

FILED

To: Honorable Judge Steven Rhodes
From: Phyllis L Hernandez
Case # 10-009510-CZ
Re: Demand for Jury trial
July 27, 2014

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U.S. BANKRUPTCY
E.D. MICHIGAN-DETROIT

“ Letters. Letters to the Judge are discouraged; written communications should be made only by pleadings. Copies of correspondence between counsel shall not be sent to the Judge and will be discarded. Letters to the Judge from pro se litigants may, at the Judge's discretion, be treated as pleadings and docketed as such.”

On August 18, 2010 a case was filed on my behalf against the City of Detroit for violation of the Michigan Antitrust law. I was the owner of a small struggling Detroit based towing company in Detroit from 1998-2012. My attempts for over a decade to get a Detroit Police Authorized towing contract, which is a multimillion dollar industry were rejected due to City of Detroit corruption and the existence of a Detroit Police towing monopoly owned by Gasper Fiore with 7 different companies with comingled assets all with police contracts. For over a decade I went before the Detroit Police Commissioners with massive proof of corruption as well as the Detroit City council only to have it fall on intentional deaf ears. It did appear that the Board of Commissioners was trying to stop it for several years with the development of a “Towing task force” but after 2 commissioners filed police reports after feeling threatened and 1 refused to vote anymore a new set of towing rules were established but never followed. Former Police Commissioner Jerome Warfield said “we can write the rules but if you can tell me a way to make them follow them we will”. As we also know there was an



indictment against former Mayor Kwami Kilpatrick for towing corruption after the FBI encouraged Gasper Fiore to testify before a grand jury that he was giving payoff's to Kilpatrick or as he said " extortion" which was dismissed when Kilpatrick tried to hold up the trial by trying to fire his attorney. My case was heard in the 3RD Circuit Court by Judge Robert Ziolkowski and the City of Detroit was denied summary judgment claiming governmental immunity from the Michigan Antitrust law. As you sit in your chambers going through God only knows how much paperwork to try and get the City back on its feet the corruption continues worse than before the Bankruptcy with not only Gasper Fiore and his monopoly of towing companies we now have another monopoly forming bigger than his. The corruption is so bad that Detroit City Council members (Gary Brown's committee) elected Jack Morton to the Towing rate commission who is a former, fired Detroit Police Officer in 1984. I have boxes of proof of corruption that will not be filed away allowing history to repeat itself with the continuation of this corruption and the City of Detroit attempting to hide my case in its bankruptcy from you and the citizens of Detroit. I respectfully ask that the stay of proceedings on my case be lifted and my case be transferred to the Supreme Court of the United States of America for the City of Detroit's violation of the Federal Antitrust law.

After reviewing the federal laws I found that the Michigan Antitrust Act is derived from the Federal Sherman Act which states:

Section 2 of the Sherman Act prohibits monopolization, attempts to monopolize, and conspiring to monopolize. Any such act constitutes a felony. A monopoly conviction requires proof of the individual having intent to monopolize with the power to monopolize, regardless of whether the individual actually exercised the power.

Federal Trade Commission:

The Sherman Act outlaws "every contract, combination, or conspiracy in restraint of trade," and any "monopolization, attempted monopolization, or conspiracy or combination to monopolize." Long ago, the Supreme Court decided that the Sherman Act does not prohibit every restraint of trade, only those that are *unreasonable*. For instance, in some sense, an agreement between two individuals to form a partnership restrains trade, but may not do so unreasonably, and thus may be lawful under the antitrust laws. On the other hand, certain acts are considered so harmful to competition that they are almost always illegal. These include plain arrangements among competing individuals or businesses to fix prices, divide markets, or rig bids. These acts are "*per se*" violations of the Sherman Act; in other words, no defense or justification is allowed.

Federal Trade Commission:

"The penalties for violating the Sherman Act can be severe. Although most enforcement actions are civil, the Sherman Act is also a criminal law, and individuals and businesses that violate it may be prosecuted by the Department of Justice. Criminal prosecutions are typically limited to intentional and clear violations such as when competitors fix prices or rig bids. The Sherman Act imposes criminal penalties of up to \$100 million for a corporation and \$1 million for an individual, along with up to 10 years in prison. Under federal law, the maximum fine may be increased to twice the amount the conspirators gained from the illegal acts or twice the money lost by the victims of the crime, if either of those amounts is over \$100 million."

Federal Trade Commission

"Final decisions issued by the Commission may be appealed to a U.S. Court of Appeals and, ultimately, to the U.S. Supreme Court. If the Commission's position is upheld, the FTC, in certain circumstances, may then seek consumer redress in court. If the company violates an FTC order, the Commission also may seek civil penalties or an injunction."

The Michigan Antitrust law is also derived from the Clayton Act:

The Clayton Act addresses specific practices that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates (that is, the same person making business decisions for competing companies). Section 7 of the Clayton Act prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or to tend to create a monopoly." As amended by the Robinson-Patman Act of 1936, the Clayton Act also bans certain discriminatory prices, services, and allowances in dealings between merchants. The Clayton Act was amended again in 1976 by the Hart-Scott-Rodino Antitrust Improvements Act to require companies planning large mergers or acquisitions to notify the government of their plans in advance. The Clayton Act also authorizes private parties to sue for triple damages when they have been harmed by conduct that violates either the Sherman or Clayton Act and to obtain a court order prohibiting the anticompetitive practice in the future.

15 U.S. Code § 1 - Trusts, etc., in restraint of trade illegal; penalty

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court. Private Parties

Federal Trade Commission

"Private parties can also bring suits to enforce the antitrust laws. In fact, most antitrust suits are brought by businesses and individuals seeking damages for violations of the Sherman or Clayton Act. Private parties can also seek court orders preventing anticompetitive conduct (injunctive relief) or bring suits under state antitrust laws. Individuals and businesses cannot sue under the FTC Act."

11 U.S. Code § 362 - Automatic stay

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

Amendment 14

Civil rights

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

I have inclosed former City of Detroit Auditor General Joe Harris's reports on Detroit Police towing corruption and monopolization of contracts allowed by the Detroit Police and the City of Detroit

Sincerely:

Philip J. Hernandez
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Brownsdown Mich
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City of Detroit

OFFICE OF THE AUDITOR GENERAL

**Audit of the
Detroit Police Department's
Administration of the
Police Authorized
Towing Process**

December 2003




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CITY OF DETROIT

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MEMORANDUM

DATE: September 30, 2004

TO: Honorable City Council

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Administration of the Police-Authorized Towing Process

C: Mayor Kwame M. Kilpatrick
Chief Ella M. Bully-Cummings

Attached for your review is our first of several reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. This audit was initiated by the Office of the Auditor General to determine the validity of allegations of improprieties committed by DPD personnel and by police-authorized tow companies, and to determine the compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

Detroit's police-authorized towing process is complex. There are 30 towing companies authorized to tow on a rotational basis or as the designated abandoned vehicle tower. There are different processes for the various types of towing assignments, and there are multiple units within the Police Department, as well as personnel at each of the 13 precincts, that are involved in aspects of the process. To facilitate an understanding of the issues, we are presenting our findings in separate reports covering the following areas:

1. Administration of the Police-Authorized Towing Process
2. Compliance with the Impounded Vehicle Towing Process
3. Compliance with the Abandoned Vehicle Towing Process
4. Vehicle Auction Process
5. Evidence Vehicles
6. Accounting and Reporting System
7. Towing Companies' Compliance with the Towing Policies and Contracts
8. Best Practices & Recommendation.

This report on the Police Department's administration of the police-authorized towing process contains an executive summary; the audit purpose, scope, objectives, and



methodology applicable to this report; process overview; findings and recommendations; and the Detroit Police Department's response.

We greatly appreciate the cooperation extended to us by the employees and management of the Detroit Police Department and the police-authorized towing companies.

**Audit of the Detroit Police Department's
Administration of the Police- Authorized Towing Process**

December 2003

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EXECUTIVE SUMMARY

The Office of the Auditor General initiated this audit in response to allegations of improprieties committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether City Ordinances, DPD towing procedures and the terms of the towing contracts were being complied with and whether the allegations of improprieties were valid.

The DPD authorizes the towing of vehicles for evidence purposes, removal of abandoned vehicles, safeguarding recovered stolen vehicles, forfeiture of vehicles for various violations, removal of road hazards, parking violators, and other reasons. There are 30 police-authorized towing companies, each of which is assigned to one or more police precincts. The Management Services Bureau (MSB) is responsible for the administration of the towing process including selecting, contracting with, monitoring and terminating police-authorized towers. MSB also oversees complaint resolution.

The Towing Rate Commission of the City of Detroit is charged with reviewing towing rates at least once every two years and with submitting its recommendations to City Council by October 1st of the year of review. The most recent change in towing rates was in 1996 although a recommendation for changes in the towing rates, made to City Council in October 2003, has not been acted upon.

Based on information obtained during our audit, we have concluded that the police-authorized towing process is poorly managed with policies and procedures either circumvented or ignored by some towers and police officers. Specific findings related to the administration of the process follow.

Finding 1 – Former Deputy Chief of the Management Services Bureau Exceeded His Authority

We found that the former Deputy Chief of the MSB exceeded his authority, by entering into contracts and making precinct assignments that were not in conformance with DPD policies and procedures. We could find no record that the procedural changes were approved by the Chief of Police or by the Board of Police Commissioners. The City's ordinance dictates that the Board of Police Commissioners promulgates the rules and regulations under which the towing companies are called for tows. These rules provide for equitable distribution of towing when practicable. DPD's General Procedures state that those towers authorized after May 1984 may only be assigned to one precinct, and that there be between two and four towing companies assigned to each precinct. The Police Authorized towing contracts entered into in November 2001, and the associated towing company assignments, circumvented the restrictions on precinct assignments.

We recommend that police-authorized towing contract terminology be reviewed by the Chief of Police and the Board of Police Commissioners prior to the contracts being signed to insure that the contract terms conform with the rules and regulations established by the Commissioners. We also recommend that the Board of Police Commissioners review the towing rules and regulations before each contract period to determine whether they are relevant. Any changes to the process or to the precinct assignments should be incorporated into the DPD's General Procedures and the towing contract.

Finding 2 – Award of the November 2001 Towing Contracts Did Not Follow the City's Purchasing Ordinance

The DPD did not adhere to the City's purchasing ordinance in awarding the November 2001 police authorized towing contracts. The DPD classified the towing contracts as professional service contracts less than \$25,000, and estimated that they would pay less than \$5,000 per contract. However, each of the contracts has a value of over \$25,000. The contracts grant the 30 authorized towing companies access to an estimated \$3.9 to \$5.4 million of towing business. Therefore, the contracts' approval should follow the ordinance.

We recommend that the DPD adhere to the City's purchasing ordinance, which provides assurance that the companies awarded contracts meet the contract requirements, are able to perform the contracted services, and have the required City clearances.

Finding 3 – Expansion of Towing Companies Assigned to the Precinct Rotations Was Not Warranted

Additional towing companies were added to the precinct towing rotation in violation of the DPD's General Procedures for towing vehicles. The DPD's General Procedures stipulate that a minimum of two and a maximum of four towing companies will be assigned to each precinct's towing rotation. In conjunction with the November 2001 towing contracts, five towing companies were assigned to 12 of the 13 precincts, a net increase of 17 rotational towing positions. The additional assignments were made despite an internal study that showed that towing assignments were adequate to meet each precinct's demand for services.

We recommend that the DPD evaluate the appropriate number of towing companies to be assigned to each precinct based on each precinct's towing requirements at contract renewal time, and use this information to make precinct towing assignments based on each precinct's requirements. The DPD's General Procedures should be updated if the DPD finds that the stipulation to assign between two and four towing companies is no longer adequate.

Finding 4 – Towing Companies Were Treated Inequitably in the Award of Precinct Towing Positions

Ten of the 18 rotational towing positions that were filled in the precincts were awarded to six towing companies that are controlled by the same owners, managers or agents. Five towing companies, which previously did not have police-authorized towing contracts with the City, applied for rotational towing positions in 2001. Four companies were awarded one towing position each as stipulated in the DPD's General Procedures. The remaining company, associated with the controlled companies, was awarded three towing positions. When Gene's Towing was purchased in 2001, the new owner was awarded multiple towing slots in the next contract cycle. The previous owner had unsuccessfully tried to expand his towing business with the DPD. DPD procedures state that those companies authorized to tow after 1984 should be assigned to one precinct, the ordinance states that distribution of towing assignments should be as equitable as possible.

We recommend that the DPD follow its established procedures in awarding precinct towing assignments, and that each towing company be treated equitably. The award of precinct assignments due to an expansion of towing positions should be conducted in an equitable manner.

Finding 5 – Transfer of Police-Authorized Towing Contracts Were Not Pre-Approved

Since 1997, DPD's police-authorized towing contracts have been transferred when companies were sold without the required DPD approval. The City's Law Department opined that the continued use of the new towing company to provide towing service gave tacit approval to the contract transfers. In most cases, the new owners have retained the previous company name. For those owners with control over multiple companies, DPD has not required that the contracts be consolidated under one name, thus allowing the development of towing conglomerates, and effectively altering the equitable distribution of tows in the City.

We recommend that the DPD continue to include the contract clause that was added to the 2001 towing contract that requires that the City be notified when a contract is transferred, and that the acquiring company apply for a new contract when more than 40% of the towing company's ownership changes. In addition, we recommend that the DPD establish procedures to address the purchase of multiple companies by a single owner or group.

Finding 6 – Towing Companies With Commingled Assets, Owners and Management Are Treated as Separate Companies for Towing Assignments

Police-authorized towing contract applications for seven companies show there is a commingling of vehicles, storage facilities, company ownership, employees, insurance policies, and management. These companies were awarded separate police-authorized towing contracts, yet they substitute for each other in providing towing services. These companies have been awarded 20 of the 63 available rotational towing positions.

We recommend that the Board of Police Commissioners and DPD establish procedures to consider bids, and to award towing contracts to the owners of multiple companies that align with the City's ordinance requirement of providing an equitable distribution of tows among the authorized companies.

Finding 7 –Towing Contracts' Related Business Conflict of Interest Clause is Not Enforced

While the towing contracts provided that no police-authorized tower shall have or acquire any interest that would conflict with the performance of the contract, 22 of the 30 police-authorized towers own or are associated with businesses, such as used car dealerships or parts businesses, which represent a potential conflict of interest.

We recommend that the DPD strictly enforce the conflict of interest clause contained in the police-authorized towing contracts. The DPD should not employ and sign a contract with a person or company having any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the service under the contract.

Finding 8 – The Management Services Bureau Has Been Willing to Accept DPD's Procedural and Towing Companies' Contractual Abuses

The DPD has acknowledged that there are widespread abuses of the towing process, perpetrated by both the towing companies and DPD personnel. These abuses, which will be detailed in subsequent reports, have been tolerated by the DPD.

We recommend that the DPD actively enforce its policies, procedures, and the towing contract provisions. A progressive system of notification and documentation should be implemented. Major offenses should result in disciplinary action or in termination of the towing contract.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

Audit Purpose

The Office of the Auditor General (OAG) initiated this audit in response to allegations of improprieties committed by Detroit Police Department (DPD) personnel and by police-authorized towers involved in the police-authorized towing process.

Audit Scope

The Office of the Auditor General conducted an audit of the Detroit Police Department's towing process to determine the DPD's and the towing companies' compliance with State laws, City ordinances, DPD towing policies, and towing contract terms and to identify industry best practices.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except for the completion of an external quality review of the Office of the Auditor General within the last three years.

Audit Objectives

Our specific objectives were to determine:

- Whether changes to the police-authorized towing contracts and to the tow procedures were properly approved, including but not limited to a determination on whether towing contracts can be transferred without MSB's knowledge or approval.
- Whether the November 2001 precinct assignments were awarded in an impartial manner, whether the assignments met the department's policy of fair distribution of tows, whether the increase in the number of tow companies in each precinct was warranted, and whether the towing companies met all criteria for receiving a contract.
- Whether any police personnel and towing company relationships could be considered to be a conflict of interest.
- Whether towers have ownership interests in auto parts, auto repair, or used car businesses that could be considered a conflict of interest with performance of the towing contract duties and responsibilities.

Audit Methodology

To accomplish the audit objectives, our audit work included:

- Interviews with DPD management, police officers, towers, vehicle owners and others;
- Reviews of DPD towing procedures, City ordinances, and State laws for police-authorized towing;
- Reviews of tower precinct assignments and contracts;
- Reviews of tower corporate records and real estate records; and
- Reviews of the Board of Police Commissioners' minutes for the years 1999 to 2003.

PROCESS OVERVIEW

The police-authorized towing process is performed under the laws of the State of Michigan, City of Detroit Ordinances, Detroit Police Department (DPD) policies and procedures, and the terms of the police-authorized towing contracts. The DPD is responsible for managing the towing process and for ensuring compliance with laws and regulations.

Detroit Police Department

The Detroit Police Department authorizes the towing of vehicles for evidence, removal of abandoned vehicles, safeguarding of recovered stolen vehicles, forfeiture of vehicles for offers to engage (soliciting prostitution) and for narcotics violations, parking violations, removal of road hazards, and for other reasons, such as vehicles that represent hazards, arrests for driving under the influence, or when the vehicle owner is incapacitated.

The structure of the DPD towing process is decentralized with portions of the process being performed by many different members of the Department. DPD entities involved with the towing process include the following:

- **Management Services Bureau** - The Management Services Bureau (MSB) is responsible for the administration of the DPD towing process, including selecting, contracting, and monitoring towers; complaint resolution; and termination of police-authorized towing contracts.
- **Precinct Patrol Officers** - Precinct patrol officers determine the need for impounding vehicles. Officers are required to call the precinct tow desk to obtain the name of the next police-authorized tower in the rotation. Police officers are required to perform a Law Enforcement Information Network (LEIN) check to determine whether the vehicle is stolen. When the tower arrives, the officer is required to complete a DPD Form 406, "Impound Card," which includes vehicle identification information and a vehicle condition report. The officer is required to complete two impound cards and have the tower sign both cards acknowledging receipt of the vehicle and the vehicle's condition. One card is given to the tower. The officer fills out evidence tags for any vehicle or property to be held as evidence. The officer is required to notify the Telephone Crime Reporting Unit (TCRU) of the tow and to document the TCRU-issued number on the impound card. Officers turn in the impound cards to the precinct tow desk at the end of their shift.
- **Precinct Tow Desks** - Precinct tow desk officers assign police-authorized towers using a rotation system to ensure an equitable distribution of towing jobs among the assigned towing companies, and document the assignment. Upon receipt of the impound card from the precinct patrol officer, the precinct tow desk officer updates the tow book with the information from the card and files the card.
- **Abandoned Vehicle Officers** - Abandoned vehicle officers identify abandoned vehicles, either from citizens' complaints or while patrolling. They are required to perform LEIN system checks to determine whether the vehicle was stolen. They are required to prepare DPD Form 131, "Abandoned Vehicle Report," which documents vehicle information including vehicle condition, and tag the vehicle. The officer prepares a list of abandoned vehicles to be towed and notifies the

precinct's abandoned vehicle tower to tow the vehicles. Abandoned vehicle officers are required to enter towing information into the LEIN system within 24 hours of the tow. They are also required to prepare the TR-52, "Notice of Abandoned Vehicle," and send both the TR-52 and Form 131 to the Auction Unit.

- **Telephone Crime Reporting** - The Telephone Crime Reporting Unit (TCRU – 311) receives vehicle impound information from precinct patrol officers, which includes vehicle identification, the name of the tower, the location where the vehicle was recovered, and the location to which the vehicle was towed. TCRU personnel post data to the LEIN system including entering or canceling stolen vehicle information. The TCRU also notifies the owners of stolen vehicles that their vehicles have been recovered. TCRU maintains files on impounded vehicles. They also receive and investigate complaints against towers. TCRU personnel have the authority to order police-authorized towers to waive towing and storage fees.
- **Auction Unit** - The Auction Unit is responsible for mailing the TR-52 – "Notice of Abandoned Vehicle" to vehicle owners by certified mail within 7 days of towing. Auction Unit officers schedule auctions of abandoned vehicles if the owners have not responded to the notice in twenty days. They convert unclaimed impound vehicles into abandoned vehicles, and run LEIN system checks on the converted vehicles to determine whether they are stolen. Auction Unit officers are responsible for publicizing auctions in the Detroit Legal News, conducting the auction, and processing and depositing the proceeds from the auction. At auction, the TR-52 becomes the "Bill of Sale." The Auction Unit officers sign the TR-52 – "Bill of Sale" and deliver it to the buyer or to the police-authorized tower if the vehicle did not sell at auction. The Auction Unit is also responsible for inspecting the police-authorized towers' yards.
- **Commercial Auto Theft** - The Commercial Auto Theft (CAT) Unit investigates stolen and suspected stolen vehicles. CAT's responsibilities include checking vehicles at tow yards that are missing vehicle identification number (VIN) plates, and identifying the vehicles.
- **Environmental Officers** - Environmental Officers are responsible for inspecting tow yards for environmental issues and writing tickets for violations. They also are responsible for writing tickets for abandoned vehicles on private property.

Police-Authorized Towers

The DPD does not perform any towing itself, but contracts with police-authorized towers for its towing needs. There are 30 police-authorized tow companies under contract with the City. Police-authorized towing applicants are investigated by the MSB, including a background check on the owner. Police-authorized towers are required to be Detroit-based businesses, as determined by payment of City income taxes and property taxes.

The police-authorized tow contracts include the following requirements:

- Police-authorized towers must respond to the towing site within 20 minutes of the DPD's call for service.
- Towers must maintain 24-hour service, seven days a week.

- Police-authorized towers' trucks must be clearly marked with the towers' name, address and phone number.
- Towers are required to have an employee available to release vehicles to owners between 7:00 a.m. and 7:00 p.m., seven days a week.
- Police-authorized towers are required to provide storage for a minimum of twenty vehicles at its principal place of business.
- Towers must secure proper zoning approval for their storage lot.
- Towers are required to submit, by the 10th of each month, a complete list of unclaimed vehicles authorized by the DPD to be impounded at their lot.
- Police-authorized towers are responsible for damage to and theft of any vehicle and the parts, accessories and equipment attached, installed or affixed, or any contents in the vehicle while in the towers' custody.
- Towers are required to possess insurance to indemnify and hold the City harmless for injury and damages resulting from a police-authorized tow or storage.
- Towers must obtain MSB approval to subcontract.
- Towers must notify MSB when more than 40% of the company ownership changes and must apply for a new contract.

By signing the towing contract, police-authorized towers covenant that there is no City employee or public official who has any function or responsibility in the review or approval of the undertaking or carrying out of the contract who has any personal or financial interest, direct or indirect in the contract or proceeds of the towing entity.

There are currently between three and five towers authorized to perform police tows in each precinct, as well as a designated primary and secondary abandoned vehicle tower. Until the 2001 contracts, authorized tow companies were allowed to tow in only one precinct unless they had been authorized to tow in more than one precinct prior to 1984.

The current police-authorized towers and their assigned precincts are listed below.

Precinct	Rotational Tower	Primary Abandoned Vehicle Tower
1	Boulevard & Trumbull, Executive, and Gene's	Boulevard & Trumbull
2	DAR, Gilchrist, J & C, Murff, and Muscat	Gilchrist
3	AC, Gene's, Javion & Sam's, Red's, and Washington	Boulevard & Trumbull
4	Boulevard & Trumbull, Citywide, E & G, Javion & Sam's, and Red's	Javion & Sam's
5	B & G, Elite, H & B Land, Nationwide, and Wayne's	B & G
6	Citywide, DAR, J & C, MARS, and Muscat	MARS
7	B & G, Gene's, Hemphill, Nationwide, and Wayne's	Long
8	B & G, DAR, J & C, Muscat, and V & F	J & C
9	B & G, Elite, Executive, LIJBS, and Wayne's	Troy
10	ABA, Area, Boulevard & Trumbull, Gilchrist, and Javion & Sam's	Red's
11	B & G, Executive, Seven D, Tri-County, and Wayne's	B & G
12	ABA, Bobby's, DAR, Tri-County, and Troy	LIJBS
13	AC, Area, Citywide, Gene's, and Hemphill	Tri-County

The police-authorized towers agree not to solicit towing business out of, or derived from, recovered stolen vehicles and agree to avoid probing into or tampering in any way with

automobiles suspected as stolen. Upon discovery of a stolen vehicle, the tower is required to immediately contact the DPD, and to apprise them of the vehicle's location and condition.

For tows to private storage lots, police-authorized towers are compensated for towing impounded or abandoned vehicles when the vehicle owner or insurance company redeems the vehicle. Towers are compensated for their towing and storage fees for unredeemed vehicles from auction proceeds. If a vehicle is not sold at auction, the vehicle is turned over to the tower as compensation for towing and storage fees.

Towing Rate Commission

The Towing Rate Commission is comprised of the Auditor General (Chairperson), the Director of Consumer Affairs or a designated representative, the Chief of Police or a designated representative, a public representative appointed by the Mayor, and a representative of the towing industry appointed by the City Council. The Towing Rate Commission is charged with reviewing towing rates at least once every two years and submitting its recommendation to City Council by October 1st for review. A modification of the towing rates was recommended by the Commission in October 2003; however, the City Council has not approved the recommendation. The last change in towing rates was in 1996. The rates apply to tows authorized by the DPD.

FINDINGS AND RECOMMENDATIONS

1. Former Deputy Chief of the Management Services Bureau Exceeded His Authority

The Deputy Chief of the Management Services Bureau (MSB) has the responsibility to oversee and manage the police-authorized towing process. In that capacity, the Deputy Chief accepts and approves applications for police-authorized tow companies; establishes the precinct rotational tow company assignments; selects the abandoned vehicle towing company for each precinct; enters into contracts with the towing companies; resolves complaints involving towing companies; and oversees and manages the City's police-authorized towing process in accordance with applicable state laws, City ordinances, department policies and procedures and towing contracts.

