

Nassau County
Office of the Comptroller



Limited Review of the
Nassau County Police Department
Asset Forfeiture Funds

GEORGE MARAGOS

Comptroller

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NASSAU COUNTY
OFFICE OF THE COMPTROLLER

George Maragos
Comptroller

James Garner
Chief Deputy Comptroller

Raymond J. Aversa, Esq.
Deputy Comptroller

Sergio Blanco
Counsel to the Comptroller

Jostyn Hernandez
Director of Communications

Michael Olney
Counsel to the Comptroller

Audit Staff

JoAnn Greene
Director of Field Audit

Aurora Scifo
Deputy Director of Field Audit

Linda Leung
Senior Project Manager

Joseph Giamanco
Field Auditor

Executive Summary

Introduction:

The Asset Forfeiture & Intelligence Unit became a specialized unit of the Nassau County Police Department (“NCPD”) in 1992. The unit assists state and federal agencies on criminal investigations, and in turn are given a portion of any assets seized as a result of the investigation, to be used in an effort to improve policing and support the community.

Purpose:

The purpose of this review was to determine that Federal and New York State asset forfeiture funds were expended in accordance with government guidelines, and assets purchased with these funds were properly inventoried, maintained and disposed of according to fund regulations.

Key Findings:

- The testing of the uses of Federal Justice and Treasury forfeiture funds revealed no exceptions;
- The auditors found two instances where the annual Equitable Sharing Agreement and Certification Forms filed with the AFMLS¹ did not include all revenues and expenditures during the reporting period. The form is submitted annually to the governing Federal agency, to report forfeiture fund activity;
- The asset inventory controls in place were inadequate. At the time of the audit, five of the 20 assets that were selected for inspection could not be located. Additionally, some disposed assets were incorrectly shown as active assets on the inventory listing; and
- \$25 million of the \$37 million in accumulated Federal and State asset forfeiture funds has been earmarked for a new police academy facility.

Key Recommendations:

We recommend that:

- the annual 2011 and 2012 Equitable Sharing Agreements and Certification Forms be amended; in the future, these annual filings should be reconciled to the County’s financial system on a regular basis;
- the asset forfeiture inventory be updated with the exact location, including the sub location where needed, to improve control of County assets. This inventory should be

¹ The Asset Forfeiture and Money Laundering Section, (“AFMLS”) is the authoritative federal government body for all asset forfeiture distributions and uses.

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updated on a regular basis, and any changes to asset use or location should be reported to the staff responsible for inventory in a timely manner;

- all inventory changes be communicated to the Comptroller's Office in a timely manner so that the County FAACS inventory is updated on a regular basis;
- the asset forfeiture inventory be reconciled to the County FAACS by the Asset Forfeiture & Intelligence Unit;
- the appropriate asset disposal procedures are followed, including notification of disposals to inventory custodians;
- every effort be made to expend federal asset forfeiture funds in excess of what is required for the new police academy as the funds are received, or within the two or three year period stated in the Federal Guidelines; and
- consideration be given to hiring a qualified, independent contract monitor to oversee the building of the new police academy, reporting to the NCPD.

The matters covered in this report have been discussed with the officials of the Police Department. On June 3, 2015 we submitted a draft report to the Police Department for their review. The Police Department provided their response on June 22, 2015. Their response and our follow up to their response are included as Appendix B to this report.

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Introduction

Background

The Asset Forfeiture & Intelligence Unit of the Nassau County Police Department (“NCPD”) participates in a federal equitable sharing program, which provides two federal forfeiture funds for agencies assisting on cases; one from the U.S. Treasury Department, and one from the U.S. Department of Justice. The federal agencies involved in the seizure of these assets include the Internal Revenue Service (“IRS”), the Drug Enforcement Agency (“DEA”), the Federal Bureau of Investigation (“FBI”), and Homeland Security. There is also an asset forfeiture fund for monies received from New York State (“NYS”)².

Forfeiture funds are funds seized during or as a result of a criminal investigation. These funds can be seized either criminally, or civilly. According to the County’s Asset Forfeiture & Intelligence Unit, around 90% of the assets seized in Nassau County are seized civilly, not criminally.

NCPD’s share of seized assets is determined by which agency the NCPD assisted on each case. Forfeiture funds seized while assisting the Treasury and Justice Departments are normally distributed based on a ‘handshake’ deal that is agreed upon on a case by case basis. All parties involved in the case come to an agreement as to how the funds should be split fairly. State level forfeiture funds are split the same way for every investigation; 32% goes to substance abuse programs, 27% goes to the County DA’s Office, and 41% goes to the NCPD. For any case that the County assists on, certain direct expenditures, such as overtime, fuel, equipment, etc. are reimbursable, and not included in the distribution received from assets that were seized as a result of the case.

According to the Commanding Officer of the Asset Forfeiture & Intelligence Unit, the police work is completed using a “follow the money” method. Law enforcement establishes whether or not a criminal or suspect has documented sources of income to justify items owned. If it can be determined the assets owned are most likely attained illegally or through the use of illegally attained funding, officers proceed with the seizure of said assets.

Federal and State Guidelines

The Asset Forfeiture and Money Laundering Section, (“AFMLS”) is the authoritative federal government body for all asset forfeiture distributions and uses. Any questions about qualifying uses of forfeiture funds which cannot be found in the Department of Justice’s or the Department

² A fourth non-federal, non-state, Misdemeanor Asset Forfeiture Fund was created in 2003 and is administered directly by the NCPD and the DA. This fund is not covered by this report. Local (County) forfeiture is governed by Nassau County Administrative Code Section 8-7.0 (g).

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of the Treasury's Forfeiture Fund Guidelines are normally settled by AFMLS. The AFMLS also conducts an audit of the Asset Forfeiture & Intelligence Unit once every five years.

