



**AUDIT OF THE  
FAIRFAX COUNTY POLICE DEPARTMENT  
EQUITABLE SHARING PROGRAM ACTIVITIES  
FAIRFAX, VIRGINIA**

U.S. Department of Justice  
Office of the Inspector General  
Audit Division

Audit Report GR-30-12-001  
January 2012

# **AUDIT OF THE FAIRFAX COUNTY POLICE DEPARTMENT EQUITABLE SHARING PROGRAM ACTIVITIES FAIRFAX, VIRGINIA**

## **EXECUTIVE SUMMARY**

The purpose of the Department of Justice (DOJ) asset forfeiture program is to deter crime by depriving criminals the profits and proceeds of illegal activities while enhancing the cooperation between federal, state, and local law enforcement agencies. State and local law enforcement agencies that participate in the seizure of property and funds may receive a portion of the proceeds, or an equitable share of the forfeiture, to use for law enforcement purposes.

The DOJ Office of the Inspector General conducted an audit to assess the Fairfax County Police Department's (FCPD) tracking and use of equitable sharing funds. The audit covered FCPD fiscal years (FY) 2009 through 2010, beginning on July 1, 2008 and ending on June 30, 2010. During these 2 years, the FCPD received over \$ 1,270,000 as a participant in the DOJ equitable sharing program.

Our audit found that the FCPD complied with the DOJ guidelines on submitting equitable sharing requests and properly accounted for and used equitable sharing assets. However, our review noted that the FCPD could enhance its efforts to track equitable sharing funds by using its DAG-71 log to reconcile periodically actual receipts to outstanding sharing requests.

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## **INTRODUCTION**

The Department of Justice (DOJ) Office of the Inspector General conducted this audit to assess the tracking and use of DOJ equitable sharing funds by the Fairfax County Police Department (FCPD), which has its headquarters in Fairfax, Virginia. The audit covered Fairfax County fiscal years (FY) 2009 through 2010, beginning on July 1, 2008 and ending on June 30, 2010. During these 2 years, the FCPD received over \$1,270,000 as a participant in the DOJ equitable sharing program.

### **DOJ Equitable Sharing Program**

The DOJ Asset Forfeiture Program is a national law enforcement initiative that seeks to remove the tools of crime from criminal organizations, deprive wrongdoers of the proceeds of their crimes, and deter crime. The program fosters cooperation among federal, state, and local law enforcement agencies. State and local law enforcement agencies that directly participate in an investigation or prosecution resulting in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture.

Three DOJ components work together to administer the equitable sharing program – the United States Marshals Service (USMS), the Justice Management Division (JMD), and the Criminal Division. The USMS is responsible for transferring asset forfeiture funds from the DOJ to the receiving state or local agency. JMD manages the Consolidated Asset Tracking System (CATS), which is used to compile asset distribution reports to track federally seized assets throughout an asset's forfeiture lifecycle. Finally, the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS) tracks membership of state and local equitable sharing program participants, updates the equitable sharing program rules and policies, and monitors the allocation and use of these shared funds.

### **Fairfax County**

Established in 1742, Fairfax County is located in Northern Virginia just south of Washington, D.C., and has over a million residents living across 395 square miles. The FCPD is responsible for public safety, preventing and detecting crime, enforcing the law, and protecting the rights of all citizens.

The FCPD has been a member of the DOJ Asset Forfeiture Program since 1995 and has participated in investigations led by the Federal Bureau of Investigation, the Drug Enforcement Administration, the Bureau of

Alcohol, Tobacco, Firearms and Explosives, and the United States Postal Inspection Service.

## **OIG Audit Approach**

We tested compliance with what we considered the most important conditions of the DOJ equitable sharing program. Unless stated otherwise in this report, we applied the AFMLS *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Equitable Sharing Guide)* as our primary criteria. The Equitable Sharing Guide outlines procedures for submitting equitable sharing requests and discusses the proper use and accounting for equitable sharing assets.

To conduct the audit, we tested the FCPD's compliance with the following three aspects of the DOJ equitable sharing program:

- **Federal Sharing Agreements and Certification Forms** to determine if these documents were complete and accurate.
- **Accounting for equitable sharing receipts** to determine whether standard accounting procedures were used to track equitable sharing assets.
- **Use of equitable sharing funds** to determine if equitable sharing cash was used for law enforcement purposes.

