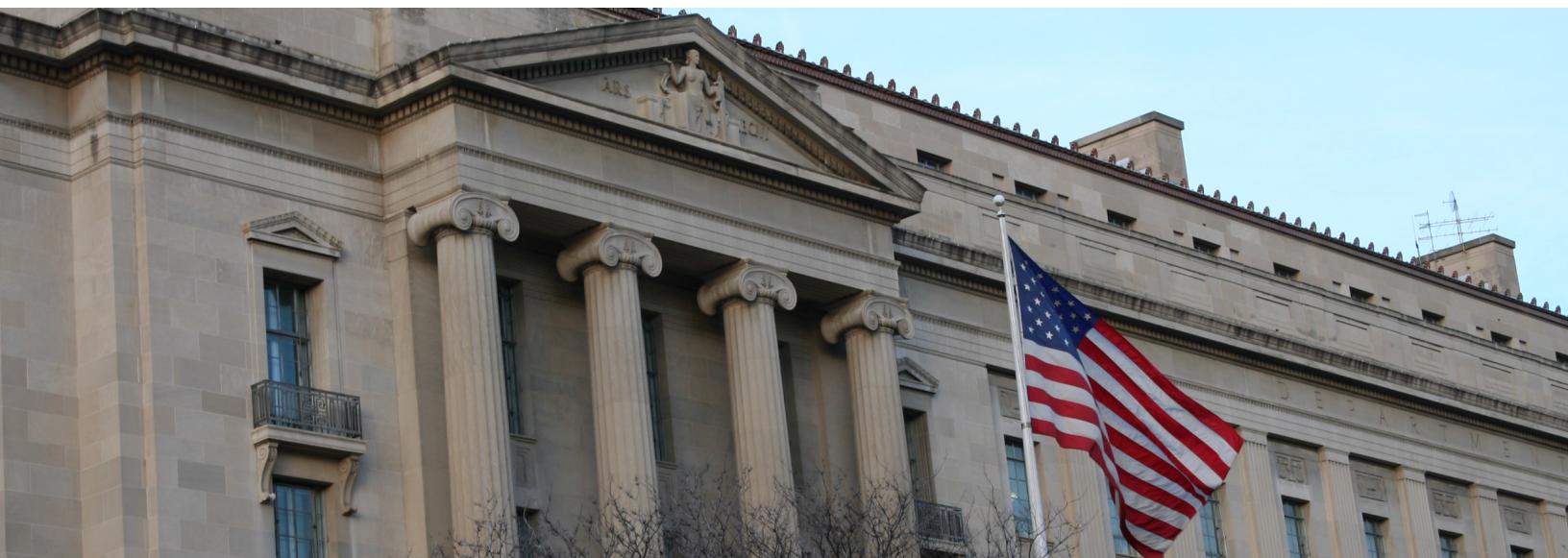




# **Office of the Inspector General**

## **U.S. Department of Justice**

**OVERSIGHT ★ INTEGRITY ★ GUIDANCE**



# **Audit of the Lexington Police Department's Equitable Sharing Program Activities, Lexington, Kentucky**



# Executive Summary

## *Audit of the Lexington Police Department's Equitable Sharing Program Activities, Lexington, Kentucky*

### Objective

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) has completed an audit to assess whether the Lexington Police Department (Lexington PD) appropriately accounted for DOJ equitable sharing funds and property, and used such assets for allowable purposes as defined by applicable guidelines.

### Results in Brief

We found that the Lexington PD did not fully comply with the requirements of the DOJ Equitable Sharing Program. Specifically, we found that the Lexington PD did not accurately and timely submit the required, annual Equitable Sharing Agreement and Certification (ESAC) reports. We also found that the city of Lexington deposited DOJ equitable sharing funds into a non-FDIC insured money market mutual fund account. In addition, we identified \$38,735 in questioned costs for unallowable fringe benefit costs. Further, we found that the Lexington PD used DOJ equitable sharing funds as advance payment for expenditures being reimbursed in the future from other funding sources, which is prohibited in the Guide. Finally, we found that the Lexington PD's equitable sharing expenditures were not accurately reflected in the fiscal year (FY) 2016 Single Audit Report.

### Recommendations

Our report includes three recommendations to assist the DOJ Criminal Division (Criminal Division), which oversees the DOJ Equitable Sharing Program. We provided our draft audit report to the Lexington PD and the Criminal Division, and their responses to our recommendations can be found in Appendices 3 and 4, respectively. Our analysis of those responses is included in Appendix 5.

### Audit Results

This audit covered the Lexington PD's FYs 2016 and 2017. During the period of July 1, 2015, and June 30, 2017, the Lexington PD received \$1,188,178 and reported spending \$680,404 in equitable sharing funds. The Lexington PD spent its equitable sharing funds primarily on overtime, equipment, training, and travel costs. In addition, as a participant in the DOJ Equitable Sharing Program, the Lexington PD received one vehicle valued at \$7,669.

Equitable Sharing revenues represent a share of the proceeds from the forfeiture of assets seized in the course of certain criminal investigations. In determining whether the Lexington PD complied with applicable equitable sharing guidelines, we identified several areas of improvement, including its processes for completing timely and accurate certification reports, its accounting for and use of equitable sharing funds, and its compliance with audit requirements.

