



**VILLAGE OF LINCOLN HEIGHTS' MAYOR'S COURT  
HAMILTON COUNTY**

**SPECIAL AUDIT**

**FOR THE PERIOD JANUARY 1, 2006 THROUGH SEPTEMBER 30, 2007**



**Mary Taylor, CPA**  
Auditor of State



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# Mary Taylor, CPA

Auditor of State

## INDEPENDENT ACCOUNTANTS' REPORT

The Honorable Laverne Mitchell, Mayor  
Mr. Robert C. Bannister Jr., Village Manager  
Ms. Sharon Willis, Acting Finance Director  
Village of Lincoln Heights  
1201 Steffens Ave  
Lincoln Heights, Ohio 45215

We conducted a special audit of the Village of Lincoln Heights' (the Village) Mayor's Court (the Court) and evidence room by performing the procedures enumerated in the attached Supplement to the Special Audit Report for the period January 1, 2006 through September 30, 2007 (the Period), except where noted, solely to:

- Determine whether fines, court costs and bonds collected were posted to the computerized cashbook, posted to the correct case and deposited intact
- Determine whether payments issued from the Court's bank account were for valid Court actions; and
- Determine whether funds seized by the Lincoln Heights Police Department (LHPD) were forfeited, deposited, and distributed in accordance with a court order or were maintained in LHPD's evidence room.

This engagement was conducted in accordance with the Quality Standards for Inspections established by the President's Council on Integrity and Efficiency (January 2005). The procedures and associated findings are detailed in the attached Supplement to the Special Audit Report. A summary of our procedures and significant results is as follows:

1. We examined Court receipts issued manually and electronically during the Period and determined whether fines, court costs and bonds collected were posted to the computerized cashbook, posted to the correct case and deposited intact.

Significant Results – Tamara Cortes, former Court clerk, was responsible for issuing receipts, posting collections to the Court's computer system and depositing moneys received. During the Period, the Court received \$115,860 for 1,138 receipts issued. However, we were able to trace only \$84,100 in cash, and \$16,845 in checks and money orders to deposits into the Court's bank account. In addition, we found money orders totaling \$190 in Ms. Cortes' office related to receipts which had not been deposited. During our review of the evidence room noted in Issue No. 3, we determined Ms. Cortes collected and did not deposit \$98. We issued findings for recovery against Ms. Cortes totaling \$14,823 for moneys collected but unaccounted for.

We made two noncompliance citations for failure to deposit collections within 24 hours and failure to provide council with an accurate report of the Court's activity.

We made four management recommendations for the Court clerk to complete manual receipts in their entirety and post receipts issued to the Court's computer system; document the reason for voiding receipts; record tickets issued and document the related Court decisions in the Regional Crime Information Center's (RCIC) computer system; and to obtain surety bonds for the Court clerk and other employees responsible for collecting funds on behalf of the Court.

2. We examined disbursements from the Court's bank account for the Period and determined whether the disbursements were for a valid Court action.

Significant Results – The Court issued 37 checks totaling \$86,759 to distribute fines and costs collected and to return defendant bonds. With the exception of four bonds, we concluded these disbursements were in accordance with a valid Court action. We were unable to determine whether the four bonds should have been returned. We also noted the Court collected \$169 of license reinstatement fees which were not remitted to the Ohio Bureau of Motor Vehicles. We proposed a finding for recovery against the Court in favor of the Ohio Bureau of Motor Vehicles for \$169. On November 16, 2009, the Court paid \$169 due to the Ohio Bureau of Motor Vehicles.

We made two noncompliance citations for failure to timely distribute moneys collected to the Treasurer of State and the Village and for not collecting the bond administrative fee.

We made a management recommendation that the magistrate document his decision to forfeit or refund defendants' bonds in the docket and for the Court clerk to disburse defendants' bonds in accordance with this decision.

3. We examined available documentation supporting the seizure and forfeiture of funds by the Lincoln Heights Police Department (LHPD) for the period August 1, 2005<sup>1</sup> through August 5, 2008 and determined whether the funds seized by LHPD and forfeited were deposited in accordance with a court order or were maintained in the LHPD's evidence room. In addition, for court-ordered forfeited funds we determined whether the Village made the required distribution to the Hamilton County Prosecuting Attorney's Office.