The County's Asset Forfeiture & Intelligence Unit is also audited by Nassau County's independent auditor³ on an annual basis and no issues have been cited in the last five years relating to the NCPD's responsibility in connection with these funds. We were also advised that the Treasury Department just completed an audit of the funds and although the final written report was not completed, the NCPD did receive a letter of approval.

Each of the different forfeiture funds has its own specific set of guidelines for the acceptable uses of the funds. While these funds have differing restrictions, one constant among all of them is that forfeiture funds cannot be used to supplant existing police budgets; they may only supplement normal police funding. This rule is in place in order to deter asset forfeiture solely for the purpose of funding the police department.

New York State does not distribute detailed guidelines. Instead, the State's forfeiture fund usage is governed directly by the New York Forfeiture Statute. Section 1349⁴ deals with the distribution of seized assets. The main section governing uses of the State's forfeiture funds includes the following caveats that the funds:

- “shall be used to enhance law enforcement efforts and not in supplantation of ordinary budgetary costs including salaries of personnel, and expenditures of the claiming authority or claiming agent;” and
- “the claiming authority shall report the disposal of property and collection of assets pursuant to this section to the State Crime Victims Board, the State Division of Criminal Justice Services and the State Division of Substance Abuse Services.”

Approval of Forfeiture Funds Expenditures

According to the Commanding Officer of the Asset Forfeiture & Intelligence Unit, the County's Asset Forfeiture Committee (“AFC”) approves all forfeiture fund expenditures. The Commanding Officer also explained that there is no requirement to have such a committee; its existence follows recommendations of the AFMLS and has been in place since the inception of the Unit. Potential uses for asset forfeiture funds are normally submitted through the ranks of the NCPD to the Commanding Officer of the Asset Forfeiture & Intelligence Unit, who, in turn, reviews these ideas, and brings them before the AFC for approval. The AFC consists of four voting members and four non-voting members. The four voting members are the Chief of Department, the Chief of Detectives, the Chief of Patrol, and the Chief of Support. The four non-

³ Nassau County's external independent auditor during the audit period was Deloitte & Touche, LLP. Beginning in 2015, the County's new independent auditor is McGladrey, LLP.

⁴ NY CPLR § 1349 (2012).

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voting members consist of the Police Commissioner, the Commanding Officer of the Asset Forfeiture & Intelligence Unit, the Commanding Officer of Personnel & Accounting, and the Commanding Officer of the Legal Bureau. In the instance of a tied vote, the Police Commissioner will cast a tie-breaking vote on the matter.

Nassau County's Use of Asset Forfeiture Funds

The County's Asset Forfeiture & Intelligence Unit is encouraged by the AFMLS to use forfeiture funds to develop and support community based programs. Two such programs are the Police Youth Academy and the Civilian Police Academy. These programs educate youth and civilians about how police work is done, and what they can do to help keep the community safe.

Specific programs are also funded to support the deterrence of criminal activity. These include:

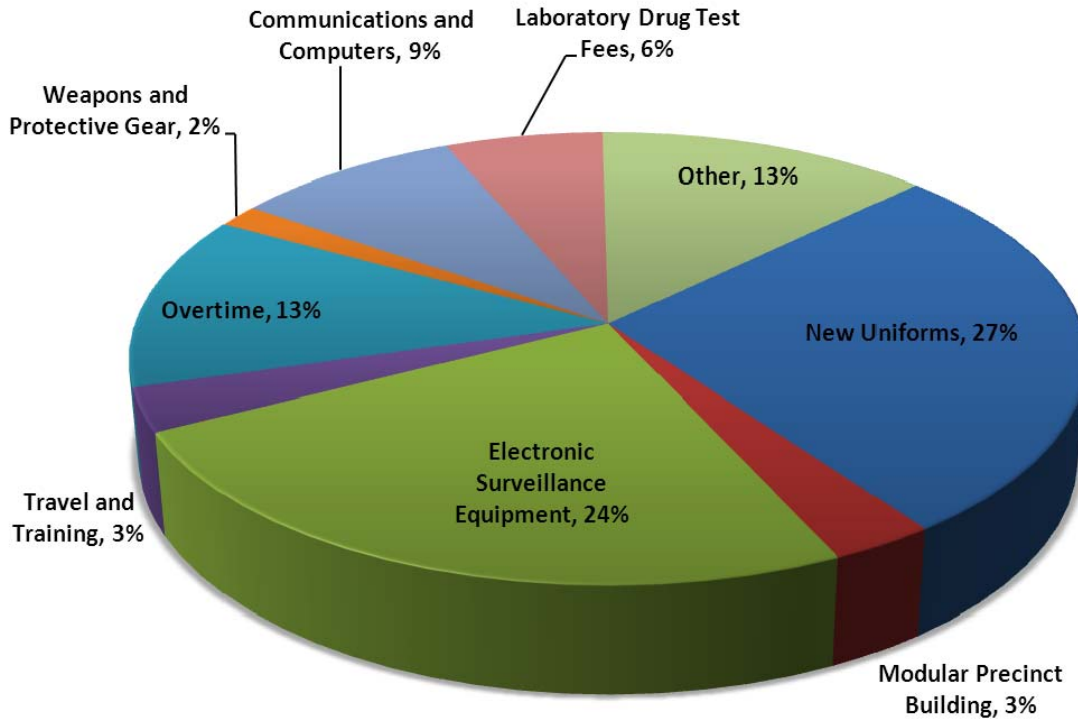
- the Gun Buyback Program, in which citizens can turn in illegal or unregistered firearms for a set price, no questions asked; the goal being to keep weapons off of the street;
- the Shot Spotter Program which uses specific equipment to triangulate where gun shots originate from. This program has been billed by the Asset Forfeiture Bureau as highly successful in deterring the illegal use of firearms in the County; and
- the DART program, which utilizes statistical analyses of crime data from alcohol and DWI related incidents in order to provide preventative measures against future alcohol and DWI crimes. This program deploys DWI checkpoints and other aversion tactics to accomplish its goals.