The former Deputy Chief of the MSB entered into contracts with towing companies and made precinct-towing assignments that are contradictory to DPD policies and procedures. For example:

DPD General Procedures	Changes Made in Conjunction with the November 2001 Police Authorized Tower Contract
Paragraph 13.0 states: There shall be a minimum of two and a maximum of four authorized towers in each precinct.	<ul style="list-style-type: none">• Additional towers were added to all precincts, which increased the number of assigned towing companies to five in 12 of the 13 precincts.• See Finding 3.
Paragraph 13.9 (j) states that the Applicant will: Be authorized in only one precinct, unless at the time of implementation of these standards [5/24/84], the company was already authorized in more than one precinct.	<ul style="list-style-type: none">• Existing companies, with one or more precinct assignments, were expanded to more precincts.• A newly authorized towing company was granted towing assignments in three precincts.• See Finding 4.

While the Deputy Chief of the MSB is granted the authority by the DPD to enter into contracts, he does not have the authority to change department policies or procedures. Authority to change the DPD's policies and procedures is reserved to the Chief of Police and the Board of Police Commissioners. We could find no evidence that the Chief of Police or the Board of Police Commissioners approved the former Deputy Chief's changes to the police-authorized tow process or to the police-authorized tower contracts as required by City Charter and by department policy.

The DPD's procedure for amending departmental policies and procedures are established in the City Charter and in the Department's General Procedure manual:

Section 7-1106 of the City Charter states in part:

The chief of police is the chief executive officer of the police department and shall administer the department under the policies, rules, and regulations established by the board and shall: ...

2. Recommend rules, regulations, and procedures to the board for its approval.

And, Section 7-1103, states in part:

The board [Board of Police Commissioners] shall:

1. In consultation with the chief of police, and with the approval of the mayor, establish policies, rules and regulations.

These sections have been incorporated into the Department's manual, which states:

Directives are in full force and effect until superseded or amended.
The chief of police shall recommend rules, regulations and procedures (Directives) to the Board of Police Commissioners for their approval (City Charter 7-1106).

The DPD exercised inadequate oversight of the MSB's management of the police-authorized towing process.

Current towing contracts are in conflict with DPD policies and procedures. The Department's long-standing objective, as stipulated by the City's ordinance, of providing equal distribution of towing opportunities among the authorized towing companies is not being achieved.

We recommend, that:

- 1 a - The Deputy Chief of the Management Services Bureau's ability to enter into contracts be restricted. Contracts should be reviewed internally by the Chief of Police and the Board of Police Commissioners prior to the approval of the contract to insure that the contract terms, conditions, and precinct assignments meet the Department's objectives.
- 1 b - Prior to every new towing contract period, the Board of Police Commissioners, in conjunction with the Police Chief and the MSB, should review DPD's towing policies and procedures to determine whether they are still current and relevant. Any changes in the objective and/or policies should be formally incorporated into the City's ordinance and the DPD's procedures to insure that the towing process stays up to date.

2. Award of November 2001 Towing Contracts Did Not Follow the City's Purchasing Ordinance

The DPD's police-authorized towing contracts grant certain towing companies (currently 30) the authority to tow citizens' vehicles when requested by DPD. Overall, the police-authorized towing contracts allow access to approximately 65,000¹ towed vehicles annually. As a result of the contract award, the police-authorized towing companies are entitled to payments for towing services from vehicle owners, the owners' insurance companies, or from the DPD.

- Estimates of the gross revenues generated from the police-authorized towing contract range between \$3.9 and \$5.4 million² for calendar year 2002; an average of \$130,000 to \$180,000 per towing company.
- Between January and December 2002, the City made payments averaging \$5,601 to 23 of the police-authorized towing companies through the City's financial system. Individual companies were paid between \$54 and \$37,679 during this time period.

The City's purchasing ordinance, Section 18-5-5 (a) stipulates in part that

The following contracts and amendments thereto shall not be entered into without City council approval: goods and services over the value of Twenty-Five Thousand Dollars (\$25,000.00); all contracts for personal services, regardless of the dollar value; all grant-funded contracts; all revenue contracts, regardless of dollar value, including contracts for services rendered by the City, its departments and agencies; and all purchases and sales of and other transfers of interest in municipal land.

Communication between the DPD, the Law Department, and Purchasing during the development of the 2001 towing contract indicates their decision that the request for quotation (RFQ) for towing services would be treated as the procurement of Professional Services under \$25,000. Further, they anticipated that DPD's payments under each contract would be less than \$5,000. The communication concluded that the contracts would therefore not require City Council approval.

The services provided by the towing contracts have a value in excess of \$25,000 and the contracts should be subject to City Council approval. Because they were not treated as such, the City had no oversight of the towing contracts entered into between the former Deputy Chief of the MSB and the towing companies. Therefore, the City had no assurance that the companies awarded contracts met the contract requirements, were able to perform the contracted services, and had the required City clearances.

¹ The exact number of vehicles towed at the request of the DPD annually is not known. A review of towing company records indicated that 62,291 vehicles were towed in calendar year 2002. This figure did not include the abandoned vehicles towed by B&G. We believe this number is low, as the number of abandoned vehicles reported towed by DPD was 26% higher than the number reported by the towing companies, and did not include vehicles from three precincts.

² This estimate is based on the number of redeemed and auctioned vehicles provided by the towing companies, and assumes an average towing and storage charge between \$75 and \$125 for vehicles redeemed, and that all vehicles taken to auction were scrapped. This estimate is likely low.

We recommend that:

- 2 a - The DPD exercise due care to award towing contracts only to those companies that are qualified, honest, and reliable since the public is required to redeem their vehicles from those companies.
- 2 b - The DPD process towing contracts in accordance with the City's purchasing ordinance, including final approval by City Council.

3. Expansion of Towing Companies Assigned to the Precinct Rotations Was Not Warranted

In November 2001, one or more additional towing companies were added to the call rotation in every precinct, increasing the number of towers assigned above the maximum of four in 12 of the 13 precincts. The expansion increased the number of rotational tow assignments by a total of 17 positions. One towing company no longer provides service in the 7th precinct, so a total of 18 rotational towing positions were filled.

The expansion of rotational towing positions was not based on increased towing requirements in the precincts. In fact, a Sergeant assigned to the Abandoned Vehicle Task Force conducted an evaluation of the number of towing companies each precinct required to meet its everyday needs. The results of the evaluation were detailed in an October 2000 Inter-Office Memorandum. In every precinct, except the 12th, the Sergeant reported that the precinct representatives stated, "They have not experienced any problems with delays for towing service." The evaluation indicated that the number of towing companies assigned to each precinct was adequate for the precincts' towing demands.

Precinct	Number of Towers Assigned			
	Oct. 1990	Apr. 1997	Prior to 2001 Contract	Nov. 2001
1	2	2	2	3
2	4	4	4	5
3	4	4	3	5
4	4	4	3	5
5	3	3	3	5
6	3	3	4	5
7	4	4	4	5
8	4	4	4	5
9	4	3	4	5
10	4	3	4	5
11	3	4	4	5
12	4	3	3	5
13	3	4	4	5
Total	46	45	46	63

An objective of the procurement process is to match supply and demand to ensure that there is an appropriate level of goods and services to meet ongoing operational requirements. In the procurement of police-authorized towing companies, the DPD should endeavor to match its contracted towing resources to its anticipated towing requirements. However, that objective is superseded by Paragraph 13.0 of the General Police Procedures, which states "There shall be a minimum of two and a maximum of four authorized towers in each precinct."

Inadequate oversight of the MSB's management of the police-authorized towing process allowed additional towing companies to be assigned to the precincts' authorized towing company rotation beyond the number stipulated in the DPD's General Procedures, and beyond the number required to meet each precinct's demand.

The result of the addition of towing companies to the precinct rotation was to decrease the individual towing companies' business. Towing companies that were previously called 25% (1 in 4 calls) or 33% (1 in 3 calls) of the time, are now called 20% (1 in 5 calls) of the time. The addition of another towing company has reportedly had a deleterious financial impact on the smaller towing companies.

We recommend that:

- 3 a - The Police Chief and the Board of Police Commissioners conduct an evaluation to determine the appropriate number of towers in each precinct prior to the next contract renewal.
- 3 b - The analysis should determine any shortcomings in meeting each precinct's demands, if any, including the identification of towing companies that are not performing in compliance with the contract terms, and an evaluation of the number of trucks needed by each tow company to perform the required work. This information should then be used to assign the appropriate number of towing companies to each precinct, and to determine whether the towing companies have adequate resources to meet the precinct's demand.

4. Towing Companies Were Treated Inequitably in the Award of Precinct Towing Positions

Ten of the 18 towing positions that were opened in the precincts were awarded to six towing companies that are controlled by the same owners, managers, or agents, while eight independent towing companies were awarded the remaining eight positions.

Five towing companies, which previously did not have police-authorized towing contracts with the City, applied for rotational towing position prior to the award of the 2001 contracts. Four companies were awarded one towing position each as stipulated in the DPD's General Procedures. The remaining company was awarded three towing positions.

In most cases, the number of rotational precinct towing spots assigned to the acquired company in the next towing contract cycle was the same both before and after the sale. However, when Gene's Towing was purchased in 2001, the new owner was awarded multiple towing slots in the next contract cycle. The previous owner had unsuccessfully tried to expand his towing business with the DPD.

Procurement policies should provide for the fair and equitable treatment of all vendors through the standard application of purchasing procedures. The procedures should ensure that suppliers are reliable, financially stable, and are able to satisfy the contract demands. Furthermore, DPD procedures limit the newer police-authorized towers to one precinct. Paragraph 13.9 (j) of the Police Department Manual states that the Applicant will:

Be authorized in only one precinct, unless at the time of implementation of these standards [5/24/84], the company was already authorized in more than one precinct.

Inadequate oversight of the management of the police-authorized tow process by the DPD allowed the expansion of the DPD precinct assignments and for the award of precinct towing positions in an inequitable manner. The dominant owner controls 32%, or 20 of the 63 rotational towing spots.

We recommend that:

- 4 a - The MSB establish procedures to award rotational towing spots in an equitable manner. The MSB, in conjunction with the Purchasing Department, should establish a bid review and approval process for awarding towing contracts that results in the equitable treatment of all towing companies that apply.

5. Transfer of Police-Authorized Towing Contracts Were Not Pre-Approved

Historically, the Police Department's towing agreements and contracts have expressly prohibited the unauthorized sale or transfer of the police-authorized towing contract. Since 1997, the DPD has allowed the transfer of 11 towing contracts, in some cases to the owners of competing towing companies. In most cases, the new owners have retained the previous company name. For those owners with control over multiple companies, DPD has not required that the contracts be consolidated under one name, thus allowing the development of towing conglomerates, and effectively altering the equitable distribution of tows in the City.

A summary of the transfers that have occurred since 1997 follow:

Year	Old Towing Company / Old Owner	New Towing Company / New Owner	Number of Precincts Prior to Sale	Number of Precincts Following Sale
1997	Boulevard & Trumbull (G. Fiore, owner)	Boulevard & Trumbull (Road One, owner – G. Fiore, President)	3	3
1997	Javion & Sam's (S. Jolly, owner)	Javion & Sam's (Road One - Miller Industries, owner – J. Fiore, manager)	3	3
1998	Troy Auto Parts (Martin Osowski)	Troy Auto Parts (Keith Feagain)	3 (Abandoned vehicle tower only)	3 (Abandoned vehicle tower only)
1999	Troy Auto Parts (Keith Feagain)	Troy Auto Parts ³ (G. Fiore, owner)	3 (Abandoned vehicle tower only)	2 (One rotational and one abandoned vehicle)
1999	E & G (E. Dennis, owner)	E & G (Road One, owner – G. Fiore, President)	1	1
1999	B & G (B. McGuire, owner)	B & G (J. Fiore, owner)	2	2
2001	All American (J. Melville, owner)	Detroit Auto Recovery (J. Morton, owner)	4	4
2001	Gene's (E. Moultrie, owner)	Gene's Towing (J. Fiore – owner)	1	4
2002	Boulevard & Trumbull (Road One, owner – G. Fiore, President)	Boulevard & Trumbull (G. Fiore, President J. Fiore, Agent)	3	3
2002	Javion & Sam's (Road One - Miller Industries, owner – J. Fiore, manager)	Javion & Sam's (G. Fiore, President J. Fiore, Agent)	3	3
2002	E & G (Road One, owner – G. Fiore, President)	E & G (G. Fiore, President J. Fiore, Agent)	1	1

While there was correspondence in the DPD files documenting the sale of the aforementioned police-authorized towers and their contracts, we could not find any

³ Currently operating as Troy Auto-Bans.

written DPD or other City approval authorizing the transfer of the police-authorized towing contracts. The only instance where the transfer was formally approved, after the fact, was the purchase of Troy Auto Parts. A recent Law Department opinion indicates that the City's continuation of towing services, subsequent to learning of the ownership transfer, tacitly approved the towing contract transfer to the new owner.

Prior to 2001, the letters of understanding dictating the towing terms between the DPD and the towing companies expressly forbid the sale or transfer of a police-authorized towing contract. The 2001 towing contract was changed to require the City's notification of a change in company ownership and the requirement that the contract be re-bid, as follows:

This agreement is not transferable and may not be sold, leased, or assigned in any manner except as provided herein. In the event that a corporate contractor is subject to a change of ownership equal to forty per cent or more of its controlling interests, it must notify the City of this circumstance and apply for a new contract.

Prior to the award of the towing contract, the towing company completes an application that indicates the location and capacity of its storage lot, equipment available to provide towing services, a list of employees, hours of operation, the required licenses and insurance policies, and other operational information. The award of the contract is based on the information provided and on the company's prior performance. When a contract is transferred, the DPD has no assurance that the resources indicated on the application form will be available for the performance of the contract. Alternate vehicle storage lots may be used, vehicle storage capacity may differ, employees may not be the same, and the trucks may vary in type and number, which could adversely affect the towing company's performance of the contracted services.

Because most of the towing contract transfers have been to the same purchaser, a dominant police-authorized towing conglomerate has emerged. The dominant owner controls 32%, 20 of the 63 rotational towing spots. Every third call requesting police-authorized towing services is now directed to a company controlled by the dominant owner.

We recommend that:

- 5 a - The DPD continue to include the contract clause that was added to the 2001 towing contract that requires that the City be notified when a contract is transferred, and that the acquiring company apply for a new contract when more than 40% of the towing company's ownership changes. In addition, we recommend that the DPD establish procedures to address the purchase of multiple companies by a single owner or group.

6. Towing Companies With Commingled Assets, Owners and Management Are Treated as Separate Companies for Towing Assignments

A married couple have acquired control of many of the transferred towing contracts, and the seven companies they own, manage, or are employed by have been awarded an increasing number of rotational towing positions. While the towing companies are separately registered with the State, the awarding of towing contracts to the separate companies, in our opinion, is misleading as the companies' assets, activities, and control are commingled. DPD treated the companies as separate entities for the award of rotational towing positions, and has awarded the companies 20 of the 63 rotational towing positions.

Information from the police-authorized towing applications submitted for consideration in the award of the 2001 towing contracts, shows that:

- Individual companies were awarded separate contracts although they share resources including: storage lots, licenses, operational information, on-site equipment, employees, trucks to respond to tow requests, and insurance policies.
- One or both of the two owners are listed as employees on six of the seven police-authorized towing applications. An updated application form was not submitted for the seventh company subsequent to its purchase from the previous owner. The purchase was made between the application and award dates.

In addition,

- It is common for these companies to substitute for each other in providing services in precincts in which they are not authorized to tow. The towing contract states that unapproved subcontracting is prohibited.
- The company managing the DPD's Evidence Lot uses a related company's internally created abandoned vehicle forms, rather than forms containing its own name or the standard DPD form.
- The companies appear to have the same lawyer. Income tax clearance forms for six of the companies were faxed to the DPD by the same clerical staff.
- Towing records for three of the companies were so intermingled they had to be reviewed together, with the assistance of a company employee.

A summary of the information submitted on the towing contract application forms for the related companies is summarized in the chart on the following page.

Towing Company	Storage Lot	Licenses	Operational Info	On-Site Equipment For Heavy Duty Towing	Employees	Active Fleet	Insurance
B & T	2411 Vinewood 7900 Dix Rd.	MPSC - L-19335 USDOT - 803007 FHA - MC357231B	Room to store 4,500 vehicles Business hours Etc.	12 Types of Equipment Listed	76 Employees Listed by Name		
E & G	Same as B & T	Same as B & T	Same as B & T	Same as B & T	B & T List + Person identified as owner (77 total)	List of B&T Road One Active Fleet List	B&T Insurance Certificate Attached
B & G	8100 Lynch Rd.	MPSC - L-27536 USDOT - 512986 FHA - MC372928B	Room to store 2,800 vehicles Business hours Etc.	7 Types of Equipment Listed	10 Employees Listed by Name	5 Trucks Owned 4 Trucks Brokered	Insurance Policy Lists City Wide as Insured
City Wide	2760 West Warren	Same as B & G	Room to store 600 vehicles	Do not perform heavy duty towing	7 Employees, Listed, 6 are on B & T's List	3 Trucks Leased from B & G	Insurance Policy Lists B & G as Insured
Javion & Sam's	Same as B & T	MPSC - L-25599 USDOT - Same as B & T FHA - Same as B & T	Same as B & T	Same as B & T	Same as B & T		
Troy Auto-Bans	Same as B & G	Not Listed	Room to store 2,500 vehicles	Do not perform heavy duty towing	3 Employees Listed, 3 Brokered Employees Hired for Job	Brokered employees provide own vehicles	Provided under Master Coverage of B&T policy
Gene's	Same as B & T	Previous Owner Completed Application	Previous Owner Completed Application	Previous Owner Completed Application	Previous Owner Completed Application	Previous Owner Completed Application	Previous Owner Completed Application

Ordinance and procedures related specifically to towing, include:

City Ordinance 393-H, Chapter 38, Section 38-1-32.7 (a) states:

The Board of Police Commissioners shall also promulgate and publish the rules and regulations that it uses to determine which towers shall

be called for tows under this chapter. Such rules shall as nearly as practicable, provide for equitable distribution of police-authorized towing to all towers on the list of qualified towers.

Volume III, Chapter 11, Section 13.10, of the DPD's General Procedures entitled "Distribution of Tows," states:

Precincts shall contact authorized police towers on a rotating basis when requesting service. If an authorized tower is called but is not available, the tower shall be placed at the end of the list and the next tower on the list shall be called.

The City's towing ordinance does not address the distribution of towing assignments when one owner owns multiple companies.

It appears that the owners of the related companies have manipulated the police-authorized towing process, specifically the use of the authorized towing list and the rotational procedures in order to secure a larger share of DPD's towing business. The seven companies, having common owners, management and employees, have been awarded 20 of the 63, or 32% of the precinct rotational towing positions. This does not result in the equitable distribution of the City's police-authorized towing business among the other 21 towing company owners. Smaller towing companies have experienced economic hardship due to the reduction in towing opportunities.

We recommend that:

- 6 a - The DPD consider the public policy objectives of the City's police-authorized towing process, and incorporate those objectives into the DPD towing procedures. Procedures on how the DPD should consider bids from the owner of multiple companies should also be included. Require that each company that is awarded a contract have sufficient resources to meet the terms of the contract it has been awarded.
- 6 b - The DPD should incorporate the public policy objectives into the new towing contracts and enforce compliance with contractual terms.

7. Towing Contracts' Related Business Conflict of Interest Clause is Not Enforced

Many police-authorized towers own or are associated with automobile repair businesses, auto parts businesses, and used car dealerships, which create a conflict of interest either in appearance or in fact. During our audit, we found that 22 of the 30 police-authorized towers are associated in some way with a business that could benefit from its police-authorized impounds.

Towing company involvement in repair shops, used part dealers and used vehicle dealers creates an environment where the police-authorized towing companies have an opportunity to manipulate the towing system to benefit their related businesses. Circumstances in which towers can manipulate the system include:

- The types of vehicles that are towed – newer, and in better condition – can impact whether the tower will be paid for the towing service or for the vehicle itself. Owners of newer vehicles are more likely to redeem the vehicle.
- Timing of the notification of the TCRU dictates the amount the vehicle owner will be charged for towing and storage fees. In some instances, the towing companies have assumed the DPD's job to notify TCRU of the tow.
- Accumulated towing and storage fees set the minimum bid at auction, and can determine whether the vehicle will be sold or whether the tower will receive the vehicle as compensation.
- Timing of the recovery of stolen vehicles can impact whether insurance companies will redeem the vehicle. Insurance companies usually settle with the owner of a stolen vehicle within 30 days of the vehicle theft.
- For vehicles needing repair, towing companies are in a position to recommend their related auto repair shops. The fee for the second tow is not subject to the City's approved fee schedule.

A conflict of interest is defined as any relationship that is or appears to be not in the best interest of the organization or the public, in this case the DPD and the citizens. A conflict of interest exists if such a relationship would prejudice an individual's ability to perform his or her duties and responsibilities objectively. Section 12 of the Police-Authorized Tower Contracts contains conflict of interest provisions. Section 12.01 follows:

The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Services under this Contract. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by it.

Vehicle owners and insurance companies are forced to pay higher towing and storage fees when they are not properly notified that their vehicle has been towed, or when towing companies add additional fees to the amount billed the customer. Citizens are forced to pay higher insurance premiums when recovered stolen vehicles go unreported.

We recommend that:

- 7 a - The DPD strictly enforce the conflict of interest clauses contained in the police-authorized towing contract. The DPD should not employ and sign a contract with a person or company having any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the service under the contract.
- 7 b - The auction process should be changed so that unsold vehicles do not become the property of the towing companies, and unsold scrap vehicles should be required to be disposed of within 30 days.

8. The Management Services Bureau Has Been Willing to Accept DPD's Procedural and Towing Companies' Contractual Abuses

Anecdotal and documentary evidence indicates that there are widespread abuses of the towing process, perpetrated by both towing companies and DPD personnel. Among the specific abuses that will be detailed in subsequent reports are:

- Patrol officers call the towing companies directly, rather than use the precinct's tow company rotation.
- Towing companies have been caught towing stolen vehicles without the proper authorization.
- Stolen vehicles have been recovered on some towing companies' storage lots by auction unit officers.
- Both DPD and towing company personnel do not complete the vehicle condition section on the towing forms.
- Improper amounts are charged for towing and storage to owners redeeming their vehicles.
- Towing and storage fees are erroneously reported to the auction unit for vehicles to be auctioned.

These abuses are acknowledged by the DPD, and have been allowed to continue.

State law, DPD procedures, City ordinances and the towing contracts establish both the responsibilities of the towing companies and the DPD within the towing process. Sound management practice dictates that policies and procedures, in accordance with organizational objectives, be followed, and that corrective actions be taken to curb non-compliance.

The City's streets should be cleared of vehicles by the towing companies that have contracted to do so. The DPD rarely penalizes a towing company or an officer for failing to follow procedures.

Non-enforcement of compliance with policies and procedures has resulted in widespread abuses. Poor record keeping of vehicles towed and the vehicle condition, results in the inability to track individual vehicles, to determine whether damage has occurred while the vehicle is in the towing companies' possession, or whether vehicle owners are charged the correct amount for towing services. Vehicle owners and insurance companies are frequently overcharged for vehicles that are redeemed, and stolen vehicles are routinely discovered on towers lots that have not been properly reported.

We recommend that:

- 8 a - The DPD actively enforce its policies, procedures, and the towing contract provisions. A progressive system of notification and documentation should be implemented. Major offenses should result in disciplinary action or in the termination of the towing contract.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

ATTACHMENT A

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August 23, 2004

Mr. Joseph L. Harris
Office of the Auditor General
Coleman A. Young Municipal Center
2 Woodward Avenue, Room 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE AUTHORIZED TOWING PROCESS

Dear Mr. Harris:

The Detroit Police Department is submitting the following responses to the draft findings and recommendations of the December 2003 ***"Audit of the Detroit Police Department's Administration of the Police Authorized Towing Process,"*** as prepared by the Office of the Auditor General.

FINDING 1: DEPUTY CHIEF OF THE MANAGEMENT SERVICES BUREAU EXCEEDED HIS AUTHORITY.

Response to Finding: The current contracts were negotiated prior to my tenure as Chief of Police and also as Assistant Chief of Police of the Administrative Portfolio. Preliminary information received indicates that some concerns existed in this area. The former deputy chief was relieved of his position and retired.

Response to Recommendations:

1a - The department agrees, in part, with the recommendation. Henceforth, towing contracts will be reviewed prior to their signing by the Chief of Police to ensure contract terms and precinct assignments meet Department objectives. The City Charter does not provide that the Board of Police Commissioners is extended the authority to approve contracts. This approval is part of the Chief of Police's responsibility to facilitate the day to day operations of the Police Department and should remain under his/her purview. Information will be made available to the Board of Police Commissioners, as it is warranted.

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1b - The department agrees in part with this recommendation. The Deputy Chief of the Management Services Bureau shall be responsible for reviewing the current tow contract and relevant City policies or ordinances pertaining to the tow process. Additionally, the Deputy Chief of the Management Services Bureau will be responsible for recommending any departmental policy changes as it pertains to the tow process. The Deputy Chief of the Management Services Bureau shall be responsible for preparing a draft contract and any department policy change recommendations for review and approval of the Chief of Police. Department policy changes must be reviewed and approved by the Board of Police Commissioners.

FINDING 2: TOWING CONTRACTS AWARDED WITHOUT CITY COUNCIL APPROVAL.

Response to Finding: The department agrees that it appears the prior administration did not adhere to the City's purchasing ordinance, Section 18-5-5 (a).

