



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER CO#120279

PAGE 1 OF 14

DATE: 06/16/2015

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT FOR THE EXIT REVIEW OF THE CRIMINAL DISTRICT ATTORNEY**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report for the Exit Review of the Criminal District Attorney.

BACKGROUND:

On December 31, 2014, Joe Shannon's term as the Criminal District Attorney (CDA) expired, and his successor, the Honorable Sharen Wilson, assumed office on January 1, 2015. The Auditor's Office conducted procedures to provide accountability for the transfer of authority to the new CDA. These procedures included the verification of cash and other receipts, fiduciary fund balances, seized and acquired property, federal and state reporting requirements, and County assets assigned to the CDA.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY:	County Auditor's Office	PREPARED BY: APPROVED BY:	S. Renee Tidwell
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May 27, 2015

The Honorable Sharen Wilson, Criminal District Attorney
The Honorable District Judges
The Honorable Commissioners Court
Tarrant County, Texas

Re: Auditor's Report – Exit Review of the Criminal District Attorney

SUMMARY

On December 31, 2014, Joe Shannon's term as the Criminal District Attorney (DA) expired, and his successor, the Honorable Sharen Wilson, assumed the office on January 1, 2015. The Auditor's Office conducted procedures to provide accountability for the transfer of authority to the new DA. These procedures included the verification of cash and other receipts, fiduciary fund balances, seized and acquired property, federal and state reporting requirements, and County assets assigned to the DA. Exhibit A further describes the scope of our work. We observed the following conditions that require management's attention.

- Observation 1 A cash shortage exists in one of the DA's bank accounts.
- Observation 2 Federal and state reports were not filed within the timelines required by statute.
- Observation 3 Certain County fees were not deposited within the timeline required by statute.
- Observation 4 The composition of two bank accounts did not exist.
- Observation 5 Bank account records were not complete.
- Observation 6 Procedures related to Chapter 59.06 seizures and forfeitures were not adequate.
- Observation 7 Procedures related to billing and collection of Sexual Assault Exams were not adequate.
- Observation 8 All computer-related assets assigned to the DA's Office could not be located.

Attached is management's written response.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 A cash shortage exists in one of the DA's bank accounts.

Background

In January 2009, the Commissioners Court approved the creation of a bank account with JPMorgan Chase to be managed by the DA's Office for the Drug Enforcement Agency (DEA) Task Force. This account is an interest bearing account and serves as a pass-through for proceeds received upon award of a federal judgment. Therefore, the DA's Office has a fiduciary responsibility over these funds.

The U.S. Department of Justice (DOJ) *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* states that sharing from the DOJ is based on the net proceeds of the forfeiture or gross receipts less various expenses. The federal government makes an electronic deposit into the DEA account based on a federal judgment. The DA's Office is responsible for disbursing the federal funds to the law enforcement agencies that participated in the case in accordance with an asset sharing agreement with each agency.

Observations

During our review, we observed that the balance of the DEA Task Force bank account was short \$11,539.27 as of December 31, 2014. Specifically, the bank balance totaled \$107,947.40, but the judgments awarded by the federal courts totaled \$119,486.67.

Per an email dated October 2009, these federal funds were used to pay cell phone expenses for 10 officers assigned to the DEA Task Force from participating agencies. This shortage occurred because the cell phone expenses were not deducted from the amounts paid to the participating agencies. The DA's Business Manager stated that the federal government now pays the cell phones. To offset the shortage, interest earned on this account is *not* disbursed to the participating agencies.

The *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* states that the purchase and lease of cell phones for law enforcement purposes is a permissible use of shared property.

Recommendations

In order to recoup this shortage, we recommend that the DA's Office perform either of the following:

- 1) Deduct future payments to each respective participating agency for the appropriate cell phone expense.
- 2) Request that the Commissioners Court indemnify the DA for shortage totaling \$11,539.27.

Furthermore, interest earned on the account should also be equitably shared and disbursed to the participating agencies.

