

Close-Out Audit of the AFIS/Cal-ID Memorandum of Understanding

**Prepared for the
Board of
Supervisors of
the County of
Santa Clara by
the
Management
Audit Division**

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February 12, 2016

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February 12, 2016

Supervisor Dave Cortese, President
County of Santa Clara
Board of Supervisors
70 West Hedding Street
San Jose, CA 95110

Dear Supervisor Cortese:

We have completed the *Close-Out Audit of the AFIS/Cal-ID Memorandum of Understanding*. This audit was conducted based on direction by the Board of Supervisors as a part of the FY 2014-15 Management Audit Division work plan..

The audit was conducted in conformity with the United States Government Accountability Office (GAO) "Yellow Book" Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. The objectives of this close-out audit were to ensure that any unexpended monies paid to the City of San Jose by MOU participants were accounted for and remitted to the MOU members, and that all fixed assets and any unexpended SB 720 monies were transferred to the Sheriff and the County SB 720 Trust Fund.

In performing this audit, we reviewed all relevant MOUs in effect during the audit scope period, the Cal-ID equipment list included as Attachment 1 to the June 2013 *Agreement for the Transfer of Funds Related to the Cal-ID Program*, and to the extent they were made available, relevant policies, procedures, procurement documents, annual reports, RAN Policy Board agendas and minutes, and related financial documentation. We interviewed the Deputy

Administrative Officer from the San Jose Police Department (SJPD) as well as the Director of Administrative Services, Fingerprint Identification Director, and Director of Information Systems from the Sheriff's Office, and toured the Cal-ID equipment and records housed at the Sheriff's Office. In addition, we exchanged several questions and information requests via email with these individuals as well as the former SJPD Deputy Administrative Officer and the Administrative Services Manager from the Office of the District Attorney.

Pursuant to these audit procedures, a series of findings and recommendations were developed that would (1) ensure that all unexpended monies paid to the City of San Jose be remitted to MOU participants, and (2) improve the efficiency and effectiveness of the AFIS/Cal-ID program. Our primary findings and recommendations include:

- Our review of Cal-ID Program cost accounting found evidence of one accounting discrepancy during the audit review period and four accounting discrepancies from a previous Management Audit Division review for which we found no evidence that corrective action had been taken. The combined net amount of discrepancies found in our review result in \$66,771 due to the Cal-ID Reserve Fund from the City of San Jose and \$1,519 due to the SB 720 Trust Fund from the Cal-ID Reserve Fund.
- Our review of the amount of Cal-ID funds that should have been provided to the County by the City following the July 2013 transfer to the Sheriff's Office found that the associated accrued interest on the balance was calculated as \$1,577.96 less than provided. The City of San Jose should therefore transfer \$1,577.96 to the Sheriff's Office to account for the additional interest owed.
- Our review of Cal-ID equipment provided from the City to the County found that all equipment listed in the 2013 MOU as necessary for the operation of the Cal-ID Program was transferred to the Sheriff's Office, or in some limited cases, replaced with new equipment to ensure continued functionality. Further, inquiries regarding equipment expenditures by the SJPD found no evidence that Cal-ID funds were used inappropriately for the City's sole benefit.
- Consistent with findings from the March 2009 Management Audit Division review of the AFIS/Cal-ID MOU, the County continued to carry forward

unexpended fund balances in the SB 720 Trust Fund ranging from \$1.1 million to \$4.0 million, indicating that the County may not have fully complied with California Vehicle Code Section 9250.19(h). Therefore, the Local Policy Board should review its multi-year SB 720 plans to ensure that all current unexpended SB 720 funds are included and expenditures programmed so that all plan resources are encumbered in accordance with a Board-approved schedule for specifically identified purposes consistent with California Vehicle Code Section 9250.19(h).

- The City of San Jose and the Local Policy Board largely fulfilled their obligations under the MOU and its two amendments. However, we found that the Local Policy Board did not develop written policies during the audit review period regarding the maintenance and use of the Cal-ID Program reserve fund as required by the Cal-ID MOU. Therefore, the Local Policy Board should make a determination whether written policies regarding the maintenance and use of the Cal-ID Program reserve fund have been put in place. If such policies have not been put in place, the Local Policy Board should direct the Office of the Sheriff to draft procedures for review and approval by the Local Policy Board.

Based on these findings and recommendations, the implementation of the corrective actions described should enable the County and the SB 720 Trust Fund to recover all unexpended funds and associated accrued interest as well as improve the efficiency and effectiveness of the management of the Cal-ID program.

We would like to thank all of the staff and management of the City of San Jose Police Department, the Office of the Sheriff, and the Office of the District Attorney for their generous and patient assistance provided to us during this audit.

Respectfully submitted,



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Board of Supervisors Management Audit Manager

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Table of Contents

Introduction	1
1. Cal-ID Governance and Reporting	7
2. Financial Management and Close-Out of Cal-ID Funds.....	19
3. Attachment 1	A-1
4. Response of the Office of the Sheriff.....	A-2

Introduction

This *Close-Out Audit of the Automated Fingerprint Identification System and California Identification System (Cal-ID) (AFIS)/Cal-ID Memorandum of Understanding (MOU)* was included in the Management Audit Division's FY 2014-15 work plan by the Board of Supervisors of the County of Santa Clara pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County of Santa Clara Charter.

Purpose, Scope and Objectives

The purpose of the close-out audit was to determine if all monies paid to the City of San Jose by MOU participants for administration and operation of the Cal-ID program were fully accounted for, and that all fixed assets and any unexpended SB 720 monies were transferred to the Sheriff and the County SB 720 Trust Fund, respectively. The period of review was from July 1, 2007 to June 30, 2013.

Work on this audit began with an Entrance Conference on September 9, 2014 and a draft report was issued to the Department on November 18, 2015.

The objectives were:

- To verify that all AFIS/Cal-ID fixed assets, such as equipment, were transferred to the Sheriff's Office at the conclusion of the MOU agreement
- To ensure that any unexpended monies paid to the City of San Jose by MOU participants were fully accounted for and remitted to the MOU members
- To ensure that any unexpended SB 720 monies were transferred to the County SB 720 Trust Fund, which is administered by the Office of the District Attorney

Audit Methodology

As part of this close-out audit, the Management Audit Division conducted interviews with the Deputy Administrative Officer from the San Jose Police Department (SJPD) and the Director of Administrative Services, Fingerprint Identification Director, and Director of Information Systems from the Sheriff's Office. We also exchanged several questions and information requests via email with these individuals as well as the former SJPD Deputy Administrative Officer and the Administrative Services Manager from the Office of the District Attorney. We also reviewed all relevant MOUs in effect during the audit scope period, the Cal-ID equipment list included as Attachment 1 to

Introduction

the June 2013 *Agreement for the Transfer of Funds Related to the Cal-ID Program* from the City of San Jose to the County of Santa Clara, and, to the extent they were made available, relevant policies, procedures, procurement documents, annual reports, RAN Policy Board agendas and minutes, and financial documentation including revenue and expenditure reports and invoices.

We visited the San Jose Police Department Bureau of Administration as well as the AFIS/Cal-ID Unit at the Office of the Sheriff. Our visit to the Sheriff's Office included a tour of the Cal-ID equipment and records.

We also reviewed relevant State laws and regulations, including the California Vehicle Code and Penal code as well as Senate Bill 720 (last amended in 1997).

Compliance with Federal Audit Standards

This close-out audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards issued by the United States Government Accountability Office. We conducted this close-out audit in accordance with generally accepted government auditing standards set forth in the 2011 revision of the "Yellow Book" of the U.S. Government Accountability Office. Those standards require that 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 our findings and conclusions based on our audit objectives. In accordance with these requirements, we performed the following management audit procedures:

Audit Planning—The task plan for this management audit was developed after reviewing the results of the Management Audit Division's 2009 Review of the AFIS/Cal-ID MOU, reviewing the most recent AFIS/Cal-ID Annual Report produced by the Sheriff's Office, and reviewing relevant laws and regulations.

Entrance Conference—An entrance conference was held with the SJPD Deputy Administrative Officer and her staff to describe the close-out audit process and scope of review, and respond to questions. A letter of introduction from the Board and a close-out audit task plan were also provided at the entrance conference.

Introduction

Pre-Audit Survey—A preliminary review of documentation and interviews with Program managers and staff were conducted to obtain an understanding of the program, and to isolate issues pertaining to the transfer of Cal-ID program assets to the Office of the Sheriff, District Attorney, and MOU participants, as appropriate.

Field Work—Field work activities were conducted and included: (a) a site visit to the Sheriff's Office to identify AFIS/Cal-ID equipment; (b) a further review of documentation and other materials provided by the SJPD, the Sheriff's Office, and available from other sources; and, (c) analyses of data and documents provided by SJPD administrative staff as well as from the Sheriff's Office.