Significant Results – LHPD seized \$25,188 from 25 defendants of which \$11,480 was distributed in accordance with a court order, spent for police department expenses, or returned in accordance with the Hamilton County Common Pleas Court's decision. Of the remaining \$13,708, \$5,080 was located in the evidence room and \$8,628 could not be located in LHPD's evidence room or the Village's bank accounts. We issued a finding for recovery against former police chiefs Earnest McCowen and DeAngelo Sumler for \$8,628, jointly and severally for public moneys collected but unaccounted for or illegally expended. Former police chief, Sandra Stevenson was named jointly and severally for \$6,332 of the finding for recovery.

We proposed a finding for recovery against the Village in favor of the Hamilton County Prosecuting Attorney's Office for \$1,678, for public moneys collected but unaccounted for or illegally expended. We also proposed a finding for recovery against the Court in favor of the Ohio Treasurer of State General Revenue fund for \$451 and Victims of Crime fund for \$360 for fines collected and not distributed. Since the date of this report, the Village paid \$1,678 due to the Hamilton County Prosecuting Attorney's Office and the Court paid the required amounts to the Treasurer of State. As such, we have reported these results as findings for recovery repaid under audit.

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<sup>1</sup> Based on available case files maintained by the Hamilton County Prosecuting Attorney's Office (HCPAO), we determined HCPAO had not received court-ordered forfeitures for specific cases since 2005. In addition, a search warrant was served on LHPD on August 5, 2008 to identify the funds maintained in the evidence room at that time. As such, we reviewed forfeited funds for the period August 1, 2005 through August 5, 2008.

We made a noncompliance citation for failing to maintain a Mayor's Court cashbook and other records.

4. On November 10, 2009, we held an exit conference with the following individuals representing the Village of Lincoln Heights:

Laverne Mitchell, Mayor  
Sharon Willis, Acting Finance Director  
J. H. Andreyko, Financial Consultant  
Dolores J. Lindsey, Council Member  
Shimshawn Yisrael, Council Member

Robert C. Bannister Jr., Village Manager  
Deepak Desai, Village Solicitor  
Gary Brown, Council Member  
Carolyn F. Smith, Council Member

The attendees were informed that they had five business days to respond to this special audit report. Responses were received on November 16, 2009 and November 18, 2009. The responses were evaluated and changes were made to this report as we deemed necessary.



**Mary Taylor, CPA**  
Auditor of State

May 6, 2009

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## Supplement to the Special Audit Report

### Background

On August 24, 2007, Acting Finance Director Sharon Willis requested the Court's clerk, Tamara Cortes, provide the receipt books supporting July and August 2007 deposits. Ms. Willis wanted to determine whether the Court corrected internal control weaknesses and compliance issues identified during the Village's 2004-2005 financial audits.

After numerous requests, Ms. Willis received the 2007 deposit slips and related receipts on September 13, 2007. When reconciling the receipts issued during July 1, 2007 through September 13, 2007 to the amounts deposited, Ms. Willis identified \$7,496 collected had not been deposited.

On September 13, 2007, Ms. Cortes was admitted to a local hospital. While Ms. Cortes was in the hospital, the Village manager and mayor obtained the moneys collected during the September 12, 2007 Court session for deposit from Ms. Cortes' office. The Village manager and mayor also found 58 checks and money orders dated between September 30, 2006 and August 1, 2007 totaling \$4,074, and \$300 in cash on Ms. Cortes' desk.

On October 22, 2007, the Village's solicitor contacted the Auditor of State's (AOS) Cincinnati regional office and requested a special audit of the Court.

On November 5, 2007, Ms. Cortes was placed on paid administrative leave.

On November 16, 2007, the Auditor of State initiated a special audit of the Court.

On December 5, 2007, the Village terminated Ms. Cortes' employment.

