



State 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 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

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

What Was Recommended

It was recommended that KPD implement more comprehensive review procedures in order to ensure that all seizure cases are filed with the District Attorney and that property records and case files are complete and include all pertinent information as required by the Standard Operating Procedures for Seized Property.

December 3, 2015

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 2014 through September 2015.

WHAT WAS FOUND

The audit revealed that property records and case files were incomplete and/or inaccurate. It also revealed that KPD failed to file a seizure case with the District Attorney. Both of these findings are related to inadequate review procedures. Comprehensive review procedures should be implemented in order to ensure that property records and case files are complete and include all required information as well as to ensure that all seizure cases are filed timely.

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

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 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 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 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 DA, KPD and the Finance Department relating to state 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 FY2015, totaling \$75,011, were accounted for and recorded properly. Additionally, the revenues received for seized property that was auctioned during FY2015, totaling \$13,900, were accounted for and recorded properly.

Regarding seized real or personal property, the property records were sampled in order to verify existence, to verify that the property is being used according to the Code for law enforcement purposes, and to ensure all property is accurately reported in the case files. There were instances noted in the audit in which the case files were incomplete or the property was not recorded properly within the database. More importantly, there were two instances noted in which the seized property should have been returned to the owner, but this was not done in a timely manner due to a delay in reviewing stale pending cases. The findings are detailed below.

There were no expenditures during the audit period.

Finding 1: Property records and case files were incomplete and/or inaccurate.

Two of the 14 sampled property records were incomplete and/or inaccurate. According to the standard operating procedures, when a search warrant is served, the police department seizes all contraband, monies, and property believed to be obtained by committing a crime or used in committing a crime. This information is recorded in the police report, the seizing officer's affidavit, the property database, and in a search warrant notification letter to the Chief of Police. Each of these documents should agree to one another.

In one of the two referenced cases, the property database did not reflect all seized items as reported in the search warrant notification letter to the Chief. Upon further review by KPD, it was determined that one of the seized items was rightfully returned to the owner, and because of this, was mistakenly omitted from the property database. This was corrected before the completion of the audit.

In the second referenced case, the case documents did not agree to one another. Upon further review, it was determined that the seizing officer failed to list one of the seized items in the Affidavit; therefore, the court did not rule on the property in question. Consequently, KPD must return the property in question to the owner, and is now attempting to do so.

The root cause of both of these issues is inadequate review procedures, especially for cases that are older and considered stale. Both of these cases were opened six years ago, and have been listed in pending status in the property database. Thorough review procedures as well as

intermittent reviews of pending files are necessary to ensure that situations such as these are not recurring issues.

Finding 2: KPD failed to file a seizure case with the District Attorney.

One of the 14 sampled property records did not include the seizing officer's affidavit or the notification letter to the chief in the case file. Upon further review, it was determined that the seizing officer failed to file the case with the District Attorney. Consequently, KPD must return the seized property to the owner, and is now attempting to do so. This case was opened in 2010 and has been listed in pending status in the property database. It is crucial for all cases to be reviewed timely in order to avoid issues such as this.

OBSERVATIONS

Observation 1: Search warrant notifications to the Chief were not included in recent case files.

According to the Seized Property SOP, case files must include the search warrant notification letters to the chief, listing all seized property. This document was not included in 6 of the 14 sampled property records. Upon further review, KPD maintains these notifications in a binder instead of in each individual case file. This is acceptable; however, KPD must determine whether these should be included in the case files or maintained in a single binder. If the latter is chosen, the Seized Property SOP should be updated to reflect this change.

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. Findings 1 and 2 are both related to insufficient review procedures; therefore, only one recommendation is issued. KPD should implement thorough review procedures as well as intermittent reviews of stale pending cases. Doing so will ensure that all seizure cases are filed with the District Attorney and all necessary information is included in the case file and property database.**

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

Dear Ms. Amanda Wallace, City Auditor:

Management's Response

Findings 1 & 2:

Since both findings relate to one another, the department will require the Unit to conduct an audit of all pending seizure cases within the next 30-days. This report will be provided to the Chief's office for review. Additionally, the department will include the findings of this audit in its quarterly internal audits to ensure continued compliance with internal accountability measures.

Sincerely,

DENNIS M. BALDWIN
CHIEF OF POLICE

DMB/vj

APPENDIX B

CURRENT STATUS OF PRIOR YEAR AUDIT COMMENTS

1. **FINDING:** There were inaccuracies in the Seized Asset Database, and changes were made to records without notifying the auditor of said changes.
RECOMMENDATION: 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.
CURRENT STATUS: See current year Finding 1.
NOTE: This is, in part, a recurring finding since FY2013.

2. **FINDING:** 19% of property records were not provided to the auditor upon request.
RECOMMENDATION: 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.
CURRENT STATUS: All property records were provided upon request.

3. **FINDING:** A seized unit was auctioned by the City without the Police Department's knowledge.
RECOMMENDATION: 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.
CURRENT STATUS: Purchasing facilitates City auctions ensuring that they are in contact with the applicable department for each auctioned item. The City Secretary is the custodian for all Certificates of Title.