



Audit of the Phelps County Sheriff's Department's
Equitable Sharing Program Activities,
Rolla, Missouri



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EXECUTIVE SUMMARY

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Objective

The U.S. Department of Justice (DOJ) Office of the Inspector General has completed an audit to assess whether the Phelps County, Missouri, Sheriff's Department (Phelps County SD) accounted for DOJ equitable sharing funds and used such assets for permissible purposes as defined by applicable guidelines.

Results in Brief

Our audit did not identify significant concerns regarding the Phelps County SD's timely recording of DOJ equitable sharing receipts and allowability of expenditures. However, we concluded that the Phelps County SD lacks adequate equitable sharing-related internal controls, policies and procedures, and financial management practices. Specifically, the Phelps County SD commingled its DOJ and U.S. Department of Treasury (Treasury) funds and thus reported inaccurate information on its Equitable Sharing Agreement Certification (ESAC) reports and Single Audit Reports. We also identified two expenditures that did not have adequate supporting documentation, resulting in \$4,744 in questioned costs.

Recommendations

Our report includes nine recommendations to assist the DOJ Criminal Division, which oversees the Equitable Sharing Program.

We requested a response to our draft audit report from the Criminal Division and the Phelps County SD, which can be found in Appendices 3 and 4, respectively.

Audit Results

This audit covered the Phelps County SD's DOJ Equitable Sharing Program activities during fiscal years 2018 through 2020. Equitable sharing revenues represent a share of the proceeds from the forfeiture of assets seized during certain criminal investigations. According to Phelps County SD's records, it began the audit period with an equitable sharing funds balance of \$3,259,741. During the audit period, the Phelps County SD received \$868,742 in DOJ equitable sharing funds and spent \$2,658,321. We found that the Phelps County SD's DOJ receipts were timely recorded, and its expenditures were allowable and supplemented its law enforcement activities. However, we identified deficiencies in the Phelps County SD's accounting for and use of equitable sharing funds and its reporting of financial activity.

Accounting for and Use of Equitable Sharing Resources

We found that the Phelps County SD did not implement required accounting procedures and internal controls over its DOJ equitable sharing funds and commingled its DOJ and Treasury equitable sharing funds. We also identified weaknesses related to property management, the use of the System for Award Management to determine the eligibility of vendors, and the use of the eShare Portal. We also found \$4,744 in unsupported questioned costs.

ESAC Reports and Single Audit Reports

The Phelps County SD's Single Audit Reports and annual ESAC reports contained inaccurate information due to its commingled DOJ and Treasury equitable sharing funds.

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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 Phelps County Sheriff's Department (Phelps County SD) in Rolla, Missouri. The objective of the audit was to assess whether the cash received by the Phelps County SD through the Equitable Sharing Program was accounted for properly and used for permissible purposes as defined by applicable regulations and guidelines. The audit covered January 1, 2018, through December 31, 2020.¹ During that period, the Phelps County SD received \$868,742 and spent \$2,658,321 in equitable sharing revenues as a participant in the DOJ Equitable Sharing Program.²

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 and Local Law Enforcement Agencies, issued in April 2009 (2009 Equitable Sharing Guide) and revised in July 2018 (2018 Equitable Sharing Guide), 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.³ 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 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

¹ Phelps County SD's fiscal year begins January 1 and ends December 31.

² According to the Phelps County SD's records, it began the audit period with a DOJ equitable sharing fund balance of \$3,259,741.

³ 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.

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 permissible law enforcement purposes. The 2018 Equitable Sharing Guide outlines categories of permissible and impermissible uses for equitable sharing funds and property.

Phelps County Sheriff's Department

The Phelps County SD is located in Rolla, Missouri, approximately 100 miles southwest of Saint Louis, Missouri. Established in 1857, the Phelps County SD serves a population of more than 45,000 residents. As of July 2021, the Phelps County SD had a workforce of 40 sworn officers and 45 civilian employees. According to MLARS, the Phelps County SD has been a member of the DOJ Equitable Sharing Program since at least 1996.

OIG Audit Approach

We tested the Phelps County SD'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 permissible purposes. We applied the 2009 Equitable Sharing Guide, the Interim Policy Guidance Regarding the Use of Equitable Sharing Funds issued in July 2014, and the 2018 Equitable Sharing Guide as our primary criteria. This guidance 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 Phelps County SD's compliance with the following:

- **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 permissible law enforcement purposes.
- **Equitable Sharing Agreement and Certification Reports** to determine if these documents were complete and accurate.
- **Compliance with audit requirements** to ensure the accuracy, consistency, and uniformity of audited equitable sharing data.