Response to Recommendations:

2a - The department agrees with this recommendation. The department will ensure that all companies are qualified as defined by the tow contract "*Scope of Services*."

2b - The department will ensure that future tow contracts comply with the City's purchasing ordinance and are approved by City Council.

FINDING 3: UNWARRANTED ADDITION OF TOWING COMPANIES TO THE PRECINCT TOWING ROTATION.

Response to Finding: The department is currently examining the records giving rise to this finding to ensure that the number of towers allocated to each precinct is not excessive and sufficient to meet the needs of the community.

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Response to Recommendations:

3a - The department agrees, in part, with this recommendation. Current policy provides that a minimum of two (2) towing companies are assigned to each precinct. However, the Management Services Bureau has begun the process of gathering statistical information to assess the towing needs of each precinct for the next tow contract process. A recommendation will be forwarded to the Chief of Police for approval.

3b - The department agrees with this recommendation. As stated in 3a, the department is currently analyzing the towing needs of each precinct. A systematic approach has been developed that will fairly assess each precinct's towing requirements. This evaluation will be the basis for developing the tow contract "*Scope of Services*."

FINDING 4: INEQUITABLE TREATMENT OF NEW TOWING COMPANIES IN THE AWARD OF PRECINCT ROTATIONAL TOWING SPOTS.

Response to Finding: I will ensure that the department's policy and procedures which provide for impartial, equitable treatment of towing companies is strictly adhered to. Measures have begun to address this issue.

Response to Recommendation:

4a - The department agrees with this recommendation. The department's strategic technological plan includes an automated tow rotational module that will electronically award towing assignments in an equitable manner. The Deputy Chiefs of Management Services Bureau and the Science and Technology Bureau will collaborate on this project that is expected to become operational in the spring of 2005. The Deputy Chief of the Management Services Bureau will work closely with the Director of the Purchasing Department to ensure a fair and equitable tow bid process.

In the interim, the Management Services Bureau has been tasked to monitor department practice in this area to ensure compliance. Currently, the Precinct LEIN operator—overseen by the Officer in Charge of the Precinct Desk—is responsible for maintaining the assignments to

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towers, on a rotational basis. The abandoned vehicle tower is an exception. Each precinct is assigned a primary and a secondary abandoned vehicle tower; after the lot of the primary tower is full, the secondary tower is assigned towing requests.

FINDING 5: UNAPPROVED TRANSFER OF POLICE AUTHORIZED TOWING CONTRACTS.

Response to Finding: I will ensure that all transfers of police authorized towing contracts are addressed in accordance with guidelines.

Response to Recommendation:

5a - The department agrees with this recommendation. The current tow contract expires in March 2005. The Management Services Bureau will enforce the new contract terms and take the appropriate action as dictated by the contract when company ownership changes by 40% or more.

FINDING 6: SEVEN COMPANIES AWARDED TOWING CONTRACTS ALTHOUGH TOWING ACTIVITIES AND RESOURCES ARE CLEARLY COMMINGLED.

Response to Finding: The department agrees that it appears as though, during the prior administration, towing activities and resources were commingled.

Response to Recommendations:

6a - The department agrees with this recommendation. The Management Services Bureau, as stated in 3a and 3b of this memorandum has begun the process of reviewing and assessing department towing needs, in addition to making policy recommendations to the Chief of Police regarding departmental towing procedures. The contract and bid process will require that each company operate independently and has the necessary resources to meet department needs.

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6b - The department agrees with this recommendation. The contract will strictly prohibit the commingling of resources to circumvent the rotational process and will include specific language and sanctions for non-compliance of contract terms.

FINDING 7: NON-ENFORCEMENT OF THE TOWING CONTRACT'S CONFLICT OF INTEREST CLAUSE.

Response to Finding: The department agrees that some abuses as reported in this audit may have occurred in the awarding of the 2001 contracts under the prior administration.

Response to Recommendations:

7a - The department agrees with this recommendation. In order to prevent a conflict of interest, a complete investigation of the prospective tow owner's assets will be required, prior to awarding towing contracts. Every prospective City of Detroit contracted tower shall be required to complete a disclosure statement. The disclosure statement will be incorporated within the towing contract and verified by the City of Detroit Purchasing Department and the Management Services Bureau. Failure to adhere to the disclosure clause, once the contract is awarded, may result in the termination of the contract or suspension of services as defined by the contract terms.

7b - In regard to the recommendation to re-engineer the auction process as it relates to ownership of unsold vehicles and a timeline for the destruction of unsold scrap vehicles, the department will have its legal team research State law on the possibility of instituting such guidelines, to ensure that the department falls within its authority.

FINDING 8: WILLINGNESS TO ACCEPT DPD AND TOW COMPANY PROCESS ABUSES TO GET AUTOMOBILES TOWED.

Response to Finding: While the Detroit Police Department is committed to improving the quality-of-life for residents of the city of Detroit, removal of vehicles from neighborhoods continues to dominate the list of top 10

KWAME M. KILPATRICK, MAYOR



Mr. J. Harris
August 23, 2004
Page 6

complaints, as reported in the City of Detroit Office of the Ombudsman's Budget Analysis Report, dated April 20, 2004. We have not abrogated our responsibility of dealing with abuses of the tow process by police personnel or tow companies because of the great demand to rid the streets of abandoned vehicles by ignoring these violations. The department is working diligently to meet the ever-increasing demands for removing vehicles that pose safety and environmental hazards.

Response to Recommendation:

8a - The department agrees with this recommendation. Our efforts to meet the administrative tasks associated with the tow process have been daunting and challenging. However, as recommended in your report, a progressive system of notification and documentation will be implemented in the forthcoming towing contracts, as well as in our technological plan that will improve the towing process.

We agree that many years of abuses and lack of management oversight has contributed to the current state of affairs. However, the current administration's recognition of these prior problems has triggered an analysis and evaluation that will enable the department to more effectively manage the tow process. Additionally, the Management Services Bureau has been charged to monitor current precinct operations, as they relate to towing procedures.

Should you have any concerns regarding this matter, please do not hesitate to contact me at 596-1800, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,


ELLA M. BULLY-CUMMINGS
Chief of Police

EMB-C/rb

KWAME M. KILPATRICK, MAYOR



City of Detroit

OFFICE OF THE AUDITOR GENERAL

**Audit of the
Detroit Police Department's
Compliance with the
Impounded Vehicle
Towing Process**

December 2003




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MEMORANDUM

DATE: November 23, 2004

TO: Honorable City Council

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process

C: Mayor Kwame Kilpatrick
Chief Ella M. Bully Cummings

Attached for your review is our second of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process will be issued as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process
3. Compliance with the Abandoned Vehicle Towing Process
4. Vehicle Auction Process
5. Evidence Vehicles
6. Accounting and Reporting System
7. Towing Companies' Compliance with the Towing Policies and Contracts
8. Best Practices and Recommendation.

This audit was initiated by the Office of the Auditor General to determine the validity of allegations of improprieties by police-authorized tow companies and by DPD personnel, and to determine compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the impound vehicle processes in the precincts, and contains our findings and recommendations specific to those processes. The report also includes the DPD response.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in developing the reengineered policies and procedures. The recommendations included



in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

**Audit of the Detroit Police Department's
Compliance with the Impounded Vehicle Towing Process**

December 2003

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EXECUTIVE SUMMARY

The Office of the Auditor General initiated this audit in response to allegations of improprieties committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether City Ordinances, DPD towing procedures and the terms of the towing contracts were being complied with and whether the allegations of improprieties were valid.

The Detroit Police Department, in accordance with the Michigan Vehicle Code, can order the removal of vehicles from public or private property to a place of safekeeping for a variety of reasons. The portions of this process that have been placed under the precincts' control are significant. They include:

- Authorizing that a vehicle be towed by someone other than the vehicle's owner;
- Maintaining a complete record of the vehicles authorized to be towed;
- Recording and reporting the vehicle's condition at the time of the tow;
- Providing information to update the law enforcement information network (LEIN); and
- Making the vehicle's location available to the vehicle owner.

Additionally, the precincts are tasked with assuring that the distribution of towing assignments is equitable through the use of the precincts' rotational towing process.

Overall, we found that the precincts have not taken their obligation for the performance of these functions seriously, and have abrogated their responsibilities. We believe the DPD should reengineer the entire police-authorized towing process. Our specific findings and recommendations relative to the impound vehicle process are summarized below.

Finding 1 – Most Precincts are Not Distributing Towing Requests Equitably Among the Five Assigned Towing Companies

We found that patrol officers, at the precincts reviewed, often circumvent the rotational towing procedures by contacting the towing companies directly, rather than following DPD procedures and contacting the precinct tow desk for the rotational tow truck assignment. In most precincts, the rotational towing assignments are not equitably distributed among the five towing companies assigned. Favored towing companies are receiving a greater share of the precincts' towing business; companies are substituting for other companies on calls; and non-favored companies' towing business is suffering.

We recommend that the DPD's Management Services Bureau (MSB) regularly review the precinct tow books and the assignment of towing requests to identify instances where DPD's rotational towing procedures have not been followed. Officers who continue to circumvent the DPD's procedures should be disciplined.

Finding 2 – Precinct Officers are Not Always Reporting Towed Vehicles to the Telephone Crime Reporting Unit as Required

We found many impound cards that did not contain proof that the officer requesting the tow contacted the Telephone Crime Reporting Unit (TCRU) to report the tow and the vehicle's condition. TCRU is required to update the Law Enforcement Information Network (LEIN) within 24 hours of the tow to conform to state law, notify vehicle owners that their vehicle has been impounded, and answer inquiries as to where a towed vehicle is located. The lack of proof of notification indicates that the towed vehicles are not reported at all, or that the vehicles are reported by the towing companies directly. The risk of towing companies reporting tow information directly is that they may be towing vehicles without police authorization or they can erroneously report a vehicle's condition.

We recommend that DPD take steps to ease the frustration associated with reporting towed vehicles to TCRU. Precinct officers should be equipped with the equipment needed to contact TCRU and the LEIN system. TCRU should be staffed appropriately to handle the volume of calls it receives. Officers found to be deliberately disobeying procedures should be disciplined. Towing companies reporting tows to TCRU should be suspended.

Finding 3 – Incomplete Impound Cards Affect DPD's Ability to Assign Accountability for Vehicle Damage

We observed many impound cards that were not fully completed. Specifically, the vehicle condition report was not marked on many cards and the form was not authorized by the officer requesting the tow. Towing companies are required to have a signed form authorizing the tow before they move any vehicle. An incomplete vehicle condition report makes it impossible to affix accountability to any party for damage done to the vehicle.

We recommend that the DPD instruct officers on the DPD's towing procedures and on the importance of completing the impound cards accurately. DPD should take steps to make the process less burdensome on the officer by creating a multi-copy form that needs to be completed only one time and issue cameras to aid in recording the vehicle condition. Further, officers that are not complying with DPD procedures should be disciplined.

Finding 4 – Record of Precinct-Authorized Towing Assignments is Deficient

We found that many precincts' permanent records of their requested and authorized towing assignments are incomplete and the supporting documentation, form DPD 406, is not uniformly retained. License and vehicle data was frequently missing. It was difficult to reconcile between the impound cards and the tow book due to the missing information. All impound cards are unlikely to be accounted for because they are not sequentially numbered.

We recommend that form DPD 406 be revised to contain a sequential number. We further recommend that the DPD establish document retention and filing procedures in order to maintain the impound cards until the associated tow book can be audited.

Finding 5 – Payment of Precinct-Ordered Towing Assignments Made Without Supporting Authorization

We found most precincts are not submitting form DPD 73 – Vehicles Towed by Private Companies, with the associated towing company invoices, to the Fiscal Section by the 10th of each month. Towing companies are submitting invoices directly to the Fiscal Section for payment. Of the 117 invoices reviewed, 24 contained questionable billings. Without a listing of the tows that have been authorized by each precinct, there is a high level of risk that the DPD will pay for services, at an incorrect price, that have not been authorized.

We recommend that the Fiscal Section reject all invoices that are submitted to it directly by the towing companies, and require that precinct commanders adhere to the tow slip procedures to submit form DPD 73 with the towing companies' invoices monthly. We further recommend that MSB establish standard rates for towing services that fall outside of the rates set by City Council.

AUDIT PURPOSE, SCOPE, OBJECTIVE, AND METHODOLOGY

Audit Purpose:

The Office of the Auditor General (OAG) initiated this audit in response to allegations of improprieties carried out by police-authorized towers and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

Audit Scope:

The Office of the Auditor General conducted an audit of the Detroit Police Department's towing process to determine the DPD's and the towing companies' compliance with City ordinances, DPD towing procedures, and towing contract terms. Our audit was limited to the towing activities covered by the police-authorized towing contract and did not include a review of services provided by the towers for abandoned vehicle blitzes, nuisance abatements, special events, offers to engage, or other special towing services.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years.

Audit Objective:

Specifically, we wanted to determine:

- Whether the Police Department is complying with its towing procedures, as they relate to impounding vehicles. Adherence to the abandoned vehicle towing process will be covered in a subsequent report.

Audit Methodology

To accomplish our audit objective, our audit included:

- Interviews with DPD management, police officers, towers, vehicle owners and others;
- Review of DPD towing procedures, City ordinances for police-authorized towing, and State laws;
- Review of tower precinct assignments and contracts;
- Review of DPD towing records, tow-books, and impound cards at the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 9th precincts and at the Management Services Bureau; and
- Review of tow slips submitted to DPD for payment.

IMPOUNDED VEHICLE TOWING PROCESS

Section 55-15-1 of the City's Municipal Code defines a police-authorized tow as " the towing, carrying, pushing or otherwise transporting for a fee by a tower or towers summoned by the police, any motor vehicle, except trailers and truck tractors, that has been wrecked or disabled in any manner, or any vehicle subject to removal under division 4 of article VI ¹ and article XIV ² of this chapter, including but not limited to abandoned or illegally parked vehicles and vehicles interfering with emergency activities or impeding traffic from the traveled portion of a street highway or freeway."

In practice, the Detroit Police Department authorizes the towing of vehicles for evidence, removal of abandoned vehicles, safeguarding of recovered stolen vehicles, forfeitures of vehicles for offers to engage in prostitution (OTE) and narcotics violations, parking violations, removal of road hazards, and for other reasons, such as arrests for driving under the influence, or when the vehicle owner is incapacitated.

The towing companies providing police-authorized towing services are compensated for their services as follows:

- For vehicles that are ordered towed to a towing company's storage lot by the DPD, the towing and storage fees are paid by the vehicle owner when the vehicle is redeemed. Charges for these tows are to be at the rates established by City Council - \$75.00 per tow plus \$8.00 per day for storage. There is no charge for the first three days of storage.
- For vehicles towed to a DPD precinct, illegally parked vehicles, and services for which the vehicle owner is exempted by ordinance, the DPD will pay the towing company at rates established by City Council. These rates vary depending on the precinct. The towing company bills the DPD for the service.
- For vehicles towed to the evidence lot, the responding towing company is paid \$50 to tow the vehicle to the centralized evidence lot by the managing tower. The managing towing company is paid \$75 per vehicle by DPD.

The DPD has established its impound towing procedures to comply with State laws and in a manner that provides for the equitable distribution of towing assignments within each precinct. Towing companies are assigned to specific precincts, and towing requests are assigned on a rotational basis. The accompanying chart shows the towing companies that are assigned to each precinct.

Precinct	Rotational Tower
1	Boulevard & Trumbull, Executive, and Gene's
2	DAR, Gilchrist, J & C, Murff, and Muscat
3	AC, Gene's, Javion & Sam's, Red's, and Washington
4	Boulevard & Trumbull, Citywide, E & G, Javion & Sam's, and Red's
5	B & G, Elite, H & B Land, Nationwide, and Wayne's
6	Citywide, DAR, J & C, MARS, and Muscat
7	B & G, Gene's, Hemphill, Nationwide, and Wayne's
8	B & G, DAR, J & C, Muscat, and V & F
9	B & G, Elite, Executive, LIJBS, and Wayne's
10	ABA, Area, Boulevard & Trumbull, Gilchrist, and Javion & Sam's
11	B & G, Executive, Seven D, Tri-County, and Wayne's
12	ABA, Bobby's, DAR, Tri-County, and Troy
13	AC, Area, Citywide, Gene's, and Hemphill

¹ Abandoned Vehicles

² Impoundment of Vehicles

State law requires that the law enforcement agency perform a LEIN check on every vehicle that is suspected of being abandoned or that is removed for safekeeping. Once a stolen vehicle is identified, the police officer has the vehicle towed to a police-authorized tower's storage lot for safekeeping; or if the vehicle is in poor condition (burned, a shell, stripped, etc.) the vehicle can be left at the recovery scene and later towed as an abandoned vehicle.

When a patrol officer determines that a vehicle should be impounded, DPD's procedures require the officer to call the precinct tow desk and request a tow truck. The patrol officer provides the tow desk with the make, license number, vehicle location, the reason for tow, and states any additional services that may be required. The tow desk should contact the next towing company on its rotation list to order a tow truck to the location required. If the tower cannot respond to the call, it is noted in the tow book, and the next towing company is contacted to respond.

Section 55-15-3 (a) of the City's Municipal Code states that no one can perform any police-authorized towing "without first having obtained written permission on forms approved by the city police department, from the driver or owner of the vehicle or until the police officer shall have completed his investigation and has given written permission for the towing service. A copy of the completed permission form is given to the authorizing person."

Section 55-15-3 (c) states that when a vehicle is to be towed to the tower's storage yard "under section 55-15-1(4), the tower shall prepare and sign an inventory of the contents and equipment of the vehicle on a multi-copy form approved by the police department. The police officer in charge shall sign the completed form as witness to the inventory and the police department shall retain the signed original. The form shall indicate the location where the vehicle owner may reclaim the vehicle. The tower shall retain one copy of the signed form and mail one copy to the vehicle owner or driver within forty-eight (48) hours of the date the tow is performed."

In practice, the patrol officer is required to complete two original copies of form DPD 406 – Impound Card, which includes vehicle identification and towing information as well as noting the accessories on the vehicle (vehicle condition). The officer is required to have the tower sign both cards acknowledging receipt of the vehicle and the condition of the vehicle. The officer fills out evidence tags for any vehicle or property to be held as evidence. The officer is required to notify the Telephone Crime Reporting Unit (TCRU) of the tow and to document the TCRU issued number on the impound card. One card is given to the tower.

The officer turns the second impound card in to the precinct tow desk at the end of his / her shift. Upon receipt of the impound card from the precinct patrol officer, the precinct tow desk officer updates the tow book with the information from the card and files the card. Departmental procedures dictate the specific information that should be contained in the towed vehicle book. The officer requesting the towing service is responsible for the completion of the towing information in the tow book. If the requesting officer is not at the scene when the vehicle is towed, the tow company must notify the precinct of the location of the towed vehicle.

State law requires that the LEIN system be updated within 24 hours of the tow. Precinct patrol officers provide information to TCRU, which includes the vehicle identification number, the name of the towing company, and the location where the vehicle was towed, and TCRU updates the LEIN system. TCRU personnel post data to the LEIN system including entering or cancellation of stolen vehicle information. The TCRU also notifies the owners of stolen vehicles that their vehicles have been recovered.

When a vehicle is to be processed for evidence, the patrol officer completes an evidence tag and the vehicle is towed to the City's evidence lot.

Section 7.2, of the DPD's General Procedures, entitled Reporting Stolen Motor Vehicles, indicates that when a stolen vehicle is recovered, the department will attempt to contact the vehicle owner. The recovering officer can have the vehicle towed to a police-authorized tower's storage lot for safekeeping if it is thought that the vehicle might otherwise sustain further damage. If the vehicle is in poor condition (burned, a shell, stripped, etc.), the recovering officer can leave the vehicle at the scene. If the vehicle is not removed by the owner, or if the owner cannot be contacted, the recovered vehicle is processed in accordance with the abandoned vehicle laws.

A comparison of the City's Impounded Vehicle, Abandoned Vehicle, and Evidence Vehicle towing processes are shown in the following chart:

	Impounded Vehicle Process		Abandoned Vehicle Process		Evidence Vehicle
	Impound	Stolen / Impound	Abandoned	Stolen / Abandoned	
Definition	Wrecked, disabled or towed for safekeeping	Recovered stolen vehicle that is impounded for safekeeping	Vehicle marked as abandoned that is not moved within 48 hours	Recovered stolen vehicle, in poor condition, that is not impounded for safekeeping	Vehicles involved in a crime that are towed for the purpose of collecting and processing evidence
Tower Assignment	Precinct rotation	Precinct rotation	Precinct abandoned vehicle tower	Precinct abandoned vehicle tower	Precinct rotation
TCRU Notified / LEIN System Updated	TCRU notified of tow at time of impound by patrol officer. Required to update LEIN within 24 hours of tow.	TCRU notified by recovering officer prior to tow. Required to update LEIN within 24 hours of tow.	Checked by abandoned vehicle officer prior to determining vehicle is abandoned. LEIN updated within 24 hours of vehicle being deemed abandoned.	TCRU is notified by recovering officer. Recovery entered in LEIN by TCRU prior to tow.	TCRU notified by recovering officer prior to tow. Required to update LEIN within 24 hours of tow.
Forms Authorizing Tow	DPD 406 - Impound Card	DPD 406 - Impound Card with heading replaced with "Recovered Stolen Vehicle"	DPD 131 - Abandoned Vehicle Report DPD 115 - Abandoned Vehicles Recapitulation Report	DPD 131 - Abandoned Vehicle Report DPD 115 - Abandoned Vehicles Recapitulation Report	DPD 406 - Impound Card, plus a DPD evidence card
Vehicle Condition Noted	On back of DPD 406. Completed by patrol officer. Signed and dated by both tower and DPD officer.	On back of DPD 406. Completed by patrol officer. Signed and dated by both tower and DPD officer.	On back of DPD 131. Completed by the abandoned vehicle officer.	On back of DPD 131. Completed by the abandoned vehicle officer.	On back of DPD 406. Completed by patrol officer. Signed and dated by both tower and DPD officer.
Vehicle Owner Notified	Vehicle owner usually present when vehicle is towed.	TCRU calls for 3 days. Sends notice by certified mail if unable to reach.	DPD 114 affixed to vehicle for 48 hours prior to deeming vehicle abandoned and towing.	TCRU calls for 3 days. Send notice by certified mail if unable to reach. DPD 114 affixed to vehicle.	Investigating officer notifies owner when the vehicle is no longer needed.
When Vehicle Not Redeemed by Owner	TR-52 mailed by auction unit within 30 days of tow, notifying of right to auction after 20 days.	TR-52 mailed by auction unit within 30 days of tow, notifying of right to auction after 20 days.	TR-52 mailed by auction unit within 7 days of tow, notifying of right to auction after 20 days.	TR-52 mailed by auction unit within 7 days of tow, notifying of right to auction after 20 days.	TR-52 mailed by auction unit within 30 days, notifying of right to auction after 20 days.

FINDINGS AND RECOMMENDATIONS

1. Most Precincts are Not Distributing Towing Requests Equitably Among the Five Assigned Towing Companies

Police-authorized towing requests for impounding vehicles are not equitably distributed among the towers assigned to each precinct. We found that precinct patrol officers are often calling the police-authorized towers directly for a tow truck, rather than going through the precinct's rotation system.

To test whether the rotation process was followed, we reviewed a sample of impound cards and tow book entries for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 9th precincts for a one week period. To insure equitable distribution, officers are required to contact the precinct's tow desk for the next towing company on the rotational list and each tow request is entered into the logbook. When the officer calls the tower directly, the precinct is not contacted and an entry is not made in the book.

When the rotational system is used, there should not be any tows made by unauthorized tow companies, there should be an equal number of tows handled by each of the five assigned towing companies, and the percentage of tows made by the low and the high volume towing companies should be equal. The following chart summarizes the results of our review:

Precinct	Cards Sampled	Distribution of Tows Among Towing Companies						Percentage of Tows to Authorized Towers		Direct Calls
		Tower Not Authorized	Authorized Towers					Low	High	
			From Low to High Number of Calls							
			1	2	3	4	5			
2 nd	49	3	7	7	10	10	12	14%	25%	35%
3 rd	61	9	6	8	9	14	15	10%	25%	17%
4 th	71	2	0	1	1	30	37	0%	52%	87%
5 th	36	2	2	5	6	7	14	6%	39%	40%
6 th	37	0	4	5	5	8	15	11%	41%	22%
7 th	50	0	0	1	6	9	34	0%	68%	84%
8 th	55	4	8	8	10	12	13	15%	24%	6%
9 th	79	0	9	12	14	16	28	11%	35%	39%

Note: The chart shows the range of the number of calls received by the five authorized towing companies within a precinct. The specific towing companies associated with the numbers 1 to 5 vary from precinct to precinct.

2nd Precinct -

Based on our sample, Detroit Auto Recovery, Inc. received most of the tows, although the distribution of tows seemed fairly equitable. We could not find 35% of the impound cards in the tow book, indicating that officers were calling the towing company directly. Detroit Auto Recovery, Inc. and J & C Recovery, Inc. received most of these direct calls. The abandoned vehicle officer acknowledged that he calls Detroit Auto Recovery, Inc. directly for stolen vehicle recoveries, circumventing the precinct tow rotation system.

3rd Precinct -

In the 3rd Precinct, we could not find 17% of the impound cards in the tow book, indicating that the towers are being called directly. Boulevard & Trumbull towed nine of our sampled

tows. Boulevard & Trumbull is the abandoned vehicle tower, not an authorized rotational tower in this precinct, and should not be utilized in the regular impound rotation.

