

**Office of the Public
Auditor**

Department of Public Safety
Confidential Informant Fund



**OPA Report No.
AR-15-02**



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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June 18, 2015

James C. Deleon Guerrero
Commissioner
Department of Public Safety
Commonwealth of the Northern Mariana Islands
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Caller Box 10007
Susupe, Saipan MP 96950

RE: REPORT ON THE AUDIT OF DPS CONFIDENTIAL INFORMANT FUND

Dear Commissioner Deleon Guerrero:

At your request, the Office of the Public Auditor (OPA) conducted a performance audit of the Department of Public Safety (DPS) Commonwealth Bureau of Investigation's (CBI) Confidential Informant (CI) Fund expenditures. Our performance audit disclosed that CBI is not in full compliance with the post award requirements for Confidential Funds prescribed in the Office of Justice Programs, Office of the Chief Financial Officer Financial Guide (Guide). DPS may lose future sub-grant awards for CI Funds if full compliance is not achieved. CBI is responsible for the enforcement and investigation of criminal cases within the CNMI. Any disruption to CBI's primary source of funding for confidential informant operations will certainly impact the discovery and investigation of crimes. The performance audit focused on the following objective:

To determine if CI Fund expenditures were managed in accordance with applicable policies and procedures.

RESULTS IN BRIEF

OPA compliments CBI for maintaining adequate documentation for all CI Fund expenditures; however, the CI Fund was not managed in accordance with the Guide, because DPS did not implement standard operating procedures. Specifically, the audit found that:

- Funds were used to pay unregistered informants and informant files are incomplete.
- Authorization for fund advances did not originate from the CBI Commander.
- Informant payee receipts did not conform to the Guide requirements.
- Funds were not always expended in the same category (e.g. information, evidence, or services) as advanced.
- Funds were not always returned or liquidated within 48 hours.
- Quarterly reconciliation reports are not being prepared.

Please see Appendix C for a detailed discussion of the results.

AUDITOR RECOMMENDATIONS

We recommend that DPS implement standard operating procedures to ensure that the findings are addressed, and full compliance with the Guide is met. Specifically, DPS should ensure that:

- Informants are properly registered and their files contain documents specified in the Guide. DPS should also secure its informant files to prevent loss and unauthorized access.
- Fund advances are authorized by the CBI Commander or his designee. Designation should be documented and approved by the awarding agency, if necessary, and should not disrupt proper segregation of duties.
- Informant payee receipts are approved and certified by the first-line supervisor and contain all the necessary information as prescribed by the Guide.
- Funds are expended in the same category as previously advanced. Funds should not be used for another purpose without first returning the funds and repeating the same authorization and advance process for the new purpose.
- Funds are returned or liquidated within 48 hours, unless an extension of another 48 hours is granted and properly documented. The Custodian of the funds should document the time funds are disbursed and returned, and notify the CBI Commander if funds remain outstanding for more than 48 hours.
- Quarterly reconciliation reports on the CI Fund are prepared which should include the assumed name of each informant and to what extent each informant contributed to the investigation. The reports shall be retained in the files and made available for review.

Our recommendations, if implemented, will improve the overall management of the CI Fund as it relates to applicable policies and procedures. Please see Appendix C for a detailed discussion of the recommendations.

RESPONSE IN BRIEF

The Commissioner of Public Safety agreed with all of OPA's recommendations in a response letter dated June 16, 2015. The Commissioner stated in his response, that DPS is committed to reviewing, updating, implementing, distributing, and ensuring compliance with its standard operating procedures.

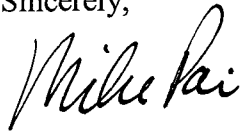
Please see Appendix D for the Agency's full response.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Background and Detailed Scope and Methodology are discussed in Appendices A and B.

The CBI personnel were very cooperative and courteous during the course of our audit. They exhibited a great desire to learn and improve. OPA sincerely thanks them for their assistance during our audit.

Sincerely,

A handwritten signature in black ink that reads "Mike Pai". The signature is written in a cursive, flowing style.

