



FINANCIAL AUDIT DIVISION REPORT

Metro Gang Strike Force

Special Review

May 20, 2009

Report 09-18

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State of Minnesota • James Nobles, Legislative Auditor

May 20, 2009

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Metro Gang Strike Force

This report explains the results of our special review of the Metro Gang Strike Force for the period July 1, 2005, through March 31, 2009.

Page 1 contains a Report Summary that presents our audit conclusions, key findings, scope and objectives, and background about the strike force. The Table of Contents indicates where to locate more detailed information about the audit within the report.

We discussed the results of the special review with the strike force's staff at an exit conference on May 7, 2009, and with the Metro Gang Strike Force Advisory Board on May 14, 2009. This audit was conducted by David Poliseno, CPA, CISA, CFE, (Audit Manager) and Sonya Johnson, CPA (Auditor-in-Charge), assisted by auditors Pat Ryan and Jerry Foty.

We received the full cooperation of the strike force's staff while performing this special review.

/s/ James R. Nobles

/s/ Cecile M. Ferkul

James R. Nobles
Legislative Auditor

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

CC: Members of the Minnesota Gang and Drug Oversight Council
Members of the Metro Gang Strike Force Advisory Board
Sheriff Bob Fletcher, Ramsey County Sheriff's Office, fiscal agent
Mr. Michael Campion, Commissioner, Department of Public Safety

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Report Summary

Conclusions

The Metro Gang Strike Force's internal controls were not adequate to safeguard seized and forfeited property, properly authorize its financial transactions, accurately record its financial activity in the accounting records, and conduct its financial activities in a reasonable and prudent manner. The Metro Gang Strike Force was unable to account for at least \$18,126¹ of seized cash and could not locate or support the legal disposition of at least 13 forfeited vehicles and one seized vehicle held as evidence. The Metro Gang Strike Force did not comply with some finance-related legal requirements for seized and forfeited property. The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not provide sufficient oversight of the Metro Gang Strike Force's financial activity.

Key Findings

- The Metro Gang Strike Force did not develop basic internal controls to ensure that it properly safeguarded or accounted for all seized cash ([Finding 1, page 7](#)), seized or forfeited vehicles ([Finding 2, page 9](#)), or other seized property ([Finding 3, page 10](#)).
- The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts ([Finding 5, page 11](#)) or properly use confidential informant funds ([Finding 6, page 12](#)).
- The Metro Gang Strike Force used significant resources to send six officers to a conference in Hawaii without required prior approval from the board ([Finding 7, page 14](#)).
- The Metro Gang Strike Force frequently did not follow the state's statutory forfeiture procedures ([Finding 8, page 15](#)).
- The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements ([Finding 9, page 16](#)).

¹ In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited \$2,960 of this amount, and that the unaccounted for amount was actually \$15,166. We did not validate this claim.

Audit Objectives and Scope

Our special review of the Metro Gang Strike Force covered the time period from July 1, 2005, through March 31, 2009, and included internal controls and legal compliance over forfeiture receipts and expenditures, confidential informant fund uses, local checking account activity, and seized and forfeited property.

Background

In February 2009, the Office of the Legislative Auditor (OLA) was asked to review certain financial concerns at the Metro Gang Strike Force. Based on a preliminary assessment of the issues involved, we decided to conduct an immediate review, primarily to determine whether the Metro Gang Strike Force had adequate policies, procedures, and internal controls to ensure appropriate handling of seized and forfeited money and property.

The Legislature created the Metro Gang Strike Force in 2005 as part of a reorganization of the state's approach to addressing gang and drug-related crimes. The Legislature dissolved the existing Minnesota Gang Strike Force and created a state level Gang and Drug Oversight Council with a mandate to establish and supervise multi-jurisdictional task forces and strike forces across the state. The law specifically directed the council to establish a Metro Gang Strike Force.

Metro Gang Strike Force

In February 2009, the Office of the Legislative Auditor (OLA) was asked to review financial concerns at the Metro Gang Strike Force. Based on a preliminary assessment of the issues involved, we decided to conduct an immediate review, primarily to determine whether the Metro Gang Strike Force had adequate policies, procedures, and internal controls to ensure appropriate handling of seized and forfeited money and property.

Objective, Scope, and Methodology

We examined certain financial operations of the Metro Gang Strike Force from July 1, 2005, through March 31, 2009. Our objective was to answer the following questions:

- Did the Metro Gang Strike Force have adequate internal controls to safeguard seized and forfeited assets, including cash, vehicles, and other property; properly authorize its financial activity; accurately record transactions in the accounting records; and conduct its financial activities in a reasonable and prudent manner?
- Did the Metro Gang Strike Force comply with finance-related legal requirements, including state laws, joint powers agreements, and policies and procedures of the Minnesota Gang and Drug Oversight Council and Metro Gang Strike Force Advisory Board?
- Did the Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board provide sufficient oversight of the Metro Gang Strike Force's financial activity?

To answer these questions, we interviewed the Minnesota Gang and Drug Oversight Council's statewide coordinator, the chair of the Metro Gang Strike Force Advisory Board, the Metro Gang Strike Force's current and former commanders, other Metro Gang Strike Force staff, and employees of the Department of Public Safety and Ramsey County Sheriff's Office (the strike force's fiscal agent through December 31, 2008). We examined and tested documentation supporting transactions related to seized and forfeited property, confidential informant funds, and selected expenditures of state grant funds.

Background

The Legislature created the Metro Gang Strike Force in 2005 as part of a reorganization of the state's approach to addressing gang and drug-related crimes. The Legislature dissolved the existing Minnesota Gang Strike Force and created a state level Gang and Drug Oversight Council with a mandate to establish multi-jurisdictional task forces and strike forces across the state. The law specifically directed the council to establish a Metro Gang Strike Force.²

As a multi-jurisdictional strike force, the strike force operates through joint powers agreements with the participating law enforcement agencies. The agreements provide that the strike force will be under the direction of a commander appointed by the Metro Gang Strike Force Advisory Board. According to the agreements, the board consists of the chief law enforcement officers (or their designees) from the agencies that participate in the strike force. As of March 2009, the Metro Gang Strike Force had 34 law enforcement officers from 13 local law enforcement agencies.

In 2005, Ron Ryan, who had been the statewide commander of the Minnesota Gang Strike Force, became the commander of the Metro Gang Strike Force. He served as commander until his retirement in October 2008. The Ramsey County Sheriff's Office was the strike force's fiscal agent and provided it with administrative support. In December 2008, after Commander Ryan's retirement, the advisory board appointed Chris Omodt, a captain with the Hennepin County Sheriff's Office, as commander of the strike force. It also designated the Hennepin County Sheriff's Office as its fiscal agent, effective January 1, 2009; as of March 31, 2009, it had not transferred these responsibilities to Hennepin County.

During the time period we reviewed, the participating law enforcement agencies paid the salaries, benefits, and expenses for staff assigned to the strike force.³ The strike force funded its other operating costs, such as rent and supplies, primarily through state grants from the Department of Public Safety and with proceeds obtained through forfeiture of seized cash and property. State grants totaled about \$2 million each fiscal year. The strike force's fiscal agent reported forfeited money and property to be \$125,913, \$148,238, and \$394,283 for fiscal years 2006, 2007, and 2008, respectively. As noted in the findings in this report, the strike force did not deposit all forfeiture proceeds with the fiscal agent.

² *Minnesota Statutes* 2008, 299A.641, subd. 3(2).

³ The participating law enforcement agencies received partial salary reimbursement through state grants from the Department of Public Safety.

Conclusions

The Metro Gang Strike Force's internal controls were not adequate to safeguard seized and forfeited property, properly authorize its financial transactions, accurately record its financial activity in the accounting records, and conduct its financial activities in a reasonable and prudent manner. The Metro Gang Strike Force was unable to account for at least \$18,126⁴ of seized cash and could not locate or support the legal disposition of at least 13 forfeited vehicles and one seized vehicle held as evidence.

The Metro Gang Strike Force did not comply with some finance-related legal requirements for seized and forfeited property.

The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not provide sufficient oversight of the Metro Gang Strike Force's financial activity.