On March 6 and 7, 2008, AOS representatives interviewed Village officials as part of the 2006-2007 financial audits to identify any fraud concerns. During these interviews, Village officials mentioned police department representatives questioned the Drug Law Enforcement (Drug) fund balance at a recent Village budget meeting. A recent court-ordered forfeiture should have increased the Drug fund's balance significantly; however, the balance had not increased as expected. During testing of these concerns, the regional audit staff identified discrepancies between the court-ordered forfeited amount due to the Village and the amount the LHPD deposited with the acting finance director.

On December 18, 2008, we expanded our audit scope to include an examination of seizure and forfeiture activity.

# Supplement to the Special Audit Report

## Issue No. 1 – Fines, Court Costs and Bonds Collected

### PROCEDURES

We traced manual receipts issued during the Period to the Court's computer system and determined whether the receipts were posted to the computerized cashbook.

We compared the computerized receipts to the manual receipts issued and determined whether a manual receipt existed for each computerized receipt.

We selected one case for each quarter during the Period and examined computerized receipts, manual receipts and related computerized case files and determined whether the payments were posted to the correct case.

For identified voided receipts, we examined available supporting documentation and determined whether the receipts were voided for a valid Court action.

We obtained copies of the Court's bank account deposits and related supporting documentation for the deposits, traced the receipts issued to the items deposited and determined whether the receipts were deposited intact.

### RESULTS

We conducted a series of interviews with former Court Clerk Tamara Cortes, Magistrate Alan Triggs and former Mayor Deborah Seay and obtained an understanding of the procedures performed when collecting, depositing and disbursing fines, court costs and bonds received from defendants. When fines and court costs were received, Ms. Cortes, or a police officer during court hearings, issued a manual receipt for each payment. Funds received by the Village police department for bonds and payments outside normal Village office hours were placed under Ms. Cortes' office door, placed in her office mailbox or given to her by the supervisor on duty the next day. Upon receipt of the payments collected by the police department, Ms. Cortes issued a receipt for each specific payment or bond in the Court's receipt book.

Ms. Cortes then posted the Court's manual receipts to the computerized cashbook and case file maintained in CAPIAS<sup>2</sup>. For each deposit, Ms. Cortes completed a deposit log identifying the cash, checks and money orders collected, prepared the deposit slip and deposited the funds.

During the Period, the Court issued 1,138 manual receipts totaling \$115,860 for fines, court costs and defendants' bonds. Through combinations of substituting checks and money orders for cash payments, delaying deposits and not posting manual receipts to the CAPIAS cashbook, the deposit log reflected fines, court costs, and bonds appeared to have been deposited intact. We reconciled the manual receipts issued to the actual items deposited as follows to determine whether the fines, court costs and bonds collected were actually deposited intact:

Total Manual Receipts Issued <sup>3</sup>	\$115,958
Less: Checks/Money Orders Deposited which Agreed to a Manual Receipt	<u>(16,845)</u>
Total Cash to be Deposited	\$ 99,113
Less: Actual Cash Deposited per bank records	(84,100)
Less: Receipted Money Orders found in Ms. Cortes' Office	<u>(190)</u>
<b>Cash Collected and Not Deposited</b>	<b><u>\$14,823</u></b>

<sup>2</sup> CAPIAS was the software used by the Court to account for its activity.

<sup>3</sup> This amount includes \$98 which was identified during our review of the evidence room noted in Issue No. 3.

## Supplement to the Special Audit Report

Of 1,138 manual receipts issued for fines, court costs and bonds, we noted the following:

- 135 receipts not posted to CAPIAS including its computerized cashbook and case files.
- Five receipts posted to CAPIAS for more than the amount actually collected.
- Six receipts posted to CAPIAS for less than the amount actually collected.
- 13 receipts posted to CAPIAS for moneys not deposited.

Our review of one case for each quarter during the Period, disclosed the computerized receipts reconciled to the manual receipts and were posted to the Court's computerized cashbook and the appropriate defendant's computerized case file.

We examined 26 voided receipts and determined the receipts were voided for a valid Court action with the following exceptions:

- Two voided receipts were voided with no explanation. We were unable to determine whether the amounts owed were paid by the defendants.
- We were unable to locate a case number or a ticket number for one voided receipt totaling \$50 and thus were unable to conclude whether the receipt was voided for a valid Court action.