Funds are also used to support investigations and operations that may result in further seizures and forfeitures, law enforcement training, uniforms, information technology, equipment, and overtime related to asset forfeiture programs.

Exhibit I below illustrates the categorical distribution of typical expenditures funded through the County's Asset Forfeiture & Intelligence Unit based on their 2013 Federal Forfeiture expenditures report (known as the Equitable Sharing and Agreement Certification Form). See Appendix A of this report for Federal Asset Forfeiture Fund revenues and the full breakdown of expenditures from 2011-2013.

Exhibit I

Distribution of 2013 Federal Forfeiture Expenses (\$4.3 million)



Source of Data: Equitable Sharing Agreement and Certification, 2013.

Audit Scope, Objectives, and Methodology

The audit period was 2011 through 2014. The objectives of the audit were to:

- quantify the amount of federal and state asset forfeiture funds⁵ in each year of the audit period; and
- determine that the funds were properly accounted for, and used in accordance with equitable sharing guidelines.

We reviewed the guidelines set forth by the Justice and the Treasury Departments of permissible uses of, and proper accounting for, asset forfeiture funds. In addition, we interviewed the head

⁵ A review of Nassau County’s Misdemeanor Forfeiture Fund is not included in the scope of this review.

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of the County's Asset Forfeiture & Intelligence Unit about the policies and procedures relating to the receipt of funds, the use of funds, and the maintenance of assets purchased with forfeiture funds.

We compared all the cash receipts and expenditures recorded in Nassau County's Financial System ("NIFS")⁶ for the federal forfeiture funds to the federal forfeiture report and the Equitable Sharing and Agreement Certification Form for each year of the audit period to determine the proper recording and reporting of revenues and expenditures. We also vouched a sample of federal⁷ forfeiture purchases during the audit period to determine that they were properly supported and were an appropriate use of asset forfeiture funds according to the applicable guidelines. Additionally, we examined a sample of inventory purchased with federal asset forfeiture funds to verify that the asset was inventoried, maintained, and disposed of (if no longer usable) in accordance with guidelines set forth by the Justice and Treasury departments, and New York State forfeiture regulations.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

⁶ Nassau Integrated Finance System.

⁷ The use of State Forfeiture funds during the audit period of 2011 – 2014 first occurred in 2014.

Findings and Recommendations

Review Finding:

(1) Testing of the Use of Federal Justice and Treasury Forfeiture Funds Revealed No Exceptions

According to the Auditor’s interviews with the Commanding Officer of the Asset Forfeiture & Intelligence Unit, all expenditures are voted on by the Asset Forfeiture Committee (“AFC”). Although this is not required, it is recommended by AFMLS. The Commanding Officer informed us that any expenditure that is not specifically listed in the Asset Forfeiture Guidelines is discussed with a representative of AFMLS for guidance prior to making the expenditure. For example, the use of funds for the new police academy discussed in Finding 4 was discussed with a representative of AFMLS because it was not one of the specifically listed uses in the guidelines. Exhibit II shows the specifically listed expenditures that are allowable uses of federal forfeiture funds.

Exhibit II

Allowable Uses of Federal Forfeiture Funded Listed in the Federal Guidelines¹

Department of the Treasury²

Future Asset Forfeiture Investigations
Law Enforcement Travel and Training
Law Enforcement Equipment/Operations
Detention Facilities
Law Enforcement Facilities and Equipment
Awards and Memorials
Drug Education/Awareness Programs
Asset Accounting and Tracking
Salaries (Forfeiture Overtime & Temporary Salary Only)

Department of Justice³

Future Asset Forfeiture Investigations
Law Enforcement Travel and Training
Law Enforcement Equipment/Operations
Detention Facilities
Law Enforcement Facilities and Equipment
Awards and Memorials
Drug Education/Awareness Programs
Asset Accounting and Tracking
Salaries (Forfeiture Overtime & Temporary Salary Only)
Language Assistance Services
Transfers to Other Law Enforcement Agencies
Support of Community-Based Programs

¹Both guidelines include a caveat stating that these are not all-inclusive lists. Other uses may be allowable and guidance can be sought from either of these Departments, or from AFMLS.

²Source: Department of the Treasury: Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies.

³Source: Department of Justice: Guide to Equitable Sharing for State and Local Law Enforcement Agencies.

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Once approved by the AFC, all of the expenditures of the Asset Forfeiture & Intelligence Unit (excluding overtime) are subject to the approval procedures of either the Purchasing Department⁸ or the Comptroller's Office Claims Department, depending on the type of expenditure. On an annual basis, the expenditures must also be reported to the AFMLS on the Equitable Sharing Agreement and Certification Form.

The Auditors traced and agreed all the expenditures reported on the annual Equitable Sharing Agreement and Certification Forms for 2011-2013 to NIFS. See Appendix A for the full breakdown of expenditures from 2011-2013.

The Auditors selected and reviewed physical documentation for 23 of the 428 expenditure items posted in NIFS and determined that the expenditures were properly supported and approved, and represented allowable expenditures under Federal Forfeiture Fund Guidelines. The largest single expenditure item tested was the Crisis Negotiation Vehicle (\$304,999). Some categories from the Equitable Sharing Agreement and Certification Form (i.e. New Uniforms, see below) are made up of a multitude of items. Travel and Training expenses during the audit period (2011-2013) were \$372,931; the auditors reviewed \$110,042 or 29.5%. The documentation for travel and training expenditures included paid invoices or receipts for hotel, airfare and/or vehicle rental, meals, and registration to training seminars or courses. No issues were found with any of the items that were tested.

Exhibit III summarizes the sample selection by the category on the Equitable Sharing Agreement and Certification Form shown in the Appendix.

⁸ In addition, purchasing guidelines require that the legislature be notified of purchases over \$25,000 and requires a legislative vote if the amount exceeds \$100,000.

