



Audit of the Kansas Highway Patrol's Equitable Sharing Program Activities, Topeka, Kansas

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MAY 2021

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Redactions were made to the full version of this report for privacy reasons. The redactions are contained only in Appendix 3, the auditee's response, and are of individuals' names.



EXECUTIVE SUMMARY

Audit of the Kansas Highway Patrol's Equitable Sharing Program Activities, Topeka, Kansas

Objective

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) has completed an audit to assess whether the Kansas Highway Patrol (KHP) accounted for DOJ equitable sharing funds and used such assets for allowable purposes as defined by applicable guidelines.

Results in Brief

As a result of our audit, we concluded that KHP generally accounted for equitable sharing funds properly. This audit did not identify significant concerns regarding KHP's completeness and accuracy of its Equitable Sharing Agreement and Certification Reports, or its accounting of equitable sharing revenues. However, we identified some unallowable equitable sharing fund expenditures. We also identified that the KHP did not have procedures to ensure that vendors are in good standing on the System of Award Management website.

Recommendations

Our report contains one recommendation to assist the DOJ Criminal Division (Criminal Division), which oversees the equitable sharing program.

We requested a response to our draft audit report from the Criminal Division and the KHP which can be found in Appendices 2 and 3, respectively. Our analysis of those responses is included in Appendix 4.

Audit Results

This audit covered the KHP's fiscal years (FY) 2019 and 2020. KHP began the audit period with a balance of \$2,400,184. During the period of July 1, 2018 through June 30, 2020, the KHP received \$4,569,660 and spent \$3,121,344 in equitable sharing funds, primarily on overtime, lease payments, weapons, equipment, travel, training, and supplies.

Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized during certain criminal investigations. We found that the KHP's Equitable Sharing Agreement and Certification Reports were timely, complete, and accurate. We also found that KHP accounted for equitable sharing resources and were following audit requirements. However, we noted certain aspects of KHP's administration and oversight of equitable sharing funds could be improved.

Equitable Sharing Resources

We found that the KHP expended \$2,577 in unallowable personnel expenses related to regular pay. KHP corrected the issue during the audit. However, we also identified an additional \$2,712 of regular pay that was not included in our testing. We recommend KHP work with the Criminal Division to determine if these transactions are allowable and reimburse them to the equitable sharing fund if appropriate. Additionally, the KHP expended \$1,413 in unallowable non-personnel expenses related to club memberships and clothing. Also, the KHP was not familiar with suspension and debarment verification requirements related to prospective vendors. In both instances, the KHP corrected the issues during the audit.

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Introduction

The Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of the equitable sharing funds received by the Kansas Highway Patrol (KHP) in Topeka, Kansas. The objective of the audit was to assess whether the cash received by the KHP through the Equitable Sharing Program were accounted for properly and used for allowable purposes as defined by applicable regulations and guidelines. The audit covered July 1, 2018 through June 30, 2020.¹ During that period, the KHP received \$4,569,660 and spent \$3,121,859 in equitable sharing revenues as a participant in the DOJ Equitable Sharing Program.

DOJ Equitable Sharing Program

The Comprehensive Crime Control Act of 1984 authorized the implementation of the DOJ Asset Forfeiture Program (Asset Forfeiture Program). The Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies describes the Asset Forfeiture Program as 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.² The DOJ Equitable Sharing Program allows any state or local law enforcement agency that directly participated 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). 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 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

¹ KHP's fiscal year begins July 1st and ends June 30th.

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

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, Local, and Tribal Law Enforcement Agencies, issued in July 2018, outlines categories of allowable and unallowable uses for equitable sharing funds and property.