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

Audit Results

Accounting for Equitable Sharing Resources

The 2018 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 for DOJ Equitable Sharing Program proceeds. Further, law enforcement agencies participating in the DOJ Equitable Sharing Program are required to use the eShare Portal.⁴

Internal Control Environment

To track equitably shared funds and tangible property, participating agencies must implement the required bookkeeping procedures and internal controls that are outlined in the 2018 Equitable Sharing Guide. When we requested the Phelps County SD's internal control policy, we were provided with a copy of the Phelps County internal control policy that was implemented in 2019 as a result of single audit recommendations that had been reoccurring since 2008. We were told that the Phelps County internal control policy is the standard used for all departments countywide; however, this policy is not specific to the Phelps County SD or the Equitable Sharing Program, and Phelps County had not incorporated any equitable sharing-specific policies or procedures into its policy document. We believe that having formal, documented policies and internal controls covering the Phelps County SD's Equitable Sharing Program—as required by the 2018 Equitable Sharing Guide—would reduce the risk of mismanagement or other deficiencies within its Equitable Sharing Program and could have prevented the findings discussed in this report, such as those related to reporting of financial activity. We therefore recommend that the Criminal Division ensure that the Phelps County SD develops, documents, and implements internal controls regarding its management of the Equitable Sharing Program that, at a minimum, meet the requirements of the 2018 Equitable Sharing Guide.

Accounting for Equitable Sharing Funds

According to the 2018 Equitable Sharing Guide, DOJ and Department of the Treasury (Treasury) equitable sharing funds must be tracked and maintained separately, and participants are required to establish separate DOJ and Treasury accounts or accounting codes to track both revenues and expenditures for each respective Program. No other funds may be commingled in these accounts or with these accounting codes. In addition, all interest earned on equitable sharing funds is to be deposited into the respective account or accounting code and is also subject to the same use restrictions as equitable sharing funds.

Although Phelps County maintains a separate accounting code for its equitable sharing funds, through review of the financial records and interviews we determined that this accounting code commingles both DOJ and Treasury Equitable Sharing Program financial activity. This commingling has impacted the Phelps County SD's ability to accurately report its DOJ and Treasury Equitable Sharing Program activities and

⁴ The eShare Portal enables a participating agency to view the status of its equitable sharing requests and distributions made by DOJ and generates reports to assist with reconciling payments and tracking pending DOJ sharing requests.

increases the risk that program requirements will not be satisfied.⁵ Therefore, we recommend that the Criminal Division ensure the Phelps County SD separately accounts for its DOJ Equitable Sharing funds.

Receipts Testing

The Phelps County SD received 19 DOJ equitable sharing receipts with revenues totaling \$868,742 during fiscal years (FY) 2018 through 2020. We reviewed these receipts and reconciled them with a report from the eShare Portal to determine if the funds were accurately accounted for and deposited into Phelps County's bank account. Aside from issues related to the previously noted commingled DOJ and Treasury funds, we found that the Phelps County SD accurately accounted for its DOJ equitably shared revenues during the period reviewed.

As shown in Table 1, we also selected a sample of five of the highest-valued receipts from FYs 2018 through 2020 to confirm that these monies were recorded in the Phelps County SD's equitable sharing general ledger in a timely manner. These five receipts accounted for over 58 percent of the total receipts during our review period. We determined that the Phelps County SD accurately recorded the five asset forfeiture receipts in its accounting records and generally did so in a timely manner.

Table 1

Phelps County SD Sampled Receipts

Sample Receipt	Date Received According to eShare	Amount	Date Received According to Phelps County SD's Records	Amount	Number of Days Between Receipt and Recording of Funds
1	03/06/2018	\$ 169,553	03/15/2018	\$169,553	9
2	03/12/2018	\$141,552	03/15/2018	\$141,552	3
3	06/26/2019	\$70,200	06/28/2019	\$70,200	2
4	01/24/2020	\$71,371	01/29/2020	\$71,371	5
5	08/07/2020	\$57,038	08/17/2020	\$57,038	10
	Total	\$509,714	Total	\$509,714	

Source: Phelps County SD accounting and eShare Portal records.

Although the Phelps County SD accurately documented the tested receipts, the Phelps County SD stated that it does not rely on the eShare Portal for tracking equitable sharing distributions. In addition, at the onset of this audit, we learned that the County Treasurer did not have access to the eShare Portal, and this individual stated that identifying DOJ equitable sharing receipts was difficult because electronic deposits from DOJ do not designate which funds are equitable sharing monies. We were told that once a DOJ electronic deposit is received, the County Treasurer notifies the Phelps County SD and together they make a joint effort to track down the source of the deposit. Oftentimes, the Phelps County SD must call its federal law enforcement partners to determine which case resulted in the share. Moreover, when we initially requested documentation of its DOJ equitable sharing receipts, most of what we were provided related to the Phelps County SD's Treasury Equitable Sharing Program receipts that it received in FY 2020.

⁵ Our findings related to the Phelps County SD's financial activity reporting errors are discussed in the Equitable Sharing Annual Certification and Compliance with Audit Requirements sections of this report.

