

**To the Mayor and Members of the City Council****January 18, 2022**

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SUBJECT: ASSET FORFEITURE PROGRAM

In the coming weeks Fort Worth Police Department (FWPD) will submit the FY2022 Asset Forfeiture budget for City Council approval. The purpose of this informal report is to provide an update to City Council regarding asset forfeiture funding relevant to the M&C.

FWPD receives funds from the sale of assets seized in certain law enforcement activities in which the department has assisted federal and state law enforcement agencies. The process of liquidating and distributing seized assets is commonly called "asset forfeiture." The federal asset forfeiture program is authorized by the Comprehensive Crime Control Act of 1984, while the state asset forfeiture program is authorized by Chapter 59 of the Texas Code of Criminal Procedure. The main goals of the federal and state asset forfeiture programs are to deprive criminals of property used in or acquired through illegal activities, to encourage joint operations among law enforcement agencies at various levels of government, and to strengthen law enforcement. Both programs require that the recipient law enforcement agency use the assets solely for law enforcement purposes and that the assets be held in a special fund, subject to audit and review by the appropriate authorities. The City of Fort Worth Police Department is responsible for the receipt, expenditure, and reporting of asset forfeiture. The Justice Asset Forfeiture Fund is specifically for assets forfeited through the Criminal Division Asset Forfeiture and Money Laundering Section; Justice Management Division Asset Management Staff; Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Federal Bureau of Investigations (FBI); U.S. Attorney's Office; and U.S. Marshals Service.

TASK FORCES

FWPD participates in anywhere between 12-16 interagency task forces each year. These task forces are organized by a lead agency and usually involve a number of local law enforcement agencies with a sponsoring Federal/State agency (i.e. FBI, ATF, Marshall's, etc.). The terms of the task force are approved by the City in a sharing agreement that outlines the personnel, requirements and revenue sharing terms of the task force. The lead agency provides reimbursement to FWPD for additional personnel expenses incurred during investigations. This reimbursement is separate from revenue received from forfeited property.

Assets seized by a task force are held until judgement before being distributed based on the terms of the judgement informed by the sharing arrangement signed by the City. The process is intended to facilitate equitable distribution and broad participation of law enforcement agencies.

SOURCE(S) OF REVENUE

Funds received through the asset forfeiture program are the result of seizures during the course of investigations that include both FWPD personnel and interagency cooperation, usually task forces organized by Federal/State agencies. Asset seizure can include a variety of different types of property including cash, vehicles, real and personal property, firearms, etc. Depending on the crime and investigation, these assets are inventoried and held by following one of four procedures as they are held pending judgement by the court. These procedures are listed below:

US Department of Justice (DOJ): These assets are confiscated by task forces cooperating with Federal agencies on investigations that involve Federal crimes. Assets are held by the DOJ until judicial proceedings are completed. Task force personnel, which includes FWPD, apply for a share of the seizure

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through a DAG-71 form which is uploaded to the DOJ e-Share site. FWPD does not receive any revenue until a court judgement has been made. The DOJ transmits these funds electronically to the City based on the sharing arrangement. This revenue is deposited into a separate interest-bearing fund. DOJ requires this revenue and expenditures to be reported annually on the Equitable Sharing Agreement and Certification report through the same e-Share site. This program is subject to the US Department of Justice standards^{1,2} and must be used to “increase or supplement” the FWPD budget.

US Department of Treasury: Similar to DOJ seizures, these are assets that are seized by task forces investigating Federal financial crimes. Assets are confiscated and held by the Federal agency. FWPD personnel apply for a share by submitting a “TD F form” within 45-days of the seizure. Forms and revenue are reported through the same e-Share reporting site with the same requirements as Department of Justice forfeiture. This revenue is reported separately but with the same procedure and requirements as the Department of Justice program.^{1,2}

Tarrant County: Assets seized under Article 59 of the Texas Code of Criminal Procedure are held for offenses to Texas codes.³ These assets are transmitted to Tarrant County by the FWPD Property Room to be held for judgment in Tarrant County Court. Revenue from these seizures is received by check and reported separately to the Attorney General of Texas including revenue received, expenditures, starting and ending balances. Under Chapter 59, this revenue is to be used for law enforcement purposes and cannot offset/decrease the Department’s annual budget.⁴ Further, disbursed revenue must be expended with approval of City Council by providing a list of expenditure categories that do not reveal details about investigative or prosecution methods.

City of Fort Worth: The City holds assets seized under Article 18 and Article 27 of the Texas Code of Criminal Procedure. These assets are logged through FWPD’s Property Room and disposed according to the procedure described in FWPD General Orders.⁵ Employees are prohibited from using property for personal reasons. Official use must be approved by the Chief of Police. Funds are deposited and disposed according to the State law and City policy.