#### ***Equitable Sharing Agreement and Certification Reports***

**Reports** – We found that the Lexington PD did not submit its FY 2016 and FY 2017 certification reports in a timely manner. In addition, we found that the Lexington PD overstated the amount of total expenditures on the FY 2016 certification report by \$11,037.

#### ***Accounting for and Use of Equitable Sharing Funds***

**Funds** – We found that the Lexington PD had deposited a portion of the DOJ equitable sharing revenues in a non-FDIC insured money market mutual fund account, which is in violation of DOJ Equitable Sharing Program guidance. In addition, we found that the Lexington PD spent \$38,735 in equitable sharing funds for unallowable fringe benefit costs. The Lexington PD also used equitable sharing funds as advance payment for expenditures that were subsequently reimbursed by other funding sources.

**Compliance with Audit Requirements** – We found the FY 2016 Single Audit Report for the Lexington-Fayette Urban County Government inaccurately identified the total amount of DOJ equitable sharing expenditures.

**AUDIT OF THE  
LEXINGTON POLICE DEPARTMENT'S  
EQUITABLE SHARING PROGRAM ACTIVITIES,  
LEXINGTON, KENTUCKY**

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# **AUDIT OF THE LEXINGTON POLICE DEPARTMENT'S EQUITABLE SHARING PROGRAM ACTIVITIES, LEXINGTON, KENTUCKY**

## **INTRODUCTION**

The Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of the equitable sharing funds received by the Lexington Police Department (Lexington PD) in Lexington, Kentucky. The objective of the audit was to assess whether the cash and property received by the Lexington PD through the DOJ Equitable Sharing Program were accounted for properly and used for allowable purposes as defined by applicable regulations and guidelines. The audit covered the Lexington PD's fiscal years (FY) 2016 and 2017 (July 1, 2015, through June 30, 2017).<sup>1</sup> During that period, the Lexington PD received \$1,188,178 and reported spending \$680,404 in equitable sharing revenues. In addition, as a participant in the DOJ Equitable Sharing Program, the Lexington PD received one vehicle valued at \$7,669.

### **DOJ Equitable Sharing Program**

The Comprehensive Crime Control Act of 1984 authorized the implementation of the DOJ Asset Forfeiture Program (Asset Forfeiture Program).<sup>2</sup> The Asset Forfeiture Program is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime. A key element of the Asset Forfeiture Program is the Equitable Sharing Program. The DOJ Equitable Sharing Program allows state or local law enforcement agencies that directly participate in an investigation or prosecution resulting in a federal forfeiture to claim a portion of federally forfeited cash, property, and proceeds.

Although several DOJ agencies are involved in various aspects of the seizure, forfeiture, and disposition of equitable sharing revenues, 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's Money Laundering and Asset Recovery Section (MLARS).<sup>3</sup> The USMS is responsible for transferring asset forfeiture funds from DOJ to the receiving state or local agency. JMD manages the Consolidated Asset Tracking System (CATS), a database used to track federally seized assets throughout the forfeiture life-cycle. Finally, MLARS tracks membership of state and local participants, updates the

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<sup>1</sup> The Lexington PD's fiscal year begins July 1 and ends June 30.

<sup>2</sup> The U.S. Department of the Treasury also administers a federal asset forfeiture program, which includes participants from the Department of Homeland Security. This audit was limited to equitable sharing revenues received through the DOJ Equitable Sharing Program.

<sup>3</sup> A few non-DOJ components also fall under the auspices of the DOJ Equitable Sharing Program, including the U.S. Postal Inspection Service (USPIS).

Equitable Sharing Program rules and policies, and monitors the allocation and use of equitably shared funds.

State and local law enforcement agencies may receive equitable sharing funds by participating directly with DOJ agencies on investigations that lead to the seizure and forfeiture of property, or by seizing property and requesting one of the DOJ agencies to adopt the seizure and proceed with federal forfeiture. Once an investigation is completed and the seized assets are forfeited, the assisting state and local law enforcement agencies can request a share of the forfeited assets or a percentage of the proceeds derived from the sale of forfeited assets. Generally, the degree of a state or local agency's direct participation in an investigation determines the equitable share allocated to that agency.

To request a share of seized assets, a state or local law enforcement agency must first become a member of the DOJ Equitable Sharing Program. Agencies become members of the program by signing and submitting an annual Equitable Sharing Agreement and Certification (ESAC) report to MLARS. As part of each annual agreement, officials of participating agencies certify that they will use equitable sharing funds for allowable law enforcement purposes. The Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Equitable Sharing Guide), issued by MLARS in April 2009, and the Interim Policy Guidance Regarding the Use of Equitable Sharing Funds (Interim Policy Guidance), issued by MLARS in July 2014, outline categories of allowable and unallowable uses for equitable sharing funds and property.

## **Lexington Police Department**

In 1974, the city of Lexington government merged with the Fayette County government to form the Lexington-Fayette Urban County Government. The Lexington PD is located in Lexington, Kentucky, and serves a population of 314,488 residents throughout all of Fayette County. The Lexington PD became a member of the DOJ Equitable Sharing Program in 1996. As of June 2017, the Lexington PD had a workforce of 544 sworn officers, 95 civilian employees, and 50 recruits who were attending the police academy.

