



**AUDIT OF
MONTGOMERY COUNTY DEPARTMENT OF POLICE
EQUITABLE SHARING PROGRAM ACTIVITIES
ROCKVILLE, MARYLAND**

U.S. Department of Justice
Office of the Inspector General
Audit Division

Audit Report GR-30-11-006
August 2011

AUDIT OF MONTGOMERY COUNTY DEPARTMENT OF POLICE EQUITABLE SHARING PROGRAM ACTIVITIES ROCKVILLE, MARYLAND

EXECUTIVE SUMMARY

The purpose of the Department of Justice (DOJ) asset forfeiture program is to deter crime by depriving criminals the profits and proceeds of illegal activities while enhancing the cooperation between federal, state, and local law enforcement agencies. State and local law enforcement agencies that participate in the seizure of property and funds may receive a portion of the proceeds, or an equitable share of the forfeiture, to use for law enforcement purposes.

The DOJ Office of the Inspector General conducted an audit to assess the Montgomery County Department of Police's (MCPD) tracking and use of equitable sharing funds. The audit covered MCPD fiscal years (FY) 2009 through 2010, beginning on July 1, 2008 and ending on June 30, 2010. During these 2 years, the MCPD received over \$270,000 as a participant in the DOJ equitable sharing program.

Our audit identified weaknesses related to the MCPD's submission of its annual Agreement and Certification forms as well as how it tracked equitable sharing revenues. Additionally, we identified \$20,199 in questioned costs related to expenditures that were unallowable under the DOJ guidelines for equitable sharing funds. We therefore recommend that the Criminal Division:

- Ensure the accuracy, completeness, and timeliness of the MCPD's submission of its annual Agreement and Certification forms.
- Require that the MCPD periodically reconcile its accounting records to DOJ reports.
- Remedy all unallowable expenditures from FY 2010.

The results of our audit are discussed in greater detail in the Findings and Recommendations section of the report.

**AUDIT OF MONTGOMERY COUNTY DEPARTMENT OF POLICE
EQUITABLE SHARING PROGRAM ACTIVITIES
ROCKVILLE, MARYLAND**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
DOJ Equitable Sharing Program	1
Montgomery County	1
OIG Audit Approach	2
FINDINGS AND RECOMMENDATIONS.....	3
Federal Sharing Agreements and Certification Forms.....	3
Accounting for Equitable Sharing Receipts	5
Use of Equitable Sharing Funds.....	7
Other Reportable Matters	9
Recommendations.....	10
SCHEDULE OF DOLLAR-RELATED FINDINGS	11
APPENDIX I - OBJECTIVE, SCOPE, AND METHODOLOGY	12
APPENDIX II - MONTGOMERY COUNTY DEPARTMENT OF POLICE'S RESPONSE TO DRAFT REPORT	14
APPENDIX III - OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT	17

INTRODUCTION

The Department of Justice (DOJ) Office of the Inspector General conducted this audit to assess the tracking and use of DOJ equitable sharing funds by the Montgomery County Department of Police (MCPD), which has its headquarters in Rockville, Maryland. The audit covered Montgomery County fiscal years (FY) 2009 through 2010, beginning on July 1, 2008 and ending on June 30, 2010. During these 2 years, the MCPD received over \$270,000 as a participant in the DOJ equitable sharing program.

DOJ Equitable Sharing Program

The DOJ Asset Forfeiture Program is a national law enforcement initiative that seeks to remove the tools of crime from criminal organizations, deprive wrongdoers of the proceeds of their crimes, and deter crime. The program fosters cooperation among federal, state, and local law enforcement agencies. State and local law enforcement agencies that directly participate in an investigation or prosecution that result in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture.

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. The USMS is responsible for transferring asset forfeiture funds from the DOJ to the receiving state or local agency. JMD manages the Consolidated Asset Tracking System (CATS), which is used to compile asset distribution reports to track federally seized assets throughout an asset's forfeiture lifecycle. Finally, the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS) tracks membership of state and local equitable sharing program participants, updates the equitable sharing program rules and policies, and monitors the allocation and use of equitably shared funds.

