



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**


**Ben Rosenfield**  
Controller

**Monique Zmuda**  
Deputy Controller

**MEMORANDUM**

**DATE:** September 9, 2010

**TO:** Kamala D. Harris, District Attorney  
Chief George Gascón, San Francisco Police Department

**FROM:** Tonia Lediju, Director of Audits, City Services Auditor 

**SUBJECT:** Results of the Review of the Asset Forfeiture Program

**INTRODUCTION**

This memorandum provides the results of the City Services Auditor (CSA) Division's review of procedures and internal controls over operations and protection of assets held as part of the Asset Forfeiture Program, managed jointly by the Office of the District Attorney (DA) and the San Francisco Police Department (SFPD). The scope of this review did not include the proper distribution of forfeited funds by the SFPD in accordance with the provisions of Health and Safety Code Section 11489, or the resulting regulated use of those funds.

At the request of the Controller, the review assessed the adequacy of SFPD and DA procedures and internal controls over operations related to assets held, from the point of seizure to the forfeiture of funds by non-judicial or judicial processes.

**BACKGROUND & METHODOLOGY**

The Asset Forfeiture Program operates under the provisions of California Health and Safety Code Section 11469 et seq. Asset Forfeiture Programs administer and oversee the confiscation and forfeiture of assets by the county, which are related to a crime. This program is a joint effort by the SFPD and the DA. The California Department of Justice compiles statistical data for each county in California. The Asset Forfeiture Program has two types of cases: state and federal. CSA's review focused on the procedures and internal controls over state forfeiture cases.

The state forfeitures involve the DA and the SFPD working closely together. To maintain the integrity of the program, the Asset Forfeiture Team is purposely limited to a few individuals. The team has three full-time and four part-time employees. The Asset Forfeiture Program is operated by the following employees:

- An assistant district attorney and an asset forfeiture paralegal at the DA.
- One full-time inspector along with four SFPD officers that assist part-time with the program.

The SFPD is responsible for the safekeeping of cash forfeited, beginning with seizure, continuing throughout the process of obtaining forfeiture, and ending with the distribution of the proceeds according to California Health and Safety Code Section 11489, or the return of the cash to the individual. Both of these actions result in closure of the case. The DA is responsible for the legal process of the forfeiture and determines if it wants to pursue the case for forfeiture. Once this is decided, the DA begins with a non-judicial forfeiture and, if challenged, it will seek a judicial forfeiture with the courts. Both groups participate in serving required notices to individuals, based upon resource availability and volume of notices to be served. The California Department of Justice is required by state law to compile statistical data for each year and each county in California. The 2008 annual report (the latest data available) provides information on all forfeitures of assets from illegal drug activities initiated throughout the state during that calendar year. The report also includes the number of cases for which forfeiture was ordered or declared, the value of assets, and recipients of forfeited assets. The City and County of San Francisco initiated 301 cases with an estimated asset value of \$938,013 in 2008, and completed 253 forfeiture cases with a forfeited asset value of \$609,460.

The objectives of the review were to determine whether:

- The recordkeeping and review process over the asset forfeiture function are properly completed.
- Asset forfeiture employees are knowledgeable of the Asset Forfeiture Program and understand their responsibilities.
- Seized property is properly handled and safeguarded.
- The required reports/forms are adequately completed for each asset forfeiture case to ensure adherence to policies and procedures.
- Adequate procedures for closing asset forfeiture cases are properly maintained.

The review covered the period from January 1, 2008, to December 31, 2009. CSA included in its testing a sample of all asset forfeiture cases opened in 2008 and 2009 that closed in 2009. Out of 217 forfeiture files, the auditor judgmentally selected 10 files with a total value of \$59,829, and tested for 23 different attributes of the prescribed process.

To conduct the review, the audit team:

- Discussed the Asset Forfeiture Program with SFPD and DA personnel to gain an understanding of the program.
- Reviewed and gained an understanding of the program's procedures and processes.
- Verified whether procedures and processes were working as intended by selecting a representative sample and testing adherence to the prescribed procedures.

## RESULTS

The audit team found that in each of the ten files:

- Recordkeeping and the review process for the asset forfeiture function are properly performed.
- Asset forfeiture employees are knowledgeable of the Asset Forfeiture Program and strive to complete their responsibilities efficiently and effectively.
- Seized property is properly handled and safeguarded throughout the entire process.
- Reports and/or forms are adequately completed for each asset forfeiture case to ensure adherence to policies and procedures.
- Adequate procedures for closing asset forfeiture cases are maintained.

## RECOMMENDATION

An ongoing record should be maintained of each discrepancy found in the amount of cash seized. Currently, a cash discrepancy form is completed in each case and given to the chief of police, but a comprehensive record of all discrepancies would allow monitoring of total discrepancy amounts on an ongoing basis.

The response of the SFPD is attached to this report.

CSA extends its appreciation to you and your staff who assisted with this review. If you have any questions or concerns, please call or e-mail me at (415) 554-5393 or ***tonia.lediju@sfgov.org***.

cc: Ben Rosenfield, Controller



OFFICE OF THE  
CITY AND COUNTY OF SAN FRANCISCO  
TOMAS CAMPBELL COURTHOUSE  
300 S. VAN NESS STREET  
SAN FRANCISCO, CALIFORNIA 94104



July 27, 2010

Ms. Tonia Lediju  
Director of Audits  
City Services Auditor

Dear Ms. Lediju:

This letter is in response to the Audit Memorandum, dated June 9, 2010, regarding the Results of the Review of the Asset Forfeiture Program. We were very pleased with this process and the results of this review. We would like to thank Donna Crume for her excellent job and professional courtesy.

We concur with the recommendation. We would like to clarify the process of handling the cash discrepancies. The Asset Forfeiture Team prepares a Supplemental Police Report entitled "Evidence Discrepancy Report" which reflects the discrepancy in the amount of cash written on the outside of the money envelope and the actual cash found in the money envelope. This report is forwarded to the Lieutenant and Captain of the Narcotics Division.

With regard to your recommendation, the Asset Forfeiture Team will have a monthly meeting with the Lieutenant and Captain of the Narcotics Division regarding any discrepancies. Further, the Asset Forfeiture Team will keep an ongoing comprehensive record of all future discrepancies. Lastly, the District Attorney's Asset Forfeiture Paralegal is in the process of preparing a comprehensive record of all discrepancies going back to 2005.

It should be noted that due to the problems with the San Francisco Crime Lab and its closure on March 9, 2010 there has been no distribution of forfeited funds since February 2010.

Sincerely,

Captain Croce A. Casciato  
Commanding Officer  
Narcotics-Vice Crimes Division