Draft Report—On November 18, 2015, a draft report was prepared and provided to SJPD administrative management to describe audit progress and provide general information on our preliminary findings and conclusions.

Exit Conference—On December 14, 2015, an exit conference was held with the SJPD Deputy Administrative Officer to collect additional information pertinent to our report, to obtain their views on the report findings, conclusions and recommendations, and to make corrections and clarifications as appropriate. Following the exit conference, a revised draft was provided to the SJPD Bureau of Administration for its use in preparing its formal written response. However, the staff of the SJPD Bureau of Administration has chosen not to provide a formal written response. Exit conferences were also held with the Sheriff's Director of Administrative Services and her staff on December 3, 2015 and with the District Attorney's Administrative Services Manager on December 14, 2015 for the purpose of identifying any areas needing clarification.

Final Report—A final report was prepared following the exit conference. We requested the SJPD Bureau of Administration, the Office of the District Attorney, and the Sheriff's Administrative Division to provide written responses to the report. Only the Sheriff's Administrative Division has chosen to provide a written response, which is attached to this report.

Legal Regulations Governing AFIS/Cal-ID

The AFIS/Cal-ID program is primarily governed by the State Penal Code and SB 720. The implementation of the program during the scope period of this close out audit was also governed by AFIS/Cal-ID Memorandums of Understanding as well as AFIS/Cal-ID Local Policy Board policies. Specific governing documents include:

State Penal Code

State Penal Code Section 11105 requires the California Department of Justice to maintain a criminal history database, which is the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Among other items, this Penal Code section also defines what State and local agencies will be provided information from the criminal history database and for what purposes.

State Penal Code Section 11112.1-1112.7 required the California Department of Justice to develop a plan and appoint a Remote Access Network (RAN) Advisory Committee for implementing the “Cal-ID Telecommunications System” (Cal-ID), a Statewide telecommunications network dedicated to the transmission of fingerprint identification data for use by law enforcement agencies. This section of the Penal Code also requires counties that elect to participate in the RAN to establish a local RAN board and specifies the membership requirements of such boards. In addition, this section of the Penal Code specifies the cost sharing for equipment purchases necessary for access to Cal-ID.

State Senate Bill 720 (SB 720)

SB 720 allows for county board of supervisors to add a fee of \$1.00 to the existing fees for registration of vehicles, which could be continuously appropriated to fund local programs that enhance local law enforcement’s ability to provide fingerprint identification. SB 720 stipulates that the funds from the \$1.00 fee can only be used to fund programs that support local law enforcement’s fingerprint identification of individuals who may be involved in driving under the influence of alcohol or drugs, vehicular manslaughter, or other crimes committed while operating a motor vehicle. The SB 720 Trust Fund has been managed by the Office of the District Attorney, with annual budgets approved by the Board of Supervisors.

History and Background on the AFIS/Cal-ID MOU

Cal-ID is an automated system maintained by the California Department of Justice for retaining fingerprint files and identifying latent fingerprints. Under State law established in 1985 (Penal Code Section 11112.1 et. Seq.), local law enforcement agencies were allowed to access this system through a RAN that provided them direct access to the fingerprint system. Counties were given the option of entering into the RAN system, and were required to establish a RAN Board to oversee it, including county and city law enforcement and governmental representatives, whose role is to determine the placement of RAN equipment in the County, and to develop procedures to regulate use and maintenance of the RAN equipment, subject to guidelines and procedures of the California Department of Justice.

In 1987, the County and cities entered into such an agreement to access the Cal-ID system for analysis of latent fingerprints, those collected at crime scenes. The jurisdictions agreed to share in system equipment and operational costs. In addition, under the agreement, the City of San Jose agreed to use its existing SOLVE fingerprint system for the purpose of identifying arrestees using fingerprints taken from them when they are booked, either at the County jail or by being cited and released by law enforcement agencies. This identification process is known as “10-print” analysis, since prints of all 10 fingers and the palms of an arrestee are taken at the time of booking. The 10-print process is also used to enter fingerprints from first-time arrestees in to the Cal-ID system.

In 1997, the County and the City of San Jose entered into a separate agreement to replace the SOLVE system with a more modern Automated Fingerprint Identification System (AFIS). This agreement stated that the County would pay 55 percent of costs for the new equipment, the City 45 percent, but that the equipment would be housed within the City of San Jose Police Department, as SOLVE had been. Although the basis for the division of costs between the City and County was not included in documents for the 1997 agreement, County staff who helped implement it reported that the basis was the breakdown of bookings in FY 1995-96 by the City of San Jose versus those by the County and all other non-city law enforcement agencies in the County. A review of relevant statistics supports that interpretation, and there is no record of why other cities were not asked to share in the cost of the AFIS equipment.

In October 2002, the County and the 15 cities approved a new MOU to govern the AFIS/Cal-ID system. The terms of that agreement included a requirement that the

Introduction

District Attorney's Office pay for 26.8 percent of the AFIS/Cal-ID budget, and that the remaining costs would be shared among the County and the 15 cities based on each entity's share of the County's population, with the County's share representing the unincorporated area.

The October 2002 MOU was first amended by the parties in April 2003. The April 2003 amendment included changes to provide clearer definition of the City of San Jose's responsibilities related to the annual budget process. Specifically, the 2003 amendment required the City to: (1) estimate the costs for the following fiscal year no later than February 1st of the preceding year (prior to the amendment the requirement was to estimate the costs any time prior to the commencement of the new fiscal year); (2) by April 1st, the City was to notify each party of its share of the estimated costs for the succeeding year (prior to the amendment the requirement was to notify each party by May 1st of the preceding year; and, (3) required parties to provide payments to the City of San Jose by August 15th of the fiscal year for which the payments are due (prior to the amendment the requirement was to provide payment by July 15th of the fiscal year for which the payments are due).

The October 2002 MOU was amended a second time in February 2011 to implement recommendations from the Management Audit Division's March 2009 Review of the AFIS/Cal-ID MOU to change the cost allocation methodology from one based on population to one based upon historic usage.

In June 2013 the City of San Jose (City) and the County executed an agreement for the transfer of the administration of the Cal-ID program from the City to the County under the Sheriff's Office. The agreement called for the City to transfer \$808,000 and related accrued interest earned on unspent AFIS/Cal-ID monies to the County. The agreement also required the transfer of certain pieces of equipment including Cal-ID Livescan equipment, county-wide mug shot servers, and 10-print cards on file at the City storage area.

Acknowledgements

We would like to thank the San Jose Police Department Deputy Administrative Officer, the Sheriff's Director of Administrative Services, and the District Attorney's Administrative Services Manager as well as their respective personnel for their cooperation and assistance throughout this close-out audit.

Section 1:

Cal-ID Governance and Reporting

The Central Identification Unit of the San Jose Police Department held responsibility for operating and maintaining access to the California Identification System (Cal-ID) fingerprint identification system for the County and all cities within the County from 1988 through June 2013. On July 1, 2013, the Program was transferred to the County under the Office of the Sheriff.

In FY 1987-88, the County and the 15 cities within the County entered into an agreement to equitably share the costs of implementing the Cal-ID Program. The original FY 1987-88 agreement was subsequently replaced by an October 2002 Memorandum of Understanding (MOU). The 2002 MOU and its two amendments, in April 2003 and February 2011, defined the Cal-ID Program's governance structure, including the role of a Local Policy Board¹ as required by State law, as well as the costs and operational responsibilities of each of the parties to the agreement.

The Central Identification Unit and the Local Policy Board had a mixed record of fulfilling their respective obligations under the MOU and its two amendments, sometimes not providing required statistics to the Local Policy Board or properly notifying jurisdictions of their financial obligations in a timely manner. The responsibilities as specified in the 2002 MOU and the subsequent amendments are summarized in the text and Table 1.1 below. Potential extenuating circumstances that may explain the late notifications to participating jurisdictions are summarized in Table 1.2 below.

2002 Memorandum of Understanding

The October 2002 MOU established the cost sharing model between the County, the City of San Jose, and the other incorporated cities in the County. The MOU specified that the costs of the Cal-ID Program would be allocated to the parties of the MOU based on each party's percentage share of the total population, with the exception of the

¹ The Santa Clara County Cal-ID RAN Policy Board (Local Policy Board) was composed of a member of the Board of Supervisors, the Sheriff, the District Attorney, the Chief of Police of the department having the largest number of sworn personnel within the county, a Chief of Police selected by all of the Police Chiefs within the County, a Mayor selected by the City Selection Committee, and a member-at-large chose by the other members.

District Attorney's Office whose share was set at 26.8 percent of the entire budget. The initial allocated percentages were to be recalculated by the Local Policy Board on an annual basis thereafter. This cost sharing model was altered in 2011 to a usage based calculation in response to a recommendation by the Board of Supervisors Management Audit Division to more equitably allocate program costs. The 2002 MOU also specified the operational and administrative responsibilities of each of the parties as well as the annual budgeting process.

