Rules

PERFORMANCE AUDIT

DEPARTMENT OF PUBLIC SAFETY
CRIMINAL INVESTIGATIONS BUREAU

Report to the Arizona Legislature
By the Auditor General
December 1992
92-6

STATE OF ARIZONA

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December 3, 1992

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Colonel F. J. "Rick" Ayars, Director
Department of Public Safety

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Department of Public Safety, Criminal Investigations Bureau. This report is in response to a December 13, 1991 resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

This report addresses the effectiveness and efficiency of the Criminal Investigations Bureau. As the State's only statewide investigations function, CIB can potentially fill a unique and important role addressing multi-jurisdictional and major criminal cases. Yet, because DPS has not defined a clear role for CIB, much of its efforts are not focused on these types of investigations. In addition, we compared CIB investigations to those of other investigative agencies and found CIB investigations are not as successful. To improve its performance, CIB needs to develop stronger case management practices, improve its case file documentation, place experienced personnel in its supervisory positions, and strengthen its controls over undercover funds.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on December 4, 1992.

Sincerely,

Douglas R. Norton
Auditor General

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SUMMARY

The Office of the Auditor General has conducted a performance audit of the Arizona Department of Public Safety (DPS), Criminal Investigations Bureau, pursuant to a December 13, 1991, resolution of the Joint Legislative Oversight Committee. This performance audit is the last of a series of audits of DPS' five bureaus conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Criminal Investigations Bureau (CIB) is responsible for enforcing criminal statutes, deterring criminal activity, and assisting other law enforcement agencies. Its efforts focus on narcotics, organized crime/racketeering, liquor laws, and criminal intelligence. For fiscal year 1992-93, the Bureau has a budget of $11,749,000 and authorization for 251 full-time employees (FTEs).

As detailed in our findings, CIB can potentially fill a unique and important role as the State's only statewide investigations function. However, to effectively fill this role, CIB must significantly improve the number, type and, perhaps most importantly, the quality of its investigations. We compared CIB investigations to those of other investigative agencies and found CIB investigations are not as successful. To improve its performance, CIB will have to strengthen the management of almost all of its activities. Many aspects of CIB's operations are loosely managed and often uncontrolled. Beginning with the lack of an adequately defined role for CIB, we found weaknesses that extended to such basic issues as the improper use of undercover funds.

<u>CIB Needs To More Clearly Define Its Role As The State's Investigations Bureau</u>
(see pages 5 through 10)

CIB needs to more clearly define its role. Prosecutors and law enforcement agencies in Arizona see a definite need for a State investigations bureau to conduct high-level independent investigations. CIB is viewed as being in a unique position to investigate specific types of major cases, such as multi-jurisdictional cases, cases involving

economic crime, money laundering, organized crime, and major narcotic cases. However, much of the work currently performed by CIB investigators is inconsistent with CIB's perceived role. Instead of focusing on major cases, CIB expends significant manpower and resources on minor cases. For example, our analysis of CIB drug cases found that major types of drug cases, such as the smuggling, distribution, or manufacture of narcotics, accounted for only 20 percent of all CIB drug cases submitted to the Maricopa County Attorney in a three-year period.

The Bureau Needs To Take Steps To Improve Its Case Prosecution Rate **(see pages 11 through 24)**

CIB needs to ensure that more of its cases result in prosecution. The success of an investigation can best be judged by what happens to a case following arrest. In analyzing CIB's performance, we found that Maricopa County prosecutors refuse to prosecute CIB cases more often than similar cases prepared by four other Maricopa County agencies. (Although less data is available for Pima County, CIB cases there appear to be prosecuted at rates comparable to other agencies.) A major factor in CIB's lower prosecution rate is the Bureau's failure to conduct the case follow up necessary to assist in the prosecution; instead, CIB has an attitude that an officers' involvement is over following arrest.

CIB Needs To Develop Stronger Case Management Practices **(see pages 25 through 32)**

To improve its performance in successfully investigating cases, CIB should strengthen case planning and supervision. While other law enforcement agencies require officers to submit written plans and obtain supervisory approvals before beginning casework, CIB officers are allowed to initiate cases as they choose. Further, CIB management does not adequately track and oversee the cases under its investigation. For example, in one case we reviewed, a CIB officer spent almost 800 hours conducting a surveillance and never saw the suspect. However, we were unable to find any supervisory approval to justify continuing the surveillance for such an extended period of time.

CIB Case File Documentation Is Poor (see pages 33 through 37)

CIB needs to improve its case file documentation. CIB officers' case work is poorly documented. Comprehensive case files are important for both monitoring officer actions on a case and for prosecution after suspects are arrested. However, in our review we found that CIB case documentation was often incomplete, files were difficult to locate, and file documents frequently lacked any evidence of supervisory review.

Department Places Inexperienced Personnel In CIB Supervisory Positions (see pages 39 through 41)

Stronger case management requires CIB supervisors to assume more responsibility; however, the Department has been placing personnel in CIB management positions that, at the time of placement, had no experience in conducting narcotics or intelligence investigations. The Bureau's lack of experienced management is caused by the Department's placement policies. The Department should consider requiring those placed in CIB management positions to have prior criminal investigations experience.

CIB Does Not Adequately Control Its Undercover Funds And Flash Roll Monies (see pages 43 through 48)

CIB needs to strengthen its internal controls over undercover funds and flash roll monies. Undercover funds are intended to be used for making informant payments, purchasing evidence (such as drugs), and for paying emergency investigative expenses. However, we found that investigators were spending these monies on inappropriate items such as office supplies; a color copy machine; dues for membership in professional organizations; ice, soda pop, food and ice chests for various events; and miscellaneous items such as pager chains, street maps, and holster repairs. For example, in January 1991, almost 60 percent of investigators' expenditures were for items that should not have been purchased with these funds. We also found that flash roll monies (large sums of monies shown to potential suppliers of illegal drugs to prove the ability of an undercover officer to purchase contraband) were issued without proper approvals and were not always returned in a timely manner.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Department of Public Safety (DPS), Criminal Investigations Bureau, pursuant to a December 13, 1991, resolution of the Joint Legislative Oversight Committee. This performance audit is the last of a series of audits of DPS' five bureaus conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Criminal Investigations Bureau (CIB), with a budget of $11,749,000 and 251 FTEs for fiscal year 1992-93, is responsible for enforcing criminal statutes, deterring criminal activity, and assisting other law enforcement agencies. Its efforts focus on narcotics, organized crime/racketeering, liquor laws, and criminal intelligence. The Bureau also provides investigative and specialized services to local, county, State, and Federal criminal justice agencies.

Results Of Our Evaluation

As detailed in our findings, CIB can potentially fill a unique and important role as the State's only statewide investigations function. However, to do so effectively, it must significantly improve the number, type and perhaps most importantly, the quality of its investigations. We compared CIB investigations to those of other investigative agencies and found CIB investigations are not as successful. To improve its performance, CIB will have to strengthen the management of almost all of its activities. Many aspects of CIB's operations are loosely managed and often uncontrolled. Beginning with the lack of an adequately defined role for CIB, we found weaknesses that extended to such basic issues as the failure to provide required documentation in case files.

In addition to the weaknesses presented in our findings, many of the problems in CIB's operations are illustrated in our review of a Tucson case, also referred to as the "Castro Case." Due to the importance of the Castro Case to Bureau operations, we have summarized the case in the

Other Pertinent Information section of this report (see pages 49 through 54). This case, which resulted in the brief suspension of the Director and Deputy Director of the Department in late 1991, in many ways provides a summary case example of many changes that are needed.

Audit Scope

Our report presents findings and recommendations in six areas:

- The need for CIB to better define its role
- The need for CIB to take actions to improve its case prosecution rate
- The need for CIB to develop stronger case management practices
- The adequacy of case file documentation
- The experience levels of CIB management
- The adequacy of internal controls over undercover funds and flash roll monies

Due to restrictions on our access to information, we did not audit the operations of the Organized Crime/Intelligence Division. According to Bureau officials, the databases used in the Intelligence Division are regulated by Federal law, which prohibits distribution of certain information to non-law enforcement agencies. Short of granting our Office law enforcement status, we would be unable to conduct our own review of the Division. Although we could not audit the Division, the Division was reviewed in June 1991 by an external task force assessment team, at the Department's request. The assessment team, consisting of military intelligence personnel, identified a number of concerns including the lack of coordination between the intelligence and criminal investigation functions, untimely processing of intelligence reports, comingling of public domain and intelligence information within the same report, inadequate intelligence information collection practices, and files with questionable intelligence value.

As part of our review of the cases submitted by DPS and other law enforcement agencies for prosecution, we obtained data from two primary

sources: the Law Enforcement Justice Information System (LEJIS) and County Attorney Prosecutors System (CAPS). Due to concern for the confidentiality of information about suspects, we were provided only case number and outcome information (suspect's name was withheld). Consequently, we were unable to trace this information to source documents because the source documents contained information about the suspect. However, through interviews of personnel in charge of the systems, we found that both systems had existing controls to identify and correct input errors.

In the **Area for Further Audit Work** section of this report, we discuss the need to evaluate CIB's involvement in task forces (see pages 55 through 56).

The audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Director and Deputy Director of the Arizona Department of Public Safety, and the Assistant Director and staff of the Criminal Investigations Bureau for their cooperation and assistance during the audit.

FINDING I

CIB NEEDS TO MORE CLEARLY DEFINE ITS ROLE AS THE STATE'S INVESTIGATIONS BUREAU

Criminal justice agencies in Arizona see a definite need for a State investigations bureau to provide service to local jurisdictions and to conduct independent high-level investigations. CIB is currently viewed favorably in its service role. However, instead of focusing on major cases, CIB's independent investigators spend much of their time on minor cases. CIB needs to more clearly define its role as Arizona's only statewide investigative agency.

CIB Is Viewed Favorably In Its Service Role

CIB provides a variety of services to local law enforcement agencies in the State. In general, local law enforcement and other criminal justice agencies are pleased with the services CIB provides and feel that DPS management has improved its relations with local agencies in recent years.

Current services provided - CIB provides services to other law enforcement agencies by assigning officers to narcotics task forces in rural counties, offering statewide assistance in intelligence and specialty services, and responding to ad hoc service requests.

Of 146 sergeants and officers in investigative functions, 59 are assigned to formal task forces, and 11 of Arizona's 13 rural counties have a task force in operation. Additionally, in the Tucson area, CIB contributes officers to MANTIS, a metropolitan task force, and to the Fugitive Investigative Strike Team, designed to apprehend fugitives. CIB also contributes officers to four Federal task forces in Arizona. All but one of the 17 task forces in the State target narcotics crimes.

CIB also provides unique services on a statewide basis. The Special Investigations Unit (SIU), consisting of 11 staff, responds to requests throughout the State for critical incident investigations or public corruption investigations that necessitate an independent outside agency. CIB's Clandestine Lab teams provide specially trained personnel to dismantle illegal drug laboratories and properly dispose of hazardous chemicals. CIB also has a centralized intelligence system that is accessible to all Arizona law enforcement agencies.

In addition to work on the standing task forces and specialized statewide functions, CIB also provides services on an "as needed" basis, either performing investigations or providing manpower. For example, during 1991-92, CIB contributed officers to the Monk Homicide Task Force that investigated the slaying of Buddhist monks in Maricopa County and an investigator to handle an embezzlement case in La Paz County.

Communities receiving services are satisfied with CIB service functions - We interviewed prosecutors from all 15 Arizona counties as well as representatives from law enforcement agencies in 14 counties. The local communities expressed overall satisfaction with the services CIB provides. The CIB officers on the narcotics task forces are, for the most part, greatly appreciated and considered critical for the continued effectiveness of the task forces. The SIU and the Clandestine Lab teams were praised by those we spoke with that used their services. Additionally, several of those interviewed consider CIB to have improved its approach to service in recent years, being much less likely now to come in and take over an investigation as they had been known to do in the past. According to one County Attorney, CIB now treats local agencies more deferentially, or more as customers of its services.

CIB Is Viewed As Having A Role In Investigating Major Criminal Activities

Our interviews with criminal justice professionals in the State support the need for a CIB role beyond service, and CIB is viewed as being in a unique position to investigate specific types of serious crime. We found that both rural and urban counties in the State support the idea of an independent investigative function within CIB in addition to its service component.

Specifically, CIB has unique characteristics as a State investigations agency that make it well-suited to perform the following types of investigations:

- **Multi-jurisdictional cases crossing county and State lines** - CIB has worked in the majority of Arizona counties for several years and has established contacts in both law enforcement and criminal justice agencies throughout the State. Due to these contacts, criminal justice professionals believe that CIB is able to investigate multi-jurisdictional cases more efficiently than local agencies. Further, local agencies, although authorized as peace officers throughout the State, typically will not have their officers work outside their jurisdiction for an extended period of time.

- **Economic crime, money laundering, organized crime, and other complicated cases requiring the long-term dedication of resources** - Prosecuting attorneys in the State indicated that economic crime is not being pursued to the extent that it should be. Attorneys and law enforcement representatives feel more emphasis should be put on money laundering and cases involving paper fraud. CIB is viewed as the most likely group to concentrate on these investigations. Although local agencies in large communities have organized crime units, current resources are perceived as insufficient. The majority of Arizona jurisdictions do not have the resources to dedicate officers to cases that may continue for years. Even the largest agencies, the Phoenix and Tucson Police Departments, are able to pursue only a limited number of large-scale investigations annually. Because CIB is not as pressured as local police and sheriffs to respond to crimes that have already been committed (e.g., burglary, theft, assault, etc.) it is in a better position to dedicate its resources to long-term cases.

- **Major narcotics cases** - CIB is considered to have a role in narcotics, but not in pursuing street- or middle-level drug trafficking organizations. Law enforcement and prosecuting agencies believe CIB's appropriate role should be to target the leaders of the drug distribution organizations. These cases are consistent with the multi-jurisdictional and economic crimes discussed above because leaders of drug trafficking organizations often operate across State boundaries and are involved in money laundering. CIB is also perceived as the agency that should follow up on investigations of drug traffickers that are intercepted through DPS Highway Patrol stops.

CIB Independent Investigations Are Suffering From The Lack Of A Clear Mission

Much of the work performed by CIB investigators not assigned to task forces is inconsistent with what is viewed as CIB's appropriate role. Although some CIB officers are successful in apprehending major criminals,

we found CIB's efforts often appear unfocused and not particularly effective. CIB needs a clear mission and management commitment to its role in performing independent, State-level investigations.

Few CIB officers conduct major investigations - Some CIB officers are successful in apprehending the major criminals viewed as CIB's appropriate target. When we interviewed State and Federal prosecutors, several were very positive about the quality and importance of certain investigations conducted by CIB officers. These prosecutors were able to identify the CIB officers that submit such cases by name and these officers account for only a small portion of the total CIB investigators.

