

MANAGEMENT AUDIT REPORT  
OF THE  
ALBUQUERQUE POLICE DEPARTMENT  
SPECIAL INVESTIGATION DIVISION  
CONFIDENTIAL AND FORFEITURE FUNDS

REPORT NO. 03-115



**CITY OF ALBUQUERQUE  
OFFICE OF INTERNAL AUDIT**



**City of Albuquerque**  
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103  
**Office of Internal Audit**

**Martin J. Chavez, Mayor**

January 15, 2003

Internal Audit Committee  
City of Albuquerque  
Albuquerque, New Mexico 87102

Audit: Albuquerque Police Department  
Special Investigations Division  
Confidential and Forfeiture Funds  
03-115

**FINAL**

INTRODUCTION

The Office of Internal Audit conducted an audit of the Albuquerque Police Department (APD) Special Investigations Division (SID) Confidential and Forfeiture Funds. APD receives Federal forfeiture funds from drug-related cases worked jointly with Federal law enforcement agencies. Cash funds are used to pay informants, buy drugs and other property, and pay expenses for certain APD enforcement and investigation activities. The audit is performed annually at the request of APD.

The Controlled Substances Act (30-31-1 to 30-31-41 NMSA 1978) allows a law enforcement agency that seizes forfeited money to take custody of the money for use in the enforcement of the Controlled Substances Act. APD records receipts and expenditures of forfeiture money in a special revenue fund designated solely for use by APD.

The Federal Comprehensive Crime Control Act of 1984 instituted the national asset forfeiture program. This program authorizes the sharing of Federal forfeiture proceeds with cooperating State and local law enforcement agencies. In accordance with Federal policies, proceeds from Federal forfeitures can only be used for law enforcement expenditures. Priority must be given to programs such as law enforcement operations that will result in further seizures and forfeitures. To ensure continued Federal forfeiture revenues, APD uses these proceeds to fund the operations of SID. Effective March, 1994, The U.S. Department of Justice requires that any State or local

law enforcement agency receiving more than \$100,000 in forfeiture funds annually, submit an audited Federal Annual Certification Report to the US Department of Justice/ACA Program and the U.S. Department of the Treasury. This report will be presented to the Federal agencies to fulfill this requirement.

This report and its conclusions are based on information taken from a sample of transactions and do not purport to represent an examination of all related transactions and activities. Our fieldwork was completed on September 25, 2002. The audit report is based on our examination of SID's activities through the completion of our fieldwork and does not reflect events or accounting entries after that date. The audit was conducted in accordance with Government Auditing Standards, except Standard 3.33, requiring an external quality control review.

### SCOPE

Our audit did not include an examination of all the functions, activities, and transactions of SID. Our audit test work was limited to the following areas:

- Check for compliance with the U.S. Department of Justice booklet A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies dated March 1994.
- Evaluate the internal control procedures used to receive, safeguard, and dispose of cash and other property for confidential funds and forfeited monies.
- Check for compliance with applicable laws, policies and regulations.

### FINDINGS

The purpose of an internal audit is to identify changes in the auditee's activities, which would improve its effectiveness, efficiency, and compliance with administrative policies and applicable rules and regulations. Therefore, the auditee's activities that appear to be functioning well are not usually commented on in audit reports. The following findings concern areas that we believe would be improved by the implementation of the related recommendations.

#### 1. FEDERAL FORFEITURE FUNDS ARE PROPERLY EXPENDED

The City receives funds and other assets from the Federal forfeiture program and is subject to the requirements stipulated in the U.S. Department of Justice booklet, A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies. As part of our examination of the SID, expenditures were reviewed for compliance with Federal forfeiture requirements. Based on our test work, it appears that expenditures in SID were for law enforcement purposes and did not replace or supplant general fund programs or expenditures. The Federal forfeiture funds for the

year ended June 30, 2002 (FY02) were not used to replace funds previously provided from general fund appropriations. The Federal Annual Certification Report should be filed as follows:

**Table 1-1**

**FEDERAL ANNUAL CERTIFICATION REPORT**

	<b><u>Justice Funds</u></b>
Summary of Equitable Sharing Activity:	
Beginning equitable sharing fund balance	\$ 304,743
Federal sharing funds received	349,195
Transfer from other law enf. agencies	-
Other income	1,004,237
Interest income accrued	<u>6,984</u>
Total equitable sharing funds	1,665,159
Federal equitable sharing funds spent	(774,190)
Equitable sharing fund balance	<u>890,969</u>
Summary of Shared Monies Spent:	
Salaries (not to exceed 1- year employees)	-
Overtime	-
Total spent on informant "buy money"	83,886
Total spent on travel and training	47,286
Total spent on comm. and computers	12,153
Total spent on firearms and weapons	4,003
Total spent on body armor and prot. gear	574
Total spent on elect. surv. equipment	2,425
Total spent on buildings and imp.	116,250
Total spent on other law enf. expenses	<u>507,613</u>
Total shared monies spent	<u>\$ 774,190</u>

**RECOMMENDATION**

None.

