

**REPORT OF THE METRO GANG  
STRIKE FORCE REVIEW PANEL**

**AUGUST 20, 2009**

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## **REPORT OF THE METRO GANG STRIKE FORCE REVIEW PANEL**

### **Panel Members**

Andrew Luger

John Egelhof

### **INTRODUCTION**

This Report constitutes the findings and recommendations of the Metro Gang Strike Force Review Panel. The Panel was formed on May 26, 2009 at the request of the Commissioner of Public Safety, Michael Campion. The two members of the Review Panel are:

*Andrew M. Luger.* Mr. Luger is a former federal prosecutor and partner with the Minneapolis litigation firm of Greene Espel P.L.L.P. Mr. Luger received his B.A. from Amherst College and his law degree from the Georgetown University Law Center. In 1989, after three years in private practice in New York City, Mr. Luger was appointed an Assistant United States Attorney in the Eastern District of New York. As a federal prosecutor in New York, Mr. Luger investigated and prosecuted drug and violent crimes, white collar crimes and international financial crimes. In 1992, Mr. Luger was appointed an Assistant United States Attorney in Minnesota, focusing on white collar investigations and prosecutions. In 1995, Mr. Luger joined Greene Espel where his practice is comprised of internal investigations, business litigation and white collar criminal defense.

*John Patrick Egelhof.* Mr. Egelhof retired from the Federal Bureau of Investigation in 2008 following 28 years service. Mr. Egelhof joined the FBI in 1980, serving in Washington, D.C. and New York City before being appointed as a Special Agent in 1984. He served as a Special Agent in Richmond, Virginia, where he ran a fugitive task force; Boston, Massachusetts, as a member of an Armored Car/Bank Robbery Task Force; Concord, New Hampshire and finally Bemidji, Minnesota. Mr. Egelhof served as a member of an Evidence Response Team and as a SWAT operator for two FBI field divisions. In 2005, he started the Headwaters Safe Trails Task Force, composed of federal/state/local and tribal officers who targeted violent, drug and gun crimes on the three reservations near Bemidji. Following his retirement, Mr. Egelhof taught for the Department of Justice's International Criminal Investigative Training and Assistance Program as a law enforcement instructor in Pakistan, and as an instructor for the FBI. Since 2009 he has worked as a Private Detective under JP Egelhof Investigations, LLC.

The Panel was formed following the May 20, 2009 Financial Audit Division Report by the Office of the Legislative Auditor (the "Legislative Auditor's Report"). The Legislative Auditor's Report concluded that:

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 Legislative Auditor then listed eleven specific findings and recommendations concerning various aspects of the Strike Force's operations and oversight. A copy of the Legislative Auditor's Report is attached to this Report as Exhibit A.

Following the issuance of the Legislative Auditor's report, on the night of May 20, a number of Strike Force officers were observed shredding documents at the Strike Force offices. At that time, the Commissioner of the Department of Public Safety shut down the Strike Force pending further investigation by this Panel and the F.B.I.

### *The Panel's Scope of Work*

This Panel was originally charged by the Commissioner of Public Safety with: (1) recommending policies and procedures to implement the findings of the Legislative Auditor so that the Strike Force could be re-opened in early July; and (2) conducting an investigation into the conduct giving rise to the auditor's findings. The Commissioner requested that the Panel report any potentially criminal conduct to the F.B.I. The Panel was tasked to work independently and to report back to the Commissioner as to its findings and recommendations.<sup>1</sup>

Implicit in the Panel's scope of work was the presumption that the Strike Force would be re-opened under the pre-May 2009 configuration with the same Advisory Board and similar structure. Shortly after undertaking its work, however, the Panel learned of credible allegations of misconduct relating to Strike Force employees that went beyond the findings of the Legislative Auditor. These allegations raised serious questions regarding the Strike Force's operations. Consequently, on June 11, 2009, the Panel issued a Preliminary Report recommending that the Department of Public Safety not re-open the Strike Force under its current structure during the pendency of the Panel's investigation. A copy of the Panel's June 11, 2009 Preliminary Report is attached to this Report as Exhibit B.

Following the Panel's Preliminary Report, and consistent with the Panel's recommendation, on June 11, 2009 the Department of Public Safety announced that it would open a temporary gang strike force that would operate out of the offices of the Minnesota Bureau of Criminal Apprehension ("BCA"), utilizing the BCA's evidence room and policies and procedures. Shortly thereafter, some law enforcement agencies announced that they would end their participation in the Metro Gang Strike Force. As a result of these and other developments, the Department of Public Safety announced that it would cancel plans to open a temporary gang strike force.

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<sup>1</sup> This Report contains the independent Findings, Conclusions and Recommendations of the two Panel members.

## *The Panel's Work Plan*

The Panel's efforts were focused on determining whether officers and employees at the Strike Force engaged in inappropriate conduct beyond that exposed by the Legislative Auditor's report, as well developing an understanding of the root causes for any misconduct. The Panel also developed recommendations regarding the future of multi-jurisdictional anti-gang efforts. In performing our work, the Panel:

- Interviewed former Strike Force officers and employees<sup>2</sup>;
- Conducted a thorough inventory of the evidence room at the Strike Force's offices;
- Located and documented the existence of evidence at the Strike Force's offices outside of the evidence room;
- Reviewed hundreds of case files as well as other records maintained by the Strike Force<sup>3</sup>;
- Interviewed private individuals who interacted with the Strike Force;
- Interviewed Advisory Board members;
- Compared evidence found in the Strike Force offices with evidence-related information in case files; and
- Discussed with law enforcement officials and others the structural causes for the failures at the Strike Force and ideas for avoiding such problems in the future.

The Panel wishes to express its appreciation for the cooperation of law enforcement officials from the agencies participating in the Strike Force. Sheriffs, Police Chiefs and their deputies were always available to speak with us on short notice and provided us with valuable assistance in our investigation. We are similarly appreciative of the assistance provided by the staffs of the Legislative Auditor and the Office of the Attorney General. The Panel is also grateful for the many hours of hard work provided by various employees and interns working for the Department of Public Safety. This Report would not be possible without their help.

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<sup>2</sup> A number of Strike Force officers and employees declined the Panel's requests for an interview.

<sup>3</sup> Many of the case files contained little documentation to explain the work performed on that matter. These poorly documented cases often made it difficult for the Panel to understand and comment on particular investigations.

## **OVERVIEW OF THE REVIEW PANEL'S FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

As we detail in this report, the Panel found extensive evidence that the Strike Force conducted important and well thought out investigations of suspected gang members and that the Strike Force, and particularly its Commander, engaged in extensive training and other educational activities related to gangs. This work benefited the community and was commendable. At the same time, however, the Panel uncovered substantial evidence of misconduct by Strike Force employees. For all of the good work that Strike Force employees accomplished, it is this misconduct that will always be associated with the Metro Gang Strike Force. While this is regrettable, it is also understandable. Minnesotans have rightfully come to expect the best from law enforcement. And they should. The behavior uncovered by this Panel is deeply disturbing and must be addressed by law enforcement leaders, policy makers and the community. We hope that this Report contributes to a dialogue that ensures such behavior does not occur in Minnesota again.

The following is a summary of the Panel's findings and recommendations, reached after conducting extensive interviews, reviewing volumes of evidence and hundreds of case files and analyzing the operations and work of the Strike Force:

- **Evidence Issues**

1. Employees, including sworn officers, repeatedly took property obtained during searches for their own personal use. These items included, among other things, flat screen and large screen televisions, laptops and other computer equipment, electronics, jewelry and recreational items. On a few occasions, officers returned property to the Strike Force offices when others made an issue of their conduct. Some of the items removed by officers for their personal use were items that were stolen by a defendant in a case, and could have been returned to their rightful owner.
2. On a number of occasions, officers or their family members were permitted to purchase, at low prices, items from the evidence room including flat screen and large screen televisions, jet skis, a trailer and other items.
3. Substantial quantities of evidence that should still be in the evidence room are missing. These include televisions, electronic equipment, computer equipment, recreational items and jewelry.
4. A large number of valuable items found both in and outside of the evidence room are falsely reported to have been destroyed in Strike Force case files.
5. Many items that were seized by the Strike Force, including narcotics, were never entered into evidence and were found in the offices outside of the evidence room.

6. Certain items, such as two firearms, were found outside of the evidence room and cannot be traced to any individual case.
- **Issues Related to Interactions With Individuals**
    1. Members of the Strike Force engaged in “saturation” details that originally involved providing a law enforcement presence at locations where suspected gang members were expected to congregate. Over time, these saturation details grew to include stops of individuals who had no connection to gang activity, along with searches of these individuals and seizures of money and property.
    2. As the saturation details grew to include stops that were not gang-related, Strike Force officers began to seize funds from those stopped, regardless of any intent to file charges against the people stopped and without regard to whether the funds could reasonably be connected to illegal activity.
    3. On a number of occasions, individuals stopped during these saturation details were in possession of small amounts of marijuana, amounts associated with personal use. Invariably, when money was found during one of these searches – whether the person possessed marijuana or not – the money was taken by the Strike Force officers.
    4. Many of the files we reviewed included no information to suggest that the people stopped and searched had any gang connection or that they could provide the officers with gang-related information.
    5. On repeated occasions during these saturation detail stops, Strike Force officers searched the cell phones of the individuals who were stopped. Many of these individuals were not arrested, but merely stopped on the street or at an event. Officers searched their cell phones without a warrant.
    6. Strike Force officers regularly required individuals stopped during saturation details to be photographed with Metro Gang Strike Force identification placed in the picture. These photographs included pictures of children and others with no known gang connections.
    7. During searches conducted pursuant to lawfully obtained warrants, Strike Force officers often seized money and personal items (including televisions, computer equipment and jewelry) that, based on our review, bore no relation to the matter under investigation and could not be tied to criminal activity. On at least one occasion, seized property was later ordered returned but was missing from the Strike Force offices.



