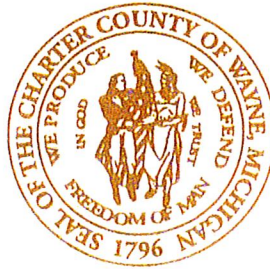


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Auditor General

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July 26, 2018

FINAL REPORT TRANSMITTAL LETTER

Wayne County Commission:

Enclosed is our copy of the Office of Legislative Auditor General's, Office of the Wayne County Prosecuting Attorney, Special Operations – Asset Forfeiture Unit Performance Audit. The report is dated April 13, 2018; DAP No. 2017-57-003. The report was accepted by the Committee on Audit at its meeting held on July 18, 2018 and formally received by the Wayne County Commission on July 26, 2018.

We are pleased to inform you that officials and staff of the Office of the Wayne County Prosecuting Attorney provided their full cooperation. If you have any questions, concerns, or desire to discuss the report in greater detail, we would be happy to do so at your convenience. This report is intended for your information and should not be used for any other purpose.

MARCELLA CORA, CPA, CIA, CICA, CGMA
Auditor General

REPORT DISTRIBUTION

Office of the Wayne County Prosecuting Attorney

Honorable Kym L. Worthy, Prosecuting Attorney

Donn Fresard, Chief of Staff

Brian Moody, Deputy Chief, Special Operations

Rosalyn D. Gibson, Director of Finance

Department of Management & Budget

Henry Dachowitz, Chief Financial Officer

Mathieu Dube, Deputy Chief Financial Officer

Shauntika Bullard, Assistant Director, Grants Compliance and Contract Management

Wayne County Executive

County of Wayne, Michigan

Wayne County Prosecutor's Office

DIVISION OF SPECIAL OPERATIONS

ASSET FORFEITURE UNIT

Performance Audit

April 13, 2018

DAP No. 2017-57-003

EXECUTIVE SUMMARY

Introduction

The Asset Forfeiture Unit (AFU) is the only civil-law arm of the Wayne County Prosecutor's Office (WCPO) that handles quasi-criminal law cases as well as some criminal law cases. The AFU is a multi-functional unit of the Special Operations Division in the Wayne County Prosecutor's Office that operates three sub-units; Asset Forfeiture, Drug House, and Vehicle Seizure. The largest part of the AFU's practice is quasi-criminal; namely, cases filed in civil court using civil procedural rules that have criminal activity overtones, including: drug asset forfeiture, nuisance abatement, omnibus forfeiture, identity theft, illegal gambling asset forfeiture, civil in rem racketeering enforcement, and vehicle forfeitures.

The AFU also handles environmental law violation cases that are grounded in criminal law statutes, and competency hearings in probate court. The Drug House Unit (DHU) files civil actions against real property where nuisance and other illegal narcotic activities occur. The Vehicle Seizure Unit (VSU) processes cases submitted by police agencies involving seized vehicles which were used during the purchase or attempted purchase of narcotics (*Push-Off* cases); used or intended to be used for soliciting prostitutes (OTE cases); or used in violation of the drunk driving laws (OWI forfeitures). In 2004, a Operating While Impaired (OWI) vehicle forfeiture program was implemented in an effort to make the streets of Wayne County safer by seizing and forfeiting vehicles from drunk and drugged drivers.

Audit Objective		
Objective #1: Assess Effectiveness of Controls Over the Seizure of Forfeited Assets From Illegal Activities		
Issues Identified	Type of Issue	View From Responsible Officials
2017-01 – Establish Business Unit for Asset Forfeiture Operations	Significant Deficiency	Disagree
2017-02 – Asset Forfeiture Unit Databases Require Upgrading or Replacement	Control Deficiency	Agree
2017-03 – Implement Controls Over Cash Receipts – Asset Forfeiture Unit	Significant Deficiency	Disagree
2017-04 – Implement a Formal Written Policy for Asset Forfeiture Unit	Control Deficiency	Agree
2017-05 – Lack of Controls Over Forfeiture Funds – WCPO Finance and Administration	Material Weakness	Disagree

Views of Responsible Officials

These have been incorporated in the body of this report under Views of Responsible Officials.

Corrective Action Plan

A Corrective Action Plan (CAP) will be requested approximately 30 days after this report is formally received and filed by the Wayne County Commission. If sufficient corrective action is not taken, a follow-up review may be necessary.

REPORT DETAILS

PURPOSE / OBJECTIVE

The Office of Legislative Auditor General conducted a performance audit of the Office of the Wayne County Prosecuting Attorney, Division of Special Operations, Asset Forfeiture Unit. This type of engagement provides an objective analysis to assist management and those charged with governance and oversight. The information provided can help improve controls and processes by parties with responsibility to oversee or initiate corrective action and contribute to public accountability.

Our objective for this engagement was to: Assess the effectiveness of controls over the seizure of forfeited assets from illegal activities.

SCOPE

We conducted this performance audit in accordance with Generally Accepted Governmental Auditing Standards (GAGAS) issued by the Comptroller General of the United States. 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 the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

The scope of our engagement included the periods of October 1, 2014 through September 30, 2017. The fieldwork was substantially completed on March 15, 2018.

METHODOLOGY

The principal methodology used for this engagement was limited to interviews with key members of the Special Operations Division, Asset Forfeiture Unit, Wayne County Prosecuting Attorney's Office (WCPO); including a walkthrough of the asset forfeiture process. We obtained and reviewed the following case files: (1) Drug Asset Forfeiture/Nuisance Abatement/Omnibus Forfeiture; (2) Identity Theft Forfeiture/Fraudulent Recordings; (3) Vehicle Seizures (applied to Push-Off, Nuisance Abatement and Operating While Intoxicated); (4) Contesting a Vehicle Seizure; and, (5) Administrative Forfeitures. We also reviewed payment processing for vehicle seizures. Lastly, we performed analytical procedures on limited financial data.

Finally, we met with management officials to discuss our findings, obtain their input, and their concurrence and/or disagreement with the report's conclusions, findings and recommendations.