## **OIG Audit Approach**

We tested the Lexington PD's compliance with what we considered to be the most important conditions of the DOJ Equitable Sharing Program to assess whether it accounted for equitable sharing funds properly and used such revenues for allowable purposes. Unless otherwise stated, we applied the Equitable Sharing Guide and the Interim Policy Guidance as our primary criteria. The Equitable Sharing Guide provides procedures for submitting sharing requests and discusses the proper use of and accounting for equitable sharing assets. To conduct the audit, we tested the Lexington PD's compliance with the following:

- **Equitable Sharing Agreement and Certification Reports** to determine if these documents were complete and accurate.

- **Accounting for equitable sharing resources** to determine whether standard accounting procedures were used to track equitable sharing assets.
- **Use of equitable sharing resources** to determine if equitable sharing cash and property were used for allowable law enforcement purposes.
- **Compliance with audit requirements** to ensure the accuracy, consistency, and uniformity of audited equitable sharing data.

We found that the Lexington PD did not fully comply with the requirements of the DOJ Equitable Sharing Program. Specifically, we found that the Lexington PD did not accurately and timely submit the required, annual ESAC reports. We also identified that non-DOJ equitable sharing revenues were recorded to the accounting code designated solely for DOJ equitable sharing activities, and we found that the city of Lexington deposited DOJ equitable sharing funds into a non-FDIC insured money market mutual fund account. In addition, we identified \$38,735 in questioned costs for unallowable fringe benefit costs. Further, we found that the Lexington PD used DOJ equitable sharing funds as advance payment for expenditures being reimbursed in the future from other funding sources, which is prohibited in the Guide. Finally, we found that the Lexington PD's equitable sharing expenditures were not accurately reflected in the FY 2016 Single Audit Report.

See Appendix 1 for more information on our objective, scope, and methodology.

## AUDIT RESULTS

### **Equitable Sharing Agreement and Certification Reports**

Law enforcement agencies who participate in the Equitable Sharing Program are required to submit the ESAC report, on an annual basis, within 60 days after the end of an agency's fiscal year. This must be accomplished regardless of whether equitable sharing funds were received or maintained that year. In addition, the head of the law enforcement agency and a designated official of the local governing body must sign the ESAC report. By signing the report, the signatories agree to be bound by and comply with the statutes and guidelines that regulate the DOJ Equitable Sharing Program.

The Lexington PD's Fiscal Office completes the ESAC report based upon a year-end report provided by the city of Lexington's Accounting Department. The Chief of Police reviews and signs the ESAC report, which is then submitted to the Public Safety Commissioner and Legal Department for review. Finally, the ESAC report is provided to the Mayor for review and signature. After both the Chief of Police and Mayor have signed the ESAC report, the Lexington PD's Fiscal Office submits the report to MLARS via the eShare Portal.<sup>4</sup>

#### *Completeness and Timeliness of ESAC Reports*

We tested the Lexington PD's compliance with ESAC reporting requirements to determine if its reports were complete and submitted in a timely manner. We obtained the Lexington PD's ESAC reports submitted for FYs 2016 and 2017 and found that the reports were complete and signed by appropriate officials. However, we determined that the ESAC reports were not submitted within the required timeframe. The FY 2016 ESAC report was submitted 57 days late, and the FY 2017 ESAC report was submitted 15 days late.

According to personnel from the Lexington PD Fiscal Office, the ESAC reports were filed late because the supporting accounting records had not yet been finalized. This individual stated that the official accounting records were not finalized until mid-July or August, and that as a result, the Lexington PD was not able to complete the ESAC report and have it undergo the necessary reviews prior to the deadline, which is within 60 days after the end of the agency's fiscal year. We recommend that the Criminal Division ensure that the Lexington PD develops and implements written procedures to ensure that ESAC reports are submitted within 60 days after the fiscal year end.

#### *Accuracy of ESAC Reports*

To verify the accuracy of the annual ESAC reports, we compared the total receipts reported on the Lexington PD's two most recent ESAC reports to the total

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<sup>4</sup> The eShare Portal is a web-based tool that allows participating agencies in the DOJ Equitable Sharing Program to submit and track their equitable sharing requests, as well as to submit their ESAC reports. Use of the eShare Portal for these equitable sharing activities is mandatory.

amounts listed as disbursed on the DOJ's CATS report for the same time period. We confirmed that the FY 2016 and FY 2017 ESAC reports accurately reflected the DOJ equitable sharing funds received.

We also compared the reported expenditures on the FY 2016 and FY 2017 ESAC reports to the total expenditures reflected in the Lexington PD's accounting records. As shown in the following table, we found that total expenditures indicated on the FY 2017 ESAC report were consistent with the Lexington PD's accounting records. However, we determined that the Lexington PD's FY 2016 ESAC report overstated expenditures by \$11,037. Based upon our review of the accounting records, the Lexington PD transferred \$40,021 in DOJ equitable sharing funds as matching funds to a grant program. However, in its computations, the Lexington PD Fiscal Office included an additional \$11,037 of transferred funds to the grant program. Moreover, the FY 2016 ESAC report only shows \$11,037 as being transferred as matching costs, not \$40,021 as reflected in the accounting records. Lexington PD personnel were unable to determine where the \$11,037 came from and why it included the amount in the FY 2016 ESAC report's total expenditures.

