sharing data.
- **Use of equitably shared resources** to determine if equitable sharing funds were spent for permissible uses.
- **Federal Equitable Sharing Agreement and Annual Certification Reports** to determine if these documents were complete, accurate, and timely submitted.
- **Monitoring of applications for transfer of federally forfeited property** to ensure adequate controls were established.

See Appendix 1 for more information on our objective, scope, and methodology.

FINDINGS AND RECOMMENDATIONS

We determined that the Henry County Sheriff's Office did not fully comply with the requirements of the DOJ Equitable Sharing Program. For example, we found that the Henry County Sheriff's Office did not have any established policies and procedures for administering its equitable sharing program. Additionally, the Henry County Sheriff's Office did not use a separate accounting code for recording its DOJ equitable sharing activities nor did it compute the amount of interest earned on its DOJ equitable sharing revenues and ensure that interest was handled in accordance with program guidelines. Further, we identified \$313,052 in questioned costs, consisting of \$145,545 in unallowable purchases for other law enforcement agencies, \$40,875 in unallowable salary and fringe benefit costs that were in excess of the Henry County Sheriff's Office's replacement officer's personnel costs, and \$126,632 in unallowable salary and fringe benefit costs of other local law enforcement agencies to which the Henry County Sheriff's Office transferred funds.

Accounting for Equitably Shared Resources

According to guidance issued by AFMLS, participating agencies must implement a number of bookkeeping procedures and internal controls to track DOJ equitably shared monies and tangible property. For instance, the participating agency must establish a separate revenue account or accounting code for the proceeds from the DOJ Equitable Sharing Program. Similarly, the participating agency must not commingle DOJ equitable sharing funds with funds from any other source. The Guide also states that the participating agency must deposit any interest income earned on equitably shared funds in the same revenue account or under the accounting code established solely for the shared funds. We found that the Henry County Sheriff's Office did not fully comply with these requirements, as detailed below.

Internal Control Environment

We requested any policies or procedures used for the administration of equitable sharing funds, including internal controls. However, the Henry County Sheriff's Office told us that it did not have any formal, written policies. Instead, the Henry County Sheriff's Office stated that it relies upon the Henry County Auditor's Office's accounting and internal control policies. According to the Henry County Auditor's Office, it uses the Indiana State Board of Accounts' Accounting and Financial Reporting Regulations Manual as its accounting and internal control policies and procedures, including for the administration of equitable sharing funds. We reviewed this manual and found that it defines financial reporting requirements and the general internal control environment, including suggested policies and procedures that could be used to implement a sound internal control system. However, this manual did not articulate specific accounting and internal control procedures for Henry County, including the Henry County Sheriff's Office, such as

defining the roles and responsibilities of the various departments within Henry County for the purchase of equipment. In addition, the FY 2012 and FY 2013 Single Audit Reports identified the lack of internal controls over major programs as a material weakness, which is discussed in the Compliance with Audit Requirements section of the report.

As discussed throughout this report, the Henry County Sheriff's Office failed to comply with the Guide on various aspects of the Equitable Sharing Program. Therefore, we recommend that the Henry County Sheriff's Office, in coordination with Henry County, establish formal, written procedures for the administration of DOJ equitable sharing funds.

Commingling of Equitable Sharing Funds and Interest Earned

During FY 2014 and FY 2015, the Henry County Sheriff's Office received DOJ equitable sharing revenues totaling \$404,740 to support law enforcement operations. We confirmed that the Henry County Sheriff's Office received all cash receipts from AFMLS via electronic funds transfer (EFT) from the USMS's E-share program, and that all deposits were timely.⁴

According to the Guide, participating agencies are required to establish a separate revenue account or accounting code through the agency's finance department for the proceeds from the DOJ Equitable Sharing Program. The Henry County Sheriff's Office did not establish a separate revenue account for the receipt of DOJ equitable sharing funds. Instead, it deposited the funds into the county's general bank account. In addition, until February 2015, the Henry County Sheriff's Office used one accounting code for all forfeiture activities – both state and federal. In February 2015, the Henry County Auditor's Office established a separate accounting code for federal forfeiture activities. However, based upon our review of the FY 2015 ledger, we identified a few transactions unrelated to DOJ equitable sharing activities that were recorded after February 2015. Therefore, despite the establishment of a separate accounting code, the Henry County Sheriff's Office continued to not comply with the DOJ Equitable Sharing Program guidelines throughout our review period because it commingled DOJ equitable sharing funds with other sources. Therefore, we recommend that the Henry County Sheriff's Office, in conjunction with the Henry County Auditor's Office, ensure that only DOJ equitable sharing activities are reflected in the accounting code designated for such activities.

During our review of the Henry County Sheriff's Office equitable sharing receipts, we noted that Henry County's general bank account, which is where the equitable sharing funds were deposited, is an interest-bearing bank account. However, the Henry County Sheriff's Office indicated on its annual Equitable Sharing Agreement and Certification reports that the funds were deposited in a

⁴ E-share notification is the process of electronic payment from the USMS. Participation in the process is mandatory.

non-interest bearing account and did not report any interest income. Moreover, although Henry County earned interest income, it did not apportion the amount of interest income earned on the DOJ equitable sharing funds to the Henry County Sheriff's Office. The Guide requires that participating agencies deposit any interest income earned on equitably shared funds in the same revenue account or under the accounting code established solely for the shared funds. Therefore, we recommend that the Henry County Sheriff's Office compute the amount of interest income earned on the DOJ equitable sharing funds received to-date and ensure that amount is allocated to the Henry County Sheriff's Office's accounting code for DOJ equitable sharing activities and used in accordance with the Guide. In addition, the Henry County Sheriff's Office should establish a process for computing, on a monthly basis, future interest income earned on the DOJ equitable sharing funds and ensuring the monthly amount is allocated for use in accordance with the Guide.

Compliance with Audit Requirements

The Guide requires the Henry County Sheriff's Office to comply with audit requirements of the Single Audit Act and Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (OMB Circular A-133). OMB Circular A-133 requires non-federal entities to have a single audit performed if they have expended \$500,000 or more in federal funds in a given year.⁵ The Single Audit Report is required to include a Schedule of Expenditures of Federal Awards for the period covered by the auditee's financial statements. In addition, an entity must submit its Single Audit Report no later than 9 months after the end of the fiscal year covered by the audit.

During our audit, we identified deficiencies in Henry County's compliance with Single Audit requirements. The most recent complete audit cycle covered by our review was Henry County's 2014 fiscal year, which ran from January through December 2014. Henry County's FY 2014 report was due in February 2016, and the FY 2015 report was due in September 2016.⁶ However, as of October 2016, Henry County had not submitted its FY 2014 and FY 2015 Single Audit Reports. The Indiana State Board of Accounts, which performs the single audits for all county governments in Indiana, told us that it is behind schedule and plans to complete the FY 2014 and FY 2015 Single Audit Reports simultaneously.

⁵ OMB Circular A-133 has been superseded by 2 C.F.R. 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance). The single audit report activities reported here were conducted under the now obsolete OMB Circular A-133. The new guidance increased the expenditure threshold from \$500,000 to \$750,000 for fiscal years beginning on or after December 2014. This increased threshold was in effect for Henry County's 2015 fiscal year.

⁶ Although OMB Circular A-133 stipulates that Single Audit Reports are to be submitted no later than 9 months after the end of an entity's fiscal year end, a service disruption in the web-based electronic submission process between July 22, 2015, and January 31, 2016, resulted in all due dates during that time being extended until February 1, 2016.

