

**REPORT OF INVESTIGATION**

<b>SUBJECT</b> Village of Bal Harbour Police Department Bal Harbour, Florida	<b>CASE NUMBER</b> 2012-005018
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<b>OFFICE CONDUCTING INVESTIGATION</b> Miami Field Office	<b>DOJ COMPONENT</b> Asset Forfeiture and Money Laundering Section
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<b>DISTRIBUTION</b> <input checked="" type="checkbox"/> Field Office MIA <input checked="" type="checkbox"/> AIGINV HQ <input checked="" type="checkbox"/> Component AFMLS <input type="checkbox"/> USA <input checked="" type="checkbox"/> Other PIN	<b>STATUS</b> <input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED
	<b>PREVIOUS REPORT SUBMITTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date of Previous Report:

**SYNOPSIS**

This investigation was initiated based upon information received from the U.S. Department of Justice (DOJ) Asset Forfeiture and Money Laundering Section (AFMLS) that the Village of Bal Harbour Police Department (BHPD), Florida, failed to provide AFMLS with the adequate documentation to both complete a compliance review of the DOJ Asset Forfeiture Program and to determine if funds were obligated with regard to impermissible expenditures. Additionally, the OIG was requested to determine the nature of the BHPD Tri County Task Force (TCTF) that the BHPD failed to report to the AFMLS.

The Office of the Inspector General (OIG) investigation found that during fiscal years 2010 and 2011, the BHPD made certain payments in salaries and benefits that were determined to be impermissible uses for program funds. These salaries and benefits totaled \$709,836.37. The OIG and AFMLS found that in August 2011, funds from DOJ Asset Forfeiture Program were used to pay an American Express credit card account used by the TCTF for travel and other investigative related expenses. While BHPD told the OIG that federal per diem policies were followed, AFMLS and the OIG found several examples where hotel and food bills were not in accordance with U.S. General Services Administration (GSA) published per diem rates and airline tickets fares, other than coach, were also documented. Additionally, the OIG found that the BHPD failed to accurately complete the DOJ Application for Transfer of Federally Forfeited Property (DAG-71).

Records reviewed indicated that BHPD's TCTF was established in 2009 and was composed of officers from the BHPD; a contract employee from the BHPD who is the commander of the task force; a BHPD contract employee who works out of the Orange County California U.S. Immigration and Customs Enforcement Office;

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APPROVED BY SPECIAL AGENT IN CHARGE	Teresa Gulotta-Powers

and deputies from the Glades County, Florida, Sheriff's Office (GCSO). The TCTF is a money laundering and narcotics task force, but the majority of the investigations were related to money laundering. The OIG determined that from 2008 to 2011 the TCTF laundered over \$56 million dollars without adequate written policies or procedures, prosecutorial oversight, or audits of the undercover bank accounts. Moreover, BHPD and GCSO failed to follow their own memorandum of understanding regarding the operations of the TCTF.

During the investigation, the OIG discovered that in August 2000, the DOJ along with the Florida Department of Law Enforcement formed the South Florida Impact Special Review Committee for the purpose of reviewing the South Florida Impact Task Force (SFI) (whose purpose was to conduct money laundering investigations). The review committee made recommendations regarding several of the same concerns the OIG observed occurring with the TCTF. The current BHPD chief of police was the operations commander of the SFI. The SFI currently operates under the title of the South Florida Money Laundering Strike Force (SFMLSF) and is an initiative under the South Florida High Intensity Drug Trafficking Area (HIDTA) Task Force. The acting director of the SFMLSF stated to the OIG that TCTF operations have negatively affected the equitable sharing program in the South Florida.

Withheld pending consultation with other component

During the course of the investigation, allegations of official misconduct by BHPD's chief of police and other BHPD officials were reported to the OIG. These allegations related to improper release of NCIC information, providing misleading information to the DEA, and influencing the arrest or prosecutions of individuals familiar to the BHPD chief of police. The allegations were referred to the DOJ [REDACTED]

The OIG has completed its investigation. The OIG briefed AFMLS and PIN on its findings and referred the matter [REDACTED]

[REDACTED] for review and further action deemed to be appropriate.