As explained in detail in Finding II, we conducted an analysis of the outcomes of cases submitted to the Maricopa County Attorney's Office, and found that CIB officers' performance in certain major drug cases (including the manufacture, smuggling, or distribution of narcotics) was comparable to that of other Maricopa County law enforcement agencies. Although DPS performs well in these major drug cases, these cases account for only 20 percent of CIB drug cases submitted to the Maricopa County Attorney in the last three years. In addition, the number of these cases has been declining from 71 in 1989, to 34 in 1990, to 18 in 1991.

Much of CIB's efforts are unfocused and in areas outside those it can uniquely perform - Based on interviews both inside and outside CIB, our review of 52 case files, and our observations of CIB activities, we found that instead of focusing on major criminal activity, CIB expends significant manpower and resources on minor cases. The following examples depict activities that were clearly not focused on the major criminal.

- Management and officers in CIB's Phoenix-based organized crime and major violators squads are investigating small drug possession cases as a result of Demand Reduction Programs at the Veteran's Memorial Coliseum in Phoenix.

- One non-task force officer working on a service request to break up a crack ring (his only case at the time) said that this type of case was very unproductive, because when one such suspect is arrested, a new one steps in to take his or her place.

- The cases we sampled from the liquor squads involved bartenders cited for serving minors and minors cited for consuming alcohol. One county attorney in a rural county said if we wanted to know where the "fat" was in CIB, it was in liquor. He said he will not bother to prosecute any CIB Covert Underage Buying (CUB) program defendants and that if the liquor establishment was being targeted for a bigger reason, the case might be justified, but just to come in "fishing for trouble" was not worthwhile. (In the CUB program, undercover minors attempt to purchase alcohol.)

Because many CIB squads are not focused on a specific type of crime or criminal, they may investigate a broad range of criminal activities with marginal effectiveness. As one person in CIB management said, "DPS has been referred to as 'one mile wide and one inch deep,' i.e., being involved in everything but becoming experts at nothing." A look at the filing rates of the following charges submitted to the Maricopa County Attorney in the past three years serves to illustrate this point:

Gambling	10 charges submitted	-0- filed
Vehicle Theft	18 charges submitted	-0- filed
Fraud	47 charges submitted	13 filed
Liquor	25 charges submitted	-0- filed

Lack of a clear role is also evident in frequent Bureau reorganizations. CIB has undergone 13 reorganizations between 1986 and 1991. Of the 13 reorganizations, 7 involved significant changes. Each of the reorganizations represented, to some degree, a change in the focus of CIB's enforcement activities. For example, one squad shifted from being an Air Smuggling Unit to handling Hotel/Motel narcotic cases, and then to its current focus on trucking companies. As the focus changed, on-going projects were not completed, and new projects were begun.

<u>Clear mission needed</u> - DPS management needs to define the role it will assume for the State with its independent investigations function. This mission should emphasize the types of investigations it is perceived as

uniquely suited for as the State-level criminal investigations group. However, in defining this role, DPS needs to recognize that CIB will not be able to shift its focus overnight. It has been doing narcotics work for over 20 years. The street-level and mid-level cases that may have been important in the early 1970s are not CIB's appropriate focus today. CIB needs to increase its involvement in economic and organized crime; however, the officers need training and technology to make this transition. An officer that has been doing primarily street- or mid-level narcotics cannot be expected to identify money laundering or fraud from financial records without training. Additionally, few CIB investigators have access to computers. Even in the organized crime and financial investigations squads where computers are essential for case documentation, officers are sharing computers or using computers that are ten years' old. One prosecuting attorney said, "It's amazing that the State (CIB officers) is able to catch anyone considering that they do not have the technological resources necessary for investigating crime in the 1990s." DPS management needs to make a commitment to expenditures in training and technology to accomplish a shift to higher-level investigations.

RECOMMENDATIONS

1. CIB needs to define a clear mission for its independent investigative functions and communicate this mission to the law enforcement and prosecuting agencies in the State.

2. CIB management needs to clearly define which types of service requests from outside agencies it will respond to, when, and how the priority of service requests will affect officers' responsibilities in non-service request investigations. CIB should then communicate this position to jurisdictions using their assistance.

3. Once the Department has established a clear role for the Bureau, CIB needs to establish a structure to carry out this role.

4. CIB needs to train and technologically equip its officers to do the types of high-level crime viewed as its focus.

FINDING II

THE BUREAU NEEDS TO TAKE STEPS TO IMPROVE ITS CASE PROSECUTION RATE

CIB needs to ensure that more of its cases result in prosecution. Maricopa County prosecutors refuse to prosecute CIB cases more often than similar cases prepared by the four other agencies reviewed. Although less data is available for Pima County, CIB cases there appear to be prosecuted at rates comparable to other agencies. A major factor in CIB's lower prosecution rate may be a general attitude that an officer's job is completed following an arrest.

Evaluating The Success Of Investigations

How do you best evaluate the success of investigations? We believe you must look at what happens to cases after arrest. If the quality of an investigation is such that the prosecutors will not accept and file a case, or later drop the case, the case is closed and the suspect is back on the street, and the time, effort, and expense of the investigation may have been for nothing.

We analyzed the outcomes of 690 cases submitted to the Maricopa and Pima County Attorney's Offices, the Offices that prosecute the majority of CIB's non-task force cases. (Comparable data was not readily available for the 104 cases submitted to the Attorney General's Office.) CIB's performance was then compared to other major agencies submitting similar types of cases to these Offices.[1]

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(1) In Maricopa County, comparisons were based on all cases submitted between January 1, 1989 and December 31, 1991, that had charges submitted in any of the 22 crime categories in which CIB might normally do casework. These included drug crimes, fraud, theft, liquor offenses, weapon offenses, etc. In Pima County, comparisons were based on the disposition of cases issued by the County Attorney during the same time frame.

The key variable in reviewing the success of investigations in Maricopa County appears to be whether cases are filed. This involved comparing the percentage of cases submitted to, but not accepted by the Maricopa County Attorney's Office. An examination of conviction rates showed that once cases were accepted, conviction rates among agencies were fairly uniform at approximately 80 percent. In Pima County, we were unable to obtain data on the number of cases submitted but rejected by prosecutors. Instead, an analysis was conducted on the numbers of cases accepted but later dropped by prosecutors and the conviction rates for cases. See Appendix I for a discussion of our methodology.

Other Agencies Outperform CIB In Maricopa County

CIB investigations in Maricopa County are not as successful as similar investigations of four other agencies. Not only do the prosecutors file a smaller percentage of CIB cases, they request CIB to do additional work on its cases much more often than they do for the other agencies. In addition, data suggests that CIB's productivity may be lower than other agencies.

CIB filing rates are low - Data from Maricopa County presented in Table 1 (see page 13) shows CIB has the lowest filing rate of all agencies compared. In drug cases, which are considered to be CIB's specialty, almost one-half of the defendants CIB submitted cases against were not prosecuted. Table 1 presents the number of cases against individual defendants in the three calendar years studied and the percentage of these defendants that had charges filed against them for prosecution. Table 1 shows that during the three calendar years 1989 through 1991, CIB submitted charges for prosecution by the Maricopa County Attorney's Office against 755 defendants. Of these 755 defendants, the County filed charges against 47.4 percent (358 people). Table 2 (see page 14) presents the same information but only for cases involving drug charges.

It is important to note that we were unable to separate detective cases from patrol cases for the other agencies. Because detective cases typically have a higher filing rate than those of the patrol officers

TABLE 1

COMPARISON OF LAW ENFORCEMENT AGENCY FILING RATES FOR SELECTED CASES SUBMITTED TO THE MARICOPA COUNTY ATTORNEY'S OFFICE FOR THREE YEARS - 1989 THROUGH 1991

Law Enforcement Agency	Number of Defendants	Percentage of Defendants Having Charges Filed
CIB	755(a)	47.4%
Maricopa County Sheriff's Office	3,536	61.3%
Mesa Police Department	4,395	72.9%
Phoenix Police Department	36,433	55.8%
Scottsdale Police Department	1,495	60.1%

(a) CIB data is for detective cases only; all four comparison agencies include patrol and detective data. DPS, including CIB and Highway Patrol, submitted cases against 2,644 defendants. Of these 2,644 defendants, the County filed charges against 42.9 percent.

Source: Auditor General staff analysis of Maricopa County Law Enforcement Judicial Information System (LEJIS) data on cases involving charges for 22 selected crime types.

TABLE 2

COMPARISON OF LAW ENFORCEMENT AGENCY FILING RATES FOR ALL CASES INVOLVING DRUG CHARGES SUBMITTED TO THE MARICOPA COUNTY ATTORNEY'S OFFICE FOR THREE YEARS - 1989 THROUGH 1991

Law Enforcement Agency	Number of Defendants	Percentage of Defendants Having Charges Filed
CIB	596(a)	51.5%
Maricopa County Sheriff's Office	1,969	63.1%
Mesa Police Department	1,820	69.7%
Phoenix Police Department	17,986	62.0%
Scottsdale Police Department	484	54.8%

(a) CIB data is for detective cases only; all four comparison agencies include patrol and detective data. DPS, including CIB and Highway Patrol, submitted cases against 1,775 defendants. Of these 1,755 defendants, the County filed charges against 47.4 percent.

Source: Auditor General staff analysis of LEJIS data on cases involving drug charges.

CIB rates would probably compare even less favorably to those of other agencies had we been able to isolate detective cases for comparison.[1]

Other agencies are more responsive to the needs of prosecution - Another indicator of the quality of investigations is the need for further investigation after cases are submitted. Cases not filed for prosecution are either rejected or are "furthered," meaning further investigation is requested. In comparison with the other agencies, not only does CIB have the highest rate of requests for further investigation, it also has the lowest rate of response to these requests. Table 3 (see page 16) shows that CIB was requested to do further investigation at more than double the rate requested of Mesa and almost double the rate requested of Scottsdale. The Phoenix Police Department also had a lower rate of "furthers."

The rate of "furthers," however, may not be as important as an agency's response to "furthers" since, if the work is completed, the case can be filed for prosecution. However, CIB's response to "furthers" is particularly low in comparison with other agencies. Table 3 shows that CIB responded to only 51 percent of the prosecutors' requests, while the other law enforcement agencies responded to close to or over 70 percent of the requests.

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(1) On the whole, uniformed officers in an enforcement agency file a higher rate of minor charges than detectives. Prosecutors frequently refuse cases with minor charges because these cases are not cost effective to prosecute.

TABLE 3

COMPARISON OF PROSECUTORS' REQUESTS FOR FURTHER INVESTIGATION BY LAW ENFORCEMENT AGENCY AND AGENCY RATES OF RESPONSE TO REQUESTS FOR THREE YEARS - 1989 THROUGH 1991

Law Enforcement Agency	Number of Defendant Cases	Total Requests for Further Work(a)	Percentage of Total Requests Responded To
CIB	755(b)	209 (27.7%)	51.2%
Maricopa County Sheriff's Office	3,536	670 (18.9%)	69.9%
Mesa Police Department	4,395	568 (12.9%)	71.5%
Phoenix Police Department	36,433	6,473 (17.8%)	77.5%
Scottsdale Police Department	1,495	209 (14.0%)	76.6%

(a) The number of cases requiring further work is slightly less than the number of total requests for further work because a case may be furthered more than once.

(b) CIB data is for detective cases only; all four comparison agencies include patrol and detective data. DPS, including CIB and Highway Patrol, had 2,644 defendant cases. Of these 2,644 defendant cases, 31.2 percent had requests for further work, and 55.5 percent of these requests were responded to.

Source: Auditor General staff analysis of LEJIS data on defendant cases submitted from 1989 to 1991 that involved charges for 22 selected crime types.

CIB management could improve its responsiveness to requests for further investigation. In examining the response rate of individual CIB officers, we found some officers had very high response rates, while others had a high number of "furthers" and very low response rates. For example, one officer responded to only one of the ten requests for further investigation on his defendant cases; consequently the other nine defendants will not be prosecuted. By not making case follow-through a priority, CIB is abandoning cases in which they have invested time and money. A total of 102 additional defendants (28 percent of the 358 defendants filed against) over the three-year period might have been prosecuted had CIB been willing to do the follow-up work.

Comments from prosecutors confirm weaknesses in case documentation and follow through - We spoke with eight attorneys in the Phoenix Metropolitan area, representing three prosecuting agencies (Maricopa County, Attorney General, and U.S. District Attorney). Seven of the eight criticized the way CIB cases are presented for prosecution. One attorney predicted that CIB's [lack of] thoroughness in preparing cases will differentiate CIB from the better agencies. Some of the attorneys' comments are summarized below.

- The CIB work is good until they consider their part to be over. After the last arrest has been made, the last warrant served, and the last asset seized, they think it's all the prosecutor's job. Getting reports from them after indictment is like pulling teeth.
- DPS is notorious for stopping at arrest and not following the case through.
- The investigators lack the requisite skills to prepare the case for prosecution.
- When I see a CIB case come in, a chill goes up my spine because I know a lot more work will need to be done for proper documentation for prosecution.

One prosecutor mentioned a case in which he thought he could obtain a life sentence with some additional documentation. However, he ended up with a plea to a far lesser sentence because CIB officers would not submit reports, even though repeated requests were made by the prosecuting agency.

Data also suggests lower productivity - Finally, not only does CIB have a lower filing rate, but case data suggests it may also have a lower productivity rate than other agencies. Based on case information obtained from the Maricopa County Attorney's Office, we found that the number of cases submitted by officers varied considerably. Comparing CIB's productivity with other agencies in Maricopa County, we found the Mesa Police Department had an average of eight officers that filed 94 major drug cases from 1989 through 1991[1], or an average of over 11

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(1) For this analysis, major drug cases primarily include the manufacture, smuggling or distribution of drugs.

cases per officer.[1] The Phoenix Police Department had an average of 36 officers that filed 1,194 such cases in the same time period, an average of over 33 cases per officer.[2] CIB has 31 officers working in Maricopa County and filed only 123 major drug cases in the same three-year time frame, less than 4 cases per officer. Additionally, prosecutors in three separate offices questioned CIB productivity, stating that the number of cases seemed low in relation to the Bureau's manpower.

CIB's Success In Pima County Appears Comparable To Other Agencies

Although less data is available for comparison, CIB investigations in Pima County appear to result in as many prosecutions as those of two other Pima County agencies. In addition, prosecutors evaluate CIB case quality and responsiveness as similar to that of other agencies.

Pima County and Maricopa County differ in how they handle cases and the types of information they track. For example, Pima County will accept cases without some documentation, however, if the missing documentation is not provided later, the case will be dropped. In Maricopa County, all documentation must be complete before a case is filed. In addition, because the Pima County Attorney does not track the number of cases submitted but not accepted for filing, or the number of requests made for further investigation, we used dismissal rates and conviction rates to compare CIB's effectiveness to that of the other Pima County agencies.