The MOU specified the specific operational responsibilities of the City of San Jose and the County in order to ensure that the program remained effective. San Jose's operational responsibilities included providing staffing to receive, process, and analyze fingerprint images; space, power, and equipment for the program; and, annual statistics to the Local Policy Board on the performance of the program, among others. The County's operational responsibilities included providing space and power for all County operated AFIS equipment which was linked to the Central Identification Unit, providing and maintaining the Criminal Justice Information Control,² and providing and maintaining all of the communication lines between the Central Identification Unit as well as all remote access sites of the County, among others. The incorporated cities' operational responsibilities included providing space and power for their city's operated AFIS equipment, which is linked to the Central Identification Unit, providing personnel responsible for rolling fingerprints at their livescan sites, and maintenance and installation of additional (if necessary) communication lines with the Central Identification Unit.

The MOU also detailed the administrative responsibilities of the City of San Jose as the general administering agency for the Cal-ID Program. As the fiscal manager of the Cal-ID Program Fund and expenditures, the MOU made the City responsible for: (1) establishing the interest-bearing accounts for the deposit of all funds received under the MOU and for the payment of all program costs and expenses; (2) billing each party of the MOU for its share of the program costs; (3) providing each of the parties and the Local Policy Board with periodic reports and an annual financial report at the end of each fiscal year; and, (4) payment of all Local Policy Board expenses.

² The Criminal Justice Information Control is the County's system for local adult criminal case tracking, local criminal history recording and other related functions.

Further, the MOU established an annual budget process with most responsibilities assigned to the City of San Jose. Specifically, the City was assigned responsibility to:

1. Estimate the costs for the upcoming fiscal year, which would be presented to the Local Policy Board for approval, disapproval, or amendment;
2. Notify each party of its share of the estimated annual costs by May 1 of the preceding fiscal year; and,
3. Deposit payments from MOU parties into interest bearing trust accounts from which the City had the authority to deposit and withdraw funds to pay for costs according to the annual budget approved by the Local Policy Board.

The Local Policy Board was assigned responsibility to develop written policies regarding the maintenance and use of the Cal-ID Program Fund Reserve.

1st Amendment to the MOU (April 2003)

The Cal-ID MOU was first amended in April 2003, just six months after becoming effective. Notably, the 2003 amendment allowed any party to terminate their participation in the MOU and established additional annual budget responsibilities to the City of San Jose. These additional annual budget responsibilities included: (1) estimating the costs for the following fiscal year no later than 150 days (February 1st) prior to the end of the preceding year; (2) notifying each party of its share of the estimated costs for the succeeding year no later than April 1st of the preceding year (the prior MOU requirement was no later than May 1st); and, (3) the date by which payments were to be made to the City of San Jose was pushed back to August 15th (from July 15th).

2nd Amendment to the MOU (February 2011)

The second amendment to the Cal-ID MOU was executed in February 2011 in response to a March 2009 report released by the Board of Supervisors Management Audit Division. The report recommended a change to the cost allocation methodology from one based on population to one based on historic usage of the Cal-ID Program to ensure a more equitable sharing of costs. The 2011 amendment specified that participating agencies would, effective July 1, 2010, be charged an annual amount based upon that municipality's average usage of Cal-ID services over the preceding three-year period.

Table 1.1

**Significant Responsibilities Assigned to San Jose and the Local Policy Board
for Administration of the Cal-ID Program**

<u>Party</u>	<u>Responsibility</u>	<u>Document Establishing Responsibility</u>
City of San Jose	Establish Interest-Bearing Accounts for administration of the Cal-ID Program	2002 Memorandum of Understanding (Exhibit A)
City of San Jose	By February 1st, estimate the costs for the succeeding fiscal year for approval by the Local Policy Board.	2003 MOU Amendment (Exhibit A)
City of San Jose	By April 1st, notify each party of its share of the estimated costs for the succeeding year.	2003 MOU Amendment (Exhibit A)
City of San Jose	Provide each of the parties and the Local Policy Board with periodic reports and an annual financial report at the end of each fiscal year.	2002 Memorandum of Understanding (Exhibit A)
City of San Jose	Provide performance statistics annually within a Fiscal Year to the Local Policy Board.	2002 Memorandum of Understanding (Exhibit B)
Local Policy Board	Develop written policies regarding the maintenance and use of the Cal-ID Reserve fund.	2002 Memorandum of Understanding (Exhibit A)

Sources: 2002 Memorandum of Understanding (MOU) Regarding the Operation of the Automated Fingerprint Identification System and to Provide Local Law Enforcement Agencies Access to the California Identification System; 2003 MOU Amendment

Adherence to MOU Requirements

City of San Jose- Establishment of Interest-Bearing Accounts

As previously mentioned, the Cal-ID MOU assigned responsibility to the City of San Jose to provide fiscal management of the Cal-ID Program Fund and expenditures, including the establishment of interest-bearing accounts. The City maintained an interest bearing account for administration of the Cal-ID Program during the scope period of this audit (July 1, 2007 through June 30, 2013), which was known as the Cal-ID Reserve Fund. Although the MOU states that “all funds received under this MOU”

should be deposited into the interest-bearing accounts and “all costs and expenses incurred” should be paid from the accounts, the City never deposited its own share of the costs into this account and the costs covered by its contributions were paid from separate City accounts. While it is unlikely that the City violated the terms of the MOU by not depositing its own contributions,³ the accounting processes used by the City are less transparent and more difficult to review and verify than if it had deposited its contributions into the account as it had with all other parties to the MOU.

City of San Jose- Estimate Costs for Succeeding Fiscal Year by February 1st

Based on the available evidence, we found that the City of San Jose did not consistently comply with the MOU budget requirement, previously discussed, to estimate the costs of the succeeding fiscal year no later than 150 days prior to the commencement for that fiscal year (by February 1st). As shown in Table 1.2 below, we only have evidence that the City complied with this requirement for two of the six years that were reviewed for this audit. We have evidence that, for FY 2007-08 and FY 2008-09, the City of San Jose presented a proposed budget to the Santa Clara County Police Chief’s Association⁴ on January 30, 2007 and December 13, 2007, respectively. For three other years (FY 2009-10, FY 2010-11, and FY 2012-13) we have evidence that the City provided an estimate of the costs, but these estimates were provided after the February 1st deadline called for in the MOU (March 16, 2009, March 17, 2010, and May 24, 2012, respectively). Extenuating circumstances that may have contributed to delays, including the transition to a new cost allocation model, are summarized in Table 1.2 below. For the remaining year (FY 2011-12) we have no evidence of the date when budget estimates were provided although it is likely that estimates were provided to the Police Chief’s Association, as it is unlikely that the budget would have proceeded to the Board without the approval of the participating agencies.

³ The MOU and its amendments do not specifically state that the City of San Jose had to deposit its own contributions to the Cal-ID program into the trust account, but does infer such a requirement, stating that all revenues should be deposited into, and all expenses should be paid out of, the account.

⁴ Although the County Police Chief’s Association is not mentioned as a party to the MOU, it is an organization that represents the police chiefs of all cities in the County and served as an advisory body on administrative and budgetary matters for the Cal-ID program.

City of San Jose- Notification of Estimated Share of Costs for Succeeding Year by April 1st

We found that the City of San Jose did not consistently comply with the MOU budget requirement, previously discussed, to notify each party of its share of the estimated costs for the succeeding year by April 1st. As shown in Table 1.2 below, we only have evidence that the City complied with this requirement for one of the six years that we reviewed as part of this audit (FY 2007-08). For the remaining years, FY 2008-09 through FY 2012-13, we found no evidence of when the parties to the MOU were notified of their share of the estimated costs for the succeeding years.

Table 1.2
Summary of Adherence to Cal-ID MOU Budgetary Requirements
FY 2007-08 through FY 2012-13

<u>Fiscal Year</u>	<u>February 1st Cost Estimate</u>	<u>April 1st Notification to Parties⁵</u>	<u>Potential Extenuating Circumstances</u>
2007-08	Proposed budget presented to SCC Chief's Association on 1/30/07 and Local Policy Board on 2/15/07.	Letter sent 2/7/07 to jurisdictions with breakdown by jurisdiction	Not Applicable- City appears to have met both deadlines.
2008-09	Proposed budget presented to SCC Chief's Association on 12/13/07; Revised budget presented to SCC Chief's Association on 3/6/08; Presented to and approved by Local Policy Board on 4/9/08.	No evidence of official notification. Presented to County Chief's Association prior to approval by Local Policy Board.	Not Applicable for February 1st deadline. No known extenuating circumstances for the April 1st deadline.
2009-10	Proposed budget presented to SCC Chief's Association on 3/16/09 and approved by Local Policy Board on 6/1/09	No evidence of official notification. The Local Policy Board approved the 2009-10 budget at its meeting on 6/1/09. Allocation of reserves was \$350k.	(1) Management Audit Division's Review of the AFIS/Cal-ID MOU was released in March 2009 and recommended changes to the cost allocation model; (2) Three cities pulled out of the program, which created a \$98,280 funding gap.
2010-11	No evidence that a budget estimate was provided by 2/1/10 for FY 2010-11. A spreadsheet entitled "Cal ID 2010-11 Budget (Estimated)" was provided by SJPd showing cost breakdown by jurisdiction, but it is undated and unclear if or when it was presented to Local Policy Board.	Minutes from the 3/17/10 Local Policy Board meeting show that the budget was approved based on a cost allocation model that incorporates usage and utilizes SB 720 funds to offset booking expenses for each agency. Otherwise, no evidence of official notification.	The cost allocation model was altered starting in FY 2010-11 from the previous model based on population to one based on usage.
2011-12	No evidence that a budget estimate was provided by 2/1/11 for FY 2011-12.	No evidence that parties were notified of their share of estimated costs by 4/1/11.	The 2nd Amendment to the Cal-ID MOU, which formally altered the cost allocation model, was executed in February 2011.
2012-13	Budget was presented at 5/24/12 Local Policy Board Meeting and approved by the Board that day.	Invoices were sent to MOU parties on 8/16/12.	Proposal to transfer Cal-ID administration to the County.