- **Additional Issues**

1. There is reason to believe that at least one employee of the Strike Force repeatedly accessed the National Criminal Information Center database at the Strike Force's offices for non-governmental purposes.
2. Of the \$18,126 in funds that the Legislative Auditor was unable to account for during their review, the Panel is still unable to account for \$10,781<sup>4</sup>.
3. A relative of a Strike Force employee had regular access to the Strike Force offices and was observed handling seized property.
4. In late 2008, Strike Force officers were asked to sign blank forms permitting the evidence in their cases to be destroyed. Once these documents were signed, Strike Force personnel placed forms noting that evidence was destroyed into files in which the evidence was not, in fact, destroyed.
5. On the day that the Legislative Auditor's report was released, a number of Strike Force officers shredded documents and most likely placed a large amount of additional material in bins inside the Strike Force offices for shredding by a professional firm. These bins were full when reviewed by this Panel shortly thereafter. The bins included material relevant to numerous cases, including one entire case file. Additionally, sensitive material, including official case material, old items of evidence, at least two live rounds of ammunition and sensitive information about a Strike Force officer were placed in a publicly accessible dumpster outside of the Strike Force's offices.
6. In the days following the Legislative Auditor's report, a Strike Force employee tried to delete a file relating to confidential informants working with the Strike Force.
7. The day after the Legislative Auditor's report, a Strike Force officer caused a local crime lab to test narcotics purportedly from a number of cases dating back up to 8 years. Only some of these were active cases and some had little or no documentation in the file. In some cases, the narcotics sent for testing did not relate to the case designated by the officer. Two days after the Report, the lab faxed the results of these narcotics to the Strike Force offices.
8. In many of the case files we reviewed, the file begins and ends with a stop and a seizure, or a search and a seizure. In these cases, there is no apparent follow-up investigation and no attempt to bring the matter to a prosecutor. Although thousands of dollars may have been seized, along with jewelry, electronics and

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<sup>4</sup> We have located no documentation detailing what happened to these remaining funds. This money could have been used for Strike Force purposes, but we are unable to make a determination one way or the other in this regard.

other items, in these cases there was no apparent further action taken and, in many cases, nothing done to return the property taken during the search at the conclusion of the case.<sup>5</sup>

9. Many case files we reviewed were severely lacking: (1) information about searches and seizures; (2) information about the involvement of informants; (3) evidence tracking; (4) case status; and (5) communications with prosecutors. There are many cases in which the file is completely empty, including cases in which the Panel was able to obtain information from other sources to show that there was substantial activity in the case.

- **Causes of the Problems at the Strike Force**

1. In 2003, the predecessor to the Strike Force lost much of its state funding. Some working at the Strike Force developed a mentality that forfeiture funds were necessary to make certain the Strike Force would survive. For those who adopted this mentality, the seizure of funds became a priority.
2. Some Strike Force employees used the term “money police” to describe their focus on financial seizures.
3. The saturation details employed by the Strike Force were ill-defined and not well supervised. The lack of definition and supervision, coupled with the perceived need to obtain forfeiture funds for the operation of the Strike Force, led some officers to turn an otherwise useful technique for lowering gang violence into what appears to the Panel to be an opportunity to obtain money from people with no gang association.
4. The Strike Force was not directed or administered by any one law enforcement agency and therefore was not accountable to any specific police or Sheriff’s office or any civilian review panel or similar body.
5. The Strike Force had far less internal supervision than a standard metro area police or Sheriff’s office of comparable size.
6. Advisory Board members were focused on running their own agencies, and had insufficient time to oversee a large independent police force.
7. The Strike Force had little administrative support and no clerical staff with sufficient training and experience in law enforcement best practices relating to the handling of evidence and seized funds.

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<sup>5</sup> The Panel has been informed that some officers may have kept additional files at their home agencies. It is possible that these additional files, if they exist, may shed additional light on the work performed in these investigations.

8. The Strike Force did not have a functional Record Management System in place, nor a uniform reporting method for its officers. Strike Force officers were unable to perform routine tasks using computers such as name checks or to determine whether another officer had prior contact with an individual or a location.
9. As a result of issues 1-8 above, some Strike Force officers engaged in conduct that would be unthinkable at their home agencies. As the conduct continued without challenge, it appears to have increased over time.

- **Recommendations of the Review Panel**

1. **Stand Alone Strike Forces.** The Panel recommends against the continued use of stand alone strike forces not administered and directed by any specific law enforcement agency. The lack of accountability and supervision with a stand alone force is too problematic, even if some can function well on occasion. Should law enforcement want to utilize stand alone forces in the future, we recommend that a prosecutor participate in the strike force, overseeing its investigations and tactics. Any stand alone strike force should be staffed by personnel with significant experience in the handling of evidence and the processing of forfeitures. The strike force should be audited by experienced professionals who oversee these matters at other law enforcement agencies and should be given a short time to correct deficiencies. If staffing is inadequate to handle evidence, funds and forfeitures, the strike force should be shut down.
2. **Forfeitures.** The Panel recommends against the use of forfeitures as a significant factor in the funding of a law enforcement agency or strike force. The Panel also recommends that the legislature examine whether Minnesota's current forfeiture statute should be revised to provide more protections against the type of conduct described in this Report. We also recommend that law enforcement adopt best practices guidelines regarding forfeitures – guidelines that would deter the type of conduct that occurred here.
3. **Saturation Details.** The use of saturation details should be carefully supervised by an officer present on the scene to prevent the type of conduct discussed in this Report. Saturation details should have a narrowly-defined scope and purpose and the officers involved should be carefully briefed on their tasks and role.
4. **Appointment of a Special Master.** We recommend the appointment of a Special Master to administer the funds that remain in various Strike Force-related forfeiture accounts and to insure the proper disposition of other evidence and personal property currently in the possession of the Strike Force. The Special Master should be charged with returning funds and property to individuals in situations where the funds and property were not submitted to forfeiture and where the individuals were not given proper notice of their right to challenge a seizure.

5. **Anti-Gang Efforts in the Future.** We also recommend that the Commissioner of Public Safety convene a meeting of law enforcement officials and local prosecutors to create a new approach to investigating gangs across jurisdictional lines. The new approach should involve coordinated efforts at information sharing and the ability to coordinate investigations and prosecutions.

## **THE METRO GANG STRIKE FORCE REVIEW PANEL'S FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

### *Background*

The Metro Gang Strike Force was created by the Minnesota Legislature in 2005. The Mission of the Strike Force is restated a number of times, and is summarized in the “Joint Powers Agreement Creating the Metro Gang Strike Force” as follows:

The Metro Gang Strike Force (hereinafter “MGSF”) is hereby established by the Parties to coordinate efforts to prevent gang activity; and investigate, apprehend and prosecute those individuals engaged in such crimes which could be defined as gang related or crimes committed for the benefit of a gang.

This definition of the Strike Force’s mission is consistent with the understanding of Strike Force Advisory Board members as to what they believed their officers were doing while assigned to the Strike Force. As board members explained to the Panel, they believed that the officers assigned to the Strike Force were engaged in gang-related investigations and prosecutions, and that their work was designed to prevent gang violence and develop information on gangs that could be used in state and federal prosecutions. The board members we spoke with explained that they were not told that Strike Force officers were spending a great deal of time on matters having nothing to do with the investigation of gangs.

Prior to its formation in 2005, the Strike Force was part of the Minnesota Gang Strike Force. In 2003, the Minnesota Gang Strike Force lost much of its funding from the state legislature. At that time, the Minnesota Gang Strike Force relied on a variety of sources for funding, including forfeitures. Officers familiar with the Minnesota and Metro Gang Strike Forces told the Panel that many who worked at the two Strike Forces developed a “depression era” mentality about funding that included constant concern that the entities would not survive financially. According to the people who spoke with us about this topic, the concern about the ability to fund the Strike Forces’ operations most likely led to the increased focus on forfeitures as a revenue source.

### *Two Strike Forces*

During our review, the members of the Panel were repeatedly struck by the contrast between the hard and thorough work of some Strike Force officers on gang-related cases and the unfocused, and sometimes unethical and highly questionable conduct of others engaged in saturation details and stops and searches unrelated to gang activity. The contrast is so great, that it appeared as though there were in fact two Strike Forces: one that adhered to the mission set out in the Joint Powers agreements, and one that functioned as an independent police force with few constraints.

In the dialogue that follows the issuance of this Report, it is our hope that the good work of the “first” Strike Force is not lost on the public and policy makers. Despite the egregious conduct of some, the Strike Force made positive contributions in a number of ways. As policy makers consider the needs of law enforcement in fighting gangs going forward, they must take into account the need for these types of positive efforts.

As to the contributions of the Strike Force, our review indicates that:

- Many Strike Force officers worked hard to develop gang-related intelligence that led to important investigations and prosecutions. In support of this work, Strike Force officers coordinated activities with other state, local and federal law enforcement agencies and prosecutors and contributed to successful gang prosecutions. In addition, Strike Force officers coordinated the sharing of gang-related information among a variety of law enforcement bodies and often assisted local police forces through the dissemination of important information.
- Strike Force officers cooperated with investigations outside of the metro area when called upon by other jurisdictions and lent their knowledge and expertise to the efforts of others.
- Strike Force officers, most notably the Commander, willingly gave their time to outreach efforts with schools, non-profits and others to describe efforts and techniques useful to prevent the spread of gangs.