The following *Findings and Recommendations* further explain the basis for these conclusions.

⁴ In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited \$2,960 of this amount, and that the unaccounted for amount was actually \$15,166. We did not validate this claim.

Findings and Recommendations

Inadequate Internal Controls and Financial Practices

The Metro Gang Strike Force did not properly deposit or account for all seized cash.

Finding 1

After a complete review of strike force and fiscal agent documentation of forfeited cash transactions, we were unable to substantiate the disposition of \$18,126 of forfeited cash.⁵ The strike force's records showed that on 15 occasions, from September 2004 through July 2008, cash was removed from the property room, but the fiscal agent had no record of a corresponding deposit.

The strike force's seized cash process lacked fundamental internal controls, as follows:

- The strike force did not deposit seized cash immediately with the fiscal agent. The strike force held seized cash in the property room for extended periods. For example, during August through November 2008, the strike force deposited about \$378,000 that it accumulated over a lengthy period of time. As of February 2009, the strike force still had on hand nearly \$400,000 of seized cash, some of which related to cases dating back to 2000 when the strike force's former commander was the head of the Minnesota Gang Strike Force.⁶

The former commander told us he believed that the inability to produce the actual cash seized as evidence at trial would negatively affect the outcome of the case. The oversight council's operating procedures and guidelines stated that digital pictures of seized cash were acceptable evidence at court trials and required that all seized cash be deposited immediately with the fiscal agent. Other law enforcement agencies we spoke with, including the state's Bureau of Criminal Apprehension, followed this practice. The delay in depositing this cash increased the risk of loss or theft.

⁵ In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited \$2,960 of this amount, and that the unaccounted for amount was actually \$15,166. We did not validate this claim.

⁶ In 2005, the Legislature dissolved the Minnesota Gang Strike Force and created the Minnesota Drug and Gang Oversight Council with a mandate to establish and supervise multi-jurisdictional task forces and strike forces across the state, including a metro gang strike force.

- The strike force did not maintain adequate records of cash seizures. The administrative assistant's tracking records were not complete to track the flow of cash. Once the former commander prepared a deposit, the administrative assistant would delete these transactions from her tracking record so that her record would only include cash held in the property room. She also did not always update the tracking records when seized cash was returned to the owner. Without a complete record of the disposition of the seized cash, there was no assurance that all cash removed from the property room was actually deposited.
- The strike force did not adequately separate incompatible duties. Once the investigators brought the seized cash to the office, only the administrative assistant had access to the cash, the receipt tracking records, and the investigators' case files. No one independent of the cash handling process verified that the cash seizures reported in the case files and the receipt tracking records agreed to cash held or deposited with the fiscal agent.

Once the strike force decided that it would make a deposit, the strike force's former commander had complete control of the deposit process. He notified the administrative assistant when funds were forfeited and cleared for deposit, prepared the deposit, and brought the funds to the fiscal agent. He sometimes made errors in his deposit memos to the fiscal agent; in 13 instances, he inaccurately identified related case numbers or had math errors. The strike force's former commander did not have someone review the deposit memos or verify the supporting currency count sheet. Such a review could have detected these errors.

- The strike force sometimes bypassed the fiscal agent deposit process and used seized cash for other purposes. We identified three instances when seized cash, totaling \$15,111, was not deposited with the fiscal agent and used directly for confidential informant activities. We also identified one instance when the strike force deposited \$11,657 of seized funds into its "travel and training" account. To maintain appropriate accountability over seized cash, the strike force should have deposited these funds with its fiscal agent.

This lack of fundamental internal controls created an unacceptable risk of fraud and, together with the discrepancies identified, made it impossible for us to conclude that all seized cash was either held in the property room or deposited with the fiscal agent.

Recommendations

- *The strike force should immediately deposit all seized cash with its fiscal agent.*

- *The strike force should comply with the oversight council's operating procedures and guidelines for seizures.*
- *The strike force should develop fundamental internal controls for its cash receipts process, including maintaining accurate accounting records, separating incompatible duties, and reconciling the case files, the accounting records, and the deposits.*

The Metro Gang Strike Force did not adequately safeguard or account for seized or forfeited vehicles.

Finding 2

The strike force could not locate 13 of the 80 vehicles forfeited between August 2005 and October 2008. The strike force's records and the case files did not contain information to document the vehicles' locations. Through the administrative forfeiture process, seized vehicles that are forfeited become the property of the strike force. The Department of Public Safety provided us with evidence showing that as of April 2009 these vehicles had active titles, and three of them were still registered to the person they were seized from or a lien holder. In addition to the 13 forfeited vehicles, the strike force was also unable to locate one seized vehicle it was holding pending a court hearing.

The strike force's vehicle seizure process lacked fundamental internal controls. The strike force did not have accurate records to show the location of seized and forfeited vehicles. Although the strike force had a contract for towing and impound services, strike force investigators sometimes had the cars towed to other law enforcement impound lots. The strike force's vehicle tracking report was not always consistent with the information contained in the criminal case files about where a vehicle was actually towed.

The oversight council's operating procedures and guidelines did not adequately address vehicle seizure and tracking practices. Without formal operating procedures, there is an increased risk that the strike force will not properly safeguard and account for seized and forfeited vehicles.

Recommendations

- *The strike force should develop fundamental internal controls for its vehicle seizure and forfeiture process, including maintaining accurate inventory records. The system should include information about the location of the vehicles, the status of forfeiture proceedings, and the final disposition of vehicles.*

- *The strike force should develop formal policies that address towing and storing of seized vehicles and tracking seized and forfeited vehicles.*

Finding 3

The Metro Gang Strike Force did not establish sufficient internal controls for other seized property.

The strike force did not adequately account for and secure seized property. We learned of the following two instances when strike force personnel improperly handled seized property:

- The former strike force commander sold a seized flat screen television for \$30 to a student worker employed by the Department of Public Safety working at the strike force. When the original owner later had a legal right to get the television back, the strike force had to recover the TV and refund the money to the employee.
- The administrative assistant gave some seized jewelry determined to have no value to another Department of Public Safety employee working at the strike force. Later, the employee's supervisor required her to return the jewelry to the strike force.

In addition, the strike force's property room lacked basic physical security, and inventory records did not agree to items in the property room. We saw numerous items in the property room that the strike force's records identified as destroyed. In addition, we were unable to find 7 of a sample of 62 items recorded on inventory records. Strike force personnel did not periodically compare its inventory records to items held in its property room.

In 2006, the Department of Public Safety's Office of Justice Programs approved a grant to the strike force that it could have used to obtain a computerized inventory system for its evidence and seized property. The Project Safe Neighborhood Grant for \$168,000 provided funding to the strike force for technological equipment, software, and services. The strike force used some of these funds for other technology needs. However, because the strike force failed to submit a needs assessment, the Department of Public Safety cancelled \$73,000 of the grant.

Recommendations

- *The strike force should dispose of seized property in accordance with applicable rules and regulations.*
- *The strike force should ensure that the property room has adequate physical security.*

- *The strike force should maintain accurate inventory records. It should consider obtaining a computerized inventory system.*
- *The strike force should conduct a periodic physical inventory of the property room to ensure the accuracy and integrity of the property room's inventory records.*

The Metro Gang Strike Force did not have sufficient administrative staff to conduct its operations.

The strike force had one administrative assistant to perform all of its administrative functions. This person maintained all of the inventory records, was the property room custodian, was responsible for two local checking accounts, controlled the confidential informant funds, sent seizure notices to the Attorney General's Office, obtained reimbursements from the fiscal agent, maintained the case files, and performed other office functions, such as answering phones and providing clerical services. The strike force had not documented the work performed by this person or developed any backup plans in the event of this person's absence.

The administrative assistant told us that she often worked weekends and evenings to try to keep up with her workload, and that even on her vacation days, she would regularly report to the office. Nevertheless, the oversight council's annual evaluation of the strike force's operations identified weaknesses in areas under the administrative assistant's control. By relying on one person for so much of its administrative functions, the strike force increased the risk of a breakdown in its financial operations.

Recommendations

- *The strike force should ensure that it has sufficient administrative resources to carry out its financial operations.*
- *The strike force should document key aspects of its financial operations.*

The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts and did not adequately control some of the accounts' activities.