4th Precinct -

In the 4th Precinct, we found only 13% of our sample tows entered in the tow book, indicating that officers were calling the towers directly 87% of the time. The 4th Precinct has five authorized tow companies – Red's Towing Service and four companies (Boulevard & Trumbull, J & S, City Wide, and E & G) that are under the same ownership / management or control. Red's received 52% of the sampled tows, while Boulevard and Trumbull received 42%. The other three related companies received a total of two tows.

5th Precinct -

B & G Towing performed 38% of the tows in our sample, while Wayne's performed two tows. B & G is also the abandoned vehicle tower for the precinct. Officers are calling the tow companies directly 40% of the time. We noted 24 instances in the week reviewed where the rotation was not followed. Reasons noted included that the appropriate equipment was not available, the tower did not answer the telephone, or that the telephone was busy.

6th Precinct -

J & C Recovery received 41% of the calls for tows in our sample. Many of the impound cards not in the tow book were for tows done at night. Six of the eight direct calls went to J & C Recovery who, we were told, was the only reliable night tower. The 6th Precinct abandoned vehicle officer has Michigan Auto Recovery Service, the abandoned vehicle tower for the precinct, recover the stolen vehicles that he finds.

7th Precinct -

Officers in the 7th Precinct are calling towing companies directly 84% of the time. B & G was the favored tower in the precinct based on our sample, receiving 68% of the tows. The 7th Precinct abandoned vehicle officer stated that he used his authorized abandoned vehicle towing companies, Long and Sons and B & G Towing, to recover stolen vehicles.

8th Precinct -

Towing was distributed according to the rotation system, with towers called directly only 6% of the time. Detroit Auto Recovery and J & C Recovery received the highest number of tows. The abandoned vehicle officer has the abandoned vehicle tower, J & C Recovery, recover stolen vehicles.

9th Precinct -

Towing distribution is not equitable in the 9th Precinct. In our sample, Executive Towing was the preferred tower, receiving 35% of the tows. Officers were calling towers directly 39% of the time.

Detroit's Municipal Code establishes the City's policy of equitable towing distribution.

The Municipal Code, Section 55-15-8 (a) states in part:

The board of police commissioners shall also promulgate and publish the rules and regulations that it uses to determine which towers shall be called for tows under this chapter. Such rules shall as practicable, provide for equitable distribution of police-authorized towing to all towers on the list of qualified towers.

To further insure equitable distribution, DPD's General Procedures establish the methodology by which the equitable distribution will take place.

Paragraph 13.10, Distribution of Tows, of the DPD General Procedures, states:

Precincts shall contact authorized police towers on a rotating basis when requesting service. If an authorized tower is called but is not available, the tower shall be placed at the end of the list and the next tower on the list shall be called.

Paragraph 26, Exhibit A, Scope of Services, of the November 2001 police-authorized towing contract states:

The City agrees to utilize a fair and impartial system of assignment of vehicles to be towed based on the use of a rotating list by each precinct.

The inequitable distribution of tows is primarily due to the patrol officers bypassing the precinct's rotational towing process and contacting the towing companies directly. This infraction is allowed to go unchecked because the DPD does not perform a reconciliation between each precinct's towing book and the impound cards, and because there is no enforcement of the precinct's towing procedures.

The result of bypassing the precinct's rotational towing process is that the favored police-authorized towing companies are receiving an unfair portion of the precinct's impound towing jobs, and the other police-authorized towers are losing business.

Until a reengineered police-authorized towing process is completed, we recommend that:

The MSB implement procedures to regularly review the precinct towing assignments to verify that the rotational tow assignment process is followed. Instances of non-compliance with departmental towing procedures should be identified, and the appropriate disciplinary action should be taken.

2. Precinct Officers are Not Always Reporting Towed Vehicles to the Telephone Crime Reporting Unit as Required

The Telephone Crime Reporting Unit (TCRU) notifies vehicle owners of the recovery of their stolen vehicles, provides vehicle owners with the location of their impounded vehicle, and updates the Law Enforcement Information Network (LEIN) system. As shown in the following chart, DPD officers are not always notifying the TCRU when vehicles are impounded or if they are notifying TCRU, there is no assurance that the LEIN system is being updated with the tow information.

During our review of impound cards at the precincts:

- We noted numerous instances where the impound card did not contain information indicating that TCRU was notified of the tow by a precinct officer. The precinct officer records the TCRU issued complaint number and the TCRU officer's name on the upper right corner of the impound card.

Precinct	No Complaint Number or TCRU Officer Listed on Impound Card	No Complaint Number Listed on Impound Card	Percentage of Impound Cards That May Not Be Entered in LEIN System
2 nd	14%	10%	24%
3 rd	2%	5%	7%
4 th	11%	4%	15%
5 th	14%	25%	39%
6 th	22%	5%	27%
7 th	4%	10%	14%
8 th	11%	4%	15%
9 th	3%	8%	11%

- The absence of the TCRU information indicates that the tow was not reported to the TCRU at all, or that the tow was reported to TCRU by the towing company.
- We also noted numerous instances where a TCRU officer's name was listed, but there was no computer number. The absence of the TCRU computer number indicates that the system was down at the time the tow was reported to TCRU.

DPD's procedures dictate that TCRU be notified when a vehicle has been towed.

The DPD General Procedures, Section 8.1, requires in part:

When a stolen motor vehicle is recovered, the Telephone Crime Reporting Section shall be notified by the recovering officer. Telephone Crime Reporting Section personnel shall make the necessary computer entries to facilitate D.E.T.E.C.T.S., L.E.I.N. and N.C.I.C. requirements and forward the computerized official complaint record to the appropriate command. The Telephone Crime Reporting Section shall provide the recovering officer with the value of the vehicle. Recovering members shall place the vehicle information, complaint number and operator's name on their activity log.

The DPD General Procedures, Section 8.3 requires in part:

When notifying the Telephone Crime Reporting Section of the recovery, members will advise this section that the vehicle has been towed and the location of the storage. The Telephone Crime Reporting Section shall enter any vehicle towed to a private towers' storage lot into the computer as a moved vehicle. The Telephone Crime reporting section shall notify the owner when a stolen motor

vehicle has been recovered except when otherwise indicated by the officer in charge of the case.

Similar requirements exist for DPD's reporting of impounded vehicles.

Precinct personnel acknowledged that the officers are not always notifying TCRU when a vehicle is impounded, or they may be letting the towing company call with the impound information. They also noted that sometimes TCRU does not properly update the system with the tow information, and that recovered vehicles are still shown as stolen.

A 1995 Inter-Office Memo addressed to then Chief of Police Isaiah McKinnon indicates that it usually takes officers several attempts to make contact with TCRU. Officers attempting to contact TCRU are frustrated, and that because TCRU has not notified vehicle owners, the towing companies have suffered financial losses. Following this memorandum, the 6th Precinct initiated a six-month pilot program whereby the towing companies would notify TCRU of vehicles towed, rather than the recovering officers. While the authorization of the pilot program expired in May 1997, precinct personnel acknowledge that towing companies in the 6th precinct have continued to report tows to TCRU directly, over seven years from the commencement of the six-month pilot program.

The purpose of DPD officers reporting tows to TCRU is to act as a control over the towing companies. Information provided by DPD provides an assurance that the recovery of stolen vehicles has been authorized by DPD and that the vehicle condition reported at the time of the tow is accurate. Police-authorized towers' reports of damage/missing parts on vehicles may differ from the officers' impound cards. Theft of parts or property, or damage to the vehicle can be covered up when police-authorized towers report the recovery of stolen vehicles to TCRU. The impound card loses its control value when towers report to TCRU, unless the precincts reconcile the impound cards to the tower notifications to TCRU, which is unlikely. In addition, correct and timely reporting of towed vehicles insures that vehicle owners are properly notified and that towing companies are able to collect the appropriate towing and storage fees.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. Officers are provided with the technology and resources necessary to complete their jobs effectively and efficiently. This may include computers with access to the LEIN system in their vehicles, and telephones and radios to contact the precinct tow desks and TCRU as necessary.
- b. The DPD insure that TCRU has the appropriate staffing level and resources to accommodate the demand for its services.
- c. Procedures are implemented to train officers in all of the required steps to impound vehicles. Document instances of non-compliance with towing procedures, and discipline officers for failing to notify TCRU of vehicles towed.
- d. Towing companies found to be notifying TCRU directly should be suspended.

3. Incomplete Impound Cards Affect DPD's Ability to Assign Accountability for Vehicle Damage

Officers are required to manually complete two original impound cards when a vehicle is towed for safekeeping. Sometimes only one card is filled out and it is given to the towing company. Sometimes the form is not fully completed – the condition of the vehicle is not noted or is vague, or the forms do not contain a DPD authorizing signature. On more than one card, the vehicle condition was recorded as "intact."

A summary of our review of sampled impound cards from eight precincts is contained in the accompanying table.

- Officers at five precincts were completing the inventory section of the impound card in nearly all instances; while officers at the three remaining precincts were not completing the inventory section between 16% and 32% of the time.
- The impound card was not signed by the responsible police officer 18% to 35% of the time.

Precinct	Vehicle Condition Not Complete	Card Not Signed by Police Officer
2 nd	0%	18%
3 rd	2%	18%
4 th	0%	24%
5 th	28%	31%
6 th	16%	27%
7 th	0%	22%
8 th	0%	29%
9 th	32%	35%

Additional conditions reported by the towing companies were:

- Sometimes only one card is completed, and the card is given to the towing company.
- Officers do not always complete the card, so the towers do so themselves.
- Officers promise to deliver the completed cards to the towers yard, and they do not.
- The information reported on the card by the officers is not correct.

The City Ordinance and the DPD's General Procedures governing the completion of the Impound Card are as follows:

The Municipal Code, Section 55-15-3 (c) states:

In the case of a vehicle to be towed to a private tower's storage lot, yard or garage under section 55-15-1(4), the tower shall prepare and sign an inventory of the contents and equipment of the vehicle on a multicopy form approved by the police department.

The police officer in charge shall sign the completed form as witness to the inventory and the police department shall retain the signed original. The form shall indicate the location where the vehicle owner may reclaim the vehicle. The tower shall retain one copy of the signed form and mail one copy to the vehicle owner within forty-eight (48) hours of the date the tow is performed.

Paragraph 8.3 of the DPD General Procedures, states that for disposition of recovered stolen vehicles:

If the vehicle is to be towed to a police authorized towers' storage lot, recovering members shall complete two copies of the Impounded Vehicle Record, D.P.D. 406. The recovering officer and tower shall both sign the inventory side of both impounding cards to verify the condition of the vehicle at the time of the tow.

Officers may not complete the form DPD 406 fully because it is time consuming to complete two original forms, they do not realize the importance of completing the form in full, or they are called away to respond to higher priority calls.

The form DPD 406 is the record that the DPD authorized the towing company to move the vehicle. It indicates vehicle-identifying information, where the vehicle is moved and by which company, as well as the condition of the vehicle at the time it is ordered towed. Inaccurate information on impound cards adversely impacts the ability of the DPD, the towing companies, vehicle owners and insurance companies to hold the appropriate party responsible for damage or missing property from impounded vehicles. Without documentation of the vehicle's condition before it is towed, the approximate time of vehicle damage cannot be established and the responsible party cannot be identified. Furthermore, the information contained on the form DPD 406 is used to update the precinct's tow book and should be retained as their record of the tow. It is important that the information contained therein be correct.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The DPD take steps to ease the precinct officers' burden of recording the vehicle condition at the time the vehicle is towed. The form DPD 406 should be reissued in a multi-copy format so that the patrol officer must complete the form only one time.
- b. The DPD consider issuing the patrol officers digital cameras to provide a visual record of vehicle condition at the time the vehicle is towed.
- c. The DPD put procedures in place to document instances of non-compliance with DPD towing procedures and discipline officers for failing to properly complete the standard impound and vehicle condition reports.

4. Record of Precinct-Authorized Towing Assignments is Deficient

The precinct's tow book should be considered the permanent record of all towing assignments that have been requested and authorized by the precinct, and as such should be diligently maintained. Impound cards, supporting each entry, should provide additional detail and further document the authorization of each tow assignment. Therefore, there should be an impound card for every entry, and an entry for every impound card.

We noted the following conditions:

- Not all precincts were properly entering impound information into the tow book following the tow. Information such as the make and license number of the vehicle towed was often missing.
- It was very difficult to reconcile the impound cards to the tow books at some precincts because the impound cards are not sequentially numbered and the lack of data contained in the towed vehicle book impaired our ability to match the impound cards to the entries.
- Some impound cards were missing and the filing systems at some precincts were poor. Impound cards were not properly filed in the 4th, 5th, and 7th precincts; therefore we could not find many of the cards.
- The lack of sequentially numbered impound cards makes it impossible to know whether the tow book is a complete record of all of the tows authorized by the precincts' officers.

A summary of our review of the impound cards and tow books at the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 9th precincts is contained in the following chart:

Precinct	Card Not Retained by Precinct	Tow Book Observations
2 nd	17%	No discrepancies noted.
3 rd	20%	Some cards may have been misfiled. Washington missed four rotations. In one case, the impound card showed Boulevard and Trumbull as the tower, while the tow book indicated that Red's was the tower.
4 th	47%	Impound cards were not properly filed, and seven of the fifteen were missing. Vehicle descriptions were missing for several entries in our sample.
5 th	18%	The 5 th precinct threw out impound cards after a couple of months. The audit trail was not reliable. The 5 th precinct relies on police-authorized towers to determine the status of vehicles recorded in the towed vehicle book and on the impound cards. Inactive impound cards are thrown away.
6 th	Unknown	Did not have all of the impound cards for the tow book entries. The tow book appeared to be properly filled out.
7 th	63%	The precinct tow book was not properly filled out. It lacked make and license number of vehicle towed and name of officer present when the vehicle was towed. It was difficult to match the impound card to the tow book. Impound cards were poorly organized.
8 th	8%	Four impound cards were not found of the 49 checked. Overall, they seemed to do a good job with the tow book and the impound cards.
9 th	Unknown	Tow book appears complete.

DPD General Procedures establish the usage of the precinct tow book and the information that should be recorded therein.

Paragraph 13.2 of the DPD General Procedures, entitled Towed Vehicle Book, states:

All tow requests shall be entered into a towed vehicle book. Each precinct shall maintain a towed vehicle book containing the following information:

- a. Time and date ordered;
- b. Name of towing company;
- c. Make and license number of vehicle towed;
- d. Location towed from and to;
- e. Reason for towing;
- f. Remarks column, which shall include details of tow, i.e., dolly tow, heavy duty tow truck, excessive time, etc.;
- g. Rank, name and assignment of officer authorizing tow;
- h. Rank, name and assignment of officer present when vehicle is towed; and
- i. Date and time towing was completed.

There is no oversight over the data contained in each precinct's tow book, and no monitoring to ensure that the data contained therein conforms to the DPD's General Procedures. There also appears to be no standard procedure for retaining the impound cards among the various precincts. Precincts with poor filing methods are allowed to continue unchecked.

Incomplete tow book entries reduce the accountability of officers to ensure an equitable distribution of the precinct's abandoned vehicle towing requests and for the impounding of vehicles. Poor record keeping of the impound cards impairs the accuracy and completeness of the tow book and impairs the vehicle owners' ability to locate their impounded vehicles.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The DPD revise form DPD 406 to include a sequential number which would facilitate the reconciliation of the impound cards to the tow book and would facilitate holding the patrol officers accountable for any impound vehicle entry in the tow book that is not completed.
- b. Establish standardized procedures for precincts to follow to maintain impound cards until the associated tow book entry can be audited.

5. Payment of Precinct-Ordered Towing Assignments Made Without Supporting Authorization

DPD procedures for tow slips and invoicing by police-authorized towers are not being properly followed. Of the precincts we reviewed, we found that only the 7th precinct continues to process its tow slips according to DPD Procedures. Precincts are not submitting form DPD 73 – Vehicles Towed By Private Companies, which lists the towing jobs that were authorized, to MSB by the 10th of the following month. Presently, towing companies are submitting their tow slips and invoices directly to the Fiscal Section of the DPD for payment.

Some police-authorized towing companies are adding charges for storage, mileage, labor, and second tows, which are not allowable charges. In addition, towing companies are not using standard rates when billing for services that are outside the usual requested services, such as for moving the bomb squad trailer, or for towing boats and basketball hoops. Of the 117 invoices sampled, we found 24 invoices containing questionable charges. In addition, DPD's Fiscal Section is not paying invoices to police-authorized towers according to terms.

DPD General Procedures, Section 13.3, entitled Tow Slips, requires:

All private tow companies must, immediately upon completion of the tow, submit a tow slip to the officer in charge of the precinct station desk if the police department is responsible for payment of the tow. The department is not responsible for payment of tows to police authorized towers' storage lots.

The officer in charge of the precinct station desk to which the slip is submitted shall ensure that the tow slip indicates the time the tow started and the time the tow was completed, the make and license number of the vehicle towed, place towed from and to, and the reason for removal. If an officer was present at the time of the tow, the tow slip must bear the officer's signature. However, officers shall not sign blank tow slips. The completed tow slip shall be submitted through the officer present when the vehicle is towed. In cases where no officer is present or when the officer must leave the scene prior to the completion of the tow, the tow slip must be delivered to the precinct by the tower.

As each tow slip is received, the officer in charge of the precinct station desk shall reconcile the tow slip with the towed vehicle book entries. This reconciliation shall include an audit for appropriate tow charges and a check of the tow slip for the required information. If a tow slip is found not to have a corresponding tow book entry, an investigation shall be conducted to verify the legitimacy of the tow slip. If this investigation reveals any indication of possible fraud, the results shall be forwarded to the Deputy Chief, Management Services Bureau.

The commanding officer of each precinct shall ensure that the information from the tow slips is recorded on the List of Vehicles Towed by Private Tow trucks, D.P.D. 73, at the end of each month. These forms, together with all towing slips, shall be forwarded to the Fiscal Section by the tenth of the following month.

According to DPD personnel, the primary reasons the precincts are not processing the towing invoices are employee turnover and lack of training. Processing towing invoices is not a priority for the majority of the precincts. Because precinct commanders were not completing and submitting the form DPD 73 with the invoices for payment to MSB, towing companies started mailing invoices directly to MSB in order to get paid.

Because the precincts are not submitting the form DPD 73, there is no assurance that the towing companies' invoices are proper and that the towing services that were billed were actually authorized and received. Also, since the invoices are not approved by the precincts before they are submitted to the Fiscal Section, there is the risk that the DPD is paying for services that were not contracted, were not received, or were billed at improper rates.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The Fiscal Section reject all invoices that are submitted to them directly for payment, and require that all precinct commanders and towing companies follow the established procedure for the payment of the towing invoices for which DPD is responsible.
- b. MSB establish a standard rate schedule for items that are frequently towed, but are not covered by the rates set by City Council.
- c. The Fiscal Section should follow-up with precinct commanders when form DPD 73 and the associated invoices are not submitted by the monthly due date to insure that payments to towing companies are processed quickly and are paid according to terms.



November 23, 2004

Mr. Joseph L. Harris
Office of the Auditor General
Coleman A. Young Municipal Center
2 Woodward Avenue, Room 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE IMPOUND VEHICLE TOWING PROCESS

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the second report of findings and related recommendations in the December 2003 *"Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process"*, as prepared by the Office of the Auditor General.

Finding 1: MOST PRECINCTS ARE NOT DISTRIBUTING TOWING REQUESTS EQUITABLY AMONG THE FIVE ASSIGNED TOWING COMPANIES

Response to Finding: The Detroit Police Department agrees that the distributions of tow requests are inequitable when members do not follow proper notification procedures.

Response to Recommendations:

1a – The Department agrees with the recommendation that the Management Services Bureau (MSB) ensure that a review of the precincts' tow books is conducted for any inequitable distributions of tow requests and assignments. Further, the department agrees that corrective measures will be taken to ensure that all members are in compliance with towing policies and procedures. Reviews of the tow books will be conducted monthly by Precinct Commanders.

Finding 2: PRECINCT OFFICERS ARE NOT ALWAYS REPORTING TOWED VEHICLES TO THE TELEPHONE CRIME REPORTING UNIT AS REQUIRED

Response to Finding: The Department agrees, in part, with this finding that police officers are not contacting the Telephone Crime Reporting Unit (TCRU) as required by department towing procedures.

KWAME M. KILPATRICK, MAYOR



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November 23, 2004
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Response to Recommendations:

2a – The current CRISNET system contains a vehicle impound module. Once CRISNET and the LEIN (Law Enforcement Information Network) are interfaced, the module will become operable and the information will go directly into LEIN. The MDC (mobile data computers) currently installed in the scout cars provide access to LEIN and officers are equipped with radios to contact the precinct tow desk and TCRU.

2b – The Department agrees that TCRU should be appropriately staffed to accommodate the demand for their services, however with current budget constraints, we are unable to augment the TCRU staff at this time.

2c – The Department provides training to all members, at the recruit level, on the rules, policies, and procedures, concerning Impound Cards, Inventory Searches, and TCRU notifications. Additionally, administrative messages are issued advising members of updates.

2d – The Department will ensure that the practice of tow companies notifying TCRU directly is ceased.

Finding 3: INCOMPLETE IMPOUND CARDS AFFECT DPD'S ABILITY TO ASSIGN ACCOUNTABILITY FOR VEHICLE DAMAGE

Response to Finding: The Department agrees that missing information on impound cards does affect the accountability for vehicle damage.

Response to Recommendations:

3a. - The Department agrees that DPD Form 406 (Impound Card) should be reissued in a multi-copy form.

3b - The Department disagrees with issuing digital cameras to provide a visual record of vehicle condition at the time the vehicle is towed. While such procedures may be preferred, presently, given fiscal concerns, they are cost prohibitive. In cases where a photograph would be prudent, the vehicle's condition can be captured and preserved utilizing the current in-car digital video camera system.

3c – The Department agrees and currently disciplines officers according to the standards contained in the Detroit Police Department Policy Manual Directive 102.4 – Standard of Conduct.

KWAME M. KILPATRICK, MAYOR



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Finding 4: RECORD OF PRECINCT-AUTHORIZED TOWING ASSIGNMENTS IS DEFICIENT

Response to Finding: The Department agrees that in some cases, the current policies concerning the completion of departmental towing records are not being properly followed.

Response to Recommendation:

4a – The Department disagrees with the recommendation that Impound Cards should be sequentially numbered. Sequentially numbering the Impound Cards will not assist in the tracking of impounded vehicles in the tow book; given that Impound Cards are issued to officers before they are utilized. However, the Department agrees that this form should be revised to include spaces for the impounding officer's signature and the recording notifications. Additionally, the CRISNET system will generate a *case number* which will assist in the tracking of impound vehicles.

4b –Standardized Procedures to retain Impound Cards already exist. According to the Detroit Police Policy Manual 101.11, the Department's current procedures require that the Impound Card DPD 406 be retained for five (5) years.

Finding 5: PAYMENT OF PRECINCT-ORDERED TOWING ASSIGNMENTS MADE WITHOUT SUPPORTING AUTHORIZATION

Response to Finding: The Department agrees in part that the current policies and procedures are not being followed. However, the finding that there is no police review of the tow slips and invoices prior to their payment by the Fiscal Operations Section of MSB is false.

Response to Recommendation:

5a - The Department agrees, in part, that the Fiscal Operations Section reject all invoices that are submitted to them directly by tow companies for payment. However, the Department disagrees with the recommendation that precinct commanders be responsible for submission of towing invoices for payment. Currently, all invoices are reviewed for accuracy by the Resource Management Division of MSB, prior to their payment by the Fiscal Operations Section. Upon implementation of the

KWAME M. KILPATRICK, MAYOR



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new towing contracts, changes in tow invoice reconciliation procedures will be made by the Resource Management Division staff.


5b – The Department disagrees with this recommendation that the MSB establish towing rates for non-vehicle items (boats, basketball hoops, etc.) that are frequently towed. As stated in Sections 55-15-5 and 55-15-2 of the City Code, the Towing Rate Commission “shall be charged with the duty of reviewing the towing rates at least once every two years and submitting its recommendation to City Council.” City Council, “by resolution,” establishes the rates and fees. The Department will prepare a recommendation regarding towing rates for frequently towed non-vehicle items to be considered by City Council for establishing rates and fees.

5c - The Department disagrees with this recommendation on the monthly submittal of towing invoices by precinct commanders to insure that payments to towing companies are processed “quickly”. Currently, to ensure that payments are processed efficiently, all invoices are reviewed for accuracy by the Resource Management Division, prior to their payment by the Fiscal Operations Section.

Additionally, a Department teletype communication has been issued reminding officers of the proper procedures for impounding vehicles and making the proper notifications as outlined in the department’s manual.

Should you have any concerns regarding this matter, please do not hesitate to contact me at 596-1800, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

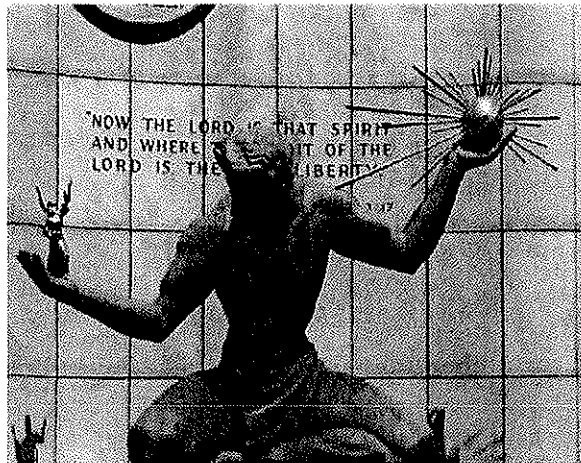

ELLA M. BULLY-CUMMINGS
Chief of Police

EMBC-ma

KWAME M. KILPATRICK, MAYOR

City of Detroit

OFFICE OF THE AUDITOR GENERAL



**Audit of the Detroit Police Department's
Police-Authorized Towing Contracts**

December 2003



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Joseph L. Harris, CPA, CIA
Auditor General

Sharon L. Gipson, CPA
Deputy Auditor General

MEMORANDUM

DATE: October 26, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Police-Authorized Towing Contracts

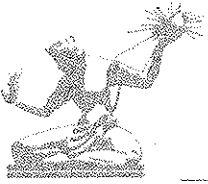
C: Chief Ella M. Bully-Cummings

Attached for your review is our seventh of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process are as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (issued January 18, 2005)
4. Vehicle Auction Process (issued February 3, 2005)
5. Evidence Vehicle Process (issued October 21, 2005)
6. Accounting and Reporting System (A separate report will not be issued. The related findings have been incorporated into the other reports in this series.)
7. Police-Authorized Towing Contracts
8. Best Practices and Recommendations.

