City of Santa Fe

Santa Fe Police Department Evidence Unit

Internal Audit

June 2021

REDW LLC
CPAs | Advisors

City of Santa Fe
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INTRODUCTION

We performed the internal audit consulting services described below to assist the City of Santa Fe Police Department Evidence Unit in evaluating compliance with policies, procedures, state statutes, and other relevant guidance as well as to assess the adequacy of internal controls over evidence management and evidence collection & preservation. We also evaluated the Evidence Unit's progress towards obtaining accreditation status by the International Association of Property and Evidence (IAPE) and adherence to action plan items as noted in a February 2020 Corrective Action Plan press release.

Our services were performed in accordance with the terms of our Professional Services Agreement for internal audit services and the applicable Standards for Consulting Services prescribed by the American Institute of Certified Public Accountants. Although we have included management's responses in our report, we do not take responsibility for the sufficiency of these responses or the effective implementation of any corrective action.

PURPOSE AND OBJECTIVES

Our internal audit focused on obtaining an understanding of the Santa Fe Police Department's progress towards obtaining accreditation status by the International Association of Property and Evidence (IAPE) and progress with various steps in the Corrective Action Plan, including implementation of modern evidence management software, disposition and destruction of evidence practices, staffing and training needs, improvement of security and access controls to evidence holding areas, and improvement of storage solutions.

Additionally, we evaluated compliance with policies, procedures, state statutes, and other relevant guidance to assess the adequacy of internal controls over evidence management and evidence collection & preservation.

OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

During the course of the audit, we evaluated progress with the Corrective Action Plan and determined for all five priority areas included in the plan, significant progress had been made by the department towards completing the actions necessary to improve operations, staffing and security at the Evidence Room. As a result of our testing, REDW identified the following observations:

1) *Evidence Management Policies and Procedures*

Policies and procedures are critical to ensuring employees are aware of department procedures surrounding evidence collection, processing, and destruction. In addition, since the SFPD is actively pursuing the International Association for Property and Evidence (IAPE) accreditation, policies and procedures are critical to ensuring processes are documented in accordance with accreditation standards. The Santa Fe Police Department currently has two policies surrounding evidence and property management including Policy 51.1 – Collection and Preservation of Evidence and Policy 52.1 – Evidence Management. Our testing determined both policies are outdated and do not sufficiently outline policies, procedures, best practices, and operations to manage the Evidence Unit in order to meet IAPE Standards.

Potential Risk – High: The absence of updated policies and procedures over evidence collection, processing, and destruction escalates the risk that SFPD employees may not be process evidence in compliance with state and local statutes or accreditation standards.

*Recommendations***:** SFPD should perform a review of the policies and procedures over evidence collection, processing and destruction and update them to ensure they are in compliance with federal, state, and local state statute. In addition, the IAPE provides guidance regarding proper policy and procedure development to ensure alignment with standards for accreditation. We recommend SFPD reference those guidelines and ensure the appropriate standards are infused into the policies to assist with achieving and maintaining accreditation.

Management Response: In response to the recommendations of the pre-accreditation review completed by SCS Northwest Consulting Services, two things needed to be completed prior to implementation of the policies and procedures of the department. The first thing that needed to be done was that the staffing needed to be increased and a permanent supervisor needed to be hired for day-to-day supervision in that section. The second issue that needed to be addressed was all staff, to include the lieutenant who administers the section, would need to attend the latest class for evidence technicians put on by the accrediting organization, International Association of Property and Evidence (IAPE). The lieutenant and the newly hired supervisor would also need to attend the evidence supervisor class. This would ensure that the entire section and its supervisors were aware of the current industry standards and had access to up-to-date information and resources available through IAPE. Staff will also be required to attend the class every two years to stay up to date on the latest training and network with evidence personnel from around the country. Since the above action items have been completed, Evidence staff are currently working with the Administrative Lieutenant on updating the policies and procedures for the section now that we know what the industry standards are and have access to help from IAPE. In addition, we have obtained model policies from other state agencies who are accredited to assist us with getting these implemented. We anticipate the policies and procedures to be completed by end of fiscal year 2022.

2) *Packaging and Property Manuals*

Proper packaging of evidence is critical to ensuring it is stored properly and also does not pose a risk to those tasked with tagging, moving, and storing it. Our testing determined there are no policies and procedures in place over proper packaging of evidence to ensure officers submitting evidence can reference the processes. As a result, several instances were mentioned where evidence such as narcotics and hypodermic needles, had not been packaged properly and had put the Evidence Technicians at risk of exposure. In addition, while we were onsite performing fieldwork, an envelope containing bullets was not properly secured so when it was removed from the box, the bullets fell out of the packaging.

