



Lexington-Fayette Urban County Government
OFFICE OF INTERNAL AUDIT

MANAGEMENT ACTION PLAN PROGRESS REPORT

DATE: November 16, 2015

TO: Jim Gray, Mayor

CC: Sally Hamilton, Chief Administrative Office
Glenn Brown, Deputy Chief Administrative Officer
Aldona Valicenti, Chief Information Officer
Ronnie Bastin, Commissioner of Public Safety
William O'Mara, Commissioner of Finance & Administration
Mark Barnard, Chief of Police
Todd Slatin, Director of Purchasing
Phyllis Cooper, Director of Accounting
Susan Straub, Communications Director
Urban County Council
Internal Audit Board

FROM: Bruce Sahli, CIA, CFE, Director of Internal Audit
Teresa Gipson, CFE, Internal Auditor

RE: Asset Forfeiture Funds Management Action Plan Progress Report

Background

On April 28, 2014, the Office of Internal Audit issued the Asset Forfeiture Funds Audit Report. The 2014 audit report contained several findings, including asset forfeiture funds not deposited timely, reconciliation of receipts to requested amounts needed, questionable expenditure of forfeited funds, improvement needed over disbursement processing, expenditures made prior to executing purchase order, worksheet formulas needed for accuracy, and equitable sharing agreement not submitted timely. We also noted a risk observation related to reducing the cash maintained in the Property and Evidence Room.

This review is provided for management information only. It is not an audit and no opinion is given regarding controls or procedures. The period of review included asset forfeiture collections from July 1, 2014 through July 31, 2015.

A summary of the findings from the original audit report and a summary of the results of our follow-up are provided in the table below. The original findings, management's original responses, and details of the results of this follow-up are contained in the **ORIGINAL AUDIT RESULTS AND FOLLOW-UP DETAILS** section of this report.

Finding	Summary of Original Finding	Follow-Up Results
Finding #1 High Priority	Asset Forfeiture Funds Not Deposited Timely	All funds from adjudicated forfeiture cases were released from the Property and Evidence bank account and distributed based on the court decision, except for one outstanding case not submitted to the Division of Police by the Commonwealth Attorney's Office. Remaining funds were deposited when property was logged into Property & Evidence. This finding has been resolved.
Finding #2 High Priority	Reconciliation of Receipts to Requested Amount Needed	There was no documentation on file to explain a \$6,129 variance between funds for confiscated monies approved by the DOJ and the actual payment received.
Finding #3 High Priority	Questionable Expenditure of Forfeited Funds	A sample of expenditures from the Asset Forfeiture Fund did not identify any questionable expenditures. This finding has been resolved.
Finding #4 High Priority	Improvement Needed Over Disbursement Processing	We did not note any issues with invoices being paid late due to inaction by the Division of Police. This finding has been resolved.
Finding #5 High Priority	Expenditures Made Prior to Executing Purchase Order	Some expenditures continue to be made prior to the issuance of a purchase order. 17% of PO's tested were initiated after service had been rendered. All of these expenditures related to the helicopter maintenance and/or hangar rental.

Finding #6 High Priority	Worksheet Formulas Needed For Accuracy	Spreadsheet formulas had been corrected and the Undercover Funds Ledger Sheets reconciled to the Bureau of Investigation (BOI) Ledger Sheets. This finding has been resolved.
Finding #7 High Priority	Equitable Sharing Agreement Not Submitted Timely	The Equitable Sharing Agreement for FY 2014 was submitted electronically in a timely manner although the affidavit was signed 25 days late. The FY 2015 Agreement was submitted timely. This finding has been resolved.
Risk Observation	Property Evidence Reduced Room Should Cash Be	Confiscated funds are now being deposited into a Property and Evidence bank account until the case is adjudicated by the courts. This risk observation has been resolved.

ORIGINAL AUDIT RESULTS AND FOLLOW-UP DETAILS

Original Finding #1: Asset Forfeiture Funds Not Deposited Timely **Priority Rating: High**

Condition:

We reviewed 129 Asset Forfeiture state court orders and noted that in 87% of those cases the forfeited funds were deposited from 1 to 384 days late, based on a timeframe of allowing 30 days from the adjudicated court date to the date of deposit. Some of these cases had been adjudicated by the court in May 2012, but the cash evidence was not pulled from the Evidence Room and deposited until December 2013. The Evidence Room Supervisor indicated that the courts are responsible for sending the final court order by mail which may have delayed some of the deposits. We were informed that the department has been short staffed for some time and this has contributed to a backlog of forfeited court cases that have not been pulled from Evidence and deposited.