Because the FY 2014 Single Audit Report was not available, we reviewed the FY 2013 Single Audit Report. The FY 2013 Single Audit reported a material weakness in Henry County's internal control system related to the preparation of the Schedule of Expenditures of Federal Awards, which was a repeat finding of the FY 2012 Single Audit. In reviewing the Schedule of Expenditures of Federal Awards, we noted that it did not reflect expenditures associated with DOJ equitable sharing receipts. However, according to the FY 2013 Equitable Sharing Agreement and Certification Report, the Henry County Sheriff's Office spent over \$300,000 in DOJ equitable sharing funds. In response to the finding, the Henry County Auditor's Office stated that Henry County was working to implement a proper internal control system to ensure the accurate reporting of federal awards on the Schedule of Expenditures of Federal Awards. In addition, an official from the Henry County Auditor's Office told us that the DOJ equitable sharing expenditures were not reported on the Schedule of Expenditures of Federal Awards because the Henry County Auditor's Office was uncertain how to handle these funds. This official said that with a grant, it receives an award letter that indicates the grant period and budget, which it, in turn, reports on the schedule. This official stated that because these were funds collected from forfeitures, there was no similar information received, and the Henry County Auditor's Office decided not to report this activity on the schedule. Further, this official said that the Henry County Auditor's Office discussed the FY 2013 Single Audit Report finding with the Indiana State Board of Accounts, and the Indiana State Board of Accounts informed the Henry County Auditor's Office that it should include federal forfeiture activity on the Schedule of Expenditures of Federal Awards. This official stated that as a result, the Henry County Auditor's Office began reporting this activity on the relevant schedule in FY 2014. Because the FY 2014 Single Audit Report had not been completed, we were unable to confirm whether this information was included.

We recommend that Henry County develop procedures to ensure it submits future Single Audit Reports within the required timeframes and accurately reports federal expenditures on the Schedule of Expenditures of Federal Awards. In addition, we recommend that the Criminal Division ensure that Henry County submits its FY 2014 and FY 2015 Single Audit Reports, and that the Schedule of Expenditures of Federal Awards accurately reflects DOJ equitable sharing activities.

Use of Equitably Shared Resources

The Guide requires that equitable sharing funds received by state and local agencies be used for law enforcement purposes, and that these agencies use the funds prudently to avoid any appearance of extravagance, waste, or impropriety. For FY 2014 and FY 2015, the Henry County Sheriff's Office reported total expenditures of \$802,206. Of the total \$802,206, the Henry County Sheriff's Office used \$242,235 to pay for non-personnel items, such as vehicles, radio equipment, and canine supplies, as well as \$181,251 for personnel-related costs. The Henry County Sheriff's Office transferred the remaining \$378,720 to other law enforcement agencies participating on the PACE team. To determine whether these expenditures were supported and allowable under the equitable sharing guidelines, we reviewed a judgmental sample of the Henry County Sheriff's Office's

non-personnel and personnel transactions, as well as the funds transferred to other agencies.

Henry County Sheriff's Office Non-Personnel Expenditures

We selected a judgmental sample of 27 non-personnel expenditures totaling \$221,890. Our sample included the purchase of vehicles, radios, and canine supplies; training tuition; cell phone services; and outlays associated with undercover activities such as buy money. In general, we determined that the transactions were properly authorized, supported, and used for law enforcement purposes. However, we found that a significant number of the expenditures were for the purchase of items such as vehicles and radio equipment that were, in turn, given to the Greenfield Police Department, Hancock County Sheriff's Office, and Richmond Police Department. According to interim guidance AFMLS issued on July 30, 2014, shared funds may not be used to purchase equipment or other permissible items for other law enforcement agencies. As a result, the Henry County Sheriff's Office did not comply with this requirement. Because this occurred throughout our original sample of 27 transactions, we expanded our sample to look at all expenditures associated with the PACE team that occurred between July 30, 2014, and December 31, 2015, which equated to an overall sample of 75 transactions totaling \$233,005. Based upon our review, we determined that between July 30, 2014, and December 31, 2015, the Henry County Sheriff's Office spent a total of \$145,545 to purchase items for the other participating agencies. As a result, we are questioning the \$145,545 in expenditures for other law enforcement agencies as unallowable.

Henry County Sheriff's Office Personnel Expenditures

The Henry County Sheriff's Office used DOJ equitable sharing funds to pay salary and fringe benefit costs. According to the Guide, using equitable sharing funds to pay salary costs is generally impermissible, but there are a few exceptions. One of those exceptions is that funds can be used to pay the salary of an officer hired to backfill the position of an officer assigned to a task force. We found that the Henry County Sheriff's Office hired a deputy to replace its deputy assigned to the PACE team. However, the Henry County Sheriff's Office used DOJ equitable sharing funds to pay the salary and fringe benefit costs of the deputy assigned to the PACE team, and we determined that those costs exceeded those of the replacement deputy's. Specifically, the salary and fringe benefit costs, excluding overtime, of the deputy assigned to the PACE team and paid for with DOJ equitable sharing funds during FY 2014 and FY 2015 totaled \$178,328.⁷ The replacement deputy's salary and fringe benefit costs, excluding overtime, for FY 2014 and

⁷ The Henry County Sheriff's Office also used \$2,923 in DOJ equitable sharing funds to pay overtime costs of the PACE team officer. According to the Guide, using DOJ equitable sharing funds to pay sworn officer overtime costs is permissible. Therefore, we did not question these personnel costs.

FY 2015 were \$137,454. As a result, we are questioning the difference between the two deputies' personnel costs, or \$40,875, as unallowable.⁸

Transferred Funds

During FY 2014 and FY 2015, the Henry County Sheriff's Office transferred \$378,720 in DOJ equitable sharing funds to the other participating agencies on the PACE team, as reflected in Table 1.⁹ According to the Guide, cash transfers from one state or local law enforcement agency to another are permitted, and the receiving agency must use the funds in accordance with the Guide's permissible use provisions.

Table 1
Summary of Transferred Funds

Fiscal Year	Greenfield Police Department	Hancock County Sheriff's Office	Richmond Police Department	Total
FY 2014	\$77,442	\$65,786	\$85,664	\$228,892
FY 2015	\$39,736	\$69,293	\$40,799	\$149,828
Total	\$117,178	\$135,079	\$126,463	\$378,720

Source: Henry County Sheriff's Office accounting records

To ensure these transferred funds were used in accordance with the Guide, we selected a judgmental sample of expenditures and reviewed supporting documentation at each of the participating agencies.

Greenfield Police Department – The Greenfield Police Department did not have a separate accounting code for tracking the transferred funds. Instead, transactions associated with the transferred funds were recorded under an accounting code dedicated to the PACE team that was used for expenditures made with locally appropriated funds, as well as with the DOJ equitable sharing funds received from the Henry County Sheriff's Office. The total amount expended within this account for FY 2014 and FY 2015 exceeded the amount of transferred funds received. Although we were unable to identify transactions specifically tied to the funds transferred from Henry County, we judgmentally selected 10 transactions totaling \$115,840 and found that each transaction was properly authorized, supported, and in accordance with the Guide's permissible use provisions.

Hancock County Sheriff's Office – The Hancock County Sheriff's Office had a separate accounting code for tracking its DOJ Equitable Sharing Program activities,

⁸ The \$40,875 is greater than the difference of the individual amounts shown in the preceding sentences due to rounding.