This audit was initiated by the Auditor General to determine the validity of allegations of malfeasance by police-authorized tow companies and DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the towing companies' compliance with the DPD's policies and procedures, and the terms of the towing contract. This report contains our findings and



recommendations specific to this process, and the DPD's response. Many of the issues detailed in this report continue because the longstanding causes underlying those conditions have not been remedied and therefore, still exist.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in developing reengineered policies and procedures. The recommendations included in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

Audit of the Detroit Police Department's Police-Authorized Towing Contracts

December 2003

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EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether State laws, City ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts are being complied with and whether the allegations of improprieties are valid.

The subject of this report is the qualifications of the towing companies that were awarded police-authorized towing contracts, and compliance of the police-authorized towing companies and the DPD with the contracts' terms. Police-authorized towing company qualifications were stated on the application form and within the police-authorized towing contract. Procedures, that the towing companies and the DPD agreed to follow, are specified in the DPD's police-authorized towing contract.

Our first report in this series, "Audit of the Detroit Police Department's Administration of the Police-Authorized Towing Process," revealed that there were no checks and balances in the award of the towing contracts, and that the contracts were not approved by City Council. Titles of the related findings that are contained in the first report are listed below:

- Award of the November 2001 Towing Contracts Did Not Follow the City's Purchasing Ordinance;
- Towing Companies with Commingled Assets, Owners and Management are Treated as Separate Companies for Towing Assignments; and
- Towing Contracts' Related Business Conflict of Interest Clause is Not Enforced.

DPD's Management Services Bureau (MSB) does not proactively monitor the police-authorized towers' compliance with towing procedures and contract requirements due to a lack of personnel; therefore, police-authorized towers are not held accountable and there is no assurance that the towing companies are meeting their contractual obligations. The lack of monitoring increases the risk of public corruption of police officers; the risk of theft of vehicles, auto parts, and personal property; and the risk that excessive towing and storage charges to vehicle owners go undetected. Furthermore, neighborhoods are blighted by police-authorized tower storage yards that are not properly maintained or located within the proper zoning district.

We believe that the City should reengineer the entire police-authorized towing process. Following is a summary of our specific findings and recommendations relative to the award of and compliance with the police-authorized towing contract:

Finding 1 – DPD Awarded Contracts to Ineligible Towing Companies

Some towing companies were awarded contracts even though they did not meet the DPD's eligibility requirements. We found that the MSB did not document a formal application review. Discrepancies between contract requirements and towing company files include: required certificates of insurance were not in the files; company resources were sometimes overstated, as the same storage lots, tow trucks, insurance policies, and employees were listed on two or more applications; property tax clearances granted

for towing companies were not based on all properties owned; storage lot security was not verified; zoning and permits necessary to operate abandoned vehicle storage yards and towing services were often lacking; and there was no documentation that criminal history checks were performed. Furthermore, there was no documentation of the companies' ownership at the time the contracts were awarded so that the extent of subsequent ownership changes can be determined.

We recommend that an agency independent of the DPD be involved in the awarding of the contracts and that the contracts be approved by City Council. The City-authorized towing contract application should be expanded to collect the additional information required to determine towing company eligibility. The City should perform and document a thorough application review to ensure that the assertions made by the applying companies meet the criteria specified in the City's towing ordinance and in the towing contract's terms and scope of service.

Finding 2 – Towing Companies Tow in Unauthorized Precincts

Four towing companies tow vehicles in precincts they are not authorized to tow in. Three of the companies perform towing for prostitution stings, which is considered a non-impound towing assignment. Another company substitutes on a related company's rotational calls in the 8th precinct, which is a violation of the towing contract.

We recommend the City strictly enforce the terms of the police-authorized towing contracts and require towing assignments generated outside the precincts to use the towing companies assigned to those precincts. Towing in unauthorized precincts should not be tolerated.

Finding 3 - Towing Companies Move Vehicles Prior to Obtaining Police Authorization

Towing companies are moving abandoned or stolen vehicles prior to obtaining police approval, which is in effect stealing the vehicle. Several drivers have been caught performing unauthorized towing. Complicating this issue is that the Michigan Auto Theft Prevention Authority (ATPA) funded auto theft units¹ occasionally order vehicles towed verbally, and then recover² the vehicles later at the towing companies' lots. Some towing companies use the auto theft unit's process to explain their unauthorized possession of stolen vehicles. Some towing companies have the auto theft units recover stolen vehicles that have already been moved to their lots.

¹ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

² The term "recover," as used in the recovery of stolen vehicles refers to the process by which a found stolen vehicle's status is reported and updated in the Law Enforcement Information Network (LEIN) and National Crime Information Center (NCIC) computer systems. The recovery process determines the proper disposition of the recovered vehicle - whether the vehicle can be impounded by the recovering jurisdiction, held for evidence processing, or impounded for another jurisdiction.

We recommend that the City, the Michigan State Police, and the auto theft units coordinate stolen vehicle recovery efforts to curb the towing of vehicles prior to obtaining verifiable police permission. Processes should be understood so that these agencies can hold towing companies fully accountable for the stolen vehicles in their possession that have not been recovered.

Finding 4 – Towing Companies' Storage Lots are Not Properly Secured

Most towing companies report at least some theft from their storage lots. One towing company estimated missing parts claims of \$15,000 in 2002. Several towing companies keep inventories of frequently stolen parts to replace parts removed from vehicles when the vehicle owner complains, and to curb the number of claims submitted to their insurance companies. These "self insured" towing companies have no incentive to fully secure their storage lots, which increases the likelihood that theft of parts will occur.

We recommend that the City ensure that the vehicle condition reports are completed when a vehicle is towed, so that the towing company can be held accountable for parts while the vehicle is in the towing company's custody. The City should inspect the storage lots and require the towing companies to make changes in security if warranted.

Finding 5 – Towing Companies are Storing Vehicles on the Streets

We observed towed vehicles sitting on the street outside two towing companies in violation of the provisions of the police-authorized towing contract.

We recommend that the City enforce the provisions of the towing contracts. Prior to the award of the next towing contracts, the City should reevaluate the storage lot space requirements necessary to meet the City's towing needs and make any necessary adjustments to the towing contracts.

Finding 6 – Towing Companies are Not Open During Required Business Hours

Nine towing companies do not maintain the required hours of 7:00 a.m. to 7:00 p.m. in order to be available to release vehicles to owners. We observed one storage lot that was open to trespass and unattended. At the same lot, we observed a vehicle owner climbing the gate to leave after he had been locked in during the required business hours.

We recommend that the City enforce the storage lot hours stipulated in the towing contract.

Finding 7 - Towing Companies are Not Allowing Access to Vehicles

Vehicle owners and insurance companies are being pressured to give up their rights or ownership in order to view a vehicle. We found that towing companies are requiring some vehicle owners to sign over the vehicle title before being allowed access to the vehicle. Some towing companies are requiring that insurance companies redeem the recovered stolen vehicle before seeing its condition. Towing companies allege they are taking these steps to minimize their costs; they want to be able to easily dispose of the

vehicle if the vehicle owner or the insurance company decides the vehicle is in such poor condition that they do not want it.

We recommend that the City ensure the owners access to their vehicles while the vehicles are in the possession of the towing companies.

Finding 8 – Towing Companies Charge Improper Fees

Some towing companies are charging vehicle owners for items, such as winching and labor, which are not authorized in the towing rates approved by City Council. Many towing companies are not waiving the storage fees for the first three days of storage, especially when vehicles are redeemed by auction companies or by insurance companies. Towing rates are not posted, so vehicle owners are not made aware of the amounts they should be paying for the towing service, and therefore are not aware that they are improperly charged.

We recommend that the City require towing companies to post rates so vehicle owners will be made aware of them, and suspend towing companies found to be overcharging vehicle owners, insurance companies, and others.

Finding 9 – Towing Companies' Records are Not Adequately Maintained

Towing companies were generally able to produce documents stating the reason the vehicle was towed, but were unable to produce documents indicating the vehicle's disposition. We found that several companies did not have a form DPD-131, authorizing the towing of the vehicle, for some vehicles on their storage lots. One company could not produce invoices for towed vehicles for a 14-month period.

We recommend that the City specify the records that the towing companies are required to maintain to satisfy its record keeping requirements and enforce the terms of the contracts, which require records be maintained for three years.

Finding 10 – Towing Companies are Not Reporting Unclaimed Vehicles Monthly

Towing companies are not submitting the Unclaimed Vehicle Report by the 10th of each month as required by the contracts. As a result, the DPD is unaware of vehicles towed to the towers' storage lots outside the police-authorized towing process, and is unaware of vehicles that have sat on a tower's lot, garnering storage fees, for long periods without being redeemed or auctioned.

We recommend that the City require that towing companies submit the monthly list of unclaimed vehicles, so the City is made aware of vehicles that have sat unclaimed and is able to process them appropriately.

Finding 11 - DPD Did Not Require New Owners to Reapply for Towing Contracts

We found no indication that the MSB was notified of Boulevard & Trumbull's, E&G's, or Javion & Sam's ownership change in September 2002. As such, MSB did not require the new owner of these companies to reapply for the police-authorized towing contracts as is required.

We recommend that the City enforce this contract term.

Other Towing Issue - Towing Companies Charge Higher Fees on Auto Theft Unit Recoveries

Some towing companies are charging vehicle owners towing and storage fees on stolen vehicles that are recovered by the Auto Theft Prevention Authority (ATPA) funded auto theft units³ at rates substantially higher than those established for vehicles ordered towed by the DPD. The rates charged on the auto theft unit tows are not regulated, and vary between \$135 and \$175 per tow plus \$12 per day storage beginning on the first day while rates charged on the DPD and the Michigan State Police ordered tows are \$75 per tow plus \$8 per day storage after the third day. In our opinion, the cost to the vehicle owner should not be dependent on which law enforcement agency happens to recover the stolen vehicle or order the vehicle towed.

We recommend, in the interest of protecting the public from inordinately high fees, that the auto theft units' contracts with the towing companies require the towing companies to charge the fees established by the City of Detroit on the vehicles recovered and ordered towed within the City. We also recommend that the City Council issue a resolution calling for the standardization of towing and storage fees on all law enforcement ordered tows within the City of Detroit.

³ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of malfeasance by police-authorized towing companies and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Office of the Auditor General (OAG) conducted an audit of the DPD's towing process to determine the DPD's and the towing companies' compliance with State law, City ordinances, DPD established towing policies and procedures, and the towing contracts' terms.

The scope of work covered in this report was limited to a review of the qualifications of the towing companies that were awarded police-authorized towing contracts, and compliance of the police-authorized towing companies and the DPD with the contracts' terms.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years.

AUDIT OBJECTIVES:

Specifically, we wanted to determine whether:

- Companies receiving towing contracts were eligible;
- Towing companies and the DPD are complying with the contract terms; and
- Other issues should be addressed in subsequent towing contracts.

AUDIT METHODOLOGY:

To accomplish our objectives, our audit included:

- Interviews with DPD management, police officers, towing companies, and others;
- Reviews of DPD towing procedures, and City ordinances;
- Reviews of contracts, applications and towing company files;
- Reviews of zoning documents, tax records, and clearances;
- Reviews of documents supporting the towing of vehicles located on ten towing companies' lots; and
- Reviews of records at all towing companies supporting their 2002 police-authorized tows.

OVERVIEW OF THE POLICE-AUTHORIZED TOWING CONTRACTS

Chapter 55 of Detroit's City Ordinances entitled Traffic and Motor Vehicles and the State of Michigan's Motor Vehicle Code establish the City's framework for its police-authorized towing process. All of the requirements for police-authorized towing companies that are established by the ordinance are contained in the police-authorized towing contract except:

- The requirement that the towing company provide the vehicle owner or driver with a copy of the towing rate schedule approved by City Council. [Section 55-15-3 (b)]
- The requirement that the towing company report all wrecked or disabled vehicles removed from any freeway or from the scene of any accident in the city and which are being stored for the driver or owner within 24 hours. [Section 55-16-6 (a)]
- The requirement that any place at which wrecked or disabled vehicles are stored shall post the name, address and phone number of the operator of the place and the hours during which the place is open for business. [Section 55-16-6 (b)]

The agreements between the DPD and the police-authorized towing companies have evolved. Prior to 1998, the agreements between the DPD and the police-authorized towing companies were detailed in the form of a Letter of Understanding for the Private Authorized Tow Program. In 1998, the agreement became formalized in Police-Authorized Tower Contracts. In late 1999, the 1998 contracts were extended indefinitely, until new contracts could be crafted that would address towing of crime victims' vehicles, storage rates, and processing issues related to the timely release of vehicles. Towing companies and the MSB signed the current contracts in November 2001. The contracts were not sent to City Council for approval in violation of the City's Purchasing Ordinance. The contracts require the DPD to pay very little, yet they do allow the towing companies access to revenues from vehicle owners redeeming their cars and from auction sales. The more recent contracts were in effect until March 31, 2005. These contracts have been extended until March 31, 2006.

Highlights from the contracts include:

- The Contractor agrees to perform according to the terms of the contract, City ordinances, and Michigan law.
- The sole compensation that the Contractor will receive is payment from the owner or driver of the vehicle or from the proceeds of the abandoned vehicle auction. The City will only pay for towing services as required by law.
- The Contractor shall not charge fees in excess of those set by City Council.
- The Contractor is to maintain records reflecting operations related to the contract in accordance with generally accepted accounting principles for at least three years after the contract ends.
- The City can audit records and supporting data.
- The Contractor cannot have any interest that conflicts with the performance of the police-authorized towing service.

- The Contractor will comply with federal, state and local laws.

The contracts specify some of the Contractors' eligibility requirements:

- The Contractor must be a Detroit-based business.
- The Contractor must be approved for participation in the program.
- The Contractor represents, by signing the contract, that it has or will acquire the personnel, equipment and licenses necessary to perform the services assigned.
- The Contractor will not hire, contract or utilize persons with a theft or fraud criminal conviction.
- The Contractor shall maintain workers' compensation, employer's liability, commercial general liability, garage keeper's legal liability, and automobile liability insurance.
- The Contractor will not be or is not in arrears to the City on any obligation.

The contracts' Scope of Services includes 30 specific services to be performed. The scope of services is included as Attachment A to this report.

Two factors complicate the evaluation of the towing companies' provision of services and performance. First, the Michigan State Police and the Auto Theft Prevention Authority's grant funded auto theft units order "police" towing in the City of Detroit that does not fall under the DPD's police-authorized towing contract. Second, insurance companies are not specifically addressed in the contract. Insurance companies interact with towing companies because they may pay towing and storage fees. They can be involved with the recovery of stolen vehicles, and they can become the vehicle owner if the stolen vehicle's owner's claim has been settled.

FINDINGS AND RECOMMENDATIONS

1. DPD Awarded Contracts to Ineligible Towing Companies

Some towing companies did not meet the Detroit Police Department's (DPD) eligibility requirements for the 2001 police-authorized towing contract. Results of a formal application review, demonstrating that the assertions made by the towing companies on the application had been verified or that the towing companies had met the eligibility criteria, were not contained in the Management Service Bureau's (MSB) towing company files.

Specifically:

- Companies were asked to provide proof of general liability, workers' compensation, employer's liability, commercial general liability, garage keeper's legal liability and automotive liability insurance at certain amounts; however:
 - Proof of insurance coverage was not contained in some towing companies' files.
 - Several of the towing companies' files did not contain proof of the required general liability insurance coverage.
 - Some of the insurance certificates had expired before the contract start date.
 - Some of the insurance certificates were issued in another company's name.
 - The requirement to name the "City of Detroit" as an additional insured was not always met.
- The towing companies were asked to provide information about company resources to insure that the company could provide the services required by the contract. Towing companies were allowed to overstate their resources by claiming another company's storage lots, vehicles, employees, and insurance coverage as its own.
- Applying towing companies were asked to provide property tax and income tax clearances to show that they were not currently in arrears to the City on any debt, contract or obligation. Property tax clearances granted by the City were based on the principal business address only, and did not include other properties owned by the companies or the business owners. We reviewed 51 properties owned by the 30 towing companies and found that 4 of the towing companies had delinquent taxes at 6 properties. We also found that several of the towing companies listed property addresses do not have property assessor's data in the City's database.
- The towing companies' contract files contained no documentation that the storage lots were inspected by the MSB, and that the assertions that the storage lots were fenced and secure and could store the number of vehicles indicated on the application were verified.
- The lots were not checked by the MSB for appropriate zoning and permits. We asked the Building and Safety Engineering Department (BSED) to review a list of 52 properties owned by the towing companies. They found that 24 of the

properties, owned by 17 towing companies, lacked the appropriate permits to be operated as police-authorized abandoned vehicle yards and towing services. In all, 12 towing companies lacked permits or zoning for police-authorized abandoned vehicle storage, or any other type of vehicle storage according to BSED records.

- The DPD had no documentation that criminal history checks were performed on towing company owners or employees.
- Documentation or certification of company ownership at the time the contract was let was not obtained, which makes it difficult to enforce the contract provision that towing contracts cannot be transferred, or that the towing company has to reapply if there is a change of ownership by more than 40%.

Eligibility criteria that towing companies must meet and maintain to become or continue as a police-authorized towing company were stated in the MSB's announcement that it was accepting applications for towing contracts. The stated criteria included:

- Proof of the required insurance coverage;
- Ability to provide fenced storage facilities for a minimum of twenty vehicles at the principal place of business;
- Ability to maintain 24-hour service, seven days per week;
- Ability to release vehicles to owners between the hours of 7:00 a.m. and 7:00 p.m.;
- Capability for flatbed or dolly tows;
- Company trucks that are clearly marked with the company's name and phone number, and that do not suggest they are police vehicles; and
- Possession of the required property and income tax clearances.

Additional requirements imposed on the towing companies by the police-authorized towing contract include the:

- Requirement that the company not be or become in arrears on City obligations including real, personal and income taxes;
- Agreement not to hire, employ or utilize persons with a criminal conviction involving theft or fraud;
- Agreement not to use a storage facility or additional storage lot without first securing proper zoning approvals; and
- Prohibition of transferring the towing contract.

Contracts were awarded to ineligible towing companies. Ineligible employees, inadequate resources, and insufficient insurance coverage put the City at risk. A towing company's inability to perform contracted services will ultimately have a negative impact on the vehicle owners' ability to redeem their vehicles in a timely manner. Inappropriately located storage lots, in locations without proper zoning, contribute to neighborhood blight. Moreover, these failures by the DPD and the towing companies

have put citizens at risk, and the need to resolve towing issues causes unnecessary inconvenience.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. An agency independent of the DPD be involved in the awarding of the police-authorized towing contracts, and the contracts be subjected to the normal City approval process including City Council approval.
- b. The City expand the application for the towing contracts to require all towing contract applicants to:
 - List all properties owned;
 - List company ownership and the percentage each owner controls;
 - Submit independent insurance policies for each towing company listing the City as an additional insured;
 - Separate any shared resources so that each resource is listed only one time on all applications;
 - List the number of spaces on its storage lot, excluding those needed to fulfill other towing contract requirements, that are available for City use;
 - Certify that the owners and employees have no criminal record; and
 - Submit up-to-date insurance certificates.
- c. The City perform and document a thorough review of each application to determine whether the information submitted is accurate and is in conformance with eligibility criteria, and whether the towing company has adequate resources to perform the requirements of its police-authorized towing contract.

2. Towing Companies Tow in Unauthorized Precincts

We found that at least four companies - Area Towing, Gene's Towing, B&G Towing and Boulevard & Trumbull – are towing in precincts in which they are not authorized.

B&G Towing and Area Towing have been used to tow vehicles for prostitution stings in the 7th precinct, even though they are not authorized in that precinct. Area Towing is also used for prostitution stings in the 2nd and the 4th precincts, although it is not authorized in those precincts.

Gene's Towing substitutes for B&G Towing in the 8th precinct at B&G Towing's request. The impound cards reviewed at Gene's Towing indicate that B&G Towing is the towing company; however Gene's Towing is actually performing the tow.

Paragraph 1 (b) of the police-authorized towing contract states:

If the Contractor is unable to respond to the scene within twenty minutes, the Contractor agrees to so inform the officer requesting the tow. If the Contractor has not arrived at the scene within twenty minutes of receiving notification, the requesting officer will notify the next company on the authorized list.

Paragraph 11 of the contract's Scope of Services states:

The Contractor shall be authorized to tow only in a precinct or precincts for which it has been authorized as shown on Exhibit C.

Paragraph 21 states:

Contractors may serve in all precincts for which they qualify and for which they have received an Authorized Police Tower contract which is in force at the time of the service.

Some towing companies aggressively pursue additional towing opportunities in the City, and, in the past, some non-impound towing assignments have not been assigned to a rotational towing company authorized in that precinct. One tower stated he tows in precincts in which he is not authorized, because he feels he was cheated when the extra rotational towers were added to the precinct rotation in 2001.

In addition to violating the police-authorized towing contract, towing companies operating in precincts for which they have not been authorized are stealing towing business that belongs to the rotational police-authorized towing companies authorized in that precinct.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require DPD units and the precincts to adopt a strict interpretation of the police-authorized towing contract and award non-impound towing assignments to the rotational authorized towing companies. Towing in unauthorized precincts should not be tolerated.

3. Towing Companies Move Vehicles Prior to Obtaining Police Authorization

We noted several instances where police-authorized towing companies towed vehicles before obtaining police permission. Aside from being against the law, the risk is that the towing companies may not obtain police approval for the tow at all, resulting in police-authorized towing companies possessing undocumented vehicles on their storage lots that can be disposed of without anyone's knowledge.

Complicating this issue is that the towing procedures used by the Michigan Automobile Theft Prevention Authority's⁴ (AFPA) auto theft units working to recover⁵ stolen vehicles in the City differ from the procedures used by the DPD.

Instances where vehicles were towed prior to obtaining police permission include the following:

- A former 7th precinct abandoned vehicle officer allowed towing companies to tow stolen vehicles without police-authorization. A current abandoned vehicle officer informed us that he still receives calls from towing companies to recover stolen vehicles on their lots.
- A B&G Towing tow truck driver was stopped by a DPD officer on April 11, 2002 and found to be carrying two stolen vehicles without having obtained police permission to tow them. The tow truck driver claimed that the Macomb Auto Theft Squad (MATS) had given him permission to tow the vehicles. However, the police officer checked with MATS and found it was not so. A member of MATS stated they would never have B&G Towing tow recovered stolen vehicles unless they had inspected them first.
- A B&G Towing representative told us that most of the time the Michigan State Police (MSP) are at the site to recover a stolen vehicle before it is towed. But it has towed stolen vehicles into its Lynch Rd. lot without police presence at the recovery site. After the vehicle is towed, it will phone one of the auto theft units to ensure there are no holds on the vehicle, and to obtain verbal permission to tow the vehicles.
- MATS recovers vehicles stolen from Macomb County at the B&G Towing lot at 8100 Lynch. As a courtesy to DPD's Commercial Auto Theft Section (CATS), a representative of MATS said they will recover other stolen vehicles that B&G Towing has in its possession that have been stolen from Detroit. MATS will complete a vehicle inspection report, cancel the stolen status on the LEIN system, and call the insurance company to notify it of the recovery.

⁴ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

⁵ The term "recover," as used in the recovery of stolen vehicles refers to the process by which a found stolen vehicle's status is reported and updated in the Law Enforcement Information Network (LEIN) and National Crime Information Center (NCIC) computer systems. The recovery process determines the proper disposition of the recovered vehicle - whether the vehicle can be impounded by the recovering jurisdiction, held for evidence processing, or impounded for another jurisdiction.

Section 257.252d of Michigan's Vehicle Code provides that

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner.

The Code does not require that the police agency make a written record of its request for vehicle removal to the towing company.

The City's Police-Authorized Towing Ordinance establishes when a vehicle can be towed. Section 55-15-3(a) of the City Code, states:

No person shall perform any police authorized towing of any wrecked or disabled vehicle or any vehicle for safekeeping pursuant to MCLA 257.252d [MSA 9.1952(4)] without first having obtained written permission on forms approved by the City police department, from the driver or owner of the vehicle or until the police officer of the city investigating the wrecked or disabled vehicle or vehicle subject to removal shall have completed his investigation, and has given written permission to the towing service. A copy of the completed permission form shall be given to the authorizing person. Any person performing police authorized towing shall maintain a record of completed permission forms of all such towing for a period of six (6) months. Completed forms must show total fees charged for services rendered.

Some towers told us that they would tow stolen vehicles without police permission for safekeeping because if they wait for a police officer to recover the vehicle more damage will occur. Furthermore, towing immediately improves the value of the recovery for owners and the insurance companies.