Montgomery County

Established in 1776, Montgomery County is located in Maryland just north of Washington, D.C., and has 971,700 residents living across 1,959 square miles. The MCPD is responsible for public safety, preventing and detecting crime, enforcing the law, and protecting the rights of all citizens. The MCPD has been under the leadership of Chief J. Thomas Manger since 2004.

The MCPD became a member of the DOJ asset forfeiture program in 1996 and has participated in investigations led by the Federal Bureau of

Investigation, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the United States Postal Inspection Service.

OIG Audit Approach

We tested compliance with what we considered the most important conditions of the DOJ equitable sharing program. Unless stated otherwise in this report, we applied the AFMLS *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Equitable Sharing Guide)* as our primary criteria. The Equitable Sharing Guide outlines procedures for submitting equitable sharing requests and discusses the proper use and accounting for equitable sharing assets.

To conduct the audit, we tested the MCPD's compliance with the following three aspects of the DOJ equitable sharing program:

- **Federal Sharing Agreements and Certification Forms** to determine if these documents were complete and accurate.
- **Accounting for equitable sharing receipts** to determine whether standard accounting procedures were used to track equitable sharing assets.
- **Use of equitable sharing funds** to determine if equitable sharing cash was used for law enforcement purposes.

See Appendix I for more information on our objectives, scope and methodology.

FINDINGS AND RECOMMENDATIONS

The MCPD received over \$270,000 in equitable sharing funds from DOJ during the 2-year period beginning July 2008 and ending June 2010. We found that the MCPD did not adequately account for or track \$27,998 in DOJ equitable sharing revenues received in FY 2010. Although the MCPD maintained its asset forfeiture revenues in a county-wide bank account, it required USMS e-mail notifications to identify DOJ equitable sharing deposits made to this account. As a result, the MCPD did not know that the State of Maryland intercepted two DOJ equitable sharing outlays totaling \$20,962. Furthermore, we also noted that the MCPD understated its expenditures in its FY 2010 Agreement and Certification Form by approximately \$36,800. The certification forms were also not submitted on time. While we found that most expenditures the MCPD made with equitable sharing funds were allowable, expenditures on lab technician salaries and overtime totaling \$20,199 are not allowable under DOJ equitable sharing guidelines.

Federal Sharing Agreements and Certification Forms

According to the Department of Justice (DOJ) Equitable Sharing Guide, state and local law enforcement agencies participating in the equitable sharing program must submit an agreement and certification form at the end of a participating agency's fiscal year. The form has two sections – the agreement and the certification. The agreement portion of the form must be signed by both the head of the law enforcement entity and a designated official of the local government. By signing and submitting the agreement, the signatories agree to have the participating agency follow the equitable sharing program guidelines. The certification section of the form lists the equitable sharing funds received, a summary of how the funds received were spent, and any non-cash assets received.

We obtained copies of the MCPD's certification forms for FYs 2009 to 2010 to determine whether the forms were accurate. We determined that the forms were prepared and signed by the proper MCPD officials. To assess the accuracy of MCPD's certification forms, we reconciled the total receipts and expenditures reported in FY 2009 and 2010 to MCPD's general ledger and other accounting records used by MCPD personnel to prepare the certifications. For the FY 2009 certification, reported receipts and expenditures reconciled correctly to MCPD accounting records. However, on the FY 2010 certification, the MCPD reported \$27,998 in equitable sharing receipts that had not been listed in its general ledger.

Furthermore, we determined that the MCPD understated its FY 2010 expenditures by a total of \$36,778. The MCPD employee who prepared the FY 2010 certification stated that she did not include expenditures on the certification form that did not specifically fall within the form's defined categories of allowable uses. For example, the MCPD did not report a \$2,040 expense for a vehicle tracking device service because the certification form did not contain a category that could be used to report this expense. However, we note that the certification form contains an "other law enforcement expenses" category that the MCPD should have used to capture this and other expenses that were not easily categorized. The FY 2010 agreement and certification form therefore reported an incorrect amount of receipts and expenditures. Incorrect certification forms adversely affect the DOJ's ability to account for the equitable sharing funds provided to the MCPD accurately. Therefore, we recommend that the Criminal Division require that the MCPD correct and resubmit its FY 2010 Agreement and Certification form.