2. **APD STAFF SHOULD BE ADEQUATELY TRAINED ON COMPLETING THE FEDERAL ANNUAL CERTIFICATION REPORT**

SID maintains bank accounts and records separate from those maintained by the City of Albuquerque. As a result, routine operating expenditures and funds for undercover

operations are not paid through the City's accounts payable system, but by SID directly. Each year SID receives funds from Federal and State resources to pay for its operations. Within SID are nine separate units that conduct undercover operations.

SID is required to file a Federal Annual Certification Report (FACR) with the US Departments of Justice and Treasury. This report should be filed 90 days subsequent to the fiscal year end and is subject to an annual audit. SID employs a bookkeeper who is contracted to reconcile SID's bank accounts, process accounts payable invoices, maintain a general ledger and produce financial reports. We examined the financial reports prepared by the contract bookkeeper and noted the following:

- SID transfers funds from its main operating accounts to the individual units. We noted that transfers out per the bookkeeper did not match the actual amounts transferred to individual SID units as follows:

<u>Unit</u>	<u>Transfer Per Bookkeeper</u>	<u>Actual Transfer</u>
TAS	\$ 0	\$ 4,500
ROP	8,100	8,100
Intelligence	4,000	2,000
Gang	3,163	2,859
Vice	7,558	10,200
CIT	1,758	(631)
Eastside Narc.	24,540	27,790
Westside Narc.	22,665	20,686
Central Narc.	<u>24,040</u>	<u>36,728</u>
Total	<u>\$ 95,824</u>	<u>\$112,232</u>

- SID had vehicle purchases of \$197,400 and sales of \$83,954 in FY02. However, the contract bookkeeper netted the two numbers showing vehicle purchases of \$113,446. The FACR requires that all revenues and expenditures be reported at gross amounts. When revenue and expenditures are reported at their net amounts, APD is at risk of filing misleading reports. Internal Audit notified APD that the vehicle revenues and expenditures were not accurate and the FACR was corrected before it was filed.
- The bookkeeper does not prepare financial reports that could be summarized into categories required by the FACR. The Office of Internal Audit has compiled this report in previous years. However, the preparation of this report is the responsibility of APD management and should be completed within APD or by the contract bookkeeper.

Errors or discrepancies in the report submitted to the Federal agency may cause the agency to question the accuracy and validity of the City's financial data reporting. The errors could lead to restricted funds or additional requirements for the City in order to continue to participate in the Federal Forfeiture program.

In FY01 the Office of Internal Audit recommended that SID staff should be adequately trained on completing the FACR. APD's response was, "This has been completed, and a training memo has been implemented as well as disseminated to SID command staff." We examined the training memo prepared by APD in FY02. We noted that many reporting changes and improvements have been implemented among SID command staff. If the contract bookkeeper were adequately trained, the FACR could be completed within SID.

#### RECOMMENDATION

SID should ensure that the contract bookkeeper accurately complete all financial reports. The SID contract bookkeeper should be adequately trained on completing the FACR and the FACR should be completed within APD. SID should modify the contract bookkeeper's agreement with the City to reflect the additional responsibilities.

#### EXECUTIVE RESPONSE FROM APD

***"The contract bookkeeper will be trained on completing the FACR. The bookkeeper's contract is currently subject to renewal; therefore, language can be included in the new agreement to reflect this change in duties and responsibilities."***

### 3. THE SID LEASE AGREEMENTS SHOULD FOLLOW ESTABLISHED CITY POLICIES AND ORDINANCES

SID currently has a written agreement to lease vehicles for use in its undercover work. The detectives use these cars in undercover operations and must frequently change vehicles because suspects often recognize these vehicles after a short period of time. Having the ability to change vehicles is important to undercover operations. The current vehicle lease agreement does not contain a period of performance for the agreement.

SID is exempt from the City's Purchasing Ordinance when processing "the procurement through the Purchasing Division would compromise a criminal investigation." As a result, the vehicle lease agreement was not negotiated within the City's purchasing guidelines. SID personnel who negotiated the agreement did not have experience in

negotiating leases and may have been unaware of the missing period of performance element.

SID has also experienced difficulties with the vendor's vehicle lease billing procedures. Invoices from the vendor are sometimes one to two months late.

In addition to vehicle lease agreements, SID leases the facilities from which it operates. The original lease was entered into on September 1, 1994 for 10,530 square feet of office space. On September 1, 1992 the City's Chief Administrative Officer implemented Administrative Instruction No. 5-10 which requires all facilities 10,000 square feet or greater to have computer energy modeling utilizing the acceptable software programs described in the City's Energy Systems Standards Manual. In addition, the City's Life Cycle Cost Analysis ordinance, section 5-3-3 ROA states, "...The life-cycle analysis shall be made utilizing a city approved method. Computer energy modeling shall be required for facilities 10,000 square feet or greater. Conservational mechanical and electrical energy systems shall be considered." It appears that SID management was unaware of the Life-Cycle Cost Analysis ordinance and policies. The lease agreement between SID and the lessor does not contain any stipulation to ensure compliance with City ordinances or the Administrative Instruction.