At the same time, these constructive and laudable efforts cannot mask the stain created by the highly questionable conduct described in this Report, the conduct of that “second” Strike Force. As we reviewed documents, members of the Panel were struck by how many cases had no connection to any gang activity and could not be reconciled with the mission of the Strike Force. The Strike Force’s mission does not support the creation of roving “saturation” details that stop people for traffic violations or seize the funds of an undocumented alien who has committed no other offense. Yet this is what we found, many times over. The mission of the Strike Force does not contemplate officers seizing large quantities of personal items during the execution of search warrants without any effort to tie these items to criminal activity. Yet this was a regular occurrence. And the mission of the Strike Force does not authorize officers to take seized items home or purchase these items for their own personal use. But this is what happened, time and again.

In this Report, we will provide examples of the egregious conduct we conclude took place at the Strike Force. As professionals who have worked closely with law enforcement, we have nothing but the greatest respect for the work that police officers, investigators and sheriff’s deputies perform on a daily basis. Nothing that we found during this investigation changes our views. Yet, something went terribly wrong at the Metro Gang Strike Force, and it should not be allowed to happen again. The misconduct we discovered during the course of our investigation was appalling and outrageous. We provide details about this misconduct, and suggestions for how to avoid it in the future. There are many lessons to be learned from the misconduct that

occurred at the Strike Force, and, in this Report, we provide our thoughts and recommendations concerning those lessons.

### *The Panel's Work*

Upon formation of the Panel in late May 2009, the Panel members set out a work plan and methodology for organizing our efforts, making findings and reaching conclusions. The plan and methodology are set forth below:

- First, based on the findings contained in the Legislative Auditor's report and our own initial observations, we conducted a thorough inventory of the items in the evidence room.<sup>6</sup>
- Next, we made every effort to match items found in the evidence room to specific case files at the Strike Force offices.
- In addition, we conducted a review and inventory of all evidence (such as weapons, narcotics, photos) and other property related to the work of the Strike Force found in lockers, desks and other areas outside of the evidence room.
- Early on, the Panel obtained the work papers of the Legislative Auditor and the work files related to audits performed by the Department of Public Safety. We reviewed these documents to determine potential problem areas warranting further investigation.
- At the same time as we were conducting evidence and property inventories and reviewing the work performed in prior audits, we began to review select case files. The case files we reviewed consisted of the following:
  - Case files related to evidence logged into the Strike Force evidence room where items were missing and could not be accounted for;
  - Case files related to seizures and forfeitures questioned in prior audits, including files identified as containing "unclaimed evidence";
  - Case files that were believed to provide information concerning unidentified evidence found both in and outside of the evidence room; and
  - Case files reviewed as a result of information obtained from a witness or other information.
- We also reviewed a number of files and documents related to how Strike Force employees and supervisors addressed evidence and procedural issues.
- We obtained records from an on-line auction company utilized by the Strike Force for the sale of property and interviewed the principal of that company.

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<sup>6</sup> This work was performed by Panel Member Egelhof with the assistance of employees and interns from the Department of Public Safety. Given the disorganized state of the evidence room, the inventory took many weeks to complete.

- As we reviewed evidence, prior audits and case files, we identified a number of Strike Force employees and individuals not employed by the Strike Force for interview. We then contacted these individuals to request an interview. A number of Strike Force employees chose not to grant us interviews.
- Lawyers representing individuals who interacted with the Strike Force contacted us to discuss issues related to the Strike Force. We interviewed a number of these individuals.
- We received information relevant to our inquiries from the Office of the Attorney General and the Legislative Auditor.
- Our efforts to reconstruct the activities of Strike Force employees and to understand the rationale for certain actions were repeatedly hindered by the lack of useful documentation in case files.
- Finally, we reviewed certain policy questions with Strike Force Advisory Board members to determine whether they were aware of certain conduct and to understand their views regarding some of the allegations we were investigating.

#### *The Panel's Methodology for Making Findings*

During the course of our work, we were presented with many allegations, rumors and suggestions of misconduct by Strike Force officers. We were determined not to allow individual agendas or pure rumor to affect our work, and therefore put into place a protocol for reaching findings and conclusions:

- Whenever possible, we looked for documents or information that would either support or refute an allegation. If we came across a document or information that appeared to be legitimate and disproved an allegation, we did not include that allegation in our Report.
- No allegation was included in the Report unless it was confirmed by at least two sources. On most occasions, allegations were confirmed by more than two sources. On those occasions in which only two sources provided information regarding an allegation, we relied on additional information gathered from documents and other sources to consider the credibility of the allegation.
- As noted above, we met with individuals who interacted with the Strike Force to learn about their encounters. Some we found credible, others less so. If we had any question about the reliability of their information or could not substantiate their allegations through independent means, we did not include their allegations in the Report.
- After gathering the information described above, the Panel members considered the various allegations and areas of inquiry and reached a consensus as to what should be contained in this Report.



## ALLEGATIONS RELATED TO THE SEIZURE AND HANDLING OF EVIDENCE AND PROPERTY

It is difficult to classify, in terms of severity, the areas of misconduct revealed by this investigation. At the outset, however, we want to make clear that we found the allegations related to the handling of evidence to be shocking. Searches – whether conducted pursuant to a warrant or other lawful means – are so highly intrusive that there is an entire body of constitutional law related just to this subject. Law enforcement officers, prosecutors and judges receive extensive training on the law related to searches and the seizure of property. Given the amount of attention and training dedicated to Fourth Amendment issues within law enforcement, there is no excuse for the cavalier attitude displayed by some in the Strike Force with respect to the execution of search warrants and the treatment of seized evidence. The training provided to officers, prosecutors and judges is designed to ensure that all involved in our criminal justice system understand and respect the delicate balance between the legitimate and important needs of law enforcement to investigate and prosecute criminal activity and the profound concern for individual rights and liberties set forth in the United States Constitution. Based on our review, it is clear that some officers at the Strike Force lost sight of this delicate balance.

While our focus on problems related to searches and seizures led us to many areas, we began our inquiry by examining the troublesome and undefined category of “unclaimed evidence.” Strike Force documents – whether in case files or in separate files dedicated to evidence issues – listed items seized during searches and placed them into different categories. Some items were held for use in court cases while others were submitted for forfeiture, destroyed or sold at auction.<sup>7</sup> Other items were simply listed as “unclaimed evidence.” Because the category “unclaimed evidence” was not defined in any Strike Force documents we reviewed, and there was such a substantial amount of “unclaimed evidence” identified in the files, we spent time tracing the origins of these items, as well as their disposition. Our findings reflect the many problems we uncovered as we conducted our research into this category of seized property.

Unclaimed evidence, for the most part, turned out to represent money and property seized during the execution of search warrants or taken during the stop of an individual but not needed for court cases and not submitted to the Attorney General for forfeiture. In many cases involving unclaimed evidence, it does not appear that Strike Force officers provided the owner with notification of their right to contest the seizure and forfeiture.<sup>8</sup> It is therefore not surprising that much property went unclaimed – the people who could make the claim were not informed of their right to do so and no attempt was made to let them know that the property was available to

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<sup>7</sup> Currency, automobiles and certain valuable items are subject to administrative forfeiture when they are seized pursuant to a lawful search in a narcotics case. Once law enforcement provides notice of the seizure and intent to forfeit the items, these items are presumed to be subject to forfeiture unless challenged by the owner. The owner has 60 days to challenge the forfeiture through a demand for a judicial determination of the forfeiture and must then establish that the items were not the proceeds of criminal activity nor intended for use in a narcotics transaction.

<sup>8</sup> On occasion, there was a last minute attempt to fix the problem by contacting the owner of the property at the end of an investigation.

be released to them. In a significant number of Strike Force cases, there was no follow-up investigation or prosecution, and thus no need for the property as evidence.

Given the extraordinary volume of property that Strike Force officers seized, and the fact that so much of this property had no apparent nexus to criminal activity and was of no evidentiary value, we explored why Strike Force officers would seize it in the first place. We found two explanations, both deeply concerning.

### *Taking Property Officers Believed People Did Not “Deserve” to Own*

The first explanation for Strike Force officers seizing such a large volume of material that was not needed as evidence comes from a mindset that developed within the Strike Force. This mindset was described by the Commander of the Strike Force in a candid assessment provided to the Legislative Auditor. In his interview with the Legislative Auditor, the Commander was asked about the term “unclaimed evidence” and was asked to distinguish between property constituting evidence and other items seized for forfeiture. His forthright response provides an insight into why some officers engaged in the troubling practice of seizing items unrelated to their cases:

Q: Okay. Now we’ve heard different terminology. We heard unclaimed evidence, we heard seizures, we heard forfeitures, we heard evidence. So how, when your guys go out to do a search warrant or a bust, how is the property that is seized identified either as evidence or forfeiture? Or is there a distinct line there?

A: I can’t speak to the person that was out there and what was in their mind. If something is pertinent to the charge, we got a gun and we’re charging the guy with an assault with a gun, that would go under the, you know, evidence, cause that would be used in court. They go out to a – some mope, he’s a dope dealer, he’s never had a job and he’s got this whole array of stuff that’s really neat, that’s better than the stuff the copper’s got in his house, and they have this thing that they don’t deserve so we’re going to take it, we’re going to forfeit it. You know. That’s just the mentality of the coppers. So you almost have to tell ‘em, quit taking stuff, you know, just take the, you know.

In our review of Strike Force case files, we found much support for the notion, expressed by the Commander, that some Strike Force officers were engaged in the practice of seizing items that were “really neat” and that officers clearly believed the individual did not “deserve” to have. In many cases, the Commander’s explanation appears to be the only one that makes sense. Because officers appeared to seize a large number of personal items from suspects without any consideration of how the personal items might relate to any criminal activity, one is left with the distinct impression that officers simply believed that the owner did not “deserve” to possess those items.