The department is currently working on processing some of the older forfeited court cases that date back to May 2012. The department has also hired a new employee to improve the workload and help reduce delayed deposits of forfeited funds.

Effect:

The benefit of forfeited funds is delayed if cash evidence is not deposited when authorized.

Recommendation:

Police should continue their weekly deposit process and work expeditiously to deposit all forfeited cash from adjudicated court cases.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

We requested a list of all adjudicated court cases since January 2015 involving Property and Evidence from the Commonwealth Attorney's Office. We determined that these monies were initially deposited into the Property and Evidence bank account when confiscated by Police. After the court case was adjudicated, funds were pulled from the Property and Evidence bank account and distributed based on the court decision. We noted only one adjudicated forfeiture case from 2012 that the Fayette Commonwealth Attorney's office had not submitted to the Division of Police for distribution. Police is reliant upon either the Commonwealth Attorney's Office or representatives of the court to officially inform them via a court order so they can release funds from Property & Evidence. The remaining funds were deposited when property was logged into Property & Evidence.

This finding has been resolved. No management response required.

Original Finding #2: Reconciliation of Receipts to Requested Amount Needed
Priority Rating: High

Condition:

Reconciliations are not being performed between the notifications of expected funds from the external agencies and the deposits of funds received. Police will submit an Application for Transfer of Federally Forfeited Property to the DOJ and/or the U.S. Treasury Department to request a share of any seized assets. The requested percentage of shared funds is based upon Police's involvement in the case. When the federal case is adjudicated by the courts, the agencies will send a payment disbursement notification of the final forfeited amount, including the approved percentage of forfeited funds along with a projected receipt date to Police. It was noted that the percentage amounts requested and amount received sometimes varied significantly. Since the variances are not being

systematically tracked and documented, it was difficult to determine if more monies should have been received.

Effect:

If asset forfeiture amounts received are not reconciled to supporting notifications, discrepancies may go undetected.

Recommendation:

The spreadsheet used by Police to document forfeited fund deposits should be expanded to include the requested percentage of monies versus the received percentage. Variances should be clearly documented so administrative staff can evaluate and determine if further action is needed.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

We selected a sample of transactions from the DOJ's Sharing Distribution Report and noted that Police had requested a 30% share of confiscated funds on one transaction. According to the DOJ distribution report, the decided share was 30% or \$35,700; however, Police only received a 25% share in the amount of \$29,571. There was no documentation maintained by Police to indicate DOJ's reason for the reduction. We recommend this variance be researched and adequate explanation for the variance be noted on the Report. The Division of Police may also want to resubmit this transaction to the DOJ to determine if the additional \$6,129 can still be received.

Chief of Police Response:

The Department of Justice and/or US Treasury have control of the final findings on disbursements of percentages awarded related to asset forfeiture cases. We do track and compare Equitable Sharing payments as we have done with the mentioned case and there was a resolution. The initial seizure was \$119,000, then \$20,000 went to expenses, DOJ receives 20% of the remaining \$99,000, the Lexington Police Department received it's 30% minus a fee of \$129 for additional expenses.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Original Finding #3: Questionable Expenditure of Forfeited Funds
Priority Rating: High

Condition:

Asset Forfeiture monies were used to purchase a security system costing \$1,471.88 for a victim's family after the suspect escaped from custody. Permissible uses of Asset Forfeiture Funds under the DOJ's Guide to Equitable Sharing for State and Local Law Enforcement Agencies dictate that these funds are to be used for law enforcement purposes only, with certain specified exceptions. Our review of the Guide found no law enforcement criteria or exceptions to allow the use of forfeited funds for this purpose, nor was an approval from DOJ provided for this exception. Even though this expenditure was taken from the Commonwealth Attorney's Forfeited Assets Fund, the law enforcement use under the federal guidelines still appears to apply.

The Office of Internal Audit does not question the necessity of the purchase to protect the victim's family, and noted the expenditure was later reimbursed through the Kentucky Victim and Witness Protection Program. However, the purchase should have been paid for out of the General Fund, which has no such restriction on its use.