We are concerned that unfamiliarity in using the eShare Portal, reliance on federal law enforcement partners to reconcile shares, and difficulty in identifying program shares could lead to the Phelps County SD inaccurately tracking its equitable sharing receipts. We believe that using the eShare Portal will reduce the difficulty the Phelps County SD is having in correctly identifying a DOJ equitable sharing receipt. Therefore, we recommend that the Criminal Division ensure that appropriate Phelps County personnel have access to and are properly trained in accessing the eShare Portal so that receipts can be properly identified, reconciled, and accounted for in a timely manner.

Equitable Sharing Resources

The 2018 Equitable Sharing Guide requires that equitable sharing funds and 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. State and local law enforcement agencies must also retain all documents and records pertaining to their participation in the Program, including, but not limited to, receipts and procurement documentation for all expenditures of shared funds. Table 2 reflects examples of permissible and impermissible uses under these guidelines.

Table 2

Summary of Permissible and Impermissible Uses of Equitable Sharing Funds

Permissible Uses
Matching grants
Contracts for services
Law enforcement equipment
Law enforcement travel and per diem
Support of community-based organizations
Law enforcement awards and memorials
Law enforcement training and education
Joint law enforcement/public safety operations
Law enforcement operations and investigations
Law enforcement, public safety, and detention facilities
Drug, gang, and other prevention or awareness programs
Impermissible Uses
Loans
Supplanting
Costs related to lawsuits
Extravagant or wasteful expenditures and entertainment
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 (MLARS may consider a waiver in limited circumstances.)
Cash on hand, secondary accounts, and stored value cards ^a
Purchase of items for other law enforcement agencies
Uses contrary to state or local laws
Use of forfeited property by non-law enforcement personnel
<i>With some exceptions, salaries and benefits of sworn or non-sworn law enforcement personnel</i>

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

Source: July 2018 Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies, and the Interim Policy Guidance Regarding the Use of Equitable Sharing Funds, issued by MLARS in July 2014.

Use of Equitable Sharing Funds

According to its accounting records, the Phelps County SD expended equitable sharing funds totaling \$2,255,951 in FY 2018, \$278,359 in FY 2019, and \$151,102 in FY 2020, for a grand total of \$2,685,412 during our review period. However, because the expenditures were made with funds from the commingled account, we could not determine which expenditures were made solely with DOJ equitable sharing funds. Despite this limitation, we noted that the Phelps County SD reported that it began our review period with a DOJ equitable sharing fund balance of \$3,259,741, while it received an additional \$868,742 in DOJ equitable sharing funds during the same timeframe. After reviewing the beginning balance and the incoming DOJ

funds, we concluded that most of the funds in the commingled account were DOJ equitable sharing funds, and thus most of the expenditures from the commingled account were, in fact, expenditures of DOJ funds. Based on this, we determined that it was proper to test a sample of expenditures from the commingled account. Thus, we reviewed a judgmental sample of 66 transactions (comprised of 137 invoices) that totaled \$2,624,323, or 98 percent of the total funds expended, to determine if the expenditures were permissible and supported by adequate documentation. The majority of Phelps County SD's expenditures were for a jail renovation project, with the remainder including equipment, maintenance, and other program-related activities, such as expenditures related to drug court and curfew checks.

Based upon our review of the supporting documentation provided by the Phelps County SD, we determined that its equitable sharing fund expenditures generally were supported by adequate documentation and were used for appropriate purposes as outlined in the 2018 Equitable Sharing Guide. However, we identified two expenditures that the Phelps County SD could not fully support. First, a FY 2018 expenditure for \$4,230 that involved providing assistance to a local task force—of which the Phelps County SD was a member—in the form of a lease payment for the task force's facility. In support of this expenditure, the Phelps County SD provided memos and a copy of the lease. However, the Phelps County SD could not provide a properly executed Task Force Agreement or documentation that supported, and allowed us to confirm, its participation in the task force for the time period covered by the lease. Without this documentation, we were unable to confirm this expenditure was allowable and correctly categorized.

The second expenditure was a FY 2019 lease payment of \$514 for a firearm range property. While this payment appeared allowable, the Phelps County SD was not able to provide us any supporting documentation for this expenditure, including a copy of the lease. Because the Phelps County SD was not able to provide us adequate supporting documentation for either of these expenses, we consider the combined total of \$4,744 to be unsupported and recommend that the Criminal Division remedy these questioned costs.