Sources: Documentation, including Local Policy Board and SCC Chiefs Association Minutes as well as communications sent by the San Jose Police Department to member jurisdictions, provided by the San Jose Police Department and the Sheriff's Office

⁵ SJPd representatives state that parties were typically notified in person at the County Chief's Association meeting and/or the Local Policy Board meetings. We note in the table when we have evidence to show that. Official notification refers to formal written notification of jurisdictions' financial obligations.

City of San Jose- Periodic Reports and Annual Financial Report

The City of San Jose appears to have consistently complied with the MOU reporting requirement to “provide each of the parties and the Local Policy Board with periodic reports and an annual financial report at the end of each fiscal year.”⁶ Details of the provision of annual financial reports, consisting of the Cal-ID budget vs. expended amounts are shown in Table 1.3 below.

City of San Jose- Annual Performance Statistics

The City of San Jose appears to have mostly complied with the MOU reporting requirement to “provide statistics annually within a Fiscal Year to the Local Policy Board.”⁷ As previously mentioned, under Exhibit B of the 1st Amendment to the MOU (April 2003) the City of San Jose was required to provide an annual statistical report to the Local Policy Board. This report was required to include at least eleven types of statistics. The annual reports consistently reported on nine of the eleven required statistics. The reports did not include statistics on the number and type of record purges and information on the frequency and circumstance of maintenance calls. Conversely, some of the statistical reports included statistics on the number and type of backlogged cases, which was not required to be reported under the MOU.

⁶ Exhibit A (entitled “Cost Responsibilities”) Section A.2 (entitled “Administration”) of the 2002 Cal-ID MOU and the 2003 MOU Amendment.

⁷ Exhibit B (entitled “Operational Responsibilities”) Section B.2 Number 5 of the 2002 Cal-ID MOU and the 2003 MOU Amendment.

Table 1.3
Summary of Adherence to Cal-ID MOU Reporting Requirements
FY 2007-08 through FY 2012-13

<u>Fiscal Year</u>	<u>Periodic Reports and Annual Financial Report</u>	<u>Annual Performance Statistics</u>
2007-08	The FY 2005-06 financial report was presented to the County Chiefs Association on February 8, 2007.	FY 2005-06 performance statistics were provided to the County Chiefs Association on February 8, 2007.
2008-09	The FY 2006-07 financial report was provided to the Local Policy Board on April 9, 2008.	FY 2006-07 performance statistics were provided to the Local Policy Board on April 9, 2008.
2009-10	The FY 2007-08 financial report was provided to the Local Policy Board on April 14, 2009.	FY 2007-08 performance statistics were provided to the Local Policy Board on April 14, 2009.
2010-11	The FY 2008-09 financial report was provided to the Local Policy Board on March 17, 2010.	FY 2008-09 performance statistics were provided to the Local Policy Board on March 17, 2010.
2011-12	The FY 2009-10 financial report was provided to the Local Policy Board on March 28, 2011.	FY 2009-10 performance statistics were provided to the Local Policy Board on March 28, 2011.
2012-13	2012 Annual Report by the SJPD CIU included FY 2011-12 budget vs. expenditures and the proposed FY 2013-14 budget (but not the cost allocation methodology). The report is undated but appears to have been published in the spring of 2013.	2012 Annual Report by the SJPD CIU included performance statistics. The report is undated but appears to have been published in the spring of 2013.

Sources: Proposed Cal-ID budgets for FY 2007-08, FY 2009-10, and Cal-ID Annual Reports for 2011 and 2012 provided by the San Jose Police Department

Local Policy Board- Reserve Fund Policies

We found that the Local Policy Board did not develop written policies regarding the maintenance and use of the Cal-ID Program Reserve Fund as required by the Cal-ID MOU.⁸ Further, despite an identical finding from the March 2009 Management Audit Division Review of the AFIS/Cal-ID Memorandum of Understanding and a recommendation from that report that the Local Policy Board adopt such policies, no such written policies were put in place between FY 2007-08 and FY 2012-13. SJPB representatives stated that there were efforts to develop written policies during this time, but were not put in place due to disruptions that prevented work on the MOU. The audit team was not provided with evidence of these efforts.

Cost Allocation Methodology Shift from Population to Usage

In a March 2009 Review, the Board of Supervisors Management Audit Division found that the population based methodology for allocating costs for the Cal-ID Program were substantially different from the actual costs of the Cal-ID services provided to each agency. Further, based on CY 2007 Cal-ID usage, the Review found that population based fees had overcharged six cities and the County by approximately \$802,664, while nine cities and the unincorporated area had been undercharged \$629,513 in FY 2008-09 budgeted charges.

The Local Policy Board responded to the March 2009 Management Audit Division findings by shifting the cost allocation model from one based on population to one based on usage (10-print processing as well as the processing of latent prints) beginning in FY 2010-11 and codified in the February 2011 amendment to the Cal-ID MOU. The 2011 Amendment states that effective July 1, 2010, participating agencies will be charged an annual amount based upon that municipality's average usage of Cal-ID services over the preceding three-year period. Although the audit team was not provided with the final calculations and allocation of costs for FY 2010-11, the amount paid by each jurisdiction in FY 2010-11 is shown in Section 2 alongside the allocations for the other years reviewed within the scope of this audit.

⁸ Exhibit A (entitled "Cost Responsibilities") Section A.5 (entitled "Annual Budget") Number 6.

Conclusions

The Central Identification Unit of the San Jose Police Department held responsibility for operating and maintaining access to the Cal-ID fingerprint identification system for the County and all cities within the County from 1988 through June 2013 under the jurisdiction of a Memorandum of Understanding (MOU). The MOU and its associated amendments established administrative, financial, and operational responsibilities for the City of San Jose and for a Local Policy Board.

The City of San Jose and the Local Policy Board largely fulfilled their obligations under the MOU and its two amendments. Based on the evidence available to the audit team, we found that the City did not consistently comply with the MOU requirements to estimate costs for the succeeding fiscal year by February 1st and to notify each party of its share of the estimated costs for the succeeding fiscal year by April 1st. However, the evidence we reviewed showed that the City mostly complied with the MOU requirements to report on annual finances and performance. Although in some cases there may have been extenuating circumstances that caused delays to these processes, the records made available are incomplete and it is unclear why these deadlines were not consistently met.

In addition, we found that the Local Policy Board did not develop written policies during the audit review period regarding the maintenance and use of the Cal-ID Program reserve fund as required by the Cal-ID MOU despite a recommendation to do so from the Management Audit Division Review of the Cal-ID MOU released in March 2009. However, consistent with another recommendation from the Review, the Local Policy Board approved a shift in the program's cost methodology from one based on population to one based on program usage.

Recommendations

Based on our findings discussed in Section 1, we recommend that:

(1) The Local Policy Board make a determination whether written policies regarding the maintenance and use of the Cal-ID Program reserve fund have been put in place. If such policies have not been put in place, the Local Policy Board should direct the Office of the Sheriff to draft procedures for review and approval by the Local Policy Board.

Section 2: Financial Management and Close-Out of Cal-ID Funds

2013 MOU for the Transfer of Funds

In June 2013, the City of San Jose and the County entered into a Memorandum of Understanding for the transfer of Cal-ID Program funds from the City to the County. The MOU identified two sources of Cal-ID funds that were to be transferred to the County: (1) \$808,000 and related accrued interest which was not expended as authorized by the Local Policy Board for the Automated Fingerprint Identification (AFIS) Phase 1 upgrades, which the County was to redeposit into the SB 720 Trust Fund and (2) the balance and the related accrued interest of the Cal-ID Reserve Fund. Under the agreement, the City pledged to transfer all funds no later than 60 days following the close of FY 2012-13 (by August 30, 2013). The June 2013 MOU also included an agreement for the transfer of equipment and technology needed to operate the Cal-ID Program from the City to the County on June 30, 2013.

