

U.S. DEPARTMENT OF JUSTICE

Audit Report

USE OF EQUITABLE SHARING REVENUES
BY THE MISSOURI HIGHWAY PATROL
STATE OF MISSOURI

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BY THE MISSOURI HIGHWAY PATROL
STATE OF MISSOURI**

EXECUTIVE SUMMARY

The United States Department of Justice, Office of the Inspector General has completed an audit of the use of equitable sharing revenues by the Missouri Highway Patrol. Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized in the course of certain criminal investigations. From July 1, 1998, through June 30, 2000, the Missouri Highway Patrol received a total of \$3,148,322 in equitable sharing revenues. For the same period, the Missouri Highway Patrol expended a total of \$1,748,498 from their equitable sharing fund.

We determined that Missouri Highway Patrol generally complied with Department of Justice guidelines. However, our audit disclosed that the Missouri Highway Patrol did not separately account for federal forfeiture funds received from the Department of Justice and the Department of the Treasury. Contrary to the equitable sharing agreements that required these funds be accounted for separately, the Missouri Highway Patrol commingled the receipts into one fund and prorated the expenditures based on the percentage of revenue received from each agency.

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 has completed an audit of the use of equitable sharing revenues by the Missouri Highway Patrol. The objectives of our audit were to assess whether equitably shared cash received by the Missouri Highway Patrol was accounted for properly and used for allowable purposes as defined by applicable regulations and guidelines. The audit covered \$3,148,322 in equitable sharing revenues during Fiscal Years (FY) 1999 and 2000¹. The audit also covered \$1,748,498 expended from the Missouri Highway Patrol equitable sharing fund for the same 2-year period.

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 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.

Several DOJ agencies are involved in various aspects of the seizure, forfeiture, and disposition of equitable sharing revenues. Nonetheless, 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 revenues may be used for the costs associated with drug abuse

¹ The Missouri Highway Patrol fiscal year runs from July 1 through June 30.

treatment, drug and crime prevention education, housing programs, job skills programs, or other nonprofit community-based programs or activities.

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 Missouri Highway Patrol through the DOJ equitable sharing program.

FINDINGS AND RECOMMENDATIONS

CONTROLS OVER EQUITABLE SHARING FUNDS RECEIPTS AND EXPENDITURES

Generally, the Missouri Highway Patrol complied with Department of Justice guidelines related to equitable sharing funds. However, the Missouri Highway Patrol commingled all federal forfeiture receipts from the Department of Justice and the Department of the Treasury into one fund, and prorated the expenditures based on the percentage of revenue received from each agency. As a result, Department of Justice expenditures could not be tracked separately from the Treasury Department expenditures.

To determine if the Missouri Highway Patrol complied with pertinent guidelines governing the use of equitably shared assets, we selected and examined 43 transactions totaling \$3,805,853. Further, we reviewed the FYs 1999 and 2000 Annual Certification Reports to determine if the Missouri Highway Patrol correctly reported equitable sharing transactions.

Equitable Sharing Funds Received

Based on the Missouri Highway Patrol records for FYs 1999 and 2000, it received a total of \$3,148,322 in equitable sharing revenues. This amount includes \$2,750,229 in equitable sharing receipts, \$174,984 in other income², and \$223,109 in interest. We selected and reviewed a sample of 10 percent of the equitable sharing receipts, choosing the highest dollar amounts from the DOJ Consolidated Asset Tracking System (CATS) listing of checks sent to the Missouri Highway Patrol during FYs 1999 and 2000. As a result, we reviewed 13 receipts totaling \$2,437,736.

All the checks tested were properly accounted for and all but one were deposited timely. According to Accounting for Federal Asset Forfeiture Funds, A Guide for State and Local Law Enforcement

² The Missouri Highway Patrol sold weapons that were originally purchased with equitable sharing monies; therefore, the receipts were categorized as other income to the fund.

Agencies, Section III, Item 5, equitable sharing funds are to be deposited on the date received or the next business day. One \$17,000 check was not deposited until 6 business days after receipt. According to Missouri Highway Patrol officials, this delay occurred because the deposit clerk was on vacation and the budget office did not have anyone assigned to make deposits in her absence. They added that someone will be designated to back up the deposit clerk's duties so that future deposits would be made timely.

Our reconciliation of the CATS reports of disbursements with the Missouri Highway Patrol listings of FYs 1999 and 2000 federal forfeiture receipts identified 12 discrepancies. These errors, however, appeared on the CATS reports; the Missouri Highway Patrol records were accurate. The CATS reports listed two disbursements to the Missouri Highway Patrol in error; the checks were never issued to the Missouri Highway Patrol. In addition, 10 checks received by the Missouri Highway Patrol were not identified on the CATS reports.