Kansas Highway Patrol

The KHP's general headquarters is in Topeka, Kansas. Established in 1937, the KHP serves a population of over 2.9 million Kansas residents. As of February 2021, the KHP had a workforce of 486 sworn officers and 273 civilian employees. There is one troop within KHP, Troop N, which is responsible for coordinating specialized enforcement activities targeting criminals utilizing Kansas roadways for the furtherance of criminal activities, such as drug trafficking, human trafficking, and violet crime. The forfeiture of criminal proceeds through state and federal courts also falls under the purview of Troop N. According to a KHP official, the KHP's Troop N became a member of the DOJ Equitable Sharing Program around 1987.

OIG Audit Approach

We tested the KHP'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 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 KHP'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.
- **Monitoring of applications for transfer of federally forfeited property** to ensure adequate controls were established.

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 an ESAC Report, on an annual basis, within 60 days after the end of an agency's fiscal year (FY). This must be accomplished regardless of whether equitable sharing funds were received or maintained that year. If an ESAC is not accepted before the end of the 60-day filing timeframe, the law enforcement agency will be moved into a non-compliance status. Additionally, the ESAC Report must be signed by the head of the law enforcement agency and a designated official of the local governing body. By signing and submitting the ESAC Report, the signatories agree to be bound by and comply with the statutes and guidelines that regulate the Equitable Sharing Program.

KHP has a job aide which details the procedures used by KHP accounting personnel to complete the ESAC. The job aide specifies that KHP will use the budget, eShare Distribution, general ledger, and the Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies to complete the ESAC. The job aide also provides the approval process and details the officials required to approve the form and the officials that should receive updates throughout the approval process.

Completeness and Timeliness of ESAC Reports

We tested the KHP's compliance with ESAC reporting requirements to determine if its reports were complete and submitted in a timely manner. We obtained the KHP's ESAC Reports submitted for FYs 2019 and 2020 and found that the reports were complete and signed by appropriate officials. We also determined that the ESAC Reports were submitted within the required timeframe.

Accuracy of ESAC Reports

To verify the accuracy of the annual ESAC Reports, we compared the receipts listed on the KHP's two most recent ESAC Reports to the total amounts listed as disbursed on the eShare Report for the same time period. Our analysis showed that the KHP's most recent ESAC Reports indicated receipts of \$1,918,497 and \$2,651,163 for FYs 2019 and 2020, respectively, which matched the receipts listed on the eShare Report.

To verify the total expenditures listed on the KHP's two most recent ESAC Reports, we compared expenditures listed on the ESAC Reports to the KHP's accounting records for each period. Our analysis showed that the total expenditures reported in the KHP's two most recent ESAC Reports were \$1,841,931 and \$1,279,929 in FYs 2019 and 2020, respectively, which matched the expenditures stated in the KHP's accounting records.

In addition, we reviewed the section of the ESAC Report that summarizes the shared monies spent by specific category, such as law enforcement operations and investigations, travel and training, and law enforcement equipment, for accuracy. To do so, we asked KHP for documentation reflecting expenditures by category. Using this documentation, we computed the total expenditures by category for each fiscal year and compared the results to the amounts reflected on the ESAC Reports. We found that the category totals reflected on the ESAC reports matched the expenditure category totals as provided by the auditee.

In addition to summarizing the shared monies spent by category on the ESAC Reports, entities are required to report the amount of interest income earned during the given reporting period. Based on our review of the supporting documentation provided by the KHP, we found that the interest income reported on the FY 2019 and FY 2020 ESAC reports were accurate.

Accounting for Equitable Sharing Resources

The Equitable Sharing Guide requires that law enforcement agencies use standard accounting procedures and internal controls 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. Further, law enforcement agencies participating in the Equitable Sharing Program are required to use the eShare portal.³

The KHP's equitable sharing disbursements are deposited into the Kansas State Treasurer's Office operating account. The KHP utilizes the Statewide Accounting Software and the KHP's Fiscal Unit is responsible for making sure the disbursements are deposited into the appropriate fund within the accounting system. Equitable sharing funds are held in a separate fund specific to equitable sharing receipts or expenditures. The KHP also ensures that there are multiple levels of review regarding equitable sharing receipts and expenditures.