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

## **FINDINGS AND RECOMMENDATION**

The FCPD received over \$1,270,000 in equitable sharing funds from DOJ during the 2-year period beginning July 2008 and ending June 2010. The FCPD maintained its asset forfeiture revenues in a county-wide bank account but also kept separate accounting records for the individual receipts and expenditures relating to DOJ equitable sharing funds. We found that overall the FCPD adequately accounted for DOJ equitable sharing revenues received in this period. However the FCPD did not update its DAG-71 log to account for the receipt of these funds. We tested FCPD's use of these funds and noted that these expenditures were appropriately documented and used for law enforcement purposes. We also noted that the FCPD submitted its annual Agreement and Certification Forms in an accurate and timely manner.

### **Federal Sharing Agreements and Certification Forms**

According to the DOJ Equitable Sharing Guide, state and local law enforcement agencies participating in the equitable sharing program must submit an agreement and certification form at the end of a participating agency's fiscal year. The form has two sections – the agreement and the certification. The agreement portion of the form must be signed by both the head of the law enforcement entity and a designated official of the local government. By signing and submitting the agreement, the signatories agree that the participating agency will follow the equitable sharing program guidelines. The certification section of the form lists the equitable sharing funds received, a summary of how the funds received were spent, and any non-cash assets received.

We obtained copies of the FCPD's certification forms for FYs 2009 and 2010 to determine whether the forms were accurate. We determined that the forms were prepared and signed by the proper FCPD officials. To assess the accuracy of the FCPD's certification forms, we verified that the total receipts and expenditures reported in FY 2009 and 2010 in FCPD's accounting records reconciled to the totals reported on the certification forms.

We also reviewed whether both agreement and certification forms were submitted on time. The DOJ Equitable Sharing Guide states that participating law enforcement agencies must submit the agreement and certification form within 60 days of the end of the applicable fiscal year.

Considering that the FCPD fiscal year ends on June 30, these forms were due to the DOJ by August 30. The FCPD submitted the certification forms within the 60-day requirement for both FY 2009 and FY 2010.

### **Accounting for Equitable Sharing Receipts**

The FCPD conducts collaborative investigations with units of several different law enforcement agencies. If officers seize assets such as cash and property items during these investigations, the FCPD completes and submits a DOJ Form DAG-71 to request a percentage, or share, of the proceeds of the seized assets. DOJ compiles reports listing the payments made to each equitable sharing program participant. According to DOJ data, from FY 2009 to 2010, the FCPD recorded equitable sharing receipts totaling over \$1,270,000, as shown in Exhibit 1.

#### **EXHIBIT 1: FCPD EQUITABLE SHARING RECEIPTS (FY 2009 TO 2010)**

<b>Fiscal Year</b>	<b>Equitable Sharing Receipts (\$)</b>
2009	1,012,256
2010	260,300
<b>TOTAL</b>	<b>\$ 1,272,556</b>

Source: FCPD certification forms

The DOJ Equitable Sharing Guide requires that law enforcement agencies use standard accounting procedures and internal controls to track and account for equitable sharing receipts. Such accounting procedures include establishing a separate revenue account or code that can be used only for DOJ equitable sharing funds. The FCPD receives equitable sharing funds in the same Fairfax County bank account used to receive other federal payments. During FYs 2009 and 2010, the FCPD received equitable sharing funds in this account via electronic funds transfers (EFT) made by the USMS using E-Share.<sup>1</sup> However, because E-Share disbursements may include payments for other funds the USMS provides to Fairfax County, a DOJ EFT is not necessarily a result of shares of asset proceeds to the FCPD. Therefore, for each equitable sharing EFT, the USMS sends an automatically-generated e-mail to a designated FCPD recipient notifying that an equitable sharing payment has been made.

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<sup>1</sup> E-Share is the United States Marshals Service program used to make equitable sharing payments to federal, state, and local law enforcement agencies through EFT. E-Share changes equitable sharing payments from a paper U.S. Treasury check to a direct deposit into the state or local law enforcement agency's bank account.

