



**AUDIT OF THE
KENTUCKY STATE POLICE'S
EQUITABLE SHARING PROGRAM ACTIVITIES**

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

Audit Report GR-50-12-003
March 2012

AUDIT OF THE KENTUCKY STATE POLICE'S EQUITABLE SHARING PROGRAM ACTIVITIES

EXECUTIVE SUMMARY

The U.S. Department of Justice (DOJ), Office of the Inspector General, Audit Division, has completed an audit of the use of DOJ equitable sharing revenues by the Kentucky State Police (KSP). Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized in the course of certain criminal investigations.¹ During the period of July 1, 2009, through June 30, 2010, the KSP was awarded DOJ equitable sharing revenues totaling \$893,353 and property valued at \$64,785 to support law enforcement operations.

The objectives of the audit were 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 found that the KSP generally complied with equitable sharing guidelines with respect to tracking funds received and adhering to supplanting requirements. However, we identified weaknesses related to the use and reporting of interest income, the accuracy of its Equitable Sharing Agreement and Certification Report (Certification Report), its assessment of tangible property values, the lack of a Single Audit performed on equitable sharing funds, its use of equitable sharing funds, and proper maintenance of its DAG-71 log. Specifically, we found that:

- The KSP did not return to its Asset Forfeiture account \$33,478 in interest income it earned on asset forfeiture funds in 2010 and did not report the interest earned on its 2010 Certification Report.
- There were two additional areas of weakness on the KSP's 2010 Certification Report: (1) restitution revenue totaling \$6,704 was received but was not included as other income on the report, and (3) a \$950 purchase of a dual-purpose canine was misclassified.

¹ The DOJ asset forfeiture program has three primary goals: (1) to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; (2) to enhance cooperation among foreign, federal, state, and local law enforcement agencies through equitable sharing of assets recovered through this program; and, as a by-product, (3) to produce revenues to enhance forfeitures and strengthen law enforcement.

- The FY 2010 DOJ Consolidated Asset Tracking System (CATS) Report total asset value and the KSP total inventory asset value differed by \$32,273 for the six vehicles received as tangible equitable sharing assets by the auditee. In accordance with OMB Circular A-133, the KSP must inventory its DOJ-provided property at fair market value. Additionally, we found that the KSP does not have written procedures for assessing the value of seized property. KSP officials indicated that they used the most current Kelley Blue Book to determine the value of the six vehicles as recorded in the KSP accounting records.
- Although the KSP expended over \$1.3 million in DOJ asset forfeiture funds in fiscal year 2010, its DOJ asset forfeiture funds were not included in the Commonwealth of Kentucky's Statewide Single Audit for the year ended June 30, 2010, as required by Office of Management and Budget (OMB) Circular A-133.
- We identified four unallowable transactions, totaling \$1,192. These transactions were corrected and allocated to the correct fund during our site visit.
- The KSP's DAG-71 log did not report forfeiture property received or the amount requested from the participating federal law enforcement agency, as required by equitable sharing guidelines.

Our report contains six recommendations to address the weaknesses we identified. Our findings are discussed in greater detail in the Findings and Recommendations section of the report. The audit objectives, scope, and methodology appear in Appendix I.

TABLE OF CONTENTS

INTRODUCTION	1
Background	1
OIG Audit Approach	2
FINDINGS AND RECOMMENDATIONS	3
Equitable Sharing Agreement and Certification Report.....	3
Accounting for Equitable Sharing Receipts	6
DAG-71s	6
Use of Equitably Shared Property	6
Use of Equitable Sharing Funds	8
Single Audit Act Requirements	9
Supplanting	9
Views of Responsible Officials.....	10
Recommendations	10
APPENDIX I - OBJECTIVES, SCOPE, AND METHODOLOGY	11
APPENDIX II - AUDITEE RESPONSE	13
APPENDIX III - OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND ACTIONS NECESSARY TO RESOLVE THE REPORT	16

INTRODUCTION

The U.S. Department of Justice (DOJ), Office of the Inspector General, Audit Division, has completed an audit of the use of DOJ equitable sharing revenues by the Kentucky State Police (KSP). The audit covered the KSP's 2010 fiscal year (FY), specifically the period of July 1, 2009, through June 30, 2010. During that period, the KSP was awarded DOJ equitable sharing revenues totaling \$893,353 and property valued at \$64,785 to support law enforcement operations. The objectives of the audit were 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.