We determined that the KHP received DOJ equitable sharing revenues totaling \$4,569,660 to support law enforcement operations during FYs 2019 and 2020. We reviewed all receipts of equitably shared revenues to determine if the funds were properly accounted for and deposited and found that the KHP accurately accounted for all of its equitably shared revenues received during these fiscal years.

The KHP's process for requesting and tracking receipts includes one KHP employee who prepares, submits, and manages all of the KHP requests for equitable sharing funds. When the requests are approved and equitable shared funds are distributed to the KHP, that one employee is informed and then provides all the information to the KHP Fiscal Unit. Then, as previously mentioned, the KHP Fiscal Unit is responsible for tracking and managing the disbursements. There are no formal KHP policies regarding the process of preparing and submitting equitable sharing request. When we inquired as to who would handle the equitable sharing requests if staff or other changes took place and who else has access to the eShare portal, a KHP official explained there are other employees that would handle the responsibilities and have access to the eShare portal. In addition, during the audit the KHP created a job aide to explain and demonstrate the process and procedures of the equitable sharing requests. We believe that KHP's identification of other employees as additional support and establishing a job aide reduces the risk of equitable sharing requests being performed inconsistently or inaccurately.

We also reviewed equitable sharing receipts for KHP's two most recently completed fiscal years. From July 1, 2018 through June 30, 2020, eShare reported 103 equitable sharing receipts, totaling \$4,569,660. We reconciled the eShare receipts with the eShare report and found that KHP had 101 equitable sharing

³ The eShare portal enables a participating agency to view the status of its pending equitable sharing requests and run reports on disbursed equitable sharing. This is also the process used to process electronic payments.

receipts, totaling \$4,569,660. We determined that the two missing receipts in the KHP system were combined into two other receipt amounts. According to KHP, in those two instances the deposits were from the same case or they were made on the same day and were combined.

We also reviewed all receipts from FY 2019 and 2020 to ensure that these monies were properly deposited and recorded by the KHP in a timely manner. Our testing determined that the KHP accurately recorded the asset forfeiture receipts in its accounting records.

Equitable Sharing Resources

The Equitable Sharing Guide requires 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. The table below reflects examples of allowable and unallowable uses under these guidelines.

Figure

Summary of Allowable and Unallowable Uses of Equitable Sharing Funds

Allowable Uses

- Matching funds
- Contracting Services
- Law enforcement equipment
- Law enforcement travel and per diem
- Support of community-based programs
- Law enforcement awards and memorials
- Law enforcement training and education
- Join law enforcement/public safety operations
- Law enforcement operations and investigations
- Law enforcement, public safety, and detention facilities
- Drug and gang education and other awareness programs



Unallowable Uses

- Loans
- Supplanting
- Costs related to lawsuits
- Extravagant expenditures
- Money laundering operations
- Purchase of food and beverages
- Creation of endowments or scholarships
- Personal or political use of shared assets
- Transfers to other law enforcement agencies
- Petty cash accounts and stored value cards^a
- Purchase of items for other law enforcement agencies
- Uses contrary to the laws of the state or local jurisdiction
- Use of forfeited property by non-law enforcement personnel
- *With some exceptions*, salaries and benefits of sworn or non-sworn law enforcement personnel.



^a Prepaid credit cards for use as a form of payment for buy-back programs was permissible until July 2018.

Source: Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies.

Use of Equitable Sharing Funds

According to its accounting records, the KHP expended DOJ equitable sharing funds totaling \$1,841,511 in FY 2019 and \$1,279,834 in FY 2020, for a total of \$3,121,344.⁴ We judgmentally selected and tested 65 transactions totaling \$1,515,583, or 49 percent of the total funds expended, to determine if the expenditures of DOJ equitable sharing funds were allowable and supported by adequate documentation. We determined that, of the sampled transactions, the KHP spent equitable sharing funding on expenditures including, among other things, overtime, lease payments, weapons, equipment, travel, training, and supplies. Based upon our review of the supporting documentation provided by the KHP, we determined that its DOJ equitable sharing fund expenditures were supported by adequate documentation but were not always used for appropriate purposes as outlined in the Equitable Sharing Guide. We discuss the expenditure findings and the results of the accountable property and vendor verification reviews below.

