MANAGING THE DRUG FUND

• Municipal Technical Advisory Service

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Housekeeping

- Registration forms AND sign-in forms
- Breaks
- Cell Phones
- Ask Questions
- Introduce yourself
- Questions now?
Take Away’s

• Place holder for info on getting the PPT online
• URL for those who have devices in classroom.
Introduction

• MTAS
• CTAS
• Why are we here?
• What you should get out of this class
The “Drug Fund”

• The “drug fund” is a special revenue account.
  • Similar to solid waste fund account or street aid fund account.
  • *It is under the control of the city recorder/trustee* !!

• Confidential expenditures are made from a separate account (*confidential account*).
Sources of Revenue

• Fines from drug offenses
  • 50% of the fine goes to the drug fund (special revenue account).
  • 50% of the fine goes to the General Fund.

• Forfeited cash and the proceeds from the sale of forfeited property.

• Donations.

• Appropriations from governing body.
FINES FORFEITED CASH AND THE PROCEEDS FROM THE SALE OF FORFEITED PROPERTY DONATIONS APPROPRIATIONS

SPECIAL REVENUE ACCOUNT (City Recorder/Trustee)

**NOT the proceeds from the sale of DUI and DRL vehicles

50% 50%
LEGITIMATE EXPENDITURES

General Categories

• Local Drug Treatment Programs
  • Drug Court treatment programs
• Local Drug Education Programs
• Drug Enforcement
  • Operational expenses
  • Confidential expenses
• Non-recurring *General* Law Enforcement Expenditures
• Automated Fingerprint Machines**

TCA 39-17-420
Drug Education

• DARE
• Drug awareness brochures and booklets
DRUG ENFORCEMENT

• Operational
  • Automobiles for Drug Investigators
  • Maintenance and Operational Expenditures for drug officers automobile
  • Telephone Charges, including monthly cellular charges
  • Office Supplies and Office Equipment for Drug Investigation Officers
  • Drug Identification Kits For Drug Investigators and Patrol officers
DRUG ENFORCEMENT (cont)

• Operational (cont.)
  • Drug Enforcement Training
  • Drug Dogs and Their Maintenance, Including Feed and Veterinary Service

• General Drug Enforcement Expenditures Are Not Confidential
  • Must follow city/county purchasing guidelines
NON-RECURRING GENERAL LAW ENFORCEMENT

• Not Drug Investigation related

• Expenditures:
  • Patrol or administrative vehicles
  • Blue lights, sirens, radios, and radar units
  • Video cameras, including body cameras
  • Handguns, shotguns, rifles, but not ammunition
  • Fax machine or copier
NON-RECURRING GENERAL LAW ENFORCEMENT (cont.)

• Expenditures (cont.)
  • Patrol Dogs (non-drug dogs), but not feed or veterinary services
    • Treat dual trained dogs as drug dogs
  • Computers
  • Original software purchase, but not maintenance or upgrades
NON-RECURRING GENERAL LAW ENFORCEMENT (cont.)

- Body armor
- Tasers, but not refill cartridges
- Cell phones, including smart phones
  - But not the monthly bills
AUTOMATED FINGERPRINT MACHINES

• Must set aside 20% of drug fund revenues until machine is purchased or have an agreement with another agency (having a machine)

• After purchase or agreement, may use 20% of revenues to pay for line charges and maintenance
Residual Value

• When items purchased with drug funds are sold, the funds received from the sale must go back to the drug fund
LEGITIMATE EXPENDITURES

General Categories

• Local Drug Treatment Programs
  • Drug Court treatment programs

• Drug Education Programs

• Drug Enforcement
  • Operational expenses
  • Confidential expenses

• Non-recurring General Law Enforcement Expenditures

• Automated Fingerprint Machines**
DONATIONS,
Generally speaking

• Must be a 501(c)(4) or (6) organizations
• Must provide financial reports, including audit, to government
• Notice must be published in a newspaper of general circulation, specifying amount and purpose (must be an allowable expenditure from the drug fund)

• **Must be approved by governing body.**
DONATIONS?