Background

The primary mission of the DOJ Asset Forfeiture Program is to employ asset forfeiture powers in a manner that enhances public safety and security. This is accomplished by removing the proceeds of crime and other assets relied upon by criminals and their associates to perpetuate their criminal activity against our society. Asset forfeiture has the power to disrupt or dismantle criminal organizations that would continue to function if we only convicted and incarcerated specific individuals.

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

Although several DOJ agencies are involved in various aspects of the seizure, forfeiture, and disposition of equitable sharing revenues, the DOJ Criminal Division, Asset Forfeiture and Money Laundering Section (AFMLS), is responsible for issuing policy statements, implementing governing legislation, and monitoring the use of DOJ equitable sharing funds. Generally, the use of equitable sharing revenues by state and local recipient agencies is limited to law enforcement purposes. However, under

certain circumstances, up to 15 percent of equitable sharing revenues may be used for the costs associated with drug abuse treatment, drug and crime prevention education, housing and job skills programs, or other nonprofit community-based programs or activities. This provision requires that all expenditures be made by the law enforcement agency and does not allow for the transfer of cash.

KSP headquarters is located in Frankfort, Kentucky, which is the state capital. The KSP's law enforcement budgets were \$139,127,912 in FY 2009; \$130,117,000 in FY 2010; and \$139,379,600 in FY 2011.

OIG Audit Approach

We tested compliance with what we considered to be the most important conditions of the DOJ equitable sharing program. Unless otherwise stated, we applied the 2009 Equitable Sharing Guide as our primary criteria. The 2009 Equitable Sharing Guide identifies 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 KSP's compliance with the following three 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.
- **Annual Equitable Sharing Agreements and Certification Forms** to determine if these documents were complete and accurate.
- **Use of equitably shared resources** to determine if equitable sharing funds were spent for permissible uses.

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

FINDINGS AND RECOMMENDATIONS

The KSP complied with Equitable Sharing Guidelines with respect to accounting for and tracking of funds received and adhering to non-supplanting requirements. However, we found weaknesses related to interest earned by the KSP on its equitable sharing funds, the accuracy of its Annual Certification Report and Equitable Sharing Agreement, the assessment of values for shared assets received, and the maintenance of the DAG-71 log. Specifically, the KSP did not return to its Asset Forfeiture Fund or report on its 2010 Certification Report the \$33,478 in interest income that was earned on DOJ equitable sharing funds. In addition, the KSP incorrectly categorized the purchase of a police canine and omitted \$6,704 in restitution reimbursements on its 2010 Certification Report. We also found a difference of \$32,273 between the transferred shared asset values on the CATS Report and the KSP inventory records. Further, we identified four unallowable transactions, totaling \$1,192, that were remedied during our site visit. Lastly, although the KSP expended over \$1.3 million in DOJ federal asset forfeiture funds during FY 2010, these funds were not included in the Commonwealth of Kentucky's Statewide Single Audit for the year ended June 30, 2010, in accordance with OMB Circular A-133.

Equitable Sharing Agreement and Certification Report

The AFMLS requires that any state or local law enforcement agency that receives forfeited cash, property, or proceeds as a result of a federal forfeiture submit an Equitable Sharing Agreement and Certification Report (Certification Report). The submission of this form is a prerequisite to the approval of any equitable sharing request. Noncompliance may result in the denial of the agency's 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. The agreement must be signed by the head of the law enforcement agency and a designated official of the local governing body. By signing the agreement, 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 tested compliance with the Certification Report requirements and determined that the form for FY 2010 was timely submitted, adequately

completed, and signed by the appropriate officials. However, we found weaknesses relating to: (1) interest income, (2) restitution revenue received, (3) criminal asset proceeds, and (4) misclassification of a purchased canine.