We also noted that proper Purchasing policies and procedures were not applied to this expenditure. The expenditure was made and invoiced prior to obtaining a purchase order. While the need appears to have been immediate, the purchase should have been handled as an emergency purchase.

Effect:

Noncompliance with the policies of the Guide may subject a recipient agency to one or more sanctions, including but not limited to the denial of an agency's sharing request, temporary or permanent exclusion from further participation in the equitable sharing program, or offsets from future sharing in the amounts equal to the impermissible use.

Recommendation:

The Division of Police should refrain from any future use of Asset Forfeiture monies for expenditures that do not have a direct law enforcement use or that are otherwise clearly allowable under the DOJ's Guide to Equitable Sharing for State and Local Law Enforcement Agencies. LFUCG Purchasing procedures regarding emergency purchases should be consistently complied with.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

We selected a sample of expenditure items and tested for allowable costs in accordance with the DOJ's guidelines. We did not note any expenditures that violated the acceptable use of Asset Forfeiture Funds.

This finding has been resolved. No management response required.

**Original Finding #4: Improvement Needed Over Disbursement Processing
Priority Rating: High****Condition:**

We tested a total of 58 invoices and noted that eight of the invoices (14%) were processed from 12 to 180 days past the payment terms of Net 30 Days as stipulated on LFUCG Purchase Orders. On average, these eight invoices were paid 55.5 days late with a median of 29.5 days late. Vendors are instructed via the purchase order to submit invoices directly to Accounts Payable; however, some invoices were sent to the ordering department.

Effect:

Not adhering to purchasing timeframes in delivering payment for goods or services rendered could subject the LFUCG to late payment penalties.

Recommendation:

Police should stamp invoices received in their Division and promptly submit them to Accounts Payable.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

Our expenditure testing did not note any issues with invoices being paid late due to inaction by the Division of Police.

This finding has been resolved. No management response required.

Original Finding #5: Expenditures Made Prior to Executing Purchase Order
Priority Rating: High

Condition:

Expenditures were sometimes made prior to a purchase order being executed by the Division of Purchasing. We examined 33 purchase orders and determined that 24% of the purchase orders tested were executed after the related invoice date.

We also determined that at least one of the purchase orders appeared to be executed prior to year end using another purchase order number, but the items were not received so the purchase order was closed. According to notes in PeopleSoft, the projected receipt date was July 9th; therefore, Police should have requested that the Division of Purchasing keep the purchase order open. The Division of Purchasing indicated that the normal practice at year end is to leave purchase orders with capital expenditures and/or expenditures with Council approval open, but the affected Division must initiate the request or the purchase order will be closed. It was not determined if there were special circumstances surrounding the remaining purchase order exceptions noted in our testing.

Effect:

Creating purchase orders after invoices have been produced circumvents LFUCG Purchasing Procedures and the internal controls they provide.

Recommendation:

Police should consistently adhere to Purchasing Policies and Procedures. Police should also run a query of all open purchase orders at year end, determine the current disposition, and apply appropriate year end close procedures.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

We still noted issues with purchase orders (PO's) being initiated after services had been rendered. There were 6 of 36 (17%) PO's related to helicopter maintenance and/or hangar rental that were processed after expenditures had been incurred. To comply with Purchasing's procedures, Police should establish a Blanket PO to prevent purchases from occurring prior to the initiation of the PO. We also noted

that PO's were adequately encumbered and/or closed in accordance with Purchasing's Year-End close procedures.

Chief of Police Response:

The Office of the Chief sent a reminder to the Bureau of Special Operations regarding purchasing guidelines. Blanket purchase orders are now in place to incur the monthly expenditures such as helicopter maintenance and hangar rental.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Original Finding #6: Worksheet Formulas Needed For Accuracy

Priority Rating: Moderate

Condition:

The Undercover Funds Ledger Sheets did not contain formulas to automatically calculate the ending balance of the undercover fund. The Asset Forfeiture Fund is used to help support the Drug Task Force in reducing crime by conducting undercover buys and generating payments to informants. The Lieutenant over the Drug Task Force manages the undercover fund which had disbursements of approximately \$40,000 issued about twice a year. Each undercover detective is disbursed small amounts of money (\$100 to \$500) to conduct buys and these expenses are detailed on the Undercover Expense and Account Form. The Lieutenant transfers data from the expense form to a ledger sheet to maintain a running balance of the fund. Amounts appeared to be manually entered which caused issues when reconciling with the individual buy details (Undercover Expense and Account Form) to the ending balance of cash on hand. It was determined that the expense forms were correct; however, the ledger sheet contained manually entered numbers that created the incorrect balance.

