

INVESTIGATIVE AUDIT REPORT

MONTEREY POLICE DEPARTMENT
JULY 1, 2008, THROUGH DECEMBER 31, 2009



State of Tennessee



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



STATE OF TENNESSEE

C O M P T R O L L E R O F T H E T R E A S U R Y

Justin P. Wilson

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-9034

PHONE (615) 741-2501

September 30, 2010

Honorable Mayor and Members of the
Board of Aldermen
Town of Monterey
P. O. Box 97
Monterey, TN 38574

Ladies and Gentlemen:

Presented herewith is the report on our investigative audit of selected records of the Monterey Police Department. This investigative audit focused on the period July 1, 2008, through December 31, 2009. However, when the examination warranted, this scope was expanded. This investigation was performed in conjunction with the Tennessee Bureau of Investigation.

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 \$23,613 which, according to department records, should have been in the police department safe, a town bank account, or in individual officers' custody. Our investigative audit also identified six weapons purchased by the town at a total cost of \$2,521, that were not in the department's custody. The investigation revealed that at least seven retired services weapons, or the proceeds from their sale or trade, did not go to the benefit of the town. Auditors also discovered other property purchased by the police department that was not on town property or being used for town purposes. These items, including a \$150 tactical strobe light for an assault rifle and a \$250 wrist watch, totaled at least \$1,289.

Honorable Mayor and Members of the
Board of Aldermen
Town of Monterey
September 30, 2010

These matters were referred to the local district attorney general. On September 24, 2010, Mr. Murphy pled guilty to one count of Theft over \$10,000 and Official Misconduct.

The findings and recommendations in this report also relate to those conditions that we believe warrant your attention. All responses to each of the findings and recommendations are included in the report.

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, appearing to read "Justin P. Wilson", with a stylized flourish at the end.

Justin P. Wilson
Comptroller of the Treasury



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

Justin P. Wilson
Comptroller of the Treasury

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

September 30, 2010

Mr. Justin P. Wilson
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-9034

Dear Mr. Wilson:

As part of our ongoing process of examining the records of municipalities, we have completed our investigative audit of selected records of the Monterey Police Department. This investigative audit focused on the period July 1, 2008, through December 31, 2009. However, when the examination warranted, this scope was expanded. This investigation was performed in conjunction with the Tennessee Bureau of Investigation.

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.

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Mr. Justin P. Wilson
Comptroller of the Treasury
September 30, 2010

These matters were referred to the local district attorney general. On September 24, 2010, Mr. Murphy pled guilty to one count of Theft over \$10,000 and Official Misconduct.

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

1. Improper use of the town's tax exempt status
2. Proceeds from certain seizures not properly remitted
3. Nonmunicipal use of town cell phone paid for by town
4. All collections were not receipted
5. All collections not included on daily collection report

In addition to our findings and recommendations, we are also providing management's response. 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 MONTEREY POLICE DEPARTMENT
FOR THE PERIOD JULY 1, 2008, THROUGH DECEMBER 31, 2009**

LEGAL ISSUES

1. **ISSUE:** **Missing and unaccounted for cash**

Our investigative audit revealed unaccounted for cash totaling \$23,613 which, according to department records, should have been in the police department safe, a town bank account, or in individual officers' custody. Details of this unaccounted for cash were as follows:

- \$14,920 in cash obtained by the former police chief 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.
- \$5,419 in cash obtained from the sale of vehicles seized by and forfeited to the Monterey Police Department. The former police chief apparently sold these vehicles through an online auction. Although the auction company maintained records of the sale of these vehicles, the former chief never remitted the related proceeds to the town clerk's office or deposited them into a town bank account.
- \$3,274 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 Monterey Police Department. According to officers, the funds were turned over to the former chief. However, the former chief never remitted these funds to the town clerk's office or deposited them into a town bank account.

2. **ISSUE:** **Unaccounted for weapons**

Our investigative audit identified six weapons purchased by the town at a total cost of \$2,521, that were not in the department's custody. In 2008, the police department purchased new service weapons for officers. Three of these weapons, along with three additional handguns which had been purchased by the police department were unaccounted for at the time of our audit.