We also reviewed whether both agreement and certification forms were submitted on time. The Equitable Sharing Guide states that participating law enforcement agencies must submit the agreement and certification form within 60 days of the end of the applicable fiscal year. Considering that the MCPD fiscal year ends on June 30, these forms were due to the DOJ by August 30. The MCPD submitted the certification forms over 9 months after the end of its FY 2009 (226 days late) and more than 5 months after the end of its FY 2010 (113 days late).

According to the Montgomery County official responsible for preparing the certification form, a delay in the annual reconciliation of Montgomery County bank accounts caused these untimely submissions. However, as shown by Exhibit 1 below, the dates when the certification forms were submitted were much later than the dates when Montgomery County completed its bank account reconciliation. As shown in Exhibit 1, although Montgomery County's FY 2009 bank account reconciliation was completed on October 2, 2009, the MCPD did not submit its FY 2009 certification form until April 13, 2010, or more than six months after the reconciliation was completed. For FY 2010, although the MCPD completed its account reconciliation on August 19, 2010, it did not submit its certification form until 124 days later on December 21, 2010.

**EXHIBIT 1: AGREEMENT AND CERTIFICATION FORM SUBMISSION
(FY 2009 TO 2010)**

Fiscal Year-End	Certification Form Due Date	Bank Accounts Reconciled	Certification Form Submitted
6/30/09	8/30/09	10/2/09	4/13/10
6/30/10	8/30/10	8/19/10	12/21/10

Source: OIG review of MCPD records

Late certification forms risk affecting DOJ oversight of equitable sharing funds. Therefore, we recommend that the Criminal Division ensure that the MCPD develops procedures that will help it submit its annual equitable sharing agreement and certification form on time -- within 60 days after its end of fiscal year June 30.

Accounting for Equitable Sharing Receipts

The MCPD conducts collaborative investigations with units of several different law enforcement agencies. If officers seize assets during these investigations, such as cash and property items, the MCPD completes and submits a DOJ Form DAG-71 to request a percentage, or share, of the proceeds of the seized asset. DOJ compiles reports listing the payments made to each equitable sharing program participant. According to DOJ data, from FY 2009 to 2010, the MCPD recorded equitable sharing receipts totaling over \$270,000, as shown in Exhibit 2.

**EXHIBIT 2: MCPD EQUITABLE SHARING RECEIPTS
(FY 2009 TO 2010)**

Fiscal Year	Equitable Sharing Receipts (\$)
2009	109,595
2010	161,220
TOTAL	\$ 270,815

Source: MCPD certification forms

The DOJ Equitable Sharing Guide requires that law enforcement agencies use standard accounting procedures and internal controls to track and account for equitable sharing receipts. Such accounting procedures include establishing a separate revenue account or code that can be used only for DOJ equitable sharing funds. The MCPD receives equitable sharing funds in the same Montgomery County bank account used to receive other federal payments. During FY 2009 and 2010, the MCPD received equitable sharing funds in this account via electronic funds transfers (EFT) made by

the USMS using E-Share.¹ However, because E-Share is used to issue disbursements for both equitable shares and grants, a DOJ EFT is not necessarily a result of shares of asset proceeds. Therefore, for each equitable sharing EFT, the USMS sends an automatically-generated e-mail to a designated MCPD recipient notifying that an equitable sharing payment has been made.

