



# MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT  
Internal Audit Division

## INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager  
VIA: Kathie G. Brooks, Budget and Performance Improvement Director  
FROM: James J. Sutter, Internal Auditor

DATE: April 13, 2012  
AUDIT: State Forfeited Funds and Related Expenditures Audit  
PERIOD: October 1, 2008 through April 30, 2011

This report is the result of a regularly scheduled audit of the State forfeited monies earned, received, deposited, expended and recorded by the Miami Beach Police Department, City Attorney's Office and Finance Department between October 1, 2008 and April 30, 2011. In addition, the audit scope was expanded to include any monies reimbursed to the City for such related expenditures as overtime, vehicle leasing and travel.

### INTRODUCTION

Florida Statutes Section 932.701 - 706 or the Florida Contraband Forfeiture Act is the statutory authority for State asset forfeiture as it sets forth the purpose and procedures to be utilized for the appropriation and expenditures of the Police Confiscation Trust Fund. Unlike the Federal system, there is no provision for criminal forfeiture, and all forfeiture proceedings must be held in the civil division before a circuit court judge. Before the government can seize property, it's required to notify anyone with an interest in the property that the forfeiture action is being taken and they have a right to request a preliminary adversarial hearing.

The State's policy is that law enforcement agencies utilize the provisions of the Florida Contraband Forfeiture Act to:

- Deter and prevent the continued use of contraband articles for criminal purposes;
- Protect the proprietary interests of innocent owners and lien holders;
- Authorize such law enforcement agencies to use the proceeds collected under the Florida Contraband Forfeiture Act as supplemental funding for authorized purposes; and
- Ensure that all seizures made under the Florida Contraband Forfeiture Act, their officers adhere to Federal and State constitutional limitations regarding and individual's right to be free from unreasonable searches and seizures, including, but not limited to, the illegal use of stops based on a pretext, coercive-consent searches, or a search based solely upon an individual's race or ethnicity.

The State permits forfeited funds to be used for crime prevention, keeping neighborhoods safe, drug abuse education, drug prevention programs or such other law enforcement purposes approved by the City. Such funds shall not be a source of revenue to meet normal operating needs of the law enforcement agency. It also requires the City to expend or donate a minimum of fifteen percent of the forfeited funds acquired provided the City receives at least \$15,000 within a fiscal year for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer programs. These funds may be expended only upon request by the Chief of Police to the City Commission

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which is accompanied by a written certification that the request complies with the provisions of Florida Statute Section 932.7055.

The Miami Beach Police Department or MBPD periodically participates in task forces whereby joint investigations are conducted with other cities, counties, agencies, etc. However, only one involving the Strategic Investigations Unit's participation in the South Florida Money Laundering Strike Force (Strike Force) resulted in the City receiving forfeited funds from the State of Florida during the October 1, 2008 through April 30, 2011 audit period. The City Commission approved MBPD's involvement in the Strike Force during this time period through the ratification of Resolution Numbers 2008-26919 covering 09/18/08 through 09/01/09 and 2009-27167 covering 09/01/09 through 09/01/12.

The City of Coral Gables initially receives all Strike Force forfeited monies from the State after the legal process has been exhausted which can take an indefinite amount of time. These received monies are then reduced by any amounts owed to confidential informants who aided the police officers in making the arrest. Additionally, some monies may be retained for budgetary purposes as the Strike Force's goal is to have enough monies to fund operations for at least one year in the future.

Any remaining forfeited funds are allocated and distributed to the participating cities, counties, agencies, etc. based on the number of assisting personnel in relation to the total as recorded on the Case Distribution Information Sheet. For example, if Miami Beach provided 4 police officers of the 50 in total who worked on the case then the City is entitled to receive 8% of the allocated funds.

Coral Gables attaches a physical check and sends the documents to MBPD's Strategic Investigations Unit Captain. They are subsequently forwarded to the Financial Management Unit who prepares a Miscellaneous Cash Receipt so that the transaction can be processed by the City's Central Cashier with the monies deposited into general ledger account numbered 607-8000-351210 entitled "Confiscated Property – State \$".

The City is also reimbursed on a quarterly basis by Coral Gables upon the submittal of supporting documentation for any MBPD officers' overtime hours worked in the Strike Force (general ledger account number 011-1140-000135). Similarly, any participating police officers' leased vehicles are also currently reimbursed quarterly for up to \$750 per month (general ledger account number 011-1140-000323). These reimbursement monies are received from Federal grants and not from State forfeited funds so the Florida Contraband Forfeitures Act does not apply.