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(1) As a result of receiving a grant, Mesa had up to 12 officers working on narcotics cases during 1989. During 1990 and 1991, Mesa had 6 officers working on narcotics cases.

(2) Phoenix officers' average would be expected to be somewhat higher than the Mesa officers' or CIB officers' because Phoenix officers are assigned to drug cases full time; CIB and Mesa officers may be assigned to other types of cases.

CIB outcomes appear similar to other agencies - CIB is comparable to the Tucson Police Department and the Pima County Sheriff's Office in conviction rates and in rates of case dismissal prior to indictment. However, because the data for the Pima County Sheriff's Office and the Tucson Police Department includes patrol as well as detective cases, we cannot conclude that CIB case outcomes would equal those of the other agencies' detective squads.

Table 4 (see page 20) shows comparative conviction and dismissal rates for all cases involving the selected crime types for three years. Table 4 shows that from 1989 through 1991, the Pima County Attorney filed charges on 329 CIB defendants. As of April 1992 when we obtained the data, 243 of the cases had been disposed by the County Attorney: 43.2 percent of the defendants were convicted and the cases against 42 percent of the defendants were dismissed. Table 5 (see page 21) presents the same data but for cases involving only drug charges.

Based on conviction and dismissal rates, the quality of CIB cases filed with the Pima County Attorney appears similar to that of the other two agencies.[1] Additionally, in analyzing case dismissals we found the primary reasons for case dismissal are similar to all agencies. Specifically, insufficient evidence and the need for further investigation are the most frequent reasons for dismissal in all agencies.

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(1) We were able to identify one year of cases (1991) for MANTIS, a multi-agency narcotics task force operating in the Tucson metropolitan area. We found MANTIS to have higher conviction rates than the other agencies. However, due to audit time constraints, we were unable to explore the potential reasons for MANTIS' higher rates.

TABLE 4

COMPARATIVE CASE DISPOSITIONS FOR SELECTED CASES ISSUED BY THE PIMA COUNTY ATTORNEY FOR THREE YEARS - 1989 THROUGH 1991

Law Enforcement Agency	Number Of Defendants	Number of Defendants With Cases Disposed	Guilty As A Percent Disposed	Dismissed As A Percent Disposed
CIB	329(a)	243	43.2%	42.0%
Pima County Sheriff's Office	1,595	1,410	46.7%	41.2%
Tucson Police Department	8,770	7,682	48.8%	40.2%

(a) CIB data is for detective cases only; comparison agency data includes patrol and detective cases. DPS, including both CIB and Highway Patrol, had 630 defendant cases. Of the 630 defendant cases, 506 were disposed: 39.5 percent of the defendants were convicted and the cases against 51.6 percent of the defendants were dismissed.

Source: Auditor General staff analysis of Pima County Attorney data on cases involving selected crime types.

TABLE 5

COMPARATIVE CASE DISPOSITIONS FOR DRUG CASES ISSUED BY THE PIMA COUNTY ATTORNEY FOR THREE YEARS - 1989 THROUGH 1991

Law Enforcement Agency	Number Of Defendants	Number Of Defendants With Cases Disposed	Guilty As A Percent Disposed	Dismissed As A Percent Disposed
CIB	251(a)	180	42.8%	42.2%
Pima County Sheriff's Office	486	442	29.2%	69.0%
Tucson Police Department	3,937	3,476	48.9%	46.0%

(a) CIB data is for detective cases only; comparison agency data includes patrol and detective cases. DPS, including CIB and Highway Patrol, had 437 defendant cases. Of the 437 defendant cases, 338 were disposed: 41.4 percent of the defendants were convicted and the cases against 48.2 percent of the defendants were dismissed.

Source: Auditor General staff analysis of Pima County Attorney data on cases involving selected crime types.

Pima County attorneys feel CIB case quality is similar to other agencies - Overall, the quality of CIB cases and the responsiveness of CIB officers to the needs of prosecution is viewed as equal to that of other agencies operating in Pima County. Seven attorneys representing two prosecuting agencies in the Tucson metropolitan area were interviewed, and none indicated that CIB had any particular problems with case documentation or responsiveness. In fact, in cases involving major fraud and economic crime, CIB was perceived particularly favorable, while in narcotics cases, CIB case quality was considered equal to that of other agencies.

The Bureau Should Implement Changes To Emphasize Case Outcome

To improve its filing and conviction rates, CIB should begin to emphasize case outcome. This will require changes in overall management philosophy as well as the implementation of various practices used by other enforcement agencies to ensure responsiveness to the needs of prosecution.

CIB management perceived as unconcerned about case outcome - Some attorneys that felt positively about the efforts of individual CIB officers say CIB management lacks commitment to a case after arrest. One attorney spoke of the belief held by CIB lieutenants and captains that the job is over at arrest and of their reluctance to emphasize quality casework. We saw evidence of the philosophy that the job is finished at arrest when we spoke with Bureau management about doing a case outcome analysis. Bureau management indicated that such a measure would be invalid because officers had no control over what happened to a case after arrest.

Additionally, few of the officers interviewed knew about the outcomes of their cases. We sampled and reviewed 42 non-task force cases. Of the 21 cases sampled in which there was an arrest or a referral for prosecution, in only two instances was the CIB officer aware of whether the prosecutor had filed or dismissed the case.

Practices in other agencies - During our interviews with other law enforcement agencies, we found a variety of practices used by detective

units to promote responsiveness to the needs of prosecutors and emphasize case outcome.

- **Court Liaison Function** - Some detective units within the Phoenix, Tucson, and Mesa Police Departments have full-time positions dedicated to facilitating case movement between their agencies and the County Attorney. Functions of the court liaisons may include retrieving the furthered cases from the attorney, routing them to the investigating officer for follow up, and resubmitting these cases. The volume of cases received by the Maricopa County Attorney (over 33,000 cases in 1991) prohibits them from contacting officers directly when follow up is needed. Although the DPS Highway Patrol Bureau has a court liaison in Maricopa County, CIB has no such position.

- **Quality Review Mechanisms** - Two detective units we spoke with have a quality review prior to submitting cases to the prosecuting agencies to ensure all the appropriate documentation is included and that the reports are clear and complete. When we asked about the process, one of the comparison agencies said, "Why would we turn in a bad case and waste the attorney's time and our time in sending it back, when we are capable of determining if we have all the necessary elements ourselves." In the Drug Enforcement Bureau of the Phoenix Police Department, all cases turned down or furthered by prosecutors are routed to the investigator's supervisor for review.

- **Open Lines of Communication With Prosecutorial Agencies** - Some law enforcement agencies we spoke with talked about the open relationship they had with criminal justice agencies. One commander in a Maricopa County enforcement agency said he made it a point to get continuous feedback from prosecutors regarding his officers' cases and their presentation in court so that he is aware of and can correct any problems right away. Attorneys in different prosecuting agencies in Maricopa County suggested that CIB management is not concerned about the needs of prosecutors.

- **Consideration of Case Quality in the Evaluation of Officers** - We found that some agencies consider case outcomes in their evaluation of officers. At the Drug Enforcement Administration, officers are promoted as a result of the submission and review of their best cases by management. In the Tempe Police Department's Criminal Investigations Bureau, 25 percent of the officers are rotated out to patrol positions annually based on poor productivity and case outcome. At the present time, CIB management has no way to identify those performing well on cases and being responsive to prosecution requests for "furthers."[1]

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(1) We examined the Maricopa County data by individual officer, and found that some officers are submitting numerous cases while maintaining high filing rates and high rates of response to "furthers." However, other officers are submitting a high number of cases but maintain filing rates below 25 percent and response rates to "furthers" at only 25 percent. Other officers appear to be submitting very few cases.

RECOMMENDATIONS

1. CIB should begin to track case outcome and set measurable goals for improvement.

2. Case disposition should be a required element in the case file and any automated case management system that is developed.

3. CIB management should develop a plan to obtain suggestions and feedback from all prosecuting agencies with which it is involved.

4. In connection with its case tracking system, the Bureau needs to develop a mechanism to capture caseload by officer. This information should be used by Bureau management in evaluating officer productivity and effectiveness.

FINDING III

CIB NEEDS TO DEVELOP STRONGER CASE MANAGEMENT PRACTICES

To improve its performance in prosecuting cases, CIB should take steps to improve its case management practices. CIB has few guidelines to help its officers determine whether a case is worth pursuing, and does not require officers to plan how they will conduct the investigation. Further, Bureau supervisors do not provide adequate oversight of cases in progress. Guidelines should be adopted to ensure proper manpower utilization and officer accountability.

Because of the types of investigations CIB conducts, systematic practices are necessary to ensure proper case management. Planning, case initiation procedures, tracking, prioritization, accountability, and oversight are all important components of a law enforcement case management system. Because the majority of CIB cases now involve drugs and narcotics, effective case management is essential. According to a Drug Enforcement Administration (DEA) official, any time drugs, confidential informants, and large amounts of money are involved, case management, which includes planning and controls, is essential to ensure officer accountability and safety.

Initiation Of Cases Is Loosely Controlled

CIB needs better prioritization and planning when it begins work on a case.(1) While other law enforcement agencies appear to have stringent criteria for initiating an investigation, CIB does not. CIB does not require an evaluation or prioritization before initiating an investigation.

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(1) We compared DPS case management practices to professional standards and other law enforcement department practices. This comparison involved contacting the Drug Enforcement Administration and local law enforcement agencies to obtain their case management procedures, and reviewing law enforcement standards regarding case management. We then reviewed a judgmental sample of 52 CIB case files and compared CIB's case management practices against identified criteria.

Case Screening - The Standards for Law Enforcement Agencies[1] manual establishes certain criteria for effective case management. The standards mandate screening cases for importance before they are initiated, and developing controls that address investigator assignments and resource usages.

According to a DEA official, the DEA evaluates and prioritizes its cases prior to initiation. The Geographical Drug Enforcement Program (G-DEP) allows DEA to classify cases by types and level. Specifically, before a case is initiated, an agent must evaluate the case against four classes of cases.[2] (Class I cases involve the largest amount of drugs.) The case designation is reviewed by an agent's immediate supervisor and the next level of supervision to insure proper classification and prioritization. This allows DEA to determine whether to conduct an investigation, what resources will be needed, anticipated outcome, and overall cost. Generally, cases are only investigated if they are classified as Class I or Class II.

Case Planning - In addition to assessing the importance of a case, some agencies require agents to develop a basic plan when initiating a case. Often these plans are based on a limited preliminary investigation. The Organized Crime Bureau of the Phoenix Police Department allows its officers to spend up to 16 hours conducting a preliminary investigation. It then requires an investigating officer to submit a case initiation request form to a sergeant before full investigation begins. This request contains the officer's case plan and the estimated man-hours needed to conduct the investigation. This request must be processed and approved through the Bureau chain of command. No investigation can be initiated without approval of at least a sergeant. The request includes information about the type of investigation, names of suspects, total number of suspects, summary of preliminary information, investigative

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(1) The Standards for Law Enforcement Agencies manual provides both required and recommended standards for law enforcement agencies desiring accreditation.

(2) Class designation is determined by the type of drug, and the quantity of drugs a suspect is moving or capable of moving in a specific time frame.

objectives, and an estimate of the investigative man-hours necessary. Supervisors then review the case initiation request for criteria such as the following.

- Validity of the original intelligence information
- Criminal nature of the problem
- Importance of the problem
- Presence of lead information
- Possible investigative techniques
- Sufficiency of agency resources
- Possible operational problems

Like the Phoenix Police Department, DEA also emphasizes preparing a case plan and points out that department resources are unavoidable factors in planning a case. Factors such as available manpower, funding, time, equipment, and legal assistance all need to be evaluated when beginning an investigation. According to the DEA handbook, narcotics investigation is not an area for trial and error tactics. The success or failure of such an investigation often hinges on small procedural details that should be considered during the initial planning of the case.

CIB Practices - Unlike DEA and the Phoenix Police Department, CIB does not require specific criteria or written documentation before an investigation begins. In a judgmental sample of 52 CIB cases, we found that over 90 percent of CIB enforcement squad cases were initiated by the case investigator. In most instances, supervisor approval for case initiation could only be documented in the files after the case began. Even when cases involved larger "sting" narcotic purchases, we were unable to find documentation explaining why the case was being investigated, what factors were considered before the case was initiated, or whether supervisor approval was obtained prior to initiating the investigation.

The following investigations illustrate the Bureau's failure to plan a case, document the reasons for manpower and resource needs, and ensure

the investigating officer's skills or abilities are considered prior to case initiation.

CASE ONE

- The Bureau assisted in and secured the release of a convicted felon who was then used as a confidential informant (C.I.) in a money laundering investigation. This felon was previously the major target of a CIB investigation that required considerable manpower and resources and resulted in the felon (now the Bureau's C.I.) facing a lengthy jail sentence. However, during the money laundering investigation, this felon stole evidence purchased with CIB undercover funds and left the State while supposedly being supervised by CIB investigators.

  Comments: CIB case files did not document the reasons for conducting this investigation or indicate the criteria for assigning investigators. In addition, the case files did not indicate the case outcome, the reason a convicted felon was used as a C.I., the overall responsibilities for this informant's activities, or the fact that the C.I. had fled the State. A squad sergeant and an officer who previously worked with the felon claimed neither of them wanted to work with the C.I. or conduct the investigation because the felon was unreliable. Further, we could not document the approvals of CIB upper management for initiating an investigation of such magnitude, especially considering the unreliability of the informant and the fact that the Bureau secured this convicted felon's release in order to conduct the investigation.

CASE TWO

- Based on a written complaint from the Department of Liquor Licenses and Control (DLLC), the Bureau conducted a covert investigation of a local bar. The investigation was directed by a DPS officer. According to the DPS officer, investigators were attempting to substantiate a complaint that underage drinking and sexual acts were being committed in the bar's parking lot. Surveillance was conducted, both inside and outside the premises, for approximately four hours. The DPS officer obtained substantial resources to conduct the surveillance -- six CIB officers as well as four officers from other law enforcement agencies. Although no violations supporting underage drinking could be substantiated, two males and one female were cited for public sexual indecency.

  Comments: Although the surveillance was not conducted until more than two months after DLLC submitted the complaint to CIB, no case planning and review appears to have been done. While considerable manpower and resources were used, there is no indication a preliminary investigation was completed to justify the manpower and resources committed. The Standards for Law Enforcement Agencies states that a preliminary investigation "...may be sufficient to bring the case to satisfactory conclusion."

CASE THREE

- In reviewing one case, we asked an officer to describe the case or cases he was presently investigating. He said he was working on one auto case that involved illegal tampering with a speedometer or a "speedometer rollback" fraud. When questioned about his experience in this area, he replied he had very little experience, and admitted because of his limited knowledge and expertise in this area, he was meeting with a local prosecutor for some "assistance" with the investigation.