As part of the standard accounting procedures and internal controls promulgated by the Equitable Sharing Guide, MCPD personnel should verify the deposit of funds after receiving an EFT notification. Because the bank account belongs to Montgomery County government, the MCPD confirms receipt of the EFT via online access to the bank account. The MCPD then requests that the Montgomery County Treasury Department code the funds received with the unique DOJ equitable sharing accounting code.²

To test the accuracy of the equitable sharing receipts for FY 2009 and FY 2010, we reconciled the total receipts recognized for each fiscal year in the MCPD's accounting system to the total equitable sharing receipts the MCPD reported on its annual agreement and certification forms. We also tested a judgmental sample of six receipts totaling \$147,515, or more than 54 percent of the total MCPD reported receipts. Despite the tracking procedures employed by the MCPD and noted above, we identified a total of \$28,000 in equitable sharing revenues that the MCPD had not accounted for in FY 2010.

On July 27, 2009, DOJ disbursed \$7,038 to Montgomery County's revenue fund but the Montgomery County Treasury Department incorrectly recorded this transaction as a U.S. Department of the Treasury receipt. Consequently, the MCPD's general ledger understated the MCPD's DOJ equitable sharing revenues by \$7,038 for FY 2010. The MCPD corrected this miscoding during audit fieldwork.

¹ E-Share is the United States Marshals Service program used to make equitable sharing payments to federal, state, and local law enforcement agencies through EFT. E-Share changes equitable sharing payments from a paper U.S. Treasury check to a direct deposit into the state and local law enforcement agency's bank account.

² Based on our interviews, we note that MCPD personnel depend upon the USMS e-mail EFT notifications to alert them when DOJ equitable sharing monies have been deposited in the Montgomery County bank account. Without an e-mail notification, MCPD personnel are not able to readily identify DOJ equitable sharing deposits in Montgomery County's bank account. Thus in the event that the MCPD does not receive the USMS e-mail, the MCPD is not able to identify the receipt of equitable sharing funds and cannot request that the funds are coded and tracked properly.

Two DOJ disbursements totaling \$20,962 and remitted on August 27, 2009 were intercepted by the state of Maryland under the Federal Liability Offset Program.³ As a result, the MCPD's list of bank deposits for August 2009 showed two individual deposits of just \$1 each from the Maryland Central Collection Unit, the state entity that intercepted the funds. Based on our review of FY 2010 equitable sharing supporting documentation, MCPD personnel were unaware of the status of these two deposits and told us that they did not receive an EFT notification e-mail.

According to the Director of the Maryland Central Collection Unit, the State of Maryland remitted the intercepted funds to the Montgomery County Department of Health and Human Services (MCHHS) on December 2009.⁴ However the MCHHS did not return or otherwise make available these funds to the MCPD until we inquired about the status of these funds during our audit fieldwork. On June 8, 2011 – approximately 18 months after the funds were returned – the MCHHS transferred the funds back to the MCPD.

These two deficiencies highlight that the MCPD needs to improve how it adequately reconciles equitable sharing requests to actual receipts. We therefore recommend that the Criminal Division ensure that the MCPD periodically reconcile the amount of equitable sharing revenues it posts to its general ledger to the amounts disbursed by the DOJ.

Use of Equitable Sharing Funds

Generally, agencies participating in the DOJ equitable sharing program should use equitable sharing funds for law enforcement purposes. As summarized by Exhibit 3, the Equitable Sharing Guide outlines the allowable and unallowable uses for equitable sharing funds.⁵

³ The Liability Offset Program allows a state to seize federal refunds and use them to pay unpaid state tax liabilities. According to MCPD personnel, these funds were intercepted to offset an unpaid liability by the Montgomery County Department of Health and Human Services to the State of Maryland.

⁴ Maryland Treasury Offset Program Technical Bulletin SR10-14 (October 8, 2010) states that debts owed by a state or local government are not eligible for offset. Thus, the unpaid liability by the MCHHS was not eligible for offset under the program.

⁵ The DOJ Equitable Sharing Guide includes the complete list of allowable and unallowable uses for equitable sharing funds.