Michael Pai, CPA
Public Auditor

cc: J. Olopai, DPS CBI Commander
D. Blake
G. Tenorio

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Appendix A. Background

The Department of Public Safety (DPS), Commonwealth Bureau of Investigation (CBI) receives federal funding assistance through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program established by the U.S. Department of Justice. The JAG Program is locally administered by the CNMI Criminal Justice Planning Agency (CJPA), and is the leading source of federal funding for state and local law enforcement jurisdictions. The JAG Program provides support for numerous activities involving crime prevention, crime control, and improvements to the justice system. The JAG Program funds are administered by the CNMI Department of Finance, periodically disbursed when requested by DPS, and approved by the CJPA Director.

JAG Program funds are specifically used to support CBI operations in the areas of communication, travel, repairs, equipment, supplies, and confidential informants. Confidential Informant (CI) Funds are limited to the purchasing of evidence, information, and services involving confidential informants. The CI Fund is secured and managed by a designated Custodian who is supervised by the CBI Commander. The Custodian directly reports all matters involving CI Fund expenditures to the CBI Commander.

CI Fund expenditures made against the sub-grant award must be performed in accordance with the Office of Justice Program's Financial Guide Manual, also referred to as the Office of the Chief Financial Officer Financial Guide (Guide). The Guide provides specific provisions applicable to the administration of the CI Fund, including an approval process for fund advances, establishing and handling of informant files, and accounting and control procedures.

OPA previously conducted reviews of the CI Fund at the request of DPS management. These reviews were limited in scope and did not qualify as audits in accordance with generally accepted governmental auditing standards. OPA did not perform tests for overall compliance with grant conditions and standard operating procedures during these prior reviews.

Appendix B. Detailed Scope and Methodology

The scope of the audit included a review of all CI Fund drawdowns and expenditures made following the last cash count performed by OPA on February 4, 2014 through April 14, 2015. To achieve our objective, we performed the following:

- Gained an understanding of the following:
 - OPA's 2014 Review of the DPS CI Funds
 - 2014 JAG Program-Notification of Sub-Grant Award and Conditions
 - The JAG Office of the Chief Financial Officer Financial Guide, Section 3.12
 - The DPS Criminal Investigation Division (now CBI)-Confidential Fund Standard Operating Procedures

- Gained an understanding of the processes, systems, procedures, and internal controls used to manage CI Funds by conducting:
 - Interviews with DPS management and staff; and
 - On-site observations and process walkthroughs

- Tested CI Fund records against attributes relevant to the audit objective. Specifically, we:
 - Performed a reconciliation of the CI Fund cash balance and CI Fund Log to supporting receipts.
 - Accounted for all grant award drawdowns made to replenish CI Funds.
 - Reviewed all fund advances and fund vouchers to determine if they were properly approved and adequately supported.
 - Reviewed all advances to determine if funds were returned and/or liquidated within 48 hours.
 - Reviewed all expenditures to determine if funds were advanced and expended in the same category.
 - Examined informant payee receipts for all the required information; and
 - Confirmed with CBI whether informants are registered and their files are complete.

- Summarized audit results.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix C. Audit Results and Recommendations

1. Funds were used to pay unregistered informants and informant files are incomplete.

The Guide establishes the following:

- Anyone who receives payments charged against the purchase of evidence (P/E) or information (P/I) should be established as an informant, including anyone who may be otherwise categorized as a source of information or an informant under the control of another agency. (Chapter 3.12, *Payment to Informants*).
- Informant files should be securely established for each informant for accounting purposes and include complete documentation. (Chapter 3.12, *Informant Files*).

In reviewing the informant payee receipts, OPA was able to identify most of the informant names, however, in some instances, informant names were blacked out from the payment receipts. Using these names and the references to unidentified informant names, OPA confirmed with the CBI Narcotics Supervisor whether informants are registered and their files are complete. The results were the following:

- Seven informants have files and were registered with DPS.
- Five informants do not have files, and it could not be determined if they were registered with DPS.
- Four informants were referred to as DEA Informants, but are not registered with DPS.
- In one case, CI funds were paid to an undercover agent as though he was an informant. The agent was responsible for paying the actual informant. The informant did not sign the receipt, and it could not be determined if the informant had a file or was registered with DPS.

OPA provided a checklist to the CBI Narcotics Supervisor detailing the required documents that each informant file should contain according to the Guide. According to the CBI Narcotics Supervisor, informant files only include two out of the nine required documents and one required document was inapplicable. In an interview with the former Narcotics Section Supervisor, OPA learned that some of the informant files were destroyed as a result of a major water leak in the former CBI office.