## DETAILS OF INVESTIGATION

### Predication

This investigation was initiated based upon information received from the U.S. Department of Justice (DOJ) Asset Forfeiture and Money Laundering Section (AFMLS) that the Village of Bal Harbor Police Department (BHPD), Florida, failed to provide AFMLS with the adequate documentation to both complete a compliance review of the DOJ Asset Forfeiture Program and to determine if funds were obligated with regard to impermissible expenditures. The OIG was also requested by the AFMLS to determine the nature of the BHPD Tri County Task Force (TCTF) that the BHPD failed to report to the AFMLS.

### Investigative Process

The OIG investigation included the following:

- service of OIG subpoena number 1994,
- review of BHPD Equitable Sharing Agreement and Certification from 2009 to 2011,
- review of BHPD financial records,
- review of BHPD's equitable sharing revenue,
- review of BHPD's equitable sharing distribution,
- review of BHPD task force personnel descriptions,
- review of DOJ DAG-71 submitted by BHPD,
- interview of South Florida High Intensity Drug Trafficking Area (HIDTA) Director Timothy Wagner,
- review of TCTF memorandum of understanding,
- review of certificates of employment for Thomas O'Keefe and Paul Gollogly,
- interview of South Florida Money Laundering Strike Force (SFMLSF) Acting Director Thomas Roell,
- interview of SFMLSF Commander Mike Wald,
- interview of Florida Department of Law Enforcement Customer Service Specialist [REDACTED]
- review of comprehensive annual financial reports for the Village of Bal Harbour,
- interview of BHPD Chief of Police Thomas Hunker,
- interview of Village of Bal Harbour Finance Director Christopher Wallace,
- interview of BHPD Sergeant Paul Deitado,
- interview of BHPD Sergeant Edwin Vargas,
- review of AFMLS audit findings,
- review of BHPD confidential informants,
- review of SFMLSF documents related to BHPD's participation in the SFMLSF,
- review of the South Florida Impact Special Review Committee,
- DEA Miami Field Division's money laundering statistics comparison,
- interviews of sources of information,
- receipt of documentation related to alleged BHPD official misconduct,

- interview of DEA Special Agent [REDACTED]
- interview of DEA Special Agent [REDACTED] and
- receipt of Bay Harbor Islands Police Department property receipt.

## **Background**

On August 17, 2011, BHPD was notified by the AFMLS that it was selected for a compliance review of its federal equitable sharing program for fiscal years 2010 and 2011. Starting on January 23, 2012, an AFMLS compliance review team conducted an on-site review of the BHPD. According to the team, the village failed to provide adequate documentation during the site visit for the review to be completed. From August 2011 to March 2012, the compliance review team communicated on several occasions with the village regarding the requested documentation, but the documentation was not provided. Therefore, the review could not be completed to determine if the expenditures were in accordance with the AFMLS *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*.

## **BHPD Compliance Review**

The OIG and AFMLS conducted a joint compliance review of BHPD covering the time period of 2010 and 2011 to determine if federal asset forfeiture funds were properly expended.

The review indicated that the BHPD has 30 full time officers and the chief of police is Thomas Hunker. Hunker has 40 years of law enforcement experience and has served the past 10 years with the BHPD. From 1994 to 2000, Hunker was a commander at the SFI.

In 2010, BHPD reported a total of 56 arrests: 12 of the 56 arrests were for drug violations. In 2011, BHPD reported 53 total arrests: 6 of the 53 arrests were for drug violations. No arrests reported by the BHPD were related to money laundering operations. BHPD maintained separate records with regard to the arrests associated with the TCTF.

## ***Federal Asset Forfeiture Funds Expended for Salaries of Contract Employees***

The AFMLS and the OIG examined payroll documentation related to salaries and benefits that were paid from the BHPD's federal equitable sharing account. A portion of the salaries were used to support two contract employees. In 2007, the Village of Bal Harbour entered into a contract with retired Miami-Dade Police Department Detective Thomas O'Keefe to serve as a part-time police officer for the BHPD. O'Keefe was assigned the rank of commander and received annual compensation of \$90,000. According to the contract, \$60,000 of the \$90,000 was funded by monies which were to be reimbursed to the BHPD from the Office of the Sherriff of Glades County, Florida. The balance of the salary was to be paid from available funds maintained by the Village of Bal Harbour.

In 2009, O'Keefe entered into a new contract with the Village of Bal Harbour as a part-time police officer, was assigned the rank of commander, and received annual compensation of \$111,250.36. The contract stated the

salary was fully funded from the "Village's Special Law Enforcement Trust Fund." The contract also stated that O'Keefe understood that in the event that the monies held in the trust fund were not sufficient to cover the cost of salary and benefits that O'Keefe would no longer be employed.

