

## **Appendix G**

### **FOJ, SHERIFF TRANSPORTATION, AND LAW ENFORCEMENT TRUST FUND -- AUDIT PROGRAMS**

Auditors auditing counties should use the audit programs in this appendix to test the Sheriff and Prosecutor Furtherance of Justice Funds, the Sheriff Transportation Fund, and any moneys county law enforcement agencies receive from the Law Enforcement Trust Fund. Auditors should develop a schedule for performing tests of compliance over these accounts on a rotational basis, with the audit programs being applied at least every third year. You should occasionally test these requirements every other year so the auditee cannot predict the year we will test this. We should not disclose our schedule to the auditee. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose). Auditors should also apply the audit program procedures in any year in which the sample questions and procedures outlined in Chapter 7 identify significant unusual items.

### Furtherance of Justice (FOJ) Audit Program

Per Ohio Rev. Code § 325.071 the sheriff's annual FOJ appropriation equals  $\frac{1}{2}$  of the Sheriff's salary. Ohio Rev. Code § 325.06(A) and 325.18(C) prescribe sheriffs' salaries. Note that the additional  $\frac{1}{8}$  salary paid to sheriffs per RC 325.06(B) is **not** includable in the FOJ calculation.

Per Ohio Rev. Code §325.12, the prosecutor's annual FOJ appropriation equals  $\frac{1}{2}$  of the prosecutor's salary. This appropriation is to cover expenses incurred in performing the prosecutor's official duties and in the furtherance of justice.

The statutes require the sheriff and the prosecutor to file with the county auditor by the first Monday in January a full accounting of the expenditure of all funds from the FOJ account for the previous year. The statute requires the redeposit of any remaining funds, including cash held by officers, to the county treasury.

#### Suggested Audit Procedures – Compliance (Substantive) Tests:

1. Determine whether the sheriff and prosecutor filed a full accounting of expenditures of all funds from the FOJ account with the County Auditor by the first Monday in January as required by Ohio Rev. Code Section 325.071 and 325.12(E).
2. Examine the county's computation of amounts payable from the general fund to the FOJ account per RC 325.071 & 325.12. Compare the computation to actual payments. Investigate any differences and determine whether the prosecutor received approval from the court of common pleas under Ohio Rev. Code Section 325.13 to allocate any additional funds to the FOJ account.
3. Per AOS Bulletin 97-14, any amounts paid to the FOJ fund in excess of the statutory limits described above will result in a finding for adjustment against the FOJ fund.
4. Determine whether a written internal control policy exists for administering and expending funds in the FOJ account. Compare the county's internal control policies to the guidance provided in AOS MAS Bulletin/Circular 81-07 for consistency (available in the AOS Briefcase). Lack of a clear, written policy should be communicated to the audit committee and/or management officials of the County.
5. Does the policy establish clear internal controls regarding the distribution of the funds? If so:
  - Do officers receiving cash sign a form or prenumbered, duplicate receipt for all money received?
  - Does the officer providing the cash also sign a form acknowledging the disbursement of cash?
  - Obviously the department should not obtain receipts for payments to informants. However, do officers submit vendor invoices, cash register slips or other documentation to support other uses of funds (similar to an imprest petty cash fund)?
  - Are officers required to keep an Agent Expense Report or similar paperwork?
  - What does the policy state an officer should do when a receipt cannot be obtained? Examine evidence supporting whether or not officers comply with the policy.
  - Does the policy require affidavits when officers pay cash to informants and for other confidential purposes?
6. Obtain the county's reconciliation of bank balances to the activity in the FOJ account cash book.
  - Foot the reconciliation.
  - Agree the bank balance per the reconciliation to the bank account statement balance.

- Scan reconciling items for reasonableness.
    - Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank.
  - Agree the book balance per the reconciliation to the FOJ account balance.
  - Trace payment of the remaining year end FOJ balance to a receipt / revenue into the county treasury, as RC 325.071 (sheriff) and RC 325.12(E) (prosecutors) requires.
7. Obtain the check register and review the payees\* for reasonableness of the expenditure. If there are checks written to the Sheriff or other high ranking officials, include these disbursements in the test that step 7 describes.

\*Due to the 21st Century Check Act, there are instances in which the bank is no longer able to return an original paper check or a photocopy of an original paper check. Instead, the bank is able to provide you with only a “display history” of a withdrawal from your checking account. Information on a bank’s “display history” typically includes, but is not limited to, the number of the account upon which the check is drawn, routing information, the person or entity to whom the check was made payable, the purpose for which the money was paid, and the amount paid to the person or entity. Because a bank’s “display history” of a withdrawal from a checking account sets forth the same information that appears on an original paper check or a photocopy of an original paper check, such a “display history,” like an original paper check or photocopy of an original paper check, may provide a reasonable and reliable means by which a county prosecuting attorney can accurately account for a disbursement from his furtherance of justice allowance. [AG Opinion 2005-035] Also see AOS Bulletin 2004-10.