BACKGROUND

The Wayne County Prosecuting Attorney's Office includes a Division of Special Operations which consists of seven specialized units, including the Asset Forfeiture Unit (AFU), which contains two sub-units, the Drug House Unit (DHU) and the Vehicle Seizure Unit (VSU). The AFU is the only civil-law arm of the Wayne County Prosecutor's Office. The function of this unit is to positively impact the quality of life within Wayne County. To accomplish this, the attorneys and staff assigned to this unit conduct civil litigation in several areas: drug asset forfeiture of real and personal property that is engaged in containing, conveying, facilitating, or transporting illegal drugs; nuisance abatement actions against real property used for illegal prostitution activities, illegal after-hours clubs and bars engaged in illegal alcohol sales and narcotics use; actions against illegal fencing operations, identity theft operations; environmental enforcement; and actions against illegal gambling operations. It also uses vehicle seizure programs to seize vehicles used for the purposes of prostitution, drugs, or while operated by repeat drunk drivers. The Asset Forfeiture Unit also handles the mental health docket and conducts training for police departments.

The purpose of the Asset Forfeiture Unit is to improve the quality of life in Wayne County by invigorating all police agencies to enhance public safety and security by divesting assets illegally associated with, used, and obtained by individuals involved in narcotics trafficking and other criminal and nuisance activities. Furthermore, the AFU looks to enhance community and business goodwill through a practical use of the nuisance abatement laws.

The AFU operation is staffed with a total of six (6) full-time employees: one (1) Deputy Chief; two (2) Assistant Prosecuting Attorneys (APAs); one (1) Department Supervisor; and, two (2) Clerical Specialists. There is also one (1) part-time contract APA.

For calendar year 2016, the Asset Forfeiture Unit (including the AFU, DHU and VSU combined) forfeited a total of \$6,013,589 in monetary and non-monetary assets on behalf of countywide police seizing agencies. The Asset Forfeiture Unit also generated \$1,050,984 in attorney fees/revenue and recovered \$47,880 in costs for the Wayne County Prosecutor's Office. In addition, Asset Forfeiture Unit attorneys conducted a total of 17 trials/hearings and attended numerous settlement conferences with the judge.

ASSESS EFFECTIVENESS OF CONTROLS OVER THE SEIZURE OF FORFEITED ASSETS FROM ILLEGAL ACTIVITIES

Objective – Assess effectiveness of controls over the seizure of forfeited assets from illegal activities.

Conclusion

Based on our review of the Asset Forfeiture Unit, we found that controls over its operations were generally effective. However, we did note areas where the control environment could be strengthened.

Establish Business Unit for Asset Forfeiture Operations

The Wayne County Prosecuting Attorney Office's FY 2016/2017 budget was \$39,539,202. Of this total, \$33,063,695, or 83.6%, was General Fund/General Purpose dollars accounted for in Business Unit 22900. The activities of the Asset Forfeiture Unit, a component of the Special Operations Division within the WCPO, are recorded in this one business unit.

The AFU's revenues are recorded in a number of accounts within this one (1) business unit. The following chart details the revenue recorded for Fiscal Years 2015, 2016, and 2017.

REVENUE RECORDED BY ACCOUNT FOR FISCAL YEARS 2015, 2016 AND 2017					
ACCOUNT NO.	ACCOUNT NAME	FY 2015	FY 2016	FY 2017	TOTAL
101.22900.614011	Pros Atty - Filing Fees	\$ 88,490.99	\$ 46,458.00	\$ 33,965.00	\$ 168,913.99
101.22900.614012	Forfeiture - Attorney Fees	220,527.30	160,110.61	77,142.00	\$ 457,779.91
101.22900.614030	Narc Forfeitures (Push-off)	131,150.00	236,208.00	133,150.00	\$ 500,508.00
101.22900.614050	QUIL - Revenue (OWI)	38,510.62	34,367.19	35,870.00	\$ 108,747.81
101.22900.631080	Misc Receipts (OTE & Drag Racing)	460,837.60	378,470.29	377,998.00	\$ 1,217,305.89
	TOTAL	\$939,516.51	\$855,614.09	\$658,125.00	\$ 2,453,255.60

However, we were unable to determine the AFU's expenditures primarily because, according to the WCPO Finance Department, the expenditures for the Asset Forfeiture Unit are commingled with all expenditures recorded in the WCPO's Business Unit 22900. As a result, we were unable to assess the financial activity of the AFU, and therefore, the cost of the unit's operations.

Generally Accepted Accounting Principles (GAAP), specifically the matching principle, states that revenues generated in an accounting period need to be matched with the expenses incurred in that same accounting period. Further, this will aid the WCPO management in evaluating the cost of the of asset forfeiture operations.

According to the WCPO's office, the Asset Forfeiture Unit does not allocate its expenditures separately from general operations.

However, we compared this structure to structure of another Elected Office, the Wayne County Commission. Even though 100% funded through the General Fund, the Wayne County Commission has established four (4) separate business units for its various functions:

- Office of Policy and Research
- Commission Clerk
- Commission Fiscal Agency
- Auditor General

Another example is the Wayne County Sheriff's Office which has a FY 2017 budget of \$142,809,285. Of this, \$128,971,878, or 90.3%, was General Fund dollars. The fiscal activity for this function was recorded in 27 separate business units.

Failing to budget and record the Asset Forfeiture Unit activities in a separate business unit makes it difficult to identify and evaluate the operating revenues/costs associated with the AFU's operations. This hinders WCPO management in determining the true cost of operations and could hinder evaluating the efficiency and effectiveness of asset forfeiture operations.

Because there is significant Asset Forfeiture Unit activity, both the Deputy Chief Financial Officer in the Office of Management and Budget (OMB), as well as the OMB Budget Director, supports the creation of a separate business unit to track Asset Forfeiture Unit's activity.

Recommendation #2017-01 – Significant Deficiency

We recommend that the Wayne County Prosecutor's Office establish a business unit for Asset Forfeiture Unit operations.