Furthermore, equitable sharing guidance states equitable sharing funds are federal financial assistance and may not be used to purchase goods and services from entities prohibited from receiving federal funds due to a suspension or debarment. Consequently, agencies, in coordination with their jurisdictions' procurement personnel, must establish and implement procedures to ensure compliance with this requirement. These procedures apply to all qualifying purchases under applicable federal regulations in accordance with 2 C.F.R. § 180.200-225 (2020). Before doing business with any vendor, agencies should review the federal government's System for Award Management (SAM) to determine whether a vendor has an exclusion status. This requirement ensures that the federal government and recipients of equitable sharing funds conduct business only with persons or vendors who are not prohibited from receiving federal funds. We found that the Phelps County Clerk's office is responsible for procurement. However, personnel in the Clerk's office were not aware of SAM or the SAM-related Equitable Sharing Program requirement, and thus were not in compliance with the SAM-related requirements. In response to our discussions about SAM, the County Clerk said that a policy will be issued to County departments that requires a check of prospective vendors for suspension or debarment before making a purchase using federal funds. We recommend that the Criminal Division ensure the Phelps County SD develops and implements procedures regarding the use of SAM to ensure compliance with equitable sharing guidance and that its prospective vendors are eligible to receive payment from federal sources.

In addition to testing the permissibility and support of expenditures, we also assessed the Phelps County SD's inventory procedures for its property purchased with equitable sharing funds. The 2018 Equitable Sharing Guide states that agencies must maintain and follow written policies for inventory control that comply with applicable portions of 2 C.F.R. § 200. According to 2 C.F.R. § 200.313, agencies must maintain property records that include a description of the property and the source of funding. Additionally, the agency must conduct a physical inventory of the property at least once every 2 years.

According to the Phelps County SD, it follows Missouri Statute 49.093, which calls for the county officer or designee to conduct an annual inventory of property valued over \$1,000 or use their discretion to inspect and inventory property valued under \$1,000. The Phelps County Clerk is responsible for the County's inventory and conducts its inventory on property valued at \$500 or more. Amongst other descriptors, the statute requires the serial number of property items to be recorded on the inventory list.

During our expenditure testing and review of supporting invoices, we identified 29 property items purchased with equitable sharing funds during our review period that met Phelps County's threshold for inclusion in its inventory records. To evaluate the Phelps County SD's property management procedures, we requested records of property purchased with equitable sharing funds, and we were provided with a total of 12 unique items within 2 reports: an Inventory Report and an Asset Transaction Report. Thus, 17 items purchased with equitable sharing funds during our review period were not recorded on the Phelps County SD's inventory records.

To further review the Phelps County SD's property management activities, including determining if the items the Phelps County SD purchased with equitable sharing funds were being used for allowable purposes, we selected a judgmental sample of 15 of the 29 property items we previously identified, with a total value of \$137,422. We determined that these items were being used in an allowable manner. However, we found that the Phelps County SD did not record serial numbers for 2 of these 15 items. Moreover, although the inventory report identified the acquisition method for these items as "asset forfeiture," none of the items listed in the inventory records identified the specific equitable sharing source of funding (i.e., Treasury or DOJ Equitable Sharing Programs) for the items.

While the Phelps County inventory policy and procedures are in compliance with DOJ equitable sharing guidance, we are concerned that not all items purchased with DOJ equitable sharing funds have been recorded in the County's inventory, and that required information, such as a serial number, was not always being captured. Furthermore, the Phelps County SD's failure to follow existing guidance related to property management risks deficiencies in its ability to accurately track the items, ensure they are used for allowable Program purposes, and dispose of property in an appropriate manner. Therefore, we recommend that the Criminal Division require the Phelps County SD to ensure its property management practices result in an inventory system that accurately and adequately tracks property purchased with DOJ equitable sharing funds.

Supplanting

The 2018 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 County and the operational budgets for the Phelps County SD for FYs 2017 through 2021. Based on this work and our transaction testing, we did not identify any indication that the Phelps County SD used DOJ equitable sharing funds to supplant its budget.

Equitable Sharing Agreement and Certification Reports

Law enforcement agencies that participate in the Equitable Sharing Program are required to submit an ESAC report, on an annual basis, within 2 months 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. If an ESAC report is not accepted before the end of the 2-month filing timeframe, MLARS moves the law enforcement agency into a non-compliance status.⁶ 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.

Completeness and Timeliness of ESAC Reports

We tested the Phelps County SD's compliance with ESAC reporting requirements to determine if its reports were complete and submitted in a timely manner. We obtained the Phelps County SD's ESAC reports submitted for FYs 2018 through 2020 and found that the reports were complete, signed by appropriate officials, and were submitted within the required timeframe. However, while each of the ESAC reports were submitted within the required 2-month window, MLARS explained that there were periodic lapses in compliance while it worked with the Phelps County SD to resolve reporting issues. Some of these ESAC reporting issues included expenditure entries in the wrong category and Treasury equitable sharing receipts combined with the DOJ revenues. Although all necessary reports have been submitted and accepted, our testing similarly identified reporting errors as noted in the following section.

Accuracy of ESAC Reports

To verify the accuracy of the annual ESAC reports, we compared the receipts listed on the Phelps County SD's three most recent ESAC reports to the total amounts listed as disbursed on its report from the eShare Portal for the same time period. Our analysis showed that the Phelps County SD's most recent ESAC reports indicated DOJ equitable sharing receipts of \$470,243, \$228,113, and \$170,386 for FYs 2018, 2019, and 2020, respectively, which matched the receipts listed on the report from the eShare Portal.