According to records provided by the San Jose Police Department and the Sheriff's Office and as shown in Table 2.1 below, the City of San Jose provided \$1,003,402 for the estimated remaining balance and accrued interest in the Cal-ID Reserve Fund and \$813,661.01 for the estimated remaining balance and accrued interest in the SB 720 Trust Fund.

Table 2.1

Amounts Provided to Sheriff's Office from the San Jose Police Department after Close-Out and Transfer of the AFIS/Cal-ID Program

<u>Check Date</u>	<u>Amount</u>	<u>Source/Notes</u>
7/25/2013	\$ 811,300.56	SB 720 Trust Fund and Partial Amount of Estimated Accrued Interest
8/8/2013	<u>2,360.45</u>	Remainder of Estimated Accrued Interest from SB720 Trust Fund
	\$813,661.01	SB 720 Subtotal
8/8/2013	<u>1,003,402.00</u>	Cal-ID Reserve Fund and Estimated Accrued Interest
	<u>\$1,817,063.01</u>	Total Provided to Sheriff's Office

Source: Financial documentation, including copies of checks, provided by the SJPD and the Sheriff's Office.

SB 720 Fund Close Out

As shown in Table 2.1 above, the City of San Jose transferred \$813,661.01 (including a balance of \$808,000.00 and associated accrued interest of \$5,661.01) to the Office of the Sheriff for redeposit into the SB 720 Trust Fund account. Assuming that \$808,000.00 was the correct amount balance to be transferred to the County, the interest calculation appears to be reasonable. However, without all of the factors used to calculate that figure, such as the average monthly balance and the number of months for which interest accrued, we can't verify that the amount provided was correct.

Staff from the Sheriff's Office stated to the audit team that a review of unspent SB 720 funds owed beyond the MOU stipulated \$813,661.01 was conducted by a former County Fiscal Officer between April 2013 and September 2013. However, we were unable to verify whether \$182,392 in SB 720 funds allocated to the SJPD in FY 2009-10 for an upgrade of the Palm Print Data Storage was completely expended due to insufficient available documentation. As highlighted in Table 2.5 on page 31 of this report, there were numerous budgeted amounts to be provided to the San Jose Police Department from FY 2008-09 through FY 2011-12 for the upgrade or enhancement of AFIS/Cal-ID equipment.

The only documentation available to review for this outlay was a print out from the San Jose Police Department's general ledger and SB 720 annual budget documents from the District Attorney's Office. We are unable to conclusively state that there were no additional unspent SB 720 funds from this outlay to the San Jose Police Department (beyond the amount provided under the terms of the 2013 MOU) based on our review of the available documentation. Further, staff from the Office of the District Attorney and the San Jose Police Department does not have the institutional memory to provide any additional information on the expenditure of these funds.

Cal-ID Reserve Fund Close Out

As of June 27, 2013, the date that the MOU for the transfer of funds was executed, the Cal-ID Reserve Fund balance was \$1,000,826. As previously mentioned, the amount transferred by the City of San Jose to the Sheriff's Office for the balance and related accrued interest of the Cal-ID Reserve was \$1,003,402, which included accrued interest of \$2,576. We requested a breakdown of the interest calculation from the Sheriff's Office and the San Jose Police Department, but neither was able to provide us with this information. The Sheriff's Office was unable to provide us with an interest calculation for the Cal-ID Reserve Fund balance that was transferred in 2013 while the San Jose Police Department was able to provide us with the investment income factors (monthly interest rates) that were in effect in FY 2012-13 as well as the average monthly balances, the two factors used in the calculations. Utilizing the investment factors and average monthly balances, we estimate that the amount of interest due to the Sheriff's Office was \$4,154, or \$1,578 more than the amount provided in June 2013 from the San Jose Police Department (Attachment 1).

The Cal-ID Program Reserve Fund balance fluctuated over time based on numerous factors including the amount of annual expenditures, the amount of annual contributions from member agencies, the amount of the Reserve Fund used to off-set member jurisdictions' contributions to the Cal-ID Program for the following year, and the amount of SB 720 funds available to off-set annual program expenditures. Table 2.2 below shows a summary of the Cal-ID Reserve Fund balance amounts as of the end of each fiscal year and the increase or decrease from the previous year.

The Cal-ID Reserve Fund balance was significantly higher at the close of FY 2012-13 because it did not reflect the annual procedure of using a portion of the reserve balance

(available due to expenditure savings) to off-set member contributions for the following year, FY 2013-14, when the Sheriff's Office began managing the program.

Table 2.2
Summary of Cal-ID Reserve Fund Balance
FY 2007-08 through FY 2012-13

<u>Fiscal Year</u>	<u>Final Cal-ID Reserve Balance as of Close of FY^a</u>	<u>Increase/(Decrease) from Previous Year Final Balance</u>
FY 2007-08	\$ 803,278.00	N/A ^b
FY 2008-09	494,812.00	(308,466.00)
FY 2009-10	315,869.00	(178,943.00)
FY 2010-11	582,458.00	266,589.00
FY 2011-12	469,617.00	(112,841.00)
FY 2012-13	\$ 1,000,826.00 ^c	\$ 531,209.00

Notes

- a. These figures represent the balance of the Cal-ID Reserve Fund account as of the end of each fiscal year, which is June 30th. However, the balance provided for FY 2012-13 is as of June 27, 2013, which was the date that the MOU was executed between the City of San Jose and the County.
- b. The scope of this close-out audit is from FY 2007-08 through FY 2012-13. A previous audit released in 2009 by the Management Audit Division reviewed the Cal-ID Reserve Fund balance up to June 30, 2008.
- c. This amount is less than the unexpended amount for FY 2012-13 as shown in Table 2.3 because only initial budget figures were used for that table and the FY 2012-13 budget was revised down to \$2,721,551 and then again to \$2,047,484. Only original budget amounts are used in Table 2.3 to maintain consistency across fiscal years.

Sources: Cal-ID Reserve Revenue reports from the general ledger provided by the San Jose Police Department and the Sheriff's Office.

Year to Year Budgeted vs. Expended Amounts

A review of budgeted and expended amounts from FY 2007-08 through FY 2012-13 found that the Cal-ID Program typically underspent its annual budgeted amount by a significant sum. Former SJPD staff with prior responsibility for Cal-ID Reserve Fund administration has stated that annual surpluses were primarily due to staffing challenges and that the budget was always calculated assuming full staffing, which was never achieved.

As shown in Table 2.3 below, for the six years under review, the Cal-ID Program expenditures were an average of \$414,994 or 14.2% less than the annual amount budgeted. Due to a lack of documentation available from the San Jose Police Department, the expenditure amounts for FY 2012-13 were based on general ledger expenditure reports rather than formal year-end close-out reports provided to the Local Policy Board or provided in annual reports. Note that the figures in the table do not reflect the use of Reserve Fund balances and therefore can't be tied to the Reserve Fund balance over time.

Table 2.3
Summary of Annual Cal-ID Budgeted vs. Expended Amounts
FY 2007-08 through FY 2012-13

<u>Year</u>	<u>Budget^a</u>	<u>Expenditures</u>	<u>Surplus/(Deficit)</u>	<u>Percent Difference</u>
FY 2007-08	\$ 2,861,859	\$ 2,290,809	\$ 571,050	20.0%
FY 2008-09	3,140,003	2,707,011	432,992	13.8%
FY 2009-10	3,147,637	2,560,781	586,856	18.6%
FY 2010-11	2,809,461	2,431,402	378,059	13.5%
FY 2011-12	2,719,883	1,975,269	744,614	27.4%
FY 2012-13	3,239,773	2,045,384 ^b	1,194,389	36.9%
Average	\$ 2,987,708	\$ 2,572,715	\$ 414,994	14.2%

Notes

- a. Only original budget figures (as opposed to revised budget figures) were used for these figures to maintain consistency across fiscal years.
- b. Unlike all other years reviewed, no official total expenditure amount was provided to the audit team by the San Jose Police Department for FY 2012-13. This figure is therefore based on a General Ledger expenditure report for FY 2012-13.

Sources: Cal ID Program Budget vs. Expenditure comparisons presented to Local Policy Board (FY 2007-08, FY 2008-09, FY 2009-10); Budget vs. Expenditure comparisons included in 2011 and 2012 Annual Reports; Proposed FY 2012-13 Budget as included in the 2012 Annual Report; General Ledger expenditure reports (FY 2012-13).

Year to Year Breakdown by Jurisdiction

As previously discussed, the Cal-ID Program revenues have been provided by the MOU member jurisdictions, including the 15 cities in the County, the Sheriff's Office on

behalf of unincorporated areas, and the District Attorney's Office, The revenues from member jurisdictions (other than San Jose) were partially offset each year by an allocation from the Cal-ID Reserve Fund. The amount of the offset was determined prior to the start of each fiscal year by the RAN Local Policy Board. Since San Jose did not contribute to the Cal-ID Reserve Fund, its share was estimated prior to each fiscal year with no offset by a portion of the Cal-ID Reserve Fund.