• Any charitable donation must follow state law
• Cities
  • TCA 6-54-111
• Counties
  • TCA 5-9-109
DONATIONS

• Sponsoring a sports team is NOT drug education
  • Putting “Just say no to drugs,” on a sports team jersey does not justify the expenditure
  • Buying an ad in the high school yearbook is not drug education
• Ask yourself, “What is the true purpose of the expenditure?”
• If it walks like a duck.........
SPECIAL REVENUE ACCOUNT
(City Recorder/Trustee)

CONFIDENTIAL ACCOUNT

Expenditures

Must Follow Purchasing Guidelines

Expenditures

Must Follow Comptroller’s Guidelines
Purchasing Guidelines

• Every city or county is different. Depending on which purchasing law they adopted or any private acts impacting purchasing

• Thresholds:
  • Direct purchase up to $???.00 __________
  • Quotes (documented) up to $????.00 _________
  • Any purchase over the “quote” threshold requires sealed bids.
The “Drug Fund”, by statute, is under the control of the City Recorder or County Trustee.
SPECIAL REVENUE ACCOUNT

- Under the control of the Recorder/Trustee
- Budget for drug fund approved annually
- Except confidential expenditures, MUST follow city/county purchasing guidelines
- Confidential Expenditures MUST follow Comptroller’s guidelines
FINES

FORFEITED CASH AND THE PROCEEDS FROM THE SALE OF FORFEITED PROPERTY

DONATIONS

APPROPRIATIONS

SPECIAL REVENUE ACCOUNT
(City Recorder/Trustee)

GENERAL FUND

CONFIDENTIAL ACCOUNT

Separate Checking Account
CONFIDENTIAL ACCOUNT
The “Confidential Checking Account”, authorized by the Comptroller in the “Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs,” is under the control of the Police Chief or Sheriff.
CONFIDENTIAL EXPENDITURES

• Confidential Expenditures
  • Payments made to an informant
  • Payments made to an undercover agent
  • Money spent to actually purchase drugs as part of an investigation
  • Gasoline or maintenance for undercover vehicle or informant’s vehicle
  • Hotel Rooms
  • Cell phones minutes

• Must follow Comptroller’s Guidelines
PROCEDURES FOR HANDLING CASH TRANSACTIONS RELATED TO UNDERCOVER INVESTIGATIVE OPERATIONS OF COUNTY AND MUNICIPAL DRUG ENFORCEMENT PROGRAMS

Revised May 2012

http://comptroller.tn.gov/
Separate Checking Account

• The Comptroller’s rules specify that funds disbursed by the recorder/trustee to the chief/sheriff go into a separate checking account (or daily cash journal)
• The chief will write a check to the agent requesting funds
• There will be a canceled check for each disbursement
DISBURSEMENT OF CONFIDENTIAL FUNDS
Disbursements of confidential funds must be made by official prenumbered checks. All checks shall be signed by the chief law enforcement official or his designated employee and shall be made payable to the person receiving the funds, either the chief law enforcement official or an employee. All employees handling cash transactions in any capacity shall have a fidelity bond to protect the law enforcement agency.
REQUEST FOR FUNDS FOR CONFIDENTIAL OPERATIONS

• Should not exceed a 45 day supply
53-11-415. Special revenue fund.

(a) Except as provided in subsection (b), the county or municipality shall account for those funds received under title 39, chapter 17, part 4 in a special revenue fund. Upon demand of the chief executive of the arresting law enforcement agency, the county or municipality shall pay to that agency the funds demanded for use in cash transactions related to undercover investigative drug enforcement operations. The amount of the funds demanded and the requirement to pay the funds are subject to the availability of funds and budgetary appropriations for that purpose.
DOCUMENTATION

• Documentation for *every* exchange of funds

• Custodian:
  • Exchanges from or to Recorder/Trustee (R-1)
  • Exchanges to or from agents (A-2)

