

Audit #18-07:

Law Enforcement Trust Fund

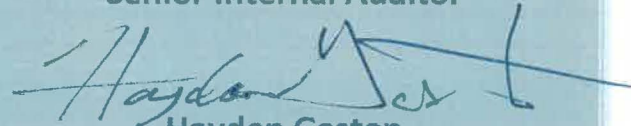
Audit Report

Office of the City Auditor and Clerk
Internal Audit

Prepared by:

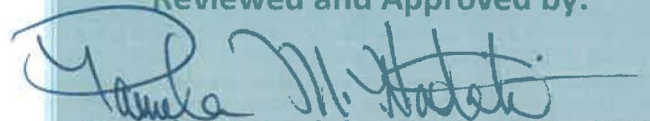


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Executive Summary

Audit #18-07 Law Enforcement Trust Fund

Audit Purpose and Scope

The purpose of this audit is to determine if the City of Sarasota (City)'s Law Enforcement Trust Fund assets are properly managed, controlled and that funds are expended in accordance with Federal, State and City laws, rules and ordinances. The completion of an independent internal audit of Law Enforcement Trust Funds was included in the 2016 City Risk Assessment. The scope of this audit included a review of Law Enforcement Trust Fund activity for the period October 1, 2012 through September 30, 2017.

Report Content and Limitation of Use

This executive summary is limited in detail. To obtain the full background on a particular item, please review the details prior to drawing conclusions based upon the limited information contained in this summary.

Audit Conclusions & Objective Ratings

The results of our review are based upon current conditions and indicate that internal controls are generally in place and functioning effectively to ensure compliance with City, SPD, state, and federal policies and procedures; no significant exceptions were identified; exceptions are noted in the detailed observations and recommendations on pages 7-14 of this report.

For information on priority levels assigned to audit recommendations, please see [Exhibit A](#).

This audit focused on the following objectives:

Audit Objectives	Objective Ratings		
1. Determine if the City of Sarasota is complying with City and Sarasota Police Department ordinances, policies and procedures for the collection, recording, disbursement and management of Law Enforcement Trust Fund assets including cash, vehicles, personal and real property.	X		
2. Determine if the City of Sarasota is complying with U.S. Department of Justice, U.S. Treasury Department and State of Florida statutes, policies and procedures for the collection, recording, disbursement and management of Law Enforcement Trust Fund assets.		X	

Green – A green control rating indicated that the controls reviewed at the time of the audit indicated a satisfactory or acceptable state of control, where risk appears to be minimized and appropriately managed.

Yellow – A yellow control rating denotes opportunities for improvement exist relating to the controls reviewed.

Red – A red control rating denotes significant risk or exposure to the City that requires immediate attention and remediation effort.

Detailed Report

Audit #18-07 Law Enforcement Trust Fund

Background and Introduction

The City of Sarasota Police Department (SPD) seizes assets from criminal activities based upon Florida state law—the Florida Contraband Forfeiture Act (FCFA) (FS 932.701-932.7062). These assets are identified as contraband and include currency, vehicles, personal or real property. Forfeiture is a law enforcement effort to help deter crime, compensate victims, and deprive criminals of illegal proceeds. Seized contraband assets are managed within the City by SPD under the Law Enforcement Trust Fund (LETf). The FCFA requires each law enforcement agency adopt written LETf procedures. SPD has Standard Operating Procedure (SOP) #717 Asset Forfeiture for this purpose.

All LETf funds are maintained within the City's general fund. Funds are to be used for SPD general operations and City Commission approved donations. SPD has three accounts identified within the Law Enforcement Trust Fund:

- State Forfeiture (070 State) (includes SPD direct forfeitures)
- Treasury Forfeiture (080 Treasury)
- Justice Forfeiture (082 Justice)

Included within the LETf are direct SPD forfeitures, shared multiple agency forfeiture funds, interest income, and asset seizure proportional sharing under federal law with the U.S. Department of Justice (DOJ) or the U.S. Department of the Treasury (DOT). LETf funds received fluctuate on an annual basis and prior funding is not an indicator of future funding.

The FCFA provides specific direction to law enforcement agencies regarding their use of LETf funds: FS 932.7055 (5)(a) "The proceeds and interest may not be used to meet normal operating expenses of the law enforcement agency." Also FS 932.7061 (3) "The law enforcement agency and the entity having budgetary control over the law enforcement agency may not anticipate future forfeitures or proceeds therefrom in the adoption and approval of the budget for the law enforcement agency."

