



COMMISSIONERS COURT  
COMMUNICATION

REFERENCE NUMBER 0

PAGE 1 OF 13

DATE: 11/9/2010

SUBJECT: **APPROVAL OF THE DISTRICT ATTORNEY'S OFFICE FY 2010 CHAPTER  
59 ASSET FORFEITURE REPORT**

**\*\*\* CONSENT AGENDA \*\*\***

**COMMISSIONERS COURT ACTION REQUESTED:**

It is requested that the Commissioners Court approve the District Attorney's Office FY 2010 Chapter 59 Asset Forfeiture Report by Attorney Representing the State and authorize the County Judge to sign the certification.

**BACKGROUND:**

Under Chapter 59 of the Code of Criminal Procedure (C.C.P.), certified copies of the Chapter 59 Asset Forfeiture Report shall be delivered to the Comptroller's Office and filed with the Office of the Attorney General by Attorney Representing the State in matters involving forfeited property. This report must be filed no later than the 60th day after the end of the State's fiscal year. A fifteen-day extension was granted by the Office of the Attorney General.

This report, which was created by the Office of the Attorney General, summarizes the State fiscal year 2010 asset forfeiture activities of the Tarrant County District Attorney's Office and conforms to the requirements as specified under Article 59.06 (g)(1) of the C.C.P. Per this article, the Commissioners Court must perform an audit. The Auditor's Office has performed the audit and their findings are attached.

**FISCAL IMPACT:**

There is no fiscal impact to Tarrant County associated with this action.

SUBMITTED BY: District Attorney's Office

PREPARED BY: J. Gregory Shugart

APPROVED BY:



## TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506  
100 E. WEATHERFORD  
FORT WORTH, TEXAS 76196-0103  
817/884-1205  
Fax 817/884-1104

S. RENEE TIDWELL, CPA  
COUNTY AUDITOR  
rtidwell@tarrantcounty.com

RONALD D. BERTEL, CPA  
FIRST ASSISTANT COUNTY AUDITOR  
rbertel@tarrantcounty.com

November 4, 2010

The Honorable Joe Shannon, Tarrant County Criminal District Attorney  
The Honorable District Judges of Tarrant County  
The Honorable Tarrant County Commissioners Court

Re: Auditor's Report – Review of the Chapter 59 Asset Forfeiture Report by Attorneys  
Representing the State, FY 2010

### SUMMARY

We have reviewed the attached *FY2010 Chapter 59 Asset Forfeiture Report by Attorney Representing the State prepared by the Tarrant County District Attorney's Office* as required by Article 59.06 of the Code of Criminal Procedures.

The District Attorney's Office maintains a case management database to record various case activities, both financial and non-financial. The District Attorney's Office prepares manual receipts to record the receipt of case documents and assets, both cash and non-cash. Since it is not possible to determine whether receipts were completed for all transactions, we were unable to express an opinion regarding the completeness of the District Attorney's database. With regard to non-cash assets, the District Attorney's Office typically does not have custody and control of non-cash assets. Rather, the custody and final distribution of non-cash assets is the responsibility of the respective law enforcement agencies. We did not verify the existence of non-cash assets under the control of other agencies. The portion of the report presenting cash actually in the custody of the District Attorney was reconciled to the County's general ledger without exception.

Based on the information recorded into the District Attorney's database, we believe that the asset forfeiture report is true and correct and contains all information required under Article 59.06 of the Code of Criminal Procedure. However, we found opportunities where the District Attorney's Office should provide for improved accountability and safeguarding of forfeiture assets as described in the OBSERVATION AND RECOMMENDATION section of this report.

## **BACKGROUND AND METHODOLOGY**

This report focuses on two separate elements of the District Attorney's Office asset forfeiture process: financial activity and case activity.

### Financial Activity

Sections I, II, and VI of the report include monies under the control and custody of the District Attorney's Office. We reconciled the reported cash transactions recorded in these sections to the District Attorney's database and the County's financial records. On a test basis, we reviewed the information contained in the database to supporting documents, including the actual court pleadings. As a result, the reported balances properly reflect the transactions recorded in the County's financial records.

