AUDIT REPORT

DALLAS COUNTY

DISTRICT ATTORNEY CHAPTER 59 STATE FORFEITURE - FY2023

Wendwessen Stefanos, CPA
First Assistant County Auditor

ISSUED: 5/16/2024
RELEASED: JULY 8, 2024

District Attorney Chapter 59 State Forfeiture - FY2023

TABLE OF CONTENTS

MANAGEMENT LETTER 3

EXECUTIVE SUMMARY 4

INTRODUCTION 5

DETAILS 6

This report is intended for the information and use of the agency/department. While we have reviewed internal controls and financial reports, this review will not necessarily disclose all matters of a material weakness. It is the responsibility of the department to establish and maintain effective internal control over compliance with the requirements of laws, regulations, and contracts applicable to the department.

DALLAS COUNTY
COUNTY AUDITOR

MANAGEMENT LETTER

Honorable John Creuzot
District Attorney
Dallas, Texas

Attached is the County Auditor's final report entitled "**District Attorney Chapter 59 State Forfeiture - FY2023**" Report. In order to reduce paper usage, a hard copy will not be sent through in-house mail.

If you prefer that released reports be emailed to a different (or additional) recipient, please inform me of the name and the change will be made.

Respectfully,

wessen Stefanos

Wendwessen Stefanos, CPA
First Assistant County Auditor

500 Elm Street, Suite 4200 Dallas, Texas 75202 TEL: 214-653-6472
FAX: 214-653-6440

EXECUTIVE SUMMARY

The District Attorney's (DA) Office manages cases in court for other departments and other cities within Texas. In order to obtain money and property that was seized due to illegal activity, the District Attorney Civil section must go to court on behalf of the city /county agencies wanting to take ownership of seized items.

Most cities and county agencies maintain their seized funds while cases are pending. However, the District Attorney's Office maintains funds seized by the Department of Public Safety (DPS). Seized funds cannot be spent until an order of forfeiture is signed by a judge. The District Attorney's Office receives a fee of 20 to 30 percent of the forfeited funds (related to illegal activity only). The amount of the fee depends on agreements between the District Attorney's Office and the law enforcement agencies.

The office also receives a designated amount for property. The District Attorney's Office retains 100% of forfeited property and/or cash on cases initiated by its office.

Summary of Significant Observations:

- None identified

Repeat Observations from Previous Audits:

- **Closed Case Billings**
    - Delays in receiving/collecting payment on closed cases.

Only those weaknesses which have come to our attention as a result of the audit have been reported. It is the responsibility of the department management to establish and maintain effective internal control over compliance with the requirement of laws, regulations, and contracts applicable to the department.

INTRODUCTION

Dallas County Auditor's Office mission is to provide responsible, progressive leadership by accomplishing the following:

- Comply with applicable laws and regulations.
- Safeguard and monitor the assets of the County utilizing sound fiscal policies.
- Assess risk and establish and administer adequate internal controls.
- Accurately record and report financial transactions of the County.
- Ensure accurate and timely processing of amounts due to County employees and vendors.
- Set an example of honesty, fairness and professionalism for Dallas County government.
- Provide services with integrity.
- Work in partnership with all departments to resolve all issues of the County.
- Strive to utilize the latest efficient and effective technology in the performance of tasks.
- Provide technical support and training in the development, implementation, and maintenance of information systems.
- Hold ourselves accountable to the citizens of the County at all times.
- Be responsive to the elected officials and department heads of Dallas County.

The objectives of this audit are to:

1. Ensure compliance with statutory requirements
2. Evaluate internal controls
3. Verification of accuracy and completeness of reporting
4. Review controls over safeguarding of assets

This audit covered the period of September 1, 2022 through August 31, 2023.

The audit procedures will include interviews with key process owners, observation of transactions processing, data analysis and sample testing of transactions. The main system used will also be reviewed and incorporated as part of the testing of transactions.