FINANCIAL CONTROLS

FWPD cooperates with local, State, and Federal agencies to seize, document, and equitably disburse resources forfeited by judicial order. FWPD tracks the four different sources of forfeiture revenue by maintaining separation in the ERP Financial system through fund accounting. This ensures accurate financial reporting to each agency (i.e. Justice, Treasury, State). FWPD fiscal staff ensure that appropriate processes are followed for approval of expenditures, procurement, and reporting. FWPD Property Room staff ensure compliance with the processing of assets to be held or transmitted by City personnel. FWPD Policy Management and Safety Section ensures seizure and cash handling policies and procedures are documented in the Department’s General Orders and personnel notified regarding initial training, changes, or additions.

¹ U.S. Department of Justice Asset Forfeiture Policy Manual 2021.

² US Department of Justice Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies 2018.

³ Texas Code of Criminal Procedure Chapter 59.01.

⁴ Ibid., 59.06

⁵ FWPD General Orders 210.05



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City Departments, including City Manager's Office, City Attorney's Office, Financial Management Services and Internal Audit have different oversight roles in the process. These include but are not limited to: reviewing financial reports, approving budgeted expenditures, reviewing policies and procedures, internal control, and advising on legal matters. This ensures that the program is following procedure on seizures, utilizing the funds appropriately, reporting revenue and expenditure timely and correctly, utilizing the funds appropriately, and in compliance with regulatory requirements.

BUDGET DEVELOPMENT

Due to the supplanting restrictions of these funds, and others, FWPD develops a *Supplemental Funding Budget* by using a *Needs Assessment* process. This process is outlined in the Department's General Orders and is intended to ensure that the supplemental sources do not serve to 'offset or decrease' the amount provided by the City in violation of the supplanting requirements of these revenue sources. *Needs Assessments* are submitted by employees within the Department by providing information into the Fort Worth Police Enterprise Portal for evaluation by their chain of command. These assessments require to provide objectives, justification, and cost estimation so FWPD personnel can adequately prioritize each submission.

When approved by the chain of command, these submissions are reviewed by the *Budget Committee* consisting of representatives from various areas of the Department including civilians. Assessments are then presented and justified in-person (or via teleconference) by the submitting individual at a monthly meeting. This process is described in the Department's General Orders.⁶ The Committee subsequently ranks each submission and prioritizes them with other submissions from across the Department. Once this process is complete, Assistant Chiefs review and make the final recommendation to the Chief of Police for final approval. The approved prioritized list is then used for asset forfeiture budgets, grant budgets, etc. in addition to informing the following year's annual budgeting process. In the event a need is presented to Fiscal Command staff that is emergent and necessarily must bypass the full *Needs Assessment* process, personnel are required to submit an *Executive Priority Memo* for approval by their chain of command and the Chief of Police before an appropriate funding source is identified.

ASSET FORFEITURE ERP FUNDS: REVENUE, EXPENSE, ENDING BALANCES⁷

FUND	FY2018	FY2019	FY2020	FY2021
Justice Asset Forfeiture	\$774,389.95	\$299,565.99	\$357,092.31	\$572,226.83
Treasury Asset Forfeiture	\$78,810.70	\$11,062.96	\$214,528.44	\$121,331.44
State Asset Forfeiture	\$320,211.30	\$545,930.69	\$607,800.15	\$163,318.59
Total Revenue	\$1,173,411.95	\$856,559.64	\$1,179,420.90	\$856,876.86
Justice Asset Forfeiture	\$0	\$393,101.13	\$633,880.71	\$368,063.26
Treasury Asset Forfeiture	\$0	\$0	\$120,000.00	\$0
State Asset Forfeiture	\$0	\$120,000.00	\$1,060,997.35	\$254,606.35
Total Expenditure	\$0	\$513,101.13	\$1,814,878.06	\$622,669.61

⁶ FWPD General Orders 210.04, 210.09

⁷ ERP Funds 26002, 26003, & 26004

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SUBJECT: ASSET FORFEITURE PROGRAM**FY2022 BUDGETED EXPENSES**

Field Management and Protective Gear
Rifle Vest Replacement
Property Room Lift
Crime Scene Equipment
Officer Mental Wellness/Resiliency Program Pilot
Radio Refresh Program
3D Imaging Laser Scanner
Pistol/Rifle Practice Ammunition
Physical Ability Test (PAT) Equipment
Drone, Photogrammetry Software, CAD Software
Motorcycle Speed Detection Devices
Tracking Equipment for Vehicle Theft
Reflective Neighborhood/Business Crime Watch Signs
K9 Kennel/Run
Classified Services/Imprest Funds
Grant Match

If you have any questions please contact Chief Neil Noakes, Police at 817-392-4212.

David Cooke
City Manager