Views of Responsible Officials

Management Disagrees

Michigan's drug asset forfeiture law is governed through statute in the Public Health Code, MCL 333.7521 et seq. Section 7524 of that Act addresses the disposition of property forfeited by seizing agencies. Until the most recent amendment of this section of the Act, all property forfeited by a seizing agency could only be used to enhance law enforcement purposes relating to drug enforcement. On October 4, 2011, by the enactment of Public Act 2011, No.611, the use of funds forfeited through this forfeiture statute was expanded. The legislature promulgated that all funds must continue to be used for the enhancement of law enforcement efforts, but could be used for all law enforcement efforts, thus removing the restriction that it solely be used for drug enforcement. It must be noted, all attorney fees and recovered costs by the Attorney General's Office, county prosecutors' offices, and city attorney offices through their representation of seizing agencies that seek forfeiture of drug assets are not subject to these use restrictions since the assets are not forfeited to these various law offices, but instead, only to the seizing police agencies.

Recognizing that Generally Accepted Accounting Principles (GAAP) require that all special revenue funds must be recorded in a separate fund together with associated expenditures, prior to the October 4, 2011 change in the law, the Wayne County Prosecutor's Office deposited all drug forfeiture attorney fees and recovered costs into a special fund, Fund 265. However, since

the change in the drug asset forfeiture law removed the special restriction, these funds no longer were categorized as special revenues. Thus, Fund 265 was rightfully eliminated and all attorney fees and cost recoveries were correctly deposited into the general fund, Fund 101. The WCPO complied with GAAP.

In addition, WCPO is, by Charter, a General Fund supported elected office. Any revenue generated is General Fund, excluding restricted funds from grant revenues and/or previous drug forfeiture law.

The OAG request to consider separating Asset Forfeiture Unit cost into its own business unit will be given consideration. However, we believe this is not necessary as each unit within the Prosecutor's Office has an assigned department code within PeopleSoft and their cost can be queried at any time.

As a result, we believe the ability to obtain the unit cost can be done under our current processes.

Asset Forfeiture Unit Databases Require Upgrading or Replacement

All case file data for the Special Operations, Asset Forfeiture Unit (AFU) is maintained in three (3) databases: (1) Asset Forfeiture; (2) Drug House; and, (3) Vehicle Seizure. However, AFU management is not able to prepare reports from the database, or is not aware of the reporting capabilities of these databases. Specifically, an Assistant Prosecuting Attorney serves as the database administrator whose responsibility is primarily limited to adding and deleting database users. For instance, the OAG requested a report containing all cases opened during the scope of our engagement. According to AFU management, this report could not be generated since the database does not contain historical data, but can only generate a case report as of the current date. AFU management stated that the databases were developed in approximately 2001.

In addition, according to Department of Information Technology (DoIT) management the database is considered a legacy system that runs on an obsolete and unsupported platform. Within the next six (6) months, DoIT will discontinue all support for these platforms. According to DoIT management, the Wayne County Prosecutor's Office has been made aware of the need to replace the legacy platforms and is actively looking into possible replacements.

Functionality of an asset forfeiture database should include reporting tools to assist users within the unit in providing transparency over operations. The Wayne County Department of Information Technology issued Policy #10183001 01, *Information Security Policy*, dated June 12, 2017. The policy was designed, among other things, to ensure that Wayne County's information resources are adequately and appropriately protected against inability to prevent disruption of business processes.

According to Special Operations Asset Forfeiture Unit management, departmental expertise to maintain the database or have knowledge of reporting capabilities no longer exists.

By not having the computer expertise in the Special Operations, Asset Forfeiture Unit, management is relegated to using limited reporting capabilities of the databases. In addition, if the Special Operations Asset Forfeiture Unit databases become inoperable, case file information

for the Asset Forfeiture Unit and Drug House Unit cases will have to be maintained manually. In addition, case numbers and Forfeiture File Numbers (FFNs) will have to be generated and tracked manually.

Recommendation #2017-02 – Control Deficiency

The Wayne County Legislative Auditor General recommends that the Special Operations, Asset Forfeiture Unit immediately collaborate with the Department of Information Technology:

- (A) Upgrade or identify replacements for the Asset Forfeiture Unit, Vehicle Seizure Unit and Drug House Unit databases.
- (B) Ensure staff is adequately trained on all functionalities of the database program including reporting capabilities.

Views of Responsible Officials

Management Agrees

The IT personnel of the WCPO have IT expertise and knowledge of the databases reporting capabilities but do not have the authorization from the county to address any database issues. To do so, WCPO IT personnel communicate with the developer of the databases and county DoIT when necessary and have resolved reported issues.

Management is aware of the databases limited reporting capabilities. Further, management can prepare reports, although the type of reports that can be prepared is limited.

In an effort to correct any database deficiency, the WCPO is in the process of implementing an office-wide case management system. Modules for Asset Forfeiture and Vehicle Seizure are being planned through the Prosecuting Attorneys Coordinating Council/Prosecuting Attorneys Association of Michigan (PAAC/PAAM) and will be deployed in conjunction with County DoIT. The Drug House database functionality will be integrated into the search warrant tracking module of the case management system. Further, staff is and will continue to be trained on the functionalities of the database systems currently in place. As new systems are instituted, staff training will be central to the implementation. WCPO IT and DoIT ensure that unit management has access to the required reports from these databases.

Implement Controls Over Cash Receipts – Asset Forfeiture Unit

The Asset Forfeiture Unit receives money orders and cashier's checks from claimants for redemption fees and settlement agreements; however, we noted that the money orders and cashier checks are not being immediately restrictively endorsed. Furthermore, cashier's checks and money orders are being held by the AFU, and therefore, not being deposited timely.

Specifically, payments are collected by the AFU's clerical staff, which is responsible for recording the payments in the asset forfeiture database. Then, the AFU Department Supervisor collects the daily payments and completes a Vehicle Seizure Daily Accounting Report which lists the payments along with the corresponding case number. There is no independent review verifying the payments listed on the Daily Accounting Report. This report is then emailed to the AFU Deputy Chief and Prosecutor's Office Finance and Administration. The Department Supervisor then hand-delivers the money orders and cashier's checks to the Accounting Clerk in

the Finance and Administration Office who is responsible for posting the funds in JD Edwards and forwarding the money order/cashier's checks to the Wayne County Treasurer's Office (WCTO) for deposit.