Items that appear to fit this description – that is, items the owner did not deserve to have – included: tools, jewelry, appliances, televisions, computer equipment, electronics equipment and recreational items such as an ice auger. The Panel was struck by the number of

large screen and flat screen televisions, along with electronics and computer equipment, that officers seized in case after case.

Notably, the Commander was not the only one to spot this problem. Some officers we interviewed expressed their own concerns about the nature of the seizures they observed. Some told us that they refused to participate in these broad seizures, and, when assigned to certain search teams, preferred to wait outside while a search was conducted.

### *Taking Items for Officers' Personal Use*

The Commander's candid statement explained one reason why officers might want to seize items that they did not intend to use as evidence and did not plan to submit for forfeiture. But, we learned, there was another.

The problems at the Strike Force did not end with the overbroad execution of search warrants. Strike Force officers also crossed the line when handling evidence. Interviews with Strike Force employees revealed that officers and employees routinely took property for their personal use. Sometimes officers and employees literally took these items home, while on other occasions they paid for them. Indeed, at the Strike Force offices, we located some isolated records, some of which were handwritten, confirming the sale of items such as televisions, jet skis, trailers, tools, and a washer/dryer to Strike Force employees. Witnesses described that it was common for Strike Force employees to take home televisions and computer equipment, among other items. One witness described it as a "free for all."

There can be no ambiguity regarding this conduct. No professional law enforcement agency allows employees to take seized evidence home for their personal use. Similarly, law enforcement agencies do not allow for private sales of seized property to their employees. Many do not even allow officers to bid on seized evidence sold at public auction. Moreover, this conduct directly violated the policies and procedures governing the Strike Force. The "Operating Procedures and Guidelines" adopted by the Minnesota State Gang/Drug Oversight Council on May 2, 2006 provides for the disposition of evidence at the end of a case.

*3-14.10 Disposal of Evidence.* When no longer needed for evidentiary purposes, all evidence, except contraband and forfeited property, shall be returned to the owner unless title to the evidence has been transferred by court order or in another lawful manner, or the lawful owner fails to claim the evidence within sixty (60) days of notification. In such cases, the Task Force may:

- Destroy it;
- Dispose of it at public auction;
- Retain it for use by the appropriate jurisdiction.

The Guidelines contain no provision allowing officers to keep seized evidence or to buy it from the Strike Force itself.<sup>9</sup>

Moreover, there may have been some attempt to hide who was purchasing items. One handwritten list we found simply included a list of items sold (two television sets and one chainsaw), the cases the items came from and the amounts (\$30 and \$25 each for the televisions, \$35 for the chainsaw). Conspicuously absent from this brief report was any mention of who purchased the items. On other occasions, items were purchased using money orders, cashier checks or third party checks.

Finally, our review of the evidence room supports the conclusion that many items were taken by Strike Force employees. When the inventory of evidence at the Strike Force offices was complete, we found many items that were listed as being in the Strike Force evidence room that we could not locate. There is no record of these items being destroyed or sent to auction. They are simply missing. We also found many other items of evidence that could not be linked to any specific case. We designated these items as “unidentified” evidence. Some of these items were found in officers’ desks, lockers and other locations in the Strike Force offices.

We then compiled a list of possible “missing” and “unidentified” evidence. We reviewed the case files connected to those items where possible. Because the Strike Force was permitted to auction off evidence at the end of a case, however, we compared our preliminary “missing” evidence list with the list of items sent to auction<sup>10</sup>, and with the items on the “unidentified” list in attempt to determine whether items were truly missing. This process took many weeks to complete. At the end of this process, we were able to identify some items originally thought to be missing that might have been auctioned. Many items, however, remain unaccounted for and are simply missing.

We not only conclude that officers took items from the Strike Force offices for their personal use, but there is also reason to believe that they did so with the knowledge that the items could be returned to rightful owners. For example, we learned of two instances where apparent stolen property could have been returned to its rightful owner but was not. In one case involving a trailer, the rightful owner was easily identified, yet the trailer was sold to a relative of a Strike

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<sup>9</sup> During Advisory Board meetings, Strike Force representatives stated that property no longer needed for active cases was given to charity or other agencies. The Advisory Board was specifically told that vehicles were sent to auction. As the Legislative Auditor found, the Strike Force entered into an agreement with Cars with Heart for the disposal of many vehicles. We did not find evidence that Strike Force employees informed the board of the Strike Force’s relationship with Cars with Heart.

<sup>10</sup> During much of the time in question, the Strike Force sent items for auction to an online auction company, Crankyape.com. We interviewed the owner of Crankyape.com and obtained from him a comprehensive list of all items sent from the Strike Force. We also compared that information with lists maintained at the Strike Force offices of items designated to be sent to Crankyape.com. Notably, some of the lists at the Strike Force contained items that were originally designated for Crankyape.com, but were pulled from the list. These included televisions and computer and electronics equipment.

Force officer. In the second case, a new, expensive 4-wheel ATV could have been returned to its owner but was converted to the Strike Force's own use by equipping it with police lights. In these instances, there is no evidence in the Strike Force's files to indicate that the owners gave permission for the Strike Force to keep the items.<sup>11</sup>

In addition, we found many troubling examples of items of evidence located outside of the evidence room including:

- narcotics and currency from old cases (either reported destroyed or apparently never entered into evidence) in locked file cabinets;
- electronics apparently seized from an unknown case located in an officer's file cabinet;
- a backpack containing two handguns from a specific case found inside a safe utilized by certain members of the Strike Force despite the fact that the weapons were listed as being in the evidence room.<sup>12</sup>

Finally, we learned that many items listed as "destroyed" in case files were actually still in the evidence room or outside of the room but in the Strike Force offices. In October 2008, the Department of Public Safety conducted a review of the Strike Force that revealed specific problems concerning the handling of evidence and forfeiture funds. The Department and the Advisory Board considered retaining an independent audit firm to conduct a more thorough audit. As a result, on November 14, 2008, the chair of the Strike Force Advisory Board issued a written order that no further property would be destroyed pending the audit. In December 2008, Strike Force officials disregarded the order and instructed officers to destroy items no longer necessary for their cases. A Strike Force employee then requested that numerous officers sign blank destruction authorization forms. Indeed, the Panel found a large stack of signed, blank authorization forms in the Strike Force offices. Many case files contain notations in January 2009 claiming that property was destroyed. Many such items were, in fact, not destroyed, but remain in the evidence room.

#### **FINDINGS CONCERNING ISSUES RELATED TO THE HANDLING AND DISPOSITION OF EVIDENCE AND PROPERTY**

The Panel concludes that officers took seized property for their personal use and, on certain occasions, purchased property for themselves and their family members. This is in violation of the Strike Force's policies and procedures and would not have been permitted by

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<sup>11</sup> Shortly before finalizing this Report, the Panel was informed that some members of the Strike Force claim that the owner of the ATV did not want it returned. We were unable to verify this information. In any event, there is nothing in the case file to document that the owner did not want the item returned.

<sup>12</sup> Also inside the backpack was a sawed off rifle that we could not identify as belonging to any specific case. In addition, the backpack contained small amounts of narcotics and other items.

officers' home law enforcement agencies.<sup>13</sup> The Panel only reviewed a small percentage of case files and we were only able to interview a limited number of Strike Force employees. As a result, we believe that there may be many more examples of improper conduct with respect to the handling of evidence and seized property.

The following are some specific examples of what the Panel learned during the investigation:

- **Televisions.** Witnesses told us that, over the years, a number of officers took large screen and flat screen televisions home for their personal use. In one instance, witnesses recalled that an officer took a large screen television home for that officer's child as a present. Other witnesses admitted that they were given valuable items of evidence from the Strike Force evidence room as "presents."
- **Laptops and Computer Equipment.** Witnesses also stated that it was routine for officers to take home for their personal use seized computers. In one example, the Panel was told that an officer took home a seized laptop, and later asked a Strike Force employee to help fix problems with the laptop.<sup>14</sup>
- **The Ice Auger.** Strike Force employees recalled an instance when an ice auger (often used to assist in ice fishing) went missing from the evidence room. The auger was seized as part of a narcotics case. At the conclusion of the case, the owner requested that the ice auger be returned. During ice fishing season, it was widely discussed at the Strike Force that a particular officer had taken the auger. The officer in charge of the case threatened to obtain a search warrant for the home of the officer who took the auger. The auger was then quietly and anonymously returned to the Strike Force offices. We interviewed the owner of the auger who recalled that the officer who returned the item remarked that it had been slightly used by another officer.
- **The Missing Watches.** In one case, an officer executed a search warrant in a matter involving theft of stolen property. Among the items seized, were 70 watches, many with the price tags still on them. Most of the tags indicated that the watches were to be sold for approximately \$100. Shortly after the seizure, the officer in charge of the case was approached by a Strike Force employee who asked him to sign a blank form allowing for the destruction of evidence in his cases. The officer was told that this was being done to facilitate the destruction of a large amount of evidence that was no longer needed. The officer refused. The officer then noticed two Strike Force employees and the relative of a Strike Force employee in a conference room. All three were looking through the

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<sup>13</sup> We also note that the Advisory Board was told by Strike Force leaders that seized items were given to charity or destroyed. We are not aware of any evidence to suggest that the Board was told that officers took items home or purchased them.

<sup>14</sup> We have been informed that some Strike Force officers have stated that they used laptops removed from the evidence room for official purposes. The Panel has not located any documents authorizing officers to remove laptops for work-related purposes.

watches. One was holding a watch up to their wrist. Upon seeing the officer in charge of the case watching them, one of the employees stated that they were not doing anything wrong. During our inventory, only 50 of the 70 watches could be found in the evidence room. In addition, the case file contains the statement that all of the watches were sent to a specific jeweler to be sold. The jeweler denies receiving any of the watches. Indeed, the jeweler clearly recalls that a Strike Force employee contacted him to determine if he was interested in selling these watches. The jeweler explained that he was not interested. Yet, the employee entered a notation in the file that all watches were given to this jeweler. As a result, 20 watches potentially worth \$2,000 are missing, and the case file contains a false statement that the watches were given to a jeweler for sale.