OPA determined that DPS is not in full compliance with the Guide because DPS failed to implement and distribute standard operating procedures (SOPs) to ensure full compliance with the Guide was met. DPS' partial-compliance with the Guide may lead to a possible discontinuance of future CI Fund awards. Additionally, the likelihood of fraud, such as payments to non-existent or illegitimate informants, may occur.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to ensure that DPS fully complies with the Guide. DPS should establish and maintain the

completeness of each informant file to ensure that all informants are registered with DPS, and their files are secured to prevent loss and unauthorized access.

2. Authorization for fund advances did not originate from the CBI Commander.

According to the Guide, Chapter 3.12, *Written Procedures*, the supervisor of the unit to which the imprest fund is assigned must authorize all advances of fund.

Through testimonial evidence, OPA noted that although the CBI Commander signs off on all Confidential Fund Advance (CFA) forms, authorization of fund advances originate from the Narcotics Section Supervisor. The Custodian disclosed that the Narcotics Section Supervisor verbally authorizes CFAs and that the CBI Commander signs the CFAs as a form of acknowledgement. In some instances, the Narcotics Section Supervisor requests for fund advances and in doing so, a situation occurs where he is authorizing his own fund requests. This situation occurred because DPS did not implement and distribute SOPs to ensure compliance with the Guide. DPS noncompliance with the Guide may lead to the discontinuance of future CI Fund awards.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to ensure that the CBI Commander is the exclusive authorizing official for fund requests as required by the Guide. Should the CBI Commander designate an employee to authorize fund requests, DPS should get the approval of the grantor agency, if necessary.

3. Informant payee receipts did not conform to the Guide requirements.

Chapter 3.12, *Written Procedures* of the Guide requires the informant payee receipt to contain all of the following information:

- The jurisdiction initiating the payment
- A description of the information/evidence received
- The amount of payment in both numerical and word format
- The date on which the payment was made
- The signature of the informant payee
- The signature of the case agent or officer making payment
- The signature of at least one other officer witnessing the payment
- The signature of the first-line supervisor authorizing and certifying the payment

OPA examined 26 CFAs for P/E or P/I and noted that, 24 CFAs had at least one P/E or P/I receipt that did not conform to the Guide by either not containing all the necessary information, the required signatures, or both. OPA noted that the payee receipt form was revised and the field for an approving official was omitted. However, the Guide requires that the first line supervisor certify the payment.

OPA determined that DPS failed to implement and distribute SOPs to ensure compliance with the Guide. DPS' noncompliance with the Guide may lead to a discontinuance of future

CI Fund awards. Additionally, absence of any of the above information required by the Guide increases the likelihood for fraud, waste, and abuse of funds.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to comply with the Guide by requiring that:

- Informant payee receipt forms contain fields for all the required information; and
- Officers or case agents provide all the required information when preparing informant payee receipts.

4. Funds were not always expended in the same category as advanced.

According to Chapter 3.12, *Accounting and Control Procedures* of the Guide:

- It is important that expenditures identified as P/E, P/I, and purchase of service (P/S) expenses are in fact allocated and charged to the proper category. This is the only way that these funds may be properly managed at all levels and accurate projections of future needs be made.
- Funds for P/E, P/I, and P/S expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. The funds should not be used for another purpose (including another category) without first returning them and repeating the authorization and advance process based on the new purpose.

OPA examined 35 CFAs and noted that four CFAs were not expended in the same category as indicated on the CFA. For example, CFA 14-15 indicated that the fund advances were authorized to be expended for P/E; however, the Confidential Fund Voucher (CFV) indicated that funds were expended for P/I.

OPA determined that DPS failed to implement and distribute SOPs to ensure compliance with the Guide. DPS' noncompliance with the Guide may lead to a discontinuance of future CI Fund awards.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to include the Guide requirement of expending CI Funds in the same category indicated on the CFAs. Funds should not be used for another category without first returning them and repeating the authorization and advance process based on the new purpose.