However, during our review of the process within the AFU, we observed \$48,280 (see table below) which represented 38 money orders and cashier's checks* in the supervisor's office overhead compartment. Per AFU management, a check for \$7,500 included in the \$48,280 total, represents an installment payment on a case settlement. Installment payments are held and the case remains open until all payments have been received. The Vehicle Seizure Daily Accounting Report was completed but the report was not emailed to the AFU Deputy Chief and Office of Finance and Administration. More importantly, the money orders and checks were not delivered to the Finance and Administration for deposit. We determined that the number of days between the date of observation and the check/money order date ranged from 1 to 7 days, with the exception of one cashier's check related to a Consent Judgment which was 36 days old, as noted in the following chart.

Observation of Receipts Held by AFU

Observation Date	Daily Report Date	Amount	Days Between Observation and Receipt	Comment
9/20/2017	*8/16/2017	\$ 7,500.00	35	^ Cashier Check
9/20/2017	9/14/2017	7,200.00	6	
9/20/2017	9/15/2017	12,600.00	5	
9/20/2017	*9/15/2017	2,080.00	5	Cashier Check
9/20/2017	9/18/2017	11,700.00	2	
9/20/2017	9/19/2017	6,300.00	1	
9/20/2017	9/20/2017	900.00	0	
Total		\$ 48,280.00		
* - Check Date				
^ - Installment Payment				

In addition, we noted that the money orders and cashier's checks were not stored in a locked fireproof safe.

Management & Budget Policy/Procedure No. 14000, issue date August 2002 – Cash Receipts dictates: “*Cash receipts processing must be conducted in a consistent, accurate and timely manner.*”

In addition, cash is the most liquid asset and most susceptible to misappropriation. Therefore, it requires internal control procedures that include segregation of duties, daily processing, timely deposits of funds received, and storing cash receipts in a location where access is restricted from unauthorized personnel and safe from fire damage.

The WCPO Special Operations Asset Forfeiture Unit does not have policies and procedures that serve to safeguard cash receipts.

Untimely transfer of money orders and cashier's checks to WCPO, Finance and Administration may delay the processing of cash receipts by the Treasurer's Office. In addition, unendorsed money orders and cashier's checks, which are not stored in a fireproof safe or lockbox, have a higher risk of misappropriation, theft, misuse and possible loss in the event of a fire.

Recommendation #2017-03 – Significant Deficiency

The Office of Legislative Auditor General recommends that the Wayne County Prosecutor's Office, Special Operations Asset Forfeiture Unit:

- A. Consider restrictively endorsing money orders and cashier's checks "for deposit only" immediately upon receipt;
- B. Complete the Vehicle Seizure Daily Accounting Report and hand-deliver the cash receipts to WCPO Finance and Administration at the end of each day;
- C. Perform an independent review and verification of the payments listed on the Daily Accounting Report; and,
- D. Store unprocessed cash receipts in a fireproof safe or lockbox.

Views of Responsible Officials

Management Disagrees

The WCPO must reiterate the Asset Forfeiture Unit is technically comprised of three sub-units: 1) Asset Forfeiture Unit; 2) Vehicle Seizure Unit; and, 3) Drug House Unit. The Asset Forfeiture Unit collects funds only in the form of money orders and/or cashier's checks as payment for the settlement of all forfeiture and nuisance related matters. Collection of settlement funds for all asset forfeiture and drug house cases are handled separately from collections for vehicle seizure units (VSU) matters.

Complete the VSU daily report and hand-deliver cash receipts to the Finance Department at the end of each day, and complete an independent review of the daily accounting report

As previously explained to the OAG, the vehicle seizure procedures manual guides the assigned clerical when conducting VSU collections due to the volume of cases handled by the VSU on a daily basis. The department supervisor collects all submitted money orders and cashier's checks for VSU case settlements and keeps them in her locked filing cabinet until further processing. The department supervisor compares the VSU collections with the daily accounting report, forwards the report and attached checks to Finance, and follows up with an email notifying the account clerk that a delivery has been executed to which the account clerks acknowledges receipt. The Finance department accounting clerk enters all information into a database and journal entries are made for the senior accountant to review. The Finance department deposits all funds with the county Treasurer once per week. The county Treasurer gives the WCPO a receipt for funds only if the entries balance.

Concerning any receipt of payment for asset forfeiture unit (AFU) cases, these funds are collected only by the department supervisor who immediately places them into her locked overhead filing cabinet. The same controls used for VSU cases are exercised by Finance when obtaining receipt of funds for the AFU cases. Very rarely will the WCPO enter into an agreement allowing installment payments to fulfill the terms of a settlement agreement. In this situation, the case remains open until all payments are made for important legal reasons. These

payments are retained by the AFU locked in the department supervisor's file cabinet until the final payment is made per the agreement between the parties. Only after final payment is received do we close the case and forward a copy of the legal document with the payments to Finance.

The need of a "for deposit only" stamp immediately upon receipt of payments

The WCPO disagrees that a "for deposit only" stamp is needed to further protect money orders and cashier's checks from being misappropriated, stolen, or misused. All instruments submitted to the Asset Forfeiture Unit are made payable by claimants to the Wayne County Prosecutor's Office. In addition to the names and addresses of claimants that appear on these instruments, identifying forfeiture file or vehicle seizure unit file numbers are also written in ink on the checks. Misappropriation of submitted money orders and cashier's checks has not occurred under Prosecutor Kym Worthy's administration. It is our opinion that such an additional step to protect these funds is unnecessary. Adequate controls are being used by the WCPO.

Safety of storage and timeliness of transfer of instruments and store cash receipts in a fireproof safe or lockbox

First, the WCPO has written policies addressing the receipt of payments in the Vehicle Seizure Procedures Manual provided to the OAG. The operating procedures maintain the integrity of VSU redemption collections providing recording safeguards and supervisor oversight. While there is no written manual for the AFU, collections are received and maintained only by the department supervisor who follows similar procedures as VSU matters by copying the checks, attaching them to copies of the judgments, which is placed in our close file and forwarded to the seizing agency, and then hand-delivering the money orders or cashier's checks with the attached judgment/agreement to the WCPO Finance Department. No money orders or cashier's checks have gone missing in the AFU during Prosecutor Kym Worthy's tenure. A written policy for the AFU is not necessary to safeguard cash receipts.