  Comments: If case planning and supervisory approval had been required, this case may never have been initiated. This investigation was not assigned based on experience or qualifications.(1) Even if this case had been initiated after reviews, case planning may have helped the officer obtain expertise. For example, although the Bureau had other experienced officers conducting similar investigations, it did not appear from our discussion that these investigators were being consulted.

Once Cases Are Initiated, Case Progress Is Not Adequately Monitored

Once cases begin, CIB does not systematically monitor case progress. In addition, CIB lacks the management information necessary to oversee cases. Further, unlike other law enforcement agencies, CIB has no standardized mechanism in place to periodically assess case progress and determine whether cases should be continued.

Bureau lacks critical case management information - CIB division and squad management lack information about the cases being investigated, and the status of such cases. During our audit, we questioned squad sergeants about their methods for tracking cases under investigation. Some sergeants indicated that no squad logs of current case assignments or activities were being kept. One sergeant said that he would have to "poll" his three officers to determine which cases they were presently investigating. Other sergeants indicated that some case information was being maintained in their personal datebooks or computers. A DPS inspection team assigned to review case management procedures also found

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(1) The Standards for Law Enforcement Agencies mandates that personnel be assigned to an investigation on the basis of expertise. In addition, the manual suggests cases requiring specialized skill, knowledge, and abilities be assigned to personnel with those credentials.

that systematic logs were not being kept and that case tracking methods employed by supervisors were inconsistent and unstandardized. Unlike CIB, both units of the Phoenix Police Department's Drug Enforcement and Organized Crime Bureaus require squad sergeants to maintain logs of all approved investigations. Further, the Organized Crime Bureau's logs must be reviewed by lieutenants on a monthly basis to ensure proper adherence to Bureau criteria.

Because case information is not being captured at the officer level, the Bureau lacks the management information necessary to effectively oversee its operations. Although the Bureau has 87 sergeants and officers assigned to CIB investigations[1], Bureau management cannot identify the following:

- The number of DPS cases
- Case initiation dates
- Current status of cases (i.e., open or closed)
- Types of cases (i.e., narcotics, fraud, liquor, etc.)
- The names and number of officers assigned
- Whether the case is being investigated solely by DPS or in conjunction with other law enforcement agencies
- Amount of resources expended
- Man-hours expended
- A listing of the type and dollar value of assets seized (if any)
- Case outcome (i.e., arrest, conviction)

Recognizing the need for more complete and timely case management information, the Bureau is developing a plan to obtain an automated system to help track such information. However, the new system will not address all the problems documented during our audit. For example,

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(1) The Bureau has another 59 sergeants, officers, and civilian analysts assigned to task forces in other jurisdictions.

it will not have procedures for addressing case initiation approvals or planning. Without procedures addressing when a case begins and components such as supervisory reviews and approval, planning and accountability problems will continue even under a new system. Additionally, because the automated case management system will not be implemented in the near future, the Bureau may want to institute a manual logging and tracking system.

<u>CIB has no system for assessing case continuation</u> - Although other law enforcement agencies require additional management approval for case continuation, CIB has not developed a system for determining whether cases warrant continuation. For example, the Phoenix Police Department's Drug Enforcement Bureau requires the approval of the unit lieutenants to conduct an investigation exceeding 400 man-hours and the approval of the Bureau Commander to conduct an investigation exceeding 600 man-hours. A case management review report must be completed to justify continuing an investigation when the time invested exceeds that authorized by the last supervisor granting approval. Officers cannot continue an investigation until the investigation is approved by the appropriate supervisor.

Under the system used by DEA, active status cases are reviewed by the supervisor as significant activities occur or at a maximum interval of 30 days. If no evidence is obtained to arrest at least one suspect during this period, the immediate supervisor closes the case. If evidence is available, the investigation continues. If a case is closed and later information suggests new evidence, a new case file is opened.

If CIB had more specific guidelines, it might be able to utilize its investigators' time more effectively. For example, specific guidelines might have eliminated a CIB investigator spending nearly 800 man-hours on a surveillance case in which the officer never saw the suspect. A brief description of this investigation follows:

> Based on a suggestion from another law enforcement entity, an investigator initiated and conducted a surveillance. The investigator alone spent nearly 800 man-hours (the equivalent of four and one-half months) conducting the surveillance, and other

investigators also spent time on this case. During the entire period of surveillance, the investigating officer never saw the suspect. We could find no documentation of supervisor approval or involvement to justify continuing this investigation for such an extended period of time.

RECOMMENDATIONS

1. CIB officers should not be allowed to initiate cases without supervisor approval.

2. CIB needs to adopt and adhere to the following criteria for case planning and initiation.

   a. A case initiation form should be used to document the reasons for beginning a case, and the form should be reviewed and approved by the appropriate supervisor when a case is initiated.

   b. Case plans should be developed for larger complex cases. The plans should include the reasons for the investigation, resources needed, anticipated results, appropriate management approval, and anticipated costs.

   c. Documented supervisory approval should be obtained for continuing work on lengthy cases.

3. The Bureau should take actions to ensure that the automated case management system it is developing will capture the critical case information necessary for management reports. The system should allow management to access information such as the number of cases being investigated, the status of those cases, the number of man-hours and resources expended on each case, the number of arrests, and the outcome of each case. Further, the Bureau needs to include all aspects of case planning and initiation as part of the case management system. Because implementation of the automated system will be delayed, CIB should consider instituting a manual logging and tracking system in the meantime.

FINDING IV

CIB CASE FILE DOCUMENTATION IS POOR

The Bureau's case file documentation needs improvement. CIB does not adequately document its officers' casework. Comprehensive case files are important for both monitoring officer actions on a case and for prosecution once suspects have been arrested. However, in our review of CIB case documentation, we found that case documentation was often incomplete, files were difficult to locate, and file documents frequently lacked evidence of supervisory review. Because of the extremely poor condition of case files, we were often unable to determine what transpired in a given case, and we had to conduct extensive follow up to reconstruct the case.

Comprehensive Case Files Are Important For Case Management And Prosecution

Comprehensive case files are an important means of monitoring officer actions. Because the purpose of a case file is to document the events surrounding an investigation, the file serves as a basis for supervisory review of officers' actions. In addition, a case file can assist a supervisor in determining the future actions necessary to conclude an investigation.

For cases with arrests, comprehensive case files are also an important part of prosecution. According to the Drug Enforcement Administration's Drug Enforcement Handbook, preparing a case for court includes documenting everything of significance that occurs during an investigation leading to arrest. From case file materials and field notes, an officer should be able to provide a prosecutor with a chronological report of the activities leading to an arrest, documentation of evidence, a listing of the items seized, whether any samples were submitted for laboratory analysis, and the name's of those arrested and on what charges. Further, the officer will probably need to consult the file to recall details of a case if called to testify.

The need for thorough case documentation is also emphasized by time lapse between when a case is completed and the trial. It is not uncommon for a trial to be held several months to a year after an arrest has been made.

Review Of Case Files Reveals Poor Documentation

CIB case files are in poor condition. We reviewed a sample of CIB case files and found that case files were often incomplete, difficult to locate, and frequently lacked evidence of supervisory review.

Sample of files were selected - Because the Bureau did hot have a comprehensive listing of the cases it was investigating, or the status of these cases, to determine the quality of CIB case documentation, we reviewed a judgmental sample of 52 cases. These cases were selected from CIB enforcement squads (42 files) as well as from task forces to which CIB officers were assigned (10 files). In selecting enforcement squad cases, we considered for review at least one case from each squad unit. In addition, we selected the county task force cases from cases for which a CIB officer was listed as the officer in charge.

Based on our review of these files, we noted the following deficiencies.

- Files were often incomplete - According to the Standards for Law Enforcement Agencies, case files should contain a copy of preliminary investigative reports, records of statements, results of physical evidence examinations, case status reports, and other reports and records needed for investigative purposes. The Bureau's procedure manual requires this type of information in its case files.

  CIB files often lack important documentation. Of the 52 case files we reviewed, 22 (42 percent) were missing key documentation, including narrative reports detailing the events transpiring on the case; requests for lab analyses; search warrants; seized asset reports; and approvals for conducting drug buys, reversals[1], or flash operations.

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(1) A reversal is a closely supervised investigation in which covert officers represent themselves as suppliers of contraband.

- **Files were difficult to locate** - According to the Standards for Law Enforcement Agencies, once activity on a case is suspended or closed, the files should be consolidated into a central records system. We found that CIB files are not being closed and consolidated. Instead, case documents were found in three locations: with central records, with squads, and with the officers. Central records maintains some information, including narrative reports. In addition, a squad may have copies of some of the file documents. However, in the majority of instances, the most comprehensive file documentation is kept by the officer who investigated the case. For example, although no further action was planned in 44 of the 50 case files we reviewed, the investigating officer still retained the file in 40 of these 44 cases.

- **Files lacked evidence of supervisory review** - Although Bureau policy requires supervisory review of cases, we did not find evidence of such reviews. According to Bureau policy, supervisors are supposed to review cases and update case folder check lists at least every 30 days. In addition, the supervisors are supposed to sign off on case file documents. However, in our review of 52 cases, we found that 19 case files did not have evidence of a supervisory review and three additional case files had only some documents that appeared to have been reviewed. In addition, most files did not contain a case folder check list. The Department's internal review also indicates problems with file review. DPS conducted a special inspection of CIB's Case Management System, and the findings were detailed in an October 1991 report. The inspection team found that although sergeants review supplemental reports, they do not routinely review the entire case file. In addition, the special inspection team found that the case file folder check list is not being used consistently throughout the Bureau.

Because of the extremely poor condition of case files, we were often unable to determine what transpired in a given case through file review alone; consequently, extensive follow up was required. In almost every case, we had to talk with officers to determine what occurred in the case, and its current status. In addition, we often had to contact other people (such as property and evidence custodians and county prosecutors) to determine the status of a case in specific areas. The following case examples demonstrate the poor condition of some CIB files we reviewed.

CASE ONE

- In November 1990, a CIB officer obtained a warrant to search a residence identified as a clandestine lab. Arrests were made and the case was sent to the county prosecutor. We requested a file from the squad sergeant. However, the file provided was an "office file" and not the "officer's file." After waiting approximately one week for the officer to return from leave, he informed us that

his file was with the county prosecutor. Our review of the office file revealed that several key documents were missing, including a copy of the search warrant, a copy of the property and evidence form documenting receipt of evidence, a deposit slip for seized monies totalling $8,320, and information indicating the current status of the case. Further, although the last file notation indicates the file was closed by arrest and was pending, the squad sergeant indicated that the case had been dismissed and all property had been returned to the owner. The officer also indicated that the case had been dismissed because the local police department that notified DPS about the suspect had lied about how it learned of the suspected illegal activity. However, this information was not noted in the file we reviewed.

CASE TWO

- In October 1990, a CIB officer sold marijuana totalling 61 pounds for which he received $72,750. A search warrant was obtained and a total of $95,550 was seized from four suspects. Our review of the file revealed three documentation deficiencies, which we attempted to follow up. First, because the case involved the sale of marijuana by CIB to suspects, direction should have been obtained from a prosecutor. However, the file did not contain any evidence of prosecutor involvement. The officer provided the name of a prosecutor who he stated approved of the sale. We contacted the prosecutor and he told us that he had never been contacted regarding the sale.

  Second, we could not determine from the file where the marijuana was obtained or whether supervisory approval had been obtained for the sale. The officer indicated that he obtained the marijuana from DPS Property and Evidence, and that the DPS form would show supervisory approval. We contacted Property and Evidence officials who, after much searching, were able to locate a form that indicated "4 bales" of marijuana were checked out of Property and Evidence. The officer indicated that he had checked out approximately 80 pounds of marijuana for the operation. Although we found documentation that indicated 61 pounds were utilized and returned to Property and Evidence, we were unable to locate documentation that indicated the remaining 19 pounds were returned. Further, Property and Evidence employees were unable to produce documentation of approval for the removal of the marijuana.

  Third, although the seized cash had been forfeited through a court order in July 1991, the file did not contain any indication of the status of the cash.

CASE THREE

- In January 1991, an officer used a confidential informant to purchase marijuana from two suspects. The suspects were not arrested at the time of the sale. The purchased drugs were submitted for analysis, and the results were positive. The file included narrative reports about the transaction as well as forms denoting the results of the analysis and placement of the drugs into evidence. Although one of the suspects was subsequently arrested, the documentation was unclear as to whether the arrest was related to this case. Further, there was no documentation to indicate whether the other suspect had been arrested or whether such a pursuit was being planned. The arresting officer's sergeant indicated that he did not know the outcome of the case, and said that the officer assigned to the case had been transferred to Highway Patrol. He also said that no further follow up was planned.

RECOMMENDATIONS

CIB needs to take the following actions to correct deficiencies in its case file documentation:

- Track cases assigned to officers so that supervisors are aware of what cases need to be reviewed

- Require consistent utilization of the case file folder check list

- Conduct routine supervisory reviews of files to ensure case officers are preparing comprehensive files

- Develop a policy for storage of case files that allows management to easily retrieve them

FINDING V

DEPARTMENT PLACES INEXPERIENCED PERSONNEL IN CIB SUPERVISORY POSITIONS

Developing stronger case management will place more responsibility on CIB supervisors. However, CIB management consists of many personnel that have no experience in criminal investigations prior to being placed in a CIB supervisory position. The Bureau's lack of experienced management personnel is a result of the Department's placement practices. The Department should consider requiring that those placed in CIB management positions have criminal investigations experience.

The nature of the work performed by CIB warrants supervisors with related experience. CIB cases often involve working with narcotics and large amounts of money -- cases that require extensive planning and supervision to ensure success and officer safety. However, most CIB officers are recruited from the Highway Patrol Bureau and lack the investigatory training needed for such cases. The training provided to those officers is primarily on the job, and supervisors have primary responsibility for such training.

Many Supervisors Have Little Or No Experience

DPS does not require its supervisors to have prior CIB experience. We analyzed all management personnel at the levels of sergeant, lieutenant, and captain to determine the CIB experience these personnel had prior to being promoted into CIB management. Our analysis revealed that of the 58 supervisory personnel, 21 had no experience in CIB as an investigative officer prior to being placed in CIB management. Further, other officers that had experience had not been employed by the Bureau for several years prior to returning to CIB.

A prosecutor we spoke with stated that when a Highway Patrol officer is promoted into a CIB sergeant position, "He is now supervising people who he doesn't understand and a function he has no knowledge of... One of the

worst problems is that the narcotics agents who have been doing their work for years have no respect for the sergeant." Another former prosecutor stated that supervisors are transferred or promoted in without experience in or knowledge of the type of work CIB officers are doing.