Potential Risk – High: The absence of policies and procedures over proper packaging of evidence increases the risk that exposure to hazardous drugs and drug paraphernalia may occur, posing a health/safety risk. Additionally, improper, or inconsistent packaging can lead to evidence being lost, destroyed, or accidentally tainted.

Recommendations: A Packaging Manual should be drafted, approved for use, distributed in hard copy and electronic format, and trained on regularly. The manual should address the most common types of property and evidence encountered in the field and should contain photos and directions that are clear, concise, and easy to follow. These guidelines should be disseminated in a manner that all persons who book property/evidence have access to the guidelines. Infractions for non-compliance should be consistent and enforceable agency-wide, regardless of position, seniority, or tenure.

Management Response: Evidence staff have completed videos of how to properly package items that are commonly taken in as evidence. Those videos will be available on a YouTube channel that will be available to officers. A sheet with QR code shortcuts to the videos will be placed in all common areas, evidence processing locations and offices. A packaging manual is also in development to accompany the videos and will be available on the police department computer network. While the videos are already available, we anticipate the packaging manual to be completed by the end of fiscal year 2022. The right of refusal has already been instituted for improperly packaged evidence. This means that the evidence technicians may refuse to accept improperly packaged evidence. When this happens the evidence technician sends an email to the officer that they need to correct the issue on their next duty day and tells them exactly what the problem was. The officer contacts evidence staff who then bring the item back to the officer for correction. If the officer needs assistance the evidence staff or crime scene staff will assist them if needed. The email is also copied to the evidence chain of command as well as the officer's chain of command as a record of the issue. Once the correction is made an email from the evidence technician is sent to the respective chains of command stating that the issue has been resolved. It is up to the officer's chain of command to address any disciplinary measures for infractions. The expectations of evidence handling by officers as well as the disciplinary measures for infractions will be documented in the policies and procedures, which are expected to be implemented by the end of fiscal year 2022.

We have also standardized all evidence packaging across the entire department. All packaging is now ordered through the evidence supervisor to ensure this. We have also identified and ordered new packaging that addresses the safety issues identified in the audit.

3) *Chain of Custody*

Chain of Custody refers to the chronological documentation of the seizure, custody, control, transfer, and disposition of evidence. Policy 52.1 – Evidence Management states that it is the policy of SFPD to ensure the proper chain of custody of each evidence item from the time the property was stored until its final disposition. Our testing determined:

- For 1 of 15 cases tested, 6 of the 9 items related to the case were indicated as being checked out to the DPS Crime Lab when in actuality the items were physically located in the Evidence Unit.

- For 1 of 20 cases, case evidence was documented as checked out to the court when in actuality it was located in the Evidence Unit but had never been signed back in when it was returned.

- For 1 of 20 cases, case evidence was documented as being checked out to an officer. The Transfer to Officer document and lab receipt were attached to the case record, but the record was not updated when the evidence was returned by the officer.

In addition, we determined there is no centralized e-mail address for officers to submit requests for evidence movement and supporting documentation. Instead, officers submit directly to individual Evidence Technicians. As a result, when we inquired about specific cases, it was difficult for the Evidence Technicians to pull up relevant information and extra time had to be spent trying to track the information down.

Potential Risk – High: Failure to completely and accurately track the movement of evidence can potentially expose cases to a defense challenge deeming evidence worthless, which may result in lessened charges and/or increased settlement payouts.

Recommendations: A diversion or chain of custody policy needs to be written and implemented to ensure that all releases and dispositions of property or evidence are legal and accurately documented. The policy should provide directives for any officer signing out or signing in evidence for interim releases and returns of evidence for court, crime lab analysis, or other investigative uses. Infractions for non-compliance should be consistent and enforceable agency-wide, regardless of position, seniority, or tenure. Additionally, a centralized email address for the Evidence Unit should be set up for officers to submit relevant documentation, requests, and/or inquiries to ensure that information is not lost or misplaced in individual Evidence Unit Technician's inboxes. This will also ensure that documentation, requests, and inquiries are received and processed timely regardless of the mix of staff present in the Evidence Unit on a given day. Lastly, periodic training should be implemented over the Chain of Custody process to ensure officers are aware of the importance of maintaining an accurate and complete record.