Seizure of assets may be contested by the current owner requiring resolution in court proceedings prior to ownership transfer. SPD coordinates seizures with the City Attorney for necessary legal action.

Recent SPD LETf donations include:

- \$5,000 Greatness Beyond Measure— Stomp the Violence 6/26/17
- \$500 Florida Design Out Crime Association 9/13/16
- \$2,000 Florida Crime Prevention Association 9/13/16
- \$1,000 Suncoast Crime Prevention Association 9/13/16
- \$2,000 Florida Prescription Drug Monitoring Program Foundation 6/13/16
- \$10,000 Education Foundation of Sarasota – Hackathon 2/22/16
- \$1,000 Gamma XI Boule Scholarship – Journey to Success 2/2/16
- \$1,000 Greater Newtown Community MLK College 1/21/16

Audit Purpose and Scope

The purpose of this audit is to determine if the city's Law Enforcement Trust Fund assets are properly managed, controlled and that funds are expended in accordance with Federal, State and City laws, rules and ordinances.

The scope of this audit included a review of Law Enforcement Trust Fund activity for the period October 1, 2012 through September 30, 2017, with additional emphasis placed upon the last 18 months under review.

Motor vehicles may be seized directly by SPD under City Ordinance Article 9, Section 33-271. These assets are **not** included in the LETF and were **not** included in the scope of this audit.

Audit Objectives

The audit focused on the following objectives:

1. Determine if the City of Sarasota is complying with City and Sarasota Police Department ordinances, policies and procedures for the collection, recording, disbursement and management of Law Enforcement Trust Fund assets including cash, vehicles, personal and real property.
2. Determine if the City of Sarasota is complying with U.S. Department of Justice, U.S. Treasury Department and State of Florida statutes, policies and procedures for the collection, recording, disbursement and management of Law Enforcement Trust Fund assets.

Audit Standards

The auditors conducted this audit in conformance with the International Standards for the Professional Practice of Internal Auditing and Generally Accepted Government Auditing Standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on the audit objectives.

Testing Methodology

To fulfill the audit objectives, Internal Audit:

- Performed site visits of Sarasota Police Department and interviewed appropriate personnel;
- Interviewed City Attorney staff regarding LETF transactions and activities;
- Surveyed other cities with similar LETF programs for industry standards and identification of best practices.
- Reviewed SPD Standard Operating Procedure (SOP) #717 Asset Forfeiture.
- Reviewed a sample of SPD expenditures for compliance with federal, state and city laws, rules and ordinances.
- Reviewed a sample of funds received to the LETF to verify funds were recorded in the City's FMS accounting software;
- Reviewed a sample of donation transactions to verify their disbursement through the City's FMS accounting software and compliance with statutory requirements.

Audit Criteria

Conditions observed during audit fieldwork were evaluated against the following sources:

- City of Sarasota Administrative Regulations and Municipal Codes
- Sarasota Police Department SOP #717 Asset Forfeiture
- Federal Department of Justice Asset Forfeiture Policy Manual 2016, and the Guide to Equitable Sharing for State and Local Law Enforcement Agencies
- Federal Department of the Treasury Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests
- Government Auditing Standards (GAO) "General Standards for Preparing Accounting Records and Financial Standards"

Noteworthy Accomplishments

- All tested individual donations from the LETF included supervisory review and approval.
- Timely submission of the required annual submission of DOJ Equitable Sharing Agreement and Annual Certification was confirmed for the five years (2013-2017) of the audit period.
- Required Florida Contraband Forfeiture Act annual staff training appears to meet the requirements of FS 932.706.
- During the audit, SPD staff created a donation application form to standardize the application process.