- **Missing Evidence.** In addition, the following is a sampling of the items that fall under the category of “missing” evidence after a review of the evidence room, case files related to the evidence in the evidence room and a cross check with items auctioned. Based on the statements of witnesses, and the lack of documentation indicating what happened to these items, there is reason to believe that many were taken by employees of the Strike Force for their personal use:

- Drill set
- Bosch jigsaw
- Black and Decker laser level
- Bostitch air nailer
- HP laptop
- Laptop of unknown make and model
- DVD/VHS player
- 2 Televisions of unknown make and model
- 5 DVD players
- 11 Speakers
- GE Refrigerator
- Various sanders
- Kahler Powerwasher
- Graco Paint Sprayer
- Snowblowers
- Magnavox Flat Screen television
- Tool set
- Battery charger
- Baseball cards
- Computer equipment
- Silver tea service and platter
- Magnavox VHS recorder
- Reciprocating saw
- Powermate generator
- Air compressor
- A set of dining room chairs
- Yamaha stereo receiver
- NEC computer screen

- HP printer and HP flat screen monitor
  - Dell and Gateway laptops
  - Sony camcorder
  - Jewelry<sup>15</sup>
- **Items Purchased by Strike Force Employees.**<sup>16</sup> We have obtained documents that indicate the following items were purchased by Strike Force employees for the following amounts:

○ Trailer	\$300
○ Trailer	\$500
○ 2 Jet Skis	\$800
○ Television	\$30
○ Television	\$25
○ Washer/Dryer	\$75
○ Electric Stove	\$175
○ Chain Saw	\$35
○ Large chair	\$190 <sup>17</sup>

- We also found many items in the evidence room, such as jewelry, televisions, electronics equipment and other items that were falsely marked as destroyed in their respective case files.
- In addition, jewelry from different cases was often put together in packages in the evidence room.<sup>18</sup>

**ALLEGATIONS RELATED TO STRIKE FORCE INTERACTIONS WITH INDIVIDUALS AND THE SEIZURE OF FUNDS**

The Panel investigated two types of allegations related to Strike Force officer interactions with the public and questionable conduct related to the seizure of funds. First, we investigated interactions between Strike Force officers and the public that arose from saturation details.

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<sup>15</sup> Over the years, Strike Force officers seized many pieces of jewelry. Because of a significant lack of documentation as to the items seized, photographs or detailed descriptions, it is impossible to determine with any degree of confidence what jewelry might have been destroyed, sold or taken by officers. We are able to conclude, however, that a great deal of jewelry is missing.

<sup>16</sup> Few of the items listed here were processed through formal forfeiture proceedings. For many of these items, we were able to determine that they were sold to officers for far less than their true value.

<sup>17</sup> Through interviews of those involved, we have learned that this chair was sold to an officer as a present for the officer's spouse.

<sup>18</sup> All of these problems lead us to the conclusion that the integrity of the Strike Force evidence room was compromised.



Second, we investigated allegations that arose from cases in which Strike Force officers chose to follow leads and other information in potential drug cases unrelated to gang activity. Regardless of whether the interaction was part of a saturation detail or a tip of some kind, one thing remained constant: when individuals stopped by the Strike Force on these occasions had money, it was typically seized by the officers.

There were a number of troubling aspects to these allegations. First, most of these encounters had no relation to gang activity. The case files do not mention gangs and there is nothing to indicate that the officers involved suspected the individuals of gang activity. Second, these encounters almost always involved a person of color. Whether the person was in a car, on the street or at a location, they were often singled out for nervous or suspicious behavior. In one case described below, the file simply states that officers were told “Hispanics” would be at a specific location to pick up narcotics. Two families of Hispanic descent had funds seized as a result even though they had nothing to do with drug dealing.

In addition, officers appeared to conduct themselves much differently when working for the Strike Force than if they were still back at their home agencies. Many of the cases we reviewed involved individuals who possessed small amounts of marijuana. Law enforcement officials we spoke with explained that it would be highly unusual for officers to seize large amounts of money from people during street stops simply because they possessed \$10 worth of marijuana. But that is exactly what occurred on a regular basis at the Strike Force.

#### **FINDINGS RELATED TO STRIKE FORCE INTERACTIONS WITH INDIVIDUALS AND THE SEIZURE OF FUNDS**

The following are a few examples of the type of conduct we learned of through witnesses and case files:

##### **The Impound Lot Case and Seizure of Funds**

A minimally documented Strike Force case file indicates that officers received information that people of Hispanic descent would arrive at the Minneapolis impound lot to retrieve a car that had narcotics in the trunk. There was no information in the file to suggest where this information came from, or whether the source was a reliable informant. That evening, two separate families arrived at the impound lot to retrieve two vehicles. One family was of Honduran descent, the other of Mexican descent. They did not know each other prior to that night.<sup>19</sup> When the two families arrived and requested the release of their cars, Strike Force officers appeared, lined them up and forced all family members to stand with hands over their heads while they were frisked. No drugs or weapons were found and the officers recovered no evidence of illegal activity. One man from the Honduran family had \$4,500 in his pocket from his position as foreman of a construction crew, while the man from the Mexican family had \$100

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<sup>19</sup> Our recitation of the facts of this matter is based on a review of the file as well as interviews with the family members who interacted with the Strike Force officers that evening. We also reviewed documents provided by the families related to the funds in their possession that night.

in his wallet. Strike Force officers seized these funds and, in the case of the \$4,500, made a point of remarking to one another about the large amount of money in the man's possession. Despite protests that these funds were legally the property of the men, the funds were not returned. Because both men were undocumented aliens, the Strike Force officers contacted ICE, and federal agents arrived to process the men for deportation proceedings. No drugs or other contraband were recovered from either man, and no member of either family was accused of participating in a gang.

The facts of this case are deeply troubling.

First, the case file does not make clear why the Strike Force officers took on this matter.<sup>20</sup> The tip that they received makes no mention of gang activity and is both vague and of questionable reliability. This matter could have easily been referred to the Minneapolis Police Department.

Second, the stop itself is of questionable validity. Officers conducting a stop must have reasonable suspicion that individuals are engaged in criminal activity. Here, the only information in the officers' possession were: (1) a vague claim that someone had "information" that Hispanics would arrive at the Impound Lot to retrieve a vehicle with narcotics in the trunk; and (2) the unremarkable fact that two families of Hispanic descent had arrived at the Impound Lot to retrieve vehicles.

Third, when they stopped and frisked the two families, the Strike Force officers developed no information leading to the conclusion that they were engaged in illegal conduct. To the extent that this interaction had any validity, it should have ended there. Instead, the Strike Force officers seized funds belonging to the two men.

Fourth, the Honduran man reported that \$4,500 was seized from him. The limited documentation in the file indicates that \$4,014 was seized. There is no documentation regarding the \$100 the second man claims was taken from him. We were unable to resolve these discrepancies.

Fifth, while the men were undocumented aliens, the Minneapolis Police Department has a policy against contacting immigration authorities or asking suspects about their immigration status in situations such as this. It appears as though these Strike Force officers, acting on information in Minneapolis, failed to adhere to Minneapolis Police protocol. The two men now face deportation.

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<sup>20</sup> Strike Force officers complained to this Panel that too many officers dedicated time to "small time drug cases" with no gang connection. They related to the Panel that they believed the Strike Force should have been focused exclusively on developing cases against gangs. This view was reinforced by Advisory Board members who expressed concern with officers spending so much time on drug cases with no gang connection.

## **The Motorcycle Stop and Seizure of Funds**

Strike Force officers were working a saturation detail, driving the streets of a neighborhood where gang members were known to congregate. They noticed a man on a motorcycle violating traffic laws and pulled him over. Upon review, the motorcycle was unregistered. They then frisked the man and found a small amount of marijuana and \$1,306 in cash. They seized the motorcycle and the \$1,306 in cash. There is no evidence in the file to indicate that the man had any gang connections or that the officers tried to convince him to provide information on gangs (if he had any). There was no follow-up investigation in this matter, and the man whose funds were seized was not prosecuted for any offense.

This matter is of concern to the Panel for the following reasons. First, the purpose of a saturation detail is to show gang members that Strike Force officers are in the vicinity. The goal is to lower gang-related violence by establishing a deterring presence. Strike Force officers have access to a database of suspected gang members and their associates. Here, the officers stopped a man with no known gang connection for what amounts to a traffic type violation. Second, the amount of marijuana in his possession was equivalent to personal use, not trafficking. Third, while the officers may have technically had the ability to seize the \$1,306 because the funds were in proximity to a controlled substance, police officers typically do not make seizures of this size when they encounter such a small amount of marijuana.<sup>21</sup>

Finally, this case – and the others just like it – gives the impression of officers roaming the streets, for the most part unsupervised, in search of funds to seize. Advisory Board members we spoke with were troubled by these types of encounters. In essence, they communicated to the Panel that this case is not what the Strike Force was supposed to be doing. If this was an isolated example of such conduct, it might not raise so many concerns. But it was not.

## **A Suspicious Car and the Seizure of Funds**

During a saturation detail, an officer stopped a vehicle for suspicious activity. During the car stop, the officer found one marijuana cigarette, a bottle of Grey Goose vodka and \$2,440 in cash. The officer seized the cash.