**EXHIBIT 3: SUMMARY OF ALLOWABLE AND UNALLOWABLE USES
FOR EQUITABLE SHARING FUNDS**

Allowable Uses	Unallowable Uses
Law Enforcement Investigations	Extravagant Expenditures
Law Enforcement Training	Food and Beverages
Law Enforcement Equipment	Education-Related Costs
Asset Accounting and Tracking	Uses Contrary to the Laws of the State or Local Jurisdiction
Law Enforcement Awards and Memorials	Non-Official Government Use of Shared Assets
Law Enforcement Travel and Transportation	Use of Forfeited Property by Non-Law Enforcement Personnel
Law Enforcement and Detention Facilities	Salaries and Benefits of Current Law Enforcement Personnel

Source: DOJ Equitable Sharing Guide

MCPD personnel submit expenditure requests through the MCPD chain of command, where the Director of the Special Investigations Division (SID) provides final approval. The Deputy Director of SID told us that the SID is responsible for ensuring the allowability of expenditures made with equitable sharing funds prior to approval.

The MCPD spent a total of \$292,232 in equitable sharing funds in FYs 2009 and 2010. The MCPD used equitable sharing funds to purchase laboratory equipment, wiretap technology, firearms, Global Positioning System (GPS) tracking services, and construction. Equitable sharing funds were also used to replenish cash used as “buy money” on undisclosed narcotics investigations.

Unallowable Expenditures

We judgmentally sampled 16 transactions totaling \$277,286 (or 95 percent of equitable sharing outlays) to assess whether these expenditures were supported and allowable under equitable sharing guidelines. The sample included high-dollar purchases, as well as an assortment of expenditures selected due to the potential for impermissible or improper use.⁶ We evaluated the nature and purpose of these

⁶ As noted above, the MCPD omitted approximately \$36,000 of expenditures from its FY 2010 Agreement and Certification form. We selected an additional six expenditures (from four vendors) from those purchases that were omitted from the certification.

expenditures and determined that the sampled items appeared to supplement and not supplant the MCPD's budgeted funds.

Our review noted two unallowable MCPD equitable sharing expenses incurred in FY 2010: (1) \$11,368 in laboratory chemist salary payments and (2) \$8,831 in laboratory chemist overtime payments. According to the AFMLS, the use of equitable sharing funds for salaries and overtime for laboratory chemists who are not sworn officers is not permitted under the equitable sharing guidelines. Therefore, we recommend that the Criminal Division remedy \$20,199, the total of the laboratory chemist salaries (\$11,368) and overtime (\$8,831) expenditures from FY 2010 as unallowable costs.

Other Reportable Matters

Under the Equitable Sharing Guide, the use of equitable sharing funds as buy money is permissible. We reviewed MCPD procedures for expending equitable sharing funds to purchase narcotics undercover and found weaknesses in the methods used by the MCPD to replenish these funds.

The MCPD SID maintains about \$10,000 in cash as buy money in a safe housed at an undercover location. When SID personnel expend approximately \$5,000 of this amount, the administrative sergeant submits a request to the SID Director to replenish the funds. The request notes how the expended funds have been used, specifically whether these were used to conduct undercover narcotics purchases or to pay for informant payments. If the request is approved, the Montgomery County Finance Department sends a check to a responsible official's home address. The Deputy Director then cashes the check at a local bank and subsequently remits the funds to the buy money safe.

Although our audit did not find missing funds, we note that the MCPD has not established an independent check to ensure that the cash requested and the cash replenished is the same. We recommend that the Criminal Division ensure the MCPD implement procedures to include an independent check of all cash replenishments.

Montgomery County collectively tracks interest income on different types of forfeiture-related funds (local, DOJ, and U.S. Department of the Treasury). The MCPD reported on its certification forms that it earned interest income of \$17,964 in FY 2009 and \$2,021 in FY 2010.⁷ The MCPD reported these figures based on the interest earned on DOJ funds in proportion to the total amount of revenues collected from each of these sources for the fiscal year. We determined that the methodology the MCPD used to allocate interest was not proportional to the revenue it collected. As a result, the amount of interest reported as earned on the certification forms was not correct. For FY 2009, the interest income was overstated on the certification form by \$1,897.