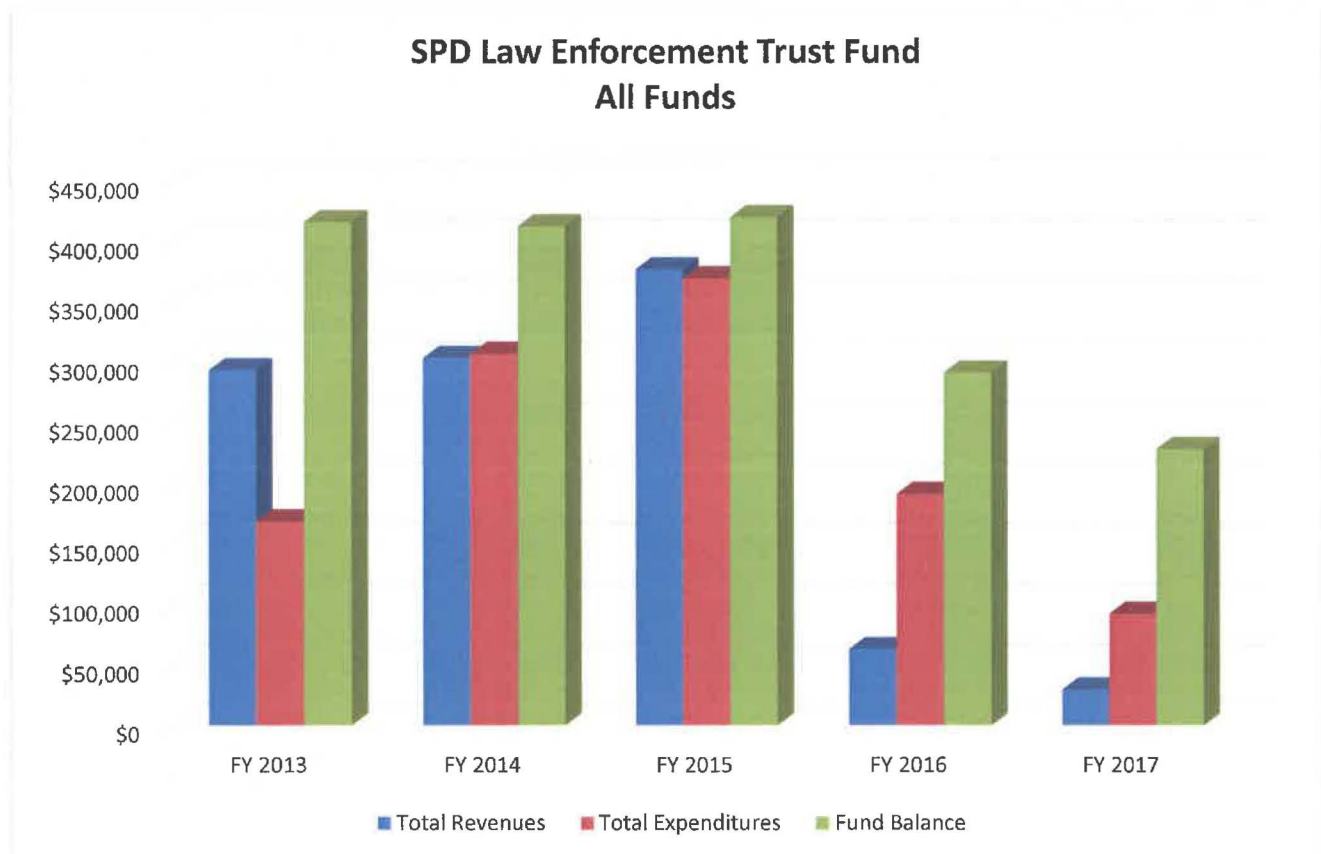
Audit Observations and Recommendations

Observations and recommendations in this report are offered as independent guidance to management for their consideration in strengthening controls.

For information on priority levels assigned to audit recommendations, please see [Exhibit A](#).

1. SPD Internal controls were generally in place and functioning effectively to ensure compliance with City and SPD policies and procedures. No significant errors or weaknesses were identified. Potential areas for improvement are noted in recommendations.

Testing of expenses did not identify any questionable payments or donations without SPD supervisory and City Commission approval.