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Exhibit III

Federal Expenditure Summary & Sample Testing Schedule

| Federal Expense Category | 2013 | | | 2012 | | | 2011 | | |
|-----------------------------|-----------------------------|-------------|-----------------|-----------------------------|-------------|-----------------|-----------------------------|-------------|-----------------|
| | Total Federal Expense | % Tested | Issues Found | Total Federal Expense | % Tested | Issues Found | Total Federal Expense | % Tested | Issues Found |
| AFB Car Lease | \$ 330 | 0% | None | \$ 6,171 | 67% | None | \$ 10,192 | 0% | None |
| Comm. & Computers | \$ 382,550 | 43% | None | \$ 467,239 | 2% | None | \$ 876,686 | 10% | None |
| Crisis Negotiation | \$ - | 0% | None | \$ - | 0% | None | \$ 304,999 | 100% | None |
| Furniture/File Cabinets | \$ - | 0% | None | \$ 64,704 | 74% | None | \$ - | 0% | None |
| New Uniforms | \$1,175,188 | 7% | None | \$ 10,393 | 0% | None | \$ - | 0% | None |
| Plaques, Dept. Awards | \$ 9,174 | 0% | None | \$ 6,005 | 0% | None | \$ 8,776 | 28% | None |
| Promotional Items | \$ 6,660 | 46% | None | \$ - | 0% | None | \$ 7,080 | 0% | None |
| Substance Abuse Video | \$ - | 0% | None | \$ 14,000 | 100% | None | \$ - | 0% | None |
| Surveillance Equip. | \$1,046,967 | 59% | None | \$ 276,533 | 0% | None | \$ 154,715 | 75% | None |
| Too Good For Drugs | \$ 1,997 | 100% | None | \$ 5,989 | 33% | None | \$ 26,109 | 0% | None |
| Travel & Training | \$ 133,245 | 46% | None | \$ 63,287 | 9% | None | \$ 176,399 | 25% | None |

Review Finding:

(2) Equitable Sharing Agreements and Certification Forms Did Not Always Include All Revenue and Expenditures

Our review found that the Equitable Sharing Agreement and Certification Forms for the fiscal years 2011 and 2012 did not agree with the data in NIFS. We found the following minor differences:

- A revenue receipt of \$69,313.25 was recorded in NIFS in connection with assistance provided on a December 2011 DEA case, but was not included in the 2011 Equitable Sharing Agreement filed on February 27, 2012. On March 8, 2012, after the Equitable Sharing Agreement had been filed, the revenue was received and was posted in NIFS. The NCPD was not aware of the error until it was brought to their attention by the Auditors. The 2011 Equitable Sharing and Agreement Certification was never updated to include this amount.
- The 2012 Equitable Sharing Agreement and Certification Form, filed on March 1, 2013, did not include \$5,518.13 of overtime charged to the Treasury Forfeiture Funds in NIFS. The NCPD Director of Finance confirmed that the expenditure should have been reported in the filing.

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In the case of Forfeiture Funds, the recipient agency is required to file an annual Equitable Sharing Agreement and Certification Form. According to the Department of Justice new participant letter, "...to continue in the Program, this form must be submitted each year within 60 days of the close of your agency's fiscal year. Your agency must report equitably shared funds (funds) received during the last fiscal year, report how those funds were spent, and report any funds remaining in your agency's account. All Department of Justice and Department of the Treasury funds must be reported on this form." The Justice Department Guidelines⁹ state: "Noncompliance with the policies of this Guide may subject recipient agencies to one or more of the following sanctions:

- Denial of an agency's sharing request;
- Temporary or permanent exclusion from further participation in the equitable sharing program;
- Offsets from future sharing in amounts equal to impermissible uses;
- Civil enforcement actions in U.S. District Court for breach of contract; or
- Where warranted, federal criminal prosecution for false statements under 18 U.S.C. § 1001, fraud involving theft of federal program funds under 18 U.S.C. § 666, or other sections of the criminal code, as applicable."

Review Recommendation(s):

We recommend that the Asset Forfeiture & Intelligence Unit:

- a) amend the 2011 and 2012 Equitable Sharing Agreements and Certification Forms; and
- b) reconcile the Equitable Sharing Agreement and Certification Form to NIFS on a regular basis.

Review Finding:

(3) Asset Inventory Controls Were Inadequate - Five of 20 Assets Selected for Inspection Could Not Be Located, Others Were Difficult to Locate and Disposals Were Shown as Still in Use

Our review revealed that five of the 20 assets selected for inspection could not be found. We determined that the inventory listing frequently lacked adequate information to be able to easily locate the items. We noted that specifics such as building, room number or the assigned user were frequently not included in the inventory listing. Instead, general locations were referred to

⁹ U.S. Department of Justice Guide to Equitable Sharing for State and Local Law Enforcement Agencies, April 2009, Page 29, Section XI.

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such as, Photo Section, Arson Bomb Squad, IT Unit, etc. We also noted that the inventory list was not updated to show the disposal of assets.

The Auditors selected 20 of the 310 assets in the Nassau County Fixed Asset Accounting Control System (“FAACS”) inventory of Asset Forfeiture property¹⁰ for inspection. The 20 items selected ranged in cost from \$532 to \$504,999. The FAACS inventory data consists of the location of each asset, including the department name, location, and sub-location. The department and location for all asset forfeiture items on the FAACS inventory are listed as “PD.” The sub-location is a code corresponding to a certain unit of the Police Department (i.e. Arson Bomb Squad, IT Unit, Emergency Services Unit, etc.). The Auditors attempted to locate these items at the sub-locations provided by the FAACS inventory. While larger items (i.e. Crisis Negotiation Vehicle) were located right away, the smaller items (i.e. servers, PCs) had to be researched further by officers and/or administrative personnel at each sub-location (who maintain their own inventory listings in Excel Spreadsheets). We noted that certain information that would ease the process of locating items (i.e. room, user, etc.) was not found on inventory lists maintained at sub-locations.

Exhibit IV summarizes the results of inventory testing.

