

State Narcotic Seizure Fund

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Authorization

We have conducted an audit of the Police Seizure Fund. This audit was conducted under the authority of Article VII, Section 5 of the Garland City Charter and in accordance with the Annual Audit Plan approved by the Garland City Council.

Objective

The objectives for this audit were to:

- Determine if all applicable regulations and laws are followed during the seizure process.
- Determine if all forfeited assets are secured and accounted for in accordance with State regulations.
- Determine if recommendations from previous 2003 seizure audit were implemented.

Scope and Methodology

We conducted this performance audit in accordance with Generally Accepted 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 our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit scope focused on currency and vehicles seized through the State Seizure process from October 1, 2008 through February 28, 2012.

While we report to the Mayor and City Council and present the results of our work to the Audit Committee, we are located organizationally outside the staff or line management functions we are auditing. Therefore, this Audit organization may be considered free of organizational impairments to independence to audit internally and report objectively to those charged with governance.

To adequately address the audit objectives, we:

- Obtained and reviewed authoritative pronouncements such as Chapter 59 of the Texas Code of Criminal Procedure and the Narcotics Policies & Procedures. (Obj. 1)
- Reviewed police and court records, bank statements and the general ledger.
 (Obj. 1)
- Developed spreadsheets to analyze the effectiveness of police processes.
 (Obj. 1)
- Obtained pictures of properties held for seizure. (Obj. 1 & 2)
- Reviewed Asset Forfeiture reports for FY2009 through FY2011. (Obj. 3)
- Verified Council approval of yearly budget reports. (Obj. 3)

- Verified seized funds were spent only for law enforcement purposes. (Obj. 1)
- Toured the Impound Lot and Property Room to assess security of property seized or held for seizure. (Obj. 2)
- Conducted physical verification of seized vehicles. (Obj. 1)
- Followed-up on previous 2003 audit findings. (Obj. 3)

Overall Conclusion

During the audit, we found that the Police Department for the most part complied with regulations and laws during the seizure process; however, a few minor discrepancies were noted. Forfeited assets are appropriately secured in accordance with State regulations. Previous audit recommendations were either fully implemented or partially implemented; one finding was not applicable.

The Police Department can improve in the following areas:

- Timely filing of seizures to the District Attorney's office.
- Verification of actual cash seized.
- Adequate documentation with regard to property.

Background

The Garland Police Department seizes property used during commissions of felonies involving transportation, concealment, manufacture or protection of controlled substances. Seized property may be real or personal property, often it is cash. The Department emphasized that the terminology used for "seizure" is the process of obtaining a court judgment allocating ownership of the property to the Department.

The Police Department processes seized property for condemnation either under federal or state statutes. Federal seizures are initiated by the Federal government and the department has no control over the disposition of these assets until the process is finalized and distributed by the Federal Government. State seizures are initiated by a county District Attorney.

When an arrest is made the department uses a computer system called I/Leads to complete police reports and track property. An affidavit signed by the arresting officer is submitted to the District Attorney's office for processing. The District Attorney has 30 days to file a case in court at which point a judgment is then rendered regarding the property to be seized. Property can only be considered forfeited as determined by the court and proceeds for forfeited property can only be used for law enforcement purposes in support of the Garland Police Department.

Narcotic Seizure Fund Revenue and Expenditures

	Revenue ⁽¹⁾	Expenditures
FY2010	\$670,284	\$306,150
FY2011	488,968	246,500
FY2012 ⁽²⁾	0	1,006,500

- (1) Amount includes both Federal and State Seizures.
- The City does not assume amount of revenue during the budget process and expenditures include a transfer to Multi-Year Capital in the amount of \$720,000.

Source: FY2011-12 Annual Budget

Opportunities for Improvement

During our audit we identified certain areas for improvement. Our audit was not designed or intended to be a detailed study of every relevant system, procedure, and transaction. Accordingly, the Opportunities for Improvement section presented in this report may not be all-inclusive of areas where improvement might be needed.

Finding #1 (Obj. 1 & 2)

Condition (The way it is)

We reviewed vehicles seized by officers and found:

- A. A vehicle was not logged into the police computer system, I/Leads.
- B. Payment for an auctioned seized vehicle to the Collin County District Attorney could not be verified.
- C. In two cases, the department did not have appropriate documentation showing vehicles were given back to owners upon judgment from the court.