Personnel Expenditures

We selected a judgmental sample of 20 personnel expenditures totaling \$88,466 including regular and overtime pay and associated benefits. We determined the KHP personnel expenditures we reviewed were supported. However, we identified two transactions of regular pay totaling \$2,577 that are not allowable in accordance with the Equitable Sharing Guide which states equitable sharing funds may not be used to pay the salaries and benefits of law enforcement personnel with four exceptions to that rule.⁵ We discussed these expenditures with KHP officials, who agreed that equitable sharing funds should not have been used to pay for these transactions, and took corrective action by reimbursing the equitable sharing fund for these expenditures. Based on the corrective action by KHP we did not question these costs. However, during our review of personnel transactions, we identified 18 other personnel transactions, totaling \$2,712 that were classified as regular pay that were not included in our sample of tested expenditures. Based on the identification of these transactions, we recommend that KHP work with the Criminal Division to determine if these additional transactions are allowable in accordance with the Equitable Sharing Guide, and if not, are reimbursed to the equitable sharing fund as appropriate.

Non-Personnel Expenditures

We selected a judgmental sample of 45 non-personnel expenditures totaling \$1,427,117, or 46 percent of the total expenditures in the period we reviewed. To determine the allowability and supportability of the non-personnel expenditures, we reviewed invoices, purchase orders, receiving reports, and contracts that the KHP maintained to support the expenditures. We determined the KHP non-personnel expenditures we reviewed were supported. However, we identified \$1,413 of equitable sharing funds used for unallowable purposes.

Specifically, the KHP spent \$930 on 31 individual annual membership fees and \$483 on non-uniform clothing. According to the Equitable Sharing Guide, agency accreditation or agency membership dues are permissible, but individual dues are impermissible. The Equitable Sharing Guide also states that shared funds may not be used for any purpose that creates the appearance that shared funds are being used for

⁴ The total does not add up to the sum of the FY 2019 and FY 2020 due to rounding.

⁵ According to the Equitable Sharing Guide equitable sharing funds may be used to pay the salaries and benefits of current law enforcement officers and personnel in the following limited situations: (1) matching federal grants, (2) overtime, (3) federal task force replacement salary, and (4) specialized programs.

political gain or personal benefit, including non-uniform clothing. A KHP official indicated that they were unaware that those expenditures were unallowable and reimbursed those charges to the equitable sharing fund. As a result of the KHP reimbursing the unallowable expenditures to the equitable sharing fund during our audit, we do not question the amount.

Accountable Property

The Equitable Sharing Guide requires that standard internal controls be implemented to track tangible property received or purchased. The Guide states that participating law enforcement agencies maintain and follow written policies for accounting, bookkeeping, inventory control, and procurement that comply with the applicable provisions of the Office of Management and Budget (OMB) Uniform Administrative Requirements, Costs, Principles, and Audit Requirements for Federal Awards or any subsequent updates and jurisdiction policies. Further, the agencies must ensure distribution of relevant policies to all appropriate personnel.

The KHP adheres to the State of Kansas Department of Administration's Capital Asset Records policies and procedures. According to the State of Kansas Capital Asset Records Policy Manual, property over \$5,000 is tracked and input into the accounting system. The KHP provided the asset inventory listing which detailed all the KHP assets. We found that KHP does not track assets separately purchased with equitable sharing funds, but the assets that are inventoried are assigned property numbers and are tracked within the accounting system.