• Agents:
  • Every exchange of funds, (A-4) and
  • Receipt from informant (A-5), witnessed
Audit Logs
(Balance Ledger)

• Custodian:
  • “Custodian’s Activity Log for Confidential Transactions” Balance sheet (A-1)

• Agent:
  • “Agent’s Activity Log for all Confidential Funds” Balance Sheet (A-3)
  • “Summary Informant Log”, for each informant (A-6)
SPECIAL REVENUE FUND
City Recorder/Trustee

CONFIDENTIAL ACCOUNT
Chief/Sheriff/Custodian

CASH
Agent

Transaction

Informant

A-2

R-1

A-4

A-4

A-5
ACCOUNTABILITY OF CONFIDENTIAL FUNDS - FUNDS EXPENDED

Transaction #

Case File # __________ Date Opened __________

EVIDENCE

Type and Quantity

Date __________ Amount Spent __________

UNDERCOVER MOTOR VEHICLE

Gasoline and Oil:

Date __________ Amount Spent __________

Station __________

Date __________ Amount Spent __________

Station __________

Date __________ Amount Spent __________

INFORMANT EXPENSES

Code Name __________

CJ# __________

Date __________ Receipt Yes No__ Amount __________

MISCELLANEOUS

Explanation

Date __________ Amount Spent __________

Explanation

Date __________ Amount Spent __________

Explanation

Date __________ Amount Spent __________

Explanation

Date __________ Amount Spent __________

Total Spent on Page __________

I certify that the above expenditures are true and correct.

Agent’s Signature __________ Date __________

Original Filed with Fund Custodian

Copy Retained by Agent
RECEIPT FOR PAYMENT TO INFORMANT

A. Case or Reference # ____________________________ Date ____________________________

I hereby acknowledge receipt of $__________ (words: ____________) paid to me by _______________ for consideration of [] information and/or [] services as follows: ____________________________
   ____________________________
   ____________________________

B. Section B is to be filled out when funds are advanced to informant for future purchases.

   It is understood that this money is to be expended by me only for the purchase, as evidence, of controlled substances. If no such purchase is made, or if such a purchase is made for less than the total sum furnished to me, before (date: ______________), I will forthwith refund the sum so furnished or the balance thereof, as the case may be, to the above-named officer of the (agency name: __________) at any time. I will forthwith refund to him or her the total amount of any sum thus furnished to me that has not yet been expended by me for the purchase, as evidence, of controlled substances. Furthermore, it is understood that this money is the property of (city/county: __________) and that misuse or conversion of the same to my personal use will render me liable to prosecution.

C. Officer’s Signature ____________________________ Date ____________________________

   Payee (Code name or number) ____________________________
   Date/Time ____________________________

   Witness’s Signature ____________________________ Date ____________________________

Original Filed with Fund Custodian
Copy Retained by Agent
Internal Audits

• We recommend cooperative “spot audits”
• Spot audits catch the “uh oh’s” before they become “oh, crap’s”
• Look for the required documentation for each transaction
• Check to see that agents have ALL cash not documented as having been spent
• Regular and scheduled
Managing informants?

Best Practices
Managing Informants

• Criminal history for all informants? Update?
• Command approval?
• Documentation of informant activity history?
• Correlate informant activity to arrests and convictions?
Informant Information

- Remember, an auditor can demand to see the informant file to verify that an informant does exist
- Unlikely to happen in an annual audit, but more likely during an investigative audit
Proper Disposal of Property and Evidence
Authority

• State law authorizes the comptroller’s office to promulgate rules for municipal and county processes
• Maintain the public’s confidence
• The law requires counties and municipalities to meet compliance standards.
• Not restricted to financial matters, *includes processes*
Property and Evidence

• Secure property and evidence storage facility
• Procedures for property and evidence: Institutional Control
  - Evidence that you follow the procedures
  - Officers store stuff in personal locker?
• Annual inventory of sensitive items
• Short term storage?
On a Budget?
When Budgets Allow.
Please Don’t Do This!
What Are Sensitive (Priority) Items

• Cash
• Firearms
• Drugs
• Vehicles
CASH
Cash

• Unless cash is required as evidence, do not keep cash.
• Check with the local DA to determine the need to maintain cash as evidence
  • (case by case basis)
• Deposit in a bank
• If needed, the city/county can issue a check to return money
• Absolutely, do not keep in drawer or locker
Cash

• All funds received by cities and counties must be deposited in the bank within 3 business days
  • TCA 6-56-111(a) cities
  • TCA 5-8-207 counties
Interest Bearing Account?

