



State Seizure Audit

Fiscal Year 2014

CITY OF KILLEEN

A Report to the City
of Killeen Audit
Committee

Committee Chair
Scott Cosper

Committee Members
Wayne Gilmore
Juan Rivera

Internal Audit
Department

City Auditor
Amanda R. Wallace
CPA

Report Summary

The state seizure fund is used for monies seized in connection with criminal investigations. All activities related to this fund are subject to the guidelines set forth in Chapter 59 of the Texas Code of Criminal Procedure, including the requirement that the fund must have an audit conducted annually. This audit report along with the required Chapter 59 Asset Forfeiture Report has been completed in accordance with this requirement.

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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

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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 Chapter 59 of the Texas Code of Criminal Procedure that the seizure activity be audited annually.

What Was Recommended

It was recommended that the Police Department ensure that all property records in the Seized Asset Database are complete and accurate, that all records be provided to the auditor upon request, and that a control be implemented to ensure that auction proceeds are credited to the correct fund.

State Seizure Audit

Mayor and Council,

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

BACKGROUND

The State Seizure Fund is used to account for monies confiscated in connection with criminal investigations conducted by the Killeen Police Department (KPD). This activity is governed by Chapter 59 of the Texas Code of Criminal Procedure.

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 state seizure activity, and to ensure that the Code of Criminal Procedure is followed in all aspects of Killeen's seizure program. The audit scope included state seizure activity for the period October 2013 through September 2014.

WHAT WAS FOUND

The audit revealed inaccuracies in the Seized Asset Database. Information should be recorded accurately for all property upon being entered into the database.

19% of property records were not provided to the auditor upon initial request, and changes were made to records without notifying the auditor while the audit was on-going.

A seized unit was auctioned by the City without the Police Department's knowledge, and the proceeds were credited to the General Fund. In order for the City to be in compliance with the Code of Criminal Procedure, it is imperative that auction proceeds for seized units be credited to the correct fund.

Certificates of Title for seized units not placed into service are retained by KPD; these should be retained by the City Secretary.

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

Amanda R. Wallace

Amanda R. Wallace, City Auditor

BACKGROUND

The State Seizure fund is used to account for monies confiscated in connection with criminal investigations conducted by KPD. All activities related to this fund are subject to the guidelines set forth in Chapter 59 of the Texas Code of Criminal Procedure (the Code).

All approved cash seizures are delivered to the Bell County Treasurer for deposit in the Bell County District Attorney's "Forfeiture of Contraband Fund" until disposition of the funds is determined. If the District Attorney (DA) determines that funds are forfeited, court fees are deducted and the balance is subject to the July 30, 2002 "Agreement Respecting Forfeited Contraband Under Chapter 59, Texas Code of Criminal Procedure." According to the agreement, the City of Killeen Police Department is authorized to receive 60% of the net forfeited funds and the DA retains the remaining 40%. The Bell County DA mails the court order of forfeiture and Killeen's share of the forfeited funds by check to KPD. The City deposits these monies in the State Seizure Fund to be used only for law enforcement purposes as stipulated in the Code.

As for real or personal property that is confiscated in connection with criminal investigations conducted by KPD, these are held by KPD in a safe place while awaiting determination from the DA. Upon determination from the DA, this property is either placed into service for law enforcement purposes, or 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 deposited in the State Seizure Fund to be used only for law enforcement purposes.

A State Seizure Fund budget of expenditures must be submitted to the governing body of the City for approval. The expenditures associated with the State Seizure Fund cannot be used to offset or decrease total salaries, expenses or allowances that the City has already included in its annual budget.

OBJECTIVE, SCOPE, AND METHODOLOGY

The State Seizure Audit was conducted in order to comply with the Code which requires an annual audit of the program. This audit was also included in the FY2015 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 state seizure activity, and to ensure that the Code is properly followed in all aspects of Killeen's seizure program.

Scope

The audit scope included state seizure activity for the period October 2013 through September 2014.

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 DA, KPD and the Finance Department relating to 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 State Seizure revenues, a report of all distributions to KPD regarding seized/forfeited contraband was provided by Bell County. All revenues from Bell County during FY2014, totaling \$38,640, were accounted for and recorded properly. Additionally, the revenues received for seized property that was auctioned during FY2014, totaling \$950, were reviewed, and an internal control weakness was noted because the auction proceeds were not properly credited to the State Seizure Fund.

Although not included as a Finding since KPD is not at fault, there was one situation in which the letter of determination from the DA did not include details on the deductions that were made prior to the distribution to the City. The DA, in most cases, provides details for any deductions such as court costs, services of citations, etc. KPD contacted the DA to obtain documentation for the deduction and it was received and accounted for prior to the completion of the audit.

Regarding seized real or personal property, the property records were sampled in order to verify existence and to verify that the property is being used according to the Code for law enforcement purposes. All property sampled was accounted for and being used according to the Code. There were instances noted in the property testing in which the Seized Asset Database was not accurate. Additionally, some property records were not provided to the auditor upon initial request, and property records had been altered after they were provided to the auditor without notifying the auditor of the changes. These situations caused the auditor to perform more testing than was planned. The findings are detailed below.

