



Fairfax County Internal Audit Office

**Fairfax County Police Department
Seized Assets and Confidential Funds Audit
Final Report**

September 2011

"promoting efficient & effective local government"

NOTE: Certain sensitive and confidential police operational related information has been omitted from general disclosure. This information, if disclosed, would subject the Police Department to potential program and personnel risks.

Background

We performed an audit of the Fairfax County Police Department's (FCPD's) seized asset forfeiture program and its confidential funds program. The seized asset forfeiture program and confidential funds program are managed by FCPD's Organized Crime and Narcotics Division (OCN). Cash, vehicles, and other noncash assets seized during arrest of individuals for crimes are forfeited through the Commonwealth of Virginia or federal courts as civil cases, after the criminal cases are completed. The proceeds from forfeited seized assets are shared with the state and federal governments. The county receives 70% of forfeited seized assets related to state narcotic crime cases, 80 to 100% related to state gambling crime cases, and a portion related to federal criminal cases, based on investigative participation. Forfeited vehicles may either be sold or retained for use by FCPD. FCPD received approximately \$1.48 million of asset forfeiture revenue in FY 2010, of which approximately \$884,000 related to gambling cases. FCPD was using the Barcoded Evidence Analysis Statistics and Tracking (BEAST) system, an evidence and property management system, during the audit period. In January 2010, the Integrated Law Enforcement Automated Field Reporting Dispatch System (ILEADS) was implemented for evidence and property management. BEAST is still being used to account for historical evidence and property data. OCN operates the confidential funds program to support undercover operations. OCN also receives court ordered restitution payments that are managed as part of the confidential funds program.

Executive Summary

Our audit focused on the disposition, expenditure, accounting and controls over seized asset forfeitures and controls over the use of confidential funds. One overarching concern was that a standardized process should be developed for transitioning new staff into positions that include financial responsibilities and that robust standard operating procedures (SOPs) that include the recommendations stated in this report be developed to aid in this transition.

The results of our audit procedures indicated controls over seized asset forfeitures and confidential funds need to be strengthened. We did note that: sufficient documentation was maintained to support the disposition of seized cash tested; seized asset fund expenditures complied with county guidelines; seized asset forfeiture payments received from the state and federal government were properly deposited electronically directly in the county's bank account; and seized cash was stored in physically secure areas. However, the following internal control weaknesses needed to be strengthened to reduce risk exposure:

Seized and Forfeited Cash Transactions

1. There was no written documentation of adequate supervisory review and no evidence of reconciliations performed on seized cash transactions.
2. Seized cash was not recorded in the BEAST system for 6 of 58 cases tested. All of the unrecorded seized cash was noted to be accounted for at the time of forfeiture.
3. Written documentation authorizing the use of forfeited cash was not on file nor was documentation for the transfer of seized cash to a federal law enforcement agency. A previous supervisor was contacted to confirm the authorization for the use of forfeited cash for operations, and the transfer of cash was confirmed by contacting the federal law enforcement agency.

In addition, signed copies of required state and federal forms for seized asset forfeitures were not on file for 35 of 40 cases tested.

Bank Accounts-Confidential Funds

1. Bank reconciliations were not performed for OCN's two separately held bank accounts in FY 2010. A review of the activity for both accounts revealed two unrecorded deposits. The transactions were not recorded in OCN's accounting system. No other unusual or unrecorded amounts were noted during our review of activity for both accounts.
2. Controls over an OCN bank safe deposit box cash fund were not sufficient. There was no evidence that cash counts or reconciliations were performed.

Restitution Revenue

1. Court restitution checks were mailed to at least two different FCPD agency locations that were not responsible for depositing the checks. These locations were not keeping a record of the checks received and forwarded to OCN. The checks were picked up by OCN for deposit and recording.
2. There was improper segregation of duties for restitution payments received by OCN, the administrative assistant was receiving and recording restitution checks.
3. The courts were not providing OCN with adequate reporting on restitution payments and outstanding fees owed, which prevented OCN from being able to effectively track accounts receivable collections.