• Do you deposit the seized money in an interest bearing account?
• If you lose the forfeiture hearing, you may owe the earned interest to the defendant
• You may be required to provide an IRS 1099 form
• Multiple deposits: Interest for which deposit?
FIREARMS
Firearms

• TCA 39-17-1317 requires firearms that were held as evidence in a case or otherwise used or possessed illegally to be sold, exchanged or retained for LE purposes

• Also applies to abandoned and unclaimed firearms

• Pursuant to court order

• Action must take place between 60 and 180 days after the last legal proceeding involving the weapon
Firearms

• Sell
  • Should contract with a licensed firearms dealer

• Retain
  • You can exchange for ammo, firearms or body armor, or other legitimate law enforcement equipment after a court order giving you title (retain)

• Destroy, **IF** unsafe or inoperable

• All of this must be PURSUANT TO A COURT ORDER
  • Judge of a court of record with criminal jurisdiction
Sale of Firearms

• Public Auction within six months of the court order
• Advertised in local newspaper for at least three editions and not less than 30 days before the sale, or on the city/county website
• Affidavit of return
  • Make, model and serial number
  • Name of purchaser
  • Sale price
• Licensed dealer to assist (limited to no more than 20% commission)
• Proceeds to the general fund to be used solely for law enforcement purposes
Retain Firearms

• Court order gives the police department “title”
• If it is later sold, use the procedure for the Sale of Firearms
Exchange Firearms

• The statute (TCA 39-17-1317) provides that an agency can exchange firearms previously titled to the department.
• First, obtain a court order giving the agency “title” to the firearm
• Obtain a court authorizing the exchange with a qualified law enforcement firearms dealer
  • Other firearms
  • Ammunition
  • Body armor
  • Or equipment suitable for legitimate law enforcement purposes
Inoperable or Unsafe Firearms

• Obtain a court order for destruction or recycling
• Or, transfer to a museum or historical society
FIREARMS

Firearm

If Unsafe

Obtain Court Order

Destroy

Affidavit of Return

Unsafe Firearms
FIREARMS

Petition the Court for Title

Firearm

To Retain Firearms
FIREARMS

To Retain

Petition the Court for Title

To Exchange Firearms
FIREARMS

To Retain

Petition the Court for Title

To Exchange

Petition the Court for Order

To Exchange Firearms
To Exchange Firearms

Petition the Court for Title

To Retain

Firearm

To Exchange

Petition the Court for Order

Firearms
Ammo
Body Armor
LE Equipment
FIREARMS

To Sell Firearms

Petition the Court for Order

Firearm

To Sell
FIREARMS

1. Firearm
2. Petition the Court for Order
3. Advertise in Local Newspaper
4. To Sell
FIREARMS

Firearm

To Sell

Petition the Court for Order

Advertise in Local Newspaper

Public Sale

Affidavit of Return

Buyer, Description of Firearm, Selling Price

May use Firearms Dealer
FIREARMS

Firearm

- If Unsafe:
  - DESTROY, With court order. Return to court

To Retain:
- Petition the Court for Title

To Sell:
- Petition the Court for Order
  - Advertise, Then Sell

To Exchange:
- Petition the Court for Order

Firearms
- Ammo
- Body Armor
- LE Equipment

Affidavit of
Return
DRUGS
DRUGS

• TCA 53-11-451 requires the clerk of the court to inventory and dispose of drugs and paraphernalia at least annually after final adjudication

• If the case is disposed of and the drugs are still in the possession of the police department, the duty rests with the law enforcement agency
Drugs

• Drugs are contraband and are to be destroyed *after adjudication*
• Never keep more than one year beyond adjudication
What about training our drug dog?