The Office of Internal Audit addressed vehicle and facility leases in the prior year's Albuquerque Police Department Forfeiture and Confidential Funds (report no. 02-102) audit, which was completed on May 23, 2002. SID's response was, "The majority of SID leases are up for evaluation/renewal this fiscal year; the above criteria will be adhered to during this process. SID's administrative supervisor will be scheduled for city Purchasing Division training by September 2002. \*The lease with the car rental company has been open ended, with a (30) day pull out period, open to both entities thus far. SID evaluates the pricing of various rental agencies throughout the Albuquerque area yearly, to ensure SID is obtaining the very best rates in this area. SID has also obtained copies of the pertinent Administrative Instructions, i.e. Life Cycle Analysis Orders & Manual. SID will review these directives, as well as work to implement them within fiscal year 2003." SID management reports that the sergeant responsible for the leases will be retiring in early FY03 and a replacement has not been selected. As a result, SID has not renegotiated its leases or sent personnel to purchasing training.

#### RECOMMENDATION

APD/SID should renegotiate the vehicle lease agreement to include a period of performance and specific billing procedures to be followed by the vendor. In addition, the facilities lease should be renegotiated to ensure compliance with the pertinent Administrative Instructions. SID personnel who negotiate contracts on behalf of the City should take a Purchasing Division training class to learn the elements of a contract.

EXECUTIVE RESPONSE FROM APD

***“SID Command Staff will evaluate the current vehicle lease agreement and include a period of performance and specific billing procedures to be followed by the vendor.***

***“SID Command Staff will also evaluate the current building lease agreement to ensure compliance with the pertinent administrative instruction.***

***“SID Command Staff will ensure the appropriate personnel are trained via the Purchasing Division training class governing contracts.”***

4. SID UNITS SHOULD ROUTINELY BALANCE ALL UNIT CASH FUNDS

Each unit within SID maintains a cash fund from which operations are performed. Each unit also maintains a cash log in order to account for each transaction. During our audit we verified the cash balances of each unit within SID. We noted that out of the nine units counted, one unit did not balance to the unit log by \$100 and another by \$9. If each unit routinely balanced their cash account to their cash logs, errors could be identified more quickly.

RECOMMENDATION

All individual unit cash funds should be routinely balanced to the unit logs. If errors are discovered, they should be immediately corrected.

EXECUTIVE RESPONSE FROM APD

***“Unit cash funds will be balanced monthly by the unit supervisor and verified by the section commander. Section commanders will include this verification on their monthly report to the Division Commander.”***

5. SID SHOULD RECONCILE CASH RECEIVED FROM THE FEDERAL GOVERNMENT TO THE CITY’S GENERAL LEDGER EACH MONTH

The Federal Comprehensive Crime Control Act of 1984 authorizes the sharing of Federal forfeiture proceeds with cooperating State and local law enforcement agencies. In fiscal year 2002 SID received \$349,195 from the Federal Government. The Federal Government delivers, via courier, disbursements for various amounts directly to SID’s headquarters. SID then delivers the funds to the City Treasury Division for deposit into the City’s bank account.



Each time funds are received from the Federal Government, SID personnel complete a forfeitures log that shows the date the funds were received, date they were delivered to the City Treasury Division, the Federal Government's check number, and amount. We tested the SID forfeitures log and the City's general ledger to determine if all funds received had been accounted for. We noted that \$3,336.68 was recorded on the City's general ledger but was not recorded on SID's forfeitures log. It appears that SID management is not reconciling the forfeiture logs to the City's general ledger. When the forfeiture log is not reconciled to the general ledger, SID is at risk of having its funds posted incorrectly, posted untimely or not posted at all.

#### RECOMMENDATION

SID management should reconcile the forfeiture log to the City's general ledger each month to verify that all Federal funds received have been properly accounted for.

#### EXECUTIVE RESPONSE FROM APD

*"The Narcotics Section commander is responsible for tracking forfeiture money received from the federal government. The Narcotics Section commander will reconcile the forfeiture log to the City's general ledger monthly and include that report in the Section monthly report to the Division Commander"*

#### CONCLUSION

By implementing the above recommendations, the City can further improve its administration and control over APD Confidential and Forfeiture Funds.

We appreciate the cooperation of APD staff during the audit.

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Senior Auditor

**REVIEWED and APPROVED:**

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Debra D. Yoshimura, CPA, CIA, CGAP  
Internal Audit Office

**APPROVED FOR PUBLICATION:**

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Chairman, Audit Committee