⁹ According to its FY 2014 and FY 2015 certification reports, the Richmond Police Department received equitable sharing funds directly from DOJ. Similarly, the Hancock County Sheriff's Office's FY 2015 certification report stated that it received equitable sharing funds directly from DOJ. The Greenfield Police Department's FY 2014 and FY 2015 certification reports did not indicate the receipt of any direct equitable sharing funds. We did not review the DOJ equitable sharing funds directly received by these other agencies.

including the transferred funds. According to its general ledger for FY 2014 and FY 2015, the Hancock County Sheriff's Office used the transferred funds to pay for personnel costs, as well as for equipment and other law enforcement items, such as tasers, a drug analysis system, and a canine. As previously mentioned, the Guide states the use of funds for personnel costs is generally impermissible, but one exception is to use the funds to pay the salary of an officer hired to replace an officer assigned to a task force. Based upon the documentation provided, we confirmed that the Hancock County Sheriff's Office hired an officer to replace the officer assigned to the PACE team, and that the Hancock County Sheriff's Office used \$91,562 of the transferred funds to pay the personnel costs of the replacement officer, which were properly authorized and supported. However, the Hancock County Sheriff's Office expended \$5,200 of the transferred funds (\$2,600 in FY 2014 and \$2,600 in FY 2015) to pay a stipend over and above the individual's regular salary to the officer assigned to the PACE team for his role as the PACE team coordinator. Therefore, we question the \$5,200 stipend as unallowable. In addition to the personnel costs, we judgmentally selected 5 non-personnel expenditures totaling \$39,181. We found that each of these transactions was properly authorized, supported, and in accordance with the Guide's permissible use provisions.

Richmond Police Department – The Richmond Police Department did not have a separate accounting code for tracking DOJ Equitable Sharing Program activities. According to the Police Chief, the \$125,819 in transferred funds were used to pay the salary and fringe benefit costs, including \$4,387 in overtime costs, of the officer assigned to the PACE team. We determined that the overtime costs were properly authorized, supported, and in accordance with the Guide's permissible use provisions. However, the Police Chief told us that the Richmond Police Department did not hire an officer to replace the officer assigned to the PACE team. Therefore, we are questioning the remaining \$121,432 in salary and fringe benefit costs as unallowable because the Richmond Police Department failed to comply with the Guide's requirements relating to the use of equitable sharing funds for salary expenditures.

Historical Expenditures

We believe that the financial non-compliance issues discussed above are systemic and likely occurred prior to FY 2014. Although not within the time period under review in our audit, we received and reviewed the Federal Equitable Sharing Agreement and Annual Certification Reports for FYs 2012 and 2013. According to those reports, the Henry County Sheriff's Office used DOJ equitable sharing funds to pay for personnel costs, as well as transferred funds to the other local agencies participating on the PACE team in those years. Therefore, we believe that the Criminal Division should determine the feasibility of reviewing the expenditures associated with the DOJ equitable sharing funds distributed to the Henry County Sheriff's Office prior to FY 2014 to determine if these funds, including those transferred to other local law enforcement agencies, were used in compliance with the Guide. If the Criminal Division chooses to conduct such a review, the Criminal Division should take appropriate actions based upon the results of that review.

Supplanting

According to the Guide, equitable sharing funds must be used to increase or supplement the resources of the receiving state or local law enforcement agency or any other recipient agency.

To identify indicators of supplanting, we examined the Henry County Sheriff's Office's total budgets for 4 fiscal years (FY 2013 through FY 2016). We found that the Henry County Sheriff's Office's budget decreased from FY 2013 to FY 2014 and again from FY 2015 to FY 2016. However, we found these decreases to be consistent with the decreases in Henry County's overall budget during these same time periods. Based upon discussions with officials from the Henry County Auditor's Office and Sheriff's Office, the budgets of all departments in Henry County were cut as part of a statewide mandate to reduce county budgets annually by 2.5 percent. We found no evidence to indicate that the Henry County Sheriff's Office used equitable sharing funds to supplant its local resources during the scope of our audit.

Federal Equitable Sharing Agreement and Annual Certification Reports

The Guide requires any state or local law enforcement agency that receives forfeited cash, property, or proceeds to submit an annual certification report. The submission of this form is a prerequisite to the approval of any equitable sharing request. The certification report must be submitted every year within 60 days after the end of the agency's fiscal year regardless of whether funds were received or maintained during the fiscal year. In addition, the head of the law enforcement agency and a designated official of the local governing body must sign the certification report. By signing the form, the signatories agree to be bound by the statutes and guidelines that regulate the equitable sharing program and certify that the law enforcement agency will comply with these guidelines and statutes.

We reviewed the Henry County Sheriff's Office's FY 2014 and FY 2015 certification reports and found that the appropriate officials signed the reports. In addition, we reviewed the reports to determine if they were submitted within the required 60-day window. We found that the Henry County Sheriff's Office did not submit its FY 2014 and FY 2015 certification reports within the required 60-day window. The FY 2014 certification report was submitted 5 days late, and the FY 2015 report was submitted 15 days late.

We also reviewed the annual certification reports for accuracy and completeness. As mentioned in the Accounting for Equitably Shared Resources section of this report, the report submitted by the Henry County Sheriff's Office did not reflect the interest income earned on the DOJ equitable sharing funds. Further, we found that the amount distributed for each fiscal year per the CATS report did not agree with the total amount of equitable sharing funds received per the individual certification reports for FY 2014 and FY 2015. According to the USMS, there was a timing error of when two transactions were posted to CATS. As a result, the FY 2014 certification report overstated the equitable sharing funds

received, while the FY 2015 certification report understated the equitable sharing funds received.

In addition, we assessed the accuracy of the forms for the figures reported as funds transferred by the Henry County Sheriff's Office to the other three agencies for FY 2014 and FY 2015. We determined that the Henry County Sheriff's Office's initial FY 2014 certification report did not accurately reflect the amount of funds transferred to the Greenfield Police Department and the Richmond Police Department per the Henry County Sheriff's Office's accounting records. During fieldwork, we discussed these inaccuracies with the Henry County Sheriff's Office, and it submitted an amended FY 2014 certification report that accurately reflected the amounts transferred to these agencies. However, we noted that the Henry County Sheriff's Office's amended FY 2014 certification report inaccurately indicated funds were transferred to a particular agency when the funds were actually transferred to a different agency.

Finally, we compared the total expenditures per the Henry County Sheriff's Office's FY 2014 and FY 2015 certification reports to the amounts reflected in its accounting records. While we found that the total expenditures on the FY 2014 certification report were consistent with the accounting records, the total expenditures reported on the FY 2015 report did not reconcile to the accounting records. The total expenditures per the FY 2015 certification report were \$302,226. In contrast, the total expenditures per the accounting records were \$302,853.

As mentioned previously, the Henry County Sheriff's Office did not have any written procedures for administering its DOJ equitable sharing activities, including the completion and submission of the annual certification reports. We believe that establishing such procedures could assist in ensuring future reports are submitted in a complete and accurate manner, as well as within the required timeframe. Therefore, we recommend that the Henry County Sheriff's Office develop written procedures to ensure that it prepares accurate certification reports that are submitted within the 60-day requirement. In addition, the Henry County Sheriff's Office should submit amended certification reports that accurately show the total receipts in FY 2014 and FY 2015, the total expenditures in FY 2015, and the correct agency names to which funds were transferred in FY 2014.

Monitoring of Applications for Transfer of Federally Forfeited Property

An agency must complete a Form DAG-71 when requesting its portion of equitable sharing funds.¹⁰ According to the Guide, all participating agencies should maintain a DAG-71 log of all sharing requests that consecutively numbers the requests. In addition, the Guide requires that the DAG-71 log be updated when an E-share notification is received. These DAG-71 log requirements were effective during a portion of the time period covered by our audit. However, in July 2015

¹⁰ The Form DAG-71, Application for Transfer of Federally Forfeited Property (DAG-71), is the DOJ form submitted by a state or local agency to the federal seizing agency to request a share of seized assets.

AFMLS advised state and local law enforcement agencies that they no longer needed to maintain a DAG-71 log.