On its 2010 Certification Report, the KSP identified that it did not receive interest on its DOJ forfeiture funds and that the DOJ funds were held in a non-interest bearing account. However, despite initial claims by an official from the Commonwealth of Kentucky's Finance Branch that the DOJ funds did not accrue interest, we identified that interest was accruing on DOJ asset forfeiture funds and that \$33,478 in earned interest was paid to a state fund called *Capital Construction* in FY 2010. We believe this occurred because the Commonwealth of Kentucky, which maintains the accounting records for the KSP, did not post the interest income to the KSP asset forfeiture accounting fund. According to equitable sharing guidelines, any interest earned on equitable sharing funds must be reported on the Certification Report and must be returned to the agency's equitable sharing fund to be used in accordance with the same guidelines as all other equitable sharing funds.

After determining that interest in FY 2010 was accrued and not reported or returned to the proper fund, we expanded our review of interest accrued to include additional years. We reviewed data and cash distributions from the forfeiture fund for FY 2008, 2009, and 2011, and we identified the same condition. We then requested that the state of Kentucky's Treasurer's Office calculate the interest earned on the asset forfeiture fund for FYs 2008 through 2011. The following table illustrates that the total interest earned on forfeiture funds for all 4 fiscal years, as calculated by the Treasurer's Office, was \$115,926.

KSP EQUITABLE SHARING FUND INTEREST EARNED

FISCAL YEAR	INTEREST EARNED
2008	\$31,369
2009	38,393
2010	33,478
2011	12,686 ²
Total	\$115,926

Source: Commonwealth of Kentucky Finance Branch

As a result of our inquiry and discussions with the Finance Branch, the Commonwealth remedied the total interest earned and placed \$115,926 in the asset forfeiture fund. Additionally, we verified with the Finance Branch that interest earned on the KSP asset forfeiture fund since June 2011 has been properly disbursed to the fund on a monthly basis. We recommend that the KSP file amended Certification Reports for FY 2008 through 2011 to account for these funds and remedy our finding of enhanced revenue. We also recommend that the AFMLS determine to what extent (if at all) the interest earned on forfeiture funds in prior year should be remedied.

Additionally, we found that the ending cash balance on the KSP's 2010 Certification Report was incorrect because the KSP did not report \$6,704 in reimbursements from drug buy money it received. According to the KSP, its accounting system did not have the ability to track recovered funds that had been used in undercover operations to purchase drugs. However, according to the KSP, this accounting system issue has been corrected and these funds are reflected on the KSP's 2011 Certification report.

We also found that the 2010 Certification Report listed a \$950 police canine as having been purchased with DOJ equitable sharing funds. However, the KSP's accounting record listed the canine as purchased with Treasury Forfeiture funds. When we brought this to the attention of KSP officials, they amended the 2010 Certification Report and correctly classified the canine as a Treasury expense.

² This represents the total cash distributions for FY 2011 less cash distributions earned during June 2011 in the amount of \$2,441. On July 1, 2011, the cash distribution for June 2011 was properly paid to KSP's DOJ asset forfeiture fund.

Accounting for Equitable Sharing Receipts

The Guide to Equitable Sharing for State and Local Law Enforcement Agencies, dated April 2009 (2009 Equitable Sharing Guide), requires that all participating state and local law enforcement agencies implement standard accounting procedures to track equitably shared revenues and property. Additionally, DOJ equitable sharing funds must be accounted for separately from any other funds. We reviewed procedures for reconciling equitable sharing requests against sharing receipts, reconciled the agency's accounting records to DOJ records of equitable sharing funds shared with the agency, and reviewed equitable sharing receipts to determine if the funds were properly accounted for and deposited.

We identified that the KSP had received 133 cash receipts of equitable sharing funds totaling \$893,353 during FY 2010. We reviewed the five highest receipts totaling \$280,782 and concluded that the KSP accurately accounted for all equitably shared revenues received during FY 2010.