Seized Vehicles

A periodic inventory of seized vehicles was not performed by OCN. As a result, it could not be determined whether all the seized vehicles on hand were accounted for properly. OCN personnel reported 122 seized vehicles on June 2, 2010, based on their inventory records.

Scope and Objectives

This audit was performed as part of our FY 2011 Annual Audit Plan and was conducted 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. The audit covered the period of July 1, 2007 through June 30, 2010. Our audit objectives were:

- To determine the adequacy and effectiveness of internal controls over seized asset forfeitures and confidential funds.
- To evaluate compliance with state, county and departmental procedures and guidelines regarding expenditures and withdrawal of funds, and those related to the receipt, use, and disposal of other assets.

Methodology

Our audit approach included interviewing management and staff of areas responsible for seized asset forfeitures and confidential funds to obtain an understanding of internal controls. We also carried out walk-throughs of processes; performed various reconciliations; and obtained samples of federal and state forms, purchasing documents, and reports for each police transaction selected for audit.

Our audit did not examine the system controls over financial and evidence and property management applications. Our transaction testing did rely on those controls; therefore, this was a scope limitation. The potential impact of this circumstance on our findings was that some portion of transaction data was erroneous.

Findings, Recommendations, and Management Response

1. Supervisory Review Over Seized and Forfeited Cash Transactions

There was no written documentation evidencing supervisory review of seized cash transactions nor was there evidence that a reconciliation of property room withdrawals of seized cash transactions was performed. FCPD received approximately \$1.48 million of asset forfeiture revenue in FY 2010.

Proper supervisory oversight over seized cash transactions includes ensuring that all transactions are authorized, recorded, reconciled and performed in a timely manner, which reduces the risk of seized cash being lost or stolen.

Recommendation: Reconciliations of BEAST/ILEADS reports of cash moved from the property room by the asset forfeiture detective should be performed on a monthly basis by someone who does not have authority to remove property room funds. All transactions should be verified to the customer copy of the bank's cashier check.

Seized cash amounts for drug related arrests should be reconciled to a Virginia Department of Criminal Justice Services report of cash received and signed documents by defendants and other individuals acknowledging receipt of money if the money was split.

Amounts related to state gambling crime cases should be verified to bank statements showing the deposit, properly approved OCN Safe Cash Requests, and signed documents by defendants and other individuals acknowledging receipt of money if the money was split.

For federal seized asset forfeiture transactions, independent reconciliations should be performed of the asset tracking report of the federal agency that seized the property to the OCN asset forfeiture detective's seized asset tracking schedule, and the federal agency's forfeiture payment reports. If seized cash is transferred to federal law enforcement agencies, it should be reconciled to signed documents by federal law enforcement agents.

Management Response: Per general orders and existing SOPs, all FCPD personnel are responsible for documenting each seizure with a police report, entering the seizure into ILEADS, and sending the seizure to the property room. FCPD will conduct roll-call training to ensure compliance.

Effective July 2011, OCN implemented the following control: all seizures made by FCPD personnel will be recorded on a form, reviewed and approved by an OCN supervisor, and entered into the OCN Asset Forfeiture database. Each month, an OCN commander will complete a quality check on a random sample of database entries.

Seizures not forfeited are documented via court order and returned to defendants who are required to document receipt. Seizures forfeited are also documented via court order and transferred to the entity named in the court order. It should be noted that seizures related to drug cases are transferred via cashier's check made payable to the Commonwealth of Virginia and forwarded to the Department of Criminal Justice Services (DCJS). Seizures related to gambling cases are transferred via cashier's check made payable to the County of Fairfax and forwarded to the Financial Resources Division (FRD) for deposit. OCN is working

with property room personnel to implement a process whereby all monies withdrawn from the property room must be accompanied by the court order and a form documenting the change of custody. One copy of the form will be retained by the property room. A second copy will be reconciled to the cashier's check and the court order, approved by an OCN supervisor, documented in the OCN Asset Forfeiture, and filed. Records will be reconciled to DCJS' reports of cash received and county reports of revenues deposited. DCJS notifies the asset forfeiture supervisor if there is a discrepancy between the court order and the amount received. Annually, FRD will complete a quality check on a random sample of change of custody forms retained by the property room as well as reconcile OCN records of seizures, federal and state reports of assets held and disbursed, and revenues received.