**Table 1**  
**ESAC Expenditures and Accounting Records Comparison**

| Fiscal Year | Expenditures According to ESAC Report | Expenditures According to Accounting Records | Difference |
|-------------|---------------------------------------|----------------------------------------------|------------|
| 2016        | \$335,873                             | \$324,836                                    | \$11,037   |
| 2017        | \$344,531                             | \$344,531                                    | \$0        |

Source: OIG analysis of Lexington PD ESAC reports and accounting records.

Participants in the DOJ Equitable Sharing Program should prepare ESAC reports that accurately reflect expenditures for the reporting period, as well as maintain documentation to support the reported expenditures. Inaccurate reporting of equitable sharing fund activity on the ESAC report may negatively impact efforts to monitor the DOJ Equitable Sharing Program. Therefore, we recommend that the Criminal Division ensure that the Lexington PD develops and implements procedures for submitting accurate ESAC reports.

### **Accounting for Equitably Shared Resources**

The Equitable Sharing Guide requires that law enforcement agencies use standard accounting procedures to track DOJ Equitable Sharing Program receipts. This includes establishing a separate revenue account or accounting code through the agency's finance department for DOJ Equitable Sharing Program proceeds. In addition, agencies must deposit any interest income earned on equitable sharing funds in the same revenue account or under the accounting code established solely for the shared funds.

### *Equitable Sharing Receipts*

According to the Equitable Sharing Guide, participating agencies must establish a separate revenue account or accounting code through the agency's finance department for the proceeds from the DOJ Equitable Sharing Program. Further, the account or accounting code is to be used solely for funds from the DOJ Equitable Sharing Program. For the Lexington PD, DOJ equitable sharing receipts are deposited into a city of Lexington concentrated bank account. However, the city of Lexington established a separate accounting code to track the Lexington PD's DOJ Equitable Sharing Program activities.

Between July 1, 2015, and June 30, 2017, the Lexington PD received DOJ equitable sharing revenues totaling \$1,188,178 to support law enforcement operations. We confirmed that these receipts were deposited into the city of Lexington's concentrated bank account, and that each receipt was properly recorded to the accounting code designated for DOJ Equitable Sharing Program activities. We found that the Lexington PD received most of the receipts during this time via electronic funds transfer from the USMS's E-Share program, and that these deposits were timely.<sup>5</sup> We also identified 13 receipts that were distributed via physical checks, and that each of these receipts was associated with a U.S. Postal Inspection Service (USPIS) administrative forfeiture.<sup>6</sup> We found that these checks were not deposited in a timely manner. On average, it took 24 days from the date of the checks to the date the funds were deposited into the city of Lexington bank account. However, this is no longer an issue because, according to an USPIS official, in August 2017 USPIS began distributing funds associated with USPIS administrative forfeitures via electronic funds transfer.

During our review of the DOJ equitable sharing receipts, we identified other revenues being recorded to the accounting code established for DOJ Equitable Sharing Program activities. The Lexington PD Fiscal Office confirmed that non-DOJ equitable sharing revenues were inadvertently recorded to this account, but that these errors were identified and promptly corrected. We confirmed that the non-DOJ transactions were corrected. Nonetheless, we recommend that the Lexington PD, in conjunction with the city of Lexington, ensure that only DOJ equitable sharing receipts are reflected in the accounting code designated for such activities.

### *Investment of Equitable Sharing Funds*

According to a June 2013 Equitable Sharing Wire, shared funds must only be deposited into an interest or non-interest bearing federally insured depository account; other investment accounts that have a market risk, including money market or uninsured accounts, are unacceptable. Based upon our review of documentation supporting interest income earned, we noted that the city of

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<sup>5</sup> E-share notification is the process of electronic payment from the USMS. Participation in the process is mandatory.

<sup>6</sup> According to MLARS and USPIS officials, USPIS administrative forfeitures were distributed to participating agencies via check.

Lexington deposited the DOJ equitable sharing funds into a money market mutual fund, which is not FDIC-insured. Officials from the city of Lexington confirmed that a portion of the funds were placed in a non-FDIC insured money market mutual fund. We recommend that the Lexington PD ensure that DOJ equitable sharing funds are not maintained in a non-FDIC insured investment account.

#### *Internal Control Environment*

We obtained a copy of the Lexington PD's Asset Forfeiture Procedures. While the procedures are comprehensive on the seizing of assets, the reporting of asset seizures, and the retention or disposition of seized assets, we found that the procedures focus primarily on state forfeitures. The procedures include a requirement that all equitable sharing funds received through federal or state forfeiture activities will be deposited into the Lexington PD's asset forfeiture account, and that all expenditures of equitable sharing funds can only be authorized by the Chief of Police.

However, we believe the Lexington PD's procedures can be enhanced to formally establish processes for ensuring compliance with DOJ Equitable Sharing Program guidelines. For example, the Lexington PD's procedures do not include information related to the ESAC reports, and as discussed in the Equitable Sharing and Agreement Certification Reports section of this report, the Lexington PD did not submit the annual ESAC reports on time, nor were the ESAC reports accurate. Therefore, we believe the Lexington PD should incorporate processes for ensuring the ESAC reports are completed in a timely and accurate manner. In developing these processes, the Lexington PD should coordinate with the city of Lexington to ensure both parties understand the DOJ Equitable Sharing Program guidelines and that all DOJ Equitable Sharing Program activities are accurately and consistently tracked by the Lexington PD and city of Lexington.