Effect:

Inaccuracies in the ledger sheet can hinder the cash reconciliation process.

Recommendation:

We recommend that spreadsheet formulas be corrected to improve the process of reconciling disbursements from the Lieutenant's spreadsheet to the Expense and Account Form detailing individual buys by the undercover detectives. We recommend that the Fiscal Officer verifies the ledger reconciliation during periodic cash counts and maintain documentation to this effect. Additionally, verification of the total amount counted should also be added along with the verifier's signature and date.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

The spreadsheet formulas on the Undercover Funds Ledger Sheets have been corrected. The Undercover Funds Ledger Sheets also correctly reconciled to the Bureau of Investigation (BOI) Ledger Sheets and the Undercover Expense Form.

In addition, we determined that the Fiscal Officer and/or Internal Affairs had verified the balance of the undercover funds during their routine cash counts and cash was reconciled to the Ledger Sheets. We noted their reviews were adequately documented.

This finding has been resolved. No management response required.

Original Finding #7: Equitable Sharing Agreement Not Submitted Timely
Priority Rating: Moderate**Condition:**

The Equitable Sharing Agreement with the DOJ should be submitted to the DOJ no more than 60 days after the agency's fiscal year end. The latest report was submitted on September 26, 2013 which is 28 days past the 60 day reporting requirement.

Effect:

Late filing of the Equitable Sharing Agreement is a violation of the Guide to Equitable Sharing for State & Local Law Enforcement Agencies.

Recommendation:

Police administration should work with their IT department to devise a program that would pull data from PeopleSoft into expense categories as listed on the Equitable Sharing Agreement. This IT program could be executed as soon as Accounting closes the fiscal year books so the federal report categories could be populated. This format should greatly assist the administration with completing the annual report and submitting the report on a timely basis.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

The Equitable Sharing Agreements with the Department of Justice were submitted timely for FY 2015. The sharing agreement for FY 2014 was electronically submitted in a timely manner; however, the affidavit was signed 25 days late. There were no issues noted with the FY 2015 report.

This finding has been resolved. No management response required.

RISK OBSERVATION

Standards for the professional practice of internal audit stipulate that it is the Office of Internal Audit's responsibility to inform management of areas where risk to the organization or those it serves exist. The following observation identifies a risk associated with LFUCG policy concerning the Asset Forfeiture Funds process but does not represent a violation of statutes or policies. It is considered to be of sufficient importance to deserve mention in this report to ensure senior management's awareness.

Original Risk Observation: Property Room Cash Evidence Should Be Reduced

The Property and Evidence Room maintains a significant amount of cash evidence that is susceptible to fire and weather related events. This is a potential liability issue for the government. Police should continue to work with the Commonwealth Attorney's Office to determine if additional monies can be released for deposit and promptly deposit the cash.

Chief of Police Response:

See attached at the end of this report.

Commissioner of Public Safety Response:

I concur with the Chief of Police response.

Follow-Up Detail Results:

Police management indicated that in approximately January 2014 they began a process where all confiscated cash evidence is deposited on a weekly basis upon approval by the Commonwealth Attorney's Office. Confiscated funds are deposited into a Property & Evidence Holding bank account to await adjudication by the

courts. At July 31, 2015, the account had an ending balance of \$640,481. As court cases are finalized, monies will be released as designated by the forfeiture order and issued to the appropriate accounts. All forfeiture order decisions must be handed down by the court before Police can disburse any of the funds. Our review of deposit activity noted that cash is being deposited into a Property & Evidence Holding bank account almost weekly in order to remove it from the Property & Evidence Room.

This risk observation has been resolved. No management response required.

RESPONSE TO ORIGINAL AUDIT



Lexington-Fayette Urban County
Division of Police
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE

April 24, 2014

EFFECTIVE DATE

NUMBER
REVISED
COP:
14-0146

To: Bruce Sahli, Director Division of Internal Audit	SUBJECT: Audit – Asset Forfeiture
From: Ronnie Bastin Chief of Police	

This memorandum is in response to the findings of the internal audit conducted on Asset Forfeiture Funds. The Division of Police is committed to the integrity of these funds and has provided the outlined actions of the agency and/or clarification to the below findings.