Additionally, according to the 2009 Equitable Sharing Guide, the agency receiving equitable sharing funds is required to maintain separate accounting records for DOJ equitable sharing funds. We determined that the KSP equitable sharing funds were directly deposited into the Commonwealth of Kentucky's General Account and a special accounting code was used to identify DOJ equitable sharing receipts.

DAG-71s

According to the 2009 Equitable Sharing Guide, the law enforcement agency is to maintain a log and copies of all DAG-71 Forms. The log should contain the seizure type, amount seized, requested amount, amount received, and the date. We found that the KSP maintained a DAG-71 log and recorded cash receipts, but it did not record in the log the property received or the amount of the forfeiture that was requested. We recommend the KSP maintains a DAG-71 log that contains all the required elements, including seizure type (cash and property), amount seized, share amount requested, amount received, and date received.

Use of Equitably Shared Property

The 2009 Equitable Sharing Guide also requires that any forfeited tangible property transferred to a state or local agency for official use must be used for law enforcement purposes only. Further, vehicles and other tangible property transferred for official law enforcement use must be so

used for at least 2 years. However, if the property becomes unsuitable for such stated purposes before the end of the 2-year period, it may be sold. During FY 2010, the KSP received six forfeited vehicles. We sampled all six seized vehicles and concluded that all were listed in the KSP inventory records, were currently in law enforcement custody, and were being used for allowable law enforcement purposes.

In accordance with OMB Circular A-133, federal non-cash assistance shall be valued at fair market value at the time of receipt or valued at the assessed value provided by the federal agency. During our initial review, we found that the six seized vehicles were valued at \$64,785 on the CATS Report, while the vehicles were valued at \$32,512 in the KSP inventory records. When we asked KSP officials about this difference of \$32,273, several stated that the current Kelley Blue Book Value is typically used when calculating vehicle values. However, we found the assessment of vehicle values to be inconsistent. We noted several instances where the KSP inventoried a vehicle value at the price paid to the U.S. Marshals Service (USMS) to store a vehicle. In the assessment of one vehicle, it appeared that the KSP combined the price paid to the USMS for storage and the Kelley Blue Book value and used the combined total for its inventory value. Additionally, we found there to be no written procedures established for assessing seized property values. When we brought this to their attention, KSP officials updated the asset values in their inventory records for all six vehicles, resulting in a less significant difference of \$5,155 between the CATS and KSP inventory records. We consider this figure to be more in line with the CATS Report supplied by AFMLS and more in line with the fair market value of the property.

We believe that the KSP should establish formalized procedures to assess the value of seized property to ensure that it is in line with fair market value or the assessed value determined by the federal agency. We believe this would ultimately reflect consistency of shared asset values in the KSP's inventory records.

Use of Equitable Sharing Funds

Generally, the 2009 Equitable Sharing Guide requires that the use of equitable sharing funds received by state and local agencies be limited to law enforcement purposes. However, under certain circumstances, up to 15 percent of equitable sharing revenues may be used for the costs associated with drug abuse treatment, drug and crime prevention education, housing and job skills programs, or other nonprofit community-based programs or activities. Law enforcement agencies can transfer cash to another law enforcement agency.

We found that the KSP used most of its equitable sharing revenue to help fund its undercover operations. Specifically, the KSP issues to each of its undercover officers "Operation Undercover Mastercards," which the officers use to obtain cash advances. The officers use this cash to make drug buys and to pay informants in an effort to further their investigations. Overall, cash advances obtained by KSP undercover officers accounted for 99 percent of the KSP's equitable sharing expenditures in FY 2010.

During FY 2010, the KSP expended \$1,355,129 in DOJ equitable sharing revenues. We judgmentally selected and reviewed 21 expenditures (12 of which came from a yearly wrap-up report of monthly Mastercard statements containing multiple individual cash advance transactions), totaling \$1,349,658. Based on our review of the wrap-up report, we determined that four of these expenditures were unallowable. Specifically, we found:

- a miscalculation in the amount of \$137 was incorrectly paid out of forfeiture funds;
- an Executive Security Officer's credit card balance of \$313 was incorrectly categorized;
- a foreign currency fee of \$47 was assessed on an Executive Security Officer's account but reimbursed out of asset forfeiture funds; and
- \$695 for a purchase made by an Executive Security Officer was incorrectly categorized.