Observation 2 *Federal and state reports were not filed within the timelines required by statute.*

During our review of the federal and state reports filed by the prior DA, we observed that the reports were not always filed within the timelines required by statute. Specifically:

- 1) The DA's Office filed the FY2014 Federal Equitable Sharing Agreement and Certification on January 13, 2015. Since the County's fiscal year ends September 30, this certification form was due November 30, 2014. According to the Department of Justice (DOJ) *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, the certification form must be submitted within 60 days after the end of an agency's fiscal year, regardless of whether funds were received during the fiscal year. This certification was late because the Business Manager did not realize that an annual certification was required even though no funds were received during the fiscal year.
- 2) The DA's Office provided the first version of the FY2014 Asset Forfeiture Report by Attorney Representing the State report to the Auditor's Office on October 23, 2014. After several changes, the *final* version of the report was remitted to the Auditor's Office on December 11, 2014 for audit and certification by the County Auditor. The audit was completed and the report was returned to the DA's Office on December 15, 2015 to be remitted to the Office of the Attorney General (OAG). Per the Code of Criminal Procedure 59.06(g)(1), the report was due to the OAG on November 15, 2014 since a 15-day extension was granted.
- 3) The DA's Office provided the first version of the FY2014 Asset Forfeiture Report by Law Enforcement Agency report to the Auditor's Office on December 11, 2014. After a number of revisions, the *final* version of the report was remitted to the Auditor's Office on February 5, 2015 for audit and certification by the County Auditor. The audit was completed and the report was returned to the DA's Office on February 13, 2015 to be remitted to the OAG. Per the Code of Criminal Procedure 59.06(g)(1), the report was due to the OAG on December 15, 2014 since a 15-day extension was granted.

The asset forfeiture reports have not been submitted to the OAG within the timelines specified by statute for the last several years. If the asset forfeiture reports are not submitted to the OAG on time, the statute requires that the attorney general notify the comptroller. The statute further requires that the comptroller perform an audit. The attorney representing the state is liable to the comptroller for the costs of the audit. As a result, the DA's Office could incur unexpected costs.

Recommendation

In order to comply with the timelines required by statute, the DA's Office should provide the asset forfeiture reports to the Auditor's Office no later than two weeks *prior* to the date due to the OAG. This will allow the Auditor's Office to perform an audit so that the DA can remit the reports on time.

Observation 3 *Certain County fees were not deposited within the timeline required by statute.*

Background

Local Government Code 113.022 and Code of Criminal Procedure 103.004 state that a county officer who receives money “shall” deposit the money with the **county treasurer** on or before the next business day after the money is received. The Tarrant County Auditor has the role of treasurer. The statutes also say that if this deadline cannot be met, then money must be deposited no later than the 5th business day after the day the money is received.

Observations

During our review of deposits recorded in SAP, we observed that the supporting documentation and the information recorded in the SAP text field was not sufficient to determine whether deposits were made in accordance with statute. Therefore, we performed detailed testing of October and November and found that the DA’s Office made did not always deposit receipts by the 5th business day. Specifically:

- Administrative fees were deposited *monthly*. We observed nine instances where administrative fees collected during October and November were deposited into the County’s consolidated cash account between 17 and 22 days after the date the fee was received.
- We observed 23 instances where hot check fees collected during October and November that were deposited into the County’s consolidated cash account between 6 and 11 days after the date the fee was received.
- We observed that administrative fees collected during January 2015 and hot check fees collected during December 29-31 and the entire month of January 2015 were not deposited until February 11, 2015.

The administrative fees and hot check fees are diminutive compared to other fees collected by the DA’s Office.

Recommendations

We recommend that the supporting documentation and the information recorded in the SAP text field indicate not only the type of fees, but also the date range or receipt dates that the fees were collected. Furthermore, we recommend that the DA’s Office deposit all County fees, including hot check fees and administrative fees, within five business days after the day the fee was received.

Observation 4 *The composition of two bank accounts did not exist.*

Background

The DA’s Office currently holds three bank accounts. The DA acts as a fiduciary for the funds held in two of the accounts, the restitution account and the DEA Task Force account holding the equitable sharing funds received from the DOJ. The funds held in the third account are used as “surprise flash money” by the Tarrant County Narcotics Unit (TCNU). As of December 31, 2014, the balances in these accounts totaled \$283,488.87.

Observations

Due to the DA's fiduciary responsibility over these accounts, we requested a composition of the account balances, or a list showing the owners of the funds, for each bank account. The DA's Office could not provide a full composition of the balances for the restitution account and the TCNU flash account. Specifically:

- 1) Restitution Account – As of December 31, 2014, the reconciled balance of the account totaled \$125,879.65. The DA's Office provided a *partial* list showing the rightful owners of the funds held in the restitution account, but could not determine the owners of approximately \$88,000 of the account balance.