Finding #1: Asset Forfeiture Funds not deposited timely

Prior to the internal audit of asset forfeiture funds, the Division of Police focused efforts on efficiencies within the Property and Evidence Unit. This included ensuring adequate staffing and processes to aid in the efficiencies and management of evidence. In late 2013 a process for weekly deposits of cash evidence into a secured account was implemented. This new process increased inspection and integrity checks of all cash evidence and should serve to expedite asset forfeiture deposits in the future as outlined in the audit. The Bureau of Administration is responsible for the continued monitoring of these processes in conjunction with the Chief's Fiscal Office. The Division's Internal Affairs Inspector will also conduct future reviews of this process through inspections of Property and Evidence to ensure timely deposits of funds.

Finding #2: Reconciliation of Receipts to Requested Amount Needed

The Department of Justice and/or US Treasury Department have control of the final findings on the disbursement of funds related to asset forfeiture cases. Any discrepancies are monitored and tracked through the DOJ – DAG reporting process. Tracking measures currently exist in the DOJ electronic reporting process, however; the Chief's Fiscal Office is creating additional tracking measures to more clearly denote any discrepancies of funds based upon the disposition of the federal agency approved disbursement of funds to the Division of Police.

Finding #3: Questionable Expenditure of Forfeited Funds

The utilization of these funds (\$1,471.88) were directed as a strategic law enforcement objective to provide immediate security services for the family of a victim in which a violent suspect had escaped custody with the potential to be armed and dangerous. These funds were determined to be critical/emergency expenditures and the most cost effective use of funds which ultimately were reimbursed. It is the position of the Division of Police that these were a direct function of law enforcement and allowed for constant monitoring of the victims residence based upon the emergency situations.

Finding #4: Improvement Needed Over Disbursement Processing

All invoices related to purchases by the Division of Police are forwarded directly by the vendor to accounting for payment. Therefore the Division of Police has minimal control over the payment process to vendors. All personnel within the Division of Police who are responsible for the purchasing process have been advised to remain in communication with vendors throughout the purchasing and receipt process. This is to minimize delays in the process and to ensure invoices are directed accordingly to accounting for timely payment.

Finding #5: Expenditures Made Prior to Executing Purchase Order

In review of the items outlined in the audit, several were required repair maintenance items. In addition there were several purchase orders that were inadvertently closed out in the PeopleSoft system at the end of FY13 which was outside of the control of personnel within the Division of Police who are responsible for purchasing. In some cases this caused delays in the receipt of items which required purchase orders to be held open past the end of the fiscal year. The Division of Police will be reviewing all active/open purchase orders at the end of FY14 in order to partner and communicate with the Division of Purchasing on the process to determine the best practices on this matter.

Finding #6: Worksheet Formulas Needed For Accuracy

It was determined through the audit that additional measures to automate ending balancing sheets for tracking undercover funds would increase accuracy. This recommendation has been implemented by the Investigations Unit Supervisor responsible for these funding accounts.

Finding #7: Equitable Sharing Agreement Not Submitted Timely

The submission of the equitable sharing agreement is based upon the closure of accounting records of LFUCG. The audited year end accounting information is typically not available by the submission deadline which is within 60 days of the end of the fiscal year. This is the cause for the delay as it is the desire of the Division to submit the final accurate accounting records. Moving forward the finalized unaudited accounting records could be submitted with acknowledgment that any discrepancies discovered in the audited account information by Accounting would be amended to reflect any necessary corrections.

Property Room Cash Evidence Should be Reduced

As mentioned previously the Division of Police is committed to ensuring efficiency within all aspects of our operations. The reduction of cash evidence within the property and evidence room was identified as an area through internal review that the Division could improve. This evidence process impacts our outside criminal justice partners and through joint efforts we implemented policies and procedures which will enable the Division to reduce cash evidence within property and evidence and increase inspections while maintaining the integrity of evidence for court purposes. This process now includes weekly deposits of designated cash within Property and Evidence.

Once again the Division of Police is committed to the integrity of the processes which dictate the designation of asset forfeiture funds and have provided the above response to clarify the actions of the Division of Police with respect to the findings of the internal audit. If additional information is needed, please advise.



Ronnie Bastin
Chief of Police

RB/rmh

Attachment

cc: Clay Mason, Commissioner