The strike force did not segregate incompatible duties for checking accounts it has for its confidential informants and "training and travel" activities. The administrative assistant performed all functions related to these accounts. She signed all the checks, reconciled the bank statements, requested, endorsed, and

Finding 4

Finding 5

deposited or cashed the checks from the fiscal agent, prepared the deposits, and made cash withdrawals for both accounts. From July 2005 through March 2009, the fiscal agent replenished about \$138,000 to the confidential informant account and reimbursed about \$56,000 to the training and travel account.

The strike force did not always obtain funds for the travel and training account through reimbursement from the fiscal agent. We identified two instances when this occurred. Finding 1 discussed the inappropriate deposit of \$11,657 forfeited cash. In addition, the strike force inappropriately deposited into the travel and training account \$12,252 from Reachout, Inc., identified by the former commander as a donation to be used for strike force vehicle repairs.

A good system of internal controls requires that policies and procedures are in place to ensure that receipts are properly safeguarded, deposited, and recorded, and an adequate segregation of duties exists. The lack of proper segregation of duties increased the risk of errors or irregularities from occurring and not being detected and created an unacceptable risk of fraud.

Recommendations

- *The strike force should ensure an adequate segregation of duties over the local checking accounts to ensure that no one person has complete control of the process.*
- *The strike force should only deposit reimbursements from the fiscal agent into the training and travel account.*

Finding 6

The Metro Gang Strike Force did not properly use or control its confidential informant fund activity.

The Metro Gang Strike Force failed to comply with the oversight council's operating procedures and guidelines and its own internal procedures related to the confidential informant fund. The strike force used this fund to pay confidential informants for information about criminal activity, to purchase evidence associated with criminal activity, and to purchase services and equipment for authorized undercover operations. The strike force mainly funded this activity through the grant from Department of Public Safety. It could supplement the grant funds with forfeitures. The strike force had the following weaknesses in its administration of this fund:

- The strike force inappropriately used about \$5,100 of confidential informant funds for unallowable or unreasonable purposes, including the following:
 - \$1,807 for evidence room shelving.

- \$1,000 advanced to the assistant commander without sufficient documentation.
- \$850 advanced to investigators for evidence purchases that were not supported by information in the case files.
- \$600 for a travel advance.
- \$279 advanced to the former commander in violation of the oversight council's guidelines, which prohibit a strike force commander to disburse confidential informant funds to himself.
- \$250 to purchase beverages at a bar for an investigator and/or informant.
- \$138 reimbursed to the council's statewide coordinator for office supplies.
- \$103 for a canister vacuum.
- \$72 for doughnuts during a search warrant briefing.

- The fiscal agent did not perform an effective reconciliation of the confidential informant account. He did not reconcile the account to an authorized balance, did not resolve variances identified on the reconciliations, did not include all confidential informant funds in the reconciliation, and could not reconstruct prior months' reconciliations because he overwrote the files.
- The former commander kept \$1,400 of seized funds in his office in case an officer needed confidential informant funds when the administrative assistant was not available. Strike force staff could not tell us how these funds were used, reimbursed, reconciled, or the disposition of these funds when the former commander retired.
- We also identified 179 instances where advances taken out by investigators were not settled within 10-14 days of the initial advance, as required by the strike force's internal policy. In one instance, the investigator failed to settle the advance for a year. To settle an advance, the investigator had to provide evidence of how it was used and return any unspent amounts to the administrative assistant.
- Finally, the fiscal agent did not require any documentation to support the amount requested to replenish the confidential informant account. Instead, the strike force's administrative assistant periodically requested a check from the fiscal agent for an arbitrary amount. The grant agreement requires that grant funds only be used to reimburse the strike force for actual costs.

The oversight council's operating procedures and guidelines outline the management and operation of the fund. The strike force also had its own internal procedures for using this fund. The strike force's confidential informant fund practices did not comply with either of these procedures.

Recommendations

- *The strike force should only use the confidential informant funds for allowable and reasonable activities.*
- *The strike force should maintain adequate documentation to support all confidential informant fund activities.*
- *The strike force should ensure that it independently reconciles its confidential informant fund to an authorized amount, resolves all variances, and retains sufficient documentation.*
- *The strike force should require investigators to settle all advances within the required timelines.*
- *The confidential informant fund should be replenished on a reimbursement basis.*

Finding 7

The Metro Gang Strike Force used significant resources to send six officers to a conference in Hawaii without required prior approval from the board.⁷

Six officers from the Metro Gang Strike Force attended the International Conference on Asian Organized Crime and Terrorism held in Honolulu, Hawaii, March 22-27, 2009. The former commander approved the officers' participation in the conference without authorization from the advisory board. A board bylaw requires prior authorization by the board of expenditures exceeding \$5,000. As of March 31, 2009, the strike force had paid \$8,961 in costs related to the conference, with the possibility that additional costs could be paid. We estimated that the cost of the officers' participation in the conference totaled approximately \$17,000, although some of those costs may be paid by the officers' home law enforcement agencies.

In January 2009, the new commander discussed with the board chair whether to cancel the strike force officers' participation in the conference based on concerns about the lack of board approval and the growing financial crisis in the public and private sectors. In a February 18, 2009, e-mail to the assistant commander, the commander stated that he was "quite upset" to learn that airline tickets to Hawaii

⁷ Although the strike force paid for seven conference registrations, only six officers attended the conference.

for strike force officers had been purchased. In the e-mail, the commander referred to an earlier conversation with the assistant commander when he had expressed concern that the conference was “not a good idea” and that they needed to reevaluate the situation. Despite the commander’s concern, on March 18, 2009, the advisory board retroactively approved the strike force paying costs associated with officers attending the conference.

In addition to the advisory board not authorizing the trip in advance of expenses being incurred, the strike force did not obtain prior approval from the Department of Public Safety. The grant agreement between the strike force’s fiscal agent and the Department of Public Safety required the department’s prior approval for out-of-state travel. The fiscal agent reimbursed the strike force for \$1,365 of the conference registration fees from grant funds.

Recommendations

- *The strike force should obtain prior approval from the Metro Gang Strike Force Advisory Board for all expenditures exceeding \$5,000, as required by board bylaws.*
- *The strike force should obtain advance approval from the Department of Public Safety for any out-of-state travel paid with grant funds.*

Noncompliance with Legal Requirements

The Metro Gang Strike Force frequently did not follow the state’s statutory forfeiture procedures.

Finding 8

The strike force did not have documentation to show that it served seizure notices for 202 of 545 cash seizures we tested, totaling about \$165,650. By not serving the required notice of seizure, the strike force violated the statutory administrative forfeiture process and may not have a legal right to retain the seized cash. As part of its operations, strike force investigators often seized property, including cash, suspected to be associated with criminal activity. They held this property for use as evidence in court trials, returned it to the owner, or took possession of it through the statutory administrative forfeiture process.⁸

Minnesota Statutes 2008, 609.5314, states that money, precious metals and stones, vehicles, and firearms and ammunition are presumed to be subject to administrative forfeiture if seized in connection with the seizure of a controlled substance. This statute prescribes the administrative forfeiture process, including a requirement to provide written notice to the owner of the property at the time of

⁸ The strike force also seized property that did not qualify for administrative forfeiture.

seizure or within a reasonable time after that, about their right to a judicial review. To invoke that right, the owner must file a demand for a judicial review within 60 days following service of the notice of seizure and forfeiture. If the owner does not file a demand for judicial review within 60 days, the property forfeits to the strike force. Failure to follow the statutory administrative process, including to properly safeguard and account for seized property, could jeopardize court cases or prevent the strike force from complying with the administrative and judicial review process.

Recommendations

- *The strike force should ensure that it serves notices to owners of seized property within a reasonable time after the seizure.*
- *The strike force should review all case files to determine whether it properly served the owner with a notice of seizure. If not, the strike force should work with the Attorney General's Office to determine the proper disposition.*

Finding 9

The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements.

The strike force's former commander routinely directed the fiscal agent to retain forfeited amounts that should have been paid to the Attorney General's Office. Our review of forfeiture distributions made by the fiscal agent identified at least \$229,000 retained by the strike force that should have been paid to the Attorney General's Office.