### FINDING FOR RECOVERY

#### Fines, Costs and Defendants' Bonds

Ohio Traf. R. 13(A) states in part "(e)ach court shall establish a traffic violations bureau...The court shall appoint its clerk as violations clerk... Fines and costs shall be paid to, receipted by and accounted for by the violations clerk." In an interview, former Court Clerk Tamara Cortes stated she issued a receipt for every fine, court cost or defendants' bond payment received.

We determined \$14,823 of fines, court costs, and defendants' bonds received were not deposited into a Village account.

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, we hereby issue a finding for recovery against Tamara Cortes for \$14,823 of public moneys collected but unaccounted for in favor of the Village of Lincoln Heights' Mayor's Court.

### NONCOMPLIANCE CITATIONS

#### Timely Deposits

Ohio Rev. Code Section 9.38 states in part, "... (i)f the total amount of the public moneys so received does not exceed one thousand dollars, the person shall deposit the moneys on the business day next following the day of receipt, unless the public office of which that person is a public official adopts a policy permitting a different time period, not to exceed three business days next following the day of receipt, for making such deposits, and the person is able to safeguard the moneys until such time as the moneys are deposited."

The Village has not adopted a policy regarding the length of time funds can be held prior to being deposited. Ms. Cortes deposited fines and court costs collected in the Court's bank account up to 504 days after the date the payment was received. By not making timely deposits, Ms. Cortes was able to substitute checks and money orders in place of cash payments made by other defendants.

We recommend the Village implement a depositing policy and consider whether the alternative method is necessary. The mayor and/or her designee should monitor the Court's activity to ensure moneys received are deposited in accordance with the policy.

## Supplement to the Special Audit Report

### Court Activity

Ohio Rev. Code Section 733.40 states in part "... At the first regular meeting of the legislative authority each month, the mayor shall submit a full statement of all money received, from whom and for what purposes received, and when paid into the treasury."

We noted the following prevented the mayor from providing an accurate report of the Court's activity to council:

- There was no evidence that the mayor or other employee reviewed bank statements or documentation supporting receipt and disbursement activity.
- Of the \$115,860 collected, \$14,823 was not deposited into the Court's bank account.
- The Court did not distribute \$15,737 to the Village or the State because the collections were not recorded in CAPIAS.
- Checks and money orders totaling \$345 were returned for non-sufficient funds. No evidence existed that the Village attempted to collect the fines and court costs due.
- Police report fees deposited into the Court's bank account were not distributed to the Village.
- The Court registered with its bank and obtained the necessary equipment to accept credit card payments from defendants. However, the Court did not institute a credit card policy and never accepted any credit card payments. During the Period, the bank deducted credit card fees and service charges from the Court's bank account totaling \$872.
- The Court bank balance exceeded the amounts recorded as not distributed on the Open Items list.
- Receipts were posted incorrectly in CAPIAS resulting in funds either being incorrectly distributed or not distributed at all.

By not reviewing the bank statements, reviewing documentation supporting receipt and disbursement activity, and maintaining accurate records, the mayor cannot identify posting errors or other irregularities in a timely manner. This resulted in inaccurate reports being submitted to council. To ensure accurate reports are presented to council, we recommend the mayor and/or her designee:

- Reconcile the bank account to the cashbook and the Open Items list determining whether fines, court costs and defendants' bonds received were deposited and distributed.
- Periodically compare the receipts issued to those posted to the cashbook and determine whether fines, court costs and defendants' bonds collected were posted to CAPIAS.
- Investigate any unusual entries posted to the cashbook or reflected on the monthly bank statement.
- For returned checks/money orders, confirm the Court has made attempts to collect the fines and court costs due from the defendants in a timely manner.
- Review disbursements from the monthly cashbook and bank statement to ensure the amounts due to the Treasurer of State and the Village were remitted and that no other unrelated disbursements were made.
- When bank charges occur, verify the Village distribution was reduced by the amount of the bank charges in order to prevent an overdraft.