Compounding the lack of experienced CIB management personnel is the constant turnover in Bureau upper management. We reviewed the number of personnel changes for the captain, major and lieutenant colonel positions since 1987.(1) In the five-year time frame reviewed, the Bureau has had four lieutenant colonels in the Assistant Director position and four majors in the Chief of Staff position. In addition, the Bureau has had twelve officers in captain positions.(2) Such constant personnel changes cause a lack of continuity and accountability.

Placements Not Based On Experience

The reason for lack of experience is the Department's placement policy. The Department does not require those placed in CIB management positions to have related experience. For example, when a sergeant position becomes available within the Bureau, consideration is first given to internal transfers, then to inter-Bureau transfers, and finally, to promotions. Because DPS considers all sergeants equally qualified for any sergeant position in the Department, a sergeant with no prior CIB experience is able to transfer into the Bureau. Further, promotions are made from eligibility lists of all officers in the Department that have passed the sergeant exam. The officer at the top of the list is generally given the first opportunity for promotion. Thus, Highway Patrol officers can be promoted to CIB sergeants even though the officers have no prior CIB experience. DPS procedures are the same for promotions to lieutenant or captain.

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(1) The Department has no means of tracking personnel changes for each of its positions. Thus, the information presented is based on an interview with the former Bureau Chief of Staff who had been in the Bureau over 14 years.

(2) The number of captain positions has varied over the years from three to five. Currently, CIB has four captain positions.

The system not only places inexperienced personnel into CIB, it also encourages experienced personnel to leave CIB to pursue promotional opportunities. According to Department policy, if a candidate on an eligibility list refuses a promotion, the candidate is dropped to the bottom of the list. Consequently, if a CIB officer qualified to become a sergeant refuses a promotion in another Bureau (such as Highway Patrol) to wait for a CIB sergeant position, the officer is dropped to the bottom of the eligibility list. Thus, many officers leave CIB to take advantage of a promotional opportunity. For example, we identified one employee who had been with CIB for 10 years, but transferred to the Highway Patrol Bureau to become a sergeant.

Other Police Agencies Consider Experience

We contacted other police agencies to learn about their promotional system. An official with the Drug Enforcement Bureau of the Phoenix Police Department said that sergeant positions are usually filled with personnel experienced in investigations, and that screening for such experience is part of the interview process. An official with the Drug Enforcement Administration (DEA) indicated that all supervisors in DEA have been through the agent ranks before being promoted to supervisor.

DPS should revise its promotional system to consider experience. Its current policies and procedures do not require related experience as a consideration in determining promotions. To require related experience, the Department will need to establish separate job classifications for CIB, and then request approval for the classifications from the Law Enforcement Merit System Council.

RECOMMENDATION

The Department should consider developing a placement system for CIB management personnel that requires prior experience in investigations and narcotics cases.

FINDING VI

CIB DOES NOT ADEQUATELY CONTROL ITS UNDERCOVER FUNDS AND FLASH ROLL MONIES

CIB also needs to strengthen internal controls over specific aspects of its operations, including undercover and flash roll funds. Guidelines established by DPS to control and account for undercover and flash roll funds are not being followed.

DPS receives undercover and flash roll funds as a result of criminal asset forfeitures. Undercover funds, also referred to as evidence acquisition funds, are issued to individual investigators(1) for informant payments, purchasing evidence (such as drugs), and for paying emergency investigative expenses that cannot be paid from any other source. Flash roll monies(2) are not spent, but they are shown to potential suppliers of illegal drugs during undercover operations. During calendar year 1991, DPS incurred $443,933 in evidence acquisition fund expenditures and issued 77 flash rolls.(3) To protect these monies from abuse, loss, and theft, it is imperative that DPS develop and enforce strong internal controls.

Current Procedures Are Not Being Followed

CIB investigators are not following current procedures for the use of evidence acquisition and flash roll funds. The evidence acquisition monies issued to individual officers are not being controlled. DPS is

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(1) Each CIB division can receive up to $40,000 for issuance to personnel, although the amount an individual officer can obtain varies by rank. Officers can receive up to $250, sergeants $750; and commanders $1,000. Monies issued remain with the officers at all times.

(2) DPS has set aside $150,000 in Phoenix and $100,000 in Tucson to be used as flash money.

(3) The 77 flash rolls disbursed during calendar year 1991 totaled $5,083,500; the smallest flash roll was $4,000 and the largest was $150,000.

also not conducting routine audits to account for all evidence acquisition monies. Furthermore, DPS is not controlling flash roll funds issued to officers and other enforcement agencies.

<u>Evidence acquisition monies are not being controlled</u> - We reviewed all expenditure forms submitted from January through June 1991, and found that officers are spending evidence acquisition monies on items other than informant payments, evidence purchases, and emergency expenses. For example, during January 1991, almost 60 percent of officers' expenditures were for items that should not have been purchased with evidence acquisition funds. Even when the items were necessary, they should have been purchased through routine State purchasing procedures. In situations where routine purchasing procedures would not have been expedient, the use of a petty cash fund would have been more appropriate than the use of the Department's evidence acquisition fund. The following items purchased with evidence acquisition monies illustrate how the fund is being misused:

- Ice, soda pop, food, and ice chests for various events such as the district shoot, assault rifle school, training, meetings, special details, surveillance, and extended duties
- Equipment such as a color copier, video camera, night vision equipment, and a computer part
- Training ammunition
- Vehicle oil and service parts
- Subscriptions to the Los Angeles Times, Arizona Daily Sun, Daily Spectrum, and other publications
- Extra keys, locks, door alarms, and the change of office safe combination
- Office supplies such as stamps, drafting paper, typewriter ribbon, and printer supplies
- Dues for membership in various organizations such as the American Legion Post and the International Association of Asian Crime Investigators
- Miscellaneous items such as a pair of sunglasses, pager chains, street maps, holster repair, bills for pager use, photo frames, photo albums, and a buff and wax for an undercover vehicle

Undercover fund expenditures are not being routinely reviewed - Although DPS requires five separate reviews of undercover fund expenditures for appropriateness, we saw no evidence to indicate these expenditures were being questioned. In our review of investigator expenditure logs submitted between January and June 1991, we could not identify any expenditures that had been disapproved by a supervisor, Bureau staff, or the Comptroller's Office. However, as previously mentioned, for January 1991, we found that almost 60 percent of these expenditures did not meet policy guidelines.

Even if an effort was being made to scrutinize expenditures for appropriateness, current practices would make such an effort difficult. In our review, we found that expenditure forms sometimes contained vague descriptions of expenditures. Further, because the Bureau does not require receipts, expenditures cannot be verified. Lack of such documentation hampers review and allows for approval of inappropriate expenditures. For example, one investigator showed a $44 surveillance expense with the explanation "Statewide Intel. Mtg." When we asked the investigator what the expenditure was for, he indicated it was for meeting supplies. Upon further questioning, we found that the expenditure was for coffee, creamer, sugar, and cups. Other examples of vague descriptions of expenditures included "odd and unusual expenses," "investigative supplies," "expense for traveling," and "surveillance."

In addition to the inadequate review of individual expenditures, we also found that the Department has not been performing routine audits of its undercover funds. According to DPS policies, the Comptroller's Office is responsible for auditing CIB evidence acquisition funds, however, these funds have not been audited since July 1988. Further, even if an audit were attempted, DPS would not be able to account for all monies because neither the Bureau nor the Comptroller's Office know what the fund balance should be.

Flash roll monies are not being controlled - DPS should strengthen its controls over flash monies. During our review of the flash roll log for calendar year 1991, we learned that 29 flash rolls were disbursed internally and 48 flash rolls were disbursed to other agencies. Only 3 of the 29 flash rolls disbursed internally were properly approved by CIB management, and there was no evidence to indicate that the proper approvals were obtained for flash rolls disbursed to other agencies. Furthermore, CIB has not developed a policy that addresses the time frame for the return of flash rolls. Although Bureau personnel stated that flash rolls are to be returned within 48 hours, of the 77 flash rolls disbursed, 36 remained out past the 48-hour period; 10 of the 36 remained out 10 days or longer. In addition, two flash rolls, one for $140,000 and one for $50,000, remained out for 20 days.

DPS Should Improve Its Controls

DPS controls over evidence acquisition funds and flash roll monies are weak. We contacted the Federal Drug Enforcement Administration, the Phoenix Police Department, Maricopa County Sheriff's Office, the Metro Area Narcotics Trafficking Interdiction Squad (MANTIS)[1], and reviewed guidelines established by the U. S. Department of Justice[2] and found more stringent controls. By implementing additional procedures, the Department could strengthen its controls over evidence acquisition and flash roll monies.

The Standards For Law Enforcement Agencies mandates the development of an accounting system that provides adequate control over evidence acquisition funds. In reviewing the systems developed by other law enforcement agencies, we found they have developed strong internal controls (i.e., issuing funds on a "needs only" basis, requiring receipts for expenditures, performing frequent reviews of expenditure logs, and protecting flash roll funds against loss.)

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(1) MANTIS is a multi-agency narcotics task force operating in the Tucson metropolitan area.

(2) Office of Justice Planning Guideline Manual: Financial and Administrative Guide for Grants. Office of Comptroller, Department of Justice, 1990.

- **Evidence acquisition funds are issued on a "needs only" basis** - The DEA disburses funds only after a requisition for funds has been approved. An investigator receiving funds has three weeks to turn in any unexpended portion along with an expenditure log that describes the purchases made and why. The U. S. Department of Justice also recommends issuing funds on a "needs only" basis. Funds are advanced for a specific purpose, and if the funds are not expended for that purpose, they are returned.

  DPS maintains that monies need to be available on a daily basis because investigators never know when undercover funds will be required. However, it appears that DPS personnel have not had need for undercover monies on a daily basis. Of 191 CIB personnel that carried evidence acquisition funds during January through June of 1991, 24 did not use these funds for the entire six month period, at least 63 did not use these funds on a monthly basis, and at least 116 incurred total monthly expenditures of less than $30.[1]

- **Receipts are required** - The Federal agency we contacted as well as MANTIS require expenditures to be supported by receipts unless obtaining a receipt would jeopardize the investigator's undercover status. DPS requires receipts only for payments made to informants for services rendered. DPS does not require receipts for emergency expenditures, payments to informants for rent, gas, food or other expenses paid from the evidence acquisition fund.

- **Expenditures are reviewed weekly** - The Phoenix Police Department requires expenditure logs to be reviewed for suitableness on a weekly basis by its Internal Affairs Bureau. CIB expenditure logs are reviewed by Bureau management on a monthly basis; however, they are not reviewed for propriety by an independent party such as DPS's Inspections and Control Unit. In addition, we noted numerous misuses of the evidence acquisition fund during our review of CIB expenditure logs and we found no evidence to indicate that these misuses were questioned.

- **Flash roll monies are closely guarded when loaned to other agencies** - All agencies that borrow flash money from MANTIS must agree to reimburse the Department should any of the money be lost. Presently, DPS has not established agreements with outside agencies that would protect the Department from loss due to stolen funds and proper supervisory approvals are often not obtained when flash roll monies are released.

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(1) One sergeant who had $1,880 in his possession, did not use these evidence acquisition funds during the six-month period.

RECOMMENDATIONS

1. DPS should develop the following controls to ensure that evidence acquisition funds are not misused.

   - Funds should be issued on a "needs only" basis.
   - Receipts should be obtained for all expenditures unless obtaining a receipt would jeopardize an undercover operation.
   - Expenditure logs should be completed and verified weekly.
   - The fund balance should be verified each month.

2. To ensure that policies and procedures are followed, expenditure receipts, logs, and fund verifications should be reviewed by a designated independent party.

3. To ensure that flash roll monies are properly controlled, DPS should implement the following procedures.

   - Written authorization should be obtained for the disbursement of flash roll monies.
   - Entities that wish to borrow flash roll funds should agree in writing to reimburse DPS if any money is lost.
   - A formal time frame should be established for the return of flash roll monies.

OTHER PERTINENT INFORMATION

THE TUCSON INVESTIGATION

During our audit, we reviewed an internal inspection conducted by DPS on a prominent Tucson case often referred to as the "Castro Case." We conducted this review because of the importance of the case to Bureau operations and allegations that the case involved mishandling of a major drug investigation. We found that the Department's internal inspection identified and reported many of the weaknesses in and problems with the management of the case. However, we found additional deficiencies that were not reported by the Department. This case illustrates many of the problems identified earlier in our report.

Background

In the summer of 1991, Department management requested its Inspections and Control unit to conduct a review of CIB's case management practices. The review was to include an analysis of a Tucson case in which a Tucson attorney had alleged "outrageous governmental misconduct" by the Department in allowing marijuana to be transported from the Mexico border to the Tucson area for distribution. The unit conducted an initial review and provided a draft report of its findings to the Deputy Director on October 1, 1991. The Governor, having been informed of alleged criminal activities within DPS, suspended the Director and Deputy Director to facilitate an investigation of the allegations. At that time, the Governor's Office seized the draft report. A subsequent external investigation by the Governor's Office and the U.S. Attorney found that no criminal activities had taken place, and the suspension was lifted. Following his return to duty, the Director released the findings of the initial report, and the investigation that led to his suspension was continued. The unit issued a final report in February 1992.

The purpose of the Tucson case was to infiltrate a major drug organization operating in the Tucson area. The investigation involved the use of confidential informants who had been arrested by the Department for their involvement in the drug organization. The infor-

mants assisted the Department in getting DPS officers "hired" by the organization to transport loads from the Mexican border into the Tucson area where they were left in designated areas to be distributed by those within the drug organization. Other DPS officers were to monitor the delivered loads to determine those involved in the drug distribution.

Our review of the case identified weaknesses similar to those reported by the Department - As part of our audit work, we reviewed both the initial and final reports prepared by the Department as well as the documents collected by the Department's inspection team. We also spoke with a prosecutor and defense attorney for the Tucson case. Our review supported the following weaknesses identified by the Department's inspection team and reported in its initial draft report.

- Case oversight - The preapproved guidelines for case oversight were not followed in the Tucson case. Rather than follow the established chain of command, case officers reported directly to the Tucson Captain (the sergeant and lieutenant were circumvented). Thus, the Captain was the only management official kept informed of the progress on the case. In addition, there were personality conflicts among CIB personnel involved in the case that hampered communications about the case.

- Accountability - Many problems were found regarding case accountability. First, no concerted effort was made by case participants to accurately determine the weight of marijuana transported from Mexico into Arizona. Second, the transported loads were not adequately monitored, resulting in loads being "lost" in the Tucson area. In addition, on at least two occasions, marijuana loads were stored overnight at a DPS employee's home. Third, Department policies were not followed regarding monies received for transporting the marijuana shipments. Fourth, the confidential informant used to assist in the case was paid without proper Bureau approval. Further, one case officer met socially with one of the confidential informants and his spouse. Finally, procedures were not designed to ensure officer safety.