In addition, as discussed in the Equitable Sharing Resources section of the report, we found that the Lexington PD spent equitable sharing funds on impermissible items, and that it used equitable sharing funds to pay for costs that would subsequently be reimbursed from other funding sources. We believe the Lexington PD's procedures could be enhanced by referencing DOJ Equitable Sharing Program guidance on the permissible and impermissible uses of equitable sharing funds. Similarly, the Lexington PD's procedures could more explicitly identify where the equitable sharing funds should be deposited. As discussed in the preceding section, we found that the city of Lexington deposited a portion of the DOJ equitable sharing funds in a non-FDIC insured money market mutual fund account, which is in violation of DOJ Equitable Sharing Program guidance.

#### **Equitable Sharing Resources**

The Equitable Sharing Guide and Interim Policy Guidance require that equitable sharing funds or tangible property received by state and local agencies be used for law enforcement purposes that directly supplement the appropriated resources of the recipient law enforcement agency. Also, participating agencies must use the funds prudently to avoid any appearance of extravagance, waste, or

impropriety. For FYs 2016 and 2017, the Lexington PD reported a total of \$680,404 in expenditures, which primarily consisted of equipment, overtime, training, and travel costs. The Lexington PD also received forfeited tangible property valued at \$7,669 to use for law enforcement purposes.

#### *Use of Equitable Sharing Funds*

To determine whether the expenditures paid for with DOJ equitable sharing funds were supported and allowable under the DOJ Equitable Sharing Program guidelines, we judgmentally selected and tested 50 transactions totaling \$318,416, or 47 percent of the total expenditures for the audited period.<sup>7</sup> Based upon our review of the supporting documentation, we identified concerns with certain expenditures that were not allowable per DOJ Equitable Sharing Program guidelines.

We identified that the Lexington PD used DOJ equitable sharing funds to pay for impermissible fringe benefit costs. According to the Equitable Sharing Guide, equitable sharing funds can be used to pay for overtime costs, including fringe benefits associated with the overtime worked. Based upon our sample of overtime transactions, we determined that the Lexington PD used DOJ equitable sharing funds to pay for certain fringe benefits that were not specifically tied to the overtime worked. Specifically, the Lexington PD used DOJ equitable sharing funds to pay for fringe benefit costs associated with flexible spending plans that apply to all officers even if those officers do not work overtime. In turn, we obtained a comprehensive report showing the total fringe benefit costs associated with flexible spending plans that were paid for with DOJ equitable sharing funds during FYs 2016 and 2017. According to this report, the Lexington PD used \$38,735 in DOJ equitable sharing funds to pay for unallowable fringe benefit costs in the audited period. Therefore, we recommend that the Lexington PD remedy the \$38,735 in questioned costs for the payment of unallowable fringe benefit costs.

During our review of equitable sharing expenditures, we also found that the Lexington PD used DOJ equitable sharing funds to pay for expenses that it knew would subsequently be reimbursed to the Lexington PD. Specifically, the Lexington PD used equitable sharing funds to pay for the travel and lodging costs of officers who were detailed to provide security at the 2017 Presidential Inauguration. The Lexington PD entered into a memorandum of understanding (MOU) with the U.S. Attorney's Office for the District of Columbia and the Metropolitan Police Department of Washington, D.C. According to the MOU, the Lexington PD would assume all personnel costs for the officers assigned to the detail, but that the government of the District of Columbia would reimburse the Lexington PD for those costs. In addition, the Lexington PD used equitable sharing funds to pay for travel-related expenses of an officer assigned to a federal task force; these costs were

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<sup>7</sup> Eight of the 50 transactions were overtime costs. These overtime transactions were comprised of multiple line items for multiple officers. Therefore, we selected a judgmental sample from within each of the overtime transactions.

subsequently reimbursed by the respective federal agency as outlined in the MOU that the Lexington PD had with this agency.

According to the Equitable Sharing Guide, shared funds may not be used as advance payment for expenditures being reimbursed or paid from other sources. We found that upon reimbursement, the Lexington PD returned the funds to its DOJ equitable sharing account. Therefore, our concern relates to the Lexington PD's practice of using DOJ equitable sharing funds as a type of loan. After discussing the issue with the Chief of Police, he stated that the Lexington PD would stop using DOJ equitable sharing funds in this manner. We recommend that the Criminal Division ensure that the Lexington PD develops and implements a policy that prohibits the use of DOJ equitable sharing funds to pay for expenses that it knows will be reimbursed from a different funding source.

#### *Use of Equitable Sharing Property*

The Equitable Sharing Guide requires that any forfeited tangible property transferred to a state or local agency for official use must only be used for law enforcement purposes. Further, vehicles and other tangible property transferred for official law enforcement use must be used accordingly 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 with approval from MLARS and the proceeds are to be deposited in the agency's DOJ equitable sharing revenue account.

We identified one tangible property receipt (a vehicle) listed on the CATS report during our audited scope. The vehicle was properly listed on the Lexington PD's inventory records, and we observed that the vehicle was being used for allowable law enforcement purposes.