The cost allocation breakdown for the Cal-ID Program from FY 2007-08 through FY 2012-13 is shown in Table 2.4 below. As previously mentioned, the cost allocation methodology applied for FY 2007-08 through FY 2009-10 was based on the population in each member jurisdiction. The cost allocation methodology shifted in FY 2010-11 to one based on the member jurisdictions' use of the AFIS/Cal-ID Program. Table 2.4 below does not present the complete cost allocation for FY 2010-11 and FY 2011-12 due to a lack of documentation provided by the San Jose Police Department regarding the budgeted allocation for the City of San Jose and the allocation of Cal-ID Reserve funds to partially offset expenditures for succeeding years.

Table 2.4

Summary of Annual Cal-ID Cost Allocations (Excluding SB 720 Contributions)
FY 2007-08 through FY 2012-13

<u>Jurisdiction</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10^a</u>		<u>FY 2010-11^b</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>
Campbell	\$ 37,529	\$ 39,904	\$ 41,124		\$ 51,153	\$ 35,656	\$ 36,823
Cupertino	\$ 52,608	\$ 55,379	\$ -		\$ 1,085	\$ 581	\$ 709
Gilroy	\$ 47,417	\$ 49,844	\$ 52,400		\$ 66,647	\$ 82,303	\$ 96,777
Los Altos	\$ 26,977	\$ 28,214	\$ 28,969		\$ 17,313	\$ 12,062	\$ 13,850
Los Altos Hills	\$ 8,288	\$ 8,641	\$ -		\$ 79	\$ 47	\$ 36
Los Gatos	\$ 28,326	\$ 29,523	\$ 31,022		\$ 39,448	\$ 34,733	\$ 43,277
Milpitas	\$ 63,783	\$ 66,829	\$ 71,083		\$ 90,402	\$ 70,822	\$ 63,454
Monte Sereno	\$ 3,432	\$ 3,579	\$ 3,665		\$ 46	\$ 47	\$ 57
Morgan Hill	\$ 36,243	\$ 38,569	\$ 40,158		\$ 19,829	\$ 13,515	\$ 15,137
Mountain View	\$ 70,348	\$ 73,550	\$ 75,704		\$ 71,013	\$ 71,888	\$ 77,388
Palo Alto	\$ 60,726	\$ 62,861	\$ 64,886		\$ 53,401	\$ 36,671	\$ 48,048
San Jose	\$ 1,126,652	\$ 1,237,776	\$ 1,241,032		Unknown ^c	Unknown	\$ 664,511
Santa Clara	\$ 108,237	\$ 114,687	\$ 118,271		\$ 89,222	\$ 50,864	\$ 62,704
Saratoga	\$ 30,130	\$ 31,524	\$ -		\$ 487	\$ 291	\$ 296
Sunnyvale	\$ 130,489	\$ 136,254	\$ 140,835		\$ 179,106	\$ 172,888	\$ 247,489
SCC Sheriff (Unincorporated)	\$ 96,299	\$ 98,304	\$ 101,498		\$ 42,141	\$ 16,181	\$ 21,578
District Attorney	\$ 634,375	\$ 664,566	\$ 688,711		\$ 128,392	\$ 130,236	\$ 106,133
Subtotal	\$ 2,561,859	\$ 2,740,004	\$ 2,699,358		Unknown	Unknown	\$ 1,498,267
Allocation of Reserves	\$ 300,000	\$ 400,000	\$ 350,000		Unknown	Unknown	\$ 250,000
Total	\$ 2,861,859	\$ 3,140,004	\$ 3,049,358		Unknown	Unknown	\$ 1,748,267
Foregone Revenues from Non-Participating Jurisdictions	N/A	N/A	\$ 98,280		N/A	N/A	N/A

Notes

- In FY 2009-10 the three jurisdictions of Cupertino, Los Altos Hills, and Saratoga did not participate in the Cal-ID Program, which resulted in forgone revenues of \$98,280 for that year.
- Beginning in FY 2010-11, the cost allocation methodology was based on member jurisdictions' usage of the Cal-ID Program.
- The budgeted allocation for the City of San Jose as well as the allocation of Reserve funds for FY 2010-11, 2011-12, and 2012-13 were not provided by the City of San Jose.

Sources: For FY 2007-08 through FY 2009-10, the information is based on the cost allocation breakdowns approved by the RAN Local Policy Board. For FY 2010-11, the figures are based on a general ledger reserve revenue report provided by the San Jose Police Department, which indicates deposits from each jurisdiction. For FY 2011-12 and

2012-13, the figures are based on copies of invoices provided by the San Jose Police Department. We were unable to confirm that all invoices were paid in full by member jurisdictions.

AFIS/Cal-ID Program Cost Accounting

Our review of the AFIS/Cal-ID Program cost accounting found evidence of one accounting discrepancy. Specifically, in FY 2011-12, \$1,491,171 was to be deposited into the Cal-ID Reserve Fund from the SB 720 Trust Fund. However, two deposit entries were made for \$1,491,171 on January 31, 2012. A correction entry was subsequently made on June 30, 2012 to remove \$1,491,171. The Cal-ID Reserve Fund therefore had an excess of \$1,491,171 for five months, and received \$1,519 in excess interest, which should be returned to the General Fund by the Sheriff's Office.

In addition to the accounting discrepancy found in FY 2011-12, our review of accounting discrepancies found in the Management Audit Division *Review of the AFIS/Cal-ID Memorandum of Understanding*, released in March 2009, checked for appropriate corrective action. Our review found no evidence that these discrepancies have been corrected. Specifically, we found no evidence that the City of San Jose had corrected the following accounting discrepancies:

- (1) In FY 2002-03, the City of San Jose was erroneously included in the cost reduction calculations, which should not have occurred, since the monies in the trust fund do not include City of San Jose funds. The Review further found that, as a result the cities and the County did not receive the full \$150,000 cost reduction agreed to that year and that the cities and the County made a combined overpayment of \$58,532 in FY 2002-03. Our review of Cal-ID accounting records found no evidence that these monies were returned to the Cal-ID Reserve Account by the City of San Jose.

- (2) In FY 2002-03 the City of San Jose transferred monies from its General Fund into the AFIS/Cal-ID Trust Fund following receipt of annual payments by the cities and the County. Included in a November 26, 2002 transfer was \$195,715 from the City of San Jose General Fund in to the AFIS/Cal-ID Trust Fund, reportedly for payments made by the cities of Los Altos Hills, Milpitas, and Sunnyvale. However, the Management Audit Division Review found that those payments had not yet been made, and were not made until January 16 and January 30,

2003, at which time these amounts were again deposited into the AFIS/Cal-ID Trust Fund. The duplicative transfer of \$195,715 from the City General Fund to the AFIS/Cal-ID Trust Fund was not discovered and corrected until December 10, 2003. The Management Audit Division Review found that, as a result the Trust Fund received excess interest of approximately \$5,513, which should have been returned to the City of San Jose General Fund. Our review of Cal-ID accounting records found no evidence that these monies were returned to the City of San Jose General Fund.

(3) In FY 2005-06, the cities of Milpitas, Morgan Hill and Saratoga made payments of \$112,532, which were deposited by the City of San Jose into its General Fund, but never transferred to the Cal-ID Reserve Fund. The Milpitas payment of \$55,748 was received on September 13, 2005, the Saratoga payment of \$26,148 was received on September 26, 2005, and the Morgan Hill payment of \$30,636 was received on January 6, 2006. After researching the processing of these payments, San Jose transferred \$112,532 from its General Fund to the AFIS/Cal-ID Trust Fund on January 28, 2008 to correct the processing oversight. The Management Audit Division Review found that the City should have transferred an additional \$11,738 of interest that was earned by the General Fund during the period of time the monies remained in the City's General Fund erroneously. Our review of Cal-ID accounting records found no evidence that these monies were returned to the Cal-ID Reserve Fund.

(4) In FY 2006-07, on November 16, 2006, the City of Milpitas made its annual AFIS/Cal-ID payment of \$58,275 to the City of San Jose. However, the City of San Jose deposited this payment in its General Fund without subsequently transferring it to the Cal-ID Reserve Fund in FY 2006-07. During FY 2007-08, San Jose determined that the FY 2006-07 payment by the City of Milpitas remained in its General Fund, but rightfully belonged to the Cal-ID Reserve Fund. On August 13, 2007, the City transferred the Milpitas payment from its General Fund to the Cal-ID Reserve Fund. The Management Audit Division Review found that, consequently, the City should have also deposited approximately \$2,014 of accumulated interest in the Cal-ID Reserve Fund that had been deposited in the

General Fund while the Milpitas payment was in the General Fund. Our review of Cal-ID accounting records found no evidence that these monies were returned to the Cal-ID Reserve Fund.

