



Federal Seizure Audit

Fiscal Year 2015

CITY OF KILLEEN

A Report to the City
of Killeen Audit
Committee

Committee Chair
Scott Cosper

Committee Members
Jose Segarra
Juan Rivera

Internal Audit
Department

City Auditor
Amanda R. Wallace
CPA

Report Summary

The federal seizure program is used for monies and property seized in connection with federal criminal investigations and transferred from the Office of the Attorney General. All activities related to this fund are subject to the guidelines set forth in the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide). The City is required to complete the Equitable Sharing Agreement and Certification annually, which is essentially a report of the fiscal year's activity. This audit is necessary to ensure that the activity reported in said document is complete and accurate.

TABLE OF CONTENTS

BACKGROUND..... 1

OBJECTIVE, SCOPE, AND METHODOLOGY..... 2

AUDIT RESULTS..... 3

OBSERVATIONS..... 5

RECOMMENDATIONS..... 6

APPENDIX A: MANAGEMENT’S RESPONSE..... 7

GOVERNMENT AUDITING STANDARDS COMPLIANCE

This performance audit was conducted in accordance with Generally Accepted Government Auditing Standards. Those standards require that the audit be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. I believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

AUDIT STAFF

Amanda R. Wallace, CPA, City Auditor

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AUDIT REPORT HIGHLIGHTS

Why This Audit Was Conducted

This audit was conducted in order to comply with the requirement as stipulated in the Guide that the seizure activity be reported annually on the Equitable Sharing Agreement and Certification form.

What Was Recommended

It was recommended that the Police Department implement more comprehensive reconciliation procedures in tracking federal seizure activity, that case files be reviewed for completeness, and that better communication within and among Departments be achieved.

December 3, 2015

Mayor and Council,

I am pleased to present this audit of the Killeen Police Department's Federal Seizure program.

BACKGROUND

The Federal Seizure Fund is used to account for monies and property confiscated in connection with federal criminal investigations conducted jointly by the Killeen Police Department (KPD) and federal agencies. This activity is governed by the Guide as referenced on the cover page of this report.

OBJECTIVE AND SCOPE

The objective of the audit was to determine whether KPD has the necessary controls in place to safeguard the City's assets with regard to federal seizure activity, and to ensure that the Guide is followed in all aspects of Killeen's federal seizure program. The audit scope included federal seizure activity for the period October 2014 through September 2015.

WHAT WAS FOUND

The audit revealed that the federal seizure tracking log as maintained by KPD is not reconciled to the general ledger as maintained in AS400. This resulted in two federal receipts being inadvertently omitted from the tracking log. It was determined that the property database had been updated with regard to these two omitted payments but this was not communicated with the party responsible for the tracking log.

Additionally, the tested case files were found to be incomplete in that the proof of cash exchange between KPD and the federal agency involved was not included.

I appreciate the cooperation and assistance I received from the Police Department staff during this audit.

A handwritten signature in black ink that reads "Amanda R. Wallace".

Amanda R. Wallace, City Auditor

BACKGROUND

According to the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide), the Department of Justice Asset Forfeiture Program is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime. The most important objective of the program is law enforcement. Equitable sharing further enhances this law enforcement objective by fostering cooperation among federal, state, and local law enforcement agencies.

Federal law authorizes the Attorney General to share federally forfeited property with participating state and local law enforcement agencies. The exercise of this authority is discretionary and limited by statute. The Attorney General is not required to share property in any case.

All approved monetary seizures are submitted into Evidence until such time that any cash can be converted into a cashier's check issued by the City's depository institution. KPD then delivers the cashier's check to the federal court for deposit until disposition of the funds is determined. If the Attorney General determines that funds are forfeited, the City will receive a percentage of the forfeiture. The U.S. Marshals Service then deposits KPD's share of the forfeiture into the City's bank account via ACH. These deposits are recorded in the federal seizure fund in the City's general ledger for tracking.

As for real or personal property that is confiscated in connection with criminal investigations conducted jointly by KPD and federal agencies, these are held by KPD in a safe place while awaiting determination from the Attorney General. Upon determination from the Attorney General, this property is placed into service for law enforcement purposes for at least two years, or, with the permission of the Asset Forfeiture and Money Laundering Section of the Department of Justice, is sold according to the City of Killeen's Code of Ordinances (Sec. 2-86 through Sec. 2-91). Any proceeds received from the sale of seized property are recorded in the federal seizure fund to be used only for law enforcement purposes.

A federal seizure fund budget of expenditures for forfeited monies already received must be submitted to the governing body of the City for approval. The expenditures associated with the federal seizure fund cannot be used to offset or decrease total salaries, expenses or allowances that the City has already included in its annual budget. The Guide prohibits the budgeting of funds (revenues or expenditures) that have not yet been officially awarded to KPD by the Attorney General.

OBJECTIVE, SCOPE, AND METHODOLOGY

The Federal Seizure Audit was conducted in order to ensure that the information presented to the Department of Justice in the FY2015 Equitable Sharing Agreement and Certification is complete and accurate. This audit was also included in the FY2016 Audit Plan as presented to the City Council and the Audit Committee.

Objective

The objective of the audit was to determine whether KPD has adequate controls in place to safeguard the City's assets with regard to federal seizure activity, and to ensure that the Guide is properly followed in all aspects of Killeen's federal seizure program.

Scope

The audit scope included state seizure activity for the period October 2014 through September 2015.

Methodology

To accomplish the audit objective, the following steps were performed:

- Conducted interviews with KPD staff and obtained information on policies and procedures as well as staff responsibilities.
- Obtained and tested data from the U.S. Marshals Service, KPD, and the Finance Department relating to federal seizure activity.
- Analyzed supporting documentation to determine whether the policies and procedures were adhered to.
- Analyzed policies and procedures to determine effectiveness.
- Considered fraud, waste, and abuse as related to the audit objective.