Management Response: As the new staff start to deal with the older cases in the AS400 system they are verifying locations and updating them in the new system. If they are not located, we have been checking the last verifiable person who had custody and completing an investigation on the item's whereabouts. If we still can't locate the item, we are referring the case to Professional Standards for further investigation. We have also created new intake locations downstairs where items are scanned to until they are place in their final locations in the room.

It was also noted that one case was documented as being checked out to an officer with the required paperwork attached to the case record, but the paperwork showing the return was not updated. Officers are now required to scan and attach the return receipts to the record or provide a copy to the evidence technicians to scan and attach to the record. If it is not provided it will be refused by the evidence technician and the officer and chain of command will be notified.

It was also noted that there is no centralized email address for officers to submit requests for evidence movement. The EvidenceOnQ system that we now use has a request function for all evidence movements. This is monitored daily by the evidence technicians. There is no need to use email. Requests are also added automatically to the system's internal audit trail for all evidence and are part of each item's record to include the date and time of the request and when it was fulfilled. The system also requires that anyone taking evidence provide an electronic signature on the MobileOnQ device or a sign out sheet can also be printed and then scanned into the system as part of the record. The system also allows any email correspondence to be attached to the file record for each case. However, all requests must be submitted through the EvidenceOnQ system. Email requests are not accepted.

It was also recommended that evidence handling and chain of custody training was provided to officers on a periodic basis. We wholeheartedly concur and hope to add this to biennium training. We are in the process of building out our training calendar for 2022 and evidence handling/chain of custody will be included. We have already had the crime scene staff conduct rollcall training on this.

4) *Annual Comprehensive Review*

Policy 52.1 – Evidence Management requires an annual audit of property held by the agency to be conducted by an employee not routinely or directly connected with property control. Our testing determined no annual audits have been performed over the property and evidence functions to ensure all property is accounted for.

Potential Risk – Moderate: The absence of comprehensive annual audit to ensure evidence is inventoried properly increases the risk that evidence may be missing or not in the proper location. This risk is reduced as there are review performed quarterly on a small sample of cases to ensure evidence is inventoried correctly.

Recommendations: SFPD should implement an annual audit in accordance with their policies and procedures. The audit should be documented and signed off on including the date in which it was completed. In addition, since the department is actively pursuing IAPE accreditation, employees should reference the requirements for reviews/audits including the frequency and scope, and infuse those requirements into their policies and procedures.

Management Response: It was noted that the Evidence Management policy requires an annual property audit to be completed by an employee not routinely or directly connected to property control. As time allows the staff have been converting the old inventory over to the new storage and evidence system. As this is occurring, the staff have discovered that there have been discrepancies in the old AS400 system and the handwritten evidence sheets located with the cases with there often being more evidence listed on the handwritten evidence sheets as opposed to logged into the system. This will be a very time-consuming process to correct the issues and

get them entered into the new system. Once that is completed the EvidenceOnQ system has an audit function built in that allows for all of our periodic and annual audits that is streamlined and able to use a handheld MobileOnQ scanner that can document them and they can be done very quickly.

One of the issues we have run into with getting this process started is the purge of old evidence that was pointed out in the pre-accreditation report. Our plan was to identify cases that can no longer be prosecuted due to the statutes of limitations and obtain a blanket destruction order from District Court. We did complete a spreadsheet of all the cases that are past the statutes of limitations. Originally, we had met with the District Attorney's Office who had agreed to go through our list of cases to make sure there were no issues on their end for the purge of those on the list. They would then assist us in drafting the requested destruction order and get it approved by a District Court judge. Once the order was signed, we had a company identified that would assist us with the purging of the identified and approved cases on the order. We would then begin the process of converting the remaining inventory over to the new storage and evidence tracking system, which in turn would allow us to complete a timely and accurate annual audit.

The District Attorney's Office has since advised us that they will not look at our purge list until the large amount of disposition orders that had not been processed prior to the new staff being hired has been completed. This is approximately 15 years of disposition orders. The staff have been attempting to start this, but they have discovered that some of the old orders address cases with multiple suspects, yet only one suspect is listed on the disposition. This requires the evidence technician to go to the court website to check the status of charges on all the suspects and verify it with the DA's Office. Another ancillary result of this is that the department now have to assign staff to work on this while our inventory continues to grow exponentially. In order to combat this new issue, we will have to request more staff positions to keep up with what's coming in and also request money to build a new facility to store the expanding inventory. Not including our old inventory that should be able to be purged, we have about 3 items coming in for every item we have going out to destruction. Even with the new storage system we are out of room. With the current staff it will take years for us to process the old orders however, we are actively working with the DA's Office to identify a solution which will hopefully remedy this soon.