Minnesota Statutes 2008, 609.5315, prescribe how the strike force can dispose of forfeited property and how it must distribute forfeited money and proceeds from the sale of forfeited property. It requires that the strike force distribute the funds as follows:

- The strike force can keep 70 percent of the money or proceeds as a supplement to its operating fund for use in law enforcement.
- The strike force must pay 20 percent of the money or proceeds to the prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund for prosecutorial purposes. The Minnesota Attorney General's Office handles forfeiture proceedings for the strike force.
- The strike force must pay the remaining 10 percent of the money or proceeds to the state treasury, credited to the state's General Fund, within 60 days after resolution of the forfeiture.

The strike force's former commander told us that when he had been commander of the Minnesota Gang Strike Force, he had a verbal agreement with the Attorney General allowing the Minnesota Gang Strike Force to keep the Attorney General's statutorily required 20 percent of forfeited funds. He said that, at that time, the Minnesota Gang Strike Force lacked sufficient funding for its operations. We are not aware of the Attorney General's authority to redirect forfeiture distributions required by statute. In addition, it was inappropriate for the commander to carry forward an agreement from the Minnesota Gang Strike Force to the operations of the Metro Gang Strike Force. Finally, in March 2009, the Attorney General's Office notified us that it had no knowledge or record of this agreement with the former Attorney General, and it expected to receive the forfeited funds that it was due under statute.

Recommendations

- *The Metro Gang Strike Force should remit to the Attorney General's Office its statutory share of past forfeiture money that the strike force inappropriately retained.*
- *The Metro Gang Strike Force should ensure that the Attorney General's Office receives its share of future forfeiture funds, as required by statute.*

The Metro Gang Strike Force did not report seizures to the Office of the State Auditor.

Finding 10

The strike force did not file an annual report with the Office of the State Auditor as required by *Minnesota Statutes*.⁹ The statute requires all law enforcement agencies to file an annual report of each seizure incident to the State Auditor. Although the strike force had often seized property, it only reported one seizure to the State Auditor since 2005. According to that filing, the seizure occurred in 2007 for \$1,322. The former commander stated that he believed the fiscal agent filed these reports.

Recommendation

- *The strike force should report all seizure incidents to the State Auditor, as required by Minnesota Statutes.*

⁹ *Minnesota Statutes* 2008, 609.5315, subd. 6.

Finding 11

Lack of Oversight by Council and Advisory Board

The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not sufficiently oversee the Metro Gang Strike Force's financial operations.

Neither the Minnesota Gang and Drug Oversight Council or the Metro Gang Strike Force Advisory Board oversaw the financial practices of the Metro Gang Strike Force, allowing the strike force's commander to determine how the strike force would operate. Those practices put at risk the strike force's ability to safeguard and account for seized assets and maintain the integrity of criminal evidence.

The Minnesota Gang and Drug Oversight Council had broad responsibilities for drug task forces and gang strike forces throughout the state, including the Metro Gang Strike Force. In May 2006, the oversight council issued the *Multijurisdictional Task Force Operating Procedures and Guidelines Manual*. The council stated that this document served as the minimum professional standards for the strike forces' operations. Further, the council cautioned that variances from these minimum standards may jeopardize future grant funding through the Department of Public Safety. The oversight council's statewide coordinator used the guidelines as a basis to annually evaluate the strike forces' operations.

The Metro Gang Strike Force Advisory Board had direct oversight of the strike force. The advisory board's responsibilities included selecting and supervising the strike force's commander, reviewing the strike force's operations and other business, approving its expenditures, and selecting the strike force's fiscal agent. The advisory board chair had the authority to act on the board's behalf, if needed, to conduct day-to-day operations of the strike force. The advisory board met every other month.

Despite their expectations and authority, neither the oversight council nor the advisory board provided effective oversight to the Metro Gang Strike Force or its commander. For example:

- The advisory board did not create a position description for the strike force's former commander. A position description would define performance expectations and limits of authority. The advisory board also did not formally evaluate the commander to assess his performance. These were both provisions of the oversight council's operating procedures and guidelines.
- The oversight council's annual examination of the strike force's operations did not sufficiently consider whether its financial controls and practices met the minimum standards stated in the oversight council's operating procedures

and guidelines. For example, the examination did not identify that the strike force routinely held cash for unreasonable periods of time after seizure, contrary to the guidelines, which required that the strike force deposit the cash as soon as possible. The former commander told us that he did not use the guidelines as a basis for his operating practices.

- The advisory board did not ensure that the strike force's former commander implemented recommendations made by the oversight council's statewide coordinator following his evaluation of the strike force's 2007 operations. For example, this report noted that the strike force had incomplete investigative case files, lacked data to track and organize case file information and investigative activities, and did not have appropriate documentation in its confidential informant files. When the statewide coordinator reviewed the 2008 operations, he found that the strike force continued to have deficiencies in these areas. The advisory board failed to ensure the commander resolved these deficiencies.
- Although the advisory board's bylaws required the commander to provide board members with a monthly accounting of all funds disbursed, the advisory board's meeting minutes did not indicate that it routinely reviewed expenditures to determine whether activities were authorized and appropriate. For example, the advisory board failed to identify that during 2008 the strike force had paid \$3,185 in registration fees for seven strike force officers to attend a March 2009 conference in Hawaii.¹⁰

Recommendations

- *The Metro Gang Strike Force Advisory Board should perform an annual evaluation of the commander's performance.*
- *The Minnesota Gang and Drug Oversight Council should expand its annual reviews of strike force operations to ensure compliance with the minimum operations standards it adopted in its oversight council's operating procedures and guidelines.*
- *The Metro Gang Strike Force Advisory Board should actively monitor the strike force's financial operations, as outlined in its bylaws, to ensure that financial activity is authorized and appropriate, and that the strike force implements recommendations from the oversight council's annual evaluation.*

¹⁰ Although the strike force paid for seven conference registrations, only six officers attended the conference.



METRO GANG STRIKE FORCE

May 18, 2009

Mr. James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
State of Minnesota
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Subject: Response to the Legislative Audit

Legislative Auditor Nobles:

Thank you to you and your staff for conducting the audit of the Metro Gang Strike Force (MGSF). In working with your staff we found them to be professional and amicable. Below is our response to the draft audit report, including specific comments and actions plans for each of the individual findings; many of which are already in progress.

Starting back in the Fall of 2007 the Advisory Board began and continues the process of reviewing the structure and procedures established at the MGSF. This review resulted in the need to more comprehensively evaluate our evidentiary system, a plan for which was developed and adopted by the Board in October 2008. In this plan the Board opted to request a legislative audit if our original audit indicated concerns or other issues. However, during this process the Advisory Board was notified of your upcoming audit and the need to place our work on hold. Although the legislative audit was an option to our original plan, the result of the legislative audit has provided an independent review of the MGSF. The Advisory Board has seized this review as an opportunity to establish the framework for the Advisory Board and the MGSF commander to proceed forward in improving MGSF operations.

Finding 1

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not properly deposit or account for all seized cash.

With the selection of a new commander, the fiscal agent responsibilities are in the

process of being transferred to Hennepin County. This has allowed for an additional review of our records and processes. Currently, the Hennepin County Sheriff's Office readily allows for cash seizures from 2009 to be deposited at their Accounting Division and to date all seized monies from 2009 have been deposited. In addition, monies seized prior to 2009 have been separately deposited. These seizures are pending a thorough review of their status. To date all monies have been deposited with the exception of roughly \$4,000 that is being held pending a civil litigation claim.

The Seized Evidence Currency Log that is utilized by investigators to verify seized monies was modified to allow for the investigator to notify their supervisor whether or not the seized cash needs to be held as evidence or can be deposited. A review for an electronic accounting/evidence system is also underway. It is anticipated the electronic system will enable better tracking of seized cash.

The legislative audit clearly points out some failures to follow established protocols, including submitting proper notifications and paperwork. The new commander has reviewed established protocols and reinforced with his staff the need to stringently enforce these procedures. Supervisors were instructed that any deviation from these procedures must have their signed approval. A secondary check and balance is being established at the case filing and journal entry points to ensure missing or incomplete paperwork is caught early on.