#### *Supplanting*

The Equitable Sharing Guide requires that shared resources be used to increase or supplement the resources of the recipient agency and prohibits the use of shared resources to replace or supplant the appropriated resources of the recipient. In other words, the recipient agency must benefit directly from the equitable sharing funds. To test whether equitable sharing funds were used to supplement rather than supplant local funding, we interviewed local officials and reviewed the total budgets for the Lexington-Fayette Urban County Government and, specifically, the Lexington PD for FYs 2013 through 2017.

We determined that the Lexington PD's budget increased from one fiscal year to the next from FY 2013 to FY 2017. The Lexington-Fayette Urban County Government's budget also increased from one fiscal year to the next during the same period. Therefore, we determined that there was a low risk that the city of Lexington was supplanting its budget with equitable sharing funds during our period of review. Moreover, our testing of the sampled expenditure transactions did not reveal any evidence of supplanting.

## **Compliance with Audit Requirements**

The Equitable Sharing Guide requires that state and local law enforcement agencies that receive equitable sharing cash, proceeds, or tangible property perform an audit consistent with the Single Audit Act Amendments of 1996 and 2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The Single Audit Act provides for recipients of federal funding above a certain threshold to receive an annual audit of their financial statements and federal expenditures. Under the Uniform Guidance, such entities that expend \$750,000 or more in federal funds within the entity's fiscal year must have a "single audit" performed annually covering all federal funds expended that year. The Single Audit Report is required to include a Schedule of Expenditures of Federal Awards for the period covered by the auditee's financial statements. In addition, an entity must submit its Single Audit Report to the Federal Audit Clearinghouse no later than 9 months after the end of the fiscal year covered by the audit.

We reviewed the FY 2016 Lexington–Fayette Urban County Government's Single Audit Report and noted that the report did not identify any findings regarding DOJ equitable sharing funds. However, we found that the DOJ equitable sharing fund expenditures were inaccurately reported on the Schedule of Expenditures of Federal Awards (SEFA). The SEFA indicated DOJ equitable sharing expenditures of \$336,047, while the Lexington PD's accounting records reflect \$324,836 in total expenditures. According to city of Lexington officials, the DOJ equitable sharing expenditures on the SEFA also included Department of Treasury equitable sharing expenditures, not just those paid for with DOJ equitable sharing funds. The city of Lexington provided documentation confirming that the amount reported on the SEFA was the summation of DOJ and Department of Treasury equitable sharing expenditures. However, the amount on the SEFA did not include the \$40,021 in DOJ equitable sharing funds transferred as matching costs to a grant program. We recommend the city of Lexington develop and implement procedures for accurately reporting federal equitable sharing fund expenditures on the SEFA – separately showing expenditures paid for with DOJ equitable sharing funds and those paid for with Department of Treasury equitable sharing funds.

## **CONCLUSION AND RECOMMENDATIONS**

We tested the Lexington PD's compliance with what we considered to be the most important conditions of the DOJ Equitable Sharing Program to assess whether it accounted for equitable sharing funds properly and used such revenues for allowable purposes. We found that the Lexington PD did not fully comply with the requirements of the DOJ Equitable Sharing Program. Specifically, we found that the Lexington PD did not accurately and timely submit the required, annual ESAC reports. In addition, we found that non-DOJ equitable sharing revenues were recorded to the accounting code designated solely for DOJ equitable sharing activities, and we found that the city of Lexington deposited DOJ equitable sharing funds into a non-FDIC insured money market mutual fund account. We also identified \$38,735 in questioned costs for unallowable fringe benefit costs. Further, we found that the Lexington PD had used DOJ equitable sharing funds as advance payment for expenditures being reimbursed in the future from other funding sources. Finally, we found that the Lexington PD's equitable sharing expenditures were not accurately reflected in the FY 2016 Single Audit Report.

We recommend that the Criminal Division:

1. Ensure that the Lexington PD, in conjunction with the city of Lexington, develops and implements written procedures to enhance the administration of DOJ equitable sharing funds. These procedures should include submitting accurate ESAC reports within the 60-day requirement, recording only DOJ equitable sharing activities in the accounting code designated for such activities, using appropriate depositories, prohibiting the use of DOJ equitable sharing funds to pay for expenses that will be later reimbursed from a different funding source, and accurately reporting DOJ equitable sharing fund expenditures on the Schedule of Expenditures of Federal Awards.
2. Ensure that the Lexington PD is not holding its DOJ equitable sharing funds in a non-FDIC insured investment account.
3. Remedy the \$38,735 in unallowable fringe benefit costs.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

The objective of the audit was to assess whether the Lexington PD appropriately accounted for equitable sharing funds and property and used such revenues for allowable purposes defined by applicable 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, as well as the Interim Policy Guidance Regarding the Use of Equitable Sharing Funds, issued July 2014. Unless, otherwise stated in our report, the criteria we audited against are contained in these documents.

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

Our audit concentrated on, but was not limited to, equitable sharing receipts and property received by the Lexington PD between July 1, 2015, and June 30, 2017. Our audit was limited to equitable sharing revenues received through the DOJ Equitable Sharing Program.