For inventory verification, we selected 11 property items, totaling \$544,629, purchased with equitable sharing funds during the scope of our audit. The property items included a command trailer, trucks, weapons, a robot, and a portable x-ray machine. Since this audit was performed remotely due to the COVID-19 pandemic, we relied on property confirmation letters. The property confirmation letters were sent to KHP officials who, according to the inventory, were assigned the property. The KHP officials attested to whether the property was in their custody and if the property was being used for law enforcement purposes. Based on the confirmation letters and pictures provided by KHP officials, we confirmed that 10 of the 11 property items were in the KHP command's possession and used for law enforcement purposes. According to a KHP official, the remaining property item sampled, a robot, was destroyed during a mission. The KHP provided photographic evidence of the destroyed item and documentation that the item was destroyed and removed from the "In Service" inventory status. We believe the KHP has implemented and maintained proper inventory control to track tangible property purchased.

Vendor Verification

MLARS issued an Equitable Sharing Wire on January 28, 2020, stating that equitable sharing funds may not be used to purchases goods and services from entities prohibited from receiving federal funds due to a suspension or debarment.⁶ Consequently, agencies were required to establish and implement procedures to ensure that before doing business with any vendor, agencies reviewed the System for Award Management (SAM) to determine whether a vendor has an exclusion status. We found that the KHP was not aware nor did they have any procedures in place to ensure the compliance with this requirement.

⁶ Equitable Sharing Wires were established in 2010 and provide important, substantive information regarding MLARS policies, practices, and procedures that has a direct impact on agencies receiving equitable sharing funding and the asset forfeiture community as a whole.

When the KHP was made aware of this, they implemented a job aide to be utilized going forward. As a result of the KHP implemented guidance during our audit, we do not make a recommendation.

We also reviewed the vendors of the 45 different non-personnel expenditures with SAM to determine if there were any exclusions on any of the vendors. Based on our review, we did not find any instances of the KHP utilizing any disbarred or suspended vendors.

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 State of Kansas (the State) and the operational budgets for the Kansas Highway Patrol for FYs 2018 through 2022.

We determined that the State budget had increased at an average rate of 3.87 percent during this time. We then reviewed the KHP's operational budgets for the same period and determined that it had increased at an average rate of 5.04 percent. In addition, equitable sharing funds averaged 2.54 percent of the KHP's operational budget, and the agency expended an average of 1.78 percent of those funds for the years we reviewed.

There did not appear to be a significant decrease in the State budget that was offset by the KHP's operational budget. There also did not appear to be a significant decrease in the KHP's operational budget that coincided with a proportional increase in equitable sharing revenue. Therefore, we determined that there was a low risk that the State was supplanting its budget with equitable sharing funds during our period of review.

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 comply 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 no later than 9 months after the end of the fiscal year covered by the audit.

To determine if the KHP accurately reported DOJ equitable sharing fund expenditures on its Schedule of Expenditures of Federal Awards, we reviewed the KHP's ESAC forms and the State's Single Audit Reports for the FYs ended 2018 and 2019. According to a State of Kansas official, because the KHP is considered a part of the State for single audit reporting purposes, the equitable sharing amounts listed in the Single Audit's Schedule of Expenditures of Federal Awards are an aggregate of all agencies who participate in the

equitable sharing program. As a result, we reviewed the equitable sharing amounts used within the Schedule of Expenditures of Federal Awards related to the KHP and found the process and amounts to be accurate.

We also determined that the Single Audit Reports for FYs 2018 and 2019 reported no deficiencies or weaknesses related to DOJ equitable sharing funds.

Conclusion and Recommendations

We found that KHP's Equitable Sharing Agreement and Certification Reports were timely, complete, and accurate. We also found that KHP accounted for equitable sharing resources and were following audit requirements. However, we did identify \$2,577 in unallowable personnel expenses related to regular pay and \$1,413 in unallowable non-personnel costs related to club memberships and clothing. Additionally, at the time of our audit, the KHP had not implemented procedures to verify suspension and debarment status of its prospective vendors. KHP took corrective action during our audit to correct all the identified issues, therefore, we make no recommendations in these areas. However, we also identified an additional 18 personnel transactions that were classified as regular pay that were not included in our testing totaling \$2,712.