In 2010, the Village of Bal Harbour entered into a contract with Paul Gollogly to serve as a part-time police officer for the BHPD. Gollogly was assigned the rank of lieutenant and received an annual compensation of \$65,999.96. The contract stated the salary was fully funded from the "Village's Special Law Enforcement Trust Fund." The contract also stated that Gollogly understood that in the event the monies held in the trust fund were not sufficient to cover the cost of salary and benefits that the village would no longer employ Gollogly.

The OIG determined that the trust fund actually consisted of monies received through the asset forfeiture equitable sharing fund.

BHPD stated that O'Keefe and Gollogly were strictly contract employees who were hired for their experience in money laundering investigations and were assigned to the TCTF. Payroll documentation provided to the OIG for fiscal years 2010 and 2011 documented the salaries paid out of the federal equitable sharing account for O'Keefe and Gollogly totaled \$263,830.54. Prior to 2010, it did not appear that the contract employees were paid out of the federal equitable sharing account.

ASMLS and the OIG determined that the salaries for O'Keefe and Gollogly were impermissible in accordance with the ASMLS *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*.

#### ***Federal Asset Forfeiture Funds Expended for Fiscal Year 2010 Salaries and Benefits***

Records reviewed indicated in fiscal year 2010, the Village of Bal Harbour expended \$103,511.19 in federal asset forfeiture funds to make up for a shortfall in the state forfeiture account. The Village of Bal Harbour and the BHPD were unable to provide documentation to the AFMLS or the OIG to specifically identify which officers received the funds. An additional \$52,933.62 was expended for identifiable officers' salaries. The Village of Bal Harbour expended \$17,850.76 for Federal Insurance Contributions Act (FICA) tax. Lastly, the Village of Bal Harbour expended \$9,359.05 for health care benefits, but it was unable to provide documentation as to which officers' health care benefits were paid with asset forfeiture funds. AFMLS and the OIG determined all the salaries, FICA, and health care expenditures were impermissible in accordance with the AFMLS *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*.

#### ***Federal Asset Forfeiture Funds Expended for Fiscal Year 2011 Salaries and Benefits***

Records reviewed indicated in fiscal year 2011, the Village of Bal Harbour expended \$159,013.71 for salaries; \$42,264.38 for FICA; \$29,228.11 for retirement contributions; \$29,818.71 in health insurance payments; and \$2,026.30 for life and disability insurance payments. All of the funds expended related to specific officers or administrative personnel, but the AFMLS and the OIG determined that all the expenditures were also permissible.

### ***Independent Audit Findings***

For fiscal years 2010 and 2011, the Village of Bal Harbour contracted with Marcum LLP to perform an independent audit. Contained in the audit was a review of the Village's federal equitable sharing expenditures. For fiscal year 2010, Marcum LLP identified "significant deficiencies" in the BHPD's program compliance. One finding was related to the fact that the Village did not have adequate documentation to support an officer's salary. For fiscal year 2011, Marcum LLP identified "material weaknesses" in the program and identified three officers' payroll expenses were not adequately supported. For both fiscal years, Marcum LLP stated the causes of the insufficiencies were due to the Village's lack of adequate controls and knowledge of the requirements of the federal equitable sharing program.

### ***American Express Payment***

A review of documents maintained by the TCTF indicated that for one billing cycle federal asset forfeiture funds were used to pay an American Express credit card bill for expenditures associated with the operation of the TCTF. AFMLS and the OIG found several examples where hotel charges were in excess of federal per diem rates. BHPD Chief of Police Hunker stated to the OIG that the TCTF followed federal per diem guidelines; however, BHPD officers assigned to the TCTF stated that they often did not request the federal per diem for reasons of operational security. Additionally, officers stated that since the travel was often booked at the last minute, federal per diem rates were unavailable. The BHPD officers stated that all the meals that were charged to the credit card were for law enforcement officers.

Other irregularities addressed included a movie charge and "business select" airfare. BHPD Sergeant Edwin Vargas stated the \$16.00 movie charge on August 16, 2011, was an error and should have been charged to his personal credit card. BHPD Sergeant Deitado stated the business select fare was purchased due to the fact that the officers wanted to board the aircraft before general passengers so that armed officers could meet with the pilot. BHPD Sergeant Vargas stated that since tickets were often booked at the last minute, the higher fare may have been the only fare available, but the AFMLS and the OIG found tickets that were purchased for a training class and were booked at the higher fare rate.