We performed audit work at the Lexington PD's headquarters located in Lexington, Kentucky. We interviewed Lexington PD and city of Lexington officials and examined records, related revenues, and expenditures of DOJ equitable sharing funds. In addition, we relied on computer-generated data contained in the DOJ Consolidated Asset Tracking System (CATS) to identify equitably shared revenues and property awarded to the Lexington PD during the audit period. We did not establish the reliability of the data contained in the CATS as a whole. However, when 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 Lexington PD's compliance with three essential equitable sharing guidelines: (1) Equitable Sharing Agreement and Certification reports, (2) accounting for equitable sharing receipts, and (3) the use of equitable sharing funds. In planning and performing our audit, we considered internal controls over DOJ equitable sharing receipts established and used by the Lexington PD. However, we did not assess the reliability of the city of Lexington's financial management system, or the extent to which the financial management system complied with internal controls, laws, and regulations overall.

In the scope of this audit, the Lexington PD had received cash totaling \$1,188,178 and one tangible item valued at \$7,669. In the same period, the Lexington PD had expenditures totaling \$680,404. We reviewed all 67 receipts totaling \$1,188,178, and we reviewed a judgmental sample of 50 expenditures totaling \$318,416. A judgmental sampling design was applied to capture numerous aspects of the disbursements reviewed, such as dollar amounts and expenditure categories. This non-statistical sample design does not allow projection of the test results to all disbursements.

Our audit included an evaluation of the Lexington-Fayette Urban County Government's most recent annual audit. The results of this audit were reported in the Single Audit Report that accompanied the Lexington-Fayette Urban County Government's basic financial statements for FY 2016. The Single Audit Report was prepared under the provisions of 2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. We reviewed the independent auditor's assessment, which disclosed no internal control weaknesses or significant noncompliance issues related to the DOJ Equitable Sharing Program. However, we did identify an issue with the accurate reporting of expenditures on the Schedule of Expenditures of Federal Awards. We have addressed this weakness in our report.

We discussed the results of our review with officials from the Lexington PD and the city of Lexington throughout the audit and at a formal exit conference. As appropriate, their input has been included in the relevant sections of the report.

## APPENDIX 2

### SCHEDULE OF DOLLAR-RELATED FINDINGS

| <u>Description</u>                   | <u>Amount</u> | <u>Page</u>            |
|--------------------------------------|---------------|------------------------|
| <b>Questioned Costs:<sup>1</sup></b> |               |                        |
| Unallowable Fringe Benefit Costs     | \$38,735      | 8                      |
| Unallowable Costs                    | \$38,735      |                        |
| <b>TOTAL DOLLAR-RELATED FINDINGS</b> |               | <b><u>\$38,735</u></b> |

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<sup>1</sup> **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

### AUDITEE RESPONSE TO THE DRAFT AUDIT REPORT



#### LEXINGTON DIVISION OF POLICE OFFICE OF THE CHIEF

March 5, 2018

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

Dear Ms. Taraszka,

Please accept this letter as the Lexington Police Department's Official Response to the DOJ Audit of the Lexington Police Department's Equitable Sharing Program Activities during the time period of July 1, 2015 to June 30, 2017 in Lexington, KY.

**DOJ Draft Audit Report Recommendation 1 as noted on page 11 in the DOJ Draft Report**

– Ensure that the Lexington PD, in conjunction with the city of Lexington, develops and implements written procedures to enhance the administration of DOJ equitable sharing funds. These procedures should include submitting accurate ESAC reports within the 60-day requirement, recording only DOJ equitable sharing activities in the accounting code designated for such activities, using appropriate depositories, prohibiting the use of DOJ equitable sharing funds to pay for expenses that will be later reimbursed from a different funding source, and accurately reporting DOJ equitable sharing fund expenditures on the Schedule of Expenditures of Federal Awards.

Response to Recommendation 1 – Agree

Actions to be completed on or by May 3, 2018 – The Lexington Police Department is currently updating and enhancing our "Asset Forfeiture Procedure" General Order that provides written procedures and guidelines on DOJ equitable sharing funds. These updates will include procedures covering the timely submission of accurate ESAC reports within the 60-day requirement, recording only DOJ equitable sharing activities in the accounting code designated for such activities, using appropriate depositories, prohibiting the use of DOJ equitable sharing funds to pay for expenses that will be later reimbursed from a different funding source, and accurately reporting DOJ equitable sharing fund expenditures on the Schedule of Expenditures of Federal Awards.

**DOJ Draft Audit Report Recommendation 2 as noted on page 11 in the DOJ Draft Report**

– Ensure that the Lexington PD is not holding its DOJ equitable sharing funds in a non-FDIC insured investment account.

Response to Recommendation 2 – Agree

On August 8, 2017 the DOJ equitable sharing funds that were found to be housed in a non-FDIC insured investment account during the DOJ Audit were removed and deposited into a non-interest bearing Demand Deposit Account (DDP) that is FDIC Insured.

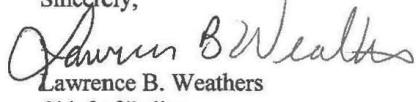
**DOJ Draft Audit Report Recommendation 3 as noted on page 11 in the DOJ Draft Report**  
– Remedy the \$38,735 in unallowable fringe benefit costs.

