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DEPARTMENT OF AUDIT  
DIVISION OF MUNICIPAL AUDIT

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February 8, 2012

Honorable Mayor and Members of the  
Board of Aldermen  
Town of Crump  
P. O. Box 88  
Crump, TN 38327

Ladies and Gentlemen:

As part of our ongoing process of examining the records of municipalities, we have completed our investigative audit of selected records of the Crump Police Department. The audit was conducted in cooperation with agents of the Tennessee Bureau of Investigation. This investigation included an inventory of contraband property in the custody of the police department. The audit focused on the period July 1, 2008, through August 31, 2011. However, when warranted, we expanded that scope.

**Legal Issue**

Our investigative audit revealed that at least 343 pills seized by the Crump Police Department pursuant to Section 53-11-451, *Tennessee Code Annotated*, were not in evidence and were unaccounted for. Initially, the police chief discovered that several contraband drugs awaiting transport to the Tennessee Bureau of Investigation laboratory for testing were missing. The chief notified local officials of this apparent theft. However, subsequent to that notification, additional drug items were improperly removed from police department offices. A subsequent investigation by the Comptroller of the Treasury revealed a more widespread scheme to remove specific drug items from the police department evidence room and offices. Auditors identified at least 343 pills, primarily opiate (narcotic) analgesics such as hydrocodone, which should have been in the custody of the Crump Police Department, but were unaccounted for.

## **Findings and Recommendations**

Several deficiencies in the police department's handling of drug evidence contributed to the apparent theft of drugs. In addition, auditors noted other instance of noncompliance with state statutes.

1. **Complete and accurate list of evidence not maintained, physical inventory not performed**

The police department failed to prepare and maintain a complete and accurate list of property and evidence in police custody. In addition, the police department did not perform a periodic inventory of property in its custody. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 71, states, "Municipal officials should adopt policies and procedures that provide safeguards for inventories of materials and supplies." Page 72 requires that a record be maintained of high-risk, sensitive property and that an annual inventory be performed.

To safeguard and account for items of seized evidence, the police chief should ensure that an accurate and complete list of this property is prepared and 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. **Confiscated drugs not properly disposed of**

The police department maintained custody of drugs and drug paraphernalia seized pursuant to Section 53-11-451, *Tennessee Code Annotated*. However, the department did not follow the procedures set forth in state statutes for the disposal of those items. Our investigative audit revealed that the police department failed to destroy applicable seized drugs and drug paraphernalia annually as required by state law.

Section 53-11-451(j), *Tennessee Code Annotated*, states:

Any property of the type set forth in subdivisions (a)(1) and (7) that is in the custody and possession of a clerk of any court of this state by virtue of the property having been held as evidence or exhibits in any criminal prosecution where all appeals or potential appeals of a judgment have ended, or when the case has been dismissed or otherwise brought to a conclusion, shall be disposed of as follows:

- (1) The clerk of the court having custody of the property to be disposed of shall, no less than once annually, inventory the same and prepare a list of the property proposed to be destroyed with references to the cases involved and the name of the case, the case number and date when such property was used
- (2) The clerk shall submit the inventory list with a filed petition to the court and shall serve a copy of the petition upon the district attorney general. After determining that the listed property is not needed as evidence in any pending or potential judicial proceeding, the court shall order the property to be destroyed; and
- (3) The clerk, or such deputy clerk as the clerk may designate, shall completely destroy each item by cutting, crushing, burning or melting and shall file, together with the petition and order relating to the destroyed property, an affidavit concerning such destruction, showing a description of each item, the method of destruction, the date and place of destruction, and the names and addresses of all witnesses to the destruction.

To comply with state statutes and to remove the responsibility of accounting for property no longer needed as evidence, the police chief should ensure the annual inventory and destruction of confiscated drugs is performed as required by *Tennessee Code Annotated*. Documentation of compliance with state law should be maintained. In addition, the police chief should ensure that someone independent of the custodial function of contraband drug evidence reconciles the destruction and retention court orders with the property actually destroyed or retained. Any discrepancies should be reported and investigated.

### 3. **Seized vehicle improperly used for general town use**

Our investigative audit found that, contrary to state law, a pickup truck seized pursuant to a narcotics arrest was apparently titled to the town and used for public works and other non-drug enforcement related purposes. Section 53-11-201, *Tennessee Code Annotated*, states:

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(b) (1) All property seized and forfeited under this chapter shall be sold at public sale ... by the seizing agency of the county or municipality ... (2) (C) ... any vehicle seized by a county or municipal agency and forfeited under title 40, chapter 33, part 2, may be used in the local drug enforcement program for a period not to exceed five (5) years.

To comply with state statutes, town officials should ensure that vehicles seized pursuant to Section 53-11-201, *Tennessee Code Annotated*, are used only for drug enforcement purposes. Town officials should ensure that, if or when those vehicles are no longer used in drug enforcement, they are sold at public auction.

4. **Failure to remit funds to the Department of Mental Health and Developmental Disabilities**

The Town of Crump failed to calculate and remit all applicable funds due to the Tennessee Department of Mental Health and Developmental Disabilities. Our investigative audit revealed that the Crump Police Department seized vehicles in accordance with Section 55-10-403 (driving under the influence) and Section 55-50-504 (driving on revoked license), *Tennessee Code Annotated*. However, the police department failed to calculate and remit the applicable portion of the proceeds from the sale of these vehicles to the Tennessee Department of Mental Health and Developmental Disabilities.

Section 40-33-211, *Tennessee Code Annotated*, mandates that the proceeds derived from vehicles forfeited under those statutes are distributed as follows:

- (1) The revenue shall be retained by the entity, either state or local government, which was responsible for the seizure. The revenue shall be used during each fiscal year to compensate the entity for reasonable and direct expenses involved in the confiscation, towing, storage, and sale of the forfeited vehicles. All expenses claimed by the entity shall be subject to audit and review by the comptroller of the treasury for the purpose of determining that expenses claimed by the entity are direct and reasonable.

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- (2) Any remaining revenue shall be transmitted to the department of mental health and developmental disabilities no later than June 30 of each fiscal year.

To comply with state statutes, the police chief should ensure that the reasonable and direct expenses involved in the confiscation, towing, storage, and sale of the forfeited vehicles are documented. No later than June 30 of each year, the police chief must ensure that any revenue generated from those seizures in excess of the reasonable expenses is transmitted to the Department of Mental Health and Developmental Disabilities.

**5. Failure to make prompt deposit**

The police department failed to deposit cash seizures and cash settlements promptly. Our investigative audit revealed that police officers took cash from suspects pursuant and incidental to arrest. The cash was documented and maintained in the police department offices. In addition, the police chief collected cash for the settlement of forfeiture cases. Records indicated the department routinely kept the cash 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*, page 42, states that municipal officials should ensure that

collections are deposited daily ... and intact. Intact means that collections are deposited in the form and amount in which they are collected. All money must be deposited in the next deposit. No collections should be withheld from the deposit for any reason.

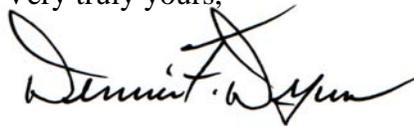
To help prevent the misuse or loss of cash, officials should ensure that all cash seizures are deposited intact within three working days into an official municipal bank account. For those instances in which the cash could be used as evidence in a criminal case, department officials should consult with the appropriate prosecuting agency.

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The police chief has instituted additional procedures to address some of these issues. However, the mayor and members of the board of aldermen should take any additional action necessary to ensure that these issues have been resolved.

If you have any questions concerning the above, please contact me.

Very truly yours,

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

DFD/RAD