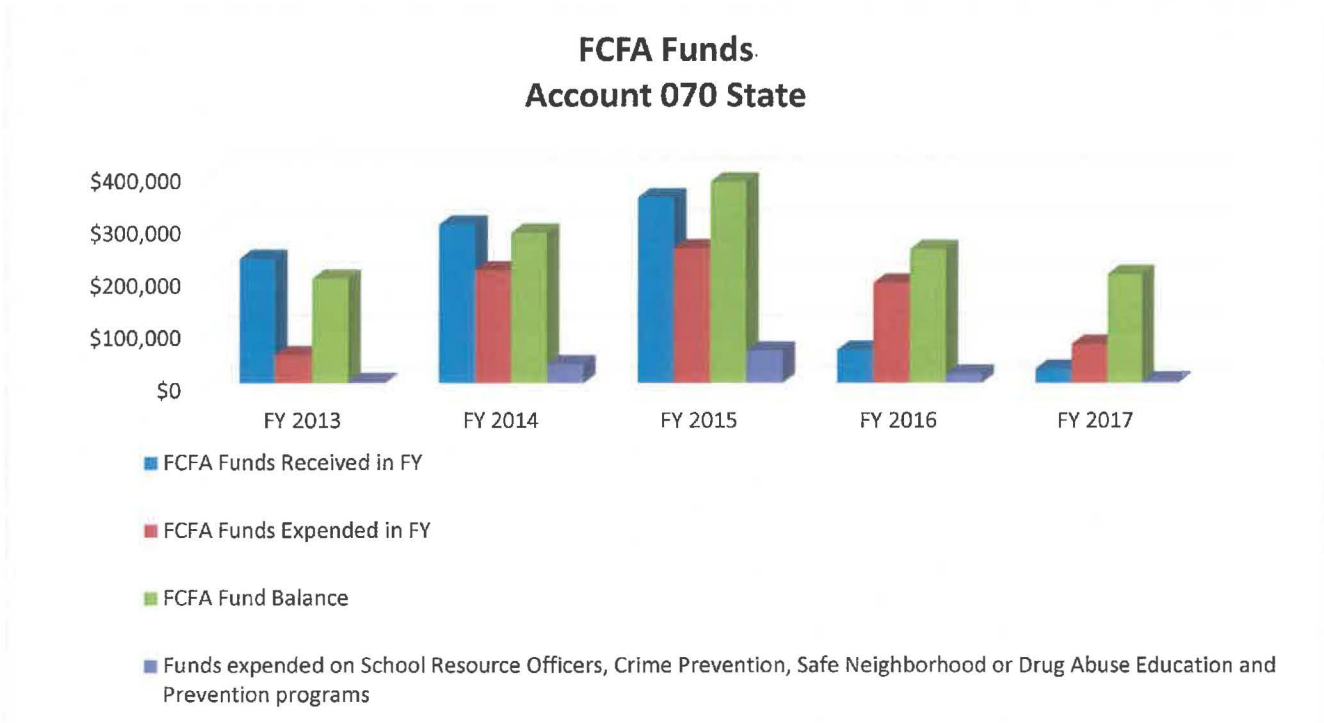
CAFR	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
LETF Total Revenues	\$293,908	\$303,982	\$377,000	\$63,495	\$29,888
LETF Total Expenditures	\$169,289	\$307,438	\$369,567	\$191,638	\$92,917
LETF Fund Balance	\$415,976	\$412,520	\$419,953	\$291,810	\$228,781

City Attorney and SPD staff advised that new case law opinions have added additional restrictions on seizures during the past two years leading to a general reduction in overall seizures.

2. SPD Internal controls were generally in place and functioning effectively to ensure compliance with U.S. Department of Justice, U.S. Treasury Department and State of Florida statutes, policies and procedures including fund collection, recording and disbursement with the following exception:

FCFA FS 932.7055 Disposition of liens and forfeited property states: "3. Any local law enforcement agency that acquires at least \$15,000 pursuant to the Florida Contraband Forfeiture Act within a fiscal year must expend or donate no less than 25 percent of such proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs." The required FCFA donation percentage was increased from 15% for years 2012-2015 to 25% beginning 2016. SPD did not donate the required annual percentage in three of five fiscal years. Funds for donations are maintained in the 070 State Forfeiture account and may be expended upon written request of the SPD Chief of Police to the City Commission certifying compliance with FS 932.701. Per FCFA, there are no penalties for not meeting the minimum donation requirement.

There were no indicators of the planned use of anticipated forfeiture income. Auditor conducted sample testing did not identify LETF funds used for normal SPD operating costs.



	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
FCFA Funds Received	\$238,303	\$303,074	\$354,352	\$63,171	\$27,290
FCFA Funds Expended	\$53,974	\$215,957	\$257,346	\$191,638	\$74,746
FCFA Fund Balance	\$200,272	\$287,389	\$384,395	\$255,928	\$208,471
FCFA Donations towards School Resource Officers, Crime Prevention, Safe Neighborhood or Drug Abuse Education and Prevention programs	\$2,500	\$36,000	\$62,000	\$17,600	\$5,000
Percentage of current year receipts donated to School Resource Officers, Crime Prevention, Safe Neighborhood or Drug Abuse Education and Prevention Programs.	1.05%*	11.88%*	17.50%	27.86%	18.32%*
Required Donation Annual %	15%	15%	15%	25%	25%

* SPD did not meet the minimum donation required by FCFA for three of the five years tested.