### Case Activity

Sections III, IV and V of the report include non-cash assets, such as motor vehicles and real property. The District Attorney's Office typically does not have custody and control of non-cash assets. We reconciled the number of the different types of assets reported in Section III to the District Attorney's database. Sections IV and V reflect no activity. On a test basis, we reviewed the information contained in the database to supporting documents, including the actual court pleadings and found no exceptions. As previously mentioned, the District Attorney typically never takes custody and control of non-cash assets. The custody and final distribution of non-cash assets is the responsibility of the respective law enforcement agencies.

## **OBSERVATION AND RECOMMENDATION**

During our work, we found opportunities where controls should be enhanced to provide for improved accountability and safeguarding of forfeiture assets under the control of the District Attorney's Office. Specifically, we observed the following issue that requires management's attention:

*Case information entered into the District Attorney's case management database was not complete.*

### **Observation**

The case management database was developed to monitor the activity of cases and provides many of the basic needs associated with monitoring the progress of cases. However, the District Attorney's Office has not established procedures to ensure that all assets received into the custody of the District Attorney staff are recorded into the database and ultimately disposed in a timely and accurate manner. This situation is the result of the following:

1. Current procedures rely on the transaction numbering systems of the various law enforcement agencies to monitor movement of assets. Since not all numbers used by the agencies are seizure cases, this results in gaps in the transaction numbers, making it more difficult to determine whether all transactions were recorded into the District Attorney's database.
2. The database indicates the "case filing" date. Oftentimes assets were received into the custody of the District Attorney's Office at a later date. The date the assets were actually received was not recorded into the database. For example, while reconciling the database to the County's general ledger, we observed instances whereby funds were received several months after the case information was received. In these instances, the other law enforcement agency had retained the funds.
3. The database was not always updated to reflect significant events in the life cycle of the case, including final disposition date and the case status.

We also observed that the District Attorney's Office staff uses two different series of pre-numbered receipts to record the receipt of 1) case documents, and 2) money. However, we observed no evidence showing that these receipts were reconciled to the database and to the County's bank account.

### **Recommendations**

We recommend that the District Attorney's Office implement procedures to strengthen controls over the receipt and custody of cash and non-cash assets. Specifically:


1. A sequential case number should be assigned to each new case received by the District Attorney's Office.
2. The pre-numbered receipt numbers currently used for the receipt of money should be recorded into the case database, including the date the cash was actually received.
3. Although non-cash assets are not commonly received, pre-numbered receipts should also be used to record the receipt of non-cash assets. The receipt numbers should be recorded into the case database, including the date the asset was actually received.
4. Relevant case events and dates, such as final disposition of a case and final judgment date, should be recorded into the database.

Management should periodically review the database for accuracy and completeness. Last, the cash receipts should be reconciled to the database and the County's bank account.

**CLOSING REMARKS:**

We appreciate the efforts of the District Attorney's staff to facilitate the timely completion of this review and their willingness to consider changes to address these issues.

Very truly,



Reñee Tidwell, CPA  
County Auditor

Attachment: *FY2010 Chapter 59 Asset Forfeiture Report by Attorney Representing the State prepared by the Tarrant County District Attorney's Office*

Distribution: Greg Shugart, District Attorney's Office

**FY 2010 Chapter 59 Asset Forfeiture Report  
by Attorney Representing the State**

Agency Name: Tarrant County District Attorney Reporting Period: 09/01/09-08/31/10  
(example: 9/1/09- 08/31/10)

Agency Mailing Address: Tim Curry Criminal Justice Center  
401 W. Belknap  
Fort Worth, TX 76196-0201

County: Tarrant

Phone number: (817) 884-1694

Email Address: jgshugart@tarrantcounty.com (This should be a permanent agency email address)