To verify the total DOJ equitable sharing expenditures listed on the Phelps County SD's three most recent ESAC reports, we compared expenditures listed on the ESAC reports to the Phelps County SD's financial records for each period. However, because the Phelps County SD maintains both its DOJ and Treasury equitable sharing funds in a single, commingled account, we could not reconcile the ESAC figures to the expenditures recorded in the accounting records.

⁶ According to the 2018 Equitable Sharing Guide, "An agency that remains non-compliant for more than 1 year will have all approved sharing pending disbursements extinguished. Such extinguishments are final, and the previously approved funds will remain in the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund."

Table 3

Reconciliation of ESAC Expenditure Figures to Accounting Records

ESAC Reporting Period	DOJ Expenditures According to ESAC	Equitable Sharing Expenditures According to Accounting Records	Difference
FY 2018	\$2,228,861	\$2,255,951	\$27,091
FY 2019	\$278,359	\$278,359	\$0
FY 2020	\$151,102	\$151,102	\$0

Note: Any differences in the table amounts are due to rounding.

Source: Phelps County SD's FY 2018 through FY 2020 ESAC reports and accounting records.

As shown in Table 3, there was a \$27,091 difference between the Phelps County SD's FY 2018 ESAC and the supporting accounting records. Notably, the Phelps County SD also reported on its 2018 ESAC a beginning Treasury balance of \$27,091 and Treasury equitable sharing fund expenditures of \$27,091. We reviewed the FY 2017 ESAC report and determined that the Phelps County SD carried over its ending FY 2017 Treasury equitable sharing fund balance of \$27,091 to the beginning Treasury equitable sharing fund balance on its FY 2018 ESAC report.

We also reviewed the section of the ESAC report that summarizes funds spent by specific category, such as law enforcement operations and investigations, travel and training, and law enforcement equipment. Using the Phelps County SD's financial records, we computed the total expenditures by category for each fiscal year and compared the results to the amounts listed on the ESAC reports. We found that the category totals matched the amounts listed in the accounting records on the FY 2019 and 2020 ESAC reports. However, one expenditure category (law enforcement equipment) on the FY 2018 ESAC report included expenditures using both DOJ and Treasury equitable sharing funds. Because the Phelps County SD commingled its DOJ and Treasury equitable sharing funds in one account, we could not reconcile or confirm the allocation of funds recorded on the FY 2018 ESAC for this category.

In addition to reporting expenditures by category on the ESAC reports, entities are required to report the amount of any interest income earned on DOJ funds during the given reporting period as well as any other equitable sharing-related income. Because DOJ and Treasury funds were commingled, the Phelps County SD was not able to accurately report interest for its DOJ or Treasury Equitable Sharing Program balances on its FY 2018 and FY 2020 ESAC reports. Rather, all interest income for these years, totaling \$20,433, was incorrectly reported as DOJ interest on these ESAC reports.⁷

⁷ The Phelps County SD reported a Treasury equitable sharing fund balance of zero dollars with no revenue or expenditures on its FY 2019 ESAC report.

According to the Phelps County SD's Equitable Sharing Program Manager, the Phelps County SD does not have standard written procedures to aid in the completion of its ESAC report. Therefore, to help us understand the process, the Program Manager explained that when he assumed responsibility for the program, he taught himself how to complete the ESAC report based on what he thought his predecessor did. This involved comparing the financial records with previous ESAC report submissions to determine how the report was prepared in the past and then following those same procedures for the current report. Once prepared, the ESAC report was then submitted to the Sheriff, as the agency head, and the County Commissioner, as the designated official of the local governing body, for review and approval.

We discussed the issue of commingling and how it affects ESAC reporting with both the Phelps County SD and MLARS. The Phelps County SD and County Treasurer acknowledged the commingling finding and inaccuracy of the ESAC reports. However, related to our finding associated with the reporting of interest income, auditee officials noted that due to the minimal amount of interest that would have been earned on Treasury funds and the effort needed to calculate it, they did not believe it was possible or fruitful to retroactively report the interest on amended ESAC reports for the review period. During our exit conference with MLARS, officials agreed with this standpoint.

Although the accuracy of the Phelps County SD's ESAC reports was primarily impacted by the commingled nature of the accounting records—which we previously addressed in this report—we also believe that the lack of written procedures for completing ESAC reports creates the risk of knowledge gaps and procedural inconsistencies that could contribute to the submission of erroneous and untimely ESAC reports. We therefore recommend that the Criminal Division ensure the Phelps County SD develops formal written ESAC report preparation procedures to help ensure consistent, accurate, and timely completion of ESAC reports. We also recommend that the Criminal Division determine whether the Phelps County SD should submit corrected ESAC reports for FYs 2018 through 2020.