Recommendations Identified:

1. The required percentage (15% or 25%) of FCFA funds was not donated annually in each fiscal year to drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs.
2. There was no documentation of regular SPD or Financial Administration Department supervisory reviews of the LETF accounts, beyond the individual donation approvals noted above.
3. SPD standard operating procedure (SOP) #717 Asset Forfeiture, addresses most but not all actions regularly required of SPD staff.

Each observation and corresponding recommendation is further addressed on pages 10-14.

Observation #1 Law Enforcement Trust Account

Criteria	Condition	Priority	Cause	Effect
<p>FS 932.7055, requires agencies receiving at least \$15,000 within a fiscal year shall donate a portion of assets seized: (2012-2015: 15%; 2016-2017: 25%) to drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs.</p>	<p>The required annual percentage (15% now 25%) donation of FCFA funds was not achieved in three of the five years audited.</p>	<p>Medium</p>	<p>SPD SOP #717 does not specifically address the percent of FCFA funds to be donated in each fiscal year, or other actions by the Chief of Police with the approval of the City Commission to expend funds over a period of years.</p>	<p>The required minimum percentage of FCFA funds to be donated each fiscal year (now 25%) was not achieved. The City is not in compliance with FS 932.</p>

Audit Recommendation	Concur	Management Response	Due Date
<p>SPD implement a policy to ensure that 25% of FCFA funds received in a FY are donated to drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs.</p>	<p>See SPD Audit Response</p>	<p>See attached document section "SPD Audit Response #1" on pages 13-14.</p>	<p>10/31/18</p>

Observation #2

Criteria	Condition	Priority	Cause	Effect
Best practices would be to have regular supervisory financial reviews to ensure correct policies and procedures are implemented and maintained.	No documentation of regular SPD or Financial Administration Department supervisory reviews of the LETF accounts.	Medium	No policies and procedures have been established for the regular review of LETF accounts by City and SPD supervisory management.	Failure to detect financial errors may contribute to unintended payments or losses.

Audit Recommendation	Concur	Management Response	Due Date
Regular supervisory financial reviews ensure correct policies and procedures are implemented and maintained. Policies and procedures be established for regular, at least annual review of LETF accounts by City Financial Administration and SPD supervisory staff.	See SPD Audit Response	See attached document section "SPD Audit Response #2 on page 14.	10/31/18

Observation #3

Criteria	Condition	Priority	Cause	Effect
Best practices for Standard Operating Procedures (SOP) should include all essential steps to complete the function(s) identified.	<p>SPD standard operating procedure (SOP) #717 Asset Forfeiture, does not address all regularly required actions by SPD staff.</p> <p>Example: Required annual certification report "Equitable Sharing Agreement and Certification," is not noted in the SOP.</p>	Medium	<p>SOP #717 does not include a number of regularly required procedures including:</p> <p>Confirmation of required annual donation percentage of FCFA funds.</p> <p>Submission of the required annual DOJ report.</p> <p>Annual supervisory or Financial Administration review of the LETF.</p>	<p>Unidentified procedural steps can increase the risk for errors or omissions.</p> <p>Management supervision might overlook certain essential required tasks that could result in penalties from Federal or State agencies</p>

Audit Recommendation	Concur	Management Response	Due Date
SPD should review and update SOP #717 to reflect all currently required major procedural steps.	Yes	SOP 717 to be updated to include regularly required SPD Fiscal Control unit procedures in order to ensure policies, procedures, and statutes are followed.	10/31/18

SPD Audit Response #1:

In regards to Observation #1 stating, "FS 932.7055, requires agencies receiving at least \$15,000 within a fiscal year shall donate a portion of assets seized: (2012-2015: 15%; 2016-2017: 25%) to drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs.

Statute 932.7055 does not clearly define when those funds should be expended or donated. It states in section 3, "Any local law enforcement agency that acquires at least \$15,000 pursuant to the Florida Contraband Forfeiture Act within a fiscal year must expend or donate no less than 25 percent of such proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs. The local law enforcement agency has the discretion to determine which program or programs will receive the designated proceeds.

In response to Observation #1 stating, "The required annual percentage (15% now 25%) donation of FCFA funds was not achieved in three of the five years audited."

For audit period FY2013 through FY2017, the following percentage of funds were donated:

Year	% Donated	% Required Donation
2013	1%	15%
2014	12%	15%
2015	17%	15%
2016	28%	25%
2017	18%	25%

For fiscal year 2012, 89% of the funds were donated. From fiscal year 2012 through fiscal year 2017, SPD donated 27.5% of the required funds. Funds are sometimes received at the end of the fiscal year, after commission approval of donation and are not able to be approved before the fiscal year ends. While there is no requirement within the statute to make accommodations for donations made under the required amount, it is the intent of the Sarasota requiring donations to be made in future fiscal years to ensure the minimum percentage was donated. It is the intent of SPD to donate within the year received, and there are times that is not possible.