**NOTE: PLEASE ROUND ALL DOLLAR AMOUNTS TO NEAREST WHOLE DOLLAR**

**I. SEIZED FUNDS**

A) Beginning Balance .....	<b>Instructions:</b> Include total amount of seized funds on hand (in your agency's possession) at the beginning of the reporting period including interest. Include funds that may have been forfeited but have not been transferred to your agency's forfeiture account. Do not include funds that are in an account held by another agency, e.g. a police department's account.	<u>\$ 2,102,399</u>
B) Seizures During Reporting Period:		
1) Amount Seized By Employees of Your Agency.....	<b>Instructions:</b> Include only those seizures which occurred during the reporting period and where the seizure affidavit required by Article 59.03 is sworn to by a peace officer employed by your agency.	<u>\$ 0</u>
2) Amount Seized by Other Agencies .....	<b>Instructions:</b> Include only amounts seized by other agencies in your jurisdiction and which have been transferred to your office for custody pending forfeiture.	<u>\$ 971,890</u>
C) Forfeiture Petitions Filed For All Agencies You Represent .....	<b>Instructions:</b> Enter the total amount of seized funds for which forfeiture petitions were filed during the reporting period. Do not include amounts seized if a petition has not been filed. Note: this may include all or part of the funds listed in B above due to the 30 day limitations period on filing petitions. (This should be a currency amount, for example \$1,000).	<u>\$ 964,656</u>
D) Forfeitures Pending For All Agencies You Represent .....	<b>Instructions:</b> Enter the total amount of seized funds at the end of the reporting period where a forfeiture petition has been filed but no final judgment has been entered. Include amounts subject to petitions filed in prior reporting periods. (This should be a currency amount, for example \$1,000).	<u>\$ 1,218,682</u>
E) Interest Earned on Seized Funds During Reporting Period .....	<b>Instructions:</b> Include only the amount of interest earned on seized funds or funds that may have been forfeited but not yet transferred to your forfeiture account. Do not include interest earned on seized funds that are on deposit in an account that does not belong to your agency.	<u>\$ 11,549</u>
F) Amount Returned To Defendants .....	<b>Instructions:</b> If seized funds are returned to Defendants/Respondents please complete Schedule A for each case in which this applies. Make copies of the schedule and add additional sheets as necessary.	<u>\$ 202,993</u>

G) Ending Balance..... \$ 2,882,844  
Instructions: Add lines A, B(1), B(2) and E, subtract line F, place total in line G.

II. FORFEITED FUNDS

A) Beginning Balance..... \$ 0.00  
Instructions: Include total amount of forfeited funds that have been forfeited to your agency and are on hand (in your agency's account or in your agency's possession) at the beginning of the reporting period including interest. Do not include funds that have been forfeited but have not yet been received by your agency.

B) Amount Forfeited For All Agencies You Represent and Covered by Local Agreement..... \$ 1,403,165  
Instructions: Enter the total amount forfeited by all forfeiture judgments in your jurisdiction for the reporting year. Do not include judgments that are not yet final due to appeal or motions for new trial. Include interest that was forfeited as part of the judgment.

1) Amount Forfeited and Transferred to all Agencies Covered by Local Agreement..... \$ 1,147,553  
Instructions: Do not include amounts forfeited but not yet transferred to these agencies. Include interest that has been forfeited as part of the judgment.

2) Amount Forfeited and Received by Your Agency..... \$ 255,612  
Instructions: Do not include amounts forfeited but not yet received by your agency. Do not include amounts awarded to other agencies. Include interest that was forfeited as part of the judgment.

C) Interest Earned on Forfeited Funds During Reporting Period..... \$ 3,817  
Instructions: Include only the amount of interest earned on forfeited funds or interest earned on funds derived from the sale of forfeited property. Do not include interest amounts that were reported in line B2 above. Do not include interest earned if funds are on deposit in an account that does not belong to your agency.

D) Proceeds Received by Your Agency From Sale of Forfeited Property..... \$ 4,118  
Instructions: Include amounts received for all property sold during the reporting period, even if the subject property was forfeited in a prior reporting period. If property is returned to Defendants/Respondents please complete Schedule A for each case in which this applies. Make copies of the schedule and add additional sheets as necessary.

E) Total Expenditures of Forfeited Funds During Reporting Period..... \$ 263,547  
Instructions: From Total on Section VI.

F) Amount deposited to State Treasury to the Credit of the General Revenue Fund Due to Lack of Local Agreement (Art. 59.06 (a))..... \$ 0

G) Ending Balance..... \$ 0  
Instructions: Add lines A, B(2), C and D, subtract lines E and F, place total in line G

**III. OTHER PROPERTY**

**Instructions:** List the number of cases filed, pending, or disposed for the following categories. List as "pending" only cases where a petition was filed. List as "seized" only those seizures where a seizure is made by a peace officer employed by your agency. If property is sold list under "Proceeds Received by Your Agency from Sale of Forfeited Property" in Section II (D) in the reporting year in which the proceeds are received. If property is returned to Defendants/Respondents please complete Schedule A for each case in which this applies. Make copies of the schedule and add additional sheets as necessary.