In addition to accounting for equitable sharing receipts, the DOJ Equitable Sharing Guide requires that the state or local participating law enforcement agency maintain a DAG-71 log detailing the seizure type, share amount requested, amount received, and date received. The guide also requires the log to be updated whenever an E-Share notification is received. Based upon our review of the FCPD's log as well as inquiry with FCPD staff, we found that they did not update the DAG-71 log when the FCPD received equitable sharing receipts. We did note that their accounting records reflected sharing receipts received, but the FCPD did not maintain a process to reconcile the accounting records with the DAG-71 log. Therefore, we recommend that the Criminal Division require the FCPD to use its DAG-71 log to reconcile periodically actual receipts to outstanding sharing requests.

To test the accuracy of the equitable sharing receipts for FY 2009 and FY 2010, we reconciled the total receipts recognized for each fiscal year in the FCPD's accounting system to the total equitable sharing receipts the FCPD reported on its annual agreement and certification forms. We also tested a judgmental sample of eight receipts totaling \$733,350, or more than 57 percent of the total FCPD reported receipts. We verified that the FCPD received and properly accounted for these receipts.

### **Use of Equitable Sharing Funds**

Generally, agencies participating in the DOJ equitable sharing program should use equitable sharing funds for law enforcement purposes. As summarized by Exhibit 2, the Equitable Sharing Guide outlines the allowable and unallowable uses for equitable sharing funds.<sup>2</sup>

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<sup>2</sup> The DOJ Equitable Sharing Guide includes the complete list of allowable and unallowable uses for equitable sharing funds.



**EXHIBIT 2: SUMMARY OF ALLOWABLE AND UNALLOWABLE USES  
FOR EQUITABLE SHARING FUNDS**

<b>Allowable Uses</b>	<b>Unallowable Uses</b>
Law Enforcement Investigations	Extravagant Expenditures
Law Enforcement Training	Food and Beverages
Law Enforcement Equipment	Education-Related Costs
Asset Accounting and Tracking	Uses Contrary to the Laws of the State or Local Jurisdiction
Law Enforcement Awards and Memorials	Non-Official Government Use of Shared Assets
Law Enforcement Travel and Transportation	Use of Forfeited Property by Non-Law Enforcement Personnel
Law Enforcement and Detention Facilities	Salaries and Benefits of Current Law Enforcement Personnel

Source: DOJ Equitable Sharing Guide

The FCPD processes expenditure requests in accordance with Fairfax County procurement processes and must have the approval of both a bureau commander and the procurement office. If a requestor would like to use equitable sharing funds, a memorandum detailing the purpose for the request and an affirmation that the expenditure type is allowable is prepared by the requestor and approved by the Commander of the Organized Crimes and Narcotics Unit (OCN), Chief of Police, and the Deputy County Executive. The Commander of the OCN is responsible for ensuring the allowability of expenditures made with equitable sharing funds prior to approval.

For FYs 2009 to 2010 the FCPD spent a total of \$1,072,228 in equitable sharing funds. The FCPD used equitable sharing funds to purchase items such as law enforcement training equipment, investigative software, a tactical response vehicle, and firearms.

We judgmentally sampled 10 transactions totaling \$593,368 (or 55 percent of total FCPD equitable sharing outlays during the audit period) to assess whether these expenditures were supported and allowable under equitable sharing guidelines. The sample included primarily high-dollar purchases. We evaluated the nature and purpose of these expenditures and determined that the sampled items appeared to supplement and not supplant the FCPD's budgeted funds. All tested expenses appeared allowable and conformed with DOJ requirements.

## **Recommendation**

We recommend that the Criminal Division require the FCPD to use its DAG-71 log to reconcile periodically actual receipts to outstanding sharing requests.

## 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

### Objective

The objective of the audit was to assess whether the FCPD accounted for equitable sharing funds properly and used such revenues for allowable purposes defined by applicable guidelines. We tested compliance with what we considered were the most important conditions of the Department of Justice's (DOJ) equitable sharing program. We reviewed laws, regulations, and guidelines governing the accounting for and use of DOJ equitable sharing receipts, including pertinent versions of the Criminal Division's *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*.

Unless otherwise stated in our report, the criteria used during the audit were contained in this guide.

### Scope and Methodology

Our audit concentrated on equitable sharing receipts received by the Fairfax County Police Department (FCPD) from DOJ between July 1, 2008 and June 30, 2010. During FYs 2009 and 2010, there were receipts totaling more than \$1,270,000. We tested a judgmental sample of 8 receipts totaling \$733,350 in our assessment of FCPD receipt accounting and a judgmental sample of 10 disbursements, totaling \$593,368 to evaluate FCPD's use of equitable sharing funds. The judgmental sample of FCPD expenditures constituted approximately 55 percent of the total expenditures made with equitable sharing funds during the audit period. We applied our judgmental sampling design to obtain a broad exposure to numerous facets of the disbursements reviewed, such as dollar amounts. This non-statistical sample design did not allow us to project results of our testing to the entire universe of equitable sharing disbursements made in the scope of our audit.