Examples during audited fiscal years include:

FY2016: Forfeiture Posting on 09/30/2016 for \$25,745

FY2017: Auction proceeds totaling \$5,824.36 not received until 09/26/2017 (\$2,649.36) and 09/27/2017 \$3,175.00

Under these circumstances, it would be impossible to get the amount recorded, deposited, on Commission agenda, and a check cut all within the same day. FS 932 does not have administrative regulations regarding extenuating circumstances when donations are impossible due to legislative requirements. Their verbal direction has been to notate the variance in the file with documentation.

The Office of the Chief of Police has planned to contribute 30% in future years to avoid this circumstance.

The statute allows for the governing body of the municipality to donate funds over a period of years under certain circumstances. In the future, SPD will make part of the request to the Commission to

allow for donations for any funds deposited into the account after the commission meeting at the end of the year to be donated in future years.

In regards to Observation #1 stating, "The City is not in compliance with FS 932". The Florida Department of Law Enforcement receives reporting and has never found SPD in violation of the statute.

SOP 717.22 states, "It is the policy of the Sarasota Police Department to participate in the FCFA in accordance with Florida State Statutes with law enforcement being the principal objective." The statute itself specifically says:

"Any local law enforcement agency that acquires at least \$15,000 pursuant to the Florida Contraband Forfeiture Act within a fiscal year must expend or donate no less than 25 percent of such proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs. The local law enforcement agency has the discretion to determine which program or programs will receive the designated proceeds."

Guidance is given within SOP 717.22 as to the percentage and for what purpose they are to be used for by referencing Florida Statutes. A more defined reference to the statutes will be mentioned within the SOP.

SPD Audit Response #2:

In response to "No documentation of regular SPD or Financial Administration Department supervisory reviews of the LETF accounts." No documentation of review was requested from the auditor. Currently, adequate compensated controls appear to be appropriate with day to day general ledger transactions, as all financial transactions are approved through FMS which includes and regular review by Financial Administration. SPD has also received requests from the outside auditors, Purvis and Grey, regarding the account. All transactions within the fund are approved by the Chief. In addition to the general ledger financial review performed by SPD Fiscal control and supervisory staff, periodic general ledger financial monitoring will continue to be performed by the City of Sarasota Financial Administration Department. In order to ensure that the financial activities of the Local Law Enforcement Trust Fund comply with Florida Statutes 932.7055, Chief DiPino spoke with David Flatt in the Financial Administration office who stated that Financial Administration will set up a policy for periodic review of the fund. SPD will enhance the documentation within the SOP of the policies and procedures for regular supervisory financial reviews.

Exhibit A: Audit Priority Classification System

Internal Audit utilizes the following classification scheme applicable to internal audit recommendations and the appropriate corrective actions:

Priority Level ¹	Description	Implementation Action ³
High	Fraud or serious violations are being committed or have the potential to occur, security issues, significant financial or non-financial losses are occurring or have the potential to occur. ²	Immediate
Medium	A potential for incurring moderate financial or equivalent non-financial losses exists. ²	Within 60 days
Low	A low priority observation indicates that the controls reviewed at the time of the audit indicated a satisfactory or acceptable state of control however operation or administrative process may be improved if certain additional changes are implemented.	60 days to 6 months

¹ The City Auditor and Clerk is responsible for assigning internal audit recommendation priority level categories. A recommendation that clearly fits the description for more than one priority level will be assigned the higher priority level.

² For an audit recommendation to be considered related to a significant financial loss, it will usually be necessary for an actual loss of \$25,000 or more to be involved, or for a potential loss (including unrealized revenue increases) of \$50,000 to be involved. Equivalent non-financial losses would include, but not be limited to, omission or commission of acts on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens.

³ The implementation time frame indicated for each priority level is intended as a guideline for establishing target dates. Determining proposed action dates is the responsibility of the Charter Official(s) over the area(s) or function(s) audited.

NOTE: Please note that this exhibit is a standard form which appears in every audit and is meant to be utilized to aid management in understanding the seriousness or potential seriousness of an audit observation. A "High" or "Medium" priority rating assigned to an audit observation should not be construed to mean that fraud or wrongdoing is, in fact, occurring but rather fraud or wrongdoing has the potential to occur in the absence of adequate internal controls.