During our fieldwork, we found that the Henry County Sheriff's Office maintained copies of all submitted DAG-71s. However, the Henry County Sheriff's Office did not maintain a consecutively numbered log of its DAG-71s, which contained all required elements. As mentioned, as of July 2015, state and local law enforcement agencies are no longer required to maintain a DAG-71 log. As a result, we make no recommendations in this area.

Views of Responsible Officials

Throughout the audit and at formal exit conferences, we discussed the results of our review with officials from the Henry County Sheriff's Office and the other local law enforcement agencies that received transferred funds. Their input on specific issues has been included in the appropriate sections of the report.

Recommendations

We recommend that the Criminal Division:

1. Ensure that the Henry County Sheriff's Office, in coordination with the Henry County Auditor's Office, establishes formal, written procedures for the administration of DOJ equitable sharing funds.
2. Ensure that the Henry County Sheriff's Office, in conjunction with the Henry County Auditor's Office, only includes DOJ equitable sharing activities in the accounting code designated for such activities.
3. Ensure that the Henry County Sheriff's Office computes the amount of interest income earned on DOJ equitable sharing funds received to-date and ensure that amount is allocated to the Henry County Sheriff's Office's accounting code for DOJ equitable sharing activities and used in accordance with the Guide. In addition, the Henry County Sheriff's Office should establish a process for computing, on a monthly basis, future interest income earned on the DOJ equitable sharing funds and ensuring that each monthly amount is allocated to the appropriate account for the Henry County Sheriff's Office's use in accordance with the Guide.
4. Ensure that Henry County develops and implements procedures for submitting Single Audit Reports within the required timeframes and for accurately reporting federal expenditures on the Schedule of Expenditures of Federal Awards.
5. Ensure that Henry County submits its FY 2014 and FY 2015 Single Audit Reports, and that the Schedule of Expenditures of Federal Awards accurately reflects its DOJ equitable sharing activities.

6. Remedy the \$145,545 in unallowable expenditures for the purchase of items for other law enforcement agencies.
7. Remedy the \$40,875 in unallowable salary and fringe benefit costs of the Henry County Sheriff's Office deputy assigned to the PACE team that exceeded those of the deputy hired to backfill the task force officer's position.
8. Remedy the \$5,200 in unallowable expenses for the monthly PACE team coordinator stipend paid to the Hancock County Sheriff's Office's deputy assigned to the PACE team.
9. Remedy the \$121,432 in unallowable salary and fringe benefit costs of the Richmond Police Department officer assigned to the PACE team and whose position was not backfilled.
10. Determine the feasibility of reviewing the expenditures associated with the DOJ equitable sharing funds distributed to the Henry County Sheriff's Office prior to FY 2014 to determine if those funds were used in compliance with the Guide. If deemed necessary, ensure appropriate actions are taken to correct any deficiencies.
11. Ensure that the Henry County Sheriff's Office develops and implements written procedures to ensure that accurate certification reports are prepared and submitted within the 60-day requirement.
12. Ensure that the Henry County Sheriff's Office submits amended certification reports for FY 2014 and FY 2015 that accurately show the total receipts, total funds expended, and agencies to which funds were transferred.

OBJECTIVE, SCOPE, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objective.

Objective

The objective of this audit was to assess whether equitably shared cash and property received by the requesting agency were accounted for properly and used for allowable purposes as defined by the applicable regulations and guidelines. We tested compliance with the conditions of the DOJ Equitable Sharing Program. We reviewed laws, regulations, and guidelines governing the accounting for and use of DOJ equitable sharing receipts, including:

- Guide to Equitable Sharing for State and Local Law Enforcement Agencies, dated April 2009; and
- OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations, revised June 2003.

Unless otherwise stated in our report, the criteria we audited against are contained in these documents.

Scope and Methodology

Our audit concentrated on, but was not limited to, equitable sharing receipts received by the Henry County Sheriff's Office from January 1, 2014, through December 31, 2015. During that period, the Henry County Sheriff's Office received a total of \$404,740 and reported expenditures of \$802,206 in equitable sharing funds, including the money transferred to other local law enforcement agencies. We performed audit work mainly at the Henry County Sheriff's Office located in New Castle, Indiana. We interviewed employees of the Henry County Sheriff's Office and other Henry County departments and examined their records of DOJ asset forfeiture revenues and expenditures. We also interviewed officials at the Greenfield Police Department, Hancock County Sheriff's Office, and Richmond Police Department, as well as reviewed their accounting records.

We judgmentally determined which transactions had the potential of being high-risk and selected a sample that contained the highest dollar transactions for each fiscal year, as well as other potentially impermissible transactions. This non-statistical sample design does not allow for the projection of test results to all disbursements. In total, we reviewed transactions totaling \$702,431 for our audit period.

In addition, we obtained computer-generated data contained in the DOJ CATS and the USMS EFT system for determining equitably shared revenues and property awarded to the Henry County Sheriff's Office during the audit period. We did not establish the reliability of the data contained in these systems as a whole. However, when the data used is viewed in context with other available evidence, we believe the opinions, conclusions, and recommendations included in this report are valid.

In planning and performing our audit, we considered internal controls established and used by the Henry County Sheriff's Office in managing the DOJ Equitable Sharing Program. We did not assess the reliability of the Henry County Sheriff's Office's overall financial management system or the internal controls of that system. Moreover, we did not assess internal controls and compliance with laws and regulations for the Henry County government as a whole. Our audit included an evaluation of Henry County Single Audit Report for FY 2013. The Single Audit Report was prepared under the provisions of OMB Circular A-133. Our analysis of the Henry County's single audit activities is included in the Compliance with Audit Requirements section of this report.

SCHEDULE OF DOLLAR-RELATED FINDINGS

<u>Description</u>	<u>Amount</u>	<u>Page</u>
Questioned Costs: ¹¹		
Purchase of items for other law enforcement agencies	\$145,545	8
Henry County Sheriff's Office's salary and fringe benefit costs in excess of replacement deputy's personnel costs	40,875	9
Hancock County Sheriff's Office's PACE team coordinator stipend	5,200	10
Richmond Police Department's salary and fringe benefit costs of task force officer without backfilling position	<u>121,432</u>	10
Unallowable Costs	\$313,052	
TOTAL DOLLAR-RELATED FINDINGS	<u>\$313,052</u>	

¹¹ **Questioned Costs** are expenditures that do not comply with legal, regulatory or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

AUDITEE RESPONSES TO THE DRAFT AUDIT REPORT¹²

**HENRY COUNTY SHERIFF’S OFFICE
RESPONSE TO DRAFT AUDIT OF EQUITABLE SHARING
PROGRAM ACTIVITIES
NEW CASTLE, IN
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¹² The Henry County Sheriff’s Office response included several appendices. These appendices are not included in this report due to their technical nature. Similarly, the Richmond Police Department included several attachments with its response, and these attachments are not included in this report due to their technical nature.

HENRY COUNTY SHERIFF'S OFFICE
RESPONSE TO DRAFT AUDIT OF EQUITABLE SHARING PROGRAM
ACTIVITIES
NEW CASTLE, IN
INTRODUCTION

In 2009, the State of Indiana approved the Pro-Active Criminal Enforcement Team and funded the local highway drug interdiction task force with a grant from the IN Criminal Justice Institute comprising of Henry County Sheriff's Office, Hancock County Sheriff's Office, Greenfield Police Department and Richmond Police Department. Henry County Sheriff's Office was awarded the grant and the Henry County Auditor was identified as the fiscal agent. The Henry County Commissioners created a local ordinance for handling of the funds and participating departments operated under a memorandum of understanding that is updated annually with the participating agencies. The participating agencies agreed that the funds would be used to maintain the team for expenditures required, rather than equal sharing of funds. The IN Criminal Justice Institute awarded the grants for the task force for the years of 2010 and 2011. The IN Criminal Justice Institute discontinued the grant for the P.A.C.E. Team after 2011 due to the self-supporting funds received from their activities. The Henry County Sheriff's Office, Sheriff [REDACTED] and Matron [REDACTED], Henry County Auditor, [REDACTED] and Chief Deputy [REDACTED], Henry County Treasurer, [REDACTED] and the Henry County Attorney, [REDACTED] reviewed the Draft Audit of Equitable Sharing Program Activities and have responded herein.