¹⁰ The asset inventory was obtained from the Director of Finance at the NCPD. The inventory was based upon the County’s official inventory in FAACS.

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Exhibit IV

Asset Forfeiture Inventory Items Selected for Inspection

| Description of Item | Location Per FAACS Inventory | FAACS | | Date | Cost | Item Verified |
|---------------------------------------|---------------------------------|----------|---------|----------|------------|------------------|
| | | Location | Correct | | | |
| Crisis Negotiation Command Vehicle | Emer. Services Unit | Yes | Yes | 06/30/11 | \$ 504,999 | Yes |
| Robot: Bomb Investigation/Disarmament | Arson Bomb Squad | Yes | Yes | 06/30/03 | \$ 182,407 | Yes |
| Equallogic PS6500E Server | IT Unit | Yes | Yes | 06/30/11 | \$ 74,082 | Yes |
| Equallogic PS6500E Server | IT Unit | Yes | Yes | 06/30/11 | \$ 74,082 | Yes |
| Powervault MD1000 Server | Photo Section | No | No | 06/30/09 | \$ 8,636 | No |
| Poweredge R420 Server | Asset Forfeiture Unit | No | No | 06/30/13 | \$ 6,001 | Yes ³ |
| Poweredge R420 Server | Asset Forfeiture Unit | No | No | 06/30/13 | \$ 6,001 | Yes ³ |
| Generator Golden X-Ray XR200 | Arson Bomb Squad | Yes | Yes | 01/23/12 | \$ 4,292 | Yes |
| Digital Camera | Photo Section | Yes | Yes | 06/30/02 | \$ 4,199 | Yes ¹ |
| Digital Camera | Photo Section | Yes | Yes | 06/30/02 | \$ 4,199 | Yes ¹ |
| Dell Laptop | IT Unit | Yes | Yes | 06/30/03 | \$ 2,685 | Yes ² |
| Dell Laptop | IT Unit | Yes | Yes | 06/30/03 | \$ 2,685 | Yes ² |
| Video Monitor 42" | Asset Forfeiture Unit | Yes | Yes | 10/01/13 | \$ 1,840 | Yes |
| Video Monitor 42" | Asset Forfeiture Unit | No | No | 10/01/13 | \$ 1,840 | No |
| iPad (with accessories) | IT Unit | Yes | Yes | 12/10/11 | \$ 1,020 | Yes |
| iPad (with accessories) | IT Unit | Yes | Yes | 12/10/11 | \$ 1,020 | Yes |
| Desktop PC Optiplex 3010 | Asset Forfeiture Unit | No | No | 07/19/13 | \$ 532 | No |
| Desktop PC Optiplex 3010 | Asset Forfeiture Unit | No | No | 07/19/13 | \$ 532 | No |
| Desktop PC Optiplex 3010 | Asset Forfeiture Unit | No | No | 07/19/13 | \$ 532 | No |
| Desktop PC Optiplex 3010 | Asset Forfeiture Unit | No | No | 07/19/13 | \$ 532 | Yes ³ |

¹ According to the Photo Section Unit, the items were traded in for credit towards the purchase of new items, in accordance with the applicable guidelines. (Not updated on FAACS inventory list).

² According to the IT Unit, the items surpassed their useful life and were disposed of in accordance with applicable guidelines and proper procedures. (Not updated on FAACS inventory list).

³ The items were found in another location. The two Poweredge R420 Servers were in the IT Unit and the Desktop PC Optiplex 3010 was at the 2nd Precinct.

As shown in Exhibit IV, the Auditors were unable to locate five of the 20 items; and four others were either traded in or disposed of (two Digital Cameras and two Dell Latitude laptops – see footnotes 1 and 2 in Exhibit IV). We were able to eventually locate 11 of the 20 items.

Of the 20 items that were tested the Auditors found:

- eight items at the correct location per the FAACS inventory list;
- three items at a different location than what was found on the FAACS inventory listing;
- four items were either traded in or disposed of as follows:

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- Two Digital Cameras were traded in (see Exhibit IV, footnote 1)

The FAACS inventory listing did not reflect that the cameras had been traded in; instead the cameras were incorrectly listed as still being in the NCPD Photo Section. Documentation provided by staff of the Photo Section substantiated that the two cameras were traded in for credit towards the purchase of other assets.

- Two Dell Latitude Laptops were disposed of (see Exhibit IV, footnote 2)

The FAACS inventory listing did not reflect the disposal; instead the laptops were incorrectly listed as still being in use at the NCPD IT unit. We were informed by an officer at the IT Unit that the two laptops were originally purchased in 2003 and disposed of because they had surpassed their useful life and were no longer functioning. According to the officer, the disposal included removing and destroying the hard drive.

We determined that the trade in of the cameras and the disposal of the laptops were acceptable under applicable federal forfeiture guidelines; however, the FAACS inventory was not updated to reflect that the assets were no longer in the possession of the NCPD.

- five items that could not be located. The five items were:
 - a Powervault MD1000 black computer server (\$8,636);
 - a 42" Video Monitor/TV (\$1,840); and
 - three desktop computers (\$532 each)

The proper safeguarding of physical assets includes adequate inventory controls that ensure the correct and the exact locations of assets are maintained (specific to the building, room, assigned user, etc.) for both inspection purposes and to help prevent the loss, theft or improper use of assets.

Review Recommendation(s):

For proper control of County assets, we recommend that:

- a) the asset forfeiture inventory be updated with the exact location of all assets. This inventory should be updated on a regular basis, and any changes to asset use or location should be reported to the staff responsible for inventory in a timely manner;
- b) the Asset Forfeiture & Intelligence Unit communicate all inventory changes to the Comptroller's Office in a timely manner so that the County FAACS inventory is updated on a regular basis as well. Assets that are disposed of should follow the appropriate asset

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disposal procedures, and inventory custodians should be informed in a timely manner; and

- c) the Asset Forfeiture & Intelligence Unit reconcile its inventory list to the County FAACS inventory on a regular basis.