Moving vehicles without the authorization of the vehicle owner or an authorizing police agency is, in effect, stealing the vehicle. Police agencies are unable to hold the towing companies accountable for vehicles that they are unaware have been towed, and unscrupulous towing companies or drivers could cause vehicles to disappear, without a trace, if authorization approving the tow is not properly documented.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City work with the MSP and the auto theft units to coordinate the stolen vehicle recovery efforts within the City, communicate concerns related to the towing companies' undocumented towing of stolen vehicles, and develop a unified procedure that will curb the problem and allow the police agencies to hold the towing companies accountable for vehicles in their possession.
- b. The City prosecute drivers and/or towing companies to the full extent of the law when found moving vehicles without prior police permission.

4. Towing Companies' Storage Lots are Not Properly Secured

The towing companies' storage lots we visited lacked adequate security. As a result, auto parts and property were stolen from vehicles. Every towing company we interviewed reported a problem with the theft of parts from impounded vehicles. Some of their conditions are reported below:

- The owner of one towing company said they have had a security problem and parts have been stolen. He recently obtained a dog that has deterred theft from the lot.
- A representative of another towing company said that it pays claims for missing parts directly to the vehicle owner. It does not file a report with its insurance company, because it is afraid its premiums will go up. He estimated the towing company had paid \$15,000 in missing parts claims in 2002. The manager said he reduces the financial impact of the claims by taking radios and speakers off vehicles that it obtains after auction. When vehicle owners claim their radio is missing, the representative offers them a radio from his collection.
- The owner of another towing company told us that he has a problem with thievery at his lots. He said he has caught people stealing, but the DPD doesn't respond to his calls. He also blamed the courts for not prosecuting the cases. Most of the vehicles we looked at were missing radiators. The owner told us that someone came into the lot and stole the radiators.
- A representative of another towing company reported that it also pays lost part claims directly to vehicle owners rather than filing insurance claims, because it is afraid its insurance premiums will increase. The manager told us that radios, speakers, CD players, and CDs are removed from vehicles it receives after the auction and it will offer these to vehicle owners who claim they lost property at the storage lot. The manager told us that the thefts at his and other towers' lots were most likely an internal problem. He said drivers and security personnel are probably involved in most of the thefts.
- A representative of another towing company reported a theft problem at one of its storage lots. It has a security guard, surveillance cameras, and lights; however, it still experiences theft. The representative reported they have caught people stealing radios from the cars.
- A representative of another towing company said that his lot is broken into by thieves jacking up the gates and crawling in.

Vehicle owners should be assured that towed vehicles are safe and secured from theft. The police-authorized towing contract, Exhibit A, Scope of Services, Section 3, requires in part:

Outdoor parking and storage areas shall be fenced and secured.

In addition, Section 13 states:

The Contractor shall be responsible for damage and theft to any vehicle and the parts, accessories and equipment attached, installed or affixed thereto, or any contents in said vehicle in its custody and to satisfy reasonable complaints for provable damages and losses.

The theft of parts from vehicles on storage lots has become an accepted aspect of the towing business. There is no incentive to make storage lots secure, when towing companies are able to satisfying vehicle owner's complaints of missing parts. Because storage lots are not secured, there is a high likelihood that the theft of parts will occur when a vehicle is in a towing company's custody.

Gene's Towing stores evidence vehicles that are still being held by the DPD in the same lot as non-evidence vehicles. There is potential for evidence to be tampered with. The mere potential for tampering can be used against the City in court.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City ensure that the vehicle condition reports are completed when a vehicle is towed, so that towing companies can be held accountable for parts removed from vehicles while they are in the towing companies' custody.
- b. Towing companies take additional measures to safeguard the vehicles on their storage lots.

5. Towing Companies are Storing Vehicles on the Streets

Several towing companies are not holding all of their impounded vehicles in their storage lots. We observed impounded abandoned vehicles parked on West Chicago. Another towing company parked several abandoned vehicles on Westwood. The 6th Precinct has issued environmental tickets to a towing company for parking vehicles on the street at its Southfield Rd. location.

The police-authorized towing contract, Exhibit A, Scope of Services, Section II, paragraph 3, requires:

The Contractor agrees to provide for the individual parking and storage of a minimum of 20 vehicles at the principal place of business. Outdoor parking and storage areas shall be fenced and secured. No vehicle will be parked or stored, even on a temporary basis, on the City streets, in alleys or easements.

Towing companies did not offer a reason for storing vehicles outside their storage lots. In one case, we observed that the storage lot was almost filled to capacity when the vehicles were parked on the street.

Abandoned vehicles parked on City streets are traffic hazards, and contribute to urban blight. Vehicles stored outside the fenced storage lots are more susceptible to theft.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City enforce the towing contract clause that prohibits storage of vehicles outside the storage lots. The City should issue the offending towing companies a warning, and continue to pursue the issuance of environmental tickets to those violating the contract terms.
- b. Prior to the next towing contract, the City should evaluate whether the current parking and storage requirement of space for 20 vehicles is adequate considering the current towing conditions. The City should require that the appropriate space be set aside for City tows and that any additional space required by the towing company for other towing contracts or obligations be in addition to the space required to meet the storage requirements for the City's authorized towing requests.

6. Towing Companies are Not Open During Required Business Hours

Many towing companies are not keeping their facilities open and accessible to the public between the hours of 7:00 a.m. and 7:00 p.m. as required, to allow vehicle owners to redeem their towed vehicles.

Five police-authorized towing companies' applications document that they are not open from 7:00 a.m. to 7:00 p.m. as required by the towing contract. They are Bobby's Towing, Citywide Towing, E&G Towing, Long & Sons, and Troy Auto-Bans.

Four additional towing companies are not maintaining the required hours. This includes J&C Recovery, V&F Collision, Detroit Auto Recovery, and Area Towing.

We observed that although a towing company's storage lot was open, it was unsecured. The gates were open, equipment was left running, but it was not attended. We were later told that the attendant, who was also a driver, had probably responded to a call. At the same lot, we observed a man, attempting to redeem his towed vehicle, who was locked in the storage yard when it closed during the required business hours. He had to throw his personal belongings over the gate and climb over it to leave.

The police-authorized towing contract, Exhibit A, Scope of Services, Section II, paragraph 6, requires full access to the towing companies' storage yards:

The Contractor agrees to have an employee present from 7:00 a.m. to 7:00 p.m. seven days a week with the authority to release vehicles promptly to citizens.

Paragraph 7 requires:

The Contractor agrees that access to its premises shall not be unreasonably denied to citizens or police officers because of the presence of locked or closed gates or presence of dogs.

An owner of a company that is not open until 7:00 p.m. told us that he thought it was too dangerous for employees to maintain late hours.

As a result, the public is not being properly served in accordance with the police-authorized towing contract. Vehicle owners are denied access to vehicles, and vehicles are being assessed additional storage charges in the process.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require towing companies maintain the required hours and staff to allow vehicle owners access to their vehicles during the hours listed in the police-authorized towing contract.

7. Towing Companies are Not Allowing Access to Vehicles

The towing contract does not address situations where neither the vehicle owner nor the insurance company want to redeem the vehicle.

Some police-authorized towers require owners of recovered stolen vehicles to pay the towing and storage charges or sign over the vehicle's title before they are allowed access to their vehicle. Then, if the owner decides he does not want to pay the towing and storage fees owing on their vehicle, the towing company is able to take possession of the vehicle without going through the abandoned vehicle auction process.

We witnessed on March 12, 2003 a vehicle owner being told that she would have to sign over the title of her vehicle before she could see the vehicle in the towers lot. The towing company owner promised to return the title if the vehicle owner paid the towing and storage fees.

This practice is widespread.

- Detroit Auto Recovery (DAR) requires recovered stolen vehicle owners to sign over title to see the car.
- Michigan Auto Recovery (MAR) requires the owners of recovered stolen vehicles to sign over the title before they can see their vehicle.
- The owner of J&C requires the vehicle owners sign the title over before they look at the car, but he prefers that they settle the bill.
- Gene's Towing does not require the vehicle owner to sign over the title to see the vehicle, but they will request the title if the owner wants to abandon the vehicle.

Insurance companies are also not allowed access to the vehicles or told the vehicles condition until the vehicle is redeemed. A representative of one insurance company reported that he is required to bring cash, a notarized copy of the title, a notarized letter from the insurance company, and proof of workers' compensation insurance that is valid on the date the vehicle is claimed before he is able to redeem a vehicle. Towing companies claim they require the documents and payment to prevent the insurance companies from walking away from the junk vehicles without paying the towing and storage fees. The insurance companies claim the towing companies require an excessive number of documents to enable them to accumulate more storage fees.

Section 6.02 of the police-authorized towing contract specifies, in part:

Contractor shall not charge fees in excess of rates set by resolution of City Council.

Paragraph 14, of the Scope of Services indicates that:

The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented. Contractor may release vehicles to insurance companies provided (1) a copy of title, accompanied by a hold harmless letter is presented or (2) a letter of authority is presented signed by the owner and accompanied by a hold harmless letter and copy of title.

We were told by police-authorized towers that many vehicle owners and even insurance companies will not pay the towing and storage fees when they see that their vehicle has been totaled. If the vehicle owner decides not to redeem his vehicle, the police-authorized towing company can sell or scrap the vehicle to recover all or part of its towing and storage fees without going through the abandoned vehicle process.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City ensure the owners access to their vehicles while the vehicles are in the possession of the towing companies.

8. Towing Companies Charge Improper Fees

Most police-authorized towing company records that we reviewed showed that the towing companies are charging excessive and improper towing and storage fees. Fees are charged for items that are excluded from the rates established by City Council, storage is charged for the first three days, indoor storage rates are charged when it has not been authorized, and high rates are charged for heavy-duty tows.

- At Michigan Auto Recovery (MAR) -
 - We noted some invoices had labor charges. The MAR owner said he charges labor on items requested by the customer. For example, MAR will charge labor for putting tires on a vehicle that has had its four tires stolen to protect the undercarriage. The ordinance does not allow a charge for labor.
 - We observed a MAR invoice for a Thunderbird, which had a \$75 winching fee. The ordinance does not allow this additional fee.
 - MAR charged \$25 per day storage for an Art Van truck. The ordinance specifies \$15 per day storage for trucks.
- At Gene's Towing -
 - We found many invoices with charges for the first three days of storage.
 - We noted that Gene's is charging vehicle owners, insurance companies, auction companies, and repair shops storage fees for vehicles on hold by the DPD for evidence processing.
 - We found invoices where vehicle owners were charged \$12 per day for indoor storage. We did not see any evidence that vehicle owners approved the indoor storage of their vehicle.
- At Detroit Auto Recovery (DAR) -
 - We found charges for the first three days of storage.
- At Boulevard & Trumbull -
 - We found indoor storage rates of \$12 per day were charged even though there was no documentation to support that the vehicle owner authorized the indoor storage.
 - On two occasions, recovered stolen vehicles were towed directly to Auto Body #1⁶, a collision shop. As the vehicle owner was not present, he could not have authorized the tow to a place other than a storage lot, or authorized the indoor storage.
 - Storage fees were not waived for the first three days on several invoices.
 - Labor charges of \$50 were included on a couple of the invoices reviewed.
- Both B&G Towing and Boulevard & Trumbull charged \$250 or more towing fee and \$25 storage per day for trucks and Ford tractors. A representative from B&G Towing indicated that costs for towing trucks are variable. He said tows of trucks

⁶ Gasper Fiore, the owner of Boulevard & Trumbull Towing incorporated Auto Body #1 in 1996, and is listed as the corporation's vice president on its 2001 and 2002 corporation filings. This information was left blank on the 1997, 1998, 1999, 2000, 2003, and 2004 corporation information updates.

involve labor. Trucks that roll on their sides require costly air bags and clean up costs are more expensive.

Insurance companies are being charged towing and storage fees that are not in accordance with the rates established by City Council. The most prevalent overcharge was the failure to waive storage for the first three days. We reviewed ten invoices and noted five instances where four towing companies overcharged the insurance company for the tow fee, or charged for mileage or labor.

In addition, none of the police-authorized towing companies we visited - J&C Recovery, Detroit Auto Recovery, ABA Impound, MAR, B&G Towing, Troy Auto-Bans, V&F Collision Shop, Gene's Towing, Boulevard & Trumbull Towing, and Executive Towing – posted the DPD towing and storage rates where the vehicle owners could see them.

Section 6.02 of the police-authorized towing contract specifies, in part:

Contractor shall not charge fees in excess of rates set by resolution of City Council.

The rates in effect at the time of our audit include:

- (e) To private storage pursuant to 38-1-32.1 (a) (4), a flat rate of \$75 for towing and storage of the vehicle for up to three days, shall be charged to, and paid for by the owner of the vehicle towed. This rate shall apply regardless of the time and equipment used during such tows. An additional \$8.00 per day may be charged for each day of storage in excess of three days.
- (f) Storage rate for large trucks and semi-trailers commencing on the first day: \$15.00 / day.
- (g) For indoor storage commencing on the first day when authorized by the owner/agent of the vehicle: \$12.00 / day.

The City Code, Section 55-15-3 (b) specifies,

The tower shall provide the vehicle owner or driver with a copy of the towing rate schedule approved by city council.

The DPD does not monitor the rates the police-authorized towers charge the public for towing and storage fees. The only way the DPD is made aware of excessive charges is if the vehicle owner or the insurance company complains. Representatives of several towing companies mentioned that they think that insurance companies and criminals should not be entitled to three days of free storage.

Towing companies pad the bills to insurance companies, because they expect them to redeem the vehicle. If the insurance companies do not pay, the towing companies can auction the vehicles. Insurance companies will pay the excessive costs to prevent the vehicle from being auctioned. If the vehicle is auctioned, the insurance companies face a much higher payoff to the vehicle owner.

Towing companies can charge rates in excess of those set by City Council, as many vehicle owners are not aware of the appropriate rates and cannot readily discern that

they are being overcharged. Some vehicle owners and insurance companies are willing to pay the excessive fees assessed because they want to take possession of their vehicles rather than have their vehicles sold at public auction.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require towing companies to inform vehicle owners of the applicable rates by requiring them to post towing and storage rate charts at a place that is visible to the vehicle owners redeeming their towed vehicles. Also posted should be a telephone number where vehicle owners can notify the City of any improper charges.
- b. Towing companies found to be overcharging vehicle owners, insurance companies, and others should be suspended.

9. Towing Companies' Records are Not Adequately Maintained

Towing companies are not maintaining the records required to document that police authorization was obtained prior to towing vehicles and are not maintaining full and complete records reflecting operations under the contract.

At seven towing companies, we sampled supporting documentation for vehicles located on the storage lot and for vehicles that precinct records had shown were towed to the lot. Three police-authorized towing companies were unable to provide us with complete documentation for some of the vehicles towed.

- One company did not have a DPD-131 Impound Card or any other documentation evidencing DPD's written permission authorizing the impound for two of the five abandoned vehicles we observed on its storage lot.
- The owner of the same company prepared a DPD-131 form for one of the vehicles that we observed on the lot in the presence of an OAG auditor on March 27, 2003. The vehicle had been impounded on November 23, 2002.
- There was no DPD-131 form for two of the six vehicles checked at another towing company's lot.
- The manager of another company could not provide us with invoices prior to February 2003. He told us that his server crashed and that he had no backup and did not keep copies of his invoices.

At all of the police-authorized towing companies, we reviewed records to determine the number of vehicles towed under the DPD's police-authorized towing contract, the reason for the tow, and the disposition of the vehicle. As the DPD has no centralized record of the vehicles towed, we were unable to verify the records provided for completeness. Most of the towing companies were able to provide records substantiating the reason for the tow; however, many were not able to account for the disposition of the vehicle. Records for vehicles impounded were most often not incorporated with the records for abandoned vehicles. Some companies maintained logs – manual or electronic – listing all of the vehicles towed. These logs varied in their completeness and accuracy when compared with the source documents.

The City's Ordinance, Section 55-15-3 (a), states that a record of the permission form authorizing the towing service should be maintained for six months. The forms should include the total charged for the services rendered.

Further record keeping requirements are detailed in paragraph 6.04 of the police-authorized towing contract, which states:

The Contractor shall maintain full and complete Records reflecting all its operations related to this Contract. The Records shall be kept in accordance with generally accepted accounting principles and maintained for a minimum of three (3) years from the Contract completion date.

One reason offered for the absence of authorizing records by one towing company owner was that his drivers would not inform the administrative staff that they brought in a vehicle. The owner would only find vehicles that lack documentation when he conducted a periodic inventory of the lot. The manager of the lot that was unable to provide

invoices stated they had no backup system and they did not keep a copy of their invoices.

Because record keeping requirements are not specific, towing companies are maintaining various documents that may not meet the objective of the record keeping requirements. When the impound cards are not properly completed by a police officer prior to the vehicle being towed, there is a lack of assurance that these vehicles were properly impounded. When invoices are not available for review, it is impossible to verify whether vehicle owners are charged the proper towing and storage fees. When records documenting vehicle disposition are not available there is no assurance that the vehicles have been properly redeemed by the vehicle owners or auctioned as is required by State law.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City enforce City ordinances and the terms of the contract, and require companies to maintain records for three years. Records that the City requires to be maintained should be specified in the contract.

10. Towing Companies are Not Reporting Unclaimed Vehicles Monthly

Most towing companies are not submitting the required monthly listing of vehicles that have remained on the tower's storage lot for more than 30 days.

As shown in the accompanying chart, only four of the 30 towing companies submitted unclaimed vehicle reports to the MSB in the fourth quarter of 2002. Only two companies submitted reports for each of the three months of the quarter as required by the police-authorized towing contract.

Towing Company	Number of reports submitted October – December 2002
Detroit Auto Recovery	3 reports
Elite	1 report
Murff & Son	3 reports
Washington	1 report

The DPD police-authorized towing contract, Exhibit A (Scope of Services), paragraph II, 2, states:

Contractor shall submit, by the 10th of the month a complete list of all police authorized tows to their lots that have not been claimed (including vehicles from previous lists). The list shall indicate which vehicles have been in the possession of the Contractor for 30 or more days and shall be submitted to the Support Services Division in Room 802 of Police Headquarters.

Towing companies gave the following reasons for not submitting the unclaimed vehicle report:

- B&G Towing maintains an unclaimed inventory report for its own use. The manager indicated that MSB does not want the report, because they do not use it.
- The manager of Gene's Towing is not preparing the unclaimed inventory report because he was told not to submit it. The manager indicated that he had 90 unclaimed vehicles in September 2002, and 122 unclaimed vehicles in October 2002.
- J&C 's owner indicated that he has not done an unclaimed vehicle report in nine years.

The absence of reports of vehicles remaining on the tower's storage lots allows towing companies to be unaccountable for the vehicles towed and still in their possession. Vehicles can be forgotten and accumulate storage fees, or vehicles can go missing. Moreover, it is indicative of the lack of accountability required by MSB.

During our audit, we noted the following vehicles that would have been brought to MSB's attention if the towing companies had submitted the Unclaimed Vehicle Report monthly.

- The OAG observed a recovered stolen vehicle that had been sitting on a company's storage lot for nearly seven months.
- Another towing company's reports showed three unclaimed vehicles from the year 2000.

- Another towing company complained it has evidence vehicles that have been in its lot for five to eight years that the DPD has never followed up on.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require the towing companies complete the unclaimed vehicle reports and submit them by the 10th of the month.
- b. The City follow-up on reported unclaimed vehicles to ensure they are expeditiously processed.

11. DPD Did Not Require New Owners to Reapply for Towing Contracts

The new owners of Boulevard & Trumbull, E&G, and Javion & Sams were not required to apply for police-authorized towing contracts as required by the police-authorized towing contract.

The Fiore sold Boulevard & Trumbull and Javion & Sams to Road One in 1997. E&G was sold to Road One in 1999. While Road One owned these companies, the Fiore managed them. The MSB was not notified of the Fiore's re-purchase of Boulevard & Trumbull, E&G, and Javion & Sams from Road One / Miller Industries on September 30, 2002. Although the MSB became aware of the ownership change later, the MSB did not require the new owners reapply for the police-authorized towing contracts as is required in the contract terms.

The DPD's conduct in accepting services from the new owners of the police-authorized towing companies is de facto authorization of the transfer.

Paragraph 22, of the DPD's towing contract Scope of Services prohibits the transfer of the police-authorized towing contract as follows:

This agreement is not transferable and may not be sold, leased or assigned in any manner except as provided herein. In the event that a corporate contractor is subject to a change of ownership equal to forty per cent or more of its controlling interests, it must notify the City of this circumstance and apply for a new contract.

There is the appearance that the owner's of Boulevard & Trumbull, E&G, and Javion & Sams have received preferential treatment from MSB.

Until a re-engineered City -authorized towing process is completed, we recommend that:

- a. The City continue to enforce the contract terms that pertain to contract transfers.

OTHER TOWING ISSUE

1. Towing Companies Charge Higher Fees on Auto Theft Unit Recoveries

Some towing companies are charging vehicle owners towing and storage fees on stolen vehicles that are recovered by the Auto Theft Prevention Authority (ATPA) funded auto theft units at rates substantially higher than those established for vehicles ordered towed by the DPD. The rates charged on the auto theft unit tows are not regulated, and vary between \$135 and \$175 per tow plus \$12 per day storage beginning on the first day while rates charged on the DPD and the Michigan State Police ordered tows are \$75 per tow plus \$8 per day storage after the third day.

Several towing companies request that the auto theft units, rather than the DPD, recover stolen vehicles so they are able to charge vehicle owners higher towing and storage fees. The stolen vehicles the auto theft units are asked to recover may have been spotted on a street, or may have already been towed to the towing companies' storage lots without prior police permission.

Towing and storage fees charged on auto theft unit ordered tows are not regulated. Representatives from several of the auto theft units stated that they do not have formal contracts with the towing companies used in the City of Detroit, nor do they dictate the towing and storage fees that the towing companies charge vehicle owners. They were aware that the towing companies were charging higher rates on the tows they order than were being charged for the City of Detroit ordered tows.

The result of the two-tiered rate structure used by the towing companies is that a person whose stolen vehicle is recovered by an auto theft unit in the City of Detroit will be charged much more for towing and storage fees than a person whose stolen vehicle is recovered by the DPD. The cost to the vehicle owner should not be dependent on which law enforcement agency happens to order his or her vehicle towed.

We recommend that:

- a. In the interest of protecting the public from inordinately high fees, that the auto theft units' contract with the towing companies require the towing companies to charge the fees established by the City of Detroit on the vehicles they order towed within the City of Detroit that they anticipate will be redeemed by the vehicle owner.
- b. That the City Council issue a resolution calling for the standardization of towing and storage fees on all law enforcement ordered tows within the City of Detroit.

EXHIBIT A
SCOPE OF SERVICES

I. Notice to Proceed

(a) Notice to Proceed

The *Contractor* shall commence performance of this *Contract* upon receipt of the *City's* delivery of a written "Notice to Proceed".

(b) Fixed Expiration Date

The *Contractor* shall commence performance of this *Contract* on the date and in the manner specified in the Notice to Proceed. The *Contract* shall be completed on March 31, 2005.

II. Services to be Performed

1. The *Contractor* agrees to promptly respond and remove a vehicle in accordance with the ordinances of the City of Detroit and the laws of the State of Michigan, upon request by the *City*.

(a) The *Contractor* shall be at the scene to tow the vehicle as requested by the *City* within twenty minutes of receiving notification.

(b) If the *Contractor* is unable to respond to the scene within twenty minutes, the *Contractor* agrees to so inform the officer requesting the tow. If the *Contractor* has not arrived at the scene within twenty minutes of receiving notification, the requesting officer will notify the next company on the authorized list.

2. *Contractor* shall submit, by the 10th of the month, a complete list of all police authorized tows to their lots that have not been claimed (including vehicles from previous lists). The list shall indicate which vehicles have been in the possession of the *Contractor* for 30 or more days and shall be submitted to the Support Services Division in Room 802 of Police Headquarters.

3. The *Contractor* agrees to provide for the individual parking and storage of a minimum of 20 vehicles at the principal place of business. Outdoor parking and storage areas shall be fenced and secured. No vehicle will be parked or stored, even on a temporary basis, on the *City* streets, in alleys or easements.

4. The *Contractor* agrees that all vehicles towed at the request of the *City* will be taken only to the *Contractor's* lot or other location as directed by the *City*.

The Contractor agrees not to use a storage facility or additional storage lot-

without first securing proper zoning approvals and obtaining approval from the Deputy Chief, Management Services Bureau, Detroit Police Department. Such requests shall be made in writing to the Deputy Chief, Management Services Bureau and shall include the zoning approval. Approval of the Contractor's request is at the sole discretion of the City, but shall not be unreasonably withheld.

5. The Contractor agrees to maintain 24-hour service, seven days a week.
6. The Contractor agrees to have an employee present from 7:00 a.m. to 7:00 p.m. seven days a week with the authority to release vehicles promptly to citizens.
7. The Contractor agrees that access to its premises shall not be unreasonably denied to citizens or police officers because of the presence of locked or closed gates or presence of dogs.
8. The Contractor agrees to provide direct telephone communication to the Contractor 24 hours a day, and each tow truck must have direct radio contact with the company's operation base.
9. The Contractor agrees to be capable of a dolly tow.
10. The Contractor agrees to maintain its company trucks so that they are clearly marked with the name, address and phone number of the business and the trucks bear no sign or words indicating or suggesting they are police vehicles.
11. The Contractor shall be authorized to tow only in a precinct or precincts for which it has been authorized as shown on Exhibit C.
12. The Contractor agrees to meet the requirements for independent contractors doing business with the City of Detroit.
13. The Contractor shall be responsible for damage and theft to any vehicle and the parts, accessories and equipment attached, installed or affixed thereto, or any contents in said vehicle in its custody and to satisfy reasonable complaints for provable damages and losses.
14. The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented. Contractor may release vehicles to insurance companies or their representatives provided (1) a copy of title, accompanied by a hold harmless letter is presented or (2) a letter of authority is presented signed by the owner and accompanied by a hold harmless letter and copy of title.