Compliance with Audit Requirements

The 2018 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. 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 2 C.F.R. § 200, 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 (SEFA) 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. However, 2 C.F.R. § 200.504(a) allows the frequency of these audits to be reported biennially, covering both years, when a state's statute requires audits less frequently than annually. Phelps County undergoes biennial single audit reporting in accordance with Missouri Statute 29.230.

Phelps County's most recent biennial Single Audit Report covered the county's fiscal years 2019 through 2020. This report contains a finding that the SEFA contained errors in amounts of federal expenditures reported, which resulted in overstated federal award expenditures of \$230,749 in 2019 and understated federal award expenditures of \$108,527 in 2020. The auditors concluded that these errors resulted from

Phelps County's failure to implement a proper system of internal control over SEFA preparation. This finding of the SEFA not accurately reflecting Phelps County's actual expenditures of federal awards has been repeated in the county's biennial Single Audit Reports since at least 2014.

To determine if the Phelps County SD accurately reported DOJ equitable sharing fund expenditures on its SEFAs, we reviewed the County's accounting records and its biennial Single Audit Reports for the fiscal years ended 2018 and 2020. We found that the County inaccurately reported DOJ equitable sharing fund expenditures on the SEFA contained in its 2018 Single Audit Report. Specifically, the County reported FY 2018 DOJ equitable sharing expenditures of \$2,255,951, which included Treasury equitable sharing fund expenditures of \$27,091.⁸ Therefore, it appears the commingling of the Phelps County SD's DOJ and Treasury equitable sharing funds resulted in incorrect single audit reports and the failure to report Department of Treasury expenditures. We recommend that the Criminal Division require the Phelps County SD to establish procedures to ensure the appropriate and correct reporting of DOJ equitable sharing expenditures in Single Audit Reports.

⁸ Although we were unable to confirm Treasury expenditures due to the commingled equitable sharing account, according to its ESAC reports Phelps County SD did not spend Treasury equitable sharing funds during fiscal years 2019 through 2020.

Conclusion and Recommendations

We tested the Phelps County SD's compliance with what we considered to be the most important conditions of the DOJ Equitable Sharing Program to assess whether the Phelps County SD accounted for equitable sharing funds properly and used such revenues for permissible purposes. Overall, we found that the Phelps County SD did not fully comply with program requirements. Specifically, the Phelps County SD lacked formal written internal controls, policies, and procedures governing its DOJ equitable sharing activities. In addition, the Phelps County SD commingled its DOJ and Treasury equitable sharing funds, which affected its ability to accurately reflect income and expenditures on its ESAC reports, as well as reportable federal expenditures on its single audit reports and SEFAs.

We recommend that the Criminal Division:

1. Ensure that the Phelps County SD develops, documents, and implements internal controls regarding its management of the Equitable Sharing Program that, at a minimum, meet the requirements of the 2018 Equitable Sharing Guide.
2. Ensure the Phelps County SD separately accounts for its DOJ Equitable Sharing funds.
3. Ensure that appropriate Phelps County personnel have access to and are properly trained in accessing the eShare Portal so that receipts can be properly identified, reconciled, and accounted for in a timely manner.
4. Remedy the \$4,744 in unsupported questioned costs.
5. Ensure the Phelps County SD develops and implements procedures regarding the use of SAM to ensure compliance with equitable sharing guidance and that its prospective vendors are eligible to receive payment from federal sources.
6. Ensure the Phelps County SD's property management practices result in an inventory system that accurately and adequately tracks property purchased with DOJ equitable sharing funds.
7. Ensure the Phelps County SD develops formal, written ESAC report preparation procedures to help ensure consistent, accurate, and timely completion of ESAC reports.
8. Determine whether the Phelps County SD should submit corrected ESAC reports for FYs 2018 through 2020.
9. Require the Phelps County SD to establish procedures to ensure the appropriate and correct reporting of DOJ equitable sharing expenditures in its Single Audit Reports.

APPENDIX 1: Objectives, Scope, and Methodology

Objectives

The objective of the audit was to assess whether the Phelps County SD accounted for equitable sharing funds properly and used such revenues for permissible 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, 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 Phelps County SD between January 1, 2018 and December 31, 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 and Local Law Enforcement Agencies, dated April 2009, the Interim Policy Guidance Regarding the Use of Equitable Sharing Funds, issued July 2014, and 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 Phelps County SD and Phelps County officials and examined records, related revenues, and expenditures of DOJ equitable sharing funds. In addition, we relied on computer-generated data contained in the eShare Portal to identify equitably shared revenues and property awarded to the Phelps County SD during the audit period. We did not establish the reliability of the data contained in the eShare Portal 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 Phelps County SD's compliance with three essential equitable sharing guidelines: (1) accounting for equitable sharing receipts, (2) the use of equitable sharing funds, and (3) Equitable Sharing Agreement and Certification reports. In planning and performing our audit, we considered internal controls over DOJ equitable sharing receipts established and used by the Phelps County SD and Phelps County. However, we did not assess the reliability of Phelps County'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 Phelps County SD had 19 cash receipts totaling \$868,742 and no property receipts. In the same period, the Phelps County SD had 124 expenditures totaling \$2,685,412. We judgmentally selected and tested a sample of 5 receipts totaling \$509,714 and a sample of 66 expenditures totaling \$2,624,323. A judgmental sampling design was applied to capture numerous aspects 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 Phelps County's two most recent biennial audits. The results of these audits were reported in the Single Audit Reports that accompanied the County's basic financial statements covering January 1, 2017, through December 31, 2020. The Single Audit Reports were prepared under the provisions of 2 C.F.R. §200. We reviewed the independent auditor's assessment, which disclosed significant control deficiencies or noncompliance issues. We have addressed these weaknesses in our report as they relate to the Phelps County SD's Equitable Sharing Program.