The KSP promptly remedied each of the four unallowable expenditures during our site visit.

To determine if the KSP complied with its own policies governing undercover funds, we selected a judgmental sample of 27 individual officers' Mastercard statements, totaling \$72,051. We found there to be no misuse of equitably shared funds, and all documentation was accounted for as outlined in the KSP's *Policies for Mastercard Use in Undercover Operations*. We also determined that transactions were supported by adequate documentation, items were used for law enforcement purposes, and the expenditures were allowable and in accordance with the guidelines.

Single Audit Act Requirements

The 2009 Equitable Sharing Guide requires that the agency follow the Single Audit Act Amendment of 1996 and OMB Circular A-133, which require each non-federal entity that expends a total amount of federal awards equal to or in excess of \$500,000 in a fiscal year to have either a Single Audit or a program-specific audit performed for such fiscal year.

During FY 2010, the KSP expended over \$1.3 million in DOJ equitable sharing funds. However, the Commonwealth of Kentucky's Statewide Single Audit for the year ended June 30, 2010, did not include the DOJ Equitable Sharing Fund. We spoke with officials from the Office of the Auditor of Public Accounts for the Commonwealth of Kentucky who said the reason the Asset Forfeiture Fund was not included in the Single Audit Report was due to an error in the information the Auditor's Office received from the Kentucky Finance and Administration Cabinet with regards to the sources of federal funds.³ The Audit Manager with whom we spoke agreed to notify the Finance and Administration Cabinet and stated that the financial activity from the Asset Forfeiture Fund would be reported in future Single Audit reports. We recommend the KSP ensure that its DOJ forfeiture fund expenditures are included in the Commonwealth of Kentucky's Statewide Single Audit.

Supplanting

Pursuant to the 2009 Equitable Sharing Guide, equitable sharing revenues must be used to increase or supplement the resources of the receiving state or local law enforcement agency. Equitably shared funds shall not be used to replace or supplant the resources of the recipient. To test whether equitable sharing funds were used to supplement rather than

³ The Finance and Administration Cabinet's mission is to serve the administrative needs of the state government. Its core mission is to provide services that will better enable agencies to deliver services and perform their duties on behalf of the general public.

supplant local funding, we interviewed local officials and reviewed the agency's local budgets for FYs 2009, 2010, and 2011.

Although the KSP budget decreased from \$139,127,912 in FY 2009 to \$130,117,000 in FY 2010, we concluded the economic crisis was the contributing factor for the Commonwealth of Kentucky's decision to reduce the budget. Based on the results of our interviews and our review of the Commonwealth of Kentucky budget documents, we did not find any indications that the KSP was using equitable sharing funds to supplant local funding.

Views of Responsible Officials

We discussed the results of our review with KSP officials throughout the audit and at a formal exit conference. Their input on specific issues has been included in the appropriate sections of the report.

Recommendations

We recommend that the Assistant Attorney General, Criminal Division:

1. Require the KSP to file a corrected Equitable Sharing Agreement and Certification Report for FY 2010, which should reflect enhanced revenue received from interest earned and restitution revenue received.
2. Remedy the \$115,926 in enhanced revenue by requiring the KSP to submit a corrected Annual Certification Report that accurately reflects the interest earned for FYs 2008 through June 2011.
3. Determine to what extent (if at all) the Commonwealth of Kentucky should remedy the interest earned in prior years on Forfeiture Funds.
4. Ensure the KSP maintains a DAG-71 log that contains all the required elements, including seizure type (cash and property), amount seized, share amount requested, amount received, and date received.
5. Require the KSP to establish written procedures identifying how to assess the value of shared assets.
6. Require the KSP to ensure that the DOJ Asset Forfeiture Fund expenditures are included in the Commonwealth of Kentucky's Statewide Single Audit.