Recommendations

We recommend that the Criminal Division:

1. Require the MCPD to correct and resubmit its FY 2010 Agreement and Certification form.
2. Ensure that the MCPD develops procedures that will help it submit its annual equitable sharing agreement and certification form on time (within 60 days after its end of fiscal year June 30).
3. Ensure that the MCPD periodically reconcile the amount of equitable sharing revenues it posts to its general ledger to the amounts disbursed by DOJ.
4. Remedy \$20,199 associated with the two unallowable FY 2010 expenditures for laboratory chemist salaries (\$11,368) and overtime (\$8,831).
5. Ensure the MCPD implement procedures to include an independent check of all cash replenishments.

⁷ According to the DOJ Equitable Sharing Guide, interest income earned on forfeited cash receipts must be deposited into the agency's equitable sharing revenue account and is subject to the same use restrictions as equitable sharing funds.

SCHEDULE OF DOLLAR-RELATED FINDINGS

	<u>Amount</u> <u>(\$)</u>	<u>Page</u>
Questioned Costs⁸		
<u>Unallowable Expenditures</u>		
Laboratory chemist salary	11,368	9
Laboratory chemist overtime	8,831	9
Total Questioned Costs:	<u>\$20,199</u>	

⁸ *Questioned Costs* are monies spent that, at the time of the audit, do not comply with legal requirements, or are unsupported, unnecessary, or unreasonable. They can be recoverable or non-recoverable.

OBJECTIVE, 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Objective

The objective of the audit was to assess whether the Montgomery County Department of Police (MCPD) accounted for equitable sharing funds properly and used such revenues for allowable purposes defined by applicable guidelines. We tested compliance with what we considered were the most important conditions of the Department of Justice's (DOJ) equitable sharing program. We reviewed laws, regulations, and guidelines governing the accounting for and use of DOJ equitable sharing receipts, including pertinent versions of the Criminal Division's *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*.

Unless otherwise stated in our report, the criteria used during the audit were contained in this document.

Scope and Methodology

Our audit concentrated on equitable sharing receipts received by the MCPD from the DOJ between July 1, 2008 and June 30, 2010. During FYs 2009 and 2010, there were receipts totaling more than \$270,000. We tested a judgmental sample of six receipts totaling \$147,515 in our assessment of MCPD receipt accounting and a judgmental sample of 16 disbursements, totaling \$277,286 to evaluate MCPD's use of equitable sharing funds. The judgmental sample of MCPD expenditures comprised approximately 95 percent of the total expenditures made with equitable sharing funds during the audit period. We applied our judgmental sampling design to obtain a broad exposure to numerous facets of the disbursements reviewed, such as dollar amounts. This non-statistical sample design did not allow us to project results of our testing to the entire universe of equitable sharing disbursements made in the scope of our audit.

We performed audit work at MCPD headquarters and an MCPD undisclosed location in Maryland. To accomplish the objectives of the audit, we interviewed MCPD officials and examined records, related revenues, and expenditures of equitable sharing revenues. In addition, we relied on computer-generated data contained in the DOJ Detail Distribution Report for determining equitably shared revenues and property awarded to the MCPD during the audit period. We did not establish the reliability of the data contained in the DOJ equitable sharing system as a whole. However, when the data used is viewed in context with other available evidence, we believe the opinions, conclusions, and recommendations included in this report are valid.

Our audit specifically evaluated the MCPD's compliance with three essential equitable sharing guidelines: (1) Federal Sharing Agreements and Annual Certification Reports, (2) Accounting for equitable sharing receipts, and (3) Use of equitable sharing funds. In planning and performing our audit, we considered internal controls established and used by the MCPD and its county government over DOJ equitable sharing receipts to accomplish our audit objectives. However, we did not assess the MCPD's financial management system's reliability, internal controls, or whether it, as a whole, complied with laws and regulations.

Our audit included an evaluation of two county-wide audits conducted of the County of Montgomery, of which the auditee is a sub-unit, by Clifton Gunderson, LLP. The results of these audits were reported in the Single Audit Report that accompanied the Comprehensive Annual Financial Report for the years ended June 30, 2009 and 2010. The Single Audit Reports were prepared under the provisions of Office of Management and Budget Circular A-133. We reviewed the independent auditor's assessments, which disclosed no control weaknesses or significant noncompliance issues related specifically to the auditee.