Equitable Sharing Funds Expended

During its FYs 1999 and 2000, the Missouri Highway Patrol expended \$1,748,498 in equitable sharing funds. This amount included expenditures for computer, communications, laboratory, and technical equipment. We selected and examined a sample of 30 expenditures from FYs 1999 and 2000 totaling \$1,368,117. Based on our testing, we concluded that expenses were used for allowable purposes in accordance with the Department guidelines related to the Equitable Sharing program. However, we found that the Missouri Highway Patrol was not accounting for the funds in accordance with its equitable sharing agreements.

The equitable sharing agreements³ signed by the Missouri Highway Patrol required that the DOJ and the Department of the Treasury forfeiture funds be accounted for separately. The Missouri Highway Patrol, however, commingled all federal forfeiture receipts into one fund and prorated the expenditures based on the percentage of revenue received from each agency. As a result, DOJ expenditures could not be separately tracked from the Department of the Treasury

³ A new equitable sharing agreement was signed in FY 2000; therefore, two agreements were in effect during our review period.

expenditures.

Missouri Highway Patrol officials explained that several years ago, they requested a separate accounting fund from the State accounting officials, but their request was denied. We followed up with State officials, who told us they wanted to limit the number of funds. According to these officials, they suggested that the Missouri Highway Patrol use the accounting system within its existing fund (e.g., organization codes) to separately track DOJ and Department of the Treasury equitable sharing receipts and expenditures. In our judgment, this method would bring the Missouri Highway Patrol in compliance with the equitable sharing agreements.

Reporting Requirements

The FYs 1999 and 2000 Federal Annual Certification Reports submitted by the Missouri Highway Patrol showed combined equitable sharing receipts in the amount of \$2,750,229, other income of \$174,984 (from the sale of weapons), and interest earnings of \$223,109 for a total of \$3,148,322. The Missouri Highway Patrol reported equitable sharing expenditures in the amount of \$1,748,498 for the same two FYs.

The appropriate officials signed the Federal Annual Certification Reports and all items were accurately reported, with one exception. The FY 1999 Federal Annual Certification Report incorrectly categorized \$85,136 in expenditures. We discussed this with Missouri Highway Patrol officials who prepared an amended report.

A June 2000 program audit by Armon Financial Services noted that the FY 1999 Certification Report was submitted 14 days late. Missouri Highway Patrol officials told us that the accounting system in effect at that time included a lengthy year-end closing that made it impossible to submit the Certification Report timely. A new accounting system has since been implemented and the FY 2000 report was submitted timely.

Views of Responsible Officials

We presented our findings at an exit conference with Missouri Highway Patrol officials who concurred with our findings.

Recommendations

We recommend that the Director of the Asset Forfeiture and Money Laundering Section:

1. Ensure that the Missouri Highway Patrol appoint an employee to perform deposits in the absence of the regular deposit clerk to assure timely deposits of equitable sharing checks.
2. Require that the Missouri Highway Patrol comply with the equitable sharing agreements by accounting for federal forfeiture receipts and disbursements of the Department of Justice separate from the Department of the Treasury.

OTHER REPORTABLE MATTERS

Legislated Deductions

Two unallowable deductions were made from the Federal Forfeiture Fund. Specifically, in FYs 1999 and 2000, respectively, \$1,479 and \$1,235 were transferred from the fund. These were legislated deductions, which were taken from every state fund to give the Missouri taxpayers a rebate. Article X of the Missouri Constitution, popularly called the Hancock Amendment, requires all state funds to support a Missouri taxpayers rebate in years that the state has excess monies.

The equitable sharing guidelines, however, state that the shared monies are to be used for law enforcement purposes. Missouri Highway Patrol officials recognized that these deductions were unallowable and had requested and received reimbursement from the State of Missouri within the same fiscal year it was deducted. We were able to verify that the fund had been replenished for our review period and for two additional fiscal years in which deductions were also made (FYs 1998 and 2001). Since the Federal Forfeiture Fund was replenished in a timely manner, we determined that there was no effect and do not make any recommendations.

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, 1998, through June 30, 2000.

In conducting our audit we relied on computer-processed data contained in the DOJ Consolidated Asset Tracking System (CATS) for the purpose of determining equitable shares received by the Missouri Highway Patrol. 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 the Missouri Highway Patrol headquarters located in Jefferson City, Missouri. To accomplish the objectives of the audit, we: (1) interviewed Missouri Highway Patrol officials; and (2) examined, on a test basis, equitable sharing receipts and expenditures, financial reports, and other accounting records and documents.

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 Missouri Highway Patrol as a whole. Instead we relied on an independent auditor's report of the Missouri Highway

Patrol's Federal Forfeiture Fund for the fiscal year ended June 30, 1999. The audit report stated that the financial records were correct, internal controls were adequate and effective, and operations and records were in compliance with established guidelines, policies, and procedures. We relied upon the independent auditor's assessment, which disclosed no material weaknesses.