OBJECTIVES, 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 objectives.

The objectives of the audit were 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 what we considered to be the most important 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 the Guide to Equitable Sharing for State and Local Law Enforcement Agencies, dated April 2009.

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

Scope and Methodology

Our audit concentrated on, but was not limited to, equitable sharing receipts received by the KSP from July 1, 2009, through June 30, 2010. We performed audit work mainly at the KSP headquarters located in Frankfort, Kentucky. We interviewed KSP officials and examined records of federal asset forfeiture revenues and expenditures of DOJ equitable sharing revenues and property received by the KSP.

During FY 2010, there were 133 receipts totaling \$893,353, and 6 forfeited tangible assets totaling \$64,785. We tested the five highest receipts totaling \$280,782, as well as all six forfeited assets. During FY 2010, there were 31 disbursements totaling \$1,355,129. We selected 21 disbursements, totaling \$1,349,658. Due to the large dollar amount used for credit card use, we performed a separate transaction sampling and tested 27 individual KSP officers' Undercover MasterCard statements, totaling \$72,051 for testing. Judgmental sampling design was applied to obtain broad exposure to numerous facets of the disbursements reviewed, such as dollar amounts and cost categories. This non-statistical sample design does not allow projection of the test results to all disbursements.

We relied on computer-generated data contained in the DOJ Consolidated Asset Tracking System (CATS) for determining equitably shared revenues and property awarded to the KSP during the audit period. We did not establish the reliability of the 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 included in this report are valid.

In planning and performing our audit, we considered internal controls established and used by the KSP over DOJ equitable sharing receipts to accomplish our audit objectives. We did not assess the reliability of the KSP financial management system or internal controls of that system or otherwise assess internal controls and compliance with laws and regulations for the Commonwealth of Kentucky as a whole.

Our audit included an evaluation of the KSP, a unit of the Commonwealth of Kentucky, which was included in a statewide audit conducted by The Auditor of Public Accounts for the Commonwealth of Kentucky. However, we did note that DOJ Asset Forfeiture Funds were not included in this audit. The statewide Single Audit Report accompanied the Comprehensive Annual Financial Report for the year ended June 30, 2010. The Single Audit Report was prepared under the provisions of Office of Management and Budget Circular A-133. We reviewed the independent auditor's assessment, which disclosed no control weaknesses or significant noncompliance issues related specifically to the KSP.

AUDITEE RESPONSE

March 7, 2012

Carol S. Taraszka
Regional Audit Manager
U.S. Department of Justice
Office of the Inspector General
500 West Madison Street, Suite 1121
Chicago, Illinois 60661-2590

Dear Ms. Taraszka:

Enclosed for your review are our responses to your recommendations concerning our Audit of Use of Equitable Sharing Funds by Kentucky State Police.

Recommendations

1. Require the KSP to file a corrected Annual Certification Report and Equitable Sharing Agreement for FY 2010, which should reflect enhanced revenue received from interest earned, criminal proceeds, and restitution revenue received.

Response:

KSP has prepared a corrected Annual Certification Report and Equitable Sharing Agreement for FY 2010, which reflects enhanced revenue received from interest earned, criminal proceeds, and restitution revenue received. **(see attachments)**

2. Remedy the \$115,926 in enhanced revenue by requiring the KSP to submit a corrected Annual Certification Report that accurately reflects the interest earned for FYs 2008 through June 2011.

Response:

KSP has prepared corrected Annual Certification Reports for FYs 2008 through June 2011 to accurately reflect interest earned. **(see attachments)**

3. Determine to what extent (if at all) the Commonwealth of Kentucky should remedy the interest earned in prior years on Forfeiture Funds.

Response:

To be determined.

4. Ensure the KSP maintains a DAG-71 log that contains all the required elements, including seizure type (cash and property), amount seized, share amount requested, amount received, and date received.

