



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

EDWARD A. DION, CPA  
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County Administrative Offices  
800 East Overland Street, Rm. 406  
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11-03

November 3, 2021

The Honorable Yvonne Rosales  
District Attorney  
Ste. 203, County Courthouse Building  
500 East San Antonio  
El Paso, Texas 79901

Dear Ms. Rosales:

A copy of a memorandum from Ms. Daisy Caballero, internal auditor certified, dated November 3, 2021, is attached. This memorandum is a report on a review of your seizure and forfeiture funds for the reporting period September 1, 2020, through August 31, 2021.

If we can be of any assistance in this regard, please let us know.

Sincerely,

Edward A. Dion  
County Auditor

EAD:DC:ya

Attachment

cc: Mrs. Betsy Keller, Chief Administrator  
Mr. George Al-Hanna, First Assistant District Attorney  
Ms. Corina Cervantes, Executive Assistant, District Attorney's Office



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11-07

MEMORANDUM

TO: EDWARD A. DION, COUNTY AUDITOR *Edward Dion*

THRU: BARBARA FRANCO, COUNTY AUDITOR FIRST ASSISTANT *Barbara Franco*

THRU: JAMES O'NEAL, COUNTY AUDITOR, MANAGER SENIOR *James O'Neal*

FROM: DAISY CABALLERO, INTERNAL AUDITOR CERTIFIED *Daisy Caballero*

DATE: NOVEMBER 3, 2021

SUBJECT: REVIEW OF THE DISTRICT ATTORNEY'S SEIZURE AND FORFEITURE FUNDS FOR THE REPORTING PERIOD OF SEPTEMBER 1, 2020 THROUGH AUGUST 31, 2021

**Overview**

A review of the District Attorney's seizure and forfeiture funds has been performed for the reporting period of September 1, 2020, through August 31, 2021. The objective of this review was to verify compliance with the requirements of *Code of Criminal Procedure, Article 59.06 (g)*.

**Scope and Purpose**

The proceeds and expenditures of the seizure and forfeiture funds were reviewed to ensure they were accounted for properly. The Chapter 59 Asset Forfeiture Report, copy attached, was reviewed for accuracy and completeness.

**General**

1. **Observation:** While reviewing expenditures to ensure compliance with *Code of Criminal Procedure, Article 59.06* we noted the following expenditures totaling \$2,604.84 are similar to types of expenditures reviewed by the Texas Ethics Commission in Draft Advisory Opinion No. AOR-640-CI to determine whether they are identified as political advertising/campaigning:
  - Work t-shirts to identify victim advocates at community events with the District Attorney's logo and name prominently displayed

- Children's badges for junior investigators for use in community outreach of services for crime victims and information with the District Attorney's name in bolder and larger font.

We note these expenditures in this report for purposes of full transparency; however, we have not identified a current authority indicating these expenses are not allowable at this time as the draft advisory opinion was returned to Texas Ethics Commission staff for further review.

*Code of Criminal Procedure, Article 59.06 (d-1)* indicates that State forfeiture funds should not be used to contribute to a political campaign. The Asset Forfeiture report is subject to random State audits. Failure to comply with Chapter 59 guidelines could result in an investigation by the State comptroller and a civil penalty of up to \$100,000. The District Attorney would also be liable for the costs of the comptroller in performing the investigation.

*Recommendation:* If the Texas Ethics Commission decides the expenditures are for political advertisement/campaigning and the ruling is retroactive to this time period, the State forfeitures bank account should be reimbursed for the noted expenditures totaling \$2,604.84 as soon as possible. If the Texas Ethics Commission decides the expenditures are not for political advertisement/campaigning, then they would be allowable expenditures and reimbursement will not be required. Every expenditure made with State forfeiture funds should be in compliance with *Code of Criminal Procedure, Article 59.06* and should have complete supporting documentation.

## Summary

This financial review was designed to provide reasonable assurance that the internal control structure is adequate to safeguard the County's assets from loss, theft, or misuse. The County's internal control structure is designed to provide reasonable, but not absolute, assurance that these objectives are met. The concept of reasonable assurance recognizes that: (1) the cost of implementing the controls should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires the use of estimates and judgment by management. Because of the inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. The internal control structure of the District Attorney's Office, as it pertains to seizure and forfeiture funds, appears to be adequate.