We recommend that the Criminal Division:

1. Determine if the additional personnel transactions classified as regular pay are allowable in accordance with the Equitable Sharing Guide, and if not, are reimbursed to the equitable sharing fund as appropriate.

APPENDIX 1: Objective, Scope, and Methodology

Objective

The objective of the audit was to assess whether the KHP accounted for equitable sharing funds properly and used such revenues for allowable purposes defined by applicable guidelines.

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 received by the KHP between July 1, 2018 and June 30, 2020. Our audit was limited to equitable sharing revenues received through the DOJ Equitable Sharing Program. 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, Local, and Tribal Law Enforcement Agencies*, issued in July 2018. Unless, otherwise stated in our report, the criteria we audited against are contained in these documents.

As a result of the COVID-19 pandemic response, we performed our audit fieldwork exclusively in a remote manner. We interviewed KHP officials and examined records, related revenues, and expenditures of DOJ equitable sharing funds. In addition, we relied on computer-generated data contained in eShare to identify equitably shared revenues and property awarded to the KHP during the audit period. We did not establish the reliability of the data contained in eShare 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 KHP'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 KHP. However, we did not assess the reliability of the KHP'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 KHP had 103 cash/proceeds receipts totaling \$4,569,660. KHP had a FY 2019 beginning balance of \$2,400,184 in its equitable sharing fund.⁷ In the same period, the KHP had 2,227 expenditures totaling \$3,121,344. We tested all the receipts and we judgmentally selected a sample of 65 expenditures totaling \$1,515,583. A judgmental sampling design was applied to capture numerous aspects

⁷ The total auditable dollars are \$6,969,844, which is calculated by summing the beginning balance of the equitable sharing fund at the start of the scope of audit and the receipts received during the scope of the audit.

of the disbursements reviewed, such as dollar amounts. This non-statistical sample design does not allow projection of the test results to all disbursements.

Our audit included an evaluation of the KHP’s most recent annual audits. The results of these audits were reported in the Single Audit Report that accompanied the KHP’s basic financial statements for the FYs ended 2018 and 2019. The Single Audit Reports were prepared under the provisions of the Uniform Guidance. We reviewed the independent auditor’s assessment, which disclosed no control weaknesses or significant noncompliance issues.

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

Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of the KHP to provide assurance on its internal control structure as a whole. KHP management is responsible for the establishment and maintenance of internal controls in accordance with the Equitable Sharing Guide and 2 C.F.R. §200.303. Because we do not express an opinion on the KHP internal control structure as a whole, we offer this statement solely for the information and use of the KHP and the DOJ Criminal Division.

In planning and performing our audit, we identified the following internal control components and underlying internal control principles as significant to the audit objective(s):

Internal Control Components & Principles Significant to the Audit Objectives
Control Activity Principles
Management should design control activities to achieve objectives and respond to risks.
Management should implement control activities through policies.
Information & Communication Principles
Management should use quality information to achieve the entity’s objectives.
Management should externally communicate the necessary quality information to achieve the entity’s objectives.

We assessed the design, implementation, and operating effectiveness of these internal controls and did not identify any deficiencies that we believe could affect the KHP’s ability to ensure compliance with laws and regulations. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

APPENDIX 2: The Criminal Division's Response to the Draft Audit Report



U.S. Department of Justice

Criminal Division

Money Laundering and Asset Recovery Section

Washington, D.C. 20530

April 20, 2021

MEMORANDUM

TO: David Sheeren, Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General

FROM: Alice W. Dery, Chief Alice W. Dery
Digitally signed by Alice W. Dery
Date: 2021.04.20 11:05:58 -0400
Program Management and Training Unit
Money Laundering and Asset Recovery Section

SUBJECT: DRAFT AUDIT REPORT for the Kansas Highway Patrol's Equitable Sharing Program Activities.