8. Select a representative group of disbursements from the year end FOJ report, listing the check number, date, amount, and payee, and determine that:
- amount per the report agrees with the canceled check or receipt.
  - check is properly endorsed and signed by the Sheriff
  - expenditure is for furtherance of justice (almost everything counts except personal items—see the guidance in Bulletin 81-07 and 97-14)
  - Determine that the officer completes an affidavit to support confidential payments, describing the amount of the expenditure and either the check number or the receipt number related to the expenditure as well as a statement of a general nature of the expenditure. If an affidavit is executed, the Auditor of State will not require production of the actual check or receipt and will not make any further inquiry into the detail surrounding the expenditure unless there is probable cause to believe that the affidavit is false. If no affidavit is executed, the officer must produce sufficient documentation to support that the expenditure is for a proper public purpose. Please note that a mere assertion by the officer that an expenditure is confidential is not sufficient to negate the documentation requirements.
  - Determine whether other (i.e. non confidential) disbursements are adequately supported by original documents (e.g., original invoices, receipts, receiving report, etc.)
  - Determine that checks do not appear to have been altered
  - Determine whether amounts agree among related documents, and that computations (footings, extensions, etc.) are correct.

**Audit implications and/or management comments:**

**Transporting Prisoners, Sheriff Travel and Training Audit Program**

ORC 325.07 governs the Transportation of Prisoner account, and requires the county commissioners to make monthly allowances to the Sheriff for his **actual and necessary expenses**, incurred and expended in pursuing within or without the state or transporting persons accused or convicted of crimes or offenses.

Each Sheriff shall file under oath a monthly report containing a full, accurate, and itemized account of his actual and necessary expenses, including telephone tolls and any other transportation expense mentioned in this section, **before the board allows the expense.**

The statement shall show the number of cases, the court in which the service was rendered, and the point from which a transportation vehicle was used.

The board may authorize a sum not exceeding 50% of the sheriff's annual salary, as an advance necessary for the duties within this section.

After approving the monthly report, the board may restore to the fund the amount the sheriff expended. The sheriff shall pay any unexpended funds remaining at the end of the fiscal year into the county treasury.

**Suggested Audit Procedures – Compliance (Substantive) Tests:**

1. Determine whether the advance amount did not exceed the permitted amount. Compare the amount the statute permits (one half of the Sheriff's salary), to the advance the commissioners approved.
2. Obtain a copy of the department's written policies and procedures regarding transporting prisoners. Use this policy as the criteria for the testing described below. If there are no written policies, determine which policy, (i.e. the county's travel policy or the sheriff's travel policy) applies.
3. Scan selected sheriff's monthly reports to the commissioners, and determine if they are itemized and include all of the information required by law (i.e., the number of cases, the court in which the service was rendered, and the point from which a transportation vehicle was used). In addition, review several trips for reasonableness. For example, a trip to Florida might include transportation, meals, and lodging. Every expenditure related to the transportation must be supported by an actual receipt (hotel bills, itemized restaurant receipts, receipts for airline tickets, and a detailed description regarding the prisoner transport).
4. Select a few\* transportation costs during the audit period and determine if the expenditures related to the trip are in compliance with the terms and limitations described in the policies obtained in Step 2 above. Obtain the expense reports the transporting officers submitted and compare the total expenses incurred for the transport(s) to the total recorded on the report to the commissioners. Document any discrepancies.

\*Since we are not opining on this activity, we do not require a high level of assurance and need not test 60 items.

**Audit implications and/or management comments:**

**Transporting Prisoners, Sheriff Travel and Training Audit Program****Travel and Training****Suggested Audit Procedures – Compliance (Substantive) Tests:**

Select a few\* conferences attended by the Sheriff and some of his top officers, comprising the largest conference disbursements, and review the detailed expenditures reimbursed for each trip to determine if they comply with the appropriate policy. In addition, review each trip for reasonableness. For example, a conference such as the National Sheriff Association (NSA) probably would include transportation, meals, and lodging. All expenses related to the trip should be recorded on one expense report for each individual attending the conference. All expenses should be supported by receipts.

\*Since we are not opining on this activity, we do not require a high level of assurance and need not test 60 items. If conferences are infrequent, testing one might be sufficient.

**Audit implications and/or management comments:**

## Law Enforcement Trust Fund Audit Program

### **Mandatory Drug Fine**

Ohio Rev. Section 2925.03 (F)(1) requires the clerk of a court to pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county. . . or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section. **(Steps 1-5)**

Ohio Rev. Section 2925.03 (F)(2) provides guidance on preparing an internal control policy which describes the general types of allowable expenditures from the Law Enforcement Trust Fund. **(Steps 1-5)**

Ohio Rev. Code Section 2925.03 (F)(2)(b) states in part that each law enforcement agency receiving fine moneys under (F)(1) of this section or division (B) of Ohio Rev. Code 2925.42 shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by that agency pursuant to (F)(2)(a) of this section, and shall send a copy of the cumulative report to the Attorney General by March 1. **(Steps 1-12)**

### **Forfeited Moneys**

Ohio Rev. Code Section 2981.13(C)(2)(A) requires sheriffs and county prosecutors to adopt an internal control policy relating to proceeds and forfeited money. The policy should address the use and disposition of all the proceeds and forfeited moneys, the general type of expenditures to be made out of the proceeds and forfeited moneys received, and records to be maintained.