The combined net amount of items discussed above result in \$66,771 due to the Cal-ID Reserve Fund from the City of San Jose. In addition, \$1,519 is due to the General Fund from the Cal-ID Reserve Fund based on the finding from our review discussed above.

AFIS/Cal-ID Equipment Inventory

The 2013 MOU for the transfer of funds included a scope of services (Exhibit A to the MOU), which identified a list of equipment that would be transferred to the Sheriff's Office for the operation of the Cal-ID Program as well as equipment that would remain at the San Jose Police Department for the Central Identification Unit's ongoing needs. Our review of these lists, including a walk-through of the Sheriff's Cal-ID facility and follow up communications with the Sheriff's IT staff, found that all equipment listed in Exhibit A to the 2013 MOU as necessary for the operation of the Cal-ID Program was transferred to the Sheriff's Office, or in some limited cases, replaced with new equipment to ensure continued functionality.

The equipment listed that was moved to the Sheriff's Office included:

- The *NEC Global Workstation* for the processing of latent files, including one workstation, two scanners, and two monitors;
- The *AFIS Workstation 02* for the processing of 10-print files, including four printers;
- Two sets of servers, including the *Morphotrak AFIS Server Rack 1* and *Morphotrak AFIS Server Rack 2*, both used for the storage of latent prints;
- The *Dataworks Server Rack* for the storage of mugshots; and,
- Network equipment, including network switches and firewall equipment.

San Jose Police Department Equipment Expenditures

Two specific concerns regarding equipment purchased by the San Jose Police Department were raised prior to the start of this audit. These were: (1) the purchase and installation of a new Heating Ventilation and Air Conditioning (HVAC) system at the Central Identification Unit and (2) new office chairs. Inquiries regarding these purchases were therefore incorporated into this audit.

We found that the Police Department had purchased HVAC equipment in 2012, but it does not appear that Cal-ID funds were used to purchase such equipment. A query of the City's accounts payable system found that a total of \$47,995 had been invoiced for the installation of an HVAC system at the Police Department, but were charged to a grant-funded account.

Our inquiry regarding the purchase of chairs was inconclusive as San Jose Police Department staff was unable to locate documentation of chair purchases for the Central Identification Unit in 2011, 2012, or 2013.

SB 720 Fund Management

The SB 720 Program was added to the California Vehicle Code in 1997 as Section 9250.19. This code section permits a county board of supervisors to add \$1.00 to the annual vehicle registration fee of each vehicle registered in its county, if the board adopts a resolution to authorize assessing of the fee exclusively to fund programs that enhance mobile and fixed location fingerprint identification. Further the funds may only be used on such programs related to identifying individuals who may be involved in driving under the influence of alcohol or drugs, vehicular manslaughter, or other vehicle-related crimes, and other crimes while operating a motor vehicle.

During the period of review of the scope of this audit, FY 2007-08 through FY 2012-13, SB 720 funds were regularly received by the County of Santa Clara and deposited in a trust fund administered by the Office of the District Attorney. Since July 1, 2013, the trust fund has been administered by the Office of the Sheriff. The District Attorney was required to submit an annual report to the State Controller not later than November 1 of each year, showing the financial and operating results of the use of SB 720 monies, including how the expenditure of such funds benefited the motoring public.

Section 9250.19(h) of the California Vehicle Code requires the State Controller to notify the Department of Motor Vehicles to suspend collection of the \$1.00 fee for any participating county that does not fully expend or encumber all of the monies received in each fiscal year by the end of the same fiscal year. In a March 2009 report, the Management Audit Division found that the County was not in compliance with California Vehicle Code Section 9250.19(h). This finding was based on a review of the trust fund, which found that the County had an unexpended fiscal year-end balance ranging from \$1.7 million to \$4.3 million from FY 1998-99 through FY 2008-09 coupled with the lack of specific designation of unexpended fund balances in accounting records, annual budget documents, or AFIS/Cal-ID/Local Policy Board minutes.

The County continued to carry forward unexpended fund balances ranging from \$1.1 million to \$4.0 million from FY 2009-10 through FY 2012-13 as shown in Table 2.5 below. A Technical Sub-Committee for the use of SB 720 funds provided the Cal-ID Local Policy Board with a *Five-Year Technology Plan* in April 2009. This technology plan included a schedule of estimated expenditures over a four year period from FY 2009-10 through FY 2012-13 with specific projects, such as an upgrade of the AFIS equipment, identified. However, the plan continued to project a surplus of funds through FY 2012-13 and while the actual annual unexpended fund balance declined steadily from FY 2008-09, the SB 720 trust fund had an unexpended fund balance of \$1,085,692 at the end of FY 2012-13 as seen in Table 2.5. The sustained surplus balance of funds through this four year period suggests that the County may not have fully complied with California Vehicle Code Section 9250.19(h).

By not later than March 31, 2016, the Local Policy Board should review its multi-year plans to ensure that all current unexpended SB 720 funds are included in the expenditure plan and that the plan anticipates an eventual fund balance of \$0.

Table 2.5

SB 720 Revenues and Expenditures as Reported to State Controller
FY 2007-08 through FY 2012-13

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>
<u>Revenue</u>						
New Revenue	\$ 1,494,393	\$ 1,482,180	\$ 1,491,171	\$ 1,515,472	\$ 1,500,246	\$ 1,529,794
Carryover from Previous FY	\$ 2,456,861	\$ 3,375,767	\$ 4,169,839	\$ 4,076,715 ^b	\$ 2,489,642	\$ 1,763,485
Total Available	\$ 3,951,254	\$ 4,857,947	\$ 5,661,010	\$ 5,592,187	\$ 3,989,888	\$ 3,293,279
<u>Expenses</u>						
Livescan Maintenance	\$ (207,815)	\$ (218,205)	\$ (227,462)	\$ (236,115)	\$ (236,115)	\$ (238,765)
Administrative Support	\$ (64,000)	\$ (64,000)	\$ (64,000)	\$ (64,000)	\$ (64,000)	\$ (64,000)
AFIS System Upgrade	\$ -	\$ -	\$ -	\$ (808,000)	\$ -	\$ -
Records Correction	\$ (165,434)	\$ (165,434)	\$ (199,696)	\$ (195,562)	\$ (192,983)	\$ (200,256)
Fingerprint Comparison	\$ (138,238)	\$ -	\$ -	\$ -	\$ -	\$ -
Mugshot System Maintenance	\$ -	\$ (175,430)	\$ (175,431)	\$ (180,471)	\$ (180,471)	\$ (177,371)
Image Capture Hardware	\$ -	\$ (17,040)	\$ -	\$ -	\$ -	\$ -
Digital Enhancement System Upgrade	\$ -	\$ (48,000)	\$ -	\$ -	\$ -	\$ -
Sheriff Fingerprint ID Director (25%)	\$ -	\$ -	\$ (35,520)	\$ (35,688) ^c	\$ (36,789)	\$ (35,688)
Palm Print Data Storage Upgrade	\$ -	\$ -	\$ (182,390)	\$ -	\$ -	\$ -
Mobile ID Implementation	\$ -	\$ -	\$ (644,800)	\$ -	\$ -	\$ -
Management Audit- Cal-ID	\$ -	\$ -	\$ (104,000)	\$ (41,538)	\$ -	\$ -
AFIS Upgrade- Phase 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
DNA Livescan- Equipment	\$ -	\$ -	\$ -	\$ (50,000)	\$ -	\$ -
DNA Livescan- Ongoing Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10 Print/Booking Cost Offset	\$ -	\$ -	\$ -	\$ (1,491,171) ^d	\$ (1,491,171)	\$ (1,491,507)
Replacement of Mugshot Cameras	\$ -	\$ -	\$ -	\$ -	\$ (24,874)	\$ -
Total Expenditures	\$ (575,487)	\$ (688,109)	\$ (1,633,299)	\$ (3,102,545)	\$ (2,226,403)	\$ (2,207,587)
Unexpended Fund Balance	\$ 3,375,767	\$ 4,169,838	\$ 4,027,711^a	\$ 2,489,642	\$ 1,763,485	\$ 1,085,692
Reserved- Various Projects	Unknown	\$(4,169,839)	\$(4,027,711)	\$(2,489,642)	\$ (1,763,485)	\$ (1,085,692)
Total Expenditures & Encumbered/Reserved Funds	\$ (575,487)	\$ (4,857,948)	\$ (5,661,010)	\$ (5,592,187)	\$ (3,989,888)	\$ (3,293,279)

Notes

- a. The unexpended fund balance reported to the State Controller for FY 2009-10 was estimated to be \$4,027,711, which differed from the actual amount of \$4,076,715.
- b. As noted above, the carryover funds from FY 2009-10 to FY 2010-11 were \$4,076,715, which differed from the previously budgeted amount of \$4,027,711 (the unexpended fund balance reported to the State Controller for FY 2009-10).
- c. The amount reported to the State Controller for FY 2010-11 for this line item, Sheriff Fingerprint ID Director (25%), was \$36,789. However, based on the total expenditures reported and information provided by the District Attorney, the proper amount reported should have been \$35,688, which is shown in the table.
- d. Although no funds were reported to the State Controller for the 10 Print/Booking Cost Offset project for FY 2010-11, the total expenditures reported reflect a budgeted amount of \$1,491,171 and are therefore reflected in Table 2.5.