Please Note: these should be a number, not a currency amount. For example: 4 pending, 3 seized, 12 new petitions, etc....	MOTOR VEHICLES (Include cars, motorcycles, tractor trailers, etc.)	REAL PROPERTY (Count each parcel seized as one item)	COMPUTERS (Include computer and attached system components, such as printers and monitors as one item)	FIREARMS (Include only firearms seized for forfeiture under Chpt. 59. Do not include weapons disposed of under Chpt. 18)	OTHER (Include description)
Pending for all agencies at beginning of reporting period:	163	0	97	105	1,270
Seized by your agency during reporting period:	0	0	0	0	0
New petitions filed for all agencies during reporting period:	172	0	82	98	274
Forfeited to your agency during reporting period:	0	0	0	0	0
Put into service by your agency during reporting period:	0	0	0	0	0
Pending for all agencies at end of reporting period:	134	0	72	101	1,196

**IV. FORFEITED PROPERTY RECEIVED FROM ANOTHER AGENCY**

**Instructions:** Enter the total number of items transferred to your agency where the forfeiture judgment awarded ownership of the property to another agency prior to the transfer.

- A) Motor Vehicles (the number of vehicles, not a currency amount) ..... 0
- B) Real Property (the number of separate parcels of property, not a currency amount)..... 0
- C) Computers (the number of computers, not a currency amount)..... 0
- D) Firearms (the number of firearms, not a currency amount)..... 0
- E) Other (the number of items not a currency amount)..... 0

**V. FORFEITED PROPERTY TRANSFERRED TO ANOTHER AGENCY**

**Instructions:** Enter the total number of items transferred from your agency where the forfeiture judgment awarded ownership of the property to your agency prior to the transfer.

- A) Motor Vehicles (the number of vehicles, not a currency amount) ..... 0



B) Real Property (the number of separate parcels of property, not a currency amount).....	0
C) Computers (the number of computers, not a currency amount).....	2
D) Firearms (the number of firearms, not a currency amount).....	0
E) Other (the number of items not a currency amount).....	0

VI. **EXPENDITURES**

**Instructions:** This category is for Chapter 59 expenditures SOLELY for the official purposes of the office of the attorney representing the state - not for expenditures made pursuant to your general budget. List the total amount expended for each of the following categories. If proceeds are expended for a category not listed, state the amount and nature of the expenditure under the Other Category.

A) Total Salaries Paid out of Chapter 59 Funds.....	\$263,547
1. Increase of Salary, Expense, or Allowance for Employees (Salary Supplements).....	\$0
2. Salary Budgeted Solely From Forfeited Funds.....	\$263,547
3. Number of employees Paid Using Forfeiture Funds.....	15
B) Total Overtime Paid out of Chapter 59 Funds.....	\$0
1. For employees Budgeted by Governing Body.....	\$0
2. For Employees Budgeted Solely out of Forfeiture Funds.....	\$0
3. Number of employees Paid Using Forfeiture Funds.....	0
C) Total Equipment Paid for with Chapter 59 Funds.....	\$0
1. Vehicles.....	\$0
2. Computers.....	\$0
3. Firearms, Vests, Personal Equipment.....	\$0
4. Furniture.....	\$0
5. Software.....	\$0
6. Maintenance Costs.....	\$0
7. Uniforms.....	\$0
8. K9 Related Costs.....	\$0
9. Other (Provide Detail on Additional Sheet).....	\$0
D) Total Supplies Paid Out of Chapter 59 Funds.....	\$0
1. Office Supplies.....	\$0
2. Cellular Air Time.....	\$0
3. Internet.....	\$0
4. Other (Provide Detail on Additional Sheet).....	\$0
E) Total Travel Paid Out of Chapter 59 Funds.....	\$0
1. In State Travel.....	\$0