The expenditures during the audit period, totaling \$109,764, were verified and confirmed to be in alignment with the requirements of the Code.

Finding 1: There were inaccuracies in the Seized Asset Database, and changes were made to records without notifying the auditor of said changes.

The property testing revealed that two items in the test sample had not been recorded accurately in the Seized Asset Database in that the location of the property had been entered incorrectly in one case and the appropriate property was not listed at all in the other case. Upon further review, it was noted that one item was not seized for forfeiture purposes, but rather for evidence; therefore, the property in question should not have been included in the Seized Asset Database. KPD staff corrected this issue prior to the completion of the audit. In the second instance, the property was added to the record while the audit was on-going, but this information was not provided to the auditor.

While reviewing the property table included in the Chapter 59 Asset Forfeiture Report, it was discovered that other property records in addition to the one noted above had been altered

after the records were initially provided to the auditor without disclosing the changes to the auditor.

One of the files requested in the testing was not available for review. KPD will contact the DA to obtain the documentation needed to complete a file for this case.

There were five inaccuracies in the Seized Asset Database, which were found to have incorrect statuses or an incorrect forfeiture date. The major issue is that it does not appear that the database is being updated timely throughout the year as the case statuses change. It is imperative that the property records be maintained in an accurate and consistent manner.

Finding 2: 19% of property records were not provided to the auditor upon request.

While reviewing the property table to be included in the Chapter 59 Asset Forfeiture Report, it was discovered that 19% of total active or pending property records had not been provided to the auditor in the initial request; therefore the initial property testing was expanded to obtain reasonable assurance that a representative sample of total property was properly tested. It should be noted that KPD did not intentionally withhold these property records. More care should be taken to ensure that all records are provided to the auditor upon request.

Finding 3: A seized unit was auctioned by the City without the Police Department's knowledge.

During a routine check of the property database records, KPD staff discovered that a seized vehicle had been auctioned by the City. Because KPD had no knowledge of the auction and the Finance department was unaware that the unit was seized property, the auction proceeds were credited to the General Fund. Currently there is a control that is intended to mitigate the risk of inappropriate disposal or mishandling of heavy equipment and vehicles. This control involves the City Secretary, being the official record-keeper of the City, retaining Certificates of Title. When a unit is auctioned or disposed of, Fleet Services must request the Certificate of Title from the City Secretary prior to releasing a unit. In this situation, the title was released to Fleet Services without notifying KPD. There should be a system in place that allows for a secondary level of control with regard to seized units. Fleet Services should have a record of all seized units in service, and this record should be reviewed prior to auctioning units to allow for timely notification of KPD when seized units are auctioned or disposed of.

It was noted in the audit that KPD retains the Certificates of Title for units that are seized but not put into service. Since the City Secretary is the central repository for all Certificates of Title on property that is put into service, it is reasonable for this position to also retain these for seized units that are not put into service. This additional internal control will mitigate the risk of inappropriate disposal or mishandling of seized heavy equipment and vehicles.

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. Property records should be complete and accurate for all property in the Seized Asset Database, and if it is necessary to change records while an audit is on-going, inform the auditor of such changes.**
- 2. All records should be provided to the auditor upon request. Although the withholding of these records was not intentional, it altered the plan for the audit significantly and caused unnecessary alarm.**
- 3. There should be a reasonable control in place to ensure that when seized units are auctioned, the proceeds are credited to the correct fund. Certificates of Title for all seized units should be retained by the City Secretary.**

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

MANAGEMENT'S RESPONSE



KILLEEN POLICE DEPARTMENT
3304 Community Boulevard
Killeen, Texas 76542



November 14, 2014

Re: State Seizure Audit – Fiscal Year 2014
Attention: Glenn Morrison, City Manager

Dear Ms. Amanda Wallace, City Auditor:

Management's Response

Finding 1: There were inaccuracies in the Seized Asset Database, and changes were made to records without notifying the auditor of said changes.

The department continues to work to improve the accuracy of its Seized Asset Database. In the future, department personnel will modify no records once an audit begins without the approval of the auditor.

Finding 2: 19% of property records were not provided to the auditor upon request.

While the auditor acknowledges the withholding of the records was not intentional, the fact that it happened is unacceptable. Additional effort will be given to ensure future requests are complied with in a timely and complete manner.

Finding 3: A seized unit was auctioned by the City without the Police Department's knowledge.

Better coordination among Finance and Fleet Services will be sought after to ensure the proceeds from the sale of a seized units are deposited in the appropriate fund. Further, the Police Department will maintain copies of Certificates of Titles of seized vehicles, with the originals forwarded to, and maintained by, the City Secretary.

Sincerely,

DENNIS M. BALDWIN
CHIEF OF POLICE

DMB/vj

APPENDIX B

CURRENT STATUS OF PRIOR YEAR AUDIT COMMENTS

1. **FINDING:** The property testing revealed that one item in the test sample had not been recorded accurately in the Seized Asset Database in that the serial number had been entered incorrectly.

RECOMMENDATION: Property records should be complete and accurate for all property in the Seized Asset Database.

CURRENT STATUS: See current year Finding 1.