RESPONSES TO AUDIT

Accounting for Equitably Shared Resources

Internal Control Environment

The Henry County Sheriff's Office has developed procedures for the administration of equitable sharing funds and internal controls. A separate fund has been set up in coordination with the Henry County Auditor's Office. The Henry County Auditor, [REDACTED], has responded (Appendix 4).

Commingling of Equitable Sharing Funds and Interest Earned

A separate fund has been set up in coordination with the Henry County Auditor's Office in February 2015 for PACE Federal Funds and February 2016 for ADTF Federal Funds. The interest earned on the equitable sharing federal funds will be calculated and reported FY2016. The Henry County Treasurer, [REDACTED], has responded (Appendix 5).

Compliance with Audit Requirements

The Indiana State Board of Accounts is currently in the process of completing the FY2014 and FY2015 audits. The Auditor of Henry County, [REDACTED], has responded (Appendix 4).

Use of Equitably Shared Resources

Henry County Sheriff's Office Non-Personnel Expenditures

The Henry County Sheriff's Office used the funds received from all sources, IN Criminal Justice Grant, State of IN Forfeiture Funds and Equitable Shared Funds as part of a task force as it had been formed in 2009. The sheriff and task force officers inquired and received verbal and written guidance from AFLMS personnel (Appendix 1) for expenditures and reporting in 2012 and 2014. In 2015, the management changed at the Office of the Henry County Sheriff with the election of a new sheriff and appointments and we were not aware of the requirements of the ESAC Reporting and expenditures. The ESAC FY2014 was completed with the instructions and assistance from [REDACTED] for reporting of expenditures and income with the new staff at the sheriff's office. At no time was the Henry County Sheriff's Office advised to refer to the 2009 Equitable Sharing Guide nor the unallowable purchases of equipment for other agencies. The vehicle purchases could have been corrected in the ESAC FY2014 reporting had we been made aware of the impermissible expenses in 2014. On June 11, 2015, AFLMS Representative [REDACTED] informed [REDACTED] of the Henry County Sheriff's Office of a class for Equitable Sharing Training. In July of 2015 at the Equitable Sharing Training attended by Henry County Sheriff's Office Employees, [REDACTED] and [REDACTED], we learned of the 2009 Guide to Equitable Sharing, the impermissible commingling of funds and purchasing of equipment for other agencies. Corrective action and guidance was sought from the DOJ without resolution. Going forward, we have implemented procedures and policies to insure there are no impermissible expenses and reporting is accurate.

Henry County Sheriff's Office Personnel Expenditures

The Office of the Henry County Sheriff operated on the IN Criminal Justice Institute Grant for the P.A.C.E. Team for the years of 2010 and 2011. After completion of the 2012 year, when completing the 2012 ESAC Form, the question of the salary funds for the P.A.C.E. Team Officer for Henry County was reviewed and accepted by [REDACTED], AFMLS State Representative, (Appendix 2) and reaffirmed in 2014 by [REDACTED], AFMLS State Representative (Appendix 2). Our officer, Sergeant [REDACTED], was assigned solely to the P.A.C.E. Team and a replacement officer and a replacement sergeant was hired in his place. The correction to the unallowable

salary expense could have been made in 2012 had we received the correct guidance from our AFMLS State Representative going forward for FY2012-FY2015. The Office of the Henry County Sheriff has discontinued the reimbursement for Sergeant [REDACTED] in accordance with the information received from the audit and used no funds for salaries in FY2016.

Transferred Funds

Hancock County Sheriff's Office

Hancock County Sheriff's Office has responded directly to the Draft Report of the Audit for impermissible expenses on 01/06/2016 and a copy was received by the Henry County Sheriff's Office.

Richmond Police Department

The Sheriff of Henry County has communicated with the Richmond Police Chief and Richmond Police Department and they have advised they will respond to the impermissible use of shared funds for salaries as reflected in the Draft Report of the Henry County Sheriff's Office directly to the US DOJ.

Federal Equitable Sharing Agreement and Annual Certification Reports

The delay in the FY2014 reporting was due to the management change that occurred with the election and appointments at the Henry County Sheriff's Office. We have submitted the request to our AFLMS State Representative to amend the FY2014 report and FY2015 and will complete with the agency corrections and expenditures as noted. Our reports in 2014 reflected \$128,000 dispersed as received by the Henry County Auditor's Office, however our AFLMS Representative [REDACTED], required us to change is to \$373,087.20 for the amounts sent on 12/27/14 (Appendix 6). Later, the report was changed by the US DOJ after IN State Board of Accounts requested the change. Through training and implementation of procedures for all department personnel the Henry County Sheriff's Office can achieve full compliance.



Hancock County Sheriff's Office

123 East Main Street • Greenfield, IN 46140

Michael Shepherd
Sheriff

Major Brad Burkhart
Chief Deputy

DIVISION COMMANDERS

Captain Robert Campbell
Law Enforcement Division

Captain Jeff Rasche
Investigations Division

Captain Tom Harrison
Operations Division

Captain Donald A. Craig
Jail Division

January 03, 2017

U.S Department of Justice
Office of the Inspector General

This letter is to serve as the official response to the Audit of the Henry County Sheriff's Office's Equitable Sharing Program Activities New Castle, Indiana as it pertains to the Hancock County Sheriff's Office, Greenfield, Indiana.

In reference to the attached sections below from the Draft Audit Report on page 10 of the report and the Recommendations Section listed as #8 on page 14.

Hancock County Sheriff's Office – The Hancock County Sheriff's Office had a separate accounting code for tracking its DOJ Equitable Sharing Program activities, including the transferred funds. According to its general ledger for FY 2014 and FY 2015, the Hancock County Sheriff's Office used the transferred funds to pay for personnel costs, as well as for equipment and other law enforcement items, such as tasers, a drug analysis system, and a canine. As previously mentioned, the Guide states the use of funds for personnel costs is generally impermissible, but one exception is to use the funds to pay the salary of an officer hired to replace an officer assigned to a task force. Based upon the documentation provided, we confirmed that the Hancock County Sheriff's Office hired an officer to replace the officer assigned to the PACE team, and that the Hancock County Sheriff's Office used \$91,562 of the transferred funds to pay the personnel costs of the replacement officer, which were properly authorized and supported. However, the Hancock County Sheriff's Office expended \$5,200 of the transferred funds (\$2,600 in FY 2014 and \$2,600 in FY 2015) to pay a stipend over and above the individual's regular salary to the officer assigned to the PACE team for his role as the PACE team coordinator. Therefore, we question the \$5,200 stipend as unallowable. In addition to the personnel costs, we judgmentally selected 5 non-personnel expenditures totaling \$39,181. We found that each of these transactions was properly authorized, supported, and in accordance with the Guide's permissible use provisions.

Administrative
(317) 477-1147

Investigations
(317) 477-1199

Jail
(317) 477-1158

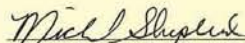
Fax
(317) 477-1703

8. Remedy the \$5,200 in unallowable expenses for the monthly PACE team coordinator stipend paid to the Hancock County Sheriff's Office's deputy assigned to the PACE team.