3. **ISSUE: Unaccounted for retired service weapons**

Our investigative audit revealed that at least seven retired services weapons, or the proceeds from their sale or trade, did not go to the benefit of the town. When the Monterey Police Department purchased new service weapons, Monterey police officers were given the option of purchasing their retiring service weapons at a cost of at least \$225 each. Several officers apparently did purchase the retired service weapons, remitting the payment to the former police chief. However our investigative audit revealed that none of these collections were deposited into a town bank account from these sales. According to town officials, the former police chief indicated he was going to use any retiring service weapons not sold to officers as a trade in for credit with the department’s weapons vendor. However, according to the department’s weapons vendor, none of these weapons were traded in by the Monterey Police Department. The town received none of the benefit, which should have been at least \$1,575, from the sale or trade of these weapons.

4. **ISSUE: Unaccounted for property and ammunition**

Our investigative audit discovered other property purchased by the police department that was not on town property or being used for town purposes. These items, including a \$150 tactical strobe light for an assault rifle and a \$250 wrist watch, totaled at least \$1,289. We also identified purchases of ammunition that did not appear to be compatible with department service weapons.

Unaccounted for Property	Amount
Confidential drug funds	\$14,920
Proceeds from sale of seized vehicles	5,419
Proceeds from cash seizures	3,274
Town-purchased handguns	2,521
Retired service weapons	1,575
Other town-purchased property	<u>1,289</u>
Total Loss	<u>\$28,998</u>

The former police chief, Tim Murphy, admitted to investigators that he had taken cash and property from the Monterey Police Department that he was not entitled to for his own personal benefit.

These matters were referred to the local district attorney general. On September 24, 2010, Mr. Murphy pled guilty to one count of Theft over \$10,000 and Official Misconduct.

FINDINGS AND RECOMMENDATIONS

1. **FINDING: Improper use of the town's tax exempt status**

Our investigative audit revealed the former police chief and other employees improperly utilized the town's tax exempt status when making some personal purchases. It appears that a long-standing practice of the town was to allow employees to purchase items through the town and then, through payroll deductions, repay the town. Town records indicated that since 2006, employees of the town failed to pay sales tax on the purchase of personal items totaling at least \$4,607, and as a result evaded taxes payable to the State of Tennessee of at least \$403. Section 67-1-1440(g), *Tennessee Code Annotated*, prohibits anyone from intentionally avoiding any tax due the State of Tennessee.

RECOMMENDATION:

Officials should ensure the town's sales tax exemption is used only for valid municipal purchases. Any other use should be strictly prohibited.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

We concur. The town has ended the use of the town's tax exempt status by employees for the making of personal purchases. The town will pay the appropriate amount of sales tax to the State of Tennessee Department of Revenue when the means for that payment has been determined.

2. **FINDING: Proceeds from certain seizures not properly remitted**

The Town of Monterey 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 Monterey 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;

(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.

RECOMMENDATION:

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 is 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 health.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

We concur. The town's police department is in the process of reviewing the town's efforts and costs in the storage and sale of confiscated vehicles. The total amount received from the sale of these three vehicles was \$4,070. After the town's reasonable and direct expenses have been determined, the town will transmit to the Tennessee Department of Mental Health and Developmental Disabilities the net proceeds of the sale of the three confiscated vehicles which were sold. Because the proceeds from the sale of the vehicles cannot be traced with any certainty to the police department drug fund, the repayment will be made from the general fund of the town. If any more vehicles are sold and seized under these circumstances, the net proceeds will be paid to the state.

3. **FINDING: Nonmunicipal use of town cell phone paid for by town**

Our audit revealed that the former police chief incurred \$1,261 in roaming charges on his town-issued cell phone during a personal trip to Central America. Although the cell service provider forgave a small portion of those charges, the former police chief's cell phone bill, which was paid by the town, exceeded \$1,100 for that month. The town had no written policy governing cell phone usage.¹ Section 6-56-112, *Tennessee Code Annotated*, states, "All expenditures of money made by a municipality must be made for a lawful municipal purpose."