In addition, the MBPD joined the Internal Revenue Service Financial Investigative Strike Force – HIDTA Group 5 (HIDTA/IRS Group 65-09) for the fiscal year ending 09/30/11. The Treasury Forfeiture Fund initial budget was authorized for \$27,600 which was comprised of \$15,000 overtime and \$12,600 travel reimbursable expenditures. Subsequent increases may be granted upon receipt of written requests from the Special Agent in Charge. There were no State forfeited funds received from this task force during the audit period per the Special Agent in Charge.

Also, the City Attorney's Office through negotiated Stipulation of Settlement and Agreements and issued Court Orders assists MBPD in the confiscation of assets following felonious arrests

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based upon the strength of the City's case and the amount of monies involved. Any confiscated vehicles, boats, etc. may be sold at auction or used by MBPD as needed. Upon receipt of monies, a Miscellaneous Cash Receipt is prepared and the transaction is processed by the City's Central Cashier with the monies also deposited into general ledger account numbered 607-8000-351210.

The following table reports the state forfeiture revenues received less those monies expended during the audit period:

	10/01/08 - 09/30/09	10/01/09 - 09/30/10	10/01/10 - 04/30/11	TOTAL
<b>STATE FORFEITURES:</b>				
Strike Force Revenues	\$138,479	\$23,800	\$161,614	\$323,894
City Attorney's Office Claim Recoveries	\$455,959	\$43,115	\$162,707	\$661,781
Total State Forfeitures Revenues *	\$594,439	\$66,915	\$324,321	\$985,675
City Commission Approved Expenditures	(\$205,362)	(\$50,779)	(\$229,277)	(\$485,418)
<b>STATE FORFEITURE DIFFERENCE (REVENUES - EXPENDITURES)</b>	<b>\$389,077</b>	<b>\$16,136</b>	<b>\$95,044</b>	<b>\$500,257</b>

\* These amounts do not include any interest earned on the invested monies prior to the monies being expended.

The Police Confiscations-State or 607 fund's April 30, 2011 overall cash balance equaled \$1,905,356 according to the Eden System's G/L Trial Balance Report. However, this amount included the \$50,415 flash roll and \$5,631 in the Strategic Investigations Unit's imprest account, which are independent of State forfeited funds, thereby lowering the fund's forfeiture cash balance to \$1,849,311.

Finally, the following table lists the amounts reimbursed to the City's general fund during the audit period (separated by source) from police officers participation in the Strike Force and HIDTA/IRS Group 65-09 task forces:

	10/01/08 - 09/30/09	10/01/09 - 09/30/10	10/01/10 - 04/30/11	TOTAL
<b>REIMBURSEMENT OF EXPENDITURES:</b>				
Strike Force Overtime	\$176,182	\$115,468	\$39,263	\$330,912
Strike Force Vehicle Leasing	\$38,160	\$32,487	\$8,120	\$78,767
Total Strike Force Reimbursements	\$214,342	\$147,955	\$47,383	\$409,679
HIDTA/IRS Group 65-09 Overtime	\$0	\$0	\$11,840	\$11,840
HIDTA/IRS Group 65-09 Vehicle Leasing	\$0	\$0	\$3,738	\$3,738
HIDTA/IRS Group 65-09 Travel	\$0	\$0	\$263	\$263
Total HIDTA/IRS Group 65-09 Reimbursements	\$0	\$0	\$15,842	\$15,842
<b>TOTAL REIMBURSEMENTS</b>	<b>\$214,342</b>	<b>\$147,955</b>	<b>\$63,224</b>	<b>\$425,521</b>

## **OVERALL OPINION**

The Miami Beach Police Department maintained valid agreements with the South Florida Money Laundering and HIDTA/IRS Group 65-09 task forces during the audit period. Organized and sufficient documentation was provided by the Strategic Investigations Unit and the City Attorney's Office to properly support all tested transactions. In addition, tested expenditures authorized by the Chief of Police and the City Commission were found to have been timely made. Despite these positive findings, the following items were noted during our analyses that are in need of improvement:

- The City did not fully comply with the Florida Contraband Forfeiture Act as they did not satisfy the 15% requirement and expended/donated \$86,851 less on required purposes during the audit period.
- The Police Department's Financial Management Unit incorrectly recorded \$36,154.74 as Criminal Investigations Division's overtime (011-1140-000135) rather than to forfeited funds (607-8000-351210). As a result, these monies were not expended in accordance with Florida Statute Section 932.7055.
- The overtime, vehicle leasing and travel reimbursement requests are not entered in the Eden System's Accounts Receivable Module to better ensure that all corresponding payments are completely received and to allow for proper accruals.

## **PURPOSE**

The purpose of this audit was to determine whether tested State forfeited monies were received in the proper allocation; whether tested receipts were completely and timely deposited by the Finance Department's Central Cashier; whether tested expenditures were made in adherence with City Commission approved Resolutions and State Statutes; and whether tested transactions were accurately recorded in the City's Financial System.