5) *Evidence Ready for Destruction*

There are several considerations that must be made prior to evidence being destroyed including the status of the case, statute of limitations or the level of charges. In most cases a court order is required however, certain types of property for which an owner cannot be identified and the evidence is not tied to a court case is collected and destroyed or disposed of regularly. Our testing determined 2 of 20 samples tested that were marked as ready to destroy could not be located in the Evidence Unit. These pieces of evidence did not have a court case attached to them nor had an owner been identified, and appear to have been destroyed but not documented during the first round of destructions following the implementation of the new evidence management system.

Potential Risk – Moderate: The absence of a process to ensure evidence ready for destruction is periodically reconciled to ensure all items are accounted for increases the risk that evidence tagged for destruction may go missing or items may be destroyed but not properly updated on the evidence logs.

Recommendations: The Evidence Unit should continue to streamline and refine the process for evidence that is ready to be destroyed or disposed of. Evidence tagged as "for destruction" should be audited or inspected regularly to ensure that the items have not been removed from the Evidence Unit, whether accidentally or intentionally. Destructions should continue to be done at set times, or when inventory levels reach a certain amount.

Management Response: It was noted that 2 out of 20 items marked for destruction sampled could not be located. Since the visit the staff have created locations for items ready for destruction which the items are now scanned into. A regular schedule of times for destruction has been implemented and two employees then do a scanned audit of each location to verify that all the items are accounted for. Those audits are tracked in the system. Narcotics are verified by our staff and also by State Police staff prior to incineration and a signed copy of each list is kept on file by both agencies.

PROCEDURES PERFORMED AND INFORMATION GATHERED

In order to gain an understanding of the processes and operations, we interviewed the following personnel:

- Benjamin Valdez, Deputy Chief of Police

- Sean Strahon, Lieutenant

- Roberto Romero, Evidence Unit Supervisor

- Amanda Randow, Evidence Technician

- Cassandra Tapia, Evidence Technician

In order to gain an understanding of the processes, we read relevant portions of:

- Santa Fe Police Department Policy 51.1 – Collection and Preservation of Evidence (defective July 23, 2004)

- Santa Fe Police Department Policy 52.2 – Evidence Management (effective May 15, 2017)

- Special Orders
  - Evidence Submission and Management Protocol (dated October 4, 2019)
  - Summary Review on Evidence Unit/Update Evidence Submission and Management Protocol (dated January 10, 2020)
  - Sane Exam Kit Evidence Procedure (dated May 13, 2020)
  - EvidenceOnQ (dated November 4, 2020)
  - New Evidence Unit Schedule (dated November 30, 2020)
  - EvidenceOnQ Red Flag (dated February 9, 2021)
  - Supplemental Reports & Evidence (dated April 26, 2021)

- Progress Reports
  - October 2019
  - November 2019
  - December 2019
  - January 2020

- o February 2020
  - o March 2020
  - o July 2020
- Comprehensive Evidence Room Project Update (dated March 4, 2021)
- Timeline of Evidence Management Improvements (dated January 20, 2020)
- Evidence Room Project Breakdown (dated February 21, 2020)
- Purchase Requests
  - o High Density Mobile Shelving System (date February 19, 2020)
  - o Evidence Freezers (dated February 13, 2020)
  - o Replacement Temporary Evidence Lockers (dated February 13, 2020)
  - o Camera, Security, and Alarm System (dated February 12, 2020)
  - o EvidenceOnQ Evidence Management Software (dated February 12, 2020)
  - o Evidence Purge Services (dated February 21, 2020)
- New Mexico Records Retention Act
- 2011 New Mexico Statute – Section 29-1-13 – Unclaimed property; inventory
- 2011 New Mexico Statute – Section 29-1-14 – Unclaimed property; authority to sell; notice of sale; deadly weapons, controlled substances and other contraband excepted.
- 2011 New Mexico Statute – Section 30-1-8 – Time limitations for commencing prosecutions
- 2006 New Mexico Statute – Section 6-10-3 – Payment of state money into treasury; suspense funds.
- City of Santa Fe Job Descriptions
  - o Evidence/Property Supervisor
  - o Evidence/Property Technician
- International Association of Property and Evidence Standards
- Public Safety Committee Minutes – February 18, 2020
- Regular Meeting of the Governing Body Minutes – February 26, 2020
- Various news articles and press releases

Independent consultant's report dated January 3, 2020.