We performed audit work at FCPD headquarters in Fairfax, Virginia. To accomplish the objectives of the audit, we interviewed FCPD officials and examined records, related revenues, and expenditures of equitable sharing revenues. In addition, we relied on computer-generated data contained in the DOJ Detail Distribution Report for determining equitably shared revenues and property awarded to the FCPD during the audit period. We did not establish the reliability of the data contained in the DOJ equitable sharing system 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.

Our audit specifically evaluated the FCPD's compliance with three essential equitable sharing guidelines: (1) Federal Sharing Agreements and Annual Certification Reports, (2) Accounting for Equitable Sharing Receipts, and (3) Use of Equitable Sharing Funds. In planning and performing our audit, we considered internal controls established and used by the FCPD and its county government over DOJ equitable sharing receipts to accomplish our audit objectives. However, we did not assess the FCPD's financial management system's reliability, internal controls, or whether it, as a whole, complied with laws and regulations.

Our audit included an evaluation of two county-wide audits conducted by KPMG, LLP, of the County of Fairfax, of which the auditee is a sub-unit. The results of these audits were reported in the Single Audit Report that accompanied the Comprehensive Annual Financial Report for the years ended June 30, 2009 and 2010. The Single Audit Reports were prepared under the provisions of Office of Management and Budget Circular A-133. We reviewed the independent auditor's assessments, which disclosed no control weaknesses or significant noncompliance issues related specifically to the FCPD.

# FAIRFAX COUNTY POLICE DEPARTMENT RESPONSE TO THE DRAFT AUDIT REPORT



## County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

**Colonel  
David M. Rohrer**  
*Chief of Police*

December 16, 2011

**Lt. Colonel  
James A. Morris**  
*Deputy Chief of Police  
for Administration*

Troy M. Meyer, Regional Audit Manager  
U.S. Department of Justice  
Office of the Inspector General  
Washington Regional Audit Office  
1300 N 17th Street, Suite 3400  
Arlington, Virginia 22209

**Lt. Colonel  
Edwin C. Roessler Jr.**  
*Deputy Chief of  
Police for Patrol*

Re: Fairfax County Police Department Equitable Sharing Program Activities Audit

Dear Mr. Meyer:

**Lt. Colonel  
Maggie A. DeBoard**  
*Deputy Chief of Police  
for Investigations/  
Operations Support*

Following please find Fairfax County Police Department's response to the above-entitled audit.

The Organized Crime and Narcotics Division, Fairfax County Police Department (FCPD), maintains a log of all submitted DAG-71 forms including seizure type, case number, and amount requested. The United States Marshalls Service (USMS) disburses payments made under the Department of Justice equitable sharing program as well as other programs to FCPD via electronic funds transfer (EFT). The EFT notification does not reflect the case number as reflected on the DAG-71, nor is the amount received the same as the amount requested. To distinguish payments made under the equitable sharing program, USMS sends an automatically generated email to FCPD's accountant as notification that an equitable sharing payment has been processed. When the email notification includes the case number and amount requested as reflected on the DAG-71, it will be used to reconcile actual receipts to outstanding DAG-71 requests. It should be noted that FCPD is re-designing the DAG-71 tracking log and reconciliation process to improve internal controls.

If you have any questions, please contact me at 703-246-7583.

Sincerely,

Valecia Witt, Director  
Financial Resources Division

VDW/pas

cc: Denise Turcotte, U.S. Department of Justice, Office of the Inspector  
General, Criminal Division

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

The Department of Justice Office of the Inspector General (OIG) provided a draft of this audit report to the Criminal Division and the Fairfax County Police Department (FCPD). We incorporated FCPD's response as Appendix II of this final report. However, the audit recommendation is unresolved because the Criminal Division declined to provide comments on the draft report. The following provides the OIG analysis of FCPD's response and a summary of actions necessary to resolve the report recommendation.

1. **Unresolved.** In response to the recommendation, the FCPD stated that it re-designed the DAG-71 tracking log and reconciliation process to improve internal controls.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.