## **OBJECTIVES**

1. Confirm that comprehensive updated policies and procedures exist, are known to staff and are properly followed.
2. Confirm that the internal control process implemented including a proper segregation of duties is adequate.
3. Confirm that maintained documentation and software systems are organized, complete and sufficient.
4. Confirm that the City's voluntary cooperation mutual aid agreements are current and valid.
5. Confirm that the City received the correct allocation of forfeited funds and that all tested funds are present and accounted for.
6. Confirm that tested expenditures were made in accordance with the Florida Statutes and City Commission approved Resolutions.
7. Confirm that tested transactions were timely and accurately entered into the City's Financial System.

**FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES**

1. Finding - *The City's Expenditures or Donations Were \$86,851 Less Than the Amount Required By the Florida Contraband Forfeiture Act For the 10/01/08 – 04/30/11 Audit Period*

Any State forfeited funds disbursed that are subject to Florida Statutes 932.701 – 706 or the Florida Contraband Forfeiture Act are required to be used for crime prevention, keeping neighborhoods safe, drug abuse education, drug prevention programs or such other law enforcement purposes approved by the City. Furthermore, Florida Statute 932.7055 requires the City to expend or donate a minimum of fifteen percent of forfeiture funds provided the City receives at least \$15,000 within a fiscal year for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer programs.

All State forfeiture transactions are to be entered into general ledger account number 607-8000-351210 entitled "Confiscated Property – State \$" as there is no distinction made between those applicable to the Florida Contraband Forfeitures Act and any that are not. Although it was applicable to all tested forfeitures during the audit period, the City's Attorney Office stated that this is not always true and different rules are applicable when and if this occurs.

As shown below, testing performed on funds received and expended subject to the Florida Confiscation Forfeiture Act during the 10/01/08 through 04/30/11 audit period found that the City's expenditures or donations were \$86,851 less than the amount actually required:

	10/08 – 09/09	10/09 – 09/10	10/10 – 04/11	Total
Strike Force *	\$138,479	\$23,800	\$161,614	\$323,894
City Attorney's Office	\$455,959	\$43,115	\$162,707	\$661,781
Total Applicable Revenues	\$594,439	\$66,915	\$324,321	\$985,675
Donation Percentage	15%	15%	15%	
Donation Amount Required	\$89,168	\$10,037	\$48,648	\$147,851
Donation Amount Paid	\$38,500	\$0	\$22,500	\$61,000
<b>Difference (Required – Paid)</b>	<b>\$50,666</b>	<b>\$10,037</b>	<b>\$26,148</b>	<b>\$86,851</b>

\* The 10/08 – 09/09 South Florida Money Laundering Strike Force (Strike Force) figure includes the \$36,154.74 inadvertently miscoded to overtime as discussed further in finding #2.

Recommendations:

General ledger account 607-8000-351210 should be renamed to show that it is subject to the Florida Contraband Forfeitures Act's stipulations. Meanwhile, another State forfeiture account that is not subject to the act should be created if and when needed.

Going forward, the Miami Beach Police Department's (MBPD) Police Chief's Office and the Financial Management Unit should more closely monitor those revenues subject to the Florida Contraband Forfeiture Act so that they can better ensure that the 15% donation provision is complied with. Also, the City Commission should consider approving the donation of at least \$86,851 in forfeiture funds in a manner that satisfies Florida Statute Section 932.7055.

Management Response:

The City Commission adopted Resolution No. 2012-27839 on 02/08/12 authorizing the donation of \$90,000 in state funds to drug and crime prevention school resources programs which satisfied the recommendations above. It is anticipated that additional requested expenditures will be brought before the City Commission close to the end of the 2011/12 fiscal year that would help ensure that the 15% expenditure/donation requirement in Florida Statute Section 932-7055 is satisfied.

2. Finding – *State Forfeiture Monies were Incorrectly Miscoded Thereby Used to Reimburse Overtime Expenditures Incurred by the Criminal Investigations Division Rather than for the Purposes Authorized in Florida Statute 932.7055*

The City of Coral Gables receives all South Florida Money Laundering Strike Force (Strike Force) forfeited monies from the State after the legal process has been exhausted which can take an indefinite amount of time. These received monies are then reduced by any amounts owed to confidential informants who aided the police in making the arrest. Additionally, some monies may be retained for budgetary purposes as the Strike Force's goal is to have enough monies to fund operations for at least one year in the future.

Any remaining forfeited funds are allocated and distributed to the participating cities, counties, agencies, etc. based on the number of assisting police officers in relation to the total as recorded on the Case Distribution Information Sheet. A physical check is attached and mailed to MBPD's Strategic Investigations Unit Captain indicating the applicable case numbers for these forfeited funds. These documents are then forwarded to the Financial Management Unit for the preparation of a Miscellaneous Cash Receipt instructing the City's Central Cashier to deposit the monies into general ledger account 607-8000-351210.