DETAILS

Closed Cases Billing

Criteria

Per local agreement terms, "Payments to the Prosecuting Attorney shall be made no later than 60 days after receipt of judgment", as well as, "If payment is not made by the Agency at the expiration of sixty (60) days after receipt of judgment, the Agency agrees to pay to Prosecuting Attorney 40% of the value of the Normal Currency, Currency Equivalent, Real Property, Motor Vehicles, or Collectibles forfeited and $75.00 for each item of Personal Property (if applicable) plus all interest earned from the date of seizure until the date of payment, on a pro rata basis."

Standard internal control procedures related to state forfeiture invoices and payments should include:

- Establishing billing and payment procedures, including but not limited to the collection of monies from other agencies, the application of credit to cases, and the calculation of penalties for past due amounts.
- Updating and enforcing local agreements.

Review

A review of 387 closed case billings and the corresponding payments totaling $1,020,337.84 received for fiscal year 2023 revealed:

- As of January 12, 2024, there were 106 closed cases totaling $176,390.59 in which payment had not been received. The delays are between 95 and 329 business days after the final judgement had been rendered.
  - Judgment awarded amount totaling $150,140.59.
  - Awarded vehicle fees totaling $26,250.00.

Status: As of January 25, 2024, remittance request forms and judgments have been sent to law enforcement agencies for overdue payments.

- 146 payments totaling $409,149.53 received from local law enforcement agencies after the 60-day due date were not charged the late fee per local agreement.

Cause/Effect

This is due to inconsistent follow-up on outstanding balances and law enforcement agencies not timely submitting payments for funds due.

This has resulted in uncollected revenues including late fees for case payments made in excess of 60 days after the due date.

Recommendation

Closed Cases Billing

Management should:

- Develop and implement procedures for managing accounts receivables for payments not received on closed cases. Amounts due should be tracked and follow-up performed on any unpaid invoices.
- Enforce contract terms related to charging late fees.

Management Action Plan

To address these issues, we have established a tracking format electronically to monitor overdue payments effectively, ensuring timely follow-up actions. The financial services team manages this list, ensuring accountability and consistent monitoring. Furthermore, we will try to re-enforce the late payment policy as stipulated in the local agreement, issuing notices of overdue payments. We will continue to engage with local law enforcement agencies to communicate the importance of timely payments and to discourage future delays. Also, we have conducted a comprehensive review of the current local agreements to identify any ambiguities or gaps related to payment timelines. As of FY2024 93% of dues have been collected. We will collaborate with relevant stakeholders to update the agreements, ensuring they reflect clear and enforceable consequences for late payments, and provide training sessions for law enforcement agencies to familiarize them with the updated agreements and the importance of adherence.

Auditor's Response

Special Fund Activity - Fund 547

Criteria

Per Local Government Code Section 113.008 (f) (1), an official with special funds in the depository bank shall: reconcile all balances and transactions in the statement of activity to the transactions and balances shown on the official's records.

Per Property Code 72.101, personal property is presumed abandoned if, for longer than three years: (1) the location of the owner of the property is unknown to the holder of the property; and (2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

Per standard internal control procedures, the special fund is reconciled timely and periodically reviewed by management to ensure that money is promptly disbursed for the correct amount to the appropriate parties and from the correct funding source. Additionally, funds are to be released to the party listed on the final judgment order.

Review

A review of Special Fund 547 activity for the audit period of September 1, 2022 to August 31, 2023 identified:

- Three cases totaling $2,782 should be returned to defendant/owner.
- One case with a total amount of $1,093 should be escheated to the State Comptroller.

Cause/Effect

This is due to the department's lack of written procedures for abandoned property.

This has resulted in delayed disbursements being issued to entities and individuals entitled to the funds.

Recommendation

Special Fund Activity - Fund 547

Management should:

- Research old case balances to determine if disbursement is to be returned to the applicable parties or to be escheated to the County Treasurer or the State Comptroller.

