

INVESTIGATIVE AUDIT REPORT

**ATHENS POLICE DEPARTMENT
JULY 1, 2006, THROUGH OCTOBER 31, 2007**



State of Tennessee



**Comptroller of the Treasury
Department of Audit
Division of Municipal Audit**



STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

John G. Morgan

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-0260

PHONE (615) 741-2501

May 23, 2008

Honorable Mayor and Members of the
City Council
City of Athens
P. O. Box 849
Athens, TN 37371-0849

Mayor and Members of the City Council:

Presented herewith is the report on our investigative audit of selected records of the Athens Police Department, for the period July 1, 2006, through October 31, 2007. However, when the examination warranted, this scope was expanded. This investigative audit was initiated after police department officials discovered a discrepancy in seized cash. The purpose of the investigative audit was to assist the Tennessee Bureau of Investigation in their inquiry. Our investigation consisted primarily of making inquiries, examining incident reports, search warrant returns, other selected police department documents, and financial records, and performing physical inventories and other tests and specialized procedures as deemed necessary.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for municipalities, which is detailed in the *Internal Control and Compliance Manual for Tennessee Municipalities* combined with Chapters 1-7 of *Governmental Accounting, Auditing, and Financial Reporting*. The purpose of our audit was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manuals.

Our investigative audit revealed unaccounted for cash totaling \$46,030 which, according to department records, should have been in the police department safe, a city bank account, or in individual officers' custody. Our investigation also revealed that over 700 prescription pills, at least 1¾ pounds of marijuana, and at least 2 ounces of cocaine, seized by officers of the Athens Police Department, could not be accounted for. In addition, one handgun, with an estimated value of \$1,000, which had been confiscated by police department personnel, could not be

Honorable Mayor and Members of the
City Council
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May 23, 2008

located. A former City of Athens Police Department employee, Captain Bill Matthews, admitted, in a written statement, to taking a portion of these funds.

These matters were referred to a district attorney pro tem who referred this matter to the McMinn County Grand Jury on May 13, 2008. Although Captain Bill Matthews had admitted to taking a portion of these missing funds, the McMinn County Grand Jury failed to indict anyone regarding these matters.

We have also included the findings and recommendations in this report that relate to those conditions that we believe warrant your attention.

Copies of this report are being forwarded to Governor Phil Bredesen, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office.

Very truly yours,

A handwritten signature in black ink that reads "John G. Morgan". The signature is written in a cursive style with a long horizontal flourish at the end.

John G. Morgan
Comptroller of the Treasury



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF MUNICIPAL AUDIT**

John G. Morgan
Comptroller of the Treasury

**BANK OF AMERICA PLAZA
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Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

May 23, 2008

Mr. John G. Morgan
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-0260

Dear Mr. Morgan:

As part of our ongoing process of examining the records of municipalities, we have completed our investigative audit of selected records of the Athens Police Department. This investigative audit focused on the period July 1, 2006, through October 31, 2007. However, when the examination warranted, this scope was expanded. This investigative audit was initiated after police department officials discovered a discrepancy in seized cash. The purpose of the investigative audit was to assist the Tennessee Bureau of Investigation in their inquiry. Our investigation consisted primarily of making inquiries, examining incident reports, search warrant returns, other selected police department documents, and financial records, and performing physical inventories and other tests and specialized procedures as deemed necessary.

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Mr. John G. Morgan
Comptroller of the Treasury
May 23, 2008

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These matters were referred to a district attorney pro tem who referred this matter to the McMinn County Grand Jury on May 13, 2008. Although Captain Bill Matthews had admitted to taking a portion of these missing funds, the McMinn County Grand Jury failed to indict anyone regarding these matters.

We have also included the findings and recommendations in this report that relate to those conditions that we believe warrant your attention.

Our examination also resulted in findings and recommendations related to the following:

1. Complete and accurate inventory of evidence was not maintained, physical inventory not performed
2. Evidence custodian has ability to alter or delete computer records
3. Cash seizures not deposited promptly

If after your review, you have any questions, I will be happy to supply any additional information which you may request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis F. Dycus". The signature is fluid and cursive, with a large initial "D" and "F".

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

**INVESTIGATIVE AUDIT OF SELECTED RECORDS
OF THE ATHENS POLICE DEPARTMENT
FOR THE PERIOD JULY 1, 2006, THROUGH OCTOBER 31, 2007**

LEGAL ISSUES

1. **ISSUE: Unaccounted for cash**

Our investigative audit revealed unaccounted for cash totaling \$46,030 which, according to department records, should have been in the police department safe, a city bank account, or in individual officer's custody. Details of this unaccounted for cash were as follows:

- \$31,263 in cash formally seized and taken into police department custody pursuant to narcotics arrests. According to Tennessee Department of Safety records, these funds had been awarded to the Athens Police Department. Several of the seizures had occurred as long ago as 1999.
- \$9,267 in cash which, although not formally seized, was in police department custody according to incident reports, inventory records, and/or search warrant documents. This includes \$1,500 in cash that had been found by Athens Utility Board personnel in 2005, presumed abandoned and turned over to the police department for safekeeping.
- \$4,300 in cash given to a police officer for confidential narcotic investigation transactions. There was neither any record of the proper disposition of these funds, nor was there any other physical evidence indicating the funds were used properly.
- \$500 in cash given to a police officer by an agent with the Tennessee Bureau of Investigation. The agent had provided \$1,500 in cash funds to assist in local confidential investigations. Although a portion of those funds did appear to have been properly disbursed, \$500 was unaccounted for.
- \$700 from a police benevolence fund. Checks from this account were made payable to a police officer allegedly for narcotics investigations. Police files contained no evidence of any related investigation and the cash could not be accounted for.