Furthermore, the restitution account balance included outstanding checks totaling \$133,741.18 as of December 31, 2014. Since the outstanding check list did not contain the check dates, we were unable to determine whether the DA's Office was in compliance with unclaimed property statutes.

- 2) TCNU Flash Account – As of December 31, 2014, the reconciled balance of the flash account totaled \$49,661.82. The DA's Office could not provide a list showing the rightful owners of the funds held in this account. Upon further review, the Auditor's Office found that the grant paid for confidential funds, but the files were probably destroyed in accordance with the County's records retention schedule. The last Criminal Justice Division grant award to TCNU ended on March 31, 2006. Since monies were distributed among the participants involved and the grant is now closed, these funds probably belong to Tarrant County.

As stated in Observation 1, based on the composition of cash provided by the DA's Office, the DEA account was short by \$11,539.27.

Recommendation

We recommend that the DA's Office work to identify the rightful owners of all the funds held in the restitution account. If the owner can't be located, the DA's Office should determine disposition of the funds in accordance with relevant statutes.

The DA's Office should also include the check date on the list of outstanding checks and determine disposition of these funds in accordance with relevant statutes.

Observation 5 *Bank account records were not complete.*

Background

During the period of October through December 2014, the DA's Office issued 342 checks from the restitution account. Twelve checks were issued from the DEA account during calendar year 2014. Nine checks were issued from the TCNU flash account during the period October 2013 through October 2014. During our review, we reviewed 16 check stubs and the cancelled checks from the restitution account and all check stubs and cancelled checks issued from the DEA and TCNU accounts.

Observations

During our review of the check stubs and cancelled checks for the three DA bank accounts, we observed that bank records were not always complete. Specifically:

- Four check stubs did not indicate the payee. Three of these checks were for “cash” for flash money from the TCNU account.
- One check stub did not indicate the date of the check.
- Four checks issued from the TCNU account were not endorsed.
- The signature block was not obliterated on one voided check from the TCNU account.

We also observed that the bank reconciliation prepared for the restitution account did not include the *dates* of outstanding checks. Furthermore, none of the three bank reconciliations were signed by the preparer(s) and no evidence of management's review existed. Therefore, we could not determine whether proper segregation of duties existed.

Recommendations

Check stubs should include the payee name, the date of the check, along with other pertinent information such as the case number. Furthermore, all checks for deposit should be properly endorsed. The signature line on voided checks should be obliterated. Last, the dates of the checks should be included on the list of outstanding checks provided with the monthly bank reconciliation in order to adequately monitor outstanding checks for disposition.

Management should also review the monthly bank reconciliations and the names of the payees in the disbursement journal for reasonableness to verify the accuracy and appropriateness of the transactions. The DA or her designee should sign and date the reports as evidence of the review. This would mitigate risk due to a lack of segregation of duties.

Observation 6 Procedures related to Chapter 59.06 seizures and forfeitures were not adequate.

Background

The DA's Office maintains two databases, the New Case Log and Time Matters, to record various case activities, both financial and non-financial. According to the DA's Office, Time Matters is the primary record of Chapter 59 seizures and forfeitures. The DA's Office does not necessarily have custody and control of all seized cash and non-cash assets. Rather, other agencies may retain control of certain seized assets.

Seized cash is also recorded into the County's general ledger. As of December 31, 2014, over \$3.52 million dollars of seized funds were recorded in the general ledger.

Observations

During our review, we observed that procedures related to seizures and forfeitures related to Chapter 59.06 were not adequate. Specifically:

- 1) Disposition of final judgments were not processed in a timely manner. According to the DA's Time Matters database, 201 "closed" cases showed final disposition dates averaging 236 days old. According to the County's general ledger, approximately \$560,600 is owed to others for these cases. Neither the statutes nor the interagency agreements between the DA and the various law enforcement agencies specify a timeframe for disbursement of funds upon final disposition.
- 2) Funds recorded in the two databases did not reconcile to the County's general ledger. Funds recorded in the general ledger are almost \$60,000 *less* than the funds recorded in Time Matters.
- 3) The DA's office did not reconcile the two databases, the New Case Log and Time Matters. Specifically, we observed input errors in both databases including incorrect receipt numbers, receipt dates, and the quantity of assets seized.

Recommendations

We recommend that the DA's Office establish procedures to dispose of final judgments in a timely manner. For example, the DA may opt to make disbursements on a quarterly basis.