Criteria (The way it should be)

- A. Details of property intended for seizure should be entered into the computer system for tracking purposes.
- B. Documentation within the case file specifically states that 20% of the sale of the vehicle should have been submitted to the Collin County DA's office. The amount to be submitted was \$1,200.
- C. The department should complete and retain a GPD Property Release Form when returning property to its owner.

Cause (Difference between condition & criteria)

- A. Officer failed to enter the appropriate information into the I/Leads system. Upon further inquiry at a later time, we found that the vehicle was then listed in I/Leads.
- B. Management follow-up was not conducted to ensure that Collin County received payment.
- C. Officers did not complete the GPD Property Release Form.

Effect (So what?)

A. By not including the vehicles taken into I/Leads intended for seizure as a result of an arrest, the department risks losing track of the location of the

- vehicle. In this case, the vehicle was a 2007 Mercedes Benz CLS 500 and is priced used from approximately \$25K to \$32K.
- B. Not submitting the appropriate payments to neighboring counties can result in strained relationships.
- C. There was no record to ensure that the vehicle was given back to the owner. The lack of audit trail in this case is a significant control weakness which could result in the owner claiming that the vehicle was not returned.

Recommendation

The police department should:

- A. Ensure that all vehicles taken are logged into I/Leads system for tracking purposes.
- B. Implement a follow-up procedure to ensure that appropriate fees are paid to other county governments when a vehicle is sold at auction.
- C. Complete a GPD Property Release Form upon return of a vehicle to an individual.

Management Response

Concurs

Action Plan

- A. The Chief of Police will ensure that the Narcotics Unit Supervision makes certain that <u>all</u> vehicles related to seizures are entered into I/Leads system for tracking purposes.
- B. Under current procedures, payments for seized vehicles to second parties are delayed until after auction sale. The payment to the second party is then performed by City Financial Services without Police Department oversight. The Chief of Police will ensure a new procedure is developed whereas the Narcotics Unit will be responsible for all delayed payments to second parties to allow for appropriate Police Department oversight.
- C. The Chief of Police will ensure that <u>all</u> vehicles pending seizure will be held at the City Impound facility as opposed to being held at the police department. This change will ensure that these vehicles will be handled in accordance with all other vehicle release procedures.

Implementation Date

Immediate

Finding #2 (Obj. 1)

Condition (The way it is)

In one case, we noted a discrepancy of \$1,000 between the police officer's arrest report and the affidavit filed by the same officer. The affidavit listed \$1,000 less than originally reported by the officer. When IA inquired about this case, the Department stated that the money was returned to the individual because it was not gained from criminal activities; however, we found no supporting documentation.

Criteria (The way it should be)

Currency filed for seizure should match the police report filed.

Cause (Difference between condition & criteria)

The officer failed to obtain appropriate documentation showing that the money was returned to the individual.

Effect (So what?)

The effect was:

- 1. Inability to verify the return of the property,
- 2. Individual could claim that the cash was never returned, and
- Lack of an audit trail.

Recommendation

- Management should ensure that the police report matches the affidavit.
 If discrepancies are found, documentation should be included in the file.
- Officers should complete a GPD Property Release Form and retain signed documentation showing verification, reconciliation and return of funds.

Management Response

Concur

Action Plan

The Chief of Police will ensure the Narcotics Unit Supervision reviews all seizure paperwork for accuracy and appropriate documentation of officer's actions.

Implementation Date

Immediate

Finding #3 (Obj. 1)

Condition (The way it is)

An affidavit is a signed, sworn statement by the arresting officer describing the circumstances surrounding an arrest of an individual and property taken. Officers forward this statement to the County's District Attorney (DA) to begin the seizure process.

Our review of affidavits submitted to the DA's office revealed that one case was rejected by the DA due to errors in processing.

Criteria (The way it should be)

Affidavits are accurately filed with the DA in accordance with Narcotics Policies & Procedures.

According to Chapter 59, Article 59.04 Notification of Forfeiture Proceedings, the DA has thirty (30) days from the date of arrest to file for seizure.

Cause (Difference between condition & criteria)

- 1. Data entry error.
- 2. Lack of appropriate review.

Effect (So what?)

Inability to properly document this case resulted in dropped charges and forced the Department to return property intended for seizure.

Recommendation

- The arresting officer should review the affidavit to ensure that it is free from errors.
- Management should ensure that all affidavits are prepared accurately.

Management Response

Concur

Action Plan

The Chief of Police will ensure the Narcotics Unit Supervision reviews and provides more direct oversight of all seizure paperwork.

Implementation Date

Immediate