In a memorandum dated April 7, 2021, your office provided a draft audit report for the Kansas Highway Patrol that includes 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 the Kansas Highway Patrol to correct all identified findings.

cc: Jessica Schmaus, Audit Liaison
U.S. Department of Justice
Criminal Division

Louise Duhamel
Acting Assistant Director, Audit Liaison Group
Internal Revenue and Evaluation Office
Justice Management Division

Tracey A. Waters, Audit Liaison
Audit Liaison Group
Internal Revenue and Evaluation Office
Justice Management Division

APPENDIX 3: The Kansas Highway Patrol's Response to the Draft Audit Report

122 S.W. 7th Street
Topeka, KS 66603

Herman T. Jones, Superintendent



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www.KansasHighwayPatrol.org

Laura Kelly, Governor

April 14, 2021

David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
U.S. Department of Justice
1120 Lincoln Street, Suite 1500
Denver, CO 80203

Dear Mr. Sheeren,

SUBJECT: KHP Equitable Sharing Audit

During the Calendar year 2021, the U.S. Department of Justice (DOJ) Office of the Inspector General-Denver Regional Audit Office completed an audit of the equitable sharing funds received by the Kansas Highway Patrol (KHP) in Topeka, Kansas. The objective of the audit was to assess whether the cash received by the KHP through the Equitable Sharing Program was accounted for properly and used for allowable purposes as defined by applicable guidelines. The audit covered July 1, 2018 through June 30, 2020. As a result of the audit, one recommendation was made to support the DOJ Criminal Division, which oversees the DOJ Equitable Sharing Program. The following list includes the recommendation provided by the Department of Justice – Denver Regional Audit Office and the remedial action/corrective measures taken by the Kansas Highway Patrol:

Recommendation: During the audit, the DOJ – Denver Regional Audit Office found that KHP's Equitable Sharing Agreement and Certification Reports were timely, complete, and accurate. It was also determined that KHP accounted for equitable sharing resources and were following audit requirements. However, DOJ did identify \$2,577 in unallowable personnel expenses related to regular pay and \$1,413 in unallowable non-personnel costs related to club memberships and clothing. Additionally, at the time of the audit, the KHP had not implemented procedures to verify suspension and debarment status of its prospective vendors. KHP took corrective action during

the audit to correct all the identified issues, therefore, no recommendations were made in these areas. However, DOJ also identified an additional 18 personnel transactions that were classified as regular pay that were not included in the testing totaling \$2,712.03.

The DOJ recommends that the Criminal Division:

Determine if the additional personnel transactions classified as regular pay are allowable in accordance with the Equitable Sharing guide, and if not, are reimbursed to the equitable sharing fund as appropriate.

KHP Response: In accordance with the DOJ recommendation, the agency reviewed the 18 transactions identified during the Audit and respectfully submit the following response:

- 1) Nine transactions were identified as Organized Crime Drug Enforcement Task Force (OCDETF) "Special" projects when in fact they were related to the Traffic Fatality Reduction Grant (TFRG). A Journal Voucher was entered into SMART to reimburse the Equitable Sharing Fund in the amount of \$1,789.86 and expend the same amount to the TFRG fund. Please reference the following attachments:
 - Regular Pay Transactions_TFRG Transactions_Timesheets
 - Regular Pay Transactions_TRFG Transactions_JV Screen Prints
 - Regular Pay Transactions_wNotes (see tab 'TRFG JV Out of 3545)
- 2) Four transactions were identified as legitimate ES expenditures based on the KHP's Organize Crime Drug Enforcement Task Forces Investigation/Strategic Initiative Number WC-KS-0227. During the timeframe of January 2020 through February 2020, the KHP assigned four separate officers to security detail for a target arrested and injured during apprehension. Based on the referenced agreement, the KHP is of the opinion the \$1,232.63 are allowable expenditures. Please reference the following attachments:
 - Regular Pay Transactions_Guarding US Marshal suspect_Timesheets
 - Regular Pay Transactions_Guarding US Marshal suspect_OCDETF Agreement
 - Regular Pay Transactions_wNotes (see tab 'TRFG JV Out of 3545)
- 3) Two transactions totaling \$134.98 were identified as valid expenditures based on the hours paid and the activities that transpired during the time charged to the ES fund:
 - a. Trooper [REDACTED] was paid 48 hours of vacation, 8 hours of HDC/Holiday, 24 hours of REG/Regular earnings which totaled 80 hours, all paid from the agency's operating fund for pay period ending June 1, 2019. Due to the personal time previously mentioned, the two additional hours were claimed as REG/Regular