Source	Amount
Seized or confiscated cash – DOS	\$31,263.00
Seized or confiscated cash – Other	9,267.00
Confidential drug funds	4,300.00
TBI cash	500.00
Benevolence fund	700.00
Total	<u>\$46,030.00</u>

2. **ISSUE: Unaccounted for seized drugs**

Our investigative audit revealed that over 700 prescription pills, at least 1¾ pounds of marijuana, and at least 2 ounces of cocaine, seized by officers of the Athens Police Department pursuant to Sections 53-11-451 and 55-10-105, *Tennessee Code Annotated*, could not be accounted for.

3. **ISSUE: Unaccounted for weapon**

The investigative audit revealed that one handgun, with an estimated value of \$1,000, which had been confiscated by police department personnel, could not be accounted for.

A former City of Athens Police Department employee, Captain Bill Matthews, admitted, in a written statement, to taking a portion of these funds from the department safe.

These matters were referred to a district attorney pro tem. Although Captain Bill Matthews admitted to taking a portion of these missing funds, on May 13, 2008, the McMinn County Grand Jury failed to indict anyone regarding these matters.

FINDINGS AND RECOMMENDATIONS

Our investigative audit identified several weaknesses in the internal controls of the police department that allowed these apparent discrepancies to occur and not be detected in a timely manner. Those weaknesses include:

1. **FINDING: Complete and accurate inventory of evidence was not maintained, physical inventory not performed**

A complete and accurate inventory of property and evidence in police custody was not maintained. We noted that items seized as property and evidence were not always listed by officers as property in the police incident reports. The failure to list items in the incident reports prevented the current computer software system from providing an accurate inventory list of all confiscated property. In addition, when property and evidence changed location or status,¹ that information was not always documented in the computer inventory. Finally, a periodic inventory of property in police custody was not performed. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 4, Section 1, states, “Municipal officials should adopt policies and procedures that provide safeguards for inventories of materials and supplies.” Section 3 of this chapter requires that a record be maintained of high-risk, sensitive property and that an annual inventory be performed.

RECOMMENDATION:

To safeguard and account for items of seized evidence, the police chief should ensure that an accurate and complete inventory of this property be maintained. A physical inventory should be performed at least annually by persons independent of the property and evidence function and documentation of that inventory should be maintained.

2. **FINDING: Evidence custodian has ability to alter or delete computer records**

We noted that the police department’s computerized property and evidence inventory system permitted personnel to alter or delete the computer records of the items in police custody. As a result, some department personnel were in a position to have both custody of the property and the ability to alter or delete the record from the inventory system. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 2, Section 2, states:

¹ For example, when drugs were taken to the lab for testing or other property was returned to the owner.

Municipal officials should enforce division of duties to provide a system of checks and balances so that no one person has control over a complete transaction from beginning to end. Work flow should be established so that one employee's work is automatically verified by another employee working independently.

RECOMMENDATION:

To reduce the risk of unauthorized and/or improper alterations and to increase the reliability of data, the police chief should ensure that access to certain functions of the computerized property management system is strictly limited and well documented. Those employees responsible for the physical custody of property and evidence should not have the authority or ability to alter computer data once property is taken into custody. In addition, the chief of police should periodically review all alterations and deletions of items from the inventory records.

3. **FINDING: Cash seizures not deposited promptly**

Our investigative audit revealed that police officers took cash from suspects pursuant and incidental to arrest. The cash was documented and placed in the police department safe at city hall. The police department typically made a claim on this money under the state's administrative, civil, or judicial forfeiture procedures. However, the department routinely kept the cash in the safe for extended periods of time. Section 6-56-111(a), *Tennessee Code Annotated*, states:

Every municipal official handling public funds shall be required to, as soon as practical, but no later than three (3) working days after the receipt by such municipal official of any public funds, deposit the funds to the credit of such municipality's official bank account, or bank accounts.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 3, Chapter 1, Section 5, states:

Collections should be deposited promptly and intact and only in designated depositories. The bank's night depository should be used, if necessary, to avoid large accumulations of currency overnight.... The municipality should make daily deposits when large amounts of money are involved.

RECOMMENDATION:

To help prevent the misuse or loss of cash, officials should ensure that all cash seizures are deposited intact within three working days into an official municipal bank account.

For those instances in which the cash could be used as evidence in a criminal case, department officials should consult with the appropriate prosecuting agency.

4. **FINDING:** **Required procedures for confidential funds transactions not followed by police department**

The police chief failed to count and verify confidential funds in the possession of his narcotics agent before filing the required quarterly report of confidential funds with the city finance department. Our audit also revealed that, in at least one instance, an officer indicated that the signature of his name as a witness to a cash transaction on a confidential funds form was not made by him. Finally, the police department failed to maintain a separate bank account for confidential funds. “Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs,” developed pursuant to Section 39-17- 420(f), *Tennessee Code Annotated*, requires that a separate bank account be maintained for confidential funds. The manual also includes prescribed forms for the proper documentation of confidential funds transactions.

RECOMMENDATION:

To properly account for confidential funds, such funds should be handled in accordance with the “Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs.” The police chief should count and verify confidential cash on hand whenever he certifies quarterly activity to the city finance department. A separate bank account designated for confidential funds should be established in accordance with the procedures manual.

Police officials should take immediate action to correct these deficiencies.