Ohio Rev. Code Section 2981.11(B)(2) provides that any law enforcement agency that receives or uses any proceeds or forfeited monies out of a law enforcement trust fund under section 2981.13 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept pursuant to this section and shall send a copy of the cumulative report to the Attorney General by March 1. **(Steps 1-12)**

### **Suggested Audit Procedures – Compliance (Substantive) Tests:**

1. Obtain the written internal control policy RC 2925.03(F)(2)(a) requires. The policy should address the law enforcement agency's use and disposition of all drug fine moneys received, and require using detailed financial records of the receipts of the fine moneys, the general types of expenditures made of this fine money, and the specific amount of each general type of expenditure.

The policy shall not provide for or permit the identification of any specific expenditure made for an ongoing investigation. All financial records of receipts and expenditures by the law enforcement agency are considered public records open for inspection.

2. Review the written internal control policy for the appropriate elements noted in step 1 above. (If we reviewed the policy in a prior audit, scan for changes and document in the permanent file.)
3. Determine if the law enforcement agency implemented the written internal control policy and has complied with the provisions pertaining to the use and disposition of drug fine moneys received,

keeping of detailed financial records, allowability of expenditures made, and any limitations on the amount of each general type of expenditure.

We should test this via procedures we use to determine if controls have been placed in operation. These might include a walk-through and scanning a few disbursements and the related documentation and financial records. See AOSAM 30500.45.

4. Obtain the report RC 2925.03(F)(2)(b) requires, covering the current fiscal year cumulating all of the information contained in the public financial records kept by the agency and determine whether a copy was filed with the Attorney General's Office not later than March 1. Auditors should send RC 2925.03(F)(2)(b) noncompliance violations (report and/or management letter) to the Auditor of State legal division.
5. An additional fine imposed under RC 2929.18(B)(4) does not require distribution to LET funds under R.C. 2925.03(F).

Instead, fines imposed under RC 2929.18(B)(4) must be used as provided in R.C. 2925.03(H). This section requires fines to be used solely for the support of one or more eligible alcohol and drug addiction programs. Determine if any such fines existed and were spent according to RC 2925.03(H).

6. Obtain the bank accounts and support documentation representing LET fund activity established by the prosecuting attorney and by the sheriff.
7. Test the bank reconciliation.
  - Foot the reconciliation.
  - Agree the bank balance per the reconciliation to the bank account statement balance.
  - Scan reconciling items for reasonableness. Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank.
  - Agree the book balance per the reconciliation to the LET fund accounting record's balance.
8. Scan disbursements for any unusual items.
9. This step applies to both drug fines (RC 2925.03(F)(1) and forfeited money (RC 2981.13(B)(4)(b)).

Scan selected LET fund disbursements and supporting documentation (e.g. invoices, etc.) to determine if they were used only for the following purposes (RC 2981.13(C)(2)(a)):

- protracted or complex investigations or prosecutions,
- to provide reasonable technical training or expertise,
- to provide matching funds to obtain federal grants to aid law enforcement,
- in support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse,
- to pay the costs of emergency actions taken under RC 3745.13 relative to operating an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for operating the laboratory,
- or other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, board of township trustees, or board of park commissioners<sup>†</sup> determines appropriate.

<sup>†</sup> Sub. H.B. 120 of the 127th General Assembly added references to the Department of Taxation and its Enforcement Division and related funds in the appropriate places in the forfeiture law (R.C. Chapter 2981.). This was done to retain the Department's preexisting authority to obtain forfeiture and use the property or the proceeds, which had been inadvertently omitted in prior legislation. HB 1 of the 128<sup>th</sup> General Assembly makes a technical change to

- The funds must not be used to meet the operating costs of the prosecuting attorney or sheriff (R.C. §2981.13(C)(2)(c)).

The funds' use is also subject to the written internal control policy described in Step 1 above. If transactions do not comply with the policy, we should cite noncompliance with the policy.

We require only a low level of assurance from this testing. Select sample sizes accordingly, or use high dollar testing if it is more efficient and provides greater coverage.

10. Determine if the prosecuting attorney and sheriff have adopted a written internal control policy addressing the use of moneys received from contraband as required by RC 2981.13(C)(2)(A). Test costs selected in Step 9 above and ensure forfeited monies from drug related cases have been expended only in accordance with the written internal control policy adopted.
11. Determine if the prosecuting attorney and sheriff have filed the report RC 2981.11(B)(2) requires with the Attorney General by March 1. Auditors should send RC 2981.11(B)(2) noncompliance violations (report and/or management letter) to the Auditor of State legal division.
12. Determine if moneys from the sale of contraband were disbursed to the appropriate agency or fund as indicated in the internal control policy.

**Audit implications and/or management comments:**