The Hancock County Sheriff's Office acknowledges and agrees the \$5,200 was an unallowable expense to the PACE Team Coordinator for 2014 and 2015. During the audit interview on April 06, 2016, Major [REDACTED] stated and provided information during the interview of the oversight of the stipend that had been made to the PACE Coordinator for 2014 and 2015. After the oversight had been recognized during the budget process in June of 2015 for the 2016 budget, the mistake was corrected for January of 2016. Beginning in January of 2016 the stipend to the PACE Coordinator was remedied and is now being funded from the county general fund. The issue was remedied three months prior to the audit interview that was conducted at the Hancock County Sheriff's Office.

The Hancock County Sheriff's Office takes the Federal Equitable Sharing Program very seriously and has made every attempt to make sure the guidelines for use are strictly adhered too. The department prides itself by conducting itself with integrity and professionalism. It is unfortunate the oversight and mistake took place and sincerely apologize for the mistake. As stated above the mistake when recognized was remedied as soon as the budget process allowed. The Hancock County Sheriff's Office will continue to do it's very best to comply with the guidelines of the program.

Professionally,


Michael Shepherd, Sheriff



CITY OF RICHMOND

DEPARTMENT OF LAW

50 NORTH FIFTH STREET RICHMOND, INDIANA 47374

PHONE (765) 983-7220 FAX (765) 983-7365

DAVID M. SNOW
Mayor

ANDREW J. SICKMANN
City Attorney

KIMBERLY A. VESSELS
Assistant City Attorney

January 18, 2017

Carol S. Taraszka
Regional Audit Manager
U.S. Department of Justice
Office of the Inspector General
500 West Madison Street, Suite 1121
Chicago, Illinois 60661

Re: Henry County Sheriff's Office Equitable Sharing Program Draft Audit

Dear Ms. Taraszka:

The undersigned serves as legal counsel to the City of Richmond, Indiana ("City") and it is in that capacity that this correspondence is being relayed. First, I would like to offer my appreciation for your office being willing to extend an extension of time with which to respond to the above-referenced Draft Audit. Please allow this correspondence to serve as the City's Response to the Draft Audit, in which the same is requested in your letter of December 21, 2016.

RESPONSE TO DRAFT AUDIT

INTRODUCTION

First, and by way of introduction, this author assumed the role of corporation counsel to the City on January 1st of this year. As such, I have no direct involvement in the implementation or maintenance of the Proactive Criminal Enforcement Program ("PACE"), or its funding source (equitable sharing revenues) as the same applies to the City; however, have discussed the matter with the relevant department heads (who also recently assumed their roles) which has allowed me to generate this response. As I understand it, the Richmond Police Department ("RPD") became involved in the highway interdiction team, which later took on the "PACE" acronym. As it is explained to me, the focus of PACE was to conduct enforcement along the Interstate-70 corridor in Wayne, Henry, and Hancock Counties. The original participating agencies were the Wayne County Sheriff's Department, RPD, Henry County Sheriff's Department, New Castle Police Department, Hancock County Sheriff's Department, and the Greenfield Police Department.

A review of the Draft Audit shows that the Department of Justice (“DOJ”) and the Office the Inspector General (“OIG”) covered the period beginning January 1, 2014 and ending December 31, 2015 (hereinafter, the “audit period”). The Draft Audit reports that the Henry County Sheriff’s Office received the sum of \$802,206.00 during the audit period, some of which was transferred to other local law enforcement agencies. The executive summary of the Draft Audit Report sets forth that the City used the transferred funds to pay the salary and fringe benefit costs of an officer assigned to the PACE team without backfilling that officer’s position as mandated by the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (“Guide”).

The City assigned Officer ██████████ to carry out the responsibilities associated with the PACE program. Officer ██████████ served in this position from approximately 2008 through 2016. Throughout the foregoing time period, Officer ██████████ performed the duties which were expected relative to the PACE team as contemplated by the funding source.

Please note that this Response is being issued for the limited purpose for providing information relative to the Draft Audit as the same pertains to the City of Richmond, Indiana.

EXECUTIVE SUMMARY OF DRAFT AUDIT

Page ii of the Draft Audit sets forth that the “Richmond Police Department used the transferred funds to pay the salary and fringe benefit costs of an officer assigned to the PACE team without backfilling that officer’s position.” (See Draft Audit Report, Page ii). The City would respectfully disagree with the foregoing finding as a review of City records relative to new hires during the audit period reflects the addition of new officers. As is noted above, this writer does not have the benefit of having been present during the audit period so as to opine on whether the basis for the DOJ’s position in this regard might be due to an internal record-keeping and/or reporting issue; however, it is suggested that such may be the case.

USE OF EQUITABLY SHARED RESOURCES

As is set forth in the Draft Audit, the Guide provides that funds to pay salary costs is generally impermissible; however, there are exceptions, one of which is that funds can be used to pay the salary of an officer hired to backfill the position of an officer assigned to a task force. The first finding made within the “Richmond Police Department” sub-section of the Draft Audit (see page 10) is that the Richmond Police Department did not have a separate accounting code for tracking DOJ Equitable Sharing Program activities.

Enclosed herewith are Budget Revision Forms which my office was able to locate that suggest that RPD utilized separate accounts pertaining to the funds distributed pursuant to the PACE Program. It appears as though account number ending in 5522 received the funds, and that account number 1163 was utilized for expenses. Budget Revision Forms dated December 5, 2013 and February 10, 2014 are enclosed for your reference. PACE funds were deposited into a line item account, identified as PACE revenue, and each month a journal entry was completed to transfer these funds to the Police Salary Line Item Account.

Next, the Draft Audit Report provides that according to the “Police Chief, the \$125,819 in transferred funds were used to pay the salary and fringe benefit costs, including \$4,387 in overtime costs, of the officer assigned to the PACE team.” Further, the DOJ Draft Audit Report provides that:

We determined that the overtime costs were properly authorized, support, and in accordance with the Guide's permissible use provisions. However, the Police Chief told us that the Richmond Police Department did not hire an officer to replace the officer

assigned to the PACE team. Therefore, we are questioning the remaining \$121,432 in salary and fringe benefit costs as unallowable because the Richmond Police Department failed to comply with the Guide's requirements relating to the use of equitable sharing funds for salary expenditures. (See Draft Audit Report, Page 10).

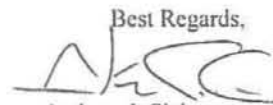
Until reviewing the Draft Audit, this author was unaware as to the statement made by the RPD Chief referenced above; however, the City's records as they relate to new hires for RPD would suggest that new officers were added to payroll. Enclosed please find a document maintained by the City which provides new officer hires from 2010 through 2016. Also enclosed are Board of Works' Minutes which reflect the hiring of Officers [REDACTED] (Minutes reflecting the hiring of the remaining officers were not immediately available, but will be made available upon locating the same). As you will see, RPD hired the following officers during the audit period:

- 1) [REDACTED] February 24, 2014;
- 2) [REDACTED] March 16, 2016;
- 3) [REDACTED] July 27, 2015;
- 4) [REDACTED] March 3, 2015;
- 5) [REDACTED] March 9, 2015;
- 6) [REDACTED] July 27, 2015; and
- 7) [REDACTED] March 9, 2015.

Although this office is presently unable to provide the DOJ with specific direction as to an officer's salary that was earmarked for "backfill" purposes during the audit period, it would appear as though the RPD provided for additional officers during the audit period so as to account for the absence of the PACE officer. The Chief of Police during the audit period, [REDACTED], has advised that he was of the understanding that the PACE funds were allocated for an officer assuming the duties of the PACE officer on an annual basis. I am sure that he will make himself available for further comment should the DOJ determine that such a discussion should occur.