### **MANAGEMENT RECOMMENDATIONS**

#### Clerk Surety Bond

During the Period, Ms. Cortes was responsible for collecting significant amounts of money on behalf of the Court. Ms. Cortes was not bonded in the case of a loss or theft. To reduce the risk of loss of Court assets, employees collecting fines, court costs and defendants' bonds should be bonded in an amount that is commensurate with their responsibility.

We recommend the Village obtain surety bonds for employees collecting Court fines, court costs and defendants' bonds.

## Supplement to the Special Audit Report

### Receipts

We noted receipts were not posted to CAPIAS; were posted inaccurately; and/or manual receipt fields such as case number, offense, defendant/payee, and ticket number were either not completed or were illegible.

Receipts issued should include the date, defendant/payee, amount paid, ticket/case number and should be signed by the individual collecting the money. Upon completion, the manual receipt information should be entered into CAPIAS and posted to the appropriate case. The receipts issued should be totaled and agreed to the amount deposited ensuring all funds received were deposited intact.

Failure to complete the entire receipt prevents the Court from identifying the amount received, the case the payment is to be applied and whether the payment was posted to CAPIAS. Not entering the receipt into CAPIAS in the appropriate amount could result in the appearance docket reflecting the defendant had not paid the fines and court costs due and could result in the unjustified issuance of an arrest warrant.

We recommend the individual collecting fines, court costs, and bond payments complete a pre-numbered receipt documenting the date, payee, ticket/case number, offense, amount, and the defendant's name. These receipts should agree to the amount posted in CAPIAS and to the amount deposited. If amounts received are adjusted, the individual making the adjustment should document the reason for the adjustment and the supervisor should review and document their approval.

### Voiding Capability

In reviewing 26 voided receipts, we noted that voided receipts were not posted in CAPIAS, the reasons for the voids were not documented, and no one was reviewing voids to verify they were issued for valid Court actions.

Failure to document the reason for the void, post the receipt to CAPIAS and review the void to determine whether it was for a valid Court action could result in the receipt being improperly voided and the moneys collected not being deposited into the Court's bank account.

We recommend the mayor and/or her designee review voided receipts on a periodic basis to determine the reasonableness of the void, whether documentation for the void exists, and verify both copies of the voided receipt are marked as "void". In addition, voided manual receipts should be posted to the Court's computer system to ensure all receipts are accounted for when completing the daily deposits. In the case of the three voids for which we were unable to determine their validity, we recommend the Court contact the three defendants and determine whether payment was made to the Court. If so, the Court should contact their legal counsel for advice on how to resolve the discrepancies.

### RCIC

In interviews conducted with Ms. Cortes and Village police department representatives, we determined the tickets issued were not recorded in the Region Crime Information Center's (RCIC) computer system. At the time of issuance of a ticket and its disposition, the activity should be recorded in RCIC. Not recording the tickets results in other jurisdictions not being aware of outstanding arrest warrants and could result in the fines and court costs due not being collected in a timely manner. Failure to update disposition information could result in issuance of unjustified arrest warrants.

We recommend the police department record tickets issued in RCIC, maintain a log documenting the control number for each ticket recorded and document when the magistrate's decisions are posted to RCIC's computer system.

## Supplement to the Special Audit Report

### Issue No. 2 – Disbursements

#### PROCEDURES

Using records obtained from the bank, we identified the disbursements from the Court's bank account.

We examined available documentation supporting the identified payments and determined whether the disbursements were for valid Court actions.

#### RESULTS

During the Period, the Court issued 37 checks totaling \$86,759. Of the 37 checks issued, 33 were for a valid Court action which included the distribution of fines and court costs or the return of a defendant's cash bond. Due to lack of available documentation we were unable to determine whether the four remaining checks were in accordance with the magistrate's decisions. We also noted:

- Police report fees deposited into the Court's bank account were not distributed to the Village.
- Defendant bonds totaling \$855 scheduled to be returned per CAPIAS have not been returned. We recommend the Court clerk return these bonds as scheduled.