• 53-14-104. License -- Required -- Application -- Fees.
  
  (a) No person shall manufacture, obtain, possess, administer or dispense a legend drug, controlled substance or controlled substance analogue for the purpose of scientific research, chemical analysis, instruction or training of detection animals without having first secured a license to do so from the director.


VEHICLES
Vehicles

• Treat the same as any other evidence
• Annual inventory of vehicles
• Keep secure
  • In-house security
  • Vendor lot

• **Maintain adequate inventory records**
• Ensure that proceeds go where they are supposed to
• Do you have a daily storage fee for your lot?
DUI/DRL VEHICLES

- Second or subsequent offense of DUI
- Driving on Revoked Drivers License when license was revoked for DUI
- *ALL* proceeds from sale go to state department of mental health, except for *direct expenses associated with seizing, towing, storing, etc.*
* Any property seized under drug control act
Conveyance Seizures

• Judicial Process (40-33-101)
  • Sexual offenses
  • Robbery
  • Felony Theft
  • Burglary
• Must be included in the indictment
• Requires Conviction
• Judge orders forfeiture

• Administrative Process
  • Drugs
    • Proceeds to Drug Fund
  • Sexual Exploitation of Children (TCA 39-17-1008)
  • DUI/DRL
  • Arson
  • “Trademark Licensing” laws
  • Bootleg Whiskey
    • Proceeds split with ABC
  • Untaxed tobacco

Title 40, Chapter 33, Part 1
Title 40, Chapter, 33, Part 2
Can You Use the Cars?

• Vehicles seized for drug violations OR for DUI/DRL and forfeited to the city/county may be used for **DRUG ENFORCEMENT** purposes
• Must be sold after five years.

• Vehicles forfeited under a judicial process can be used for any law enforcement purpose.
LOST OR ABANDONED
Lost or Abandoned Property

• Different for Police departments than sheriff’s departments
• Sheriff’s departments follow TCA 8-8-501
• Police Departments are subject to Uniform Disposition of Unclaimed Property Act for cash
TCA 8-8-501 (Sheriffs)

• Dispose of all abandoned, stolen and/or recovered or worthless property which remain unclaimed
• By confiscation, abandonment or by being stolen and recovered
• Due diligence to return to rightful owner
• Wait 90 days from date of acquisition.
Uniform Disposition of Unclaimed Property Act

• All lost or abandoned property (cash) technically belongs to the state of Tennessee.

• You will need to register the cash online at the Unclaimed Property Division of the state treasurers office.

• The law is silent on other unclaimed or abandoned property. MTAS recommends treating it as surplus property.
  • The governing body should declare the items to be surplus.
  • Sell at auction (including online auctions).
BEER AND WHISKEY
Beer and Whiskey

- Unopened beer and whiskey to be turned over to the state Alcohol Beverage Commission 57-9-115
- The state is to return a percentage of the proceeds from the public auction of the beverages to the local government.
- After adjudication, dispose of open containers
- Class C misdemeanor
In closing........
Evidence

• Rules of Evidence, Rule 901
  • Chain of custody maintained and documented

• Aside from general rules of evidence we expect as police officers:
  • TCA 9-2-102 requires cities and counties to follow rules of the Comptroller’s office
  • *Internal Control and Compliance Manual*

• *Governmental Accounting, Auditing, and Financial Reporting*

• *Code of State Regulations* *(Secretary of State, effective rules)*
Are we having fun yet?
RESOURCES

County Technical Assistance Service
www.ctas.tennessee.edu

John Rose (423) 956-1200
john.rose@tennessee.edu
RESOURCES

Municipal Technical Advisory Service

www.mtas.tennessee.edu

Rex Barton (423) 506-0402
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RESOURCES

Division of Audit

http://comptroller.tn.gov/
RESOURCES

Forms