	a) Hotel .....	\$0
	b) Air Fare .....	\$0
	c) Meals (including per diem) .....	\$0
	d) Car Rental .....	\$0
2.	Out of State Travel	
	a) Hotel .....	\$0
	b) Air Fare .....	\$0
	c) Meals (including per diem) .....	\$0
	d) Car Rental .....	\$0
3.	Fuel .....	\$0
4.	Parking .....	\$0
5.	Other (Provide Detail on Additional Sheet) .....	\$0
F)	Total Training Paid Out of Chapter 59 Funds .....	\$0
	1. Fees (Conferences, Seminars) .....	\$0
	2. Materials (Books, CDs, Videos, etc.) .....	\$0
	3. Other (Provide Detail on Additional Sheet) .....	\$0
G)	Total Investigative Costs Paid Out of Chapter 59 Funds .....	\$0
	1. Informant Costs .....	\$0
	2. Buy Money .....	\$0
	3. Lab Expenses .....	\$0
	4. Other (Provide Detail on Additional Sheet) .....	\$0
H)	Total Prevention / Treatment Programs/ Financial Assistance (pursuant to Articles 59.06 (h), (I), (j), (n)) .....	\$
I)	Total Facility Costs Paid Out of Chapter 59 Funds .....	\$0
	1. Building Purchase .....	\$0
	2. Lease Payments .....	\$0
	3. Remodeling .....	\$0
	4. Maintenance Costs .....	\$0
	5. Utilities .....	\$0
	6. Other (Provide Detail on Additional Sheet) .....	\$0
J)	Total Miscellaneous Fees Paid Out of Chapter 59 Funds .....	\$0
	1. Court Costs .....	\$0
	2. Filing Fees .....	\$0
	3. Insurance .....	\$0

4. Witness Fees .....	\$0
5. Audit Costs and Fees .....	\$0
6. Other (Provide Detail on Additional Sheet) .....	\$0
K) Total Other Paid Out of Chapter 59 Funds (provide detailed descriptions on additional sheet(s) and attach to this report).....	\$0
L) TOTAL EXPENDITURES.....	\$263,547

**BOTH THE COMMISSIONERS COURT AND ATTORNEY REPRESENTING THE STATE  
CERTIFICATIONS NEED TO BE COMPLETED**

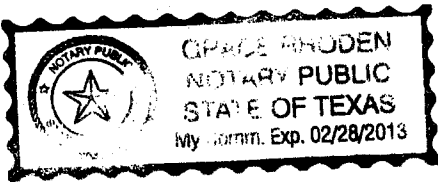
**NOTE: ART. 5.06(g)(1)** requires the Commissioners Court to perform the audit.

**CERTIFICATION**

COUNTY JUDGE (Printed Name): B. Glen Whitty  
SIGNATURE: *B. Glen Whitty*  
COUNTY: TARRANT  
DATE: 11-9-10

I swear or affirm that the Commissioners Court has conducted the audit required in Article 59.06 of the Code of Criminal Procedure and that upon diligent inspection of all relevant documents and supporting materials, I believe that the asset forfeiture report is true and correct and contains all information required under Article 59.06 of the Code of Criminal Procedure.

SWORN TO AND SUBSCRIBED before me this 9<sup>th</sup> day of November, 2010.



*Grace C Ruden*  
Notary Public in and for the State of Texas

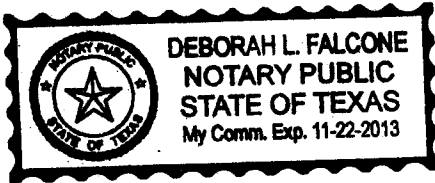
**CERTIFICATION**

ATTORNEY REPRESENTING THE  
STATE (Printed Name): JOE SHANNON JR  
SIGNATURE: [Redacted]  
DATE: 11-10-10

I swear or affirm, under penalty of perjury, that I have accounted for the seizure, forfeiture, receipt, and specific

expenditure of all proceeds and property subject to Chapter 59 of the Code of Criminal Procedure, and that upon diligent inspection of all relevant documents and supporting materials, I believe that this asset forfeiture report is true and correct and contains all information required under Article 59.06 of the Code of Criminal Procedure. I further swear or affirm that all expenditures reported herein were lawful and proper, and were made in accordance with Texas law.

SWORN TO AND SUBSCRIBED before me this 10<sup>th</sup> day of November, 2010.



Deborah L. Falcone  
Notary Public in and for the State of Texas

**RETURN COMPLETED FORM TO:**

[renee.grav@oag.state.tx.us](mailto:renee.grav@oag.state.tx.us)

Office of the Attorney General  
Criminal Prosecutions Division  
P.O. Box 12548  
Austin, TX 78711-2548  
Attn: Kent Richardson  
(512)936-1348  
FAX (512)494-8283  
E-mail: [kent.richardson@oag.state.tx.us](mailto:kent.richardson@oag.state.tx.us)