**MONTGOMERY COUNTY DEPARTMENT OF POLICE'S
RESPONSE TO THE DRAFT REPORT**

August 19, 2011

U.S. Department of Justice
Office of the Inspector General
Attention: Troy M. Meyer, Regional Audit Manager

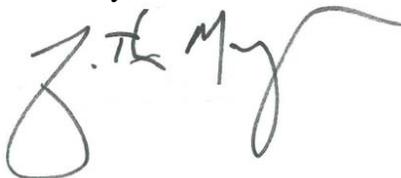
Dear Mr. Meyer:

The Montgomery County Department of Police has reviewed the draft audit report on Equitable Sharing Funds Awarded to the Montgomery County Department of Police (MCPD) by the Department of Justice. The audit concluded that there were some weaknesses noted as well as discrepancies. Our Department has analyzed these weaknesses and discrepancies and provides the attached responses to the Recommendations.

In addition to Recommendations 1-5, Montgomery County also will ensure that interest accrued on forfeiture-related funds is attributed to the appropriate accounts as referenced in page 9 of the draft audit report. Rather than being the responsibility of the Police Department, the Montgomery County Department of Finance will calculate and credit accrued interest to the appropriate accounts.

On behalf of the MCPD, I thank you for your assistance and guidance. We strive for continual improvement and value the relationship our two agencies have enjoyed for many years. Through these efforts and others, together we will increase effectiveness and quality of the system.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Thomas Manger". The signature is fluid and cursive, with a large loop at the end.

J. Thomas Manger
Chief of Police

Enclosure

Attachment
MCPD responses to Recommendations 1-5

Recommendation #1: Require the MCPD to correct and resubmit its FY2010 Agreement and Certification Form.

Response: The MCPD will file an amended FY10 Agreement and Certification Form to reflect the correct interest income as well as all expenditures related to the Department of Justice asset-sharing fund, as noted on pages 3 and 4 of the draft audit report. This will also include transferring the expenditures of unallowable overtime and salaries out of the Justice account to the County asset-forfeiture account (see response 4 for further explanation).

Recommendation #2: Ensure that the MCPD develops procedures that will help it submit its annual equitable-sharing agreement and certification form on time (within 60 days after its end of fiscal year June 30).

Response: The Montgomery County Department of Police now has procedures in place to ensure that certification reports are filed in a timely manner, as noted on pages 4 and 5 of the draft audit report. This will be accomplished by analyzing expenditures on a quarterly basis by obtaining preliminary year-end data from the Montgomery County Department of Finance in order to begin preparation of the annual certification report weeks earlier. Further, supervisory controls will be established to ensure that key filing dates are met.

Recommendation #3: Ensure that the MCPD periodically reconciles the amount of equitable sharing revenues it posts to its general ledger to the amounts disbursed by DOJ.

Response: Montgomery County Police had felt it was reasonable to expect that all funds sought from Justice using the DAG process would be received. It turns out that, unfortunately, by a process yet undetermined, the State of Maryland is able to intercept payments from Justice, without our knowledge. We are currently exploring our options to discontinue this process. We have, however, established procedures by analyzing expenditures on a quarterly basis by obtaining preliminary year-end data from the Montgomery County Department of Finance in order to begin preparation of the annual certification report. As stated in Recommendation #2, the MCPD now has procedures in place to ensure that all revenues are accounted for and posted to the general ledger. Procedures have been established to reconcile quarterly the equitable asset-sharing accounts, which will address recommendations and findings in pages 5-8 of the draft audit report. This will include receiving a Detailed Disbursement Ledger from DOJ and reconciling it with the general ledger as well as with the EFT payments received. Staff has now been trained on specific procedures to post specific types of expenditures in the format that is required.

Recommendation #4: Remedy \$20,199 associated with the two unallowable FY2010 expenditures for Laboratory Chemist salaries (\$11,368) and overtime (\$8,831).