These procedures will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

2. System Recording of Seized Cash

Seized cash was not recorded in BEAST by police investigators for 6 of 58 seized cash forfeiture cases tested. All of the seized cash for the six cases was noted to be accounted for at time of forfeiture. If seized cash is not recorded in the accounting system, it increases the risk of theft and unauthorized use of cash.

Recommendation: After an asset seizure, a BEAST/ILEADS report should be obtained to ensure all seizures are recorded. Asset seizures not recorded in BEAST/ILEADS should be properly approved, documented, inventoried and tracked. The documentation should be reconciled to asset forfeiture transactions.

Management Response: Per general orders and existing SOPs, all FCPD personnel are responsible for documenting each seizure with a police report, entering the seizure into ILEADS, and sending the seizure to the property room. OCN will conduct roll-call training to ensure compliance. The anticipated completion date is January 2, 2012.

3. File Documentation for Seized Cash Forfeiture Transactions

Written documentation was not on file to evidence approval for the use of forfeited cash or a transfer of seized cash to a federal law enforcement agency. Signed copies of required state and federal government seized asset forfeiture forms were not on file for 35 of 40 cases tested.

A supervisor was contacted and the authorization for use of the cash was confirmed. The federal law enforcement agency was contacted and the cash transfer was confirmed.

Copies of state form 999 on file were not signed by the asset forfeiture detective or the OCN captain for 31 cases. Copies of federal form DAG71 were not on file for four state cases transferred to the federal government. We reconciled transactions to documentation received from DCJS evidencing proper forms were completed and submitted. Also, there was evidence of properly authorized seizures based on information obtained from federal agencies.

Proper documentation of seized cash forfeiture transactions reduces the risk of theft or unauthorized use of seized cash. Maintaining signed copies of required state and federal forms for seized asset forfeitures reduces the risk of information and assets being sent to federal and state governments without authorization or proper review and forms not being filed by required deadlines, leading to loss of seized asset forfeiture revenue.

Recommendation: Written documentation authorizing the use of forfeited cash and transfers of seized cash to other law enforcement agencies, and copies of form 998 e-mails and signed 999 and DAG71 forms should be kept on file.

Management Response: Effective July 2011, OCN implemented the following controls:

1. No cash is accepted or distributed without proper documentation.
2. OCN will retain a copy of all state seizure form 998 e-mails.
3. The OCN commander and the asset forfeiture detective will sign and date state seizure form 999 and retain a copy.

It should be noted that all federal seizure files include a copy of the signed DAG71.

These procedures will be documented in the revised SOPs. The anticipated completion date is January 2, 2012.

4. Bank Account Reconciliations

OCN did not perform bank reconciliations for their two separate bank accounts in FY 2010. Two deposits were not recorded in Quicken, OCN's accounting system. Our review of the activity in OCN's bank accounts in FY 2010 did not reveal any other unrecorded deposits or unusual items.

Monthly reconciliations of financial transactions to the accounting system ensure the integrity of the information recorded in the accounting system. The lack of reconciliation of bank account funds to the accounting system increases the risk of accounting errors, cash theft, and unauthorized and improper transactions. Additionally, bank account reconciliations are also necessary for effective cash management.

Recommendation: OCN should reconcile their bank account balances to Quicken transaction reports on a monthly basis and account for any differences. A review

for unusual transactions should also be performed. The bank reconciliation should be performed by staff who do not take custody of checks or cash, or have access to make account withdrawals. The reconciliation should be reviewed by a supervisor and documented with the initials and date of the preparer and reviewer. OCN should include detailed bank reconciliation procedures in SOPs to help ensure reconciliations are performed.