We performed the following testwork:

Corrective Action Plan: We gained an understanding of the Department's progress in relation to their Corrective Action Plan released in February of 2020. The Corrective Action Plan contained five areas we considered throughout our testing:

- Implementation of a modern evidence management software
- Disposing of all inventory that can lawfully be discarded
- Adding additional staff to the Evidence Unit

- Improving security and access control to evidence holding areas

- Improving storage solutions in the evidence holding areas

Utilizing additional reports prepared by an independent consultant as well as the International Association of Property and Evidence (IAPE) Standards, we furthered our understanding of the issues facing the department. We then performed inquiries with SFPD employees to determine progress in each area and identified areas for additional detailed testing which is documented in the procedures below.

Evidence Tagging and Logging: We selected 50 cases from a total population of 2,296 that have gone through the data validation process as of June 2021 listed on the EvidenceOnQ report and 15 cases directly off the shelves. We tested to determine:

- The bin location reflected in EvidenceOnQ (evidence management system) was the same location that the bin was physically located;

- The inventory listing exported from EvidenceOnQ correctly and accurately reflected the items contained in the evidence bin.

Evidence Ready for Destruction: We selected 20 cases from a total population of 178 cases that had evidence flagged as ready for destruction or had previously been destroyed or disposed of. We tested to determine:

If evidence disposition was not case related

- Item was destroyed and inventory listing agreed to disposition worksheet, or,

- Item was still onsite and locations, item description and case number agreed to system listing.

If evidence disposition was case related

- A court order was submitted and signed for destruction/disposition;

- A disposition worksheet had been filled out and was maintained for documentation purposes.

Cash Deposits: We selected 10 deposits from a total population of 103 deposits made from September 30, 2020 through June 21, 2021, and tested to determine:

- Amount on cash transfer log matched amount on deposit receipt;

- Money was transferred to the Cashier's Office on the same day or following day of receipt of cash in accordance with NMSA 6-10-3;

- Deposit receipt was attached to the case in EvidenceOnQ;

- Currency log was signed by two different individuals;

- Amount on cash transfer log agreed to information in EvidenceOnQ; and

- Proper segregation of duties were executed in the counting or cash, the preparation of the deposit, and auditing of deposit.

Documentation of Movement: We selected 20 cases from a total population of approximately 300 cases that were released to an owner, transferred to an outside agency, lab, or court, or released to another individual and tested to determine a Chain of Custody or Diversion Form record was in place and contained:

- The date of transfer and location;

- The receiving person's name and functional responsibility;

- Reason for transfer;

- The name of trying court (if applicable); and

- The name and location of the examining laboratory (if applicable).

Reviews and Audits: We obtained copies of all monthly audits performed since November 2020, and tested to determine that:

- Results of inspections, audits, and inventories were retained;

- Surprise audits were performed at least monthly;

- Corrective actions were documented and retained.

In addition, we tested to determine if annual audits over the evidence population were performed in accordance with policies and procedures.

Access and User Management: We obtained a listing of all employees with access to the evidence holding areas and security systems as of June 2021. We then tested to determine if those listed were current employees and that access was appropriate. In addition, we determined if there was a process in place to revoke or edit access permissions as a result of a termination, transfer, or promotion.

Digital Evidence Management: We gained an understanding of current practices surrounding digital evidence and related IPRA and eDiscovery requests. Additionally, we performed a walkthrough of the new digital evidence management system that the Police Department has been demoing since late 2020 in order to gain an understanding of how the potential software will improve processes and internal controls over digital evidence.

Sexual Assault Exam Kits: We obtained an audit report export which contained a listing of 18 kits submitted to the Evidence Unit in 2020. From this listing, we tested to determine:

- The location in EvidenceOnQ was consistent with the indicated location on the Santa Fe Police SAEK Log utilized for tracking kits on a weekly basis;

- A Chain of Custody Report existed in EvidenceOnQ for the particular kit and the date of check-in to the Evidence Unit agreed to the date on the Santa Fe Police SAEK Log;

- The DPS form was kept on file and the transfer date agreed to the intake date on Chain of Custody report; and

- The kit was physically located in the Evidence Unit's dedicated storage area.

*   *   *   *   *

This report is intended solely for the information and use of City of Santa Fe's management, Audit Committee and City Council members. If additional procedures had been performed, other matters might have come to our attention that would have been reported to you.

We received excellent cooperation and assistance from City of Santa Fe personnel during the course of our testing. We very much appreciate the courtesy and cooperation extended to our personnel. We would be pleased to meet with you to discuss our findings and answer any questions.

REDW LLC

Albuquerque, New Mexico
December 14, 2021