Furthermore, procedures should be implemented to ensure that seized assets, including property and cash, are recorded accurately into both the New Case Log and Time Matters databases. Staff should also reconcile the two databases to the County's general ledger on a periodic basis. Any differences identified during the reconciliation, should be researched for resolution. If disbursements are made on a quarterly basis as recommended above, then these reconciliations should be performed prior to disbursement.

Observation 7 Procedures related to billing and collection of Sexual Assault Exams were not adequate.

During our review, we observed that the DA's Office had not created invoices and/or issued credit memos in SAP as follows:

- 1) Cook Children's Hospital should be invoiced \$10,153.19 for amounts not reimbursed by the OAG. This includes the \$2,652.30 mentioned in item 2 below.
- 2) A credit memo should be issued to the OAG for \$2,652.30 billed but not reimbursed.
- 3) Three invoices totaling \$24,125.28 billed to Cook Children's Hospital in July and September 2014 remain outstanding.
- 4) Four invoices totaling \$3,310 billed to the OAG dating back to June 2012 remain outstanding.
- 5) Two invoices totaling \$253.99 were billed to the County Hospital District on July 18, 2014 remain outstanding.

Furthermore, the DA's Office did not always create invoices in SAP expeditiously. The Auditor's Office will receive a payment (reimbursement) from the OAG and there is no invoice to record the payment.

Recommendations

We recommend that the DA's Office establish procedures to invoice amounts not reimbursed by the OAG and follow up on outstanding invoices. Furthermore, the DA's Office should enter credit memos and invoices into SAP as needed.

Observation 8 *All computer-related assets assigned to the DA's Office could not be located.*

Background

Per Local Government Code 262.011(i), the Purchasing Agent is required to inventory all property belonging to the County. The Purchasing Department is responsible for tracking the inventory of non-computer assets. The Information Technologies Department (ITD) is responsible for tracking all computer-related assets.

Each department head and elected official is responsible for the safekeeping of the equipment and furnishing assigned to their department.

On December 22, 2014, the Purchasing Department Fixed Asset Coordinator performed an inventory of the assets assigned to the departing DA and the 13 other DA employees who left County employment.

Observations

The ITD provided the Purchasing Department a list showing the computer-related assets assigned to the exiting DA and the 13 other employees that left County employment. Of the 89 computer assets described on the list, the Purchasing Department could not locate 38 assets. The Purchasing Department provided the results of the inventory to the Auditor's Office.

Furthermore, the Purchasing Department observed the following:

- 1) Twenty-two (22) computer-related assets were observed in the DA's Office, but were not on the ITD inventory list.
- 2) Two assets, a Dell printer and a monitor, did not have a yellow asset tag.

On December 31, 2014, the Auditor's Office forwarded the results to ITD and inquired about the 38 unaccounted for items. ITD responded on March 12, 2015 and indicated that 23 of the 38 assets were either auctioned, being processed for auction, or returned to the ITD warehouse. Ten of the 38 assets were assigned to the DA's Office, but ITD did not know to whom the asset was assigned and therefore could not be located. Three assets required more information for ITD to locate. The 2 remaining assets were transferred to JJAEP or reassigned to the ACMS project in Austin.

Recommendations

We recommend that the DA's Office coordinate with ITD to determine the location of the 13 computer-related assets that could not be located. Furthermore, the DA's Office should ensure that ITD:

- 1) Updates the inventory list to *include* the additional 22 assets identified during the Purchasing Department's inventory that are currently held by the DA's Office;
- 2) Updates the inventory list to *remove* the 23 assets that were auctioned, being processed for auction, or returned to the ITD warehouse that are no longer held by the DA's Office; and
- 3) Affixes a yellow asset tag on all computer equipment, including the Dell printer and monitor.

CLOSING REMARKS

We appreciate the cooperation of the District Attorney's Office during our review and their attention to our recommendations. Please call me if you have any questions regarding the contents of this report.