## **The Bar Stop and Seizure of Funds**

One evening, a young man arrived at a bar in Minneapolis. It is a bar he has frequented on previous occasions. The bar employs a bouncer who frisks everyone who enters. This particular man had a large amount of cash on him and he showed it to the bouncer who frisked him. Within a minute after he entered the bar, the man was brought to a private room, along with another patron, and told to stand facing the wall with his hands above him. A Strike Force officer questioned him about gang affiliation, which he denied. The Strike Force officer then took the cash from his pocket (\$3,600) along with about \$10 worth of marijuana. The officer

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<sup>21</sup> While no officer we spoke with condoned the use of marijuana or driving an unregistered vehicle, they were in agreement that police departments do not typically seize funds under these circumstances.

accused him of engaging in a drug deal with the other gentleman who was brought to the office. The man with the \$3,600 in his pocket explained that this was tax refund money and that he was shopping for a car for his fiancé. He offered to call the car dealer he had just visited. Both men stated that they came to the bar alone, and had never met before. The second man also had cash on him, money that the bouncer noticed upon his entrance to the bar. The second man did not have any marijuana on him. Both men were placed under arrest, and their funds, totaling over \$5,600 were seized by the Strike Force.<sup>22</sup> The Strike Force conducted no further investigation and neither man has been prosecuted.

For many of the same reasons as set forth above, the Panel is deeply concerned about this encounter. There was no allegation that these men were engaged in gang activity, and no reason for officers from the Metro Gang Strike Force (as opposed to the Minneapolis police) to be handling this matter. The allegation that they were involved in a narcotics transaction makes no sense on its face, and neither man was subject to any follow-up investigation or prosecution. Again, if this was one isolated incident, it might not be as troubling (although we do not condone what occurred). But our review of case files suggests that this was not an isolated occurrence.

At the end of our interview, the young man with the \$10 of marijuana in his pocket explained that he was still trying to get his money back. He expressed shock that officers would seize his funds and arrest him under these circumstances. As we ended the interview, he shook his head and stated: "I thought the police were supposed to protect us."

### **The Mistaken Identity Case**

While staking out the home of an alleged fugitive, Strike Force officers noticed two men outside of the home, one of whom they believed to be the fugitive. They approached and stopped the two men and quickly realized that neither was the fugitive. Both acted suspiciously, however, and one tried to run from the officers. They were both handcuffed and searched. One man had a small amount of marijuana on him and \$224 in cash. The second man had \$230 in his possession and no marijuana. The officers seized both the \$224 and the \$230. Neither man appears to have been referred for prosecution, although both were arrested for possession and distribution of narcotics.

### **Searches of Cell Phones**

Based on our review of case files, along with our interviews of officers and people who interacted with the Strike Force, it appears as though Strike Force officers routinely searched the cell phones of people stopped pursuant to saturation details. We found no evidence that officers conducting these stops obtained search warrants before searching the cell phones. While there

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<sup>22</sup> When we interviewed the man whose \$3,600 was seized, he was visibly shaken by this encounter and explained in detail where he had gone with the funds to look for a car, and the origin of the funds. The man is employed and denied any gang affiliation or involvement. He admitted that he smokes marijuana, and that the marijuana in his possession that night was for his own personal use.

may be occasions when exigent circumstances require an officer to conduct such a search, this was a regular practice at the Strike Force. We found this conduct to be highly questionable.<sup>23</sup>

### **Pictures of Individuals Stopped On the Street**

Similarly, we found a great deal of evidence to suggest that Strike Force officers conducting saturation detail stops would routinely take pictures of the individuals they encountered, including photographs with individuals holding Metro Gang Strike Force identifying information. These included pictures of children. We are troubled by this practice of requiring innocent people to be photographed as though they had engaged in illegal conduct. It is our understanding that these photographs were maintained at the Strike Force offices.

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<sup>23</sup> Similarly, the case files and the evidence room indicate that officers routinely seized cell phones and computers. There are dozens of cell phones and computers in the evidence room at this time. Yet, we found almost no evidence to suggest that officers conducted forensic analysis of the phones or laptops and few examples to suggest that they applied for warrants once the seizures were made. Search warrants would have been necessary if the officers wanted to investigate the contents of these items. Rather, it appears as though these items simply sat in the evidence room.

## **ADDITIONAL ALLEGATIONS AND AREAS OF CONCERN**

### **Potential Abuse of the NCIC Database**

The Strike Force had access to the Criminal Justice Information System database, and, through it, the records of the National Criminal Information Center (“NCIC”) database. This is a highly regulated database that the F.B.I. provides to law enforcement agencies for use in the investigation of criminal conduct. Law enforcement agencies receive training and strict instruction that the database is to be used for law enforcement purposes only.

The Panel heard from a number of witnesses who alleged that the NCIC system was accessed by Strike Force employees for non-governmental purposes. If true, this is a direct violation of the terms of use of the NCIC database.

### **Relative of a Strike Force Employee Given Access to Evidence**

Numerous witnesses told the Panel that they observed a relative of a Strike Force employee in the Strike Force offices on a frequent basis handling evidence and seized property. There is no justification for allowing someone who is not employed by the Strike Force this type of access to the offices and seized property. This practice simply flies in the face of standard law enforcement protocol.

### **Blank Pre-Signed Property Destruction Forms**

The Panel discovered a stack of blank, pre-signed evidence destruction authorization forms in the Strike Force offices. Witnesses explained that a Strike Force employee asked officers to sign the forms so that large quantities of property that was no longer needed could be destroyed. According to witnesses, the forms were to be signed in blank to speed up the process. Many were. Unfortunately, the forms were signed and placed into case files with notations that the property seized in those cases was destroyed. In some cases, this form was used to justify the destruction of evidence without the knowledge or permission of the case officer. In many instances, the property was not destroyed but remains in the evidence room. The case files therefore contain false documents and it is difficult to know whether items that are not in the evidence room were actually destroyed.

### **Remaining “Unclaimed Evidence”**

Prior to our investigation, the Legislative Auditor and the Department of Public Safety identified a significant amount of currency and vehicles, along with other items of value, that were seized but never submitted to the Minnesota Attorney General’s office for forfeiture. In most of these cases, there is no evidence that the required notification was given to the person from whom the item was taken. In other cases, the Attorney General rejected the forfeiture for failure to comply with legal requirements.

Similarly, both the Legislative Auditor and the Department of Public Safety have identified vehicles and other property that were seized but never submitted for forfeiture.

In addition, the Legislative Auditor has noted that the Attorney General's office did not receive its 20% of forfeited proceeds as required by statute. Although there appears to have been an agreement between then Attorney General Hatch and the Strike Force in which the Attorney General allowed the Strike Force to keep this 20% of forfeited proceeds, the Legislative Auditor has not found any support in the statute permitting such an agreement. The Legislative Auditor recommends that the Strike Force pay to the Attorney General its statutory share of past forfeited funds.

The Panel is informed that various law enforcement agencies are holding, for resolution of these issues, approximately \$1,000,000 in forfeited funds. In our list of Recommendations, we call for the appointment of a Special Master or Receiver with authority over these remaining forfeiture funds. The Special Master should return funds and property that were not properly forfeited and resolve the question of funds owed to the Attorney General.

### **Activities Immediately Following the Legislative Auditor's Report**

The same day that the Legislative Auditor's Report was released, a small group of Strike Force officers started shredding documents at the Strike Force offices. We have been unable to determine what the officers shredded or why. Most likely at the same time, however, these officers placed large volumes of material in storage bins to be accessed by a professional document destruction firm used by the Strike Force. The firm had recently been to the Strike Force and emptied the bins. According to this firm, the bins were typically not full when they came to retrieve the items for destruction. The Panel examined the bins as part of our investigation. They were completely full, and contained a great deal of material from Strike Force case files. Some of the items placed in the bins for shredding included: several lists identifying Strike Force informants, information relating to currency held at the Strike Force offices, copies of documents confirming the amount of money seized in various cases and one entire Strike Force case file.

Within days of the Legislative Auditor's Report, a Strike Force employee tried to delete a computer file listing Strike Force informants. Two days after the Legislative Auditor's Report, the Strike Force received a fax from a local crime lab. The fax contained lab reports confirming that substances from a series of cases dating back up to eight years were narcotics. In some instances, the case numbers were incorrect in that the case files did not indicate that the substances tested in May 2009 were part of the case identified on the lab report.

### **Poor Security and Safety Practices**

The Panel noticed many problematic practices that negatively affected the integrity of Strike Force records and personnel. These included the following:

- A large number of Confidential Informant ("CI") files, including names of the informants and other identifying information were found in an open box in the warehouse area at the Strike Force;

- A card-index file of informant names and information was discovered in the unsecured file cabinet of a Strike Force employee;
- Two firearms in the evidence room had live rounds in the chamber, without any warnings or notification that this was the case;
- A can of highly flammable material was found in the evidence room.

### **Documentation Issues Regarding Confidential Informants**

Our review of both case files and CI files<sup>24</sup> reveals a number of substantial issues, including the following:

- Many cases involving the use of a CI did not contain any reference to the CI by symbol or code number, thus eliminating any ability outside of personally contacting the officer who handled the CI to determine which CI provided information should that become necessary;
- In several instances, CI files did not contain any biographical data about the CI, thus, outside of the officer who handled the CI there is nothing to identify that CI;
- Often, CI files contained payment receipts that were not signed by the CI and there is nothing in the file in which the CI acknowledges receipt of payment. In addition, there are questions regarding the authenticity of the CI signatures in several files;
- The CI files themselves generally do not contain any independent debriefings or record of the content of information provided by the CI;
- On at least one occasion, a CI was paid with funds that had not cleared forfeiture by the Attorney General's office following a seizure;
- The above-mentioned practices and situations are in direct conflict with currently-accepted best practices utilized by most law enforcement agencies.