We discussed the results of our review with officials from the Phelps County SD and the County Clerk and Treasurer 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 Phelps County SD to provide assurance on its internal control structure as a whole. The Phelps County SD's management is responsible for the establishment and maintenance of internal controls in accordance with the 2018 Equitable Sharing Guide and 2 C.F.R. §200.303. Because we do not express an opinion on the Phelps County SD's internal control structure as a whole, we offer this statement solely for the information and use of the Phelps County SD and the DOJ Criminal Division.⁹

In planning and performing our audit, we identified the following internal control components and underlying internal control principles as significant to the audit objective: (1) the Control Activities principle where management should design control activities to achieve objectives and respond to risks, as well as implement control activities through policies, and (2) the Information and Communication principle where management should use quality information to achieve the entity's objectives and 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 identified deficiencies that we believe could affect the Phelps County SD's ability to operate effectively and efficiently, to correctly state financial information, and to ensure compliance with laws and regulations.

The internal control deficiencies we found are discussed in the Audit Results section of this report. 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.

⁹ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

APPENDIX 2: Schedule of Dollar-Related Findings

Description	Amount	Page
Questioned Costs: ¹⁰		
Unsupported Lease Payments	<u>\$4,744</u>	7
TOTAL DOLLAR-RELATED FINDINGS	<u>\$4,744</u>	

¹⁰ **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, the provision of supporting documentation, or contract ratification, where appropriate.

APPENDIX 3: 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

November 18, 2021

MEMORANDUM

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

FROM: Matthew Colon, Deputy Chief RAYMOND COLON
DATE: 2021.11.18 10:44 AM EST
Program Management and Training Unit
Money Laundering and Asset
Recovery Section

SUBJECT: DRAFT AUDIT REPORT for Phelps County Sheriff's Department
Equitable Sharing Program Activities

In a memorandum dated November 18, 2021, your office provided a draft audit report for Phelps County Sheriff's Department (PCSD), 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 PCSD 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

Tracy Waters, Audit Liaison
Audit Liaison Group
Internal Revenue and Evaluation Office
Justice Management Division

APPENDIX 4: The Phelps County Sheriff's Department's Response to the Draft Audit Report



Phelps County Sheriff's
Department
Sheriff Michael Kirn



500 West 2nd Street Rolla, Missouri 65401
Office (573) 426-3860 Fax (573) 426-3857

December 9, 2021

DOJ Audit Answers

1. Agree – The Phelps County Sheriff's Department will develop, document, and implement internal control procedures for managing the Equitable Sharing Program, meeting the 2018 Equitable Sharing Guide requirements. These procedures will be in place by February 1, 2022.
2. Agree – The Phelps County Treasurer has created separate accounts for the DOJ and Treasury funds.
3. Agree – The Phelps County Sheriff's Department personnel who manage the Equitable Sharing program are actively seeking formal training, along with training through another agency to use the eShare Portal properly. This will be completed as soon as the training is available.
4. Agree – The \$4,744 will be paid back to the Asset Forfeiture account from General Revenue. The Phelps County Sheriff's Department will do this by December 15, 2021.
5. Agree – The Phelps County Sheriff's Department will develop and implement procedures regarding the use of SAM to assure compliance with prospective vendors. We will implement these procedures by February 1, 2022.
6. Agree – The Phelps County Sheriff's Department will keep a second inventory on all property purchased with the DOJ Equitable Sharing funds. These procedures have been implemented, and the property will be inventoried every two years.
7. Agree – The Phelps County Sheriff's Department will develop formal written ESAC report preparation procedures that ensure the accurate and correct completion of the ESAC reports. The written procedures will be in place by February 1, 2022.
8. Agree – The Phelps County Sheriff's Department agrees that DOJ and Treasury funds were commingled in 2018. After speaking with our Treasurer and the auditors, the interest gained during this period for that amount of money is

incalculable. Due to this, we will not submit corrected ESAC reports for 2018 – 2020.

9. Agree – The Phelps County Sheriff’s Department will establish procedures to ensure the appropriate and correct reporting of DOJ equitable sharing expenditures in our Single Audit Reports. These procedures will be in place by February 1, 2022.