Review Finding:

(4) \$25 Million of \$37 Million in Accumulated Federal and State Asset Forfeiture Funds is Earmarked for a New Policy Academy

The Asset Forfeiture & Intelligence Unit accumulated \$37 million of forfeiture funds as of the end of the audit period. Exhibit V summarizes the changes in fund balance each year from 2011 - 2014 and shows that the largest portion of the accumulated amount was received in 2013. Exhibit VI summarizes the revenue and expenditures by fund for the audit period.

Although there are no definitive timeframes in which Federal Forfeiture funds must be spent, there are general time periods, as follows:

- The Treasury Department’s “Guide to Equitable Sharing”¹¹ states, “Shared monies normally should be expended for their designated law enforcement purpose as they are received. However, these funds may be retained in a holding account for a reasonable period of time, generally no longer than two years, to satisfy a future need, such as a capital expenditure.”
- The Justice Department’s “Guide to Equitable Sharing”¹², says essentially the same thing, “Shared monies normally should be expended for their designated use or other permissible law enforcement purpose as they are received. Shared monies may be retained in a holding account for up to three years to satisfy future needs or retained longer for major long-term expenditures such as capital improvements.”

The Asset Forfeiture & Intelligence Unit is allowed to retain federal funds for a large capital expenditure that would improve policing, as long as it does not supplant the normal budget.

According to the Commanding Officer, \$25 million of the accumulated balance of \$36.9 million as of December 31, 2014 has been set aside for a new police academy which is projected to cost \$40 million. The \$25 million will come from both federal and state forfeiture funds. Although prior approval from the AFMLS is not required for such a large expenditure, the Commanding Officer stated preliminary conversations with AFMLS indicated agreement that this is a good use

¹¹ U.S. Department of Treasury Guide to Equitable Sharing for Foreign Countries and Federal, State and Local Law Enforcement Agencies, April 2004, Page 20.

¹² U.S. Department of Justice Guide to Equitable Sharing for State and Local Law Enforcement Agencies, April 2009, Page 22, Section VIII.

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of forfeiture funds. The anticipated funding sources for the remaining \$15 million are \$10 million of Capital County funding and \$5 million in donations already raised by the NCPD Foundation (a non-profit group). The Commanding Officer also stated that if the project exceeded anticipated costs, the NCPD may request additional funds from forfeiture sources.

Nassau Community College has been established as the location for the new Police Academy, with groundbreaking tentatively set for the fall of 2015. See Exhibit VII for the artist's rendering of the new academy.

Exhibit V

**Nassau County Police Department Forfeiture Funds
Changes in Fund Balance Balance
December 31, 2010 - December 31, 2014
in Thousands (000's)**

| | <u>Justice Dept.</u> | <u>Treasury Dept.</u> | <u>NYS Forfeiture</u> | <u>Total</u> |
|---|--------------------------|---------------------------|---------------------------|------------------|
| Fund Balance - 12/31/2010 | \$ 4,560 | \$ 4,193 | \$ 1,757 | \$ 10,510 |
| Annual Excess (Deficit) of Revenues over Expenses: | | | | |
| 2011 | 5,214 | (1,445) | 1,410 | 5,179 |
| 2012 | (293) | 616 | 757 | 1,080 |
| 2013 | (2,820) | 14,884 | 10,578 | 22,642 |
| 2014 | <u>(1,718)</u> | <u>(315)</u> | <u>(436)</u> | <u>(2,469)</u> |
| Fund Balance - 12/31/2014 | <u>\$ 4,943</u> | <u>\$17,933</u> | <u>\$ 14,066</u> | <u>\$ 36,942</u> |

Source of Data - Nassau Integrated Financial System ("NIFS").

Findings and Recommendations

Revenues and Expenditures

Fund receipts are placed into interest bearing accounts until disbursed and the accumulated interest must also be disbursed according to agency guidelines. Disbursements are made at the discretion of the Asset Forfeiture & Intelligence Unit and the Police Department, as long as the use falls within the guidelines issued by the granting agency. A complete breakdown of the nature of the federal forfeiture revenues and expenses over the audit period can be seen in the Appendix to this report.

Exhibit VI

Nassau County Police Department - Forfeiture Funds Summary of Revenue and Expenditures 2011 - 2014

| | (000's) | | | | |
|--|--------------------------|-------------------------|------------------------|------------------------|------------------------|
| | 2014 | 2013 | 2012 | 2011 | Total |
| <u>Federal Revenue</u> | | | | | |
| Dept. of Justice | \$ 439 | \$ 1,000 | \$ 1,563 | \$ 6,112 | \$ 9,114 |
| Dept. of the Treasury | 194 | 15,372 | 1,004 | 849 | 17,419 |
| <u>Total Federal Revenue</u> | <u>\$ 633</u> | <u>\$ 16,372</u> | <u>\$ 2,567</u> | <u>\$ 6,961</u> | <u>\$26,533</u> |
| <u>State Revenue</u> | | | | | |
| NYS Forfeiture | 330 | 10,578 | 757 | 1,410 | 13,075 |
| <u>Total State Revenue</u> | <u>330</u> | <u>\$ 10,578</u> | <u>\$ 757</u> | <u>\$ 1,410</u> | <u>\$13,075</u> |
| <u>Total Revenue</u> | <u>\$ 963</u> | <u>\$ 26,950</u> | <u>\$ 3,324</u> | <u>\$ 8,371</u> | <u>\$39,608</u> |
| <u>Federal Expenditures</u> | | | | | |
| Dept. of Justice | 2,157 | 3,820 | 1,856 | 898 | 8,731 |
| Dept. of the Treasury | 509 | 488 | 388 | 2,294 | 3,679 |
| <u>Total Federal Expenditures</u> | <u>\$ 2,666</u> | <u>\$ 4,308</u> | <u>\$ 2,244</u> | <u>\$ 3,192</u> | <u>\$12,410</u> |
| <u>State Expenditures</u> | | | | | |
| NYS Forfeiture | 766 | - | - | - | 766 |
| <u>Total State Expenditures</u> | <u>\$ 766</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>\$ 766</u> |
| <u>Total Expenditures</u> | <u>\$ 3,432</u> | <u>\$ 4,308</u> | <u>\$ 2,244</u> | <u>\$ 3,192</u> | <u>\$13,176</u> |
| <u>Revenue less Expenditures</u> | <u>\$ (2,469)</u> | <u>\$ 22,642</u> | <u>\$ 1,080</u> | <u>\$ 5,179</u> | <u>\$26,432</u> |

Source of Data - Nassau Integrated Financial System ("NIFS").