The Contractor will release vehicles promptly to individuals in possession of a valid court order for release of the vehicle.

15. The Contractor agrees to refer to the Support Services Division of the Police

Department all repossessions or cases involving a question of or contested ownership.

16. The Contractor agrees to refer to the Support Services Division of the Police Department all disputes concerning the towing and/or storage rates, or the reason for the tow.

17. If advised to do so by an officer of the Telephone Crime Reporting Section and/or the Support Services Division, the Contractor agrees that in the event a vehicle is towed to the Contractor's lot at the direction of a police officer and through mistake, negligence or any other reason the owner is not properly notified, the storage fees will be reduced to begin on the date that the owner was properly notified. Further, if the Court orders a return of the vehicle, the Contractor will do so upon being presented with the Court Order.

18. The Contractor agrees not to solicit towing business out of or derived from recovered stolen automobiles and shall avoid probing into or tampering in any way with automobiles suspected as stolen. Further, that upon discovery of a suspected stolen automobile, the Contractor shall immediately contact the police, apprizing them of the automobile's location and condition. Further, Contractor shall not directly contact any owner of a suspected stolen vehicle prior to the police department's recovery of the vehicle and the department directing that the vehicle be towed. Once the vehicle has been ordered by the police department to the Contractor's lot, the Contractor is authorized to contact the owner, to inform the owner of the vehicle's location and status.

19. The Contractor agrees to deal with members of the public and other Contractors in a courteous and professional manner.

20. The City agrees to establish a system of assignments of towers as Contractors based on the needs of the City.

21. Contractors may serve in all precincts for which they qualify and for which they have received an Authorized Police Tower contract which is in force at the time of the such service.

22. This agreement is not transferable and may not be sold, leased or assigned in any manner except as provided herein. In the event that a corporate contractor is subject to a change of ownership equal to forty per cent or more of its controlling interests, it must notify the City of this circumstance and apply for a new contract.

23. The Contractor agrees to equip each tow vehicle with a broom, shovel, container and any other needed equipment to clean the street/area of any debris. Contractor will completely remove from the site of an accident all resulting wreckage or debris, including all broken glass, before leaving the site. If more than one Contractor is at a scene, each driver will share equally in the cleanup operation. All vehicle parts will be secured before leaving the site of any tow scene.

24. If there is a valid police hold on a vehicle, the Contractor shall not charge a storage

fee for the period of the hold.

25. The *Contractor* shall cooperate and provide additional services as deemed necessary by the Detroit Police Department during the City's various anti-abandoned vehicle efforts including but not limited to, the City's anti-arson initiatives, Operation Clean Sweep and similar programs.

26. The *City* agrees to utilize a fair and impartial system of assignment of vehicles to be towed based on the use of a rotating list by each precinct, wherein the last called tower will be put at the bottom of the list and will not be utilized until all other towers authorized for that precinct have been utilized or have been contacted and they either cannot be contacted or are unable or refuse to respond within twenty minutes for any reason.

27. It is specifically agreed that in view of the indemnity agreement included as Article 7 of this agreement it will constitute a default for any contractor to seek by complaint, motion or otherwise to involve the City in any litigation arising out of activities undertaken pursuant to this contract.

28 VEHICLES TOWED FOR THE PROCESSING OF EVIDENCE

For purposes of this section, "*designated authorized tower*" shall mean the tower authorized to receive vehicles towed for the processing of evidence safekeeping, or V.I.N. identification on behalf of the City when they are delivered to 7800 Dix.

For purposes of this section, "*authorized Tower*", shall mean the original tower of the vehicle.

Vehicles towed for the processing of evidence shall be towed to 7800 Dix. The *authorized tower* shall proceed to the *designated authorized tower* located at 7800 Dix. The vehicle will be inventoried and inspected. At the direction of the *designated authorized tower*, the vehicle will be delivered to the Evidence Technicians' garage for processing. The *authorized tower* will be compensated by the designated authorized tower in the amount of \$50.00. The *designated authorized tower* will be paid by the Department consistent with Exhibit B for all vehicles towed for the processing of evidence for the victims of the following crimes: Homicide, Carjacking, Criminal Sexual Conduct and Robbery. This will not apply to cases where it is determined that a false felony report was made. The owner of the vehicles shall be responsible for the payment of the towing fee and any storage which occurs consistent with the current towing agreement. If the owner or their representative abandons the vehicle, The *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.

29 VEHICLES TOWED FOR THE SAFEKEEPING (STRAIGHT STEALS)

Upon direction of the Officer requesting the tow, vehicles towed for safekeeping, that may be investigated for defendant identification, shall be towed to 7800 Dix. The authorized tower shall tow the vehicle to the *designated authorized tower* located at 7800 Dix. The *authorized tower* will have the vehicle inventoried and inspected, when possible. At the direction of the *designated authorized tower*, the vehicle will be delivered to the Evidence Technicians' garage for processing. The *authorized tower* will be compensated by the *designated authorized tower* in the amount of \$50.00. The owner of the vehicle or their representative shall be responsible for the payment of the towing fee to the *designated authorized tower* and any storage which occurs consistent with the current towing agreement. If the owner or their representative abandons the vehicle, the *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.

30 VEHICLES TOWED FOR V.I.N. IDENTIFICATION

Upon direction of the Officer requesting the tow, vehicles towed for V.I.N. identification shall be towed to 7800 Dix. The *authorized tower* shall tow the vehicle to the designated authorized tower. The *authorized tower* will have the vehicle inventoried and inspected, when possible. At the direction of the representative from the *designated authorized tower* the vehicle will be delivered to the Evidence Technicians' garage for processing. The *authorized tower* will be compensated by the *designated authorized tower* in the amount of \$50.00. The owner of the vehicle or their representative will compensate the *designated authorized tower*. If the owner or their representative abandons the vehicle, The *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.



DETROIT POLICE DEPARTMENT
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October 19, 2005

Joseph L. Harris
Auditor General, City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE AUTHORIZED TOWING PROCESS

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the seventh report of findings and related recommendations in the December 2003 *"Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process"* as prepared by the Office of the Auditor General.

Finding 1: DPD Awarded Contracts to Ineligible Towing Companies.

Response to Finding: The department agrees with the finding that in 2001 tow companies were awarded tow contracts even though they did not meet the eligibility requirements.

Response to Recommendations: The department has recommended that another city department(s) independent of the Detroit Police Department be involved in the tow contract award(s). As part of the award process, the Purchasing Department collects all required documentation to determine the tow companies' eligibility. The Law Department reviews the contract to ensure that the criteria, as specified in the City's towing ordinance, are captured in scope of services.

Finding 2: Towing Companies tow in Unauthorized Precincts

Response to Finding: The department agrees that on occasion, some tow companies were utilized in precincts in which they are not authorized to tow. Further, the department agrees that there have been occasions where a tow company has substituted for a related company's rotational calls. Finally, the department agrees that towing companies are used for prostitution stings to impound vehicles. However, this finding seems to

KWAME M. KILPATRICK, MAYOR

imply that it is improper to impound vehicles used to solicit prostitutes, which the department disagrees with. The defendant must pay the required fines prior to the vehicle being returned to him.

Response to Recommendations: The department will ensure that all police commands are re-instructed that towing companies must be used on a rotating basis. Regarding companies towing in unauthorized precincts, this occurs when officers utilize companies that they are familiar with, rather than calling the precinct desk to order a tow as prescribed by department general orders. The department will re-instruct all commands on this issue and ensure that supervision monitors this practice.

Finding 3: Towing Companies Move Vehicles Prior to Obtaining Police Authorization.

Response to Finding: The department agrees that there have been occasions where tow companies have removed vehicles prior to obtaining police authorization.

Response to Recommendations: Department officers and tow companies will be re-instructed to obtain prior written approval, not verbal approval, to tow vehicles.

The department disagrees with the recommendation regarding coordination of stolen vehicle efforts with the Michigan State Police. The department has no jurisdiction over State Police activities. However, the department will forward a letter explaining that their policy of towing vehicles on verbal approval makes it difficult for Detroit Police Officers to determine if a tow is legitimate or not. The department also agrees with the recommendation that tow companies be held responsible for stolen vehicles in their possession that have not been recovered.

Finding 4: Tow Company Storage Lots are not Properly Secured.

Response to Finding: The department agrees that theft from vehicles occurs occasionally from tow lots.

Response to Recommendation: The department will ensure that officers complete a thorough vehicle condition report prior to the vehicle being towed and hold the tow companies liable for any theft to vehicles that occur while in their custody, as stated in the contract.

Although the tow contract does not give the department authority to require the tow company to make changes in security, the department will make recommendations for improvement to a company's security measures, where warranted.

Finding 5: Towing Companies are Storing Vehicles on the Streets.

Response to Finding: The department agrees with the finding that due to a lack of space, some tow companies have store towed vehicles on the street in violation of the contract.

Response to Recommendation: The department agrees and recommends that the lot space needed for the city's towing requirements be reevaluated, and that increased storage capacity be required on future contracts. Further, the department will thoroughly inspect and monitor tow companies to ensure that tow companies owners/operators are well informed of the companies contractual obligations.

Finding 6: Tow Companies are not Open During Required Business Hours.

Response to Finding: The department agrees with the finding that some tow companies are not open during required business hours.

Response to Recommendation: The department agrees with the recommendation and will enforce the storage lot hours as stipulated in the contract. In an effort to curtail this practice, the department will randomly inspect contracted towing facilities for compliance.

Finding 7: Towing Companies are Not Allowing Access to Vehicles.

Response to Finding: The department agrees with the finding that some tow companies are impeding owner and insurance company access to vehicles in the tower's possession.

Response to Recommendation: The department disagrees with the recommendation that the City ensure that vehicle owners are permitted access to their vehicles on the basis that this issue is not fully addressed in the contract. As the Auditor General points out, paragraph 14 of the Scope of Services indicates that:

The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented.

However, there is no mention of payment for the vehicle. The contractor cannot be expected to release a vehicle prior to receiving payment. Therefore, the remaining issue is whether the owner shall be allowed access to the vehicle after documenting ownership, but prior to payment. This issue is not addressed in the contract. The Auditor General suggests the tow company sell or scrap the vehicle in the event the owner fails to redeem it. The contract does not require the tow company to resort to this action in lieu of requiring payment.

Finding 8: Tow Companies Charge Improper Fees.

Response to Finding: The department agrees with the finding that several tow companies charge(d) excessive and improper towing and storage fees.

Response to Recommendations:

- 8a - The department agrees that tow companies shall be required to post, in conspicuous view of customers, all applicable rates as they appear in the contract.
- 8b - In the event a citizen makes a credible report of overcharges, the tow company will be required to refund the overcharges. The citizen also reserves the right to contest the overcharges in court.

Finding 9: Tow Companies Charge Excessive Fees on Michigan State Police Auto Theft Unit Recoveries.

Response to Finding: The department agrees with the finding that the tow companies charge(d) excessive fees on vehicles towed in the city of Detroit on the authority of the Michigan State Police Auto Theft Unit, contrary to the rates indicated in the contract.

Response to Recommendation: The department will re-instruct all tow companies that City Ordinance regulates tow fees charged for recoveries in Detroit, regardless of the recovering police agency. The department will take enforcement action if the tow companies continue to violate the ordinance.

Finding 10: Towing Companies Records are Not Adequately Maintained.

Response to Finding: The department agrees with the finding that tow companies are not maintaining the required records of police authorization prior to towing and are not maintaining complete records on their operations under the contract.

Response to Recommendation: The department will re-instruct tow companies on the specific documents that must be maintained for a three year period. The department will also conduct periodic inspections to ensure compliance until the issue can be addressed in the contract.

Finding 11: Towing Companies are not Reporting Unclaimed Vehicles Monthly.

Response to Finding: The department agrees with the finding that in the 4th quarter of 2002, only four of 30 tow companies submitted the required monthly Unclaimed Vehicle Report.

Response to Recommendation: The department will ensure that all tow companies submit a list of unclaimed vehicles on a monthly basis, as required by the contract.

Finding 12: DPD Did Not Require New Owners to Reapply for Towing Contracts.

Response to Finding: The department agrees that this finding existed in the past.

Response to Recommendation: The department has implemented the recommendation to enforce the provision of the contract that prohibits transfer to a new owner.

Joseph L. Harris
October 19, 2005
Page 6

Finally, the Detroit Police Department developed a proposal to re-engineer the towing process. The proposal is currently under review. We believe our proposal addresses all, if not most, of the findings contained in this audit report.

Should you have any additional questions or concerns regarding this matter, please feel free to contact me at 596-1800, Monday through Friday, 9:00 A.M. to 5:00 P.M.

Sincerely,



ELLA M. BULLY-CUMMINGS
Chief of Police

EMB-C/rc:dc



City of Detroit

OFFICE OF THE AUDITOR GENERAL

**Audit of the
Detroit Police Department's
Compliance with the
Abandoned Vehicle
Towing Process**

December 2003




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MEMORANDUM

DATE: January 18, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Compliance with the Abandoned Vehicle Towing Process

C: Chief Ella M. Bully-Cummings

Attached for your review is our third of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process will be issued as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (January 18, 2005)
4. Vehicle Auction Process
5. Evidence Vehicles
6. Accounting and Reporting System
7. Towing Companies' Compliance with the Towing Policies and Contracts
8. Best Practices and Recommendation.

This audit was initiated by the Auditor General to determine the validity of allegations by police-authorized tow companies and by DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the processes performed in the precincts to tow abandoned vehicles, and by the DPD's Auction Detail to notify the owners of the abandoned vehicles within seven days of the tow. This report contains our findings and recommendations specific to those processes, and the DPD's response.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in



developing the reengineered policies and procedures. The recommendations included in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

**Audit of the Detroit Police Department's
Compliance with the Abandoned Vehicle Towing Process**

December 2003

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EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of improprieties committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether City Ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts are being complied with, and whether the allegations of improprieties are valid.

Under the abandoned vehicle provisions of the Michigan Vehicle Code, the DPD is authorized to take vehicles into custody that have remained on public or private property for more than 48 hours after a written notice has been affixed to the vehicle. The DPD's General Procedures for towing abandoned vehicles conform to the State law. Specifically, precinct abandoned vehicle officers are charged with:

- Identifying suspected abandoned vehicles,
- Investigating whether the vehicle has been reported stolen,
- Completing a form DPD 131 – Abandoned Vehicle Report, and noting the vehicle's condition,
- Affixing a written notice to the vehicle that indicates what will happen to the vehicle if it is not moved within 48 hours,
- Rechecking the vehicle after 48 hours to determine whether the vehicle can be deemed abandoned,
- Ordering abandoned vehicles towed by the precinct's designated abandoned vehicle towing company,
- Rechecking to determine whether the vehicle has been reported stolen, and
- Updating the Law Enforcement Information Network (LEIN) system.

The Auction Detail is responsible for notifying the vehicle's registered owner within seven days that if the vehicle is not redeemed within 20 days the owner will lose ownership rights. Vehicles that are not redeemed are auctioned.

We found that the controls in the performance of the abandoned vehicle towing process are lacking. Towing companies have assumed some of the DPD's record keeping functions, thereby eliminating the segregation of duties that are in place within the written abandoned vehicle towing policies and procedures. The DPD has become dependent on the towing companies' assistance to perform its responsibilities and to meet requirements in the State law; however, the DPD has not implemented any additional controls that would mitigate the new risks. Furthermore, some recovered stolen vehicles are being towed by the abandoned vehicle towing companies, rather than by precinct's rotational towing companies.

We believe the DPD should reengineer the entire police-authorized towing process. Following is a summary of our specific findings and recommendations relative to the abandoned vehicle process:

Finding 1 – The DPD Does Not Process the City's Abandoned Vehicles in an Effective Manner

We observed that precinct abandoned vehicle officers are often assigned to other duties, and lack the necessary equipment to perform their duties in an effective manner. Furthermore, the Auction Detail is understaffed. DPD Directives require that police officers complete Abandoned Vehicle Reports, check and update the LEIN system, and send notifications to vehicle owners within certain timeframes. The DPD has been unable to perform these tasks, and has allowed the towing companies to assume a portion of its responsibilities, thereby eliminating controls within the abandoned vehicle towing process.

We recommend that the DPD ensure that the abandoned vehicle officers and the Auction Detail are provided with the appropriate resources to complete their job duties effectively, and to comply with State laws. We recommend that the DPD further use its civilian workforce to assist in the fulfillment of its abandoned vehicle responsibilities.

Finding 2 – There is Not Always a Reliable Record of the Vehicle's Condition When the Abandoned Vehicle is Towed

Form DPD 131 – Abandoned Vehicle Report, which should be completed by a DPD officer, includes a space to report on the abandoned vehicle's condition. The DPD does not complete the DPD 131 at the time the vehicle is towed. Furthermore, we noted that the vehicle condition report is frequently left blank or the abandoned vehicle towing company may complete the form. Completion of the form by the towing companies is a violation of the segregation of the record keeping and custody duties. Completion of the form by the DPD should provide for an independent verification of the vehicle condition at the time of the tow, and the information contained on the form should be used to hold towing companies accountable for any damage and thefts occurring while the vehicle is in the towing company's custody.

We recommend that DPD personnel be held accountable for the completion of the form DPD 131, including the vehicle condition reports, for abandoned vehicles ordered towed and that any towing companies found to be completing the form for vehicles towed as abandoned be suspended. We recommend that the DPD update its procedures to insure that the recording of the vehicle condition occurs at the time the vehicle is taken into custody. We recommend that the DPD further use its civilian workforce to assist in the fulfillment of its abandoned vehicle responsibilities.

Finding 3 – Recovered Stolen Vehicles Are Routinely Towed by the Abandoned Vehicle Towing Companies

We found that some abandoned vehicle officers are using the abandoned vehicle towing companies to tow recovered stolen vehicles, rather than impounding the vehicle as prescribed by DPD Directives. Recovered stolen vehicles that are towed as abandoned vehicles may not be reported to the Notification and Crime Reporting Section's Telephone Crime Reporting Unit (TCRU) when they are towed, and the vehicle owners may not be contacted as quickly as under the impound vehicle process. There is a risk that recovered stolen vehicles may not be held for evidence as required; and that insurance companies may pay claims on vehicles because they are unaware that the

vehicles have been recovered. Abandoned vehicle officers using the abandoned vehicle towing companies in this manner are steering towing business away from the precinct's rotational towing companies.

We recommend that the DPD enforce its procedures for towing recovered stolen vehicles.

Finding 4 – There is No Assurance That Owners of All Vehicles Considered Abandoned Have Been Appropriately Notified

The DPD's Auction Detail relies on towing companies to complete and submit form TR-52 – Michigan Department of State Notice of Abandoned Vehicle. The forms are not reconciled to supporting lists of unredeemed impounded vehicles and lists of towed abandoned vehicles to insure that the mailings are complete and that all vehicle owners are appropriately notified. The DPD is not monitoring whether the forms are submitted within the timeframe established by State law. Towing companies completing both the DPD-131 and the TR-52 could falsify information on the TR-52. Towing companies could run up towing and storage charges or keep a vehicle from auction without the DPD's knowledge.

We recommend DPD personnel reconcile the TR-52s that are submitted to a master list of vehicles that require a form TR-52 to be mailed. We recommend that the DPD provide adequate resources so that the TR-52 forms can be completed and mailed by the DPD within the seven-day window that is required by State law.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of improprieties carried out by police-authorized towers and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Auditor General conducted an audit of the Detroit Police Department's towing process to determine the DPD's and the towing companies' compliance with City ordinances, DPD established towing policies and procedures, and the towing contracts' terms.

The scope of work covered by this report was limited to a high-level review of the abandoned vehicle towing process beginning with the identification of suspected abandoned vehicles in the precincts through the notification of the registered vehicle owner by the DPD's Auction Detail.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the Office of the Auditor General (OAG) has not received an external peer review within the past three years.

AUDIT OBJECTIVE:

Specifically, we wanted to determine:

- Whether the Police Department is complying with the City's established abandoned vehicle towing process as it relates to abandoned vehicles and those recovered stolen vehicles that are not impounded for safekeeping.

AUDIT METHODOLOGY:

To accomplish our audit objective, our audit included:

- Interviews with DPD management, police officers, towers, vehicle owners and others;
- Review of DPD towing procedures, City ordinances, and State laws for police-authorized towing of abandoned and recovered stolen vehicles;
- Review of form DPD 131 and form TR-52 for a sample of auctioned abandoned vehicles.

ABANDONED VEHICLE TOWING PROCESS

Detroit is inundated with abandoned vehicles. Abandoned vehicles were the number one complaint recorded by the Ombudsman for the period July 2001 through March 2002 and the period July 2002 to March 2003, and were ranked the seventh highest complaint for the ten-year period ended March 2004. During 2002, the DPD's Vehicle Management Unit reported that 37,697¹ vehicle owners were sent notifications that their vehicle was considered abandoned.

At the time of this audit, several State laws affected the number of abandoned vehicles in the City and the City's ability to hold vehicle owners accountable for abandoning their vehicles:

- There was no penalty for abandoning a vehicle on a Michigan roadway.
- The seller of a used vehicle was not required to accompany the vehicle buyer to the Secretary of State's office to transfer the vehicle title. It was the vehicle buyer's responsibility to report the transfer to the Secretary of State to obtain a new title and registration.

In late 2004, legislation passed the State House and Senate that will amend the Michigan Vehicle Code. The legislation will address vehicle owner accountability by requiring the seller of a vehicle to ensure the title is transferred or maintain a record of the sale for three years, and would prohibit a person from abandoning a vehicle in the State, and impose a civil fine for so doing. The new legislation will transfer notification of the vehicle owner and any secured party from the police agency to the Secretary of State's office, and will require the Secretary of State to maintain a website to help the public locate vehicles removed as abandoned. The new legislation will definitely have an impact on DPD's abandoned vehicle towing process; however, because the new procedures are not expected to be finalized until October 2005, it is too early to speculate how the DPD's process will be impacted.

Scrap metal prices are also a factor in the number of abandoned vehicles on the City's streets and in the willingness of towing companies to remove these vehicles. Published reports indicate that vehicle owners are more likely to abandon their vehicles when scrap metal prices are low, because they may be required to pay to have the vehicle towed. Towing companies in Detroit lack incentive to pick up abandoned vehicles and to dispose of abandoned vehicles on their storage lots when they consider scrap metal prices low.

Section 55-6-85 of the City's Code establishes the conditions under which a vehicle shall be deemed abandoned:

- (1) The vehicle shall be abandoned when it has remained on a public street, highway, alley or public place for a period of forty-eight (48) continuous hours or more and from its condition and the surrounding circumstances, shall reasonably appear to be unclaimed, discarded, deserted or abandoned.
- (2) A vehicle is deemed abandoned on private property when it has remained on the private property for a period of forty-eight (48)

¹ This figure includes vehicles towed as a result of the police-authorized towing process, as well as those towed for parking violations.

continuous hours or more without the consent of the owner or lessee of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner has been revoked.

The Michigan Vehicle Code, and Paragraph 4.1 of Directive 204.4, Impounding Vehicles, from the Detroit Police Department's Manual defines an abandoned vehicle as:

.... any vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

The Michigan Vehicle Code differentiates between abandoned vehicles with value and those vehicles that are considered scrap. A comparison of the definitions is shown in the accompanying chart.

Definition	Abandoned Vehicle	Registered Abandoned Scrap Vehicle	Unregistered Abandoned Scrap Vehicle
On public or private property	X	X	X
7 or more years old		X	X
Cost of repairing the vehicle would exceed the fair market value of the vehicle		X	X
Registration status		Currently registered	Not currently registered
Not moved within 48 hours after a written notice is affixed	X	X	X

The Michigan Vehicle Code includes alternative methods for the disposition of abandoned vehicles and abandoned scrap vehicles. The alternative methods are compared in the following chart. In practice, the City rarely utilizes the abbreviated disposal methods for processing abandoned scrap vehicles although many of the vehicles towed as abandoned in the City may qualify as scrap vehicles. Currently all of the unredeemed abandoned vehicles authorized for towing by the DPD are purportedly offered for public sale.

Process Subsequent to Vehicle Being Taken into Custody	Abandoned Vehicle	Registered Abandoned Scrap Vehicle	Unregistered Abandoned Scrap Vehicle
Determine if stolen	X	X	X
Take two photographs of the vehicle		X	X
Make a report to substantiate the vehicle as an (un)registered abandoned scrap vehicle		X	X
Enter vehicle into LEIN system within 24 hours of taking into custody	X	X	X
Within seven days send the registered owner notice that the vehicle has been deemed abandoned that includes a warning that failure to redeem the vehicle in 20 days or request a hearing may result in termination of ownership rights	X	X	
Complete a release form and release vehicle to the towing company within 24 hours who will apply for a certificate of title or a certificate of scrapping		X	X
Offer the vehicle for sale at a public sale	X		

Each precinct has a primary abandoned vehicle towing company assigned; most precincts also have a secondary abandoned vehicle towing company.

The process by which DPD deems vehicles to be abandoned and orders them to be towed is described in Paragraph 4.4, Precinct Desk Procedures, and Paragraph 4.5, Abandoned Vehicle Procedures of DPD's Directive 204.4, Impounding Vehicles. Abandoned vehicle complaints are received at the precincts from various sources, including citizens, the Ombudsman's Office, Neighborhood City Halls, community groups, and the Department of Public Works. The DPD's Directives state that abandoned vehicle complaints received at the precinct are to be checked to determine whether the vehicle is stolen. If it is determined that the vehicle is stolen, the stolen and recovered vehicle procedures should be followed. If the vehicle is not stolen, the complaint is entered into an Abandoned Vehicle Book. Suspected abandoned vehicles are investigated by patrolling officers and by the precincts' abandoned vehicle officers. If the vehicle is not stolen, two copies of form DPD 131 – Abandoned Vehicle Report should be completed. Form DPD 131 includes the vehicle's make, license number, vehicle identification number (VIN), and a vehicle condition report. The abandoned vehicle officer should then affix a form DPD 114 – Abandoned Vehicle Notice to the vehicle that describes what will happen if the vehicle is not moved within 48 hours. If the vehicle is not moved, the vehicle is deemed an "abandoned vehicle" and can be taken into custody by the DPD. The accompanying chart shows the estimated number of vehicles that are tagged each month by the precincts' abandoned vehicle officers, and an estimate of the percentage of those vehicles that are towed.