The MGSF is currently in the process of hiring the services of a bookkeeper on a contractual basis to improve internal controls in order to better track seized assets and property. The first task for the bookkeeper will be to review the accounting processes that are currently in place and to develop an improved system to mitigate concerns pointed out in the legislative audit. The target date for this bookkeeper to start is June 1st. As previously mentioned, the bookkeeper position provides an additional check and balance as seized monies are processed through our system. Serious consideration is being given to keep the bookkeeper position as an independent contractual person in order to build-in autonomous and segregate duties.

Finding 2

Inadequate Internal Controls and Financial Practices – The strike force did not adequately safeguard or account for seized or forfeited vehicles.

The new commander is in the process of revising the MGSF vehicle seizure policy so that all vehicles seized by MGSF personnel are reviewed by a supervisor as soon as practical after the seizure. This new process allows for a supervisory review of the legal basis of the seizure, to ensure that required legal forms have been served and that the vehicle is properly recorded.

Because there are multiple towing vendors used by MGSF personnel, it has complicated an inventory check. The commander is currently considering simplifying the use of multiple towing vendors in order to better account for seized and towed vehicles.

As stated in our response to Finding #1, the MGSF is currently in the process of hiring the services of an independent bookkeeper to improve internal controls to better track seized assets and property. This would also include the tracking of seized and/or forfeited vehicles.

As outlined in our response to Finding #3 below, the MGSF will be moving to an independent, electronic evidentiary system. Seized vehicles are considered "evidence," and as such need to be entered into and tracked by MGSF's evidentiary system. The bookkeeper's records of seized assets and property, including vehicles, will be compared to the independent records of the evidence system on a monthly or quarterly basis.

Finding 3

Inadequate Internal Controls and Financial Practices – The strike force did not establish sufficient internal controls for other seized property.

The Advisory Board and the new commander are in the process of obtaining a contract with the New Brighton Police Department to utilize their property room. The New Brighton Police Department has recently completed a new, state-of-the-art property room with a 24-hour property staging area via an electronic, traceable, card entry system into their facility. A staging area consists of lockers where investigators can temporary place items to be formally placed into the property room and recorded in the evidence system by the property room specialist. This system in effect, keeps investigators out of the evidence room. Moreover, the New Brighton Police Department is in close proximity to the MGSF office thereby minimizing travel time for MGSF investigators.

Part of this agreement will be to establish a property room specialist to supervise the property room for both the MGSF and the New Brighton Police Department. The New Brighton City Council has conditionally approved the hiring of this position. Again, like the bookkeeper, to improve internal controls, the property room specialist is designed to be an independent position. The property room specialist would be responsible for receiving, storing, tracking, and disposing of evidence and conducting periodic audits of the property room. This is a desirable approach as consolidating resources, particularly in these tough economic times, simply makes sense.

The new commander has been in regular communication with the staff at the Minnesota Bureau of Criminal Apprehension (BCA) to possibly obtain a computerized record management system (RMS). The BCA is in the process of implementing a new RMS and should have this RMS in place by June 2009. The BCA has indicated they will allow the MGSF to connect into their system once their system is up and running. The BCA has assured that MGSF data will remain separate from other data in order to segregate different data and to mitigate any violation of data privacy laws.

This will be a significant improvement from the fractionized paper reporting and tracking system currently used by MGSF members. Having a single RMS will allow for supervisors to readily identify missing or lacking reports, as well as ensuring seized

property has a corresponding incident report. Lastly, the new RMS will encapsulate a supervisory approval process, thereby bolstering accountability. The MGSF should have this new RMS in place by August 2009.

Finding 4

Inadequate Internal Controls and Financial Practices – The strike force did not have sufficient administrative staff to conduct its operations.

Administrative staffing is being actively discussed and is anticipated to be acted upon by the MGSF Advisory Board in the near future. The previous commander was provided resources to hire additional staff, but chose not to do so. With the new commander just starting, the Advisory Board wanted to let the commander make an assessment and propose a recommendation as to the staff he may require to properly manage the MGSF unit. Even prior to the legislative audit, he had recognized the need for additional support staff.

One sergeant recently returned to his home agency leaving the MGSF unit short one first-line supervisor, but this is expected to be a temporary vacancy. Currently, MGSF's structure consists of the Commander, Assistant Commander, three sergeants (line supervisors), 32 investigators, three criminal analysts (who are assigned from the Department of Public Safety), one office assistant and four student workers. The hiring of a property room specialist by the New Brighton Police Department will reduce some of the administrative and evidence duties that are currently assigned to the office assistant. The bookkeeper contract will also help in segregating administrative responsibilities, as well as expediting the implementation of improved internal controls. To maintain a separation of duties and multiple checks and balances, it is anticipated that both the property room specialist and the bookkeeping position will be requested as permanent, independent assignments/contracts.

The Advisory Board and the new commander are in discussion as to whether there should be two assistant commanders, a civilian assistant to the commander or an additional line supervisor to better manage and oversee this active and complex investigative unit. The previous commander and Board had struggled some in balancing the limited financial resources among administrative personnel and field investigators.

Finding 5

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts and did not adequately control some of the accounts' activities.

When the Hennepin County Sheriff's Office assumes the responsibilities as the fiscal agent, consideration in abolishing local checking accounts will be strongly considered in lieu of an alternative system, such as debit cards, in order to readily track expenditures

while streamlining requests such as for informant reimbursement. If there is a continued need to maintain some type of checking account, the independent bookkeeper will provide a separate, autonomous control and review of funds associated with the account.

Finding 6

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not properly use or control its confidential informant fund activity.

It is acknowledged better internal controls are required for this sensitive expense area. Supervisors need to more closely scrutinize these requests and subsequent documentation. Implementation of a debit card system should help in the documentation of transferred funds, as well as making access to funds easier for investigators at odd hours. This type of system has a proven track record in other task forces.

Finding 7

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force used significant resources for six officers to attend a conference in Hawaii contrary to the direction of the commander and the advisory board chair.

The Metro Gang Strike Force Advisory Board has bylaws that were not followed by a number of personnel. As pointed out in the finding, any MGSF expense exceeding \$5,000 needs pre-approval from the Advisory Board. The imminent hiring of a bookkeeper to set up internal controls should assist with the safeguarding of large expenditures. In addition, Advisory Board expense reports showing greater detail should alert Board members to non-routine expenditures. Lastly, the lack of written training requests, approvals and overall MGSF training records exasperated this incident. The new commander has been requested to improve this process.

Finding 8

Noncompliance with Legal Requirements – The Metro Gang Strike Force frequently did not follow the state's statutory forfeiture procedures.

All line supervisors have been re-trained in the review process of case files. They have been assigned to review past investigative files for completeness. Current investigative cases files are required to be approved by the unit's supervisor before the case can be closed or charged. Each unit supervisor is responsible for the completeness of his or her unit's cases.

In addition, the commander will be establishing a procedure to incorporate the property room specialist, the bookkeeper, the case file and the case attorney, as a multi-layer, autonomous check and balance system. Of primary importance, as supervisory approvals

and internal control improvements are made, is the proper tracking, coding and reporting of forfeited assets.

Finding 9

Noncompliance with Legal Requirements – The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements.

This finding illustrates the need to more clearly document and communicate with the Advisory Board when special circumstances are agreed too. The likelihood in resolving this claim will prove difficult and will likely consume considerable legal time. For future forfeitures the bookkeeper will be instructed to develop a record system to separately track individual forfeitures depending on the specific disbursement rule or law that applies to that forfeiture. The bookkeeper and Assistant Attorney General will need to conduct a comprehensive review of the separately deposited forfeitures (pre 2009), to determine the legal status of each forfeiture and the lawful requirements for their disbursement.

Finding 10

Noncompliance with Legal Requirements – The Metro Gang Strike Force did not report seizures to the Office of the State Auditor.

The new commander is considering developing a series of monthly reports in order to monitor MGSF performance based upon a specific activity. For instance, there may be property room reports, accounting balance sheets, open case status reports, open and completed forfeiture reports, etc., etc.. These reports may be used to more easily create an annual report. Required monthly reports, such as the report of seizures to the Office of the State Auditor, will be listed on a log or monthly “to do” list to be signed-off as each report or requirement is completed.