- Case documentation, monitoring, and reporting - Case officers failed to accurately document critical case information. Officer reports contained inaccurate information about the amount of monies received and the amount of marijuana transported and subsequently recovered. Many reports prepared by officers lacked evidence of supervisory review. In addition, Department management was not kept informed of case progress on a regular basis.

The second report issued by the Department in February 1992 indicated problems similar to those noted in the first report. However, the second report praised the overall success of the operation by noting that 18 suspects were arrested or indicted and an estimated $1.2 million in assets were seized. The report's overall conclusions were that although the case did not conform to Department policies and procedures, "The innovative concept used in the Tucson case was a good approach to an existing problem .... Unequivocally, the Tucson case was a prosecutorial success ."

Our review identified additional weaknesses not reported by the Department - Although the Department reported a number of weaknesses in the Tucson case, other serious problems with the case were not reported. These serious problems include the following.

- Case had serious oversight problems for several years - The Department's report of the Tucson case focuses only on an abbreviated time frame of the investigation of the case. The transportation of marijuana loads occurred in two distinct phases. In April 1988, the Department began to use informants to assist them in transporting loads from the border into the Tucson area for distribution. Between April 1988 and July 1988, eight loads totalling an estimated 10,800 pounds were transported by DPS officers and informants into the Tucson area. These early tactics led to several arrests. However, one of those targeted was not arrested until March 1989. In November 1989, this "target" was used as an informant for further infiltration of drug organizations. Between November 1989 and February 1990, informants and DPS officers transported 15 loads of marijuana totalling an estimated 20,000 pounds. The inspection team's report focuses on the operation from this phase forward.

  Although the inspection report focuses on the second phase of the operation, some of the problems it discusses occurred during the initial phase of the operation. For example, in the initial phase, only 4,000 of the 10,800 pounds transported were eventually recovered. In the second phase, only 5,700 of the estimated 20,000 pounds were recovered.(1) This loss of drugs was due primarily to poor surveillance. In both the initial and second phase, a load of transported marijuana was lost prior to delivery to a "stash" house. In another instance, an insufficient number of officers were watching a "stash" house to track those that purchased drugs. Corrective actions were apparently not taken during the operation to prevent subsequent drug losses. Further, we found that case

(1) The estimated street value of the unrecovered drugs was over $3.4 million for the initial phase, and over $7.1 million for the second phase.

activities throughout the operation were poorly documented. For example, in the initial phase of the case, narrative reports did not indicate the amount of monies received for deliveries; this documentation problem continued in the second phase.

Finally, although the case was a significant undertaking, DPS management was not adequately involved. We could find no evidence that the initial phase of the operation was approved by anyone within Bureau or Department upper management. In addition, in early 1989, although the Assistant Director in charge of CIB did approve of using an informant to conduct a second round of drug transports, the informant he approved was not the informant that was ultimately used in the second phase. In addition, it does not appear that either Bureau or Department management were kept fully informed of progress on the case.

- Confidential informants were poorly utilized and controlled - Informants were used as part of the Tucson case. However, some circumstances surrounding the use of these informants appears inappropriate, as illustrated by the following examples.

Example 1

Between April and July 1988, two informants were used by the Department to infiltrate a drug organization. The informants assisted DPS in getting a DPS officer hired by the organization as a driver. The DPS officer accompanied the informants in transporting loads into the Tucson area. During their involvement, the informants were allowed to keep all monies they received for delivering loads (except one $1,000 payment to a CIB undercover officer). (Based on an estimated rate of $30 a pound, these informants could have received in excess of $300,000.) A defense attorney involved with the case stated that it was unusual for confidential informants to be allowed to keep all proceeds; generally informants provide information and/or assistance in return for a plea agreement, a reduction in sentence and/or an agreed upon dollar amount or percentage. The Attorney General representative providing guidance on the case was unaware that these informants were allowed to keep the drug proceeds.

Example 2

In another instance, the Department used an informant who had been a major target of the investigation. Although the Department had spent considerable time and resources to capture this informant, we were unable to find any evidence that the use of this informant had been approved by higher ranking Bureau or Department officials.

Example 3

Another informant used by the Department had also been a major target of the investigation (he was referred to as a "ringleader" in the drug operation.) This informant had been arrested by DPS officers, tried, and was awaiting sentencing. DPS officers worked with prosecutors to facilitate this informant's release for use in several additional planned criminal investigations. Again, we were unable to find any evidence that the use of this informant had been approved by higher ranking Bureau or Department officials. After this informant was released from jail he resided with a DPS officer, and while working with DPS in a money laundering investigation, this informant purchased a vehicle with DPS undercover funds and later fled to Mexico in the vehicle. The case agents failed to file a narrative report detailing the vehicle theft until after the vehicle had been recovered several months later. This informant was eventually captured, returned to jail, sentenced to 28 years in prison, and fined $1.6 million.

- Monies not accounted for - The Department's second report on the investigation indicates that "All monies received by officers for transporting marijuana have been accounted for." However, based on our review of the file documentation for the second phase of the operation, it appears that there are large sums of monies that are unaccounted for. DPS officers involved in the investigation received a total of $299,215 for delivery of marijuana loads. However, based on the estimated amount of drugs delivered, the amount received for delivery should have been at least $517,000. Thus, approximately $218,000 cannot be accounted for.(1)

  Part of the problem in accounting for these monies is the poor file documentation regarding receipts and deposits. For example, we identified four instances in which deposits were made but receipt of such monies was not recorded in departmental reports. In addition, we found that the case officers did not explain discrepancies between the monies that should have been received and the monies recorded as received. For example, officers noted in departmental reports that they delivered almost 5,500 pounds of marijuana at a negotiated price of $30 a pound (for an amount due of $165,000); however only $113,820 was deposited for this transaction. Although the officers noted they were to be paid an additional $21,000 for this transaction, they did not indicate whether this money was ever received. Even with the additional $21,000, the amount indicated as "paid" is almost $30,000 less than the amount that should have been collected ($165,000).

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(1) The Department's February 1992 inspection report notes that payments were not being received in full in some instances "because of monies owed to dealers in Mexico for a load seized by law enforcement officers." However, reports describing the receipt of payments for the delivery of marijuana did not disclose this information or attempt to account for the monies that should have been received.

- <u>Supervisor of Tucson case was inexperienced</u> - Although the Tucson case was a significant Bureau undertaking to infiltrate a major drug operation, a captain with little CIB experience supervised the case. This captain had been transferred to CIB from the Highway Patrol Bureau and was placed in charge of Tucson operations after only about 60 days' experience with CIB. In addition, the captain circumvented the lieutenant and sergeant in charge of the officers and personally directed the officers working on the investigation.

The management and documentation problems found in this case are consistent with those in other cases we reviewed (see Finding III and IV). Problems with overall case management, including case approval, accountability, and overall controls are key weaknesses in this case. In addition, the records we reviewed suggest poor documentation, which hindered both the Department's and our efforts in accounting for large amounts of money and large quantities of drugs.

AREA FOR FURTHER AUDIT WORK

Has The Bureau Adequately Evaluated Its Task Force Involvement?

During the audit, we found that the Bureau has not clearly defined how its officers assigned to local task forces are to be utilized, nor has the Bureau evaluated whether participation in a task force should be continued based on its performance. The Standards for Law Enforcement Agencies recommends that if task forces are used, a written directive or agreement be developed that identifies the purpose of the task force, defines its authority and responsibilities, establishes accountability, identifies available resources, and evaluates the results and continued necessity of the task force. However, based on the materials provided by the Bureau, at the present time CIB has only 3 agreements for its 17 task forces.(1)

We also found that CIB has not periodically evaluated its involvement in each of its 17 task forces to determine if there is a definite need for DPS involvement or whether any changes are needed. Based on the comments from the county attorneys we spoke with, most of the rural county task forces appear to be contributing to the narcotics enforcement efforts in their areas. However, one county attorney questioned the need for DPS task force involvement in his county and indicated that the officers may be better utilized in other areas of the State that have larger drug problems. He also indicated that the DPS officers assigned to the task force were performing work for the local sheriff's office (rather than task force cases). We contacted the sergeant in charge of this particular task force and asked him what types of cases are currently being investigated by DPS officers. He told us DPS officers were currently investigating a prescription fraud, the killing of a dog, a homicide case, and liquor offenses.

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(1) One additional task force had an undated agreement, so auditors could not determine whether it was current.

Further, we could not locate documentation addressing the rationale for the numbers of officers allocated to each task force. The number of officers and sergeants assigned to each task force ranged from one to seven.

Additional audit work is needed to determine whether the current task force involvement is warranted, whether resource allocations are justified, and whether the Bureau needs to develop task force agreements.

ARIZONA DEPARTMENT OF PUBLIC SAFETY

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FIFE SYMINGTON
GOVERNOR

F. J. "RICK" AYARS
DIRECTOR

December 2, 1992

Douglas R. Norton
Auditor General
2700 N. Central Avenue, Ste. 700
Phoenix, Arizona 85004

Dear Mr. Norton:

Attached is a revised copy of the Department of Public Safety response to the audit of our Criminal Investigation Bureau.

Additionally, the Maricopa County Attorney's Office has recently designated Mr. Larry Morehouse as our contact point at that agency. Mr. Morehouse will be consulting with our personnel in preparation and prosecution of a variety of criminal cases.

Sincerely,

F. J. "Rick" Ayars, Colonel
Director

R. Aguilera, Lt. Colonel
Deputy Director

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Attachment

On October 27, 1992 the command staff of the Criminal Investigations Bureau received the initial draft of the Auditor General's performance audit on that bureau. Included in the audit report were seven specific areas of concern which require individual responses from the agency.

This document will provide those detailed responses and explanations so that reviewers at all levels with the necessary agency - related data can fully comprehend the issues at hand.

It will become apparent that there is differing views and conclusions in many of the areas of concern between the agency and the auditors. In those areas, the agency had, in all cases, previously identified the problem or deficiency prior to the audit and had taken or is taking appropriate measures to correct or enhance our performance in these areas.

There are also other issues on which the auditors and the agency disagree. The substance of these disagreements is outlined herein in detail.

As to the specific issues which have arisen as a result of the audit, they will be in the response in the order in which they were presented in the audit report.

Prior to delving into the actual audit report concerns one issue involving the Organized Crime/Intelligence Division must be addressed.

As stated in the report, the operational audit of this division was limited due to a variety of reasons such as grand jury secrecy requirements and other legal issues over which the agency has little or no control as it pertains to disclosure of information. However, the audit report makes specific reference to an outside agency audit which dealt exclusively with this division and disclosed areas of concern which may have or had direct bearing on operational effectiveness.

These areas of concern had already been identified by division and bureau management prior to the inspection by the military intelligence personnel performing the audit. Therefore, the ensuing report served only to confirm management's theories and on-going or completed corrective measures were undertaken.

A copy of both the military inspection report and the DPS review and action plan are included as Appendix A of this reply.

1. **CIB Needs To More Clearly Define Its Role As The State's Investigations Bureau.**

The audit report details opinions and beliefs of law enforcement agencies and prosecutors which indicate that the Department of Public Safety can and must fill an investigative void which exists in the state currently. Specifically, these groups view us as the logical agency to conduct high level investigations in areas such as money laundering, organized crime, economic crime, and major narcotics trafficking.

The agency concurs fully with this issue and has taken steps to institute appropriate organizational and philosophical changes to facilitate proper response to the concerns expressed.

As a point of fact, while the Auditor General's personnel were involved in on-site processing of their assignment, the Organized Crime/Intelligence Division was actively involved in two cases which are illustrative of the role this agency can fulfill. Both these cases "Operation Aladdin", which used a multi-agency investigative approach to interdict alleged money-laundering, fraudulent schemes, and prostitution related crimes of a criminal syndicate headed by a group of foreign nationals, and "Operation Desert Run", which targeted the "Dirty Dozen" motorcycle gang and its criminal enterprises through a multi-agency approach, were extremely successful.

Other cases of this type and scope are currently under development in CIB.

The most recent reorganization of this bureau has further strengthened our commitment to these high level investigations. The vast majority of the resources availability in the Phoenix and Tucson areas are assigned to such complex investigative tasks while only a small portion of these assets in these areas are delegated to so-called "street level" narcotics and liquor investigations. Still, the bureau maintains its service to local task force operations, both rural and urban, which are tasked to deal with such "street level" activities.

It is our sincere belief that this new direction, which has been underway for some sixteen (16) months, is the proper utilization of the agency's position, jurisdiction and resources and will provide a new course for CIB.

The audit indicates that CIB efforts at apprehending major criminals "often appear unfocused and not particularly effective", and "CIB needs a clear mission and management commitment to its role in performing independent, state-level investigations". Such statements may have been somewhat accurate in the CIB operations prior to the most recent reorganization. During that period, DPS as an agency had endeavored to become "all things to all people" and as a result of trying to meet all the demands of our consumer agencies, had fallen victim to the problems associated with such wide-spread efforts, lack of depth and unfortunately, lack of expertise in many areas.

With the advent of the new CIB, it is clear that the two divisions, Narcotics and Organized Crime, have clear missions and purposes not previously present in the bureau. Further, the duties netted out to the individual regions and squads are clearly indicative of the new emphasis on major investigations, in specific areas of criminal racketeering. Still more evidence of the new philosophy and commitment can be seen in the support top level DPS management provided to Operations "Aladdin" and "Desert Run" which were primarily supported by the use of DPS RICO funds and each of which required more than one year thus far in investigative effort.

Resulting from this new organization and commitment is a focusing of substantial manpower and financial resources on major investigations in proper balance with a continuing commitment to task forces and some "street level" investigative operations.

One of the most perplexing items raised by the audit is that of technological retardation in the investigative bureau. Certainly, we must concur with not only the auditors assertions but those of our consumers as it pertains to the unavailability of "state-of-the-art" technological equipment of all types. Unfortunately, such equipment, and the requisite training to operate it, share a common hurdle for this agency - money. In a time of declining revenues and budgets, such necessities are outweighed by survival requirements. However, there is a bright spot to this dilemma in that CIB officers have developed contingence for the acquisition and use of such high technology items through means such as long term loan from other agencies or lease or rental in lien of purchase. These innovative methods have allowed our personnel to overcome many problems without placing untenable strain on the already tightly stretched agency budget.

As indicated in the following 92/93 Goals and Objectives, emphasis for continuation of these pursuits is firmly established.

Goal:

Investigate and prosecute large organized crime operations in Arizona.

Objectives:

- By June 30, 1993, conduct six major organized crime investigations providing funding is available.