earnings against OCDETF. During which time Trooper [REDACTED] worked the named enforcement and seized 18 lbs. of marijuana.

- b. Lieutenant [REDACTED] was paid 16 hours SCK/Leave-Sick, 65 hours of REG/Regular Earnings for pay period ending September 21, 2019, all of which were charged to the agency's operating fund. An additional 7 hours were charged to a separate enforcement and 2 hours claimed at REG/Regular Earnings against OCDETF. Lieutenant [REDACTED] was working the OCDCETF enforcement, however due to the personal time claimed, the rate was claimed at regular pay.

Both individuals were reimbursed through the agency's operation fund for 80 hours, which included sick and vacation leave, and were working OCDETF enforcements during the additional 2 hours charged to the ES fund. However, their time reflects regular rate due to the personal time taken.


On April 13, 2021, Lt. [REDACTED] with the KHP contacted [REDACTED] DOJ/OCDETF Executive Office, to verify eligibility of the claim. [REDACTED] responded with the following "The State and Local Overtime guidance is that officers are expected to work full time (40 hours per week) prior to being reimbursed. The reimbursement will be at the officer's paid amount for the overtime which is subject to the local PD rules and requirements. So, if your regulations say that the officer is not subject to the higher OT rate, OCDETF will still reimburse, but at that lower rate. The same would be true if it were a higher rate (for example, holiday pay)". Please reference the following attachments:

- Regular Pay Transactions_Reg OCDETF over 80 hours Timesheets.
- Regular Pay Transactions_wNotes (see tab 'TRFG JV Out of 3545).
- OCDETF reimbursement question.

Summary:

[illegible]

Respectfully,


Colonel Herman T. Jones, Superintendent
Kansas Highway Patrol

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Kansas Highway Patrol

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Attachments: 7

Copies to: Lt. Colonel Jason De Vore, Asst. Superintendent
Major Robert Keener, Executive Commander
Major Eric Sauer, Executive Commander
Capt. Brent Hogelin
Sherry Macke, CFO

APPENDIX 4: 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 the Criminal Division and the KHP. The Criminal Division's response is incorporated in Appendix 2 and the KHP's response is incorporated in Appendix 3 of this final report. In response to our draft audit report, the Criminal Division concurred with our recommendation, and as a result, the status of the audit report is resolved. The KHP did not state whether it concurred with the recommendation; however, the KHP provided additional documentation to aid in the resolution of the recommendation. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation for Criminal Division:

- 1. Determine if the additional personnel transactions classified as regular pay are allowable in accordance with the Equitable Sharing Guide, and if not, are reimbursed to the equitable sharing fund as appropriate.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that it will work with KHP to correct all identified findings. As a result, this recommendation is resolved.

The KHP did not state whether it concurred with our recommendation. However, KHP provided its Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime and Authorized Expense Agreement to support its use of equitable sharing funds for six transactions. KHP also provided information and support that it believes will address additional personnel transactions.

This recommendation can be closed when the Criminal Division reviews the documentation provided by KHP and makes a determination as to the allowability of the personnel transactions classified as regular pay.