Findings and Recommendations

Exhibit VII is the artist's rendering of the new Police Academy.

Exhibit VII



Review Recommendation(s):

We recommend that the NCPD:

- a) make every effort to expend federal asset forfeiture funds in excess of what is required for the new police academy as the funds are received, or within the two or three year period stated in the Federal Guidelines; and
- b) consider the hiring of a qualified, independent contract monitor to oversee the building of the new police academy, reporting to the NCPD.

Appendix A – Federal Justice and Treasury Forfeiture Funds Revenue and Expenses

**Federal Justice and Treasury Forfeiture Funds
Revenue and Expenses
2011-2013**

| | 2013 | | 2012 | | 2011 | |
|--------------------------------|-------------------|----------------------|---------------------|---------------------|---------------------|-------------------|
| | Justice Funds | Treasury Funds | Justice Funds | Treasury Funds | Justice Funds | Treasury Funds |
| Revenue | | | | | | |
| Federal Sharing Funds Received | \$ 973,990 | \$ 15,361,290 | \$ 1,526,716 | \$ 992,348 | \$ 6,078,034 | \$ 831,708 |
| Interest Income Accrued | 25,884 | 10,877 | 36,666 | 11,215 | 33,906 | 17,594 |
| Total Revenues | \$ 999,874 | \$ 15,372,167 | \$ 1,563,382 | \$ 1,003,563 | \$ 6,111,940 | \$ 849,302 |

| Expenses | | | | | | |
|--|--------------|---------|-----------|---------|---------|---------|
| New Uniforms | \$ 1,175,188 | \$ - | \$ 10,393 | \$ - | \$ - | \$ - |
| Electronic Surveillance Equipment | 939,523 | 107,444 | 276,533 | - | 41,880 | 112,835 |
| Overtime | 429,130 | 110,985 | 425,194 | 107,899 | - | 906,883 |
| Communications and Computers | 368,766 | 13,784 | 359,145 | 108,094 | 384,029 | 492,657 |
| Laboratory Drug Test Fees | 267,912 | - | 498,796 | - | - | - |
| Modular Precinct Building | 132,701 | - | - | - | - | - |
| Travel and Training | 111,531 | 21,714 | 63,287 | - | 176,399 | - |
| Weapons and Protective Gear | 52,068 | 17,217 | 53,250 | 22,072 | - | 57,284 |
| Fin'l Investigative Sys | 47,520 | - | - | - | - | - |
| Sustance Abuse Video | 35,000 | - | - | - | - | - |
| LPR Pole Cameras Ext Warranties | 32,890 | - | - | - | - | - |
| Updated Software Real Time Intel | 29,295 | - | - | - | - | - |
| Intel Analyst Overtime | 28,175 | 9,591 | - | - | - | - |
| Gun Buy Back Program | 26,650 | - | - | - | - | - |
| GIS Software | 23,914 | - | - | - | - | - |
| Police Service Dogs Training Equip | 21,691 | - | - | - | - | - |
| Realtme Intel Mapping Comp & Acc | 20,487 | - | - | - | - | - |
| Social Media Monitor Licenses | 12,000 | - | - | - | - | - |
| Program Analyst Overtime | 10,871 | 3,371 | - | - | - | - |
| Plaques, Departmental Awards | 9,174 | - | 6,005 | - | 8,776 | - |
| Crime Scene Video Lighting | 9,023 | - | 6,063 | - | - | - |
| NVLS Data Subscription | 7,500 | - | - | - | - | - |
| Open House Promotional Items | 6,010 | - | - | 8,900 | 9,792 | - |
| Printer Supplies AFI Plotters | 4,971 | - | - | - | - | - |
| Accountants Overtime | 4,828 | 1,794 | - | - | - | - |
| Investigative Expenses | 4,021 | - | 163 | - | - | - |
| Stell Shelving System | 3,203 | - | - | - | - | - |
| PSA Overtime | 2,186 | 19,965 | - | - | - | - |
| Travel -Defense Witness Desposition | 1,374 | - | - | - | - | - |
| AFI Clerical Overtime | 850 | 67 | - | - | - | - |
| Supp-Install New Surveil Cameras | 789 | - | - | - | - | - |
| EZ Pass - Investigations | 308 | - | 420 | - | 545 | - |
| Interact Ctywide Com Oper Environ | - | 125,000 | - | - | - | - |
| Uniforms | - | 29,743 | 17,252 | - | - | - |
| Cellular Data Svce Upgrade InvestigUse | - | 7,768 | - | - | - | - |
| Promotional Items | - | 6,660 | - | - | 7,080 | - |
| Cellular Data Service LPR Cameras | - | 6,326 | - | - | - | - |
| Scuba Diving Equipment | - | 4,493 | - | - | - | - |
| Too Good For Drugs | - | 1,997 | - | 5,989 | - | 26,109 |