The BHPD was unable to provide the OIG with receipts to support a \$330.78 charge on August 12, 2011, for cellular telephone service or a receipt to support a \$176.53 charge on August 15, 2011, for lunch meeting at Wilson Creek Winery.

BHPD stated that once funds were available in the task force's operational account, which was funded from the fees BHPD charged the money brokers to launder drug proceeds, all travel expenditures were paid out of the operational fund and not paid with federal asset forfeiture funds.

### **Tri County Task Force Money Laundering Investigations**

The TCTF started in 2009 and is staffed by officers from the BHPD, deputies from the Glades County Sheriff's Office, one part-time BHPD contractor who serves as the commander, and one part-time BHPD contractor who

works out of the U.S. Immigration and Customs Enforcement office in Orange County, California. The steering committee members are BHPD Chief of Police Hunker and Glades County Sheriff Stuart Whiddon. Typically, an operation was conducted when a TCTF confidential informant received a telephone call from a money broker. A money pickup operation was conducted utilizing a TCTF undercover officer in coordination with special agents of the DEA. The TCTF deposited the money from the pickup into undercover bank accounts maintained by the BHPD. After the money pickup occurred, the DEA conducted surveillance and arrested the individual(s) who dropped the money to the undercover agent/officer. The confidential informant or the undercover officer received wiring instructions and the funds were wired throughout the United States. Any money associated with the arrest was subject for asset forfeiture and BHPD submitted an Application for Transfer of Federally Forfeited Property (Form DAG-71) to the DEA.

Deitado provided the OIG with information that stated from 2008 to 2011, the TCTF conducted 227 money pickups and laundered \$56,269,396. As a result of the money pickups, TCTF stated that 84 individuals were arrested by other law enforcement agencies and \$49,724,384 was seized. Even though the TCTF claimed 84 arrests, Deitado told the OIG that the arrests were actually conducted by other agencies. Hunker was unable to provide one example where TCTF cases were presented or prosecuted by the Florida State's Attorney's Office. The OIG found that BHPD did not maintain files or documentation related to the individuals arrested.

#### ***BHPD Submissions of Form DAG-71***

During a review of randomly selected DAG-71 submissions, the OIG found that BHPD failed to indicate salaries as an intended law enforcement use of the funds. BHPD selected "Other" as an intended use of the funds. BHPD inaccurately documented the number of hours that were expended on each investigation. Several submissions documented over 2,000 hours for each operation. The BHPD captain who filled out the forms stated to the OIG that he believed he was allowed to document a running total of hours spent on all money laundering investigations and not the hours specific to a particular operation.

#### ***Federal Equitable Sharing Funds Provided to the Bal Harbour Police Department***

Records maintained by AFMLS indicated that BHPD received the following federal equitable sharing funds:

Year	Amount
2006	\$167,032.18
2007	\$414,298.16
2008	\$240,689.26
2009	\$1,081,618.46
2010	\$1,106,761.12
2011	\$5,189,765.92

The OIG found that after the formation of the TCTF in 2009, the federal equitable sharing funds that BHPD received significantly increased. Prior to the formation of the TCTF, BHPD participated in a DEA Miami Field Division task force and another local law enforcement task force.

### ***South Florida Review Committee Special Report***

In 2000, South Florida Impact Task Force (SFI) was reviewed by a special committee that was co-chaired by the U.S. Attorney's Office and the Florida Department of Law Enforcement (FDLE). The committee was established because of concerns regarding the operations of the SFI. The special committee had several recommendations, but the following recommendations made by the special committee were taken into consideration during the OIG's limited review of the TCTF:

- Each operation, whether money pickup or otherwise, should be submitted in a written proposal which should contain at a minimum the objective, history, plan of action, and summary of known facts.
- Policies and procedures should be written, reviewed, and followed and "decisions" memorialized in memorandum form.
- SFI should calculate its seizure/laundrying ratio by informant, by money broker or, when possible, by organization.
- All agreements with informants should be in writing.
- SFI should only claim arrests when an SFI officer has taken the lead role in the investigation which resulted in a seizure.
- SFI should not take credit for enforcement actions taken by other agencies on the basis of a "tip" provided by SFI.
- SFI should be audited on a periodic basis throughout its fiscal year culminating with a full audit conducted by an independent accounting firm.

Attached to the South Florida Review Committee Special Report was a July 14, 1994, letter signed by then Chief Theodore S. Greenberg, DOJ Money Laundering Section, and Acting Chief Counsel Elizabeth B. Anderson, U.S. Customs Service. The letter stated:

In view of the foregoing, it is our view that state and local law enforcement agencies should not conduct international money laundering undercover operations outside of a federal task force such as HIDTA, OCDETF, or other joint-investigation mechanism. In the context of money laundering investigations, this would include all movement of money into or out of the territorial limits of the United States; extraterritorial money pickups by law enforcement officers, informants or their agents; or the electronic transfer of funds interstate or internationally, including those domestic funds transfers which facilitate dollar/peso exchanges in drug source countries or other transactions which result in a benefit to drug traffickers outside of the United States.

The letter also made reference that the task force agreed to observe the following procedures:

- The federal agent assigned to the task force will be advised prior to any money pickups.
- The federal agent will be advised prior to any interstate or international movement of money.
- The federal agent, upon being advised of a money pickup or interstate/international movement of



money, pursuant to federally required procedures, will coordinate with other federal law enforcement agencies and advise them of the proposed transaction.

- If a federal law enforcement agency has an objection to a proposed transaction, the proposed transaction will not proceed until the objection is resolved.

### ***TCTF Lack of Procedures and Controls***

During the review of the TCTF, the OIG identified the following concerns.

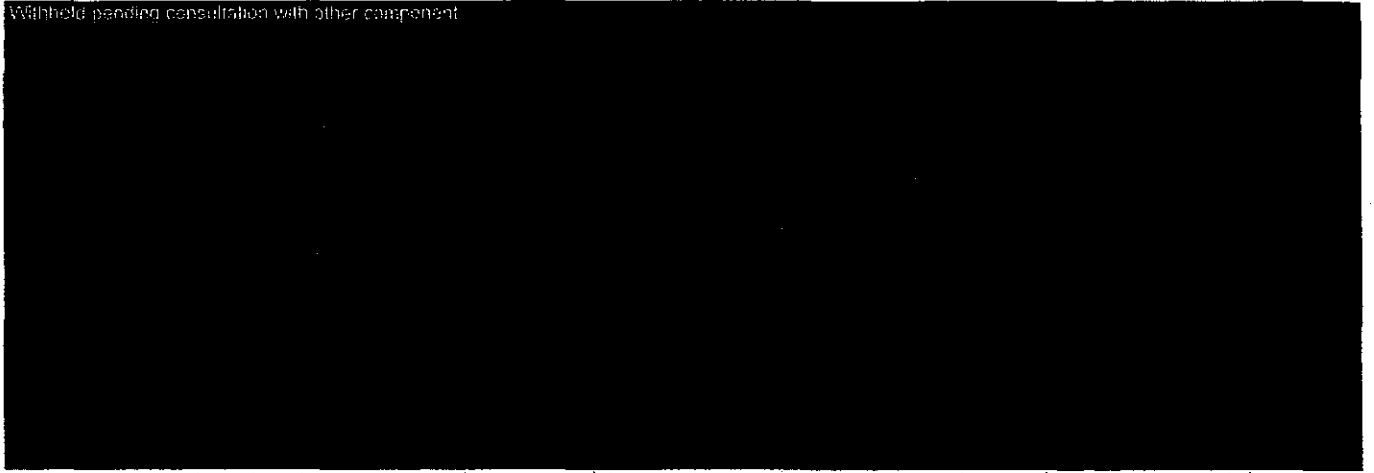
- TCTF is not a federally sponsored task force.
- TCTF does not have a standard operating procedure (SOP) manual.
- TCTF does not have a money limit per undercover pickup. Deitado stated to the OIG that the largest pickup was over \$1,000,000.
- TCTF does not have an administrative or operational financial manual.
- TCTF does not generate any investigative reports.
- TCTF does not track the names of the individuals arrested by the cooperating federal agency.
- TCTF does not track the prosecutorial status of arrestees in relation to its money laundering investigations.
- TCTF does not seek authorization prior to conducting money wire transfers. Deitado stated the he sends a facsimile containing the bank account information to the appropriate DEA office after the funds are transferred to the money laundering target.
- TCTF was unable to provide one case in which its officers effected arrests or presented cases for prosecution for money laundering.
- TCTF is composed of approximately 10 individuals but none interviewed by the OIG was able to state where two employees of the GCSO who reside in New York actually work.
- TCTF memorandum of understanding (MOU) stated an annual report was to be prepared, but an annual report has never been completed.
- TCTF MOU stated that a yearly training plan was to be prepared, but a training plan was not provided to the OIG.
- TCTF MOU stated there is an operational fund, but the fund has never been audited.
- BHPD maintains several undercover bank accounts, but the bank accounts have never been audited.
- BHPD received all the equitable sharing funds from the DOJ and distributed a portion of the funds to the GCSO without apprising AFMLS.
- TCTF was unable to provide the OIG with any documentation regarding steering committee meetings.

### ***TCTF and the South Florida Money Laundering Strike Force***


The OIG interviewed several former and current SFMLSF supervisors and commanders. Retired Coral Gables, Florida, Chief of Police Jim Butler said that Hunker "pushed the envelope" with money laundering investigations and shopped his money laundering operations to federal agencies without informing the SFMLSF. It was also alleged that when BHPD officers left the SFMLSF, they took SFMLSF informants back

to BHPD. Commander Mike Wald stated that Hunker "runs wild" with money laundering investigations and pulled out of the SFMLSF because he does not want to split the asset sharing with other departments. Acting Director Thomas Roell stated that the actions of the TCTF have hindered the success of the SFMLSF.

Withheld pending consultation with other component



Withheld due to pending consultation with all of component



### **Alleged Bal Barbour Police Department Misconduct**

In addition to the DEA's concerns, several sources of information provided the OIG with information related to alleged misconduct by BHPD Chief Hunker and other BHPD officers associated with the TCTF. The allegations were related to the following:

- Hunker conducted unauthorized NCIC checks for individuals who did not have access.
- Hunker provided individuals with honorary BHPD badges and identification and has influenced potential arrests and prosecutions.
- Hunker received multiple gifts from people who may have benefited from Hunker's influence.
- Hunker ordered a police officer out of a marked vehicle and allowed his associate, an intoxicated individual, to drive the vehicle on the beach.
- Hunker's wife received a "deal" on her personal jeep after BHPD purchased several police vehicles from the dealership.
- Hunker hired the son of a personal friend who was dismissed from the Miami-Dade Police Academy for cheating.
- A BHPD detective provided a firearm to a female who, at a later date, was arrested by the Bay Harbor Islands, Florida, Police Department for driving on a suspended license and possession of cocaine. The BHPD detective arrived on the scene and the female attempted to pass the firearm without the knowledge of the arresting Bay Harbour Islands officer. The BHPD detective stated the female was a BHPD informant and that he provided her the weapon for her safety. Charges against the subject were expunged. (This incident was verified by the OIG and the corresponding Bay Harbor Islands police report was obtained.)
- BHPD documented overtime related to the TCTF was inflated and abused. Specifically, that Deitado inflated his overtime so that his pension is currently approximately \$130,000 per year.
- Vargas and Deitado may have conducted money pickups outside of the TCTF.
- BHPD improperly paid its informants.
- When Vargas was assigned to the SFMLSF, he may have conducted pickups outside of the SFMLSF and did not inform SFMLSF supervisors.

- When BHPD had officers assigned to the SFMLSF, the SFMLSF may have identified a potential target that was known to BHPD. Deitado became upset with information that was posted in the wire room and subsequently stopped the SFMLSF from obtaining a Title III on another telephone number.

The above listed allegations were outside the scope of the OIG's purview and were referred to the DOJ

## OIG Findings

- The TCTF was aware of the recommendations made by the South Florida Review Committee Special Report and has made no effort to follow the recommendations. The TCTF has laundered approximately \$56 million over a three-year period, and the undercover bank accounts have never been audited. In addition, the TCTF has never presented a money laundering investigation for prosecution.
- The Village of Bal Harbour improperly expended \$709,836.37 on behalf of BHPD in federal asset forfeiture funds.
- BHPD used federal equitable sharing funds to pay for travel that was not in accordance with federal per diem guidelines.
- BHPD failed to accurately document the intended use of federally forfeited funds on the DAG-71s that were submitted to the DOJ.
- The TCTF laundered over \$56 million without adequate written policies or procedures, no prosecutorial oversight, no audits of the undercover bank accounts were conducted, and the task force failed to follow its own memorandum of understanding.
- The TCTF does not follow the guidelines set by the South Florida Review Committee Special Report.

Withheld pending consultation with other component

The OIG has completed its investigation. The OIG briefed AFMLS and PIN on its findings and referred the matter

for review and further action deemed to be appropriate.