¹ Current IRS rules regard employer-provided cell phones, absent a policy prohibiting personal use and periodic audit, as a taxable fringe benefit to the employee.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 2, Chapter 1, Section 2, states:

... municipal officials should ... develop a policies and procedures manual that incorporates or references all the policies and procedures required in this Internal Control and Compliance manual plus any additional policies and procedures that are specific to the municipality.

RECOMMENDATION:

To help ensure that all town disbursements are for a lawful, municipal purpose, that all expenditures of taxpayer funds are for costs necessary to the purposes for which municipal government exists and to ensure that needed phone service can be effectively evaluated, town officials should develop a written cell phone policy for all employees addressing personal use, over-plan use, replacement responsibility for lost equipment, and identification of all charges which require reimbursement. Town officials should require a designated employee to periodically review cell phone invoices to determine compliance with the written policy and to document the results of the review. The policy should clearly state which town officials or employees are eligible for town-provided cell phones as well as outline allowable uses. The policy should expressly prohibit personal or nonmunicipal use of the cell phones.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

We concur. The town attorney is in the process of preparing a telephone use policy which will include both landlines and cell phones. The policy will require the town employees to reimburse the town for any personal charges incurred on town telephones. Because the employee in this case resigned before the Verizon bill arrived and because of the former employee's personal difficulties, it is unlikely that the town will be able to recover any of the personal charges made on the town's telephone. The town has requested from the former employee any proof that he has that Verizon agreed that the charges for the Central America calls would be covered by the town's plan. The town has not received written confirmation from Verizon of the change in the plan. It appears unlikely that the town will receive any further adjustment of its bill by Verizon or obtain any meaningful recovery from the former employee.

As to the issues regarding internal control and compliance, the office staff of the town has downloaded and printed the manual and will review the manual to become more familiar with the internal control and compliance requirements. Additionally, the town will seek training from MTAS on the issues raised in this audit.

4. **FINDING: All collections were not receipted**

The former police chief did not turn over certain collections to the town clerk for proper receipt and deposit. Our investigative audit revealed deposits into the drug fund and drug tax bank accounts totaling at least \$8,064², which had not been receipted into the town's accounting records. Section 9-2-103, *Tennessee Code Annotated*, states, "Each state, county and municipal official who receives any sum or sums in such official's capacity shall issue to the payer thereof a receipt and shall retain a duplicate thereof in the office of such official...." The *Internal Control and Compliance Manual for Tennessee Municipalities* requires the use of duplicate, prenumbered receipts for collections from each revenue source.

RECOMMENDATION:

To properly record and account for collections, officials should ensure that a duplicate, prenumbered receipt is issued for every collection.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

We concur. All receipts are now prepared by the office staff during normal business hours. No receipts will be written by any other of the town's personnel. A duplicate, prenumbered receipt will be issued for every collection. See the comments regarding the manual above.

5. **FINDING: All collections not included on daily collection report**

As noted in Finding 4, certain collections made by the former police chief were not remitted to the town clerk's office for proper receipting. As a result, those collections were not included on the daily collection reports. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 5, Chapter 13, Section 6, requires municipal officials to ensure that

... each day the cashier summarizes all cash collections by source on a daily collection report, clearly indicating the amount to be deposited, the amount retained for change, and the amount of cash over or short. Each report should be dated, and the date should be recorded on the corresponding deposit slip. The total on the corresponding deposit slip as well as the total of all applicable prenumbered receipts should agree with the total collections recorded on the daily collection report.

² These funds are not related to the unaccounted for cash referred to in the Legal Issues section of this report.

RECOMMENDATION:

To better account for town money, each day all collections should be turned over to the clerk so that she can prepare a detailed report of that day's total collections and the source of those collections.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

We concur. Because the office staff will be writing all receipts in the office, it will now be possible to ensure that all collections will be included in the daily collection report as required. See the above comments regarding the manual.