#### FINDING FOR RECOVERY REPAID UNDER AUDIT

##### Undistributed BMV Fees

Ohio Rev. Code Section 4510.22 (A) provides:

"If a person who has a current valid Ohio driver's, commercial driver's license, or temporary instruction permit is charged with a violation of any provision in sections 4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 4549.65 of the Revised Code that is classified as a misdemeanor of the first, second, third, or fourth degree or with a violation of any substantially equivalent municipal ordinance and if the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed by the court to pay the fine imposed by the court, the court shall declare the forfeiture of the person's license. ....

No valid driver's or commercial driver's license shall be granted to the person after the suspension, unless the court having jurisdiction of the offense that led to the suspension orders that the forfeiture be terminated. The court shall order the termination of the forfeiture if the person thereafter appears to answer the charge and pays any fine imposed by the court or pays the fine originally imposed by the court. The court shall inform the registrar of the termination of the forfeiture by entering information relative to the termination on a form approved and furnished by the registrar and sending the form to the registrar. The person shall pay to the bureau of motor vehicles a fifteen-dollar reinstatement fee to cover the costs of the bureau in administering this section."

Per CAPIAS, the Court collected license reinstatement fees totaling \$109. We also noted during our review of the evidence room noted in Issue No. 3, the Court collected a \$60 license reinstatement fee. The Court did not distribute these fees to the Ohio Bureau of Motor Vehicles as required.

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, we considered a finding for recovery against the Village of Lincoln Heights' Mayor's Court for \$169 of public moneys collected but not accounted for in favor of the Ohio Bureau of Motor Vehicles. On November 16, 2009, the Court paid \$169 of restatement fees to the Ohio Bureau of Motor Vehicles. Accordingly, we consider this a finding for recovery repaid under audit.

## Supplement to the Special Audit Report

### NONCOMPLIANCE CITATIONS

#### Bond Administrative Fee

Ordinance 99-O-19 Section I states "(t)here is hereby established an administrative fee of \$16.00 on all security bonds posted in the Village of Lincoln Heights' Mayor's Court." According to a March 8, 1999 Administrative Order, the administrative fee is "in addition to the actual amount of the bond.... Individuals that post bond shall post the actual amount of the bond and an additional \$16.00 to cover costs...."

During the Period, the \$16 fee was not collected for bonds posted by defendants. Instead, the \$16 fee was deducted from the defendants' bonds when returned. Failure to collect the fee at the time the defendant's bond was received resulted in the Court not collecting the administrative fee on forfeited bonds.

We recommend the police department collect the \$16 administrative fee in accordance with this ordinance and Court administrative order. At the end of each month, the fees collected should be distributed accordingly.

#### Fine Remittances

Ohio Rev. Code Section 733.40 provides that the mayor shall account for and dispose of all such fines, forfeitures, fees, and costs collected. All moneys collected shall be paid by the mayor into the Village on the first Monday of each month. Also, at the first regular meeting of the legislative authority each month, the mayor shall submit a full statement of all money received, from whom and for what purposes received, and when paid into the treasury.

Ohio Rev. Code Section 2743.70(A)(1) states that, "The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the following sum as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender; (a) Thirty dollars, if the offense is a felony; (b) Nine dollars, if the offense is a misdemeanor. ... All such moneys shall be transmitted on the first business day of each month by the clerk of the court to the treasurer of state and deposited by the treasurer in the reparations fund."

Ohio Rev. Code Section 2949.091 (A)(1) states, "The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the sum of fifteen dollars as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund."

Contrary to these Sections, the Court did not distribute fines and court costs collected to the Village on the first Monday of each month, the Treasurer of State by the first business day of the month for reparation fines, or to the Treasurer of State for Victims of Crime fines by the 20<sup>th</sup> of the month. Distributions occurred between 42 and 324 days after the required date.

During our review of the Mayor's Court bank account in Issue No. 3, we also noted the Court did not distribute moneys collected during April 2002 and December 2003. We proposed a finding for adjustment against the Court in favor of the Village's General Fund for \$4,451 and in favor of the Court Computerization fund for \$195 of Mayor's Court fees collected and undistributed. On November 16, 2009, the Court distributed these funds in accordance with Ohio Rev. Code Section 733.40.

We recommend the fines and court costs collected be distributed to the Treasurer of State and the respective Village funds in accordance with the aforementioned Ohio Revised Code Sections. During the monthly reconciliation review, the mayor and/or her designee should verify the distributions occurred.

## Supplement to the Special Audit Report

### MANAGEMENT RECOMMENDATION

#### Bond Refunds and Forfeitures

During the Period, the Court issued four checks to defendants for bond refunds totaling \$686 for which we were unable to determine the validity of the defendants' bond refund. The Court's records for these cases did not reflect the magistrate's decision to refund the defendants' bond. Failing to document whether a defendant's bond should be refunded or forfeited can result in the defendants' bonds being improperly forfeited or returned.

We recommend the magistrate document in the appearance docket whether defendants' bonds should be forfeited or refunded. Upon receipt of the docket, the Court clerk should refund or forfeit the defendants' bonds in accordance with the magistrate's decisions.



## Supplement to the Special Audit Report

### Issue No. 3 – Evidence Room

#### PROCEDURES

We examined records maintained by the Hamilton County Prosecuting Attorney's Office (HCPAO) and identified cases and seized amounts forfeited as ordered by the Hamilton County Common Pleas Court (HCCPC). In addition, we identified cases and the related amounts for which HCPAO had not received the court-ordered distribution from the funds forfeited to LHPD.

Using Village pay-ins, Village Mayor's Court receipts, and related bank statements, we identified forfeited funds deposited into the Village's bank accounts for the period August 1, 2005 through August 5, 2008.

We compared the amounts approved for forfeiture to those deposited into the Village's bank accounts and determined whether the Village deposited court-ordered forfeited funds into its bank accounts.

For forfeited funds not deposited into the Village's bank account and for funds seized but not forfeited, we examined available evidence room logs and determined whether the seized funds were maintained in the evidence room.

We obtained a vendor history report and identified Village payments to the HCPAO.

We compared the identified payments to court-ordered distributions and determined whether the Village distributed forfeited funds in accordance with the court order.

#### RESULTS

When LHPD arrested a defendant and seized their assets, the seized assets were secured in LHPD's evidence room. On or near the date the defendant's case was assigned a case number, LHPD would request the forfeiture of the seized assets. Upon conclusion of the case, HCCPC ruled whether the funds were to be forfeited to LHPD or returned to the defendant. If the funds were forfeited, HCCPC allocated 80% of the forfeited funds to LHPD and the remaining 20% to the HCPAO.

From HCPAO's records, we identified 25 requests for forfeiture of seized funds totaling \$25,188. We noted the following when comparing court-ordered forfeitures to funds deposited into the Village's bank account, posted to the Village receipt ledgers, and distributed to HCPAO:

Total funds seized by LHPD which HCPAO requested forfeiture on their behalf	\$ 25,188
Less: Amount deposited by LHPD to the Village and distributed per court order	(8,595)
Less: Amount expended by LHPD which was subsequently forfeited	(1,727)
Less: Amounts returned to defendants following case dismissal	(1,158)
Total amount which should be in LHPD's evidence room	<u>\$ 13,708</u>
Less: Amounts found in LHPD's evidence room	<u>(5,080)</u>
Total amount not deposited, distributed or maintained in LHPD's evidence room	<u>\$ 8,628</u>

Through the examination of deposit activity in the Village's bank accounts, we determined the \$8,628 seized by LHPD was not deposited into these accounts. Accordingly, we issued a finding for recovery for this amount.

Of the \$13,708 which should have been in the evidence room, we determined the Village owes HCPAO \$1,678 for court-ordered forfeitures which have not been distributed. LHPD also seized \$7,343 which has been forfeited by HCCPC but has not been deposited in the Village's bank account and was not recorded in the Village's Drug fund. The remaining \$4,687 seized has not been forfeited by HCCPC as of the date of this report.

## Supplement to the Special Audit Report

### FINDINGS FOR RECOVERY

#### Forfeited Funds

At the beginning of a criminal case, LHPD requested the forfeiture of funds or assets seized at the time of the defendant's arrest. If HCCPC granted the forfeiture, a court order was sent to LHPD to distribute the funds maintained in the evidence room. If the Court denied the forfeiture, the funds were to be returned to the defendant.

For the forfeitures requested by LHPD, we reviewed available court orders, moneys maintained in the evidence room, and moneys deposited into the Village's bank account for distribution. We were unable to locate \$8,628 of seized funds.

Former police chiefs Earnest McCowen, Sandra Stevenson, and DeAngelo Sumler were responsible for the safekeeping of seized funds and assets.

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, we hereby issue a finding for recovery against the following individuals in the identified amounts collected but unaccounted for:

<b>Individuals</b>	<b>Amount</b>
Earnest McCowen, Sandra Stevenson, DeAngelo Sumler, jointly and severally	\$ 6,332
Earnest McCowen, DeAngelo Sumler, jointly and severally	\$ 8,628

### **FINDINGS FOR RECOVERY REPAID UNDER AUDIT**

#### Moneys Due to the Hamilton County Prosecutor's Office

When HCCPC grants a forfeiture, the HCCPC's decision entry orders LHPD to distribute 20% of the seized funds to the HCPAO. Of the \$3,868 identified as owed to the HCPAO, \$1,678 was not distributed as ordered by HCCPC.

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, we considered a finding for recovery against the Village for \$1,678 of public moneys collected but not accounted or illegally expended for in favor of the HCPAO. On September 14, 2009 and November 16, 2009, the Village paid HCPAO the \$1,678 required forfeiture distributions. Accordingly, we consider this a finding for recovery repaid under audit.

#### Fees Due to the Treasurer of State

Ohio Rev. Code Section 2743.70(A)(1) states in part that, "The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the following sum as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender: (a) Thirty dollars, if the act, if committed by an adult would be a felony; (b) nine dollars, if the act, if committed by an adult, would be a misdemeanor. ... All such moneys shall be transmitted on the first business day of each month by the clerk of the court to the treasurer of state and deposited by the treasurer in the reparations fund."

Ohio Rev. Code Section 2949.091(A)(1) states in part, "The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the sum of fifteen dollars as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund."

Based on available fine distribution summaries, we determined the Court did not distribute \$451 of General Revenue fund fines and \$360 of Ohio Victims of Crime fund fines to the Ohio Treasurer of State for November 2003 and July 2007.

## Supplement to the Special Audit Report

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, we considered a finding for recovery against the Village of Lincoln Heights Mayor's Court for \$811 for public moneys collected but unaccounted for in favor of the Treasurer of State's General Revenue fund for \$451 and the Victims of Crime fund for \$360. On November 16, 2009, the Court issued a check to the Treasurer of State's General Revenue fund for \$451 and to the Victims of Crime fund for \$360. Accordingly, we consider this a finding for recovery repaid under audit.

### NONCOMPLIANCE CITATION

#### Maintaining Court Records

Ohio Rev. Code Section 1905.01(F) states, "In keeping a docket and files, the mayor, and a mayor's court magistrate appointed under section 1905.05 of the Revised Code, shall be governed by the laws pertaining to county courts." Ohio Rev. Code Section 1907.20 (B) regarding general provisions of county court administration states, in pertinent part, "The clerk shall file and safely keep all journals, records, books and papers belonging or appertaining to the court, record its proceedings, perform all other duties that the judges of the court may prescribe, and keep a book showing all receipts and disbursements, which shall be open for public inspection at all times."

The Court was unable to provide complete April 2002, December 2003, and July through September 2007 computerized cashbooks and related fine distribution summaries for our review. The unavailable documentation prevented accurate calculation of amounts due to the Village and State for fines and court costs collected for these months.

We recommend the Mayor's Court Clerk maintain cashbooks and fine distribution summaries to document the collection and disbursement of fines, court costs, and bonds.





**Mary Taylor, CPA**  
Auditor of State

**VILLAGE OF LINCOLN HEIGHTS' MAYOR'S COURT**  
**HAMILTON COUNTY**

**CLERK'S CERTIFICATION**

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

*Susan Babbitt*

**CLERK OF THE BUREAU**

**CERTIFIED**  
**DECEMBER 10, 2009**