Second, the OAG suggests that the WCPO Asset Forfeiture Unit stores money orders and cashier's checks endorsed to the WCPO in an unlocked overhead compartment when it stated, "we observed...money orders and cashier's checks in the Supervisor's office overhead compartment." What the OAG left unsaid is that they could view these checks only after the overhead compartment was unlocked by the department supervisor that morning. The department supervisor locks the cabinet at the end of every day, and unlocks it first thing every morning she is working. Except for the department supervisor and Deputy Chief, each of whom has a key, these funds are inaccessible to all others. Further, this area has restricted access and is under constant surveillance by the WCPO investigative officers staff. There is no safety storage issue. Adequate safety controls are being exercised.

Regarding the cited example of a check being held for 36 days, in some matters before the court, legal terms of agreement are executed between the parties by means of scheduled settlement payments. The parties agree that prior to the entry of the judgment with the court all payments are made by the claimants to the WCPO Asset Forfeiture Unit. This practice of holding the agreement until fully executed between the parties and the receipt of a final court order reduces potential further litigation by eliminating future show cause actions seeking full payment. That is

the reason this particular money order was held in the department supervisor's locked, inaccessible cabinet for this period of time.

Additionally, while we have limited staff, back-up personnel have been identified to assist with the operation of the AFU, if needed. Although not alleged by the OAG, there is no evidence that money orders and/or cashier's checks have been misappropriated, stolen, misused, or destroyed by fire because no such instances have occurred. The lack of a written asset forfeiture manual does not contribute to allowing employees to misappropriate, steal, or misuse funds.

Implement a Formal Written Policy for Asset Forfeiture Unit

The Asset Forfeiture Unit has a Vehicle Seizure Procedures Manual, however, the manual has not been updated since 2012 nor does it include procedures for all operations of the Asset Forfeiture Unit. In addition, the manual does not include procedures for updating or maintaining the case records in the Asset Forfeiture, Vehicle Seizure and Drug Asset Forfeiture databases.

Specifically, WCPO management provided us with a copy of their Asset Forfeiture Unit – Vehicle Seizure Procedures Manual (Effective March 26, 2009; Revised December 7, 2012.) Our review of the manual disclosed that it only addressed procedures for vehicle seizures. In addition, rather than formally updating the manual, various emails have been communicated to staff advising them of procedural changes that need to be implemented. Such as:

- Subject – DHU Search Warrants (May 16, 2011).
- Subject – Drug House, Forfeiture, Vehicle Seizure Databases (June 13, 2011).
- Subject – Directive – Database Entries (June 15, 2011).
- Subject – Blood Draws (Dated August 31, 2012).
- Subject – Nuisance Abatement Attorney Fees (March 6, 2014).
- Subject – Property Forfeitures (September 5, 2014).
- Subject – Pre-Bond Posting Case Reviews (February 11, 2016).
- Subject – AFU Procedure – Finance (February 23, 2016).
- Subject – DPD Vehicle Cases (February 26, 2016).
- Subject – VSU Operating Procedure (March 24, 2017).
- Subject – Returning Proofs of Service (April 25, 2017).
- Subject – AFU Case Filings (April 25, 2017).

We also noted that a significant piece of legislation, signed by Michigan's Governor, may not have been formally communicated to staff. In January 2017, legislation was signed that bans a cash bond requirement in civil asset forfeiture proceedings, effective April 1, 2017. Management stated that this change in the law was openly discussed with staff at length when the legislative bill was proposed in May 2015, subsequently to when it passed in 2016, and when it went into effect in 2017. However, we found no documented evidence that this significant piece of legislation was formally communicated to staff via either memo or email.

Written policies and procedures, along with a mechanism to update staff between manual revisions, (i.e. directives, memorandums, emails, etc.) bring structure to an organization and assist in its day-to-day operations. Formal written policies are guidelines to communicate objectives to employees, and serve as a tool for management to evaluate the performance of the employees, and ultimately, the organization.

The Asset Forfeiture Unit does not have a system in place to ensure that a comprehensive procedures manual includes all areas of operations, and is reviewed and updated periodically for significant changes in operations.

Not ensuring that a complete and current formal comprehensive policies and procedures manual exists could result in ambiguity of division oriented duties. Failure to provide employees with policies and procedures/guidelines leaves too much to an individual's own discretions, and could lead to inconsistencies and poor job performance.

As a result, AFU cannot provide consistent and clear communication to:

- Notify employees of AFU expectations involving case entry into databases;
- Eliminate senior management involvement with routine tasks;
- Develop consistent handling of cases throughout the AFU;
- Provide accepted methods in handling complaints; and,
- Provide guidelines and expectations for new employees/management.

Recommendation #2017-04 – Control Deficiency

The Wayne County Office of Legislative Auditor General recommends the Asset Forfeiture Unit develop a formal comprehensive Asset Forfeiture Unit Manual which includes procedures for all operations. In addition, the manual should be reviewed and updated as necessary.

Views of Responsible Officials

Management Agrees

As background, the Wayne County Prosecutor's Office Asset Forfeiture Unit (AFU) is technically comprised of three sub-units: 1) Asset Forfeiture Unit; 2) Vehicle Seizure Unit; and, 3) Drug House Unit. The AFU is part of the Special Operations Division in the Wayne County Prosecutor's Office which is overseen by the Chief of Special Operations, and its daily operations are managed by a Deputy Chief of Special Operations. In addition, there are three (3) full time Assistant Prosecuting Attorneys, one (1) part-time lawyer, and four (4) clerical assigned to the AFU.

1) The Need of an Asset Forfeiture Unit Policy Manual

Since the operation of asset forfeiture unit legal cases are assigned to lawyers based upon police investigations, application of court and evidentiary rules, and legal analysis of statutory and case law application on a case-by-case basis, and further there is no longer a bond requirement, the WCPO disagrees with the OAG's assessment that it is mandatory to delineate the operations of these legal cases with a manual of blanket rules. While the handling of legal cases are not subject to any step by step policy manual since each must receive an individual legal analysis under the law and rules of court, a manual of relevant, but not exhaustive, case law has been provided to each APA for guidance purposes. Further, the OAG does not cite any relationship or other evidence that the lack of a policy manual would negatively impact the AFU review of cases or separate financial procedures.