Management Response: Effective July 2011, the OCN administrative assistant logs all transactions into the Quicken system, reconciles to the bank statement at the end of each month, and signs and dates the reconciliation. To meet the requirement of segregation of duties, a supervisor who does not take custody of any checks or cash and has no access to the bank accounts reviews and approves the reconciliation. In addition, an OCN commander approves the reconciliation. Both the supervisor and OCN commander sign and date the reconciliation to acknowledge their review and approval. These procedures will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

5. Oversight of Bank Safe Deposit Box Cash Fund

OCN's controls over a bank safe deposit box cash fund were inadequate. There was no evidence that cash counts or reconciliations were performed.

OCN maintained a bank safe deposit cash fund. A cash count was performed when the safe deposit box was closed on October 7, 2010, when a new OCN captain assumed command.

Reconciliation of bank safe deposit box cash fund balances to disbursements, deposits, and expenditure documentation; and maintenance of a contemporaneous log of fund activity strengthens internal controls. The lack of adequate internal controls over cash funds increases the risk of theft or improper and unauthorized use of cash.

Recommendation: Per discussion with OCN, the use of bank safe deposit box cash funds was discontinued in October 2010. If bank safe deposit box cash funds are used in the future, SOPs should be developed to ensure proper accountability.

Management Response: The OCN bank safe deposit box was opened in 1998 and closed on October 7, 2010. OCN has no plans to open another safe deposit box, but will update the SOPs to reflect proper procedures, if a safe deposit box is opened in the future. This procedure will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

6. Timely Deposit of Checks Received

OCN did not always deposit checks received in a timely manner in FY 2010. Four of twenty deposits tested were not deposited in timely manner and it could not be determined if four other deposits were made timely due to receiving dates not recorded in the check log. We also noted a number checks on a desk and that were not secured. Deposits of \$4,485 and \$4,359 were not made until 13 and 14 business days, respectively, after the checks were accumulated. A deposit of \$13,795 was made two business days after the checks were accumulated. The Department of Finance Accounting Technical Bulletin 40070 requires that deposits be made by the next business day. Failure to deposit funds on a timely basis could lead to occurrence of lost or misplaced funds and loss of interest earnings. Additionally, it could cause errors and irregularities in the book to bank reconciliation.

Since most of the checks were for restitution payments of \$100 or less and received on an irregular basis, OCN's business practice was to hold checks received until they received enough to avoid frequent deposits of small amounts.

Recommendation: OCN should ensure that monetary receipts are deposited by the next business day, based on their business practice. If it is not operationally feasible to comply with ATB 40070, OCN should discuss this with the Department of Finance and attempt to obtain written approval for an exception to the policy. Updates to SOPs should be made accordingly.

Management Response: Effective July 2011, only OCN commanders deposit or withdraw funds from OCN bank accounts. While OCN attempts to deposit all checks by the next business day, operations dictate that checks of small amounts may be held until a deposit of \$500 may be made. FCPD will contact the Department of Finance to obtain written approval for an exception to ATB 40070. These procedures will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

7. Restitution Revenue Controls

There were three control issues over the routing and handling of court ordered restitution checks for OCN investigations:

- a) Restitution checks were being mailed by the Circuit, Juvenile and Domestic Relations, and General District Courts to different locations (FRD, the Massey building mail room, or OCN), rather than consistently being sent to one area for processing oversight. Checks received by FRD or the Massey mail room were forwarded to OCN; they were not logged prior to being forwarded.

- b) OCN's administrative assistant received checks directly from the courts, or those that were forwarded by FRD/Massey mail room, and recorded the information into OCN's Quicken accounting records.
- c) OCN was not receiving supporting information from the courts, listing payment amounts made, which would serve as a reconciliation control to ensure that all monies received were properly deposited. Also, the balance of amounts owed by individuals submitting restitution was not being provided to OCN.

These issues resulted in a process in which there was not sufficient separation of duties in place over the receipt and processing function for restitution checks, nor was there a method in place to adequately reconcile all payments received from the various courts to bank deposit records for the operations account.

The lack of segregation of duties increases the possibility that checks could be lost, stolen, or otherwise misappropriated and not detected. Checks received by mail at multiple locations, which do not record or deposit the checks also increase the risk of theft or lost checks. Finally, restitution collection and receivable information is needed from the courts to ensure that all amounts collected by the courts are received by OCN, and to track restitution payments due for better collection efforts.