The City is also reimbursed on a quarterly basis by the City of Coral Gables upon the submittal of supporting documentation for any officers overtime hours worked with the monies deposited into general ledger account 011-1140-000135. Similarly, any participating officers' leased vehicles are also reimbursed quarterly for up to \$750 per month currently with the deposit made into general ledger account 011-1140-000323. These reimbursement monies are received from Federal grants and not from State forfeited funds so the Florida Contraband Forfeitures Act does not apply.

Any State forfeiture funds disbursed that are subject to the Florida Contraband Forfeiture Act are to be used for crime prevention, keeping neighborhoods safe, drug abuse education, drug prevention programs or such other law enforcement purposes approved by the City. It is also required that the written certification presented with a request for contraband forfeiture funds must certify that the request made by the Chief of Police complies with the provisions of Florida Statute Section 932-7055.

Testing performed on all Strike Force forfeiture, overtime and equipment leasing transactions occurring during the 10/01/08 through 04/30/11 audit period found two miscodings by MBPD's Financial Management Unit. First, the City's forfeited fund allocation of \$24,173.91 from Strike Force's case number 08-0425 was inadvertently placed into the Criminal Investigations Division's overtime general ledger account

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instead of the forfeitures account. A second similar mistake occurred during the same June 2009 time period with an \$11,980.85 payment received from case numbers 05-05830 and 05-05831. Therefore, the subsequent expenditure of this \$36,154.74 (\$24,173.91 + \$11,980.85) balance would not have been certified by the Chief of Police nor approved by the City Commission as it would have been used to reimburse overtime incurred by the Criminal Investigations Division rather than for the purposes authorized by Florida Statute Section 932.7055.

Recommendations:

The City's Finance Department should prepare a journal entry transferring \$36,154.74 from general ledger account 011-1140-000135 plus any interest that would have been earned to 607-8000-351210. The creation of City Bills in the Eden System addressed in finding #3 for overtime and vehicle leasing expenditures will help reduce the likelihood of similar miscoding from occurring. However, the unpredictable nature and amounts of State forfeited funds prevents these transactions from being processed in a similar manner. Going forward, the MBPD's Financial Management Unit should closer scrutinize these transactions to better ensure that they are processed correctly.

Management Response:

These two (2) checks were deposited incorrectly into the General Funds account 011-1140-000135 on June 5, 2009. The City's Finance Department will process the reclassification of those funds as recommended by the end of this fiscal year.

3. Finding – *The Eden System's Accounts Receivable Module is Not Used to Track and Record Reimbursable Overtime and Vehicle Leasing Expenditures*

The Strategic Investigations Unit Captain prepares Word documents requesting reimbursement for any Strike Force participating officers' overtime and vehicle leasing expenditures incurred following each quarter. Supporting documentation consisting of signed overtime logs, overtime & court attendance forms, vendor invoices, etc. would also be attached before the information was faxed to the City of Coral Gables requesting payment. Accordingly, there was no entry into the City's Eden System until the reimbursing payment was received thereby hindering the monitoring and accrual process.

Recommendations:

Separate City Bills should be timely created in the Eden System's Accounts Receivable Module for each quarter's overtime and vehicle leasing expenditures incurred. These City Bills and the aforementioned supporting documentation should then be sent to the City of Coral Gables requesting reimbursement. This more automated process would create accounts receivables in the City's Eden System to help ensure that all reimbursement payments are fully received and that the proper accruals are made in the corresponding general ledger accounts.

Management Response:

We believe that using the Eden System's Accounts Receivable Module is a viable idea. However, we will meet with all the parties involved in requesting overtime reimbursement from outside agencies to determine if there will be any anticipated negative ramifications from this change. If not, the Financial Management Unit will implement this change but it will require the timely submittal of reimbursements to be truly effective.

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**EXIT CONFERENCE**

A meeting was held to discuss the audit report and to solicit management responses noted above. Attendees included Police Chief Carlos Noriega, Assistant Police Chief Ray Martinez, Police Plans and Policies Manager Michael Gruen, Police Strategic Investigations Unit Captain Richard Clements, Internal Auditor James Sutter and Senior Auditor Mark Coolidge. All parties were in agreement as to the contents of this report. Management responses were solicited and are included above.

JS:MC:mc  
(Audit performed by Mark Coolidge, Senior Auditor)

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cc: Raymond Martinez, Assistant Chief of Police  
Richard Clements, Police Captain, Strategic Investigations Unit  
Patricia Walker, Chief Financial Officer  
Jose Smith, City Attorney