AUDIT RESULTS

In testing federal seizure revenues, a report of all distributions to KPD regarding seized/forfeited contraband was provided by the U.S. Marshals Service (USMS). Two payments were distributed by the USMS during FY2015, totaling \$2,957.10, and both were accounted for and recorded properly in the federal seizure fund in the general ledger. However, these revenues were not recorded on KPD's tracking log. An internal control weakness was noted with regard to KPD's reconciliation process in maintaining its tracking log.

The case files were reviewed for the two payments that were received during FY2015. Both of the case files were incomplete and failed to show proof of cash transfer between KPD and the federal agencies involved in the cases. KPD was able to locate proof of the transfer for one of the two cases, and this information was promptly added to the case file.

The federal seizure bank activity was also reviewed. The Finance Department is currently in the process of closing unnecessary bank accounts. The federal seizure bank account had not been closed and carried a balance at the time of the audit; however, the Finance Department was no longer depositing federal seizure funds into it. This was not communicated to KPD, which caused confusion with regard to reconciling the federal seizure tracking log.

There were no expenditures during the audit period.

Finding 1: There were two payments issued by the USMS that were not recorded on the federal seizure tracking log.

The USMS issued two payments to the City of Killeen during FY2015. These payments were properly recorded in the City's general ledger in the federal seizure fund, and were deposited via ACH transfer in the City's concentration bank account. The Finance Department did not inform PD that these payments would remain in the concentration bank account because of the ongoing project to close unnecessary bank accounts. KPD's reconciliation process only required staff to reconcile the tracking log to the federal seizure bank statement. Since these payments were deposited in the concentration bank account, KPD inadvertently failed to record them in the federal seizure tracking log.

It was noted that the party responsible for updating the property database reported in the property records of these two cases that funds had been forfeited. The fact that a party within KPD was aware of the payments, but the party responsible for maintaining the tracking log was unaware shows a lack of sufficient communication in tracking these activities.

During FY2015, KPD gained access to an eShare Portal maintained by the Department of Justice that details all equitable sharing payments issued to the City. The fact that these two payments

were not recorded on KPD's tracking log shows a failure to reconcile to the eShare Portal in tracking the federal seizure activity.

Finding 2: The case files were incomplete.

When monies are seized in a federal case, they are submitted into Evidence at PD Headquarters until such time that any cash can be converted to a cashier's check. Then the cashier's check is delivered to the federal court which issues a receipt for the transfer. The receipt should be included in the case file. In testing the federal seizure revenue, the case files for the two payments that were received during FY2015 were reviewed. Both case files were incomplete in that proof of the monetary transfer to the federal court was not included. Upon request, KPD obtained the necessary proof for one of the case files, but was unable to provide proof for the other.

OBSERVATIONS

Observation 1: The Finance Department is closing unnecessary bank accounts.

In past years, the City utilized a separate federal seizure bank account, which was monitored jointly by KPD and Finance. Finance is in the process of consolidating all bank accounts into one concentration account unless there is a law or regulation that prohibits this for certain funds. The Department of Justice, which monitors the Equitable Sharing program, does not prohibit this as long as all federal seizure revenues and expenditures are segregated in a specific set of accounts on the general ledger that are utilized only for federal seizure activities. This will require KPD to reconcile its federal seizure tracking log to the general ledger and the eShare Portal as discussed above in order to ensure that all activity is properly included on the log.

Observation 2: KPD has not expended federal seizure funds in four years.

According to the Guide, shared monies should not be retained unnecessarily. It says:

“Shared monies normally should be expended for their designated use or other permissible law enforcement purpose as they are received. Shared monies may be retained in a holding account for up to three years to satisfy future needs or retained longer for major long-term expenditures such as capital improvements.”

KPD has not expended federal seizures funds since FY2011 and should be cautious in how long funds are held and for what purpose.

RECOMMENDATIONS

The recommendations listed below are a result of the audit effort and are subject to the limitation of the scope of the audit. I believe that these recommendations provide reasonable approaches to help resolve the issues identified. I also believe that operational management is in a unique position to best understand their operations and may be able to identify more efficient and effective approaches, and I encourage them to do so when providing their responses to the recommendations. As such, I strongly recommend the following:

1. **KPD should reconcile its federal seizure tracking log to the federal seizure fund as maintained in the general ledger as well as to the eShare Portal as maintained by the Department of Justice. The City should also encourage more effective communication within and among departments.**
2. **Proof of monetary transfers to the federal court must be maintained in the case files at KPD.**

See Appendix A for Management's Response to each recommendation.

MANAGEMENT'S RESPONSE



KILLEEN POLICE DEPARTMENT
3304 Community Boulevard
Killeen, Texas 76542



December 14, 2015

Re: Federal Seizure Audit – Fiscal Year 2015
Attention: Glenn Morrison, City Manager

Dear Ms. Amanda Wallace, City Auditor:

Management's Response

Finding 1:

When reconciling the internal ledger account, the department will use the eShare Portal and the City of Killeen's AS-400 concentration account. Historically, the department relied on official bank statements.

Finding 2:

The case folder did not have an evidence property receipt detailing that all funds seized were released to the Federal Treasury. The receipt was in the original case file in the department's records depository. In the future, staff will ensure that proper documentation is available to the auditor detailing the transferring of funds.

The department will include the findings of this audit in its quarterly internal audits to ensure proper documentation is included in case files. The findings of these quarterly audits will be forwarded to the Chief's office.

Sincerely,

DENNIS M. BALDWIN
CHIEF OF POLICE

DMB/vj