2) Vehicle Seizure Procedure Manual

There is a comprehensive manual for clerical staff to refer to in assisting them in the operation of the VSU. These controls were put in place since the operation typically is routine clerical work. Clerical do not exercise discretion in deciding the potential outcome of a case, but rather follow the written procedures to routinely handle the VSU matters. Any and all legal questions that arise or any other contested matter outside of a settlement is referred to, and handled by, an AFU assigned APA.

The WCPO agrees that the email updates as noted by the OAG could be added to the body of the policy manual rather than being appended and will implement a change in procedures. The WCPO will add the email updates to the body of the policy manual for simplification.

3) The Need of a Drug House Unit Policy manual

The DHU was re-assigned to the Asset Forfeiture Unit post-2005 when there were APAs assigned to the unit. However, after the retirement of the last assigned APA to the DHU in 2008, its cases completely merged into, and were subsumed by, the AFU. All drug house cases are handled by the AFU attorneys in the same manner as AFU cases. The only difference between the AFU and DHU is a clerical staff member enters search warrant information into the DHU database. Thus, the WCPO agrees with a policy manual concerning the entry of data into the DHU database could be created for use by clerical members of the AFU.

Additional Cited Condition

The OAG also noted that a significant piece of legislation eliminating the bond requirement to preserve a right to contest the seizure of property “may not have been formally communicated to staff” since the OAG “found no documented evidence that this significant piece of legislation was formally communicated to staff via either memo or email.”

WCPO Response

The legislation the OAG is referring to was known as House Bill 4629 that was introduced on May 20, 2015, signed into law on December 31, 2016, and became effective April 4, 2017. The law eliminated a property owner’s need to post a 10% bond with the seizing police agency to preserve the opportunity to contest the forfeiture of property seized pursuant to the civil drug asset forfeiture statute. Simply because there are no emails or inter-office memorandum discussing the amendment to the law does not mean this matter was not clearly communicated to staff. From inception of the HB, the AFU was proactive in its discussion by speaking to the bill sponsor about its practical application, submitting memorandum to legislative house members, and testifying in opposition to the proposed legislation before the House Judiciary Committee. This was a hot topic that was discussed regularly and openly with all members of the AFU, both at formal meetings and impromptu discussions.

Further, in practice all AFU bonds were posted with the seizing police agency who then forwarded the notice of claim, posted bond, and police reports to the WCPO. This law simply eliminated a step for the AFU staff to perform in forwarding bond checks to the WCPO Finance Department since no bonds were received by the AFU after the law came into effect.

Additionally, the Notice of Seizure forms were amended eliminating the bond requirement language and personally distributed to staff.

Lack of Controls Over Forfeiture Funds – WCPO Finance and Administration

The WCPO Finance and Administration Unit's internal controls over handling of asset forfeiture receipts should be enhanced including, but not limited to, timely deposits of money orders and cashier's checks, appropriate segregation of duties, timely performance of reconciliations, and personnel trained as backup for important functions.

Specifically, the WCPO Asset Forfeiture Unit (AFU) receives money orders and cashier's checks from claimants for redemption fees and settlement agreements. After the payments are collected by the AFU and recorded in both the forfeiture database and the Vehicle Seizure Daily Accounting Report, the money orders and cashier's checks, along with the accounting report, are hand-delivered to the Accounting Clerk in the WCPO Finance and Administration Unit. WCPO Finance and Administration is responsible for posting the funds in JD Edwards and forwarding the money order/cashier's checks to the Wayne County Treasurer's Office for deposit. However, during our review we noted several areas where controls over the process could be strengthened including timely deposits and safeguarding of funds, reconciliations, formal policies and procedures, and back up personnel for important functions as discussed in detail below.

Lack of Timely Deposits and Safeguarding of Forfeiture Funds

During our review of the forfeiture deposit process with WCPO Finance and Administration, we observed that the Accounting Clerk was in possession of \$205,630 in forfeiture related cashier's checks and money orders. We noted that these cashier's checks and money orders were not being stored in a locked fireproof safe. The number of days between the date of our observation and the check date ranged from 8 to 42 days, with the exception of two (2) money orders/cashier's check for a bond payment and a final judgment which were 83 and 69 days old, respectively. (See tables below)

Observation of Cash Receipts - WCPO Finance Department				
Observation Date	Daily Report Date	Amount	Days Between Observation and Receipt	Comment
10/19/2017	*7/28/2017	\$ 250.00	83	Bond Check Payment
10/19/2017	*8/11/2017	250.00	69	Final Judgment Payment
10/19/2017	9/7/2017	3,600.00	42	
10/19/2017	9/8/2017	9,000.00	41	
10/19/2017	9/11/2017	4,500.00	38	
10/19/2017	9/12/2017	4,500.00	37	
10/19/2017	*9/12/2017	2,450.00	37	Final Judgment Payment
10/19/2017	9/13/2017	8,100.00	36	
10/19/2017	9/14/2017	7,200.00	35	
10/19/2017	9/15/2017	12,600.00	34	
10/19/2017	*9/15/2017	1,000.00	34	Final Judgment Payment
10/19/2017	*9/15/2017	2,080.00	34	Final Judgment Payment
10/19/2017	9/18/2017	11,700.00	31	
10/19/2017	9/19/2017	6,300.00	30	
10/19/2017	9/20/2017	4,500.00	29	
10/19/2017	9/21/2017	7,200.00	28	
10/19/2017	9/22/2017	7,200.00	27	
10/19/2017	9/25/2017	5,400.00	24	
10/19/2017	9/26/2017	4,500.00	23	
10/19/2017	9/27/2017	3,600.00	22	
10/19/2017	9/28/2017	6,300.00	21	
10/19/2017	9/29/2017	14,400.00	20	
Total Receipts for FY 2017		\$ 126,630.00		
	* - Check Date			

In addition, the following checks received after FY 2017 year end, were still in the possession of the Accounting Clerk.