Management Action Plan

To resolve these issues, we have developed and implemented a standardized process for the timely review and return of funds to defendants/owners. This process includes clear timelines and responsibilities to ensure swift action, and we continue communicating with defendants/owners to inform them of the return process and expected timelines. Additionally, we have established a clear and efficient escheatment procedure to ensure that funds due to the State Comptroller are identified and processed promptly. The financial services team will assist other division staff in regularly reviewing financial activities to identify cases requiring escheatment and initiate the necessary processes. To ensure ongoing compliance, we are ready to escheat $1,093 and $724 to the comptroller and $1,322 (DWOP) has been returned to the agency and $736 has been returned to the defendant.

Auditor's Response

Monthly Civil Asset Forfeiture Stat Report Review

Criteria

Per Code of Criminal Procedure Article 59.06 (g) (1), all law enforcement agencies and attorneys representing the state who receive proceeds or property under this chapter shall account for the seizure, forfeiture, receipt, and specific expenditure of all the proceeds and property in an audit."

Standard internal control procedures related to data entry for seizure and forfeiture cases in the Legal Files system should include:

- A formal review to ensure accurate data is entered.
- The system accurately reflects the original seizure documents and signed case judgments prior to closing a case.

Review

A review of a random sample of 37 out of 372 (10%) cases from the District Attorney's monthly Filed Civil Asset Forfeiture Stats report for the audit period of September 1, 2022 to August 31, 2023 compared to the original petitions identified:

- One filed case in which the number of firearms seized was understated by one property item in the monthly stat report.
- One filed case in which the number of jewelry pieces seized was overstated by one property item in the monthly stat report.

A review of a random sample review of 39 out of 387 (10%) cases from the District Attorney's monthly Closed Civil Asset Forfeiture Stats report for the audit period of September 1, 2022 to August 31, 2023 compared to the final judgments identified:

- One closed case was understated by $7,917 in the monthly stat report.

A review of a random sample of 33 out of 332 (10%) cases from the District Attorney's Pending Civil Asset Forfeiture Stats report as of the audit period of September 1, 2022 to August 31, 2023 compared to the original petitions identified:

- Three pending cases were understated by a total amount of $4,922.88 on the monthly stat reports.
- One pending case was understated by six property items on the monthly stat report.

A review of the internal control walkthrough of Legal Files process for seizure/forfeiture cases revealed:

- A secondary review was not performed to ensure that all case data entered by the Investigator II in Microsoft Access and Legal Files is accurate.

Cause/Effect

The is due to manual data entry errors and no supervisory review of the Civil Asset Forfeiture Stat Reports.

This has resulted in undetected Chapter 59 Asset Forfeiture report discrepancies and inaccurate seizure/forfeiture records.

Recommendation

Monthly Civil Asset Forfeiture Stat Report Review

Management should:

- Ensure seizure/forfeiture data entered into the system reflects accurate data from the original case petitions and signed final judgements.
- Periodically review the Civil Asset Forfeiture Stats reports to ensure data accuracy.
- Consider implementing an automated system that would feed data into Legal Ease.

Management Action Plan

To ensure the accuracy and completeness of data, we have established a mandatory secondary review process for all data entries related to seizure/forfeiture cases. The financial services team conducts this review, and a detailed checklist is developed to standardize the verification steps and reduce the risk. Additionally, regular training sessions will be provided for all relevant staff on the importance of accurate data entry, the potential consequences of errors, and the procedures for the secondary review process. Furthermore, we will schedule periodic internal audits of the Civil Asset Forfeiture Stat reports to identify and correct any discrepancies promptly, maintaining the integrity of the data and building a culture of accuracy and accountability. The findings from these audits will be used to continuously improve data entry processes and review mechanisms, with feedback loops established where audit results are communicated to the team for ongoing improvement. Finally, we will collaborate with the stakeholders to develop and disseminate clear, written guidelines and procedures for the civil department and review related to seizure/forfeiture cases. These documents will serve as a reference for staff, ensuring consistency in practices and regular updates to reflect any changes in procedures or regulatory requirements.

By implementing these management action plans, we are committed to enhancing our processes' accuracy, efficiency, and compliance. This proactive approach will ensure that we meet our obligations effectively and maintain the highest standards of operational integrity.

Auditor's Response

cc: Darryl Martin, Commissioners Court Administrator