Response:

Once the KSP receives a DAG-71 forfeited property for official use, it will be noted in the notes column of the DAG-71 log. KSP will continue to follow the equitable sharing guidelines. If an amount requested is omitted, it is due to the large number of agencies involved with an investigation and the amount has not been determined. KSP will be diligent in following up on received amounts once participating agencies have determined the amount to KSP and note such on the DAG-71 log.

5. Require the KSP to establish written procedures identifying how to assess the value of seized assets.

Response:

KSPs current procedure for assessing the value of seized property is being reviewed and a formal written policy is being discussed and will be determined. The following is the current procedure for assessing the value of seized property:

When assessing the value of an automobile, the value should be determined by the Kelly Blue Book Value. Any other property seized should be valued determined by an investigator who is considered a subject matter expert by the KSP, who will value the property based on market value and condition.

6. Require the KSP to ensure that the DOJ Asset Forfeiture Fund expenditures are included in the Commonwealth of Kentucky's Statewide Single Audit.

Response:

All future Commonwealth of Kentucky Statewide Single Audits will include DOJ Asset Forfeiture Fund expenditures.

We are attaching FY 2008 through FY 2011 Amended Equitable Sharing Agreement and Certification for your review. The Affidavit-Existing Participant form will be faxed to (202)-616-1344 once signatures are acquired, with signed hard-copy response to follow in the mail. If I can be of further assistance, please do not hesitate to call.

Sincerely,

D. Janet Brock
Administrative Section Supervisor
Kentucky State Police
919 Versailles Road
Frankfort, KY 40601
502-782-1830

Cc: U.S. Department of Justice Criminal Division

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND ACTIONS NECESSARY TO RESOLVE 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 Kentucky State Police (KSP). We incorporated the KSP's response as Appendix II of this final report.⁴ However, the audit recommendations are unresolved because the Criminal Division declined to provide comments on the draft report. The following provides the OIG analysis of the KSP's response and a summary of actions necessary to resolve each report recommendation.

Recommendation Number

1. **Unresolved.** The KSP concurred with our recommendation to file a corrected Equitable Sharing Agreement and Certification Report for FY 2010, which should reflect enhanced revenue received from interest earned and restitution revenue received. According to the KSP, it has prepared a corrected Annual Certification Report and Equitable Sharing Agreement for FY 2010. Additionally, the KSP provided a copy of its amended FY 2010 Report.

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 planned to address the recommendation.

2. **Unresolved.** The KSP concurred with our recommendation to remedy the \$115,926 in enhanced revenue by requiring the KSP to submit a corrected Annual Certification Report that accurately reflects the interest earned for FYs 2008 through June 2011. According to the KSP, it has prepared corrected Annual Certification Reports for FYs 2008 through June 2011 to accurately reflect interest earned. Additionally, the KSP provided copies of these reports.

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 planned to address the recommendation.

⁴ The KSP response included attachments that we have not included in our report due to their technical nature.

3. **Unresolved.** In its response to the draft report, the KSP did not address our recommendation to the Criminal Division to determine to what extent (if at all) the Commonwealth of Kentucky should remedy the interest earned in prior years on Forfeiture Funds.

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 planned to address the recommendation.

4. **Unresolved.** The KSP concurred with our recommendation to ensure the KSP maintains a DAG-71 log that contains all the required elements, including seizure type (cash and property), amount seized, share amount requested, amount received, and date received. The KSP stated that it will continue to follow the equitable sharing guidelines and will be diligent in following up on amounts received.

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 planned to address the recommendation.

5. **Unresolved.** The KSP concurred with our recommendation to require the KSP to establish written procedures identifying how to assess the value of shared assets. The KSP stated that its current procedure for assessing the value of seized property is being reviewed and a formal written policy is being discussed and will be determined.

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 planned to address the recommendation.

6. **Unresolved.** The KSP concurred with our recommendation to require the KSP to ensure that the DOJ Asset Forfeiture Fund expenditures are included in the Commonwealth of Kentucky's Statewide Single Audit. The KSP stated that all future Commonwealth of Kentucky Statewide Single Audits will include DOJ Asset Forfeiture Fund expenditures.

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 planned to address the recommendation.