Observation Date	Daily Report Date	Amount	Days Between Observation and Receipt	Comment
10/19/2017	10/2/2017	\$ 15,300.00	17	
10/19/2017	10/3/2017	13,500.00	16	
10/19/2017	10/4/2017	8,100.00	15	
10/19/2017	10/5/2017	8,100.00	14	
10/19/2017	10/6/2017	10,800.00	13	
10/19/2017	10/10/2017	14,400.00	9	
10/19/2017	10/11/2017	9,000.00	8	
Total Receipts After FY 2017		\$ 79,200.00		

Wayne County Prosecuting Attorney's Office Finance and Administration management stated the checks were not processed and deposited because the department was preparing for fiscal year-end close. Wayne County Prosecuting Attorney's Office staff was verbally informed the year-end cutoff date was September 25, 2017. Staff was verbally informed to have all deposits processed by the end of day September 22, 2017 in order to clear the Deposit In Transit (DIT) account by October 12, 2017. Management did indicate that the Accounting Clerk's folder of checks was not reviewed daily and deposits should have been processed on or before September 22, 2017. However, Wayne County Prosecuting Attorney's Office Finance and Administration management asserted that no deposits could be processed between September 25 and October 12, due to the year-end cutoff.

The OAG inquired of Management & Budget (M&B) why there was a year-end restriction on depositing funds with the Treasurer. Management & Budget responded that there have not been any restrictions placed on departments that make deposits at the WCTO. According to M&B, the clearing of DIT accounts deadline per the closing schedule relates to any deposits made during FY 2017. The 2016-2017 Fiscal Year-End Close schedule noted the deadline for clearing DIT accounts as Friday, October 13, 2017. This is to allow time for the last few days of September transactions to be uploaded and posted to the general ledger and then give time for the departments to clear their accounts for those days' activities. Also, to resolve any discrepancies that may have been discovered when reviewing their accounts. Thus, Wayne County Prosecuting Attorney's Office Finance should have deposited the checks with the WCTO.

In addition, we identified other internal control weaknesses related to the safeguarding of these forfeiture funds. The Accounting Clerk places the deposit slip along with the money order and cashier's check in an unsealed inter-office envelope, walks it down to the Criminal Investigations Division located on the same floor, and leaves the envelope on a desk located within the Division. The inter-office envelope is then delivered to the WCTO by one (1) of four (4) authorized detectives. The detective leaves the envelope with the Treasurer's cashier without getting a receipt. Then one (1) of the four (4) detectives returns to the Treasurer's office at a later date to pick up the receipt for the deposit.

Management & Budget Policy/Procedure No. 14000, issue date August 2002 – Cash Receipts, outlines guidelines for receiving and recording receipts within the county's general ledger. Specific policies and procedures include:

- Cash receipts processing must be done in a consistent, accurate, and timely manner.

- Deposit slip totals must be verified for accuracy by user departments including the running of two (2) adding machine tapes.
- User departments are required to deposit all cash receipts within two (2) business days.
- All cash receipt transactions must be recorded promptly in the general ledger.
- User departments are required to perform monthly general ledger account reconciliations for deposit in transit accounts within five (5) days after general ledger is closed for month-end.

Cash is the most liquid asset and most susceptible to misappropriation. Therefore, it requires internal control procedures that separate the key tasks involved in processing cash. The individual who handles recordkeeping should not have physical custody of cash receipts. The person who processes deposits should not be allowed to prepare disbursements. It is imperative to have internal control procedures for the collection, processing and transport of cash receipts and deposits to minimize the likelihood of theft or misappropriation.

Lack of Daily and Monthly Independent Account Reconciliations

There is no formal process in place to reconcile the amounts recorded on the Vehicle Seizure Daily Accounting Reports to the corresponding daily deposits made at the WCTO. In addition, there is no reconciliation, as required by M&B's Cash Receipts Policy No. 14000, to verify the accuracy of deposits made by the Wayne County Prosecuting Attorney's Office to what was deposited by the WCTO. In addition, there is no monthly reconciliation between what was deposited and what was posted to the asset forfeiture revenue accounts. According to Wayne County Prosecuting Attorney's Office Finance and Administration personnel, the accounts are reconciled at year-end by reviewing JD Edwards and comparing the monthly totals reported in JD Edwards as the basis for the reconciliation.

The Wayne County Prosecuting Attorney's Office Finance and Administration does not have adequate internal controls to safeguard cash receipts which would include written policies and procedures for the handling of cash receipts and performing daily and monthly reconciliations.

Untimely deposits, unendorsed checks, improper segregation of duties, failure to obtain receipts, unsecure transport of deposits and failure to perform monthly account reconciliations increase the risk of misappropriation of funds, misuse of cash receipts, and theft.

Lack of Formal Written Policies and Procedures

The Wayne County Prosecuting Attorney's Office Finance and Administration does not have written policies and procedures for processing cash receipts. Currently, the Accounting Clerk uses a binder with handwritten notes as a procedures manual. These notes were compiled during the Clerk's training during September 2016. Wayne County Prosecuting Attorney's Office Finance and Administration management stated that the notes the Accounting Clerk recorded during training were typed and subsequently became the policies and procedures manual for processing cash receipts. However, they are not formalized and are contained in the Accounting Clerk's personal binder; this is more adequately classified as a reference guide, not a formalized policy and procedures manual. No formalized policies and procedures manual existed. Rather, a series of emails from the prior Chief of Finance & Administration served as the procedures manual. The most recent email was dated May 16, 2007.

Lack of Backup Personnel for Important Function

The Accounting Clerk responsible for processing forfeiture deposits does not have a backup. The OAG was informed, by the Accounting Clerk, that a Department Supervisor, Human Resource Specialist, will be the backup in the future. WCPO Finance and Administration management stated that everyone in the department will be cross-trained so everyone knows each person's job duties.

Recommendation #2017-05 – Material Weakness

In order to strengthen the internal control environment over the cash receipt process the Office of Legislative Auditor General recommends WCPO Finance and Administration:

- A. Ensure forfeiture funds are deposited with the Wayne County Treasurer's Office within two (2) days of receipt and are stored in a fireproof safe or lockbox until actually deposited.
- B. Ensure deposits are enclosed in a sealed envelope prior to providing for transport to the Wayne County Treasurer's Office and signed receipt is obtained.
- C. Formalize comprehensive written policies and procedures over forfeiture fund receipts to include: timely recording of cash receipts; reconciliation of daily accounting reports to prepared deposits; reconciliation to verify accuracy of actual deposits made to what was recorded by the Treasurer's Office; and perform monthly reconciliation between what was deposited and posted to general ledger.
- D. Cross-train employees on the cash receipts process in order to serve as a backup in the absence of the Accounting Clerk.