In summary, it is respectfully suggested that the City complied with the spirit and intent of the Guidelines so as to ensure that the PACE officer's position was backfilled, which the enclosures herein reflect. Additional officers were hired during the audit period; and I would note that the relevant department heads continue to compile information pertaining to this matter and a supplementary response, should one be permitted, may be issued at a later date.

I appreciate your time and attention to this matter, and please do not hesitate to contact me if you have any questions or concerns.

Best Regards,

Andrew J. Sickmann

Cc: Mayor Dave Snow
Chief James Branum
Kim Vessels, Asst. City Attorney

THE CRIMINAL DIVISION ASSET FORFEITURE AND MONEY
LAUNDERING SECTION RESPONSE
TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

Criminal Division

Asset Forfeiture and Money Laundering Section

Washington, D.C. 20530

JAN 11 2017

MEMORANDUM

TO: Carol S. Taraszka, Regional Audit Manager
Chicago Regional Audit Office
Office of the Inspector General (OIG)

FROM: Jennifer Bickford, Deputy Chief *for JCB*
Program Management and Training Unit
Asset Forfeiture and Money
Laundering Section (AFMLS)

SUBJECT: DRAFT AUDIT REPORT for the Henry County Sheriff's Office's
Equitable Sharing Program Activities

In a memorandum dated December 21, 2016, your office provided a draft audit report for the Henry County Sheriff's Office (HCSO), which included actions necessary for closure of the audit report findings. AFMLS concurs with all findings and recommendations stated in the draft audit report noted on pages 13-14.

Upon receipt of the final audit report, AFMLS will request that the HCSO implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken. AFMLS will request and review supporting documentation for the questioned costs in the amount of \$313,052.00 listed in recommendations 6, 7, 8, and 9.

cc: Denise Turcotte
Audit Liaison
Criminal Division

Richard P. Theis
Assistant Director, Audit Liaison Group
Internal Revenue and Evaluation Office
Justice Management Division

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The Department of Justice (DOJ) Office of the Inspector General (OIG) provided a draft of this audit report to the Henry County Sheriff's Office, Hancock County Sheriff's Office, Greenfield Police Department, Richmond Police Department, and the U.S. Department of Justice Asset Forfeiture and Money Laundering Section (AFMLS). The individual responses from the Henry County Sheriff's Office, Hancock County Sheriff's Office, and Richmond Police Department are contained in Appendix 3 of this final report, and AFMLS's response is incorporated in Appendix 4.¹³ The Henry County Sheriff's Office provided technical comments to our draft report, which were contained within the appendices to the Henry County Sheriff's Office's response. We reviewed those technical comments and made minor revisions to the Internal Control Environment section of our draft report for accuracy. In response to our draft report, AFMLS concurred with our recommendations, and as a result, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

Recommendations to the Criminal Division:

- 1. Ensure that the Henry County Sheriff's Office, in coordination with the Henry County Auditor's Office, establishes formal, written procedures for the administration of DOJ equitable sharing funds.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office said that it developed procedures for the administration of equitable sharing funds and internal controls, which became effective in January 2017. The Henry County Sheriff's Office appended these policies and procedures to its formal response.

While the policies and procedures outline actions for administering its equitable sharing funds, the policies and procedures do not completely address all aspects for adequately managing the funds. As discussed in our analysis of Recommendation Numbers 3 and 4, the Henry County Sheriff's Office did not provide evidence that it had established and implemented policies and procedures associated with the computation of interest income earned on DOJ equitable sharing funds nor with the accurate and timely

¹³ The Greenfield Police Department opted not to provide a written response because the report did not contain any recommendations associated with its use of the DOJ equitable sharing funds transferred to it by the Henry County Sheriff's Office.

submission of Single Audit Reports. While the Henry County Sheriff's Office, in conjunction with the Henry County Auditor's Office, can choose to establish and implement separate policies and procedures to address these issues, the policies and procedures that were provided are not yet complete.

This recommendation can be closed when we receive evidence that the Henry County Sheriff's Office's policies and procedures for managing equitable sharing funds are complete and address all relevant actions for adequately administering DOJ equitable sharing funds.

2. Ensure that the Henry County Sheriff's Office, in conjunction with the Henry County Auditor's Office, only includes DOJ equitable sharing activities in the accounting code designated for such activities.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office stated that a separate fund had been established in coordination with the Henry County Auditor's Office. However, the Henry County Sheriff's Office's response did not discuss the development and implementation of a process for routinely reviewing the separate fund to ensure it only contains transactions related to DOJ equitable sharing activities. As stated in our report, we confirmed the establishment of a separate accounting code for DOJ equitable sharing activities. Our report also stated that we identified some transactions associated with non-DOJ equitable sharing activities in the account designated solely for DOJ equitable sharing activities.

This recommendation can be closed when we receive evidence that the Henry County Sheriff's Office, in coordination with the Henry County Auditor's Office, has established a process to ensure only DOJ equitable sharing activities are reflected in the accounting code designated for such use.

- 3. Ensure that the Henry County Sheriff's Office computes the amount of interest income earned on DOJ equitable sharing funds received to-date and ensure that amount is allocated to the Henry County Sheriff's Office's accounting code for DOJ equitable sharing activities and used in accordance with the Guide. In addition, the Henry County Sheriff's Office should establish a process for computing, on a monthly basis, future interest income earned on the DOJ equitable sharing funds and ensuring that each monthly amount is allocated to the appropriate account for the Henry County Sheriff's Office's use in accordance with the Guide.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office stated that the interest earned on the DOJ equitable sharing funds would be calculated and reported for FY 2016 and beyond. According to documentation appended to its response, the Henry County Treasurer calculated the interest for FY 2016 and determined it was a nominal amount. The documentation also indicated that the interest income earned in FYs 2014 and 2015 was expected to be similar to, if not less than, the FY 2016 amount and that computing these amounts would be a time-consuming process. While the amount of interest income may be nominal, the guidelines of the DOJ Equitable Sharing Program clearly state that all interest income earned on DOJ equitable sharing funds must be accounted for in the same manner and used for the same purposes as the DOJ equitable sharing funds. In addition, the Henry County Sheriff's Office's response did not elaborate on establishing a process for computing interest income earned.

This recommendation can be closed when we receive evidence that the Henry County Sheriff's Office established and implemented a process for computing, on a monthly basis, interest income earned on the DOJ equitable sharing funds and ensuring that each monthly amount is allocated to the appropriate account for the Henry County Sheriff's Office's use in accordance with the Guide. In addition, AFMLS should determine how to address the interest income earned during past periods.

- 4. Ensure that Henry County develops and implements procedures for submitting Single Audit Reports within the required timeframes and for accurately reporting federal expenditures on the Schedule of Expenditures of Federal Awards.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office stated that the Indiana State Board of Accounts is in the process of completing the FY 2014 and FY 2015 single audits. However, the Henry County Sheriff's Office's response did not indicate whether Henry County developed and implemented procedures for submitting Single Audit Reports within the required timeframes and for accurately reporting federal expenditures on the Schedule of Expenditures of Federal Awards.

This recommendation can be closed when we receive evidence that Henry County develops and implements procedures for submitting Single Audit Reports within the required timeframes and for accurately reporting federal expenditures on the Schedule of Expenditures of Federal Awards.

5. Ensure that Henry County submits its FY 2014 and FY 2015 Single Audit Reports, and that the Schedule of Expenditures of Federal Awards accurately reflects its DOJ equitable sharing activities.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office stated that the Indiana State Board of Accounts is in the process of completing the FY 2014 and FY 2015 single audits.