Response: This expenditure will be moved from the Justice account to the County asset forfeiture account, thereby increasing the Justice account balance by \$20,199. This finding is referenced on pages 8 and 9 of the draft audit report. This transaction will be noted in the amended FY2010 Annual Certification Report. It should be noted that this type of expenditure was a permissible expense up through 2009. At the time of preparation of the FY10 Drug Enforcement Fund Budget it was included in error as being appropriated utilizing Justice funds. A procedure is now in place for all future expenditures to be duly noted on the request as to which account the funds are being spent. This allows for additional review for permissible uses.

Recommendation #5: Ensure the MCPD implements procedures to include an independent check of all cash replenishments.

Response: The Montgomery County Department of Police has implemented the following procedures as it relates to replenishments to the Drug Enforcement Fund as noted in the draft audit report on page 9. The Administrative Sergeant will prepare the actual replenishment memo. Once it is approved by the Division Director, it will be forwarded to the Program Specialist for processing and review. The Deputy Director in charge of the Drug Enforcement Section will subsequently receive the replenishment check and will cash the check. Upon bringing the cash back to the Special Investigations Division, the Deputy Director in charge of the Drug Enforcement Section will have either the Director of the Special Investigations Division or the Deputy Director in charge of the Criminal Enterprise Section conduct a second count of the cash. This cash will be reviewed for consistency with the replenish-memo amount. This dual-control accounting will be duly noted in a logbook maintained by the Deputy Director in charge of the Drug Enforcement Section. Both individuals who count the cash will confirm the count by signing the logbook. A copy of the replenishment request will also be kept within the logbook.

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

The Department of Justice Office of the Inspector General (OIG) provided a draft of this audit report to the Criminal Division and the Montgomery County Department of Police (MCPD). We incorporated MCPD's response as Appendix II of this final report. However, the audit recommendations are unresolved because the Criminal Division declined to provide comments on the draft report. The following provides the OIG analysis of MCPD's response and a summary of actions necessary to resolve each report recommendation.

1. **Unresolved.** The MCPD concurred with our recommendation for MCPD to correct and resubmit its fiscal year (FY) 2010 Agreement and Certification Report. The MCPD stated that it will file an amended FY 2010 Agreement and Certification Report reflecting corrected interest income as well as the errors noted in its reported receipts and expenditures.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.

2. **Unresolved.** The MCPD concurred with our recommendation to develop procedures that will help it submit its annual Agreement and Certification Report on time (within 60 days after June 30, which is the end of its fiscal year). The MCPD stated that it will analyze expenditures on a quarterly basis from the Montgomery County Department of Finance in order to help submit the Annual Certification Report prior to the deadline. Also, the MCPD will implement supervisory controls to ensure that the Annual Certification Report is filed on time.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.

3. **Unresolved.** The MCPD concurred with our recommendation to reconcile the amount of equitable sharing revenues it posts to its general ledger to the amounts disbursed by DOJ. The MCPD stated that as part of its implementation of a quarterly analysis over its financial data in response to recommendation 2 above, it will reconcile its equitable sharing accounts to the Detailed Disbursement Ledger from DOJ.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.

4. **Unresolved.** The MCPD concurred with our recommendation to remedy \$20,199 associated with two unallowable FY 2010 expenditures. The MCPD stated that they will correct this in their accounting system as well as in their resubmission of the FY 2010 Annual Certification Report as part of recommendation 1 above. The MCPD will also implement procedures to document additional review for allowability of future expenditures.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.

5. **Unresolved.** The MCPD concurred with our recommendation to implement procedures to include an independent check of all cash replenishments. The MCPD stated that it will designate either the Director of the Special Investigations Division or the Deputy Director in charge of the Criminal Enterprise Section to perform an independent count of the cash replenishment. This will be documented in the logbook along with a copy of the replenishment request.

However, this recommendation is unresolved because the Criminal Division did not respond to the draft report. This recommendation can be resolved once the OIG and the Criminal Division reach agreement on corrective action.