Views of Responsible Officials

Lack of Timely Deposits and Safeguarding of Forfeiture Funds

Management Disagrees

Forfeiture checks are maintained in the Chief of Finance and Administration Office and put in a locked metal file cabinet nightly. It is our procedure that once the Accounting Clerk begins to process deposits she retrieves them from the Chief of Finance and Administration Office. The Account Clerk was in the process of finishing the forfeiture deposits; she secured them in her locked file cabinet during the walk-through process. They are returned to the Chief of Finance and Administration Office nightly.

It is our policy to deposit checks weekly; however, there is a cut-off date at year-end in order to close out the books, which causes a timing delay.

The deposit batches are always hand delivered to the detective for them to deliver to the WCTO. As for the transporting of deposits to the WCTO, miscellaneous receipts and check batches are not just put in the inter-office envelopes; they are placed in a sealed and taped manila envelope, then placed in the inter-office envelope which is sealed and hand delivered to a sworn and armed Law Enforcement Officer for transport. Upon notification (call) from WCTO staff, the detective then returns to pick up the receipt(s).

In instances where our tapes and WCTO tapes disagree, the batch is returned for corrections. We maintain a copy of all miscellaneous deposit tickets and checks. This process allows us to identify any errors or irregularities. In such cases the Senior Accountant works with the WCTO to resolve the discrepancy.

Lack of Daily and Monthly Independent Account Reconciliations

Management partially disagrees

After the Accounting Clerk obtains the WCTO miscellaneous receipts and reconciles it back to the Vehicle Seizure Daily Report to determine that all deposits were made. The journal entry is then prepared in JD Edwards, transferring the funds from the DIT to the correct general ledger account. The DIT account is supposed to be reconciled monthly, making sure it is zeroed out and the funds are transferred to their applicable accounts. However, we lacked sufficient personnel to perform this function monthly. We quarterly verify the DIT account for any errors or irregularities.

As for the Asset Forfeiture revenue accounts, it is reconciled annually against an excel spreadsheet which lists all forfeiture money orders received. This spreadsheet is updated with all checks received before it is sent to the WCTO for deposit. However, we agree to enhance our process by performing monthly reconciliation of this revenue account.

As for our reconciliation of Vehicle Seizure Revenue, we reconcile the daily reports against the Journal entries that were done to transfer the money from the DIT account to the Liability-Retail Cost Bond Account prior to a payment of a service voucher. This is done weekly. In addition, to ensure the account clerk has performed this process correctly, the senior accountant obtains the journal entries and compares them against the deposits made by the Treasurer's Office in the DIT account. Therefore, we disagree with this recommendation.

Lack of Formal Written Policies and Procedures

Management disagrees

The WCPO does have Policies and Procedures. However, although offered, the OAG did not request copies of them.

OAG Response

The OAG requested the WCPO Finance and Administration Accounting Clerk provide a copy of the written policies and procedures for processing cash receipts. We were informed that none existed. Rather, the Accounting Clerk provided a binder containing handwritten notes that she uses as a procedures manual. We did review the contents of this binder. The Accounting Clerk was apparently not aware that formal policies and procedures existed.

Lack of Backup Personnel for Important Function

Management disagrees

There has always been backup personnel performing deposits and accounting functions in the WCPO. The Accounting Clerk's backup is the Senior Accountant followed by the Chief of Finance and Administration. During the walk-through, auditors were misinformed that the HR Specialist is the backup. This new position was being trained on what functions each staff member performs to gain an understanding of the responsibilities contained within the Finance and Administration Unit.

OAG OVERALL CONCLUSION

The Wayne County Prosecutor's Office Asset Forfeiture Unit (AFU) is generally effective in meeting its goals and objectives. We did note instances where the internal control environment could be strengthened in the areas of: (1) recording and tracking AFU operations; (2) ensuring databases are functionally updated; (3) ensuring that policies and procedures are documented and updated as required; and, (4) improving controls over the processing of forfeiture funds.

There are five (5) findings and 12 recommendations to strengthen controls and processes related to the Wayne County Prosecutor's Asset Forfeiture Unit's operations. One (1) of the findings is considered to be a material weakness, which is classified as high risk. Two (2) of the findings are classified as significant deficiencies, which are deemed to be medium risk. The other two (2) findings are classified as a control deficiency which is deemed to be low risk.

We discussed the issues and corresponding recommendations with representatives from the Wayne County Prosecuting Attorney's Office. Management agreed with two (2) of the findings and disagreed with the other three (3). Management's comments have been included in the report under "Views of Responsible Officials".

A Corrective Action Plan will be requested approximately 30 days after this report is formally received and filed by the Wayne County Commission. If sufficient corrective action is not taken, a follow-up review may be necessary.

This report is intended solely for the information and use of the Wayne County Prosecuting Attorney's Office and the Wayne County Commission and is not intended to be and should not be used by another other than these specified parties. This restriction is not intended to limit the distribution of the report, which is a matter of public record.

Sincerely,



Marcella Cora, CPA, CIA, CICA, CGMA
Auditor General

Appendix A

Definition of Internal Control Deficiencies

Control Deficiency (low risk)

A control deficiency exists when the internal control design or operation does not allow management or employees, in the normal course of performing their assigned functions, to prevent, detect or correct errors in assertions made by management on a timely basis. A deficiency in design exists when (1) a control necessary to meet the control objective is missing or (2) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met.

A deficiency in operation exists when a properly designed control does not operate as intended, or when the person(s) performing the control does not possess the necessary authority or qualifications to perform the control effectively.

Significant Deficiency (medium risk)

A matter that, in the auditor's judgment, represents either an opportunity for improvement or significant deficiency in management's ability to operate a program or department in an effective and efficient manner. A significant deficiency in internal control, or combination of deficiencies, that adversely affects the organization's ability to initiate, authorize, record, process or report data reliably in accordance with applicable criteria or framework such that it is more than a remote likelihood that a misstatement of the subject matter that is more than inconsequential will not be prevented or detected.

Material Weakness Deficiency (high risk)

A significant deficiency that could impair the ability of management to operate the department in an effective and efficient manner and/or affect the judgment of an interested person concerning the effectiveness and efficiency of the department. A significant or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of subject matter will not be prevented or detected.