Precinct	Estimated Number of Vehicles Tagged Monthly	Estimated Percentage that are Towed
2 nd	800	40 – 45%
3 rd	300	25%
4 th	500 – 600	50%
6 th	700	57%
7 th	300	60 - 70%
9 th	400	< 50%

In practice, the abandoned vehicle officer lists suspected abandoned vehicles on a Recapitulation Report at the same time the vehicle is tagged with the Abandoned Vehicle Notice. After 48 hours, the Recapitulation Report is updated with the vehicles that have been moved, and a form DPD 131 is completed for the vehicles that are expected to be towed. The Recapitulation Report is distributed to the precinct's designated abandoned vehicle towing company so the vehicles can be towed. The towing company attempts to tow the vehicles listed on the report to its private storage lot and then notifies the abandoned vehicle officer of the vehicles that have actually been towed. The abandoned vehicle officer may also contact the towing company to obtain the list of vehicles that were towed.

The Michigan Vehicle Code, Section 257.252a (4), in part, requires a police agency that has taken an abandoned vehicle into custody to:

- (a) Recheck to determine if the vehicle has been reported stolen.
- (b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
- (c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of

the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned.

The abandoned vehicle officer is responsible for entering the towed vehicle information into the LEIN system, and noting the LEIN reference number on the Abandoned Vehicle Report. The DPD's Auction Detail is responsible for preparing and mailing the Secretary of State form TR-52 – Notice of Abandoned Vehicle, within seven days of taking the vehicle into custody, to the last registered vehicle owner. It is important to note that form TR-52 serves several additional functions within the abandoned vehicle process – the back of the form contains the Bill of Sale by Police Agency for Abandoned Vehicles and the Certificate of Scrapping for both Registered and Unregistered Abandoned Scrap Vehicles.

State law stipulates that if the vehicle is not claimed or a hearing is not requested within 20 days of the vehicle owner's notification, the vehicle may be auctioned. State law dictates the order in which monies received from the sale are applied: first to towing and storage charges, then to cover police agency expenses, then against any outstanding vehicle debt, and finally to the owner.

Section 257.252g (3) of the Michigan Vehicle Code states:

If there are no bidders on the vehicle, the police agency may do 1 of the following:

- (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
- (b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
 - (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.

The DPD's practice is to turn the unsold vehicles over to the towing firm. In 2002, 33,993 owners of vehicles ordered towed through the police-authorized towing process were sent TR-52 forms. Vehicle owners redeemed 3,495 vehicles prior to their sale. Less than 2% of the 30,498 vehicles offered for sale were sold; the remaining 30,123 vehicles were turned over to the towing company to satisfy the outstanding towing and storage fees in compliance with State law. The auction process will be covered in depth in our fourth report of this series.

FINDINGS AND RECOMMENDATIONS

1. The DPD Does Not Process the City's Abandoned Vehicles in an Effective Manner

The precincts and Auction Detail have not been assigned resources adequate to effectively process the City's abandoned vehicles. Most precincts have two abandoned vehicle officers assigned to identify and process abandoned vehicles. In the 6th precinct, abandoned vehicle officers are assigned other duties, such as school rape patrol and school crossing guard duties, which reduces the time available to identify and process abandoned vehicles.

In addition, abandoned vehicle officers lack the needed equipment to efficiently process vehicles suspected as being abandoned.

- In the 7th and 8th precincts, abandoned vehicle officers do not have computers in their vehicles to check the LEIN system, and must return to the precinct to do so.
- In the 2nd, 5th, 8th and 9th precincts, there are few computers in the building with LEIN access, so officers must share.
- Abandoned vehicles are given lower priority than other crimes, often causing the abandoned vehicle officers to wait to use the computers.
- If the vehicle identification number (VIN) is missing from the vehicle, additional research, sometimes by the Commercial Auto Theft (CAT) Unit, may be required to determine the vehicle's last registered owner.

The Auction Detail is understaffed. In 2002, the Auction Detail processed 37,697 form TR-52s for mailing, and held 438 auctions where 33,973 vehicles were auctioned. The Auction Detail has allowed towing companies to prepare the form TR-52. Even with the help, TR-52s are routinely mailed after the seven-day deadline, and vehicle auctions are not scheduled in a timely manner.

Management should provide adequate resources to carry out required procedures. State law and DPD Directives establish the procedures that the abandoned vehicle officers and the Auction Detail must complete.

Specifically, Paragraph 4.5, of Directive 204.4, Abandoned Vehicle Procedures, requires, in part:

1. Precinct abandoned vehicle officers and patrolling members shall investigate vehicles which appear to be abandoned. If from this initial investigation, the vehicle is not determined to be wanted or stolen, two copies of the Abandoned Vehicle Report, D.P.D. 131 shall be prepared.
4. The abandoned vehicle officer shall then affix an Abandoned Vehicle Notice, DPD 14 (C of D 215-NO), to the vehicle describing the action that may be taken if the vehicle is not removed within 48 hours.
5. If the vehicle is not removed within 48 hours after the notice is affixed, it shall be deemed an "Abandoned Vehicle."

6. Once the vehicle has been deemed abandoned the abandoned vehicle officer shall ensure that the appropriate information is entered into the computer by the precinct DETECTS operator, within 24 hours.
7. After the information is entered into the computer a LEIN response will follow indicating a reference number. This number shall be entered on the impounding cards and/or Abandoned Vehicle Report.

In addition, State law and the DPD's Directive require that a notification be sent to the registered vehicle owner within seven days of the tow.

Processing abandoned vehicles is not viewed as high priority at the precincts when compared with higher profile crimes. Inadequate access to equipment at the precincts makes it difficult for abandoned vehicle officers to perform their job functions efficiently. The Auction Detail is dependent upon the towing companies' completion of the form TR-52 to meet the State requirement to notify vehicle owners within seven days of the tow.

Insufficient resources dedicated to the process has yielded the following results:

- Some towing companies have assumed the DPD's responsibility for completing the required form DPD 131, and all towing companies have assumed responsibility for completing the required State form TR-52. Assumption of DPD's responsibilities has eliminated necessary controls in the process.
- The unavailability of needed resources to perform the abandoned vehicle functions has reduced the efficiency and effectiveness of the abandoned vehicle officers to process vehicles. Waiting for the use of computers necessary to perform the functions results in wasted time and in reduced time available to identify and process abandoned vehicles.
- The untimely mailing of notifications means that towing companies are storing abandoned vehicles for longer periods of time, vehicle owners are assessed higher storage fees, and the starting bid for vehicles at auction is higher than it would be if the vehicles were processed effectively. Untimely notification can also result in insurance companies unwittingly paying claims on vehicles that have been recovered.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The DPD ensure that abandoned vehicle officers' vehicles are equipped with the necessary equipment to efficiently check whether a vehicle is stolen. Procure the appropriate equipment to ensure that all officers, not only the abandoned vehicle officers, are able to perform their job functions as effectively as possible.
- b. The DPD ensure that the Auction Detail be provided the necessary resources and equipment to complete the form TR-52 and meet the seven day notification deadline.
- c. The DPD consider further using its civilian workforce to assist in the fulfillment of its abandoned vehicle towing responsibilities.

2. There is Not Always a Reliable Record of the Vehicle's Condition When the Abandoned Vehicle is Towed

There is not always a reliable independent record of the vehicle's condition when the towing company takes the abandoned vehicle into custody. Form DPD 131 – Abandoned Vehicle Report does not always accurately reflect the vehicle condition at the time the abandoned vehicle is towed because the vehicle condition report may be left blank or additional damage occurs to the vehicle between the time the form is completed and the time the vehicle is towed.

DPD's Abandoned Vehicle Procedures (Directive 204.4, Paragraph 4.5) require that the form DPD 131 be completed by the abandoned vehicle officer prior to the officer affixing the vehicle with the 48-hour notification form. In practice, the form DPD 131 is completed for vehicles that have not been moved within the 48-hour period and are expected to be towed.

- We reviewed many form DPD 131s where the vehicle condition was left blank. The head of the Auction Detail indicated that officers do not complete the vehicle condition report or they are filled out incorrectly.
- The 6th precinct abandoned vehicle officer told us that people see tagged abandoned vehicles as "freebies" and will strip parts from them when they see the red notice tags on them.

The form DPD 131 is not always independently completed. To assist the abandoned vehicle officers, some towing companies are completing the form DPD 131 at the time they are taking the vehicle into custody or at a later time.

- Interviews of abandoned vehicle officers at the precincts audited revealed that the form DPD 131 was completed by the towing companies rather than by the abandoned vehicle officers at three precincts. One precinct indicated that the towing company assisted with the paperwork.
- Owners or managers at five of the eight towing companies interviewed indicated that someone in their organization completed the form DPD 131, including the vehicle condition report, for the abandoned vehicles they towed.²
- It appeared that a towing company owner created DPD 131 forms for vehicles audited by the OAG on its storage lot. The forms were provided to OAG auditors several weeks after they were requested and were lacking information that is normally contained on the form such as the LEIN number, officer signature, precinct number, date, and vehicle condition.

Paragraph 4.5 of Directive 204.4 requires that the form DPD 131 be completed by the abandoned vehicle officer or by the patrolling officer prior to the vehicle being tagged with the 48-hour notification. This procedure aligns with the principal of segregation of duties, whereby a single party should not have responsibility for the authorization, custody, record keeping and reconciliation functions within a process. This procedure

² Form DPD 131 is also used to convert unredeemed impounded vehicles to abandoned vehicles so they can be auctioned. Towing companies are completing the form DPD 131 for the DPD to convert the impounded vehicles because the DPD does not have available resources to go to the storage lots to complete the forms.

does not, however, insure that the vehicle condition is accurately noted when the vehicle is taken into custody.

Some abandoned vehicle officers have abrogated their responsibility for reporting the vehicle condition to the towing companies. Because DPD procedures do not require that the abandoned vehicle officer be present when the vehicle is towed to update the vehicle's condition on the form DPD 131 there is not a reliable record of the vehicle's condition when it is taken into custody. DPD's procedure requires the form be completed at least 48 hours prior to the vehicle being towed. The practice of completing the form DPD 131 after the vehicle is deemed abandoned insures that the vehicle's condition is noted closer to the time the vehicle is taken into custody, however the condition noted may still not be accurate.

All towing companies reported some level of theft from vehicles stored on their storage lots. Without an accurate report of the vehicle's condition at the time of tow, there is no way to affix accountability for the vehicle condition or to hold the appropriate party responsible for any additional damage to the vehicle. Accurate completion of the form DPD 131 by a member of the DPD insures that there is an independent verification of the vehicle's condition. There is a breakdown in the control structure when the towing company is allowed to complete the form DPD 131, as the towing company maintains custody of the vehicle until the vehicle owner redeems it or it is auctioned.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. DPD personnel be required to complete the form DPD 131 for vehicles towed as abandoned. Towing companies found completing the DPD 131 forms for towed abandoned vehicles should be suspended or otherwise penalized.
- b. The DPD modify its abandoned vehicle towing procedures to require that the vehicle condition be noted at the time the vehicle is towed, by someone other than the towing company, in order to maintain the necessary segregation of duties.
- c. The DPD consider further using its civilian workforce to assist in the fulfillment of its abandoned vehicle towing responsibilities.

3. Recovered Stolen Vehicles Are Routinely Towed by the Abandoned Vehicle Towing Companies

Abandoned vehicle officers frequently order stolen vehicles to be towed by the precincts' designated abandoned vehicle towing company, rather than using the process prescribed by the Directives stated in the DPD's Manual that utilizes the impound vehicle process and the precinct's rotational towing companies.

Abandoned vehicle officers frequently discover stolen vehicles and "recover" them by indicating that they have been found in the Law Enforcement Information Network (LEIN) system. The 6th and 7th precincts' abandoned vehicle officers stated that they routinely request the abandoned vehicle towing company to tow recovered stolen vehicles.

Paragraph 4.1 of Directive 201.6 – 4, Recovery of Stolen Motor Vehicles, states that recovered stolen vehicles that are taken into custody should be towed to a police-authorized storage lot in accordance with the vehicle impounding procedures. The Notification and Crime Reporting Section (NCRS) is required to be notified of recovered stolen vehicles at the time of the recovery. Impounded vehicle information is to be entered into the computer via the NCRS immediately. The NCRS updates the LEIN system and notifies the vehicle owner of the recovery verbally within three days or by certified mail. For abandoned vehicle tows, the NCRS is not notified; however, the LEIN system is updated within 24 hours of the vehicle being towed.

The effect of not following DPD's procedures for towing recovered stolen vehicles is that the NCRS and the vehicle owner may not be notified as quickly as they would be under the impound process. There is a risk that recovered stolen vehicles taken into custody as abandoned vehicles that should be processed for evidence are not. Vehicle owners, and insurance companies may not be notified of the vehicle recovery immediately. Insurance companies may be settling claims with vehicle owners when the vehicle has actually been recovered. In addition, abandoned vehicle officers are steering towing business that should go to the rotational towing companies to the abandoned vehicle towing company.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The DPD enforce its procedures for processing and towing recovered stolen vehicles. Any officer found not following the procedures should be disciplined.

4. There is No Assurance That Owners of All Vehicles Considered Abandoned Have Been Appropriately Notified

There is no assurance that the owners of all abandoned vehicles are properly notified that they will lose their ownership rights if their vehicle is not redeemed in 20 days. The DPD relies on the towing companies to provide a form TR-52 for every abandoned vehicle, and a form DPD 131 and a form TR-52 for every unredeemed impounded vehicle requiring owner notification. There is no mechanism by which the DPD is able to determine that a form DPD 131 and a TR-52 has been provided for each unredeemed impounded vehicle, or to insure that the TR-52 has been submitted to the Auction Detail for every towed abandoned vehicle, or that the forms have been submitted within the timeframe prescribed by State law.

Impounded vehicles should be converted to abandoned vehicles if they are not redeemed within 30 days. Owners of converted abandoned vehicles should be notified of the impending loss of ownership rights in the same manner as owners of vehicles towed as abandoned vehicles.

- The Auction Detail relies on the towing companies to notify it of any impounded vehicle requiring conversion to an abandoned vehicle by completing a form DPD 131. The towing companies also complete the form TR-52.

For vehicles towed as abandoned vehicles, the Auction Detail has assigned its responsibility for completing the form TR-52 – Michigan Department of State Notice of Abandoned Vehicle to the towing companies.

- Some towing companies retain copies, and in some cases the original copy, of the form DPD 131. All towing companies prepare the form TR-52 that is sent to the vehicle owner by the DPD's Auction Detail.
- The Auction Detail has indicated that it has repeatedly violated the seven-day notification period unintentionally.

In addition,

- The Auction Detail has no way to determine whether all of the TR-52 forms are accounted for. They are not numbered, and the precincts provide them to the towing companies. The form TR-52 is also used as the Bill of Sale at vehicle auctions.
- The Auction Detail has little time to review the TR-52 forms before they are mailed, but does verify that a form DPD 131 was completed for abandoned vehicles, that a LEIN check was done, and that there is an address listed on the form.

The Auction Detail will process an abandoned vehicle for auction even when a notification is returned as "No such address" or "Person moved." It relies on the Secretary of State as the source of the last registered vehicle owner. As noted previously, buyers of used vehicles are not always transferring the title with the Michigan Secretary of State's office.

Completion of the form TR-52 by the towing companies is not a violation of State law, although it is a violation of the segregation of duties functions of custody and record

keeping. Section 257.252a(4)(c), of the Michigan Vehicle Code, requires that a police agency that has taken an abandoned vehicle into custody must:

Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

- (i) The year, make, and vehicle identification number of the vehicle if available.
- (ii) The location from which the vehicle was taken into custody.
- (iii) The date on which the vehicle was taken into custody.
- (iv) The name and address of the police agency that had the vehicle taken into custody.
- (v) The business address of the custodian of the vehicle.
- (vi) The procedure to redeem the vehicle.
- (vii) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.
- (viii) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.
- (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

The DPD's process for notifying owners of abandoned vehicles does not include a reconciliation function, which would insure the list of form TR-52s mailed to vehicle owners is complete. Lists of unredeemed impounded vehicles should be reconciled to requests to convert impounded vehicles to abandoned vehicle status to insure that all vehicles that should be converted actually are. Lists of abandoned vehicles – both those towed as abandoned and those converted to abandoned status - should be reconciled with lists of vehicles and owners who have been sent a form TR-52, to insure that the State's notification requirement is met.

Towing companies are willing to assist the DPD with its paperwork to speed the notification process, as the DPD cannot legally dispose of the unredeemed vehicle until the vehicle owner has been notified. Abandoned vehicle officers have allowed towing companies to complete the DPD 131 to convert unredeemed impounded vehicles into abandoned vehicles. The Auction Detail has abrogated its responsibility for preparing the form TR-52 to the towing companies.

Reliance on the towing companies to produce DPD 131 forms and TR-52 forms coupled with the absence of a reconciliation process opens the DPD up to the risk that all vehicle owners are not properly notified of their rights and establishes a control environment in

which vehicles can be held back from sale without the DPD's or the vehicle owner's knowledge.

Until a reengineered police-authorized towing process is completed, we recommend that:

- a. The DPD implement a process that insures that all unredeemed impounded vehicles are converted to abandoned vehicle status as quickly as Michigan's Motor Vehicle Act allows.
- b. The DPD implement a process to reconcile the TR-52 forms to a listing of abandoned vehicles – those towed as abandoned and those converted to abandoned status - to ensure that a TR-52 is mailed for each vehicle that is eligible to be auctioned.
- c. The DPD take steps to insure that the TR-52s are mailed within the seven-day timeframe established by State law.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

1300 BEAUBIEN, SUITE 303
DETROIT, MICHIGAN 48226
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January 14, 2005

Joseph L. Harris
Auditor General City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Room 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE AUTHORIZED TOWING PROCESS

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the third report of findings and related recommendations in the December 2003 *"Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process"*, as prepared by the Office of the Auditor General.

Finding 1: THE DPD DOES NOT PROCESS THE CITY'S ABANDONED VEHICLES IN AN EFFECTIVE MANNER.

Response to Finding: The Detroit Police Department agrees that the City's abandoned vehicles are not processed in the most efficient and effective manner.

Response to Recommendations:

1a - The Department agrees with the recommendation that the abandoned vehicle officers be provided with the appropriate resources to complete their job duties effectively. The Department has always maintained that officers be properly equipped. Since 2003, when the audit was conducted, new vehicles equipped with computers have been issued to precinct abandoned vehicle officers allowing them to conduct LEIN inquiries from their scout cars.

1b - The department agrees with the recommendation that the Auction Unit officers be provided with the appropriate resources to complete their job duties effectively. The implementation of Public Act 495, which took effect on December 27, 2004, and Public Act 493, which takes effect on October 1, 2005, made the Secretary of State responsible for completing the TR-52's within the 7 day deadline. The Department is currently examining how our policies will be changed in order to comply with the State's new mandates.

KWAME M. KILPATRICK, MAYOR



CITY OF DETROIT
DEPARTMENT OF POLICE

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1c - Pending the approval of a new towing contract and with the implementation of Public Acts 495 and 493, the department is currently exploring other options which may include the utilization of non police personnel in various aspects of the abandoned vehicle towing process. However, at this time, the Department has no additional civilian employees that can be assigned to assist with towing.

Finding 2: THERE IS NOT ALWAYS A RELIABLE RECORD OF THE VEHICLE'S CONDITION WHEN THE ABANDONED VEHICLE IS TOWED.

Response to Finding: The Department agrees with this finding. The DPD 131 form (Abandoned Vehicle Report) has a space on the back to document the condition of the vehicle and if completed correctly is a reliable record of the vehicle's condition. However, at times, the department agrees that oversights occur and some forms are not entirely completed. On Friday, November 19, 2004, Teletypes #04-06876 and #04-06877 were issued concerning "Procedures for Impounding Vehicles and Notifications". The teletype advised members on the proper policies and procedures concerning the rotation of authorized towing assignments. Commanding Officers will be held responsible for taking corrective action against members found to be in violation.

Response to Recommendations:

2a - The department agrees that procedures for the processing of the DPD 131 form be enforced, and shall discipline officers that fail to comply according to the standards contained in the Detroit Police Department Manual Directive 102.4 - Standard of Conduct. The Department disagrees that towing companies found to be completing the DPD 131 form should be suspended or penalized.

2b - The Department disagrees, at this time, with the finding that the abandoned vehicle towing process be modified. Modifications to the towing process will occur in the new towing contract and with the implementation of Public Acts 495 and 493.

2c - Pending the approval of a new towing contract and with the implementation of Public Acts 495 and 493, the Department is currently exploring other options which may include the utilization of non police personnel in various aspects of the abandoned vehicle towing process. However, at this time, the Department has no civilian employees that can be assigned to assist with towing.

KWAME M. KILPATRICK, MAYOR



Joseph L. Harris
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Finding 3: RECOVERED STOLEN VEHICLES ARE ROUTINELY TOWED BY THE ABANDONED VEHICLE TOWING COMPANIES.

Response to Finding: The Department agrees that, on occasion, the abandoned vehicle officers utilized the designated abandoned vehicle towers to tow stolen motor vehicles.

Response to Recommendations:

3a – The Department agrees that the procedures for processing and towing recovered stolen vehicles be enforced, and shall discipline officers that fail to comply according to the standards contained in the Detroit Police Department Manual Directive 102.4 – Standard of Conduct.

Finding 4: THERE IS NO ASSURANCE THAT ALL OWNERS OF VEHICLES CONSIDERED ABANDONED HAVE BEEN APPROPRIATELY NOTIFIED.

Response to Finding: The Department agrees that there is no assurance that “all” owners of towed vehicles are properly notified. The Auditor General’s report found that in 2002 approximately 34,000 owners of vehicles ordered towed through the police authorized towing process were sent TR-52 forms. According to Police Department records for Abandoned Vehicles Towed in 2002, approximately 34,000 TR-52 forms were mailed out. However, some owners may not have received the notification due to the following reasons; failure of the owners to transfer ownership with the Secretary of State or the notification may have been lost in the mailing process.

Response to Recommendation:

4a – The process that ensures that all unredeemed impounded vehicles are converted to abandoned vehicle status as quickly as possible was changed with the passage of Public Act 495. The Department is currently examining how our policies will be changed in order to comply with the State’s new mandates regarding the towing process.

4b – The process that ensures that a TR-52 is mailed for each vehicle that is eligible to be auctioned was changed with the passage of Public Act 495. The Department is currently examining how our policies will be changed in order to comply with the State’s new mandates regarding the towing process.

KWAME M. KILPATRICK, MAYOR



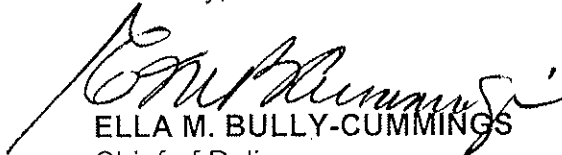
CITY OF DETROIT
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4c. - The process that ensures a TR-52 is mailed within the seven-day timeframe was changed with the passage of Public Act 495. The Department is currently examining how our policies will be changed in order to comply with the State's new mandates regarding the towing process.

Should you have any concerns regarding this matter, please feel free to contact me at 596-1800, Monday through Friday, 9:00 a.m. to 5:00 p.m.

Sincerely,

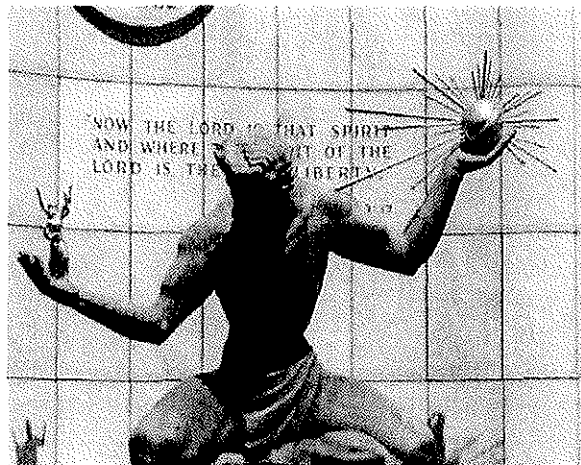

ELLA M. BULLY-CUMMINGS
Chief of Police

EMBC-ma

KWAME M. KILPATRICK, MAYOR

City of Detroit

OFFICE OF THE AUDITOR GENERAL



Summary Report of the Police-Authorized Towing Process

December 2005



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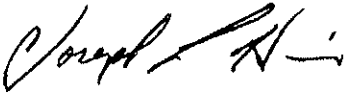
Joseph L. Harris, CPA, CIA
Auditor General

Sharon L. Gipson, CPA
Deputy Auditor General

MEMORANDUM

DATE: December 2, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Summary Report of the Police-Authorized Towing Process

C: Chief Ella M. Bully-Cummings

Attached for your review is our final report on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process are as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (issued January 18, 2005)
4. Vehicle Auction Process (issued January 31, 2005)
5. Evidence Vehicle Process (issued October 21, 2005)
6. DPD's Police-Authorized Towing Contract (issued October 25, 2005)
7. Summary Report of the Police-Authorized Towing Process

This audit was initiated by the Auditor General to determine the validity of allegations of malfeasance by police-authorized towing companies and by DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the systemic problems within the DPD's police-authