

**C-10**

November 5, 2019

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Authorize the City Manager, or designee, to execute all necessary documents with the Department of Justice Equitable Sharing Program to file the annual equitable sharing report. (Citywide)

**DISCUSSION**

The Federal Comprehensive Crime Control Act of 1984 authorized implementation of the Department of Justice (DOJ) and Department of Treasury (DOT) Asset Forfeiture Program. The Asset Forfeiture Program is a nationwide law enforcement initiative that removes tools of crime from criminal organizations. A key element of the Asset Forfeiture Program is the Equitable Sharing Program (Program). Federal law authorizes the Attorney General and the Secretary of the Treasury to share federally forfeited property with participating state and local law enforcement agencies. The administrative procedures and approved spending categories related to these funds are governed by the DOJ and DOT Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies.

As a participating agency of this Program, the City of Long Beach must submit an Equitable Sharing Agreement and Certification (ESAC) form and Affidavit (attached) to the Money Laundering and Asset Recovery Section (MLARS) each year to maintain Program compliance. New guidelines issued by the DOJ require that the ESAC must be reviewed and approved by the head of the law enforcement agency and designated official of the governing body prior to submission. To remain in compliance, the ESAC must be filed, reviewed and accepted no later than two months after the end of the City's fiscal year, or November 30.

In addition to complying with the federal laws and guidelines set forth by the DOJ and DOT, the Long Beach Police Department (LBPD) also complies with California Health and Safety Code section 1147.12, as amended by Senate Bill 443 in 2016. Under State law, LBPD is prohibited from seeking federal adoption of asset seizures. It also prohibits acceptance of federal equitable sharing distributions when the value of the seized asset is less than \$40,000 without a criminal conviction in the underlying criminal case.

This matter was reviewed by Deputy City Attorney Sarah E. Green on October 16, 2019 and by Budget Management Officer Rhutu Amin Gharib on October 17, 2019.

TIMING CONSIDERATIONS

City Council action is requested on November 5, 2019, to expedite compliance with this program.

FISCAL IMPACT

This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ROBERT G. LUNA  
CHIEF OF POLICE

ATTACHMENT  
RL:MV:ak

APPROVED:

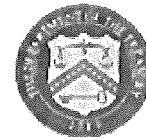


---

THOMAS B. MODICA  
ACTING CITY MANAGER



## Equitable Sharing Agreement and Certification



**NCIC/ORI/Tracking Number:** CA0194100  
**Agency Name:** Long Beach Police Department  
**Mailing Address:** 400 West Broadway  
 Long Beach, CA 90802

**Type:** Police Department

**Agency Finance Contact**  
**Name:** Ventura, Maura V  
**Phone:** 562-570-7447

**Email:** Maura.Velasco@longbeach.gov

**Jurisdiction Finance Contact**  
**Name:** Jimenez, Fernando  
**Phone:** 5625707150

**Email:** fernando.jimenez@longbeach.gov

**ESAC Preparer**  
**Name:** Repayo, Marian  
**Phone:** 562-570-5758

**Email:** marian.repayo@longbeach.gov

**FY End Date:** 09/30/2019

**Agency FY 2020 Budget:** \$264,582,442.00

### Annual Certification Report

Summary of Equitable Sharing Activity	Justice Funds <sup>1</sup>	Treasury Funds <sup>2</sup>
1 Beginning Equitable Sharing Fund Balance	\$1,154,818.92	\$1,520,691.30
2 Equitable Sharing Funds Received	\$354,461.79	\$114,257.92
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force	\$25,400.18	\$11,748.04
4 Other Income	\$46,255.00	\$0.00
5 Interest Income	\$25,934.71	\$23,040.94
6 Total Equitable Sharing Funds Received (total of lines 1-5)	\$1,606,870.60	\$1,669,738.20
7 Equitable Sharing Funds Spent (total of lines a - n)	\$26,315.45	\$0.00
8 Ending Equitable Sharing Funds Balance (difference between line 7 and line 6)	\$1,580,555.15	\$1,669,738.20

<sup>1</sup>Department of Justice Asset Forfeiture Program participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA

<sup>2</sup>Department of the Treasury Asset Forfeiture Program participants are: IRS, ICE, CBP and USSS.

Summary of Shared Funds Spent	Justice Funds	Treasury Funds
a Law Enforcement Operations and Investigations	\$0.00	\$0.00
b Training and Education	\$370.00	\$0.00
c Law Enforcement, Public Safety, and Detention Facilities	\$0.00	\$0.00
d Law Enforcement Equipment	\$0.00	\$0.00
e Joint Law Enforcement/Public Safety Equipment and Operations	\$0.00	\$0.00
f Contracts for Services	\$25,945.45	\$0.00
g Law Enforcement Travel and Per Diem	\$0.00	\$0.00
h Law Enforcement Awards and Memorials	\$0.00	\$0.00
i Drug, Gang, and Other Education or Awareness Programs	\$0.00	\$0.00
j Matching Grants	\$0.00	\$0.00
k Transfers to Other Participating Law Enforcement Agencies	\$0.00	\$0.00
l Support of Community-Based Programs	\$0.00	\$0.00
m Non-Categorized Expenditures	\$0.00	\$0.00
n Salaries	\$0.00	\$0.00
<b>Total</b>	<b>\$26,315.45</b>	<b>\$0.00</b>