Finding 11

Lack of Oversight by Council and Advisory Board – The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not sufficiently oversee the Metro Gang Strike Force’s financial operations.

The Advisory Board acknowledges its responsibility for MGSF oversight. The previous commander had been with MGSF since its inception in 2006 and also had a long tenure with the Minnesota Gang Strike Force that was created in 1997. There may have been a belief that the commander was following duties and responsibilities carried over from being the statewide task force administrator. The previous commander’s expertise with task forces, his lack of concern or reports to the Advisory Board about daily operations,

impressive statistical annual reports and acceptable task force report cards most likely provided a false sense of accomplishment to the Advisory Board. That said, the Advisory Board's responsibilities are clear, the Board needs to have a more significant role in verifying that MGSF tasks are being properly accomplished and goals are being reached.

In pursing a possible solution to this recommendation, the Advisory Board has begun discussions on creating specific subcommittees to assist the commander and monitor particular MGSF functions. As an example, one subcommittee is proposed to help develop, support and monitor operational activities; the "how we do it" operations. Another subcommittee is proposed to assist in the support function (computers, building, supplies, etc.) or the "what we do it with" activities. This is comparable to established governance models in our county boards and city councils.

Prior to the selection of the new commander in 2009, a detailed position description, specifically designed for MGSF operations, was created and approved by the Advisory Board. The listed responsibilities in the commander's position description will be just one part of the commander's required annual review process. In addition, the Gang and Drug Oversight Council's annual task force report card will also be incorporated into the commander's goal and review process.

As the new commander assesses his staff and their specific assignment responsibilities required to manage the MGSF, additional position descriptions will be established. Having articulated, detailed responsibilities, combined with written measurable goals, is essential to accountability and continued improvement of MGSF operations.

With the establishment of independent support staff persons, such as the bookkeeper and property room specialist, and the Advisory Board subcommittees, combined with increased details in Advisory Board reports, will enhance the Board's ability to more readily identify and respond to operational deficiencies. While improvements to the MGSF are being made, specific reviews or increased audits may be in order. How this is going to be accomplished is currently being discussed by the Advisory Board.

Although this response cannot speak for the Gang and Drug Oversight Council, we both share an oversight responsibility. A specific dialog needs to take place on how task force advisory boards and the Council can better work together to administer and monitor task forces for compliance. Together we need to review the monitoring and evaluating processes in order to identify overlooked or underrated high-risk operational areas so that they are reviewed and rated in accordance to their risk. I am sure that as the result of this audit that discussion will take place.

Closing Comments

The objective and scope of the legislative audit was specific, a review of internal controls and legal compliance over forfeited assets. The purpose of any audit is to raise and identify areas of concern, which has been done. The Advisory Board acknowledges the

results of this audit and is already using the recommendations as a basis for an improvement plan to mitigate these concerns and bolster MGSF operations.

Although specific issues have been identified, some of the findings such as unaccounted monies and forfeited vehicles still need further investigation. The exact status of these items has yet to be determined. This is the responsibility of the Advisory Board as we move forward.

Furthermore, the auditor's criticisms are one of management, not enforcement. It was not the audit's purpose to examine the growing drug and gang problem in the metro area, nor were the auditors responsible for measuring the effectiveness or value of MGSF investigators. The MGSF is and continues to be a formidable task force in mitigating gang and drug violence. No other task force is able to gather and share the information and intelligence as the MGSF is doing. Because of our unique multiagency partnerships, informational flow between MGSF members, their home agencies and communities is amplified. It is this informational flow that solves crimes and is essential in keeping violence in check.

The MGSF consistently partners to a much greater degree than any other task force in Minnesota with federal and state law enforcement agencies. In essence, the MGSF often becomes the hub in this collaborative enforcement relationship. This relationship is critical as gang and drug trends continue to expand across state lines.

No other task force in Minnesota can assemble and respond in the numbers that MGSF can. This resource and the MGSF investigators' unique expertise are vital for midsize and smaller agencies in their response to gang expansion and violence. It is essentially their community's only way to respond.

In closing, the issues raised in the auditor's report were long in their making. Many individuals during that time frame contributed to this problem. It will be the responsibility of the current Advisory Board and the new commander to make sure our response plan, which is already in progress, is implemented in short order.

Sincerely,



Manila Shaver, Advisory Board Chair
Metro Gang Strike Force

**BOB FLETCHER
RAMSEY COUNTY SHERIFF**

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May 11, 2009

James Nobles, Legislative Auditor
Suite 140, Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Sir,

After a review of the draft audit report for the audit of the Metro Gang Strike Force, the Ramsey County Sheriff's Office would like to provide the following comments for findings related specifically to the department's role as the fiscal agent.

Finding 1 - Page 7, line 8

"After a complete review of strike force and fiscal agent documentation of forfeited cash transactions, we were unable to substantiate the disposition of \$18,126 of forfeited cash. The strike force's records showed that on 15 occasions from September 2004 through July 2008, cash was removed from the property room, but the fiscal agent had no record of a corresponding deposit."

Comment

Two of the case amounts totaling \$2,960 were included in a deposit with the fiscal agent, but were inadvertently missed in the typed memo itemizing the cases included in the deposit. Unaccounted cash would therefore be \$15,166.

Finding 6 - Page 13, line 32

"The fiscal agent did not perform an effective reconciliation of the confidential informant account. He did not reconcile the account to an authorized balance, did not resolve variances identified on the reconciliations, did not include all confidential informant funds in reconciliation, and could not reconstruct prior months' reconciliations because he overwrote the files."

Comment

The fiscal agent was never tasked with the responsibility of auditing the confidential funds. Our Account Clerk would monthly review the confidential cash by verifying that amounts issued by check from the operating grant were added into the account, and matching the balance of cash on hand plus outstanding advances and receipts to the authorized amount. He documented this

reconciliation on a spreadsheet and kept copies, and updated the file each month for the new reconciliation. The monthly review was effective for keeping the confidential funds in balance and for pushing for the return of outstanding advances.

Finding 6 - Page 14, line 5

"Finally, the fiscal agent did not require any documentation to support the amount requested to replenish the confidential informant account. Instead the strike force's office assistant periodically requested a check from the fiscal agent for an arbitrary amount. The grant requires that grant funds only be used to reimburse the strike force for actual costs."

Comments

Confidential funds were issued by check to the strike force based on a signed memo requesting the funds by the Commander. The check amounts were generally for \$10,000. The amount of cash on hand in the confidential funds at the end of every quarter was deducted from the amount requested for reimbursement from the State through the operating grant. Consequently, grant funds were only used to reimburse for actual costs.

Thank you for the opportunity to comment on the findings.



Trudi Winek
Accountant IV
Ramsey County Sheriff's Office

CC: David Poliseno, Audit Manager, Legislative Auditor's Office

Date: May 12, 2009

To: James Nobles
Legislative Auditor, State of Minnesota

From: Ron Ryan
Former Commander, Metro Gang Strike Force

Subject: My Response to the Legislature Audit Report of the Metro Gang
Strike Force Completed May 2009

BACKGROUND

The original Gang Strike Force was created during the 1997 Legislature. It was established to target gang members, for prosecution, who were involved in “criminal activity”.

Our start was compared to starting up a moderate sized police department from scratch. We were a statewide multi-jurisdictional agency funded by state monies for our operating budget.

We created our own Policy and Procedural Manual by relying on several avenues of information. We brought forward our past practices from our respective law enforcement agencies; we asked the BCA for recommendations, that we put in place, for handling evidence money and intelligence information gathering; and we met extensively with lawyers from the MN Attorney General’s Office who helped and later continued to monitor the policies we established.

During my eleven plus years as Commander for the Minnesota Gang Strike Force/Metro Gang Strike Force I had five different Assistant Commanders, throughout the years, and only one full-time Administrative Assistant who helped manage evidence and files at the Metro office.

PAST PERFORMANCE EVALUATIONS

Operational Program Review - November 1999

This independent audit was requested by the Oversight Council and was conducted by the Criminal Justice Services. They suggested we were operating in a more than adequate fashion.