This recommendation can be closed when we receive evidence that Henry County submitted its FY 2014 and FY 2015 Single Audit Reports, and that the Schedule of Expenditures of Federal Awards accurately reflects its DOJ equitable sharing activities.

6. Remedy the \$145,545 in unallowable expenditures for the purchase of items for other law enforcement agencies.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will request and review supporting documentation associated with these questioned costs.

In its response, the Henry County Sheriff's Office stated that it received verbal and written guidance from AFMLS for expenditures incurred in 2012 and 2014. According to documentation appended to its response, the Henry County Sheriff's Office reached out to AFMLS regarding the 2012 purchase of vehicles and associated equipment, some of which was purchased for other local law enforcement agencies participating on the PACE team. At the time of these purchases, the Guide did not include a requirement prohibiting the purchase of items for other law enforcement agencies. Therefore, the guidance that AFMLS provided to the Henry County Sheriff's office was consistent with the Guide at that particular time. As noted in our report, the change in program guidance became effective on July 30, 2014, and the

Henry County Sheriff's Office continued to purchase items for other law enforcement agencies following the issuance of the policy restricting this type of activity. As a result, the purchases made for other law enforcement agencies between July 30, 2014, and December 31, 2015, are impermissible.

The Henry County Sheriff's Office's response states that in 2015, the management of the Henry County Sheriff's Office changed, and the new individuals were unaware of the DOJ Equitable Sharing Program requirements for expenditures until they attended training in July 2015. Despite the Henry County Sheriff's Office's assertions that it was unaware of the guidance on the use of funds, all participants of the DOJ Equitable Sharing Program are expected to abide by the Guide and interim guidance issued by AFMLS, and the onus is on the participating agencies to be aware of all related guidance.

This recommendation can be closed when we receive evidence that the \$145,545 in questioned costs have been appropriately remedied.

7. Remedy the \$40,875 in unallowable salary and fringe benefit costs of the Henry County Sheriff's Office deputy assigned to the PACE team that exceeded those of the deputy hired to backfill the task force officer's position.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will request and review supporting documentation associated with these questioned costs.

In its response, the Henry County Sheriff's Office stated that it communicated with AFMLS about the allowability of salary expenses. However, the exchange between the Henry County Sheriff's Office and AFMLS does not address our finding, which is that the Henry County Sheriff's Office used equitable sharing funds to pay the higher salary costs of the officer assigned to the PACE team, not the salary costs of the replacement officer as required by the Guide.

This recommendation can be closed when we receive evidence that the \$40,875 in questioned costs have been appropriately remedied.

8. Remedy the \$5,200 in unallowable expenses for the monthly PACE team coordinator stipend paid to the Hancock County Sheriff's Office's deputy assigned to the PACE team.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will request and review supporting documentation associated with these questioned costs.

The Hancock County Sheriff's Office also concurred with the recommendation. In its response, it said that it corrected this error during

the FY 2016 budget process, and beginning in January 2016, the Hancock County Sheriff's Office did not use DOJ equitable sharing funds to pay the PACE team coordinator's monthly stipend. We agree that during our April 2016 interview, the Hancock County Sheriff's Office confirmed it was no longer paying the monthly stipend with DOJ equitable sharing funds. However, we were not provided supporting documentation to show that the DOJ equitable sharing funds previously used to pay the monthly stipend had been appropriately remedied.

This recommendation can be closed when we receive evidence that the \$5,200 in questioned costs have been appropriately remedied.

9. Remedy the \$121,432 in unallowable salary and fringe benefit costs of the Richmond Police Department officer assigned to the PACE team and whose position was not backfilled.

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will request and review supporting documentation associated with these questioned costs.

In its response, the Richmond Police Department said that it disagreed with the recommendation. The Richmond Police Department stated that based upon a review of the city of Richmond's records, the Richmond Police Department hired police officers during the audit period. However, the Richmond Police Department used DOJ equitable sharing funds to pay the salary costs of the officer assigned to the PACE team, not the replacement officer's salary as required by the Guide. In addition, the hiring of officers alone does not allow DOJ equitable sharing funds to be used for salary expenses. A more in-depth analysis of all aspects of staffing levels, including attrition and budget adjustments, would be required to support that a position had been backfilled. Moreover, as noted in our report, the Chief of the Richmond Police Department told us that the Richmond Police Department did not hire an officer to replace the officer assigned to the PACE team.

This recommendation can be closed when we receive evidence that the \$121,432 in questioned costs have been appropriately remedied.¹⁴

¹⁴ Unrelated to this recommendation, the Richmond Police Department's response also included a technical comment about the statement in our report that the Richmond Police Department did not have a separate account for handling DOJ equitable sharing activities. Based upon evidence provided on-site, it was clear that the account used for DOJ equitable sharing funds also contained other non-DOJ equitable sharing funds. Therefore, we did not make any changes to our report. Our report does not include a recommendation on this issue because we did not conduct a full, in-depth audit of the Richmond Police Department's equitable sharing activities.

- 10. Determine the feasibility of reviewing the expenditures associated with the DOJ equitable sharing funds distributed to the Henry County Sheriff's Office prior to FY 2014 to determine if those funds were used in compliance with the Guide. If deemed necessary, ensure appropriate actions are taken to correct any deficiencies.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation. The Henry County Sheriff's Office did not comment on this recommendation.

This recommendation can be closed when we obtain AFMLS's determination on the feasibility of reviewing expenditures associated with the DOJ equitable sharing funds distributed to the Henry County Sheriff's Office prior to FY 2014 to determine if those funds were used in compliance with the Guide. In addition, if AFMLS deems such an examination to be necessary, please provide evidence that appropriate actions were taken to correct any deficiencies.

- 11. Ensure that the Henry County Sheriff's Office develops and implements written procedures to ensure that accurate certification reports are prepared and submitted within the 60-day requirement.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation.

In its response, the Henry County Sheriff's Office stated that the FY 2014 certification report was submitted late due to the management change that occurred within the Henry County Sheriff's Office. According to documentation appended to its response, the Henry County Sheriff's Office included its policies and procedures for managing asset forfeiture and seizure funds, which became effective in January 2017.

We reviewed the implemented policies and procedures and confirmed that the document includes a description of the processes to ensure accurate reporting of the Henry County Sheriff's Office's DOJ equitable sharing activities on the annual certification reports. We also noted that these policies and procedures state that the certification reports will be issued in a timely manner as required for compliance in the DOJ Equitable Sharing Program. However, although the procedures indicate that the Henry County Auditor's Office is involved in this process, they do not articulate the specific responsibilities to be carried out by the Henry County Auditor's Office. Moreover, the procedures indicate that they were only distributed to Henry County Sheriff's Office personnel despite the Henry County Auditor's Office having a role in the completion or submission of the annual certification reports.

This recommendation can be closed when we receive evidence that the Henry County Sheriff's Office's procedures for managing DOJ equitable sharing funds clarify the Henry County Auditor's Office's responsibilities related to the annual certification reports, and that the Henry County Auditor's Office is aware of its responsibilities related to the annual certification reports.

- 12. Ensure that the Henry County Sheriff's Office submits amended certification reports for FY 2014 and FY 2015 that accurately show the total receipts, total funds expended, and agencies to which funds were transferred.**

Resolved. AFMLS concurred with our recommendation. AFMLS stated in its response that it will coordinate with the Henry County Sheriff's Office to ensure implementation of this recommendation. In its response, the Henry County Sheriff's Office stated it will submit amended certification reports for FY 2014 and FY 2015 to correct the errors identified.

This recommendation can be closed when we receive evidence of the amended certification reports for FY 2014 and FY 2015 that accurately show the total receipts, total funds expended, and agencies to which funds were transferred.

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