- On an ongoing basis, act as the facilitator of major organized crime investigations which cross jurisdictional boundaries and coordinate the strategy of the investigation with personnel from federal, state, county and local law enforcement agencies who participate in the investigations.

2. **The Bureau needs to take steps to improve its case prosecution rate.**

The premise advanced by the audit team as measuring the success of an investigation, that is, what happens after arrest, is certainly one valid measure. However, a number of issues can affect the prosecutorial decision whether or not to prosecute. Some of these issues include:

- jury appeal
- likelihood of conviction
- prosecutorial discretion

Each of these issues, separately and collectively, can result in decision not to prosecute even though the necessary elements of probable cause and evidentiary items are present.

If an investigation is of exceptionally poor quality when presented to the prosecutor, it is certainly the responsibility and duty of the reviewing prosecutor to return the investigation to any originating agency and investigator for further effort with a final goal of prosecution and conviction. Additionally, it must be the responsibility of the originating agency and officer to conduct any follow-up or further investigation as requested by the prosecutor. In the time frame used in this audit, the Maricopa County Attorney returned the majority of all further investigations to the individual officer, rather than to his supervisor. This action resulted in no knowledge by the supervisor on the further investigation thereby making his follow through to ensure completion of the further investigation utterly impossible. However, regardless of the County Attorney's return policy, the ultimate responsibility for the completion of follow-up investigations rests squarely on the submitting officer. The only acceptable exclusion to this are those cases submitted to Maricopa County as a result of Demand Reduction programs. Such arrests are aimed at early intervention and treatment. With this in mind, significant follow-up investigation is, in most cases, an unnecessary drain on already limited investigative manhours. It is clear from the results of the audit that DPS investigators have not fulfilled their responsibilities pursuant to further investigations which has had a significant negative effect on filing rates in Maricopa County at the very least.

It is interesting to note that the audit report makes no reference to any glaring difference in the actual case quality between DPS/CIB cases filed in Pima and Maricopa Counties. The report hypothesizes that the DPS "detective" filing rate in Maricopa County would be significantly less than that of the other compared agencies if the audit team could have separated "patrol" cases from those agencies filings. However, the date obtained from Pima County indicates that DPS "detective" case convictions and dismissals to be comparable to other Pima County respondents. Therefore any assertion that DPS Maricopa County cases would be filed at a rate lower than that of other investigative units is presumptuous and unsupportable using the data provided in the Pima County "detective" filing comparisons.

While such factors as report return procedures from prosecutors may have a contributory effect on case filings, it is, as previously stated, the responsibility of the originating agency and its management to ensure quality and responsiveness. To accomplish this, the Criminal Investigation Bureau has instituted a court liaison program in which a specifically assigned bureau supervisor is tasked with retrieving all case related documents (i.e., furthers, pending complaints, etc.) from courts and prosecutors on a regular basis. If further investigation requests are included in these materials, these are provided to the originating officers supervisor who then tracks the progress of the follow-up investigation. A letter from the Maricopa County Attorney's Office regarding this program is included for review. In addition to this procedure, the bureau is developing a standardized program to track and evaluate follow-up investigation.

When efforts, along with others related to the developing case management system, will significantly improve the CIB case filings and should result in filing percentages comparable to other major agencies in Maricopa County.

Other issues dealt within this section of the audit report address case documentation problems and productivity rates.

In the area of case documentation, the report indicates that DPS investigators lack interest or skill in pursuing cases beyond the arrest stages and actual case documentation (i.e., offense reports, evidence reports, court orders, etc.) is weak.

First, it is most difficult to respond to such generic comments and obviously, we could deal in more specificity if the particular prosecutors to whom comments related to the above assertions could be interviewed so as to determine whether or not these comments relate to a general impression of the agency skills and efforts or to isolated cases. It would also be beneficial to ascertain the volume or quantity of personal experience the interviewees had with DPS cases. But realizing that such information is unavailable for the purposes of this reply, the generalistic comments must be addressed solely on their respective merits or lack thereof.

Within the last year, CIB defined the closure of a case as that point at which charges against all defendants have been adjudicated. Prior to that time, closure might occur at any other point a supervisor determined but frequently at the time of arrest or indictment. This philosophy could explain the lack of effort expended following suspect apprehension. With the developing case management system using the new closure definition, such problems should be significantly reduced, if not eliminated.

As to the issue of lacking skills related to preparing cases for prosecution, it is necessary to remember that there exists a joint responsibility for case prosecution, shared equally between the law enforcement officer and the prosecutor. Far too often, this responsibility is unfairly deemed to be the exclusive duty of the police. To achieve a successful conclusion, in this case a conviction, a proper balance of duties must be shouldered by both parties. In the past, prosecutors have all too frequently refused to prosecute criminal cases unless police investigative reports establish an "air-tight" case at inception and further investigation is not requested. Therefore, for any prosecutor to unequivocally state that DPS personnel cannot prepare cases for prosecution may be an indictment of the prosecutor's ability to guide police officers and assist as a "team player" in the proper police-prosecutor relationship.

The issue of productivity in narcotics cases in comparison to other agencies is somewhat puzzling and not easily explainable. Without a great deal of additional research into this area, beyond that provided, as to components such as case type, case level, and investigator experience, it is impossible for us to adequately judge the validity or significant of these productivity comparisons. It should be noted that each of the agencies compared to DPS are comprised of investigative and "police" patrol units as is the case at DPS. This difference becomes significant when one considers the divergent mission in the respective patrol forces which, in the case of the "police" patrol units, provides an enhanced possibility of informant development over the "traffic" patrol function.

The determination to file or not file criminal charges is strictly the purview of a prosecutor. Such determinations can be made on a variety of factors, as discussed previously in this reply, not the least of which is individual workload and priorities. As a result, if a prosecutor makes a decision to not file a case or even to not seek follow-up investigation from the originating officer, there is little or nothing a police agency or officer can do to remedy this situation. It is on the basis of these tenets that the lack of control, post-arrest, issues are based.

The developing case management system, due to come on line as an automated system in mid-1993, places responsibility and requirements on all levels of CIB investigative personnel to track cases from inception to final closure. This system should alleviate any concerns related to a lack of management commitment to cases following arrest.

It must be remembered that the responsibility for communicating the progress of a criminal case through the justice system is not only the duty of the police but also the prosecutors. In many cases, even an "air-tight" case can get delayed action by prosecutors due to case loads and priorities resulting in a lack of feedback to the originating officer. This becomes particularly problematic when prosecutors charge on direct information rather than through the grand jury process which usually require direct testimony before this body on the part of the originating officer. It becomes therefore apparent that any inference in the audit report that officers in DPS all somehow derelict in their duties by not knowing if charges are filed in cases, especially given the fact that even completed complaints are sent to the respective justice courts for filing - most without any notice to the investigator, must be tempered with the knowledge of the symbiosis between police and prosecutors in case progress.

In conclusion as it pertains to this section of the report, we agree that CIB has been somewhat remiss in its past efforts in case filing. What must be remembered is that we were familiar with this issue prior to the arrival of the audit team and through programs such as the case management system and the court liaison office are working toward improvement. We will continue to enhance these programs as possible as well as exploring suggestions such as improving DPS and prosecution inter-agency communication and consideration of case quality in employee evaluations. It must also be noted that as our focus shifts from the "street level" cases to the more complex and larger cases, prosecutorial involvement in even preliminary investigative efforts will become more significant which will undoubtedly lead to improved cases, relationships, and expertise on all fronts.

3. CIB Needs to Develop Stronger Case Management Practices

The audit report makes a number of recommendations under this topical heading. Primarily, these issues center around case initiation procedures and supervision thereof, and development of management sensitive databases in the automated case management system.

The value of careful case planning prior to commitment of significant resources, cannot be overestimated. The recent Operations "Aladdin" and "Desert Run" used a complex case planning system to ensure benchmarks were established to allow regular, measurable review of case progress as well as a method to obtain alternate funding to support the extensive investigative efforts. An additional benefit of such planning and resulting written documentation prior to case initiation include the evaluation of the quality, priority, and value of the proposed investigative effort by the originator thus focusing limited resources to the greatest advantage. While very complex work plans are used in major cases, they are not practical for other less complicated endeavors. We agree that a case initiation form or memorandum requiring supervisory approval prior to issuance of a departmental report number is necessary for proper case management.

We will pursue the appropriate method for such case initiation documents with CIB management in the immediate future. We will continue to require extensive planning and implementation proposals for long-term, complex cases.

As to the management information needs from the automated case management system, a recent review of the proposed data masks and reports has revealed that this system will provide extremely detailed data on all facets of employee, supervisor, and organization performance. This data will enable supervisory and command personnel to accurately evaluate the effectiveness of the efforts of personnel and units in their areas of responsibility thus enabling management to make informed decisions on case pursuit feasibility as well as improving statistical reporting and investigative cost control and recovery.

4. **CIB Case File Documentation is Poor**

In this topical area, the audit team has developed a set of recommendations primarily focused on the use, tracking, review, and storage of case files which are under investigation by CIB personnel.

Once again, CIB management was well aware of the issues raised in the audit report well before the arrival of the inspection team and, more importantly had taken steps to develop corrective procedures.

The majority of the case file usage and review issues are now clearly defined under CIB Procedure #19 entitled, simply, "Reports". In this procedure, the specific types and construction of report files are carefully outlined. Additionally, every thirty (30) days, supervisors are required to conduct thorough reviews on all assigned case files in their units and to brief region commanders on the case load of each officer.

The manual review of the case file is reinforced by the review requirements of the automated case management system which requires regular, in fact weekly, review and approval of each officer's time and activity by his supervisor prior to inclusion of such data in the database. Within this review procedure is, the mandate that supervisors must conduct manual reviews of case files and document the dates of such review in the automated system. If an active case file is not updated or reviewed within a thirty (30) day period, the supervisor will be notified via the automated system which will then cause the appropriate supervisor to conduct a review.

The automated case management system also provides on-line real time access to case progress and case expenditure information. This information is updated at least weekly when officers enter their weekly time and activity summaries into the system. Prior to final inclusion in the case management database, the information entered by the officer must be verified and approved by the direct supervisor.

It must be noted that the auditors make specific reference to case file content requirements by federal agencies. Federal disclosure guidelines and practices are historically much more liberal than those of non-federal agencies thus producing case files that include expense accounts, undercover officer identities, and other non-report related information.

In conclusion on this aspect of the audit report, CIB concurs with most of the observations and concerns documented by the audit team as it pertains to the need for improved case documentation and accountability. Through the implementation of new procedures and automated systems, these problem areas will be greatly improved.

As to the development of a storage and retrieval policy on case files, CIB has developed a new methodology in concert with the Departmental Records Units (DRU), which allows the investigator to retain an entire case file in his possession until charges have been filed against suspects or closure occurs under other criteria. In the past, case reports were forwarded in segments (i.e., face sheets, supplements, etc.) to DRU as the reports were prepared. This often resulted in fragmented case files at both DRU and in CIB. To alleviate this problem, investigators are no longer required to provide report forms to DRU but rather must prepare and forward an "Active Investigation" form to DRU. This form, which details basic case information including the report number, is then placed in both the "hard" file at DRU and in the DRU automated system to ensure that issued DR numbers are properly identified and accounted for. When a case is finally closed by any means, the entire case file will be forwarded to DRU for statutorily mandated retention. This new form and its associated use will significantly reduce, if not wholly eliminate, the fractionalization of case reports and result in more comprehensive case file compilation in CIB.

5. Department Places Inexperienced Personnel in CIB Supervisory Positions

This issue has arisen not only under the auspices of this report but also in the SLIM report.

We fully concur with the conclusion that CIB would be best served if the best qualified candidates for CIB for all supervisory and command positions had extensive investigative backgrounds prior to their assignment.

Many of the current and past investigators were career investigators who never sought promotion. This has resulted in restricted transfer opportunities for those outside CIB. As a result, the bureau has found it necessary to seek supervisors and commanders outside the bureau, primarily from HPB, which represents the only accessible manpower pool for CIB. The inclusion of HPB supervisors has, in many cases, resulted in performance which was not conditioned by experience, and has resulted in innovative ideas.

Another observation of the audit team pertaining to personnel placement discusses the department policy of placing inexperienced existing supervisors or commanders into CIB vacancies over those experienced individuals or promotional lists, deals with the issues of "Best qualified" versus historical rank order promotion. While it may truly be in the best interests of CIB to promote from within, this may raise questions of equal opportunity from those excluded from this process. Additionally, any "career pathing" processes which may be considered for CIB has two possible negative side effects. One, it will again cause potential equality issues to arise and, secondly, it could result in on closure of the bureau to new ideas and processes. With careful management monitoring, these potential problems can be minimized, if not totally averted. However, top level management throughout, must unconditionally support the "best qualified" methodology and transmit the logic and benefits of this method to the rank and file to ensure success.

6. CIB Does Not Adequately Control its Undercover Funds and Flash Roll Monies

To adequately discuss this topic, it is necessary to separate undercover fund issues from flash roll money issues.

The audit report accurately portrays a number of "misuse" examples pertaining to the expenditure of undercover funds for items not specifically related to evidence purchase or informant payments. A number of these examples such as pager chain purchase, changing of combinations on safes, and organizational membership dues payments are clearly improper expenditures against these funds. Such purchases could have been charged against other fund categories or, in some cases, paid for personally. Other expenditures such as vehicle oil and subscriptions to publications obtained in undercover names for investigative purposes may be justified, depending on the particular circumstance involved.

The existence of these abuses were known to bureau management prior to this audit and various corrective measures had been implemented or were in development to combat these problems.

As an initial measure, the bureau now requires that all monthly undercover fund activity reports be reviewed by supervisory and command personnel in each division to ensure compliance with policy.

Secondly, a new procedure has been developed utilizing a weekly undercover fund activity report, which is turned in each week with the respective officers time and activity report. This form requires signatures of the first and second level supervisors authorizing all expenditures. This will reduce accounting errors as well as discouraging abuse. Those who under utilize undercover funds have been asked to turn them in.

Finally, the automated case management system will require detailed linking of undercover fund expenditures to specific cases and allow management review and evaluate each expenditure. All capital and consumable expenditures from undercover funds are prohibited unless there is a demonstratable emergency need.

Thus far, the first measure, comprehensive supervisory and management review, has resulted in virtual elimination of the previous abuses. The additional measure under development can only serve to improve accountability and documentation. As an adjunct to these systems, each division has a computerized informant payment system which directly correlates receipt numbers, dates, and control officers one to another thus providing real time expenditure information.

It is interesting to note that while the auditors disagree with the funds used to pay for some items, they do not disagree with the purchase itself. The audit team suggests that these purchases would be proper if paid for from a "petty cash" fund. Unfortunately, there is no statutory provision exists which allows this, or any other state agency, to establish such accounts without the specific authorization of the State Treasurer.