Legislative Auditor Financial Audit - July 1, 1998 through June 30, 2001

This audit was requested by then Representative Rich Stanek. No findings of problems or irregularities.

Quality Assurance Audit/Assessment Report - March 2002

This independent audit was requested by the Oversight Council and was conducted by the Minneapolis Police Department Quality Assurance Unit. We were found to be operating in a very efficient and effective manner.

Administration Review of Local Grants - May 2002

This was conducted by staff from the Office of Drug Policy, MN Department of Public Safety.

We received a report that we were, overall, well managed.

State Multi-Jurisdictional Task Forces Review - 2007

This was conducted by Bob Bushman, the Statewide Coordinator for the Gang/Drug Task Forces. We received an “excellent” rating with some recommendations for future improvements in two areas. We updated our Confidential Informant files per his recommendation and staff was continuing to work on record keeping for case file issues when I retired.

GENERAL COMMENTS BEFORE I ADDRESS SPECIFICS

Before I respond to several specifics about the auditors’ findings I would like to preface my remarks with a few facts that may help in understanding my comments.

* For the record, in the first eleven plus years the Gang Strike Force existed I had been the Commander. I always reported to, at least, a 15-member Oversight Board. Over the years those members, my immediate supervisors, consisted of 39 different individuals who were Police Chiefs, County Sheriffs, Attorneys General, Superintendents, and State Commissioners. Each month I prepared a report for their information regarding our administrative activities and our investigative operations. These were then discussed at our monthly meetings.

* I left the Metro Gang Strike Force on October 10, 2009, when I retired. I obviously do not have any records or files. They remained at the office when I left several months ago.

Therefore, I am the only person involved in this audit process who is hampered in being able to respond to these findings. I can only rely on my memory and my year-end reports for information.

When I left seven plus months ago I did prepare an exit memo, as I was requested to do, and sent it to the Chair of the Metro Gang Strike Force Oversight Committee, Chief Bud Shaver. I advised the Board that I would assist in anyway I could with the transfer of information or any other help I could provide with the transition to a new Commander.

I did not receive even a response that the Chair had received my memo which I knew he had. Since my retirement no one has asked me for any assistance with the transfer of information or with the two audits until I met with you and your audit staff on April 21st as you were completing your audit. Your auditors asked a few questions about not having located some files. I advised them I could not speak to why the current staff could not provide this information but could only suggest no one had ever asked for my input or direction during any of these processes.

* When I retired I left documents with the interim Commander indicating the total amounts of forfeiture dollars we had been responsible for that were legally taken from persons involved in criminal activities. From the year 2000 through 2008 I had deposited a total of **\$2,253,203.00** with our fiscal agent. I also left a total of **\$305,731.00** in cash that had not yet been cleared for deposit into our forfeiture accounts. This cash was evidence and was handled properly as such. The evidence was sealed separately with the corresponding case file numbers and documentation. The proper chain of evidence protocol was followed so the cash could be used

as evidence in court or for final disposition as forfeited funds to be transferred to our fiscal agent.

* After several years of reducing our budget at the Legislature, the Gang Strike Force was dealt a crippling blow at the end of the 2003 Legislative Session. At 3:00 a.m. in the morning, at a strange conference committee meeting, then Representative Rich Stanek offered up some of our funding to Senator Jane Rannum for other purposes. She accepted, and the 2003 Legislature cut the **\$3,000,000.00** left in our base budget, thereby eliminating all the money available to pay for police officers. Several departments were forced to withdraw from the Gang Strike Force. Those that stayed were reimbursed at a greatly reduced rate for the officers they contributed. The money we used from that point on to keep the Gang Strike Force in business came from the Metro Region forfeiture accounts.

* I have always felt it to be very important to keep the Oversight/Advisory Boards (my bosses) informed and up to date regarding the administration and operational aspects of how our organization was run. I prepared and detailed a report for discussion at our monthly meetings (the meetings became bi-monthly meetings in 2005). This was particularly important when we started using forfeiture funds for our operation. This was completely legal but we no longer could follow our established policy and procedures to the letter.

During this time frame, because of various positions they held, both now Commissioner Michael Campion and Sheriff Rich Stanek were members of our Advisory Boards. They received my reports and I cannot remember at any time that they considered our policy and procedures to be wrong or improper. At least they never informed me of any problems they had with the way we ran this organization.

MY RESPONSE TO A FEW SELECTED FINDINGS AND RECOMMENDATIONS

Note: Again, please remember I do not have access to files. These remarks are from memory or a few notes I may have taken.

Finding 1

(Page 7, Line 9) *"We were unable to substantiate the disposition of \$18,126.00 of forfeited cash."*

I talked with you about this previously. I know the auditors missed a deposit of at least \$2,960.00 from this total. We also would pay cash during exigent circumstances (but very rarely). I seem to recall just under \$5,000.00 being paid to a state employee whose funding was lost. We paid her in order to keep her working with the Gang Net System until she could get her contract with either Ramsey County or the Saint Paul P.D.

I thought we placed cash into the buy/CI fund on more than one occasion during this time frame. Your auditors have identified the one transaction but not the other deposits. I would expect this would be part of these monies. We needed the money for operations immediately. These were exigent circumstances so I simply took the cash I received from Cindy and placed the monies in the buy fund. I did create a paper trail. (Normally I would deposit the cash with the fiscal agent,

send a request for \$10,000.00, take the check to the bank to cash, then we would bring the cash to the office and place the cash in the safe. This process could take up to a week. We needed the cash sooner.) There are a couple of other smaller amounts, I recall, that were needed immediately. One for use in obtaining information on a gang homicide. Money was needed on a weekend. A paper trail and receipts were in a file that apparently your auditors can no longer find.

As I said, we very rarely distributed these forfeitures in cash but on occasion we had done this in the past. I recall once paying for a training session for the Office of Justice Programs in cash. Their budget time frame had passed and this was the only vehicle we could find to pay the firm who put on the training and was long overdue their payment for services that amounted to approximately \$3,000.00 plus. Again, we always created a paper trail of the transaction and receipts.

(Page 7, Lines 17 - 34) "The Strike Force did not deposit receipts immediately with the fiscal agent...The delay in depositing this cash increased the risk of loss or theft."

I have also previously addressed this issue. When I left, there was \$305,731.00 in the safe. It was evidence and was sealed and followed the proper evidence protocol. I also advised your auditors that we were under orders from federal prosecutors that they needed the actual confiscated cash, for some of the cases involved. The court would not accept pictures of seized cash as evidence.

I'd like to address the auditors' comments, "The delay in depositing this cash increased the risk of loss or theft." To the best of my knowledge, with the procedures we had in place, never did we lose any of this cash evidence. The only real concern I now have is after reading an article in the Saint Paul Pioneer Press of April 10, 2009. It contained a quote made by the Media Spokesman for the Department of Public Safety. Following his comments suggesting there was something wrong or sinister by holding onto cash evidence, he stated "... the day Ryan retired and \$300,000.00 in forfeitures was later found in the evidence room." This was a totally irresponsible public statement to make. By publicly identifying the location of this cash it certainly must have peaked the interest of many local burglars.

(Page 8, Line 22) "The Strike Force Commander did not have someone review the deposit memos or verify the supporting currency log. Such a review could have detected these errors."
The fiscal agent, in this case Trudi, obviously reviewed the memos when "she" counted the cash. If the memos and cash did not agree, she detected the problem and would notify me to rectify any discrepancies. This almost never happened.

Finding 2

(Page 9, Line 14) "The Strike Force could not locate 13 of the 80 vehicles forfeited between August 2005 and October 2008."

I called you on this finding. As I advised you, I know Officer John McManus filled out a report for Commander Omodt that was to be sent to your auditors with the dispositions for these vehicles, but your report still suggests no one can locate 13 vehicles.

I cannot comment as to why the dispositions were not entered into the tracking report but it is my understanding the vehicles are all accounted for. I saw the list of vehicles and I know one went to the Saint Paul P.D. The vehicle is titled to them and is being used by one of their officers. At least three of the vehicles were involved in negotiations with lien holders when I left. We were trying to determine who would pay for storage costs before we would release the vehicles to them. There appear to be five or six vehicles listed that were released by the previous Assistant Commander when he cleared out a large number of vehicles from our contract lots. Again, I cannot speak to why their dispositions were not recorded.