Sheriff Michael Kim X  _____

Lt. Paul Lambert X  _____

APPENDIX 5: 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 Phelps County SD. The Criminal Division's response is incorporated in Appendix 3, and the Phelps County SD'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 Phelps County SD agreed with all nine recommendations. 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 Phelps County SD develops, documents, and implements internal controls regarding its management of the Equitable Sharing Program that, at a minimum, meet the requirements of the 2018 Equitable Sharing Guide.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that it will develop, document, and implement internal control procedures for managing its Equitable Sharing Program that meet the requirements in the 2018 Equitable Sharing Guide. The Phelps County SD also stated that these procedures will be in place by February 1, 2022.

This recommendation can be closed when we receive evidence that the Phelps County SD has implemented internal control procedures for its Equitable Sharing Program that meet the requirements of the 2018 Equitable Sharing Guide.

- 2. Ensure the Phelps County SD separately accounts for its DOJ Equitable Sharing funds.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that the Phelps County Treasurer has created separate accounts for the DOJ and Treasury funds.

This recommendation can be closed when we receive evidence that the Phelps County SD is separately accounting for its DOJ and Treasury equitable sharing funds.

- 3. Ensure that appropriate Phelps County personnel have access to and are properly trained in accessing the eShare Portal so that receipts can be properly identified, reconciled, and accounted for in a timely manner.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that the Phelps County SD personnel who manage its Equitable Sharing Program are actively seeking formal training, along with training through another agency, on how to use the eShare Portal properly. The Phelps County SD also said this will be completed as soon as the training is available.

This recommendation can be closed when we receive evidence that appropriate Phelps County personnel, such as Phelps County SD personnel who manage the Equitable Sharing Program, are properly trained on, and have access to, the eShare Portal.

- 4. Remedy the \$4,744 in unsupported questioned costs.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that the Phelps County SD will pay back \$4,744 to the Asset Forfeiture account from the General Revenue account by December 15, 2021.

This recommendation can be closed when we receive evidence that the Phelps County SD has returned \$4,744 to its DOJ equitable sharing account.

- 5. Ensure the Phelps County SD develops and implements procedures regarding the use of SAM to ensure compliance with equitable sharing guidance and that its prospective vendors are eligible to receive payment from federal sources.**

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that it will develop and implement procedures regarding the use of SAM to assure compliance with requirements related to prospective vendors by February 1, 2022.

This recommendation can be closed when we receive evidence that the Phelps County SD has implemented procedures regarding the use of SAM to ensure compliance with equitable sharing guidance and that its prospective vendors are eligible to receive payment from federal sources.

6. Ensure the Phelps County SD's property management practices result in an inventory system that accurately and adequately tracks property purchased with DOJ equitable sharing funds.

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that it will implement and keep a dedicated record of all property purchased with DOJ Equitable Sharing funds and the property will be inventoried every 2 years.

This recommendation can be closed when we receive evidence that the Phelps County SD has implemented an inventory system that accurately and adequately tracks property purchased with DOJ equitable sharing funds.

7. Ensure the Phelps County SD develops formal, written ESAC report preparation procedures to help ensure consistent, accurate, and timely completion of ESAC reports.

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that it will develop formal, written ESAC report preparation procedures that ensure the accurate and correct completion of ESAC reports, and that these procedures will be in place by February 1, 2022.

This recommendation can be closed when we receive evidence that the Phelps County SD has implemented formal written ESAC report preparation procedures that ensure consistent, accurate, and timely completion of ESAC reports.

8. Determine whether the Phelps County SD should submit corrected ESAC reports for FYs 2018 through 2020.

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that DOJ and Treasury funds were commingled in 2018. The Phelps County SD also stated that it determined after speaking with the County Treasurer and auditors that the interest gained during this period is

incalculable, and therefore the Phelps County SD will not be submitting corrected ESAC reports for 2018 through 2020.

This recommendation can be closed when we receive documentation that the Criminal Division has determined whether the Phelps County SD should submit corrected ESAC reports for FYs 2018 through 2020, as well as evidence that the Phelps County SD's accounting records support the associated ESAC reports.

9. Require the Phelps County SD to establish procedures to ensure the appropriate and correct reporting of DOJ equitable sharing expenditures in its Single Audit Reports.

Resolved. The Criminal Division concurred with our recommendation. The Criminal Division stated in its response that upon receipt of the final audit report, it will work with the Phelps County SD to correct all identified findings. As a result, this recommendation is resolved.

The Phelps County SD agreed with our recommendation and stated in its response that it will establish procedures to ensure the appropriate and correct reporting of DOJ equitable sharing expenditures in its Single Audit Reports, and that these procedures will be in place by February 1, 2022.

This recommendation can be closed when we receive evidence that the Phelps County SD has established procedures that ensure appropriate and correct reporting of DOJ equitable sharing expenditures in its Single Audit Reports.