Appendix A – Federal Justice and Treasury Forfeiture Funds Revenue and Expenses

**Federal Justice and Treasury Forfeiture Funds
Revenue and Expenses
2011-2013**

| | 2013 | | 2012 | | 2011 | |
|---|---------------------|-------------------|---------------------|-------------------|-------------------|---------------------|
| | Justice Funds | Treasury Funds | Justice Funds | Treasury Funds | Justice Funds | Treasury Funds |
| Expenses (continued) | | | | | | |
| Radar Detectors | - | - | 52,000 | - | - | - |
| Cannon Printer/Scanner Copier AFI Off | - | - | 19,578 | - | - | - |
| Handheld Power Tools | - | - | 14,291 | - | - | - |
| Dev Script/Concept-Sub Abuse Video | - | - | 14,000 | - | - | - |
| Air Conditioner Units - AFI Office | - | - | 8,950 | - | - | - |
| Install Access Cont Doors Police Hdqtrs | - | - | 8,687 | - | - | - |
| Drug Drop Off Boxes | - | - | 7,560 | - | - | - |
| Remove & Install of Lights & Sirens | - | - | 5,400 | - | - | - |
| LOGOS X-Ray Image Plate | - | - | 4,322 | - | 8,151 | - |
| Office Furniture - AFI Office | - | - | 4,314 | - | - | - |
| Ambulances | - | - | - | - | - | 327,650 |
| Crisis Negotiation Vehicle | - | - | - | - | - | 304,999 |
| Archit Svcs - NCPD Police Academy | - | - | - | - | - | 41,500 |
| Office Furniture and File Cabinets | - | - | - | 64,704 | - | - |
| National Law Enforcement Memorial | - | - | - | 49,800 | - | - |
| Auto Handicap Dr w/Acc Cont Equip | - | - | - | 10,760 | - | - |
| Mobile Surveillance Tower | - | - | - | - | 94,929 | - |
| Morgue Van | - | - | - | - | 53,993 | - |
| Fitness Equipment | - | - | - | - | 37,755 | - |
| Chevy Tahoe - Ceremonial Unit | - | - | - | - | 33,307 | - |
| Sec Sys -Cedar Creek ImpYard | - | - | - | - | 15,986 | - |
| Torque Multiplier - Helicopter | - | - | - | - | 7,266 | - |
| Pneumatic Tire Changer | - | - | - | - | 6,160 | - |
| Carpeting - RB | - | - | - | - | 5,460 | - |
| Box Truck | - | - | - | - | 2,594 | - |
| Fork Lift | - | - | - | - | 2,200 | - |
| Color Printer - PIO | - | - | - | - | 773 | - |
| LDI - Copy Machine Maintenance | - | - | - | - | 498 | - |
| Construction Materials - AFB | - | - | - | - | 451 | - |
| Surgestrips | - | - | - | - | 163 | - |
| Carpet Cleaning AFB | - | - | - | - | 145 | - |
| AFB Car Lease | - | 330 | - | 6,171 | - | 10,192 |
| Locksmith Svcs-Dom Abuse Victims | - | - | - | 1,694 | - | 1,944 |
| Install Cablevision PD Hqtrs | - | - | - | 1,087 | - | - |
| Datacard Cameras | - | - | - | 838 | - | - |
| Lithium Batteries-GPS TrackDevices | - | - | - | 369 | - | - |
| Scuba Buoyancy Vests-Marine Bureau | - | - | - | - | - | 4,700 |
| Magnetic Strip Card Reader | - | - | - | - | - | 4,016 |
| Mobile Lighting - Evidence Collection | - | - | - | - | - | 1,789 |
| Gun Locker | - | - | - | - | - | 643 |
| Manual Typewriter | - | - | - | - | - | 429 |
| Total Expenses | \$ 3,819,549 | \$ 488,249 | \$ 1,855,603 | \$ 388,377 | \$ 898,332 | \$ 2,293,630 |

Review Finding (1):

Testing of the Use of Federal Justice and Treasury Forfeiture Funds Revealed No Exceptions

No response required.

Review Finding (2):

Equitable Sharing Agreements and Certification Forms Did Not Always Include All Revenue and Expenditures

NCPD Response:

The department concurs with the review finding. The Personnel and Accounting Bureau will take the necessary steps to update the Equitable Sharing Agreement Certification balances to include the two unrecorded items. In the future, the Bureau will also reconcile the Certification to NIFS before submission.

Auditor’s Follow-up:

We concur with Nassau County Police Department and the Asset Forfeiture & Intelligence Unit’s responses. We reiterate the importance of accurate reporting with the federal agencies they work with. Accurate reporting is a necessity in order to maintain participation in the asset forfeiture sharing programs.

Review Finding (3):

Asset Inventory Controls Were Inadequate - Five of 20 Assets Selected for Inspection Could Not Be Located, Others Were Difficult to Locate and Disposals Were Shown as Still in Use

NCPD Response:

The Asset Forfeiture and Intelligence Unit (AFU) will be provided with a current inventory listing from County FAACS and will review the inventory details for accuracy, including location. Updates will be made by the Personnel and Accounting Bureau (PAB) or forwarded to the County Comptroller’s Office for posting in FAACS. The five assets not located at AFU are located in other Police Department commands and will be updated in FAACS as part of this

Appendix B – NCPD Response and Auditor’s Follow-up

process. PAB will also make additional training in FAACS and inventory control available to AFU as needed.

Auditor’s Follow-up:

We concur with the corrective actions stated in the response. With respect to the five assets that are said to be located in other Police Department facilities, we reiterate the importance of detailed and accurate sub-locations within the Police Department for inventory items. Maintaining an up-to-date and detailed inventory is an essential function in order to safeguard assets against misuse and theft.

Review Finding (4):

\$25 Million of \$37 Million in Accumulated Federal and State Asset Forfeiture Funds is Earmarked for a New Police Academy

NCPD Response:

We concur with this finding. Planning for the construction of the new police academy is underway.

Auditor’s Follow-up:

The response did not address the recommendations. We reiterate that the NCPD make every effort to expend federal asset forfeiture funds in excess of what is required for the new police academy as the funds are received, or within the two or three year period stated in the Federal Guidelines.

We also urge that consideration be given to the hiring of a qualified, independent contract monitor to oversee the building of the new police academy, reporting to the NCPD.