Very truly,



S. Renée Tidwell, CPA
County Auditor

Attachments: Exhibit A
Management's response

Audit Team: Kim Trussell, Audit Manager
Julie Hillhouse, Senior Internal Auditor
Dan Thompson, Senior Internal Auditor

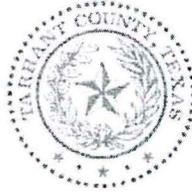
EXHIBIT A

Scope and Methodology DA Exit Review December 31, 2014

- 1) Performed cash counts of six change funds in the custody of the DA's Office as of December 31, 2014. Also, reviewed cutoff for receipts and/or activity log(s), sequential issuance of receipts since the last deposit, observed receipts for unusual items, reviewed investigator reports for funds checked in, out, and expended.
- 2) Obtained account balances as of December 31, 2014 for three bank accounts held by the DA's Office.
 - Restitution
 - DEA Task Force
 - TCNU Flash
- 3) Obtained the DA bank account reconciliations for each of the bank accounts for the months of October through December 2014. Performed the following:
 - Determined whether accounts were reconciled accurately
 - Researched unusual reconciling items
 - Determined whether prior months reconciling items cleared
 - Verified ending balances
 - Obtained the composition of ending balances
 - Identified the last check issued from each of the accounts
 - Obtained the new bank signature cards
- 4) Obtained check registers for each of the three bank accounts for December 2014 and reviewed payees for reasonableness.
 - Judgmentally selected disbursements from the three DA bank accounts to verify the payee and amount agrees to the respective cancelled check.
- 5) Determined whether new check stock was ordered and old check stock was destroyed.
- 6) Determined whether assets seized and forfeited during the period of September 1 through December 31, 2014 were properly recorded and accounted for. We selected a sample of transactions for testing.
- 7) Determined whether funds collected by the DA's Office were deposited in accordance with statute.
- 8) Determined whether the annual reports statutorily required by County, State, and Federal agencies were current for the following:
 - Chapter 59 asset forfeitures (Attorney Representing the State and Law Enforcement)
 - Federal Equitable Sharing
 - DA Longevity reimbursement
 - Title IV E reimbursement
 - Law Enforcement Officer Standards and Education (LEOSE)

EXHIBIT A

- 9) Determined whether the DA's Office is current on amounts to be reimbursed to the County.
 - Witness expenses due from the Comptroller's Office
 - Legal fees due from the County Hospital District
 - Sexual Assault Exam (SAE) due from the County Hospital District, Office of the Attorney General, and Cook Children's Hospital
 - Overtime expenses due from US Marshal DFW FAST
- 10) Obtained a copy of the inventory performed by the Purchasing Department.
- 11) Verified that the exiting official's security authorizations were *deactivated* and the incoming official's security authorizations were *activated* for the various computer systems, applications, and bank accounts.
- 12) Verified the outgoing DA surrendered the following:
 - Building or office keys and parking pass for assigned parking facility
 - Identification badge terminated by Facilities Department
 - Laptop computers, tablets, or other computing devices
 - County-issued mobile phone
- 13) Verified that no dues or memberships were paid from the County's general fund or DA's forfeiture fund that requires reimbursement from the exiting DA.
- 14) Verified receipt of the incoming DA's Official Bond and Oath per Government Code 43.002 and 44.002.



SHAREN WILSON
Criminal District Attorney
Tarrant County

June 5, 2015

The Honorable B. Glen Whitley, County Judge
The Honorable Commissioners Court
G.K. Maenius, County Administrator
S. Renee Tidwell, County Auditor

Re: Auditor's Report – Exit Response from the Criminal District Attorney

SUMMARY

On December 31, 2014, Joe Shannon's term as the Criminal District Attorney (CDA) expired, and his successor, the Honorable Sharen Wilson, assumed the office on January 1, 2015. At the request of Ms. Wilson, a comprehensive financial audit was requested to provide a verification of cash and other receipts, fiduciary fund balances, seized and acquired property, federal and state reporting requirements, and County assets assigned to the DA. The following is the current CDA response to the Auditor's observations of the previous administration:

- | | |
|---------------|---|
| Observation 1 | A cash shortage exists in one of the DA's bank accounts. |
| Observation 2 | Federal and state reports were not filed within the timelines required by statute. |
| Observation 3 | Certain County fees were not deposited within the timeline required by statute. |
| Observation 4 | The composition of two bank accounts did not exist. |
| Observation 5 | Bank account records were not complete. |
| Observation 6 | Procedures related to Chapter 59.06 seizures and forfeitures were not adequate. |
| Observation 7 | Procedures related to billing and collection of Sexual Assault Exams were not adequate. |
| Observation 8 | All computer-related assets assigned to the DA's Office could not be located. |

CRIMINAL DISTRICT ATTORNEY'S (CDA) OFFICE RESPONSE

The Criminal District Attorney's Office (CDA) appreciates the County Auditor's Office review of the prior administration financials. We will use your report as a guideline for resolving the financial discrepancies.

Sincerely,



Sharen Wilson
Criminal District Attorney