**Equitable Sharing Funds Received From Other Agencies**

Transferring Agency Name	Justice Funds	Treasury Funds
L.A. Impact - CA0192KOX	\$25,400.18	\$11,748.04

**Other Income**

Other Income Type	Justice Funds	Treasury Funds
Other-Vendor Refund	\$46,255.00	

**Matching Grants**

Matching Grant Name	Justice Funds	Treasury Funds

**Transfers to Other Participating Law Enforcement Agencies**

Receiving Agency Name	Justice Funds	Treasury Funds

**Support of Community-Based Programs**

Recipient	Justice Funds	Treasury Funds

**Non-Categorized Expenditures**

Description	Justice Funds	Treasury Funds

**Salaries**

Salary Type	Justice Funds	Treasury Funds

**Paperwork Reduction Act Notice**

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section at 1400 New York Avenue, N.W., Washington, DC 20005.

**Privacy Act Notice**

The Department of Justice is collecting this information for the purpose of reviewing your equitable sharing expenditures. Providing this information is voluntary; however, the information is necessary for your agency to maintain Program compliance. Information collected is covered by Department of Justice System of Records Notice, 71 Fed. Reg. 29170 (May 19, 2006), JMD-022 Department of Justice Consolidated Asset Tracking System (CATS). This information may be disclosed to contractors when necessary to accomplish an agency function, to law enforcement when there is a violation or potential violation of law, or in accordance with other published routine uses. For a complete list of routine uses, see the System of Records Notice as amended by subsequent publications.

**Single Audit Information**

**Independent Auditor**

Name:

Company:

Phone:

Email:

**Were equitable sharing expenditures included on your jurisdiction's prior fiscal year's Schedule of Expenditures of Federal Awards (SEFA)?**

YES  NO

**Prior year Single Audit Number Assigned by Harvester Database:**

## Affidavit

Under penalty of perjury, the undersigned officials certify that they have read and understand their obligations under the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. The undersigned officials certify that the information submitted on the Equitable Sharing Agreement and Certification form (ESAC) is an accurate accounting of funds received and spent by the Agency.

The undersigned certify that the Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

### Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the Agency, and (3) the Agency's governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited funds, property, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submitting this form, the Agency agrees that it will be bound by the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. Submission of the ESAC is a prerequisite to receiving any funds or property through the Equitable Sharing Program.

- 1. Submission.** The ESAC must be signed and electronically submitted within 60 days of the end of the Agency's fiscal year. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.
- 2. Signatories.** The ESAC must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be an official or employee of the Agency and must be from a separate entity.
- 3. Uses.** Shared assets must be used for law enforcement purposes in accordance with the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations.
- 4. Transfers.** Before the Agency transfers funds to other state or local law enforcement agencies, it must obtain written approval from the Department of Justice or Department of the Treasury. Transfers of tangible property are not permitted. Agencies that transfer or receive equitable sharing funds must perform sub-recipient monitoring in accordance with the Code of Federal Regulations.
- 5. Internal Controls.** The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury, funds from state and local forfeitures, joint law enforcement operations funds, and any other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that equitable sharing funds are maintained by the entity that maintains the Agency's appropriated or general funds and agrees that the funds will be subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the *Guide*, any subsequent updates, and the Code of Federal Regulations, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of equitably shared funds or assets or supplantation of existing resources with shared funds or assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending equitably shared funds. Failure to comply with any provision of the *Guide*, any subsequent updates, and the Code of Federal Regulations may subject the Agency to sanctions.

- 6. Single Audit Report and Other Reviews.** Audits shall be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Agency must report its equitable sharing expenditures on the Schedule of Expenditures of Federal Awards (SEFA) under Catalog of Federal Domestic Assistance number 16.922 for Department of Justice and 21.016 for Department of the Treasury. The Department of Justice and the Department of the Treasury reserve the right to conduct audits or reviews.

**7. Freedom of Information Act (FOIA).** Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury. Agencies must follow local release of information policies.

**8. Waste, Fraud, or Abuse.** An Agency or governing body is required to immediately notify the Money Laundering and Asset Recovery Section of the Department of Justice and the Executive Office for Asset Forfeiture of the Department of the Treasury of any allegations or theft, fraud, waste, or abuse involving federal equitable sharing funds.

### Civil Rights Cases

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?

Yes  No

#### Agency Head

Name: Luna, Robert G.  
Title: Chief of Police  
Email: robert.luna@longbeach.gov

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

To the best of my knowledge and belief, the information provided on this ESAC is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her agreement to abide by the Guide, any subsequent updates, and the Code of Federal Regulations, including ensuring permissibility of expenditures and following all required procurement policies and procedures.

#### Governing Body Head

Name: Modica, Thomas B.  
Title: Acting City Manager  
Email: tom.modica@longbeach.gov

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

To the best of my knowledge and belief, the Agency's current fiscal year budget reported on this ESAC is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her agreement to abide by the policies and procedures set forth in the Guide, any subsequent updates, and the Code of Federal Regulations.

I certify that I have obtained approval from and I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.