Sources: Annual SB 720 Reports provided to the State Controller's Office with the exception of FY 2007-08 and as noted above. FY 2007-08 figures are from Table 2.2 in the Management Audit Division's March 2009 *Review of the Automated Fingerprint Identification System (AFIS) and California Identification System (Cal-ID) Memorandum of Understanding*.

Conclusions

In June 2013, the City of San Jose and the County entered into a Memorandum of Understanding for the transfer of the Cal-ID Program funds and equipment from the City to the County. In total, \$813,661.01 of unused SB 720 funds was returned to the County to the SB 720 Trust Fund and included associated accrued interest. The Cal-ID Program fund balance and associated accrued interest amounting to \$1,003,402 was transferred to the Office of the Sheriff on August 8, 2013.

Our review of the amount that should have been provided to the County by the City found that the amount of SB 720 funds provided appears to be reasonable assuming that there were no other unused SB 720 funds that were provided to the City of San Jose for the Cal-ID Program. However, we were unable to verify that there were no additional unused funds, particularly for an outlay of \$182,392 in FY 2009-10, based on the documentation available from the San Jose Police Department, the Office of the District Attorney, and the Sheriff's Office.

Our review of the amount of Cal-ID funds that should have been provided to the County by the City found that the associated accrued interest on the balance was calculated as \$1,577.96 less than provided.

Our review of Cal-ID Program cost accounting found evidence of one accounting discrepancy during the audit review period and four accounting discrepancies from a

previous Management Audit Division review for which we found no evidence that corrective action had been taken. The combined net amount of discrepancies found in our review result in \$66,771 due to the Cal-ID Reserve Fund from the City of San Jose and \$1,519 due to the SB 720 Trust Fund from the Cal-ID Reserve Fund.

Our review of Cal-ID equipment provided from the City to the County found that all equipment listed in the 2013 MOU as necessary for the operation of the Cal-ID Program was transferred to the Sheriff's Office, or in some limited cases, replaced with new equipment to ensure continued functionality. Further, inquiries regarding equipment expenditures by the San Jose Police Department found no evidence that Cal-ID funds were used inappropriately for the City's sole benefit.

Consistent with findings from the March 2009 Management Audit Division review of the AFIS/Cal-ID MOU, the County continued to carry forward unexpended fund balances in the SB 720 Trust Fund ranging from \$1.1 million to \$4.0 million. Section 9250.19(h) of the California Vehicle Code requires the State Controller to notify the Department of Motor Vehicles to suspend collection of the \$1.00 fee for any participating county that does not fully expend or encumber all of the monies received in each fiscal year by the end of the same fiscal year. Although the County's SB 720 trust fund balance dropped steadily from FY 2008-09, the SB 720 trust fund had an unexpended fund balance of \$1,085,692 at the end of FY 2012-13. The sustained surplus of funds through this four year period suggests that the County may not have fully complied with California Vehicle Code Section 9250.19(h).

Recommendations

Based on our findings discussed in Section 2, it is recommended that:

- (1) The City of San Jose transfer \$1,577.96 to the Sheriff's Office to account for additional interest owed for the Cal-ID Reserve Fund;
- (2) The Sheriff's Office transfer \$1,519 in excess interest from the Cal-ID Reserve Fund to the General Fund;
- (3) The City of San Jose transfer \$66,771 to the Sheriff's Office related to accounting discrepancies discussed in this section; and,
- (4) The Local Policy Board review its multi-year SB 720 plans, including the Technology Plan, to ensure that all current unexpended SB 720 funds are included and expenditures programmed so that all plan resources are encumbered in accordance with a Board approved schedule for specifically identified purposes consistent with California Vehicle Code Section 9250.19(h).

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INVESTMENT INCOME FACTOR FOR FY 2012-13

MONTH	(A) INTEREST	(B) DISCOUNT (PREMIUM)	(C) INVESTMENT COST	(D) (A+B-C) MONTHLY FACTOR	(D)*12 ANNUALIZED RATE	(Z) EARNED INCOME YIELD	Avg Cal-ID Cash Balance	Auditor Calculation (Monthly Factor*Avg Cal-ID Cash Balance)	
								Earned Interest	
Jul-12	0.000423591	0.000065638	(0.000275078)	0.000214150	0.2570%	0.592%	2,085,524.83	446.62	
Aug-12	0.000420212	0.000066299	(0.000292483)	0.000194028	0.2328%	0.583%	846,552.84	164.25	
Sep-12	0.000477085	0.000026275	(0.000308918)	0.000194441	0.2333%	0.661%	474,136.12	92.19	
Oct-12	0.000427541	0.000063270	(0.000287939)	0.000202872	0.2434%	0.605%	1,680,604.50	340.95	
Nov-12	0.000422777	0.000060190	(0.000291535)	0.000191433	0.2297%	0.627%	2,452,874.11	469.56	
Dec-12	0.000420439	0.000062499	(0.000290039)	0.000192899	0.2315%	0.596%	2,356,902.11	454.64	
Jan-13	0.000373158	0.000060934	(0.000249797)	0.000184295	0.2212%	0.553%	2,357,391.42	434.46	
Feb-13	0.000402962	0.000057146	(0.000267986)	0.000192122	0.2305%	0.613%	2,021,657.70	388.40	
Mar-13	0.000427638	0.000059183	(0.000271239)	0.000215583	0.2587%	0.593%	1,721,643.37	371.16	
Apr-13	0.000420316	0.000055404	(0.000283909)	0.000191811	0.2302%	0.604%	1,629,498.78	312.56	
May-13	0.000414460	0.000057173	(0.000238398)	0.000233235	0.2799%	0.574%	1,436,204.74	334.97	
Jun-13	0.000430885	0.000057185	(0.000227265)	0.000260805	0.3130%	0.611%	1,319,751.93	344.20	
AVERAGE	0.000421755	0.000057600	(0.000273715)	0.000205640	0.2468%	0.601%	Total	4,153.96	

**Interest Provider:
Difference**

**2,576.00
1,577.96**

(Z) Source: SunGard Series II monthly report, Portfolio Statistics, Current Month, "Earned Income Yield This Period" for Portfolio Fund 1.

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County of Santa Clara

Office of the Sheriff

55 West Younger Avenue
San Jose, California 95110-1721
(408) 808-4900



Laurie Smith
Sheriff

January 29, 2016

To: Dan Goncher, Senior Manager
Harvey M. Rose Associates, LLC

From: Laurie Smith, Sheriff

A handwritten signature in blue ink that reads "Laurie Smith".

Re: Response to Cal ID Close-out Management Audit

The management at the Office of the Sheriff has reviewed the Management Audit of the Cal ID Close-out prepared by the Harvey M. Rose Accountancy Corporation. Our responses to the recommendations are contained herein. We would like to thank the Harvey M. Rose staff for their professionalism and effective communication with all of the stakeholders.

RECOMMENDATIONS AND SHERIFF'S OFFICE RESPONSES

1.1 The Local Policy Board make a determination whether written policies regarding the maintenance and use of the Cal-ID Program reserve fund have been put in place. If such policies have not been put in place, the Local Policy Board should direct the Office of the Sheriff to draft procedures for review and approval by the Local Policy Board.

Agree. The Cal ID RAN Board meets on March 10, 2016, and this recommendation will be placed on the agenda for discussion.

2.1 The City of San Jose transfer \$1,577 to the Sheriff's Office to account for additional interest owed for the Cal-ID Reserve Fund.

Agree.

2.2 The Sheriff's Office transfer \$1,519 in excess interest from the Cal-ID Reserve Fund to the General Fund.

Agree.

2.3 The City of San Jose transfer \$66,771 to the Sheriff's Office related to accounting discrepancies discussed in this section.

Agree.

2.4 The Local Policy Board should review its multi-year SB 720 plans, including the Technology Plan, to ensure that all current unexpended SB 720 funds are included and expenditures programmed so that all plan resources are encumbered in accordance with a Board approved schedule for specifically identified purposes consistent with California Vehicle Code Section 9250.19.

Agree. The Cal ID RAN Board reviews annually the annual SB 720 Trust Fund report that gets sent to the State per CVC 9250.19(h), and the report is also presented annually to the Board of Supervisors. The Cal ID RAN Board also approves the annual expenditures for SB 720 technology projects. A review of this process will be agendaized for the Cal ID RAN Board's March 10, 2016 meeting.