### **General Documentation Issues**

- The Panel feels compelled to emphasize the unusually poor and problematic state of Strike Force investigative documentation. The most basic underpinning of criminal investigation is preservation and documentation. While there are a number of examples of well-documented cases, many of the Strike Force's case files fail to meet even minimal standards. This includes dozens of case files which are completely empty.

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<sup>24</sup> The review of CI files was performed at the request of the Panel, but was undertaken by sworn officers.



- Among the documentation problems we noted were those relating to the handling of evidence. In many cases, there was no documentation to establish when evidence was removed from the evidence room and when it was returned. In other cases, the signatures of officers on removal documents were illegible. Chain of custody sheets were often missing and various types of evidence were combined on one sheet, contrary to typical law enforcement practice. In a number of cases, the file contains no information to suggest that evidence signed out to another agency (such as a prosecutor's office) was received by that agency.
- Letters to property owners/subjects regarding the disposal of seized items were absent from many of the case files reviewed.
- In many cases, property owners were not given seizure notices informing them of their right to challenge the forfeiture of their property.

### **Documentation Concerning the Execution of Search Warrants**

- While there may be additional records at officers' home agencies, many case files in which there were search warrants and seizures contain inadequate documentation, and more than a few contain nothing more than a brief report. In many cases, there were few photographs of the search, and those photographs that were taken were often inadequate.

### **Additional Issues Related to Cars with Heart**

- The Legislative Auditor addressed the existence of a "hand shake" deal between a Strike Force employee and Cars with Heart. The Panel learned of additional concerns relating to the Strike Force's interactions with Cars with Heart.<sup>25</sup>
- The Panel has learned that Cars with Heart entered into an earlier agreement with the Strike Force, in addition to the agreement described by the Legislative Auditor. In that second agreement, Cars with Heart received two vehicles from the Strike Force in exchange for one vehicle donated by a private citizen.
- In addition, the principal of Cars with Heart informed the Panel that he provided a car to a Strike Force officer and one of the officer's relatives at discounts.
- Several of the vehicles transferred and ultimately disposed of by Cars with Heart apparently were never properly forfeited.

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<sup>25</sup> At the time of the Legislative Auditor's original report, there was a question about the location of a number of vehicles. It is our understanding that the vehicles have been located. While this does not resolve other questions regarding the vehicles, it is useful that they have been found.

## **THE PANEL'S FINDINGS AS TO THE CAUSES OF MISCONDUCT AT THE METRO GANG STRIKE FORCE**

Part of the Panel's charge was to determine the causes of the problems at the Strike Force. As we discovered evidence of misconduct, questionable conduct and activities that would not be tolerated at a police force or Sheriff's office, we asked witnesses why they believed this happened. While there is no simple answer to this question, our work has revealed at least a basic framework for understanding how and why the Strike Force lost its way.

Based on our review, we believe that the problems discussed in this Report started as a result of two otherwise independent factors.

First, the predecessor to the Strike Force lost most of its funding in 2003. When the statewide Strike Force became the Metro Gang Strike Force, some of the same people made the transition. As noted earlier, these people never lost their concern over funding and the future of the Strike Force as an entity. This "depression era" mentality led, we believe, to an inordinate focus on forfeitures as the lifeblood of the Strike Force.

Second, the Strike Force was created to be a stand alone police agency. This is what law enforcement, and, ultimately, the legislature wanted. In the abstract, this makes sense: a group of dedicated officers from different agencies come to a neutral site in order to work across jurisdictional lines to fight a common problem. Because gangs do not operate within city and county boundaries, the agency fighting them also should not.

But there were significant flaws with this concept that, along with the perceived need for forfeiture funds, became major factors in what ultimately occurred. One flaw was the lack of external supervision. The Strike Force was to be supervised by the leaders of the law enforcement agencies that contributed officers to the organization. Each of these leaders, however, had more than enough on their plates. They had their own agencies to run, and little time to scrutinize the direction of the Strike Force. The other flaw has to do with the very nature of an independent stand alone law enforcement body. Our review shows that some officers took the idea of independence literally. Traditional law enforcement agencies have strict supervision protocols and multiple layers of review. Some officers likely viewed their time at the Strike Force as an escape from the onerous supervision at their home agencies. As a result, they believed that the independence provided by the stand alone structure gave them the ability to do what they wanted, even if they could not do it at their home agency.

The funding concerns and the fact that the Strike Force was a stand alone agency combined to allow for the development of other problems that led to the issues described in this Report. Were it not for the fact that the Strike Force was a stand alone agency with little internal or external supervision, officers would not have been able to engage in the types of ill-defined saturation details as occurred here. But even the saturation details would not have been possible had the officers stuck to the original mission of the Strike Force. How were they able to stretch the force's mission to permit the type of conduct exhibited during saturation details? The answer is important to an understanding of the problems associated with the saturation details.

Working at an independent stand alone agency with little supervision, some officers were able to define their mission broadly. Since a good deal of gang activity involves the distribution of narcotics, they believed they could justify investigating all potential narcotics cases, regardless of overt gang connections. The same was true for cases involving the potential for violence, stolen property and a whole array of other crimes. Because gangs *could* be involved in any of these matters, they seemed to have taken the position that the Strike Force *should* investigate all of them. This type of “mission creep,” (defining the mission so broadly as to encompass purely non-gang activity) in our view, when coupled with the ability to engage in roaming patrols for illegal conduct, was a disastrous combination. Freed of the constraints of a highly supervised environment, their broad definition of the Strike Force’s mission became the rationale for officers driving through neighborhoods stopping people for traffic violations with small amounts of marijuana.

Finally, there is a reason why so many law enforcement agencies have strict evidence reporting and handling procedures, provide oversight relating to seizures and employ highly trained and experienced property and forfeiture professionals. The temptation to take an item that you believe no one needs or does not “deserve” (whether for personal gain or punitive reasons) exists. The vast majority of law enforcement officers do not require policies and procedures to avoid the temptation. But some do. And the Strike Force was sorely lacking in policies, procedures and highly trained staff to prevent such activity. When taken in combination with the other factors described above, this failing was the final straw. There is no excuse for the conduct of the officers who took items for their personal use. But as we look to the future, we should make certain that we do not take officers from a highly regulated environment and place them into a chaotic one. The risk that some will stray is too high.

## RECOMMENDATIONS

1. **Stand Alone Strike Forces.** We recommend against the continued use of stand alone strike forces not administered and directed by a specific law enforcement agency. While some stand alone forces may work well under certain circumstances, stand alone agencies are too prone to a lack of supervision and a lack of accountability. Police agencies need accountability and careful supervision. It is simply too difficult to make certain that this is done when no one police agency is in charge. Rather, we recommend coordination of anti-gang efforts across jurisdictional lines and a mechanism for the sharing of information. Despite this recommendation, to the extent that policy makers decide to utilize stand alone strike forces in the future, we suggest that they need an active and engaged board that includes an executive committee with the time to ensure that audits, evaluations and staff reviews are performed promptly and in a meaningful fashion. In short, if they agree to participate in a stand alone agency, board members must commit to taking the time to make certain that the strike force operates with the same type of supervision, review, documentation standards and oversight as their own home agency. In addition, if a stand alone strike force is to be used in the future, there should be strict time limits on how long Commanders and Assistant Commanders can be in place along with time limits on strike force officers.
2. **Prosecutors as Strike Force Participants.** Many strike forces around the country are either run by a prosecutor, or have a prosecutor overseeing investigations and law enforcement tactics. This is one important way to make certain that investigations follow the mission of the strike force and stay on track. We recommend that law enforcement consider this model for any future anti-gang efforts.
3. **Saturation Details and Forfeitures.** Our review of a number of case files suggests that officers used saturation details to obtain large seizures. Saturation details must be carefully constructed such that the roaming, unsupervised police actions that took place in this instance cannot occur again. Strike forces need written guidelines governing the circumstances in which seizures will be made in cases in which no follow-up investigation or prosecution is contemplated. Strike force officers engaged in saturation details must be closely supervised. Saturation details must be carefully scrutinized so that they are consistent with the mission of the strike force and not simply a means for making seizures or confronting individuals. Moreover, command and control should be exercised by a supervisor from the jurisdiction in which the detail is taking place.
4. **Staffing.** Any strike force or task force that will handle large amounts of evidence and seized assets requires experienced and professionally trained staff dedicated to overseeing these functions. These staff members must have the appropriate technological resources to perform their work.