5. Funds were not always returned or liquidated within 48 hours.

According to Chapter 3.12, *Accounting and Control Procedures* of the Guide:

- For security purposes, there should be a 48-hour limit on the amount of time for which funds advanced for P/E, P/I, or P/S expenditure may be held outstanding. Within 48 hours of the advance, the fund cashier should be presented with either the

unexpended funds, an executed receipt for P/E or P/I, or written notification by management that an extension of an additional 48 hours has been granted.

OPA was unable to accurately determine whether fund advances were expended within the 48-hour requirement, because the CFAs and CFVs lacked the specific time when funds were advanced and liquidated. Therefore, examining only the dates of 35 CFAs and CFVs, OPA noted that three were not liquidated within the two days following the CFA date. CFA numbers 14-08, 14-16, and 14-17 were three days, 24 days, and 32 days late, respectively. No extension was documented for CFA 14-08.

OPA determined that DPS failed to implement SOPs to ensure compliance with the Guide. DPS' noncompliance with the Guide may lead to a discontinuance of future CI Fund awards. The failure to accurately monitor and properly enforce the 48-hour limitation creates an opportunity for the abuse of funds.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to require the Custodian to document the time and date on the CFAs and CFVs so that timely liquidation of fund advances are accurately monitored and achieved within the 48-hour limit according to the Guide. In addition, OPA recommends that the CBI Commander be notified if any advances remain outstanding for more than 48 hours.

6. **Quarterly reconciliation reports are not being prepared.**

According to Chapter 3.12, *Written Procedures* of the Guide, each Project Director must prepare a reconciliation report on the imprest fund on a quarterly basis:

- The reconciliation report must include the assumed name of each informant given and to what extent each informant contributed to the investigation.
- Recipients should retain the reconciliation report in their files and have it available for review.
- Sub-recipients should retain the reconciliation report in their files and have it available for review, unless the State agency requests that the report be submitted to them on a quarterly basis.

Testimonial evidence indicated that the CBI Commander does not prepare quarterly reconciliation reports on the CI Fund. Although the request letters for grant drawdowns that DPS submits to the Secretary of Finance provides a report-like detailed breakdown of expenditures, it does not provide information required by the Guide.

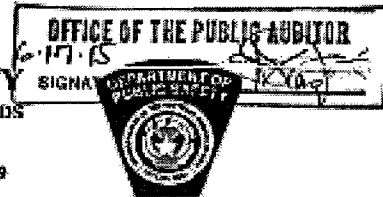
OPA determined that DPS failed to implement and distribute SOPs to ensure compliance with the Guide. DPS' non-compliance with the Guide may lead to a discontinuance of future CI Fund awards.

Recommendation: OPA recommends that DPS update and implement its existing SOPs to comply with the Guide, requiring the CBI Commander to prepare quarterly reconciliation reports on the CI Fund. Quarterly reconciliation reports should include the assumed name of each informant and to what extent each informant contributed to the investigation. The report shall be filed and made available for review.

Appendix D. Agency's Response



DEPARTMENT OF PUBLIC SAFETY
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June 16, 2015

David J. Blake, CPA
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*Subject: Response to the Office of the Public Auditor's Report on the Audit of the
Department of Public Safety's Confidential Informant Fund*

.....
Hafa Adai Mr. Blake:

Thank you for your letter and copy of the Office of the Public Auditor's draft report on the Department of Public Safety's Confidential Informant Fund. I have reviewed the report and concur with it in its entirety, including the contents of each of its six specific recommendations.

I will continue to work with the Commonwealth Bureau of Investigations regarding the proper and secure registration of confidential informants. The Department of Public Safety is also committed to reviewing, updating, implementing, distributing, and ensuring compliance with its Standard Operating Procedures (SOPs), as well as creating necessary new SOPs.

Thank you again for performing this audit and for the opportunity to comment on your report.

Should you have any concerns, questions or comments, please do not hesitate to contact me at telephone number (670) 664-9022.

Sincerely,


JAMES C. DELEON GUERRERO
Commissioner, CNMI Department of Public Safety

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Department of Public Safety Confidential Informant Fund
Report No. AR-15-02, June 2015

ACKNOWLEDGEMENTS

Key contributions to this report were made by:

Joaquin Borja, Auditor
Thomas Borja, Auditor
Geraldine Tenorio, CGAP, Audit Supervisor
David Blake, CPA, Audit Manager
Michael Pai, CPA, Public Auditor

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