Recommendation: We recommend that OCN set up procedures so that one person is not solely responsible for receiving and accounting for restitution checks.

OCN should consider working with the Department of Finance and/or the County Attorney's Office to assist in attempting to get the courts to set up a standardized process for the receipt of these payments. Various options include electronic receipt of payments, or having the checks come into some type of safe deposit or lock box. Those agencies may also be of assistance in trying to obtain payment listing and balance records, which would aid in the reconciliation process of checks received and planning for amounts still owed.

If OCN will continue to receive paper checks, a log should be put into place in which the person receiving the checks (who is not involved in the depositing/system entry/reconciling process) documents each restitution payment received. The reconciler should be a person that doesn't receive or deposit restitution checks. If available, receivable information should be used along with other documentation to reconcile restitution revenue received.

Management Response: Effective July 2011, an OCN commander will receive and log all restitution checks. The OCN administrative assistant will log all checks into the restitution database and prepare for deposit. With the assistance of Department of Finance and the County Attorney's office, FCPD will work with the court system to implement a more efficient and secure process for restitution revenue, possibly direct deposit of restitution checks into the OCN operations

account. It should be noted that OCN has limited recourse against persons failing to make restitution payments as the payments are court ordered. These procedures will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

8. Seized Vehicles Inventory

A periodic count of seized vehicles was not being performed by OCN and reconciled to vehicle inventory records. As a result, OCN did not know the total number of seized vehicles on hand to be able to verify the accuracy of their inventory records. Seized vehicles were stored in various FCPD locations. Seized vehicles on hand included seized vehicles pending court resolution, forfeited vehicles used by FCPD divisions, and vehicles ordered by the courts to be returned to the owners. OCN personnel reported 122 seized vehicles on June 2, 2010, based on their inventory records. An estimate of the value of the vehicles could not be determined.

A periodic count of seized vehicles and a reconciliation of inventory records reduce the risk of theft and unauthorized use of seized vehicles.

Recommendation: OCN should perform a count of seizure related vehicles on a periodic basis and reconcile the count to their inventory records and supporting documentation for vehicles returned to owners, sold, and used by FCPD.

Management Response: All seized vehicles are stored in secure police facilities. Keys belonging to seized vehicles are securely stored. All seized vehicles returned to owners are documented in the seized vehicles database. No seized vehicles are sold or used by FCPD without being awarded to FCPD through forfeiture proceedings and the dispositions are also documented in the seized vehicle database. OCN has implemented a semi-annual physical inventory of all seized vehicles. The results of the inventory will be reconciled to the seized vehicle database. These procedures will be documented in revised SOPs. The anticipated completion date is January 2, 2012.

Other Observation

Timeliness of Asset Forfeiture Cases

We noted that there may be an opportunity to expedite the process of receiving forfeited assets, both cash and vehicles. To obtain forfeited assets, a civil court case proceeding must take place after the related criminal case has been completed. These cases have been handled by the Commonwealth's Attorney's Office and there have been periodic backlogs in the number of cases outstanding. Assistance was lent in the past couple of years by staff in the County Attorney's Office to try and reduce the number of outstanding cases; however, the backlog has again risen.

Review of open cases with OCN staff at the time of our audit indicated that there were 378 asset forfeiture cases awaiting court filings by the Commonwealth Attorney's Office. These included both criminal cases yet to be adjudicated, as well as civil cases. The cash from these cases totaled \$544,176 and 117 seized vehicles. The cash included a portion in which county's share would be 70% of the total (e.g., money seized during drug operations), and a portion which included seized gambling funds where the county retains the entire sum. Since asset forfeiture cases are civil court cases, discussion with OCN staff indicated that the backlog of cases might be reduced and kept at a lower level through FCPD hiring or contracting for a paralegal. The paralegal would perform much of the forfeiture paperwork preparation duties currently done by the Commonwealth Attorney's Office. The paralegal would be responsible for gathering and organizing the necessary paperwork for each asset forfeiture case and submitting it to the Commonwealth Attorney's Office for appearance in court.