As to flash rolls, it is difficult to determine from the text of the report where proper authorization violations occurred. However, the current CIB procedure, #4 entitled "Flash Rolls" is in effect and being adhered to as all exception provisions outlined therein.

The auditors have emphasized that other agencies borrowing flash rolls must be aware of and held responsible for loss of such monies. To accomplish this, which is proper and desirable, will require inter-agency agreements involving top level management and legal staffs of all agencies who <u>may</u> wish to use such funds in the future. While this process may be quite cumbersome just in Arizona, albeit necessary, the gravity of the problem is greatly multiplied when federal agencies become involved. As a result of these factors, most agencies by and through command personnel understand and accept the fact that each agency is responsible for security of funds and replacement of such funds in the event of loss.

Therefore, it would appear that the formalization of inter-agency agreements on reimbursement to DPS for lost or stolen flash rolls is mandatory. However, this will require joint efforts between CIB, DPS Legal, DPS Director's Office, and the involved agencies to facilitate. Additionally, internal compliance, as outlined in the CIB Procedural Manual, will be ensured.

7. **The Tucson Investigation**

The audit report reviews a variety of concerns in the so-called "Tucson Investigation". Let it be understood that there has likely been no other case, certainly in this agency, which has been so closely or frequently reviewed, internally and externally, than this one. Yet, in spite of all this, the initial concerns raised by the DPS internal audit have only been reinforced by all subsequent reviews.

Yes, this case was fraught with a variety of administrative and management problems, but in spite of it all, the suspects in the case were charged and either convicted or pleaded guilty, and a major drug trafficking organization was eliminated.

Finally, the audit report questions whether or not the bureau has adequately evaluated its continuing task force involvement. The answer here is a resounding yes. With the reallocation requirements placed on the bureau as a result of Project SLIM, we substantially reduced our involvement in federally managed task forces, choosing to redistribute those resources to state level major case units. We also have begun to look at the extent of our involvement in local task forces to determine if a proper balance exists between our personnel and that of other task force member agencies. The basic premise here is that DPS should be a task force participant but not the only multiple investigator presence. As we move into the filling of vacancies created by retirements of DPS personnel assigned to local task forces, we will continue to prioritize our needs in an effort to maintain a proper balance of resources between our role as a service provider to local agencies on "street level" crimes and our new role as major case investigations.

In conclusion, this audit report has served to only validate the corrective measures we have taken in our efforts to improve the function, efficiency, and management of the Criminal Investigations Bureau. These efforts will continue.

APPENDIX I

TECHNICAL APPENDIX TO CASE OUTCOME STUDY

This appendix describes the methods used in the case outcome analysis presented in Finding II of this report. Data from this analysis is also referenced in Finding I.

Overview

We analyzed the outcomes of three years' of criminal cases presented for prosecution to the Maricopa and Pima County Attorneys' Offices. The purpose of our analysis was to obtain detailed information about the cases investigated by the DPS Criminal Investigation Bureau (CIB), and to compare the quality and success of these cases to those of other law enforcement agencies presenting similar cases to the same prosecutorial agency.

- Data sources - Since DPS was not able to provide most of the data needed for the analysis, we pursued the possibility of obtaining automated data from the prosecuting agencies. We contacted county attorneys in the State as well as the Attorney General's Office and the U.S. District Attorney. Maricopa and Pima County Attorneys have computerized case information that enabled us to identify and compare cases by law enforcement agency. Although the other prosecuting agencies were unable to access similar data through a computer system, the Pima and Maricopa County Attorneys prosecute the majority of CIB non-task force cases, therefore, our outcome analysis is based on all cases involving selected crimes that were presented to the Maricopa and Pima County Attorneys over a three-year period.

  Information on cases handled by the Maricopa County Attorney is tracked by the Law Enforcement Judicial Information System (LEJIS). The system tracks all cases submitted by enforcement officers, the results of the prosecutor's review of the case, and the court disposition of all criminal charges on the case. Information on cases handled by the Pima County Attorney is tracked on the County Attorney Prosecutors System (CAPS). CAPS tracks the case from the point it is filed by the attorney; however, unlike LEJIS, CAPS does not have information on those cases submitted by officers but never filed for prosecution.

- **Comparison agencies** - Because prosecuting agencies, such as the county attorneys, operate differently, a filing or a conviction rate that is low in one jurisdiction might be average or high in another jurisdiction.[1] Consequently, to have a framework for evaluating CIB case outcomes, we obtained identical data from agencies in each jurisdiction for multiple comparison. In Maricopa County, identical data for comparison was obtained from the Phoenix, Mesa, and Scottsdale Police Departments as well as the Maricopa County Sheriff's Office. In Pima County, data for comparison was obtained from the Tucson Police Department and the Pima County Sheriff's Office. All the comparison agencies authorized the release of their case outcome data for our study.

- **Years reviewed** - Cases were reviewed for calendar years 1989, 1990, and 1991. In Maricopa County, all cases submitted from January 1, 1989 through December 31, 1991, were included if the case met the crime selection criteria discussed below. In Pima County, all cases meeting the crime selection criteria were included if they were filed by the Attorney during the designated time frame.

- **Summary of analysis** - First, we selected specific cases for analysis (see page A-I-iii for details on case selection). In general, we analyzed the types of cases CIB investigates i.e., cases involving drug charges, organized crime charges, etc. For both CIB and the comparison agencies, all cases that included charges for the selected crime types (see A-I.vi and A-I-vii) became part of our analysis. We analyzed data primarily at the defendant level, i.e., compared the outcome of the case against each defendant involved. We then analyzed the data, examining factors that are indicative of the overall quality or success of the case. Because the LEJIS system and the CAPS system track different information, we performed two separate analyses that are described below.

  In Maricopa County, we examined the following:

  - the percentage of cases submitted that were filed for prosecution
  - the percentage of cases submitted in which attorneys requested further investigation by the enforcement agency
  - the frequency with which the enforcement agency responded to the prosecutor's requests
  - We also examined other factors including conviction rates, filing rates at the charge level, case characteristics, dismissal reasons, etc.

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(1) The percentage of cases filed (filing rate) is the percentage of cases submitted by law enforcement officers that the prosecuting agency accepts or agrees to file charges. Cases that are not filed are essentially closed, and no charges are recorded against the suspect.

In Pima County, we examined the following:

- the percentage of cases filed by the attorney but dismissed prior to indictment
- the percentage of defendants that were convicted
- In Maricopa County analysis, we also examined additional characteristics, including the reasons for dismissal, etc..

Case Selection Methodology

A criminal case involves a related set of crimes that generally result in a single investigation. A criminal case may involve one suspect charged with a single crime or as many as ten suspects all charged with multiple crimes. On the LEJIS and CAPS systems, data is tracked on all charges and all defendants in a case. For our analysis, we selected a case if the case had one or more charges for specific crime types that were investigated by CIB officers (see section on Crime Selection). If a case met this criterion, the database for the entire case, including information about all defendants and charges, was used for analysis. For example, if Case #4506 had two defendants, (defendants A and B) and each was charged with two crimes, even if only one of the crimes was a selected crime type, both defendants and all four charges became part of our database. Therefore, if defendants A and B were both apprehended for possession of cocaine but only defendant A was charged with cocaine possession and defendant B was charged with resisting arrest and reckless driving, both charges against defendant B were included in our sample as well as both charges against defendant A even though the only charge meeting our crime type criterion is the cocaine possession charge.

In the LEJIS analysis (Maricopa County), the case selection methodology was applied to the charges submitted by the officer. In the Pima County analysis, because the charges submitted by the officer are not tracked, the case selection methodology was applied to the charges filed by the attorney.

Crime Types Used For Case Selection

As our objective was to evaluate the cases investigated by CIB, we identified the types of cases CIB officers investigate and eliminated from our comparison data regarding the types of cases in which CIB is rarely, if ever, involved. For example, burglary is a crime type with which the Phoenix Police Department has extensive involvement. However, CIB, while perhaps submitting a burglary charge occasionally as part of a case, does not include burglary in their investigative focus. Thus, burglary was not a crime type used in our case selection.

Since the LEJIS and CAPS systems utilize different codes to designate criminal charges, the computer programs used to identify the crime types and apply the selection methodology were different. However, the crime types selected for each analysis were the same. From LEJIS we were able to use a "class code: to select the crime type. To select the Pima County cases, we used the Statute title, and A.R.S. descriptions of the crime in the CAPS system.

Analysis At The Defendant Level

The data provided by the Maricopa and Pima County Attorneys was at the charge level and included the outcome of each charge. Because each charge had a case number and a defendant identifier, data could be examined at the case level, the defendant level, or the charge level.

We chose to do our primary analysis at the defendant level rather than at the charge or case level. Of the three choices, analysis at the defendant level does more to equalize the data for comparison purposes. For example, some cases might have 10 defendants, although the majority have fewer. Analysis at the case level sacrifices the additional information gained through the analysis of each defendant. Analysis at the charge level may give inappropriate weight to numerous small charges or to numerous counts of the same charge. For example, one defendant charged with five counts of marijuana possession would be recorded as five charges, while another defendant charged with one count for illegal control of an enterprise, although likely to indicate a bigger case than

the former, would be given one-fifth the weight in a charge-level analysis. Additionally, presenting our results in terms of what happened to each person charged, or each person filed on by prosecutors is easier to understand and interpret than an analysis at the case or charge level.

Our analysis and presentation of defendant data required summarizing the charge level data for each defendant. In instances where there were multiple results at the charge level, the defendant case was categorized in the manner that would most favorably reflect on the law enforcement agency. For example, if an officer submitted six charges against a defendant and any of these charges was filed, the case against the defendant was categorized as 'filed' (This applies only to the Maricopa County data because Pima does not track charges submitted by officers). We applied similar program logic to Pima County data, i.e. if the defendant was found guilty of any charge, regardless of the number and types of charges filed, the defendant was categorized as a conviction.

Analysis Of Prosecutors' Requests For Further Investigation

We also analyzed the law enforcement agency's responsiveness to prosecutors' requests for further information to begin prosecution of a case. We compared the rate of requests for further investigation ("furthers") with the response rate to furthers in Maricopa County Attorney cases using two pieces of data within the LEJIS record: 1) the final status of the case (i.e., furthered, filed, active, etc.) and 2) the number of times the case was submitted. For example, case data indicating the case was filed once and submitted three times was calculated as two "total furthers' and two "furthers responded to" (refer to Table 3, page 16).

EXHIBIT 1

LEJIS CRIME CLASSIFICATION CODES USED TO SELECT CASES IN MARICOPA COUNTY

Class Code	Description
23	Theft/Larceny
24	Vehicle Theft
25	Forgery and Related Charges
26	Fraud
27	Embezzlement
28	Trafficking in Stolen Property
34	Drug Offenses
35	Drug Offenses
39	Gambling
41	Liquor Offenses
48	Offenses of Obstructing Police
49	Offenses of Escape
50	Obstructing Judiciary/Legislature
51	Bribery
52	Weapon Offenses
53	Offenses of Public Peace
55	Health and Safety (includes Hazardous Waste)
57	Invade Privacy
58	Smuggling
61	Tax Revenue Offenses
72	Crimes of Morals/Decency
73	Offenses of Public Order

EXHIBIT 2

CRIME TYPES USED TO SELECT CASES IN PIMA COUNTY

Statute Title	A.R.S(a)	Description
04	0244	Liquor
05	0516	Alter Lottery Ticket
10	0136	Corporate Record Violation
13	1001	Attempt to Commit Felony
13	1002	Solicitation to Commit Felony
13	1003	Conspiracy to Commit Felony
13	1004	Facilitation of Felony
13	1802	Theft
13	1803	Theft
13	1804	Theft-Extortion
13	2002	Forgery
13	2003	Forgery
13	2004	Criminal Simulation
13	2202	Deceptive Business Practices
13	2204	Defraud Creditors
13	2205	Defraud Creditors
13	23**	Fraud, Leading Organized Crime, etc.
13	24**	Tampering With Public Document
13	2602	Bribery
13	2605	Bribery
13	3102	Weapons Offenses
13	3104	Deposit Explosives
13	3107	Illegal Discharge of Arms
13	3303	Gambling
13	3304	Gambling
13	3305	Gambling
13	34**	Drug Charges
32	1151	Contract Without License
32	1154	Aid Unlicensed Contractor
32	1164	Contract Without License
32	1202	Practice Dentistry Without License
32	1455	Practice Medicine Without License
32	2154	Practice Real Estate Without License
32	2185	Illegal Subdividing
35	0301	Public Dollars to False Account
44	1219	Conceal/Remove Encumbered Property
44	1220	Fraudulent Insurance Claim
44	1735	Pyramid Scheme
44	1841	Sale of Unregistered Securities
44	1842	Sale Securities By Unregistered Person
44	1991	Fraudulent Securities Transactions
46	0215	Fraudulent Acts

(a) The codes presented indicate the charge codes and crimes as they appear in the CAPS system.

** All Arizona Revised Statutes with the first two digits indicated were selected.

APPENDIX II

USE OF RICO MONIES BY CRIMINAL INVESTIGATIONS BUREAU

During our audit, we examined the amount of RICO monies expended by CIB and how these monies were expended. We found that CIB expended approximately $2.4 million from Federal and State RICO assets over the last two years, which is the bulk of all Department funds related to asset forfeitures during this period.

CIB expended the bulk of RICO monies - Based on our review of an internal report of Department RICO expenditures, we found that the Criminal Investigations Bureau expended the largest portion of funds generated from the Department's asset forfeitures. For example, during fiscal years 1989-90 and 1990-91, CIB expended $2,374,036 in RICO funds or 60 percent of all monies provided to DPS bureaus as a result of asset forfeitures. CIB expenditures included items such as vehicles ($297,025), cellular phones and service ($25,588), surveillance equipment ($7,615), weapons ($11,389), bomb suits ($1,030), personnel overtime costs ($130,751), investigation costs for specific cases ($70,310), and computer equipment ($23,800). During the two-year period, individual project expenditures ranged from a low of $307 for investigative accounting services to a high of $393,530 for funding the Bureau's Gang Unit.

Table 6 shows DPS's RICO expenditures by Unit for fiscal years 1989-90 and 1990-91.

TABLE 6

DPS RICO EXPENDITURES BY EXPENDITURE UNIT FOR FISCAL YEARS 1989-90 AND 1990-91
(unaudited)

Expenditure Unit	Fiscal Year 1989-90	Fiscal Year 1990-91
Criminal Investigations	$ 867,015	$1,507,021
Highway Patrol	105,892	185,857
Administration	191,079	266,703
Criminal Justice Support	51,092	118,993
Telecommunications	288,615	253,458
Director's Office	5,031	102,348
Total Funds Expended	$1,508,724	$2,434,380

Source: Auditor General staff analysis and information obtained from the DPS-RICO Fund Administrator.