Our Administrative Assistant, Cindy, receives a monthly updated record from the tow company. It lists what vehicles they are holding for us in their three lots. They also bill us for services and storage. These bills and reports have to reconcile before payment is sent to the tow company.

Finding 3

(Page 10, Lines 37 - 43) *"The Project Safe Neighborhood grant for \$168,000.00 provided funding for technological equipment software and services. The Strike Force used some funds...However, because the Strike Force failed to submit a needs assessment, the Department of Public Safety cancelled \$73,000.00 of the grant."*

This statement is very misleading. It is suggesting we should have used this money to improve the property room and we squandered the money.

We had several meetings with the U.S. Attorney's Office and worked on starting a collaboration with them on building intel on gang members. We developed a list of surveillance equipment that we needed to assist in our investigations and we made several purchases for computers and programs that has enhanced the work of our two Criminal Analysts. We also built a state of the art interview room at our office to help in our investigations. We also invited all law enforcement agencies to use our facility to assist in their work. All these purchases were made from our Project Safe Neighborhood grant.

As to the money that Public Safety suggested was canceled, I had been working with task forces in Greater Minnesota on assisting them with purchases using the money that was left over. The Office of Justice Programs suggested I stop working with them and they would take over caring for their needs.

Finding 4

(Page 11, Line 18) *"The Strike Force did not have sufficient administrative staff to conduct it's operations."*

That is an area we often struggled with. When we started we had two administrative people. After we started losing our funding, staffing suffered. We would employ part-time people from time to time but with the increasing workload that occurred the past few years, caused by the incredibly successful work of our investigators, it was apparent we needed to make changes. When I met with you and your auditors on April 21, 2009, you reported to me that at a meeting with the Advisory Board a month ago, you were advised I did not want more administrative help.

This is simply not true. We identified approximately \$30,000.00 that could be used to fill that position. I began working with Ramsey County to find an employee. We purchased a work station and had it installed next to Cindy's. However, in early 2008, at an Advisory Board meeting, it was decided to instead add an investigator from the North Saint Paul P.D. That was accomplished by using the money we had identified for the administrative position. Meanwhile, added administrative support was put on hold. I agree with your findings, there needs to be more administrative support.

Finding 6

(Page 13, Line 20) *“\$279.00 advance to the former Commander in violation of the Oversight Council’s guidelines, which prohibit a Strike Force Commander to disburse confidential informant funds to himself.”*

An officer needed money for an investigation during a time that the office was closed. I gave him \$279.00 out of my pocket. When he completed the required paperwork with Cindy she reimbursed me.

(Page 14, Line 5) *“Finally, the fiscal agent did not require any documentation to support the amount requested to replenish the confidential informant account... The grant agreement requires that grant funds only be used to reimburse the Strike Force for actual costs.”*

There may be some misunderstanding of how this account works. It is a buy fund/CI payment account. It needs cash in the account so when officers need money for a buy or to pay informants they can get it right away. When they receive the money from Cindy they fill-out the paper documentation. I am the one who requested the checks and it was usually when the cash on hand went below \$7,000.00. We tried to keep cash on hand between \$7,000.00 and \$10,000.00 for the buy fund.

Finding 8

(Page 15, Line 39) *“The Strike Force did not have documentation to show that it served seizure notices for 202 of 545 cash seizures we tested, totaling about \$165,650.00.”*

This is another statement I called you about. I do not know what files your auditors looked at or did not look at but it is another example of why someone should have contacted me while you were looking for information.

Simply stated, these results are absurd. I personally handled this seizure process. We had a forfeiture tracking report that was backed up by hard files for each suspect who was subjected to an administrative seizure notice. If for some reason I missed a seizure notice all I had to do was call Jim Early at the Attorney General's Office. The criminal got a copy, a copy went into the report file, I got a copy and the A.G.'s Office got a copy. In addition the final review for this process rests with the court. If we did not follow proper procedure the court would not allow the Strike Force to receive these forfeited funds. Proper procedure had to include serving the suspect with the seizure notice. During my tenure, the court never returned \$165,650.00 of funds back to suspects because they did not receive their seizure notices.

Finding 9

(Page 16, Line 34) *“The Strike Force’s former Commander routinely directed the fiscal agent to retain forfeited amounts that should have been paid to the Attorney General’s Office. Our review of forfeiture distributions made by the fiscal agent identified at least \$229,000.00 retained by the Strike Force that should have been paid out to the Attorney General’s Office.”* Former Minnesota Attorney General Mike Hatch was one of our original Gang Strike Force Advisory Board members. He was very committed and supportive of our mission. He assigned a full-time prosecutor, legal counsel, and a lawyer to handle our forfeitures.

When the 2003 Legislature cut the funding to pay law enforcement officers assigned to the Strike Force, A.G. Mike Hatch contributed \$135,000.00 from his office’s forfeiture funds. These dollars assisted us by providing operating funds to stay in business. He advised the Board at the time the \$135,000.00 came from the Strike Force when we contributed the 20% to them for doing our forfeiture work. He suggested the process was counter productive and said we should stop sending them the 20% fee. This information can be found in the 2004 year end report and I am sure would also be contained in the Board minutes.

Finding 11

(Page 19, Lines 16 - 25) *“The Advisory Board did not ensure the Strike Force’s former Commander implemented recommendations made by the Oversight Council’s Statewide Coordinator following his evaluation of the Strike Force’s 2007 operations...When the Statewide Coordinator reviewed the 2008 operations, he found the Strike Force continued to have deficiencies in these areas. The Advisory Board failed to ensure the Commander resolve these deficiencies.”*

I would assume this finding followed an interview with Bob Bushman, the Statewide Coordinator. I would suggest his comments are a little disingenuous and he has not let the facts get in the way of his comments. I am sure if your auditors checked the Board minutes you will have found the Metro Gang Strike Force received an “excellent” on it’s report from him in the year 2007. He also listed some issues we should work on for further improvement.

From my memory, it was Dakota County Chief Deputy Dave Bellows who asked how we would respond to a suggestion to improve the Confidential Informant files. There had been some files that did not contain a picture of the informant and some that did not have the informant’s signature signing a document enclosed in each file. I had a former Assistant Commander and Cindy review each of the over 100 files and make the upgrades to the files when discrepancies were found. After they reviewed each file and completed the upgrades, I reported it to the next Advisory Board meeting per my instructions. The minutes should indicate this report. The update to investigators’ reports was still ongoing when I left.

As to what new problems Mr. Bushman found that occurred in these locked CI files during the year 2008 I cannot speak to.

CONCLUSION

Were all of the records systematically setup to be viewed by the auditors? Obviously not. I still

contend had I not been kept out of this process and been involved early on, I could have assisted in a more meaningful gathering of information. To wait until I am gone for over seven months with the files left behind, obviously being compromised, does not put me or my employees on a very level playing field for this process.

While I was the Commander was there anything sinister or underhanded taking place at the Strike Force? Absolutely not! Instead, we are a group of police officers whose main mission was to target gang members involved in criminal activity. Did we accomplish our goals and successfully serve the taxpayers of Minnesota? Absolutely yes, way above and beyond any expectations. We were arguably the best task force that the State of Minnesota has ever funded. The administration that has inherited this fine organization should never allow the accomplishments of our officers to be diminished.

The men and women who have contributed to the tremendous success of the Gang Strike Force are owed a huge debt of gratitude and not deserving of the attacks and innuendos implied by some law enforcement officials, political officials and certain members of the media.

I believe there should be an audit of the police work that has taken place at the Minnesota/Metro Gang Strike Force. The communities they serve should be allowed to see how they have attempted to make this a safer place in which to live. That is the real story that needs to be told.

Thank you for allowing me to submit this response to the legislative audit!

CC: Sheriff Rodney Bartsh, Chair
Minnesota Gang and Drug Oversight Council

Chief Bud Shaver, Chair
Metro Gang Strike Force Advisory Board

Sheriff Bob Fletcher
Fiscal Agent for Metro Gang Strike Force