5. **Auditing.** Similarly, strike forces and task forces should be subject to rigorous audits by teams comprised of professionals with significant experience in the handling of evidence and seized property. These audits should be made available to the public. If the audit teams raise any concerns for the force's handling of these matters, they should issue a list of corrective actions and schedule a follow-up audit to determine if the issues have been resolved. No strike force or task force should be permitted to operate with insufficient staffing or with apparent flaws in its system of handling evidence and seized assets.
6. **Forfeitures as a Funding Mechanism.** We recommend against the use of forfeitures as a significant source of funding for law enforcement operations. No law enforcement officer's employment or salary should be dependent upon seizures or forfeitures. The same should be true of any law enforcement agency. This is consistent with the guidance of the Department of Justice's "National Code of Professional Conduct for Asset Forfeiture."
7. **The Forfeiture Statute.** Under Minnesota's forfeiture laws, officers can seize funds and other valuable items under circumstances that create a presumption that the items are subject to forfeiture. This presumption requires an individual to challenge the forfeiture and establish that the items were not related to criminal activity. If no challenge is made, no lawyer reviews the facts of the case and the items are cleared for forfeiture. In some of the cases described in this Report, individuals retained lawyers and are challenging the attempt to forfeit their funds. Based on what occurred at the Strike Force, we have concerns about the breadth of the forfeiture statute and the lack of legal oversight of the process. We recommend that the legislature, in conjunction with law enforcement officials, prosecutors and defense lawyers, consider whether Minnesota's forfeiture laws provide sufficient oversight and protection for the rights of individuals and whether principles or guidelines binding on law enforcement are warranted given the practices detailed in this Report.
8. **Appointment of a Special Master to Handle Remaining Forfeiture Funds.** The Panel has been informed that there are approximately one million dollars remaining in forfeiture funds in various Strike Force law enforcement accounts. Because proper notice has not been provided in some cases and the funds have not been submitted for forfeiture, and for other reasons, every effort should be made to return some of these funds. In addition, a number of vehicles have been seized without proper notification and have not been submitted for forfeiture. These vehicles will have incurred significant towing and storage fees that the owner should not have to pay. Moreover, the Legislative Auditor has recommended that funds be paid to the Attorney General pursuant to the statutory requirement that the Attorney General receive 20% of seized funds it handled for the Strike Force.<sup>26</sup> We recommend the appointment of a Special Master with authority to locate property owners, return property not lawfully forfeited

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<sup>26</sup> The Panel was able to confirm that the agreement between Attorney General Hatch and the Strike Force regarding the Attorney General's share of forfeited funds (as reported in the Legislative Auditor's Report) was disclosed by the Commander to the Advisory Board.

to them (including funds, vehicles and other items), pay for fees incurred on vehicles and determine how much needs to be paid to the Attorney General. The Special Master should be given a budget and a time frame to complete these tasks.

## CONCLUSION

Many of the officers of the Metro Gang Strike Force investigated gangs, followed the law and good police procedures, developed appropriate information on gang-related activity and assisted communities in their fight against the gang problem. But others took seized property for their personal use, engaged in highly questionable stops, searches and seizures and acted in a manner wholly inconsistent with the standards expected of Minnesota law enforcement officers. This is now a time to repair the damage by developing a new anti-gang approach that focuses on information sharing and the coordination of investigations and prosecutions. The public, along with law enforcement, should be involved in discussions going forward.

The Metro Gang Strike Force was started with the best of intentions. Along the way, some of its members lost their focus, engaged in egregious conduct and tarnished the reputations of all associated with this multi-jurisdictional body.

The temptation to lay blame for this course of events with one agency or another, and to point fingers, will be high. But this Panel believes that the opposite is necessary. Our charge was to disclose what went wrong, and to make recommendations for the future. Perhaps our strongest recommendation is that the discussions about the Strike Force that must now take place not resort to an exercise in placing blame. The appropriate authorities will review the conduct of the specific personnel who engaged in the wrongful acts set forth in this Report. They should carefully analyze the facts and take strong action where appropriate. But law enforcement and the public are still left with determining how to fight gangs appropriately and within the law. We encourage policy makers, law enforcement officials, community leaders and our elected representatives to engage in a constructive dialogue about the future of anti-gang efforts, a dialogue that will address the causes of this unfortunate episode without pointing fingers. We recommend that the Commissioner of Public Safety immediately convene a meeting of law enforcement leaders to develop constructive ideas for the future consistent with our recommendations. What occurred at the Metro Gang Strike Force is not the fault of any one person or any one governmental body. Anyone who chooses to lay such blame is oversimplifying what went wrong and why. In our discussion of the root causes of the misconduct and our list of recommendations, we have tried to provide some guidance for a productive dialogue about the Strike Force and future efforts to fight gangs. Our community deserves such a discussion.

Andrew Luger  
John Egelhof

August 20, 2009



**FINANCIAL AUDIT DIVISION REPORT**

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# **Metro Gang Strike Force**

## **Special Review**

**May 20, 2009**

**Report 09-18**

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**FINANCIAL AUDIT DIVISION**

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**EXHIBIT A**



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## Financial Audit Division

The Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division has a staff of forty auditors, most of whom are CPAs. The division conducts audits in accordance with standards established by the American Institute of Certified Public Accountants and the Comptroller General of the United States.

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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

May 20, 2009

Senator Ann H. Rest, Chair  
Legislative Audit Commission

Members of the Legislative Audit Commission

Sheriff Rodney Bartsh, Chair  
Minnesota Gang and Drug Oversight Council

Chief Manila (Bud) Shaver, Chair  
Metro Gang Strike Force Advisory Board

Captain Chris Omodt, Commander  
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 Polisen, 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.

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 \$18,126<sup>1</sup> 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).

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<sup>1</sup> 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.

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## **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.

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# 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.

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## 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.<sup>2</sup>

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.<sup>3</sup> 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.

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<sup>2</sup> *Minnesota Statutes* 2008, 299A.641, subd. 3(2).

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

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## 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 \$18,126<sup>4</sup> 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.

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<sup>4</sup> 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.

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# Findings and Recommendations

## Inadequate Internal Controls and Financial Practices

### Finding 1

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

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.<sup>5</sup> 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.<sup>6</sup>

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.

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<sup>5</sup> 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.

<sup>6</sup> 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.

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- 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.*
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- *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.**

## Finding 4

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.**

## Finding 5

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

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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.<sup>7</sup>**

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

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<sup>7</sup> 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.<sup>8</sup>

*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

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<sup>8</sup> 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.
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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*.<sup>9</sup> 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.*

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<sup>9</sup> *Minnesota Statutes* 2008, 609.5315, subd. 6.

## Lack of Oversight by Council and Advisory Board

### Finding 11

**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.<sup>10</sup>

#### *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.*

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

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## ***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 1<sup>st</sup>. 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 temporarily 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 pursuing 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.

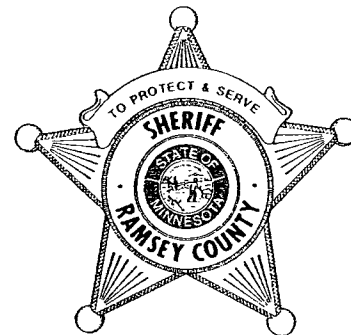
Sincerely,



Manila Shaver, Advisory Board Chair  
Metro Gang Strike Force

**BOB FLETCHER**  
**RAMSEY COUNTY SHERIFF**

425 Grove St.  
St. Paul, MN 55101-2418  
Telephone: (651) 266-9333  
Telefacsimile: (651) 266-9301



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 21<sup>st</sup> 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 Champion 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



ATTORNEYS & COUNSELORS

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June 11, 2009

**VIA FACSIMILE**

Michael Campion, Commissioner  
Department of Public Safety  
Bremer Tower, Suite 1000  
445 Minnesota Street  
Saint Paul, MN 55101

Re: Metro Gang Strike Force Review Panel

Dear Commissioner Campion:

Late last month, you retained us to form a Metro Gang Strike Force Review Panel. The purpose of the panel was to provide you with certain advice related to the Metro Gang Strike Force. Specifically, you requested that we: (1) provide you with policies and procedures for the implementation of the Legislative Auditor's recommendations concerning the Strike Force; and (2) conduct an investigation to determine the factors and set of circumstances that gave rise to the issues addressed in the Legislative Auditor's report. You have requested that we make a report to the Metro Gang Strike Force Advisory Board on June 30, 2009 describing the steps we believe the Strike Force should take to implement the Auditor's recommendations. One purpose of this report was to assist the Advisory Board in re-opening the Strike Force as quickly as possible so that it may assist local law enforcement agencies combat and prevent gang violence this summer. Our investigation into the underlying causes of the problems identified by the Auditor is expected to continue past the June 30 date.

We are writing at this time to provide you with a preliminary report on our work to date, and to recommend changes to the above-described plan based on information that has come to our attention.

For the past few weeks, we have: (1) met with a number of Advisory Board members and their staffs; (2) interviewed individuals with knowledge of the Strike Force's operations; (3) reviewed documents relevant to the issues addressed by the Legislative Auditor; and (4) spoken with individuals who have described allegations regarding the Strike Force. As a result of this work, we make the following preliminary report:

- While there has been a great deal of discussion between Advisory Board members about the mission of the Strike Force, there is no clear consensus among the Board. Board Members we interviewed expressed a wide variety of views as to the best direction for the Strike Force, and disagree as to the mission of this law enforcement entity. Advisory Board members will be meeting in the coming

weeks to try and reach consensus. The lack of agreement as to the mission of the Strike Force makes it difficult to draft policies and procedures for the entity.

- We have received information from a variety of sources raising allegations about the Strike Force dating back a number of years. In coordination with the FBI, we are investigating all allegations that are brought to our attention. At this point in time, we are not able to reach conclusions about these matters, but we take them seriously. As requested, to the extent our investigation demonstrates that the allegations are credible, we will bring these matters to the attention of the FBI. For a number of reasons, our investigation of these allegations will not be completed by June 30. We strongly recommend that the Department of Public Safety not re-open the Strike Force under its current structure until we can provide you with a report on these allegations.
- At the same time, we are well aware of the need for an entity to address and prevent gang violence. The leadership within local law enforcement agencies for the most part support and indeed request the existence of a gang-focused multi-agency law enforcement body while issues related to the Strike Force are under review. While we do not recommend that you re-open the Strike Force in its current configuration at this time, we do believe it advisable and in the public interest to formulate a short term solution that will meet the needs of the public and local law enforcement. We are available to discuss how to accomplish this task at your convenience.

We want to make clear that, while we are recommending that you delay re-opening the Strike Force, we have not reached a conclusion as to the allegations we have received. We are working diligently to determine the facts of the matters brought to our attention and will continue to do so. We expect to report to you on these matters later this summer.

Very truly yours,



Andrew M. Luger  
Co-Chair  
Metro Gang Strike Force Review Panel



John Patrick Egelhof  
Co-Chair  
Metro Gang Strike Force Review Panel