Response to Recommendation 3 – Agree

On March 2, 2018 the identified \$38,735 of unallowable fringe benefit costs from the DOJ Audit were remedied by depositing \$38,735 to the Lexington Police Department's DOJ equitable sharing funds from Lexington Police Department general fund. In addition, a further internal review of the DOJ equitable sharing funds during the audit time period of July 1, 2015 to June 30, 2017 found an additional \$7,885.68 of unallowable fringe benefit costs that were also remedied on March 2, 2018 by depositing \$7,885.68 to the Lexington Police Department's DOJ equitable sharing funds from Lexington Police Department general fund. Furthermore, the Lexington Police Department also requested an internal review of its DOJ equitable sharing funds from July 1, 2017 to March 1, 2018 by LFUCG Finance and Accounting personnel and no additional unallowable fringe benefit costs were located at such time.

**Lexington Police Department Recommendation** - Verbal communication from DOJ Auditors that conducted the Lexington Police Department Audit identified a potential impermissible purchase of \$2,700 that the Lexington Police Department has chosen to remedy. On March 2, 2018 the identified \$2,700 for the potential impermissible purchase was remedied by depositing \$2,700 to the Lexington Police Department's DOJ equitable sharing funds from Lexington Police Department general fund.

Sincerely,

  
Lawrence B. Weathers

Chief of Police



Brian Maynard  
Commander

cc: U.S. DOJ Criminal Division

**THE CRIMINAL DIVISION MONEY LAUNDERING AND  
ASSET RECOVERY SECTION RESPONSE  
TO THE DRAFT AUDIT REPORT**



**U.S. Department of Justice**

Criminal Division

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*Money Laundering and Asset Recovery Section*

*Washington, D.C. 20530*

**MAR 12 2018**

**MEMORANDUM**

**TO:** Carol Taraszka, Regional Audit Manager  
Chicago Regional Audit Office  
Office of the Inspector General

**FROM:** Jennifer Bickford, Deputy Chief *Jennifer Bickford*  
Program Management and Training Unit  
Money Laundering and Asset  
Recovery Section

**SUBJECT:** DRAFT AUDIT REPORT for the Lexington Police Department's  
Equitable Sharing Program Activities

In a memorandum dated February 21, 2018, your office provided a draft audit report for the Lexington Police Department (LPD), which included actions necessary for closure of the audit report findings. The Money Laundering and Asset Recovery Section (MLARS) concurs with all findings and recommendations in the draft audit report.

Upon receipt of the final audit report, MLARS will work with LPD to correct all identified findings.

cc: Denise Turcotte  
Audit Liaison  
Criminal Division

Richard P. Theis  
Assistant Director, Audit Liaison Group  
Internal Revenue and Evaluation Office  
Justice Management Division

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

The OIG provided a draft of this audit report to Lexington PD and Criminal Division officials. The Lexington PD's response is incorporated in Appendix 3 and the Criminal Division's response is incorporated in Appendix 4 of this final report. In response to our draft audit report, the Criminal Division concurred with our recommendations, and as a result, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

**Recommendations for the Criminal Division:**

- 1. Ensure that the Lexington PD, in conjunction with the city of Lexington, develops and implements written procedures to enhance the administration of DOJ equitable sharing funds. These procedures should include submitting accurate ESAC reports within the 60-day requirement, recording only DOJ equitable sharing activities in the accounting code designated for such activities, using appropriate depositories, prohibiting the use of DOJ equitable sharing funds to pay for expenses that will be later reimbursed from a different funding source, and accurately reporting DOJ equitable sharing fund expenditures on the Schedule of Expenditures of Federal Awards.**

Resolved. The Criminal Division concurred with our recommendation and said that it will work with the Lexington PD to correct this finding.

The Lexington PD concurred with our recommendation and stated in its response that it is currently updating and enhancing its "Asset Forfeiture Procedure" General Order. The Lexington PD said that these updated procedures will address each of the areas noted in our recommendation for enhancing its administration of DOJ equitable sharing funds.

This recommendation can be closed when we receive evidence that the Lexington PD has enhanced its equitable sharing procedures to ensure appropriate administration of its DOJ equitable sharing funds.

- 2. Ensure that the Lexington PD is not holding its DOJ equitable sharing funds in a non-FDIC insured investment account.**

Resolved. The Criminal Division concurred with our recommendation and said that it will work with the Lexington PD to correct this finding.

The Lexington PD concurred with our recommendation and stated that in August 2017 it moved its equitable sharing funds to an FDIC-insured bank account.

This recommendation can be closed when we receive evidence that the Lexington PD is no longer holding its DOJ equitable sharing funds in a non-FDIC insured investment account and that the funds have been placed in a FDIC-insured bank account.

**3. Remedy the \$38,735 in unallowable fringe benefit costs.**

Resolved. The Criminal Division concurred with our recommendation and said that it will work with the Lexington PD to correct this finding.

The Lexington PD concurred with our recommendation and stated that it remedied the \$38,735 in questioned costs identified in our testing of a judgmental sample of expenditures by depositing \$38,735 from the Lexington PD's general fund into the Lexington PD's DOJ equitable sharing fund account. In addition, the Lexington PD said that it conducted an internal review and identified an additional \$7,886 of unallowable fringe benefit costs that it also remedied.

This recommendation can be closed when we receive evidence that the Lexington PD has remedied the unallowable fringe benefit costs.



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**U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL**  
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