



## COMPTROLLER'S INVESTIGATIVE REPORT

### Livingston Police Department

*June 2, 2022*

**Jason E. Mumpower**  
*Comptroller of the Treasury*



**DIVISION OF INVESTIGATIONS**



JASON E. MUMPOWER  
*Comptroller*

June 2, 2022

Town of Livingston  
Board of Mayor and Alderman  
301 McHenry Circle  
Livingston, TN 38570

Town of Livingston Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Livingston Police Department, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 13<sup>th</sup> Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", with a long horizontal flourish extending to the right.

Jason E. Mumpower  
Comptroller of the Treasury

JEM/MLC

# INVESTIGATIVE REPORT

## LIVINGSTON POLICE DEPARTMENT

The Office of the Comptroller of the Treasury, in conjunction with the Tennessee Bureau of Investigation, investigated allegations of malfeasance related to missing funds from the Livingston Police Department's evidence room. The investigation was limited to selected records for the period from January 1, 2017, through November 30, 2021. The results of the investigation were communicated with the Office of the District Attorney General of the 13<sup>th</sup> Judicial District.

### BACKGROUND

The Town of Livingston is located in Overton County, Tennessee and operates a police department whose members serve a population of approximately 4,000 residents. The Livingston Police Department (department) follows the leadership of its Police Chief (chief) while employing officers to fulfill roles in criminal investigations, patrol, and evidence maintenance. The chief is ultimately responsible for the operations of the department and reports directly to the Town of Livingston Board of Mayor and Alderman.



The custody, maintenance, and recording of evidence is critical to the department's operations as well as to the defendants charged in criminal cases which the evidence supports. Once property has been seized, it may be preserved as evidence, it may be padlocked as ordered by a court of record, it may be secured by depositing in an interest-bearing account as approved by a court of record or it may be secured as otherwise authorized by law regarding the maintenance, storage, or disposition of seized property, pursuant to Tenn. Code Ann. §39-11-707.

### RESULTS OF INVESTIGATION

#### 1. THE CHIEF FAILED TO ADMINISTER PROPER OVERSIGHT OF EVIDENCE

The chief failed to administer proper oversight of evidence. The department's *Collection, Preservation, Processing of Evidence* policy provides:

All evidence shall be logged in as soon as possible and in a manner that will enable the member to identify the evidence in a court of record. It is the responsibility of the primary officer (officer) or investigator assigned to the case to submit all evidence collected... The member shall place the evidence in a pre-printed envelope or container and then seal the container with evidence tape. All envelopes or containers should be marked in a permanent manner [detailing the information of the seizure]... Evidence submitted to the department should be described in a consistent manner on all agency documents. The member shall be responsible for properly documenting, labeling, packaging, and securing all confiscated property either with the evidence technician or in temporary storage prior to the end of [the member's shift].

Therefore, the chief is responsible for property seized by officers as well as its processing through the department. It is also the delegated responsibility of the evidence custodian to properly document and store the evidence.

The chief, evidence custodian, and a former captain had access to the evidence room during the period of the investigation.

As a result of the chief failing to administer proper oversight of evidence, investigators noted the following issues:

**A. At least \$27,000 in seized cash was missing from department evidence.**

Based on evidence records provided by the chief and the evidence custodian, at least \$27,000 in seized cash was missing from department evidence. The chief and the evidence custodian provided two sets of records, which showed differing amounts of missing funds: 1) case files with missing funds totaling \$27,265.48, and 2) a listing of "Money Collected" – including the missing funds – totaling \$27,610.49. As a result, investigators noted a variance of \$345.01 in the records provided by the chief and the evidence custodian. Due to the chief's and the evidence custodian's disregard for department policy and procedure, the inaccuracy of evidence records, and improper evidence placement, investigators could not determine the exact amount of missing seized cash.

Both the evidence custodian and a former captain stated that they had "borrowed" undeposited seized cash for personal purchases and would later pay back the "borrowed" funds. Investigators were unable to determine the amount improperly "borrowed" by the evidence custodian and former captain.

**B. The chief allowed unauthorized individuals access to evidence facilities.**

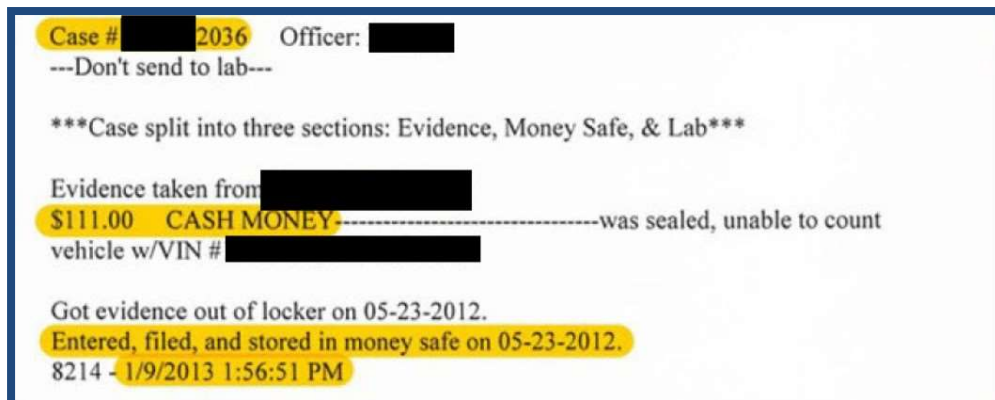
The chief allowed unauthorized individuals access to evidence facilities. Investigators were informed of a time when the key to the evidence room door was kept in the department's dispatch room. The key was located on a clipboard, which was used to sign the key out to personnel when access to the evidence room was needed as opposed to utilizing a temporary storage locker. The intent of the temporary storage locker was to allow the evidence to be secured while also limiting access to the evidence room. It was the responsibility of the evidence custodian to transfer the evidence from the temporary storage locker to the evidence room in a timely manner. By maintaining the key within the dispatch room, access to the evidence room key was made available to personnel who were not officially authorized access. Additionally, the evidence custodian wrote down the combination to the safe in the evidence custodian's office and taped the information to a doorway. The safe in the evidence custodian's office held some of the department's seized cash as well as funds paid to the department for fines.

Investigators were also informed of an instance in which an inmate trustee gained access to the department's evidence room. As a result, the lock on the door to the evidence room was upgraded to a fingerprint system. Seized property was not determined to be missing after the incident.

**C. The chief failed to provide adequate oversight of the department's evidence custodian.**

The chief failed to provide adequate oversight of the department's evidence custodian. In one instance, evidence from a case ending in number 2036 was reported to have been "Entered, filed, and stored in money safe on 05-23-2012" in a case narrative prepared by the evidence custodian. The time stamp on the entry is 1/9/2013 1:56:51 PM. (Refer to Exhibit 1.)

**Exhibit 1**



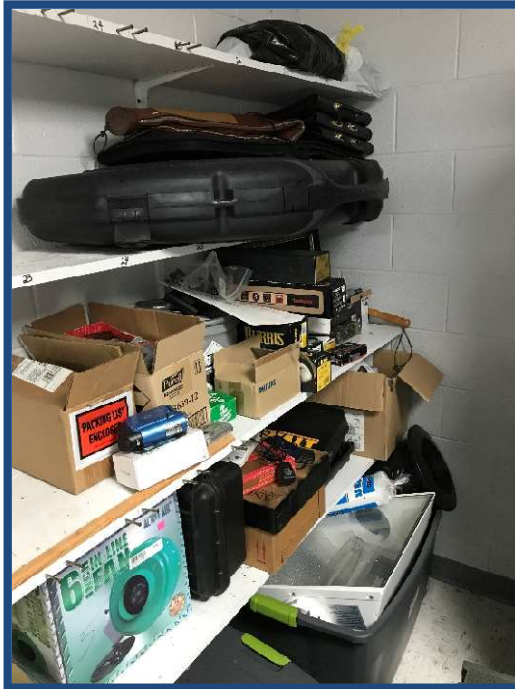
*The case narrative prepared by the evidence custodian for a case ending in number 2036*





evidence placement within the evidence room, investigators were unable to complete their audit. Investigators noted that although labeled shelving existed within the evidence room, evidence was often improperly stored away from its assigned location. Items other than evidence were also stored in the evidence room throughout the period of the investigation. Improperly stored evidence creates a greater risk of misappropriation, misplacement, and potential chain of custody and admissibility issues in criminal cases. **(Refer to Exhibit 3.)**

**Exhibit 3**



*Photos taken within the department's evidence room, which show the inconsistency of evidence placement and storage*

**2. THE CHIEF FAILED TO DEPOSIT SEIZED FUNDS WITHIN THREE DAYS OF SEIZURE**

The chief failed to deposit seized funds within three days of seizure. According to the Tennessee Comptroller of the Treasury's *Procedures For Handling Cash Transactions Manual*, counties and cities must deposit all seized funds with the county trustee or city recorder. Pursuant to Tenn. Code Ann. § 6-56-111, every municipal official handling public funds is required to deposit those funds as soon as practical, but no later than three (3) working days after the receipt of those funds. Pursuant to Tenn. Code Ann. § 39-11-707, when property is seized . . . it may be preserved as evidence, it may be padlocked as ordered by a court of record; it may be secured by depositing in an interest-bearing account as approved by a court of record, or it may be secured as otherwise authorized by law regarding the maintenance, storage, or disposition of seized property. Due to the inaccurate evidence records maintained by the department, investigators were unable to determine the amount of seized cash that should have been deposited within three days of seizure, the

amount of cash evidence that should have been preserved as evidence or padlocked for preservation as ordered by a court of record. By allowing all seized cash to be stored in the evidence room, the funds were more susceptible to misappropriation.

### **3. THE CHIEF DID NOT REPORT UNLAWFUL CONDUCT AS REQUIRED BY STATE STATUTE**

The chief did not report unlawful conduct as required by state statute. Pursuant to Tenn. Code Ann. § 8-4-503, a public official with knowledge based upon available information that reasonably causes the public official to believe that unlawful conduct has occurred shall report the information in a reasonable amount of time to the Office of the Tennessee Comptroller of the Treasury. Investigators were informed that the chief had knowledge of evidence-related issues in Fall 2019, months before attempting a review of the evidence room. Results of the inventory performed by the chief were compiled and listed on an evidence inventory listing dated February 22, 2021. Allegations of misappropriated seized cash were reported to the Office of the Tennessee Comptroller of the Treasury on March 4, 2021 by town officials. The chief did not directly report the allegations of misappropriated seized cash to the Office of the Tennessee Comptroller of the Treasury.

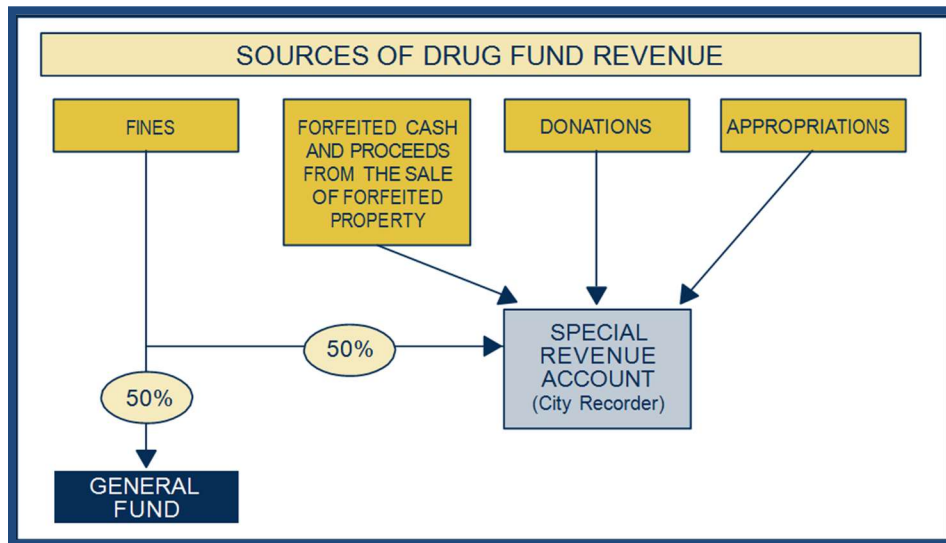
Evidence from multiple cases listed on the evidence inventory listing generated on February 22, 2021 did not match the cases' corresponding narratives previously prepared by the evidence custodian. Due to the inaccuracy of records provided as well as the nature of the misappropriation of seized cash, investigators were unable to determine an accurate amount of missing cash evidence.

### **4. THE CHIEF MISUSED THE DEPARTMENT'S DRUG FUND WITH IMPROPER REVENUES AND EXPENDITURES**

The chief misused the department's drug fund with improper revenues and expenditures. The drug fund is a Special Revenue Fund, which exists outside of the town's General Fund. Pursuant to Tenn. Code Ann. §39-17-420, monies in the Special Revenue Fund may be used only for local drug enforcement programs, local drug education programs, local drug treatment programs, and nonrecurring general law enforcement expenditures. Pursuant to Tenn. Code Ann. §39-17-420, sources of drug fund revenue are to be derived from fines, forfeited cash, and proceeds from the sale of forfeited property, donations, and appropriations. **(Refer Exhibit 4.)**



Exhibit 4



*Sources of drug fund revenue chart showing the flow of revenue into the drug fund (obtained from the Municipal Technical Advisory Service)*

We noted the following issues due to the chief misusing the department’s drug fund with improper revenues and expenditures:

**A. The chief improperly deposited at least \$352,906.23 into the department’s drug fund.**

The chief deposited at least \$352,906.23 that had been derived from the sale of various department vehicles and equipment through GovDeals, which are not permitted revenues outlined in Tenn. Code Ann. §39-17-420. Excess property owned by the Department of Defense may be awarded to local law enforcement agencies through the Law Enforcement Support Office (LESO) Program. The LESO program is intended to assist local law enforcement agencies by providing tools and equipment that will assist in situations encountered in law enforcement with an emphasis given to counter-drug and counter-terrorism. The largest sale of awarded LESO equipment by the department occurred from the sale of a 1998 D7R Caterpillar Dozer, which totaled \$141,000. The \$141,000 was deposited into the department’s drug fund. Examples of vehicles and equipment awarded through the LESO program are pictured below. **(Refer to Exhibit 5.)**

**Exhibit 5**



*A vehicle and piece of equipment awarded to the department, which are both stored at the department's training range*

**B. The chief improperly received at least \$41,781.69 in reimbursements from the department's drug fund.**

The chief improperly received at least \$41,781.69 in reimbursements from the department's drug fund. The chief would regularly travel to various military bases to retrieve awarded LESO vehicles and equipment, which resulted in travel reimbursements. The chief was also reimbursed multiple times for meals purchased for inmates. The reimbursements paid to the chief were recurring operational expenditures and therefore should have been paid from the town's General Fund.

**INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES**

Our investigation revealed deficiencies in internal controls and compliance, some of which contributed to the missing seized funds from the department's evidence room. These deficiencies included:

**Deficiency 1: The chief failed to provide adequate oversight of department personnel and limit access to seized cash and evidence**

The chief failed to provide adequate oversight of department personnel and limit access to seized cash and evidence. By allowing evidence room access to personnel who were not officially authorized access, the chief failed to safeguard the room and created an environment where undetected misappropriations were possible. The inadequate oversight allowed multiple individuals to gain improper access to evidence and therefore resulted in the inability to locate at least \$27,000 of missing seized cash. The chief also failed to establish a periodic inventory of evidence, which resulted in the inaccuracy of department records.

**Deficiency 2: The Board of Mayor and Alderman failed to properly oversee the department's drug fund**

The Board of Mayor and Alderman failed to properly oversee the department's drug fund. It is the responsibility of the Board of Mayor and Alderman to be knowledgeable about the nature and limitations of funds which they oversee. Contrary to the requirements of Tenn. Code Ann. §39-17-420, the Board of Mayor and Alderman voted in favor of selling LESO equipment awarded to the department and placing the proceeds into the drug fund. The board's lack of knowledge regarding legitimate drug fund revenues and expenditures resulted in improper deposits into and improper disbursements from the department's drug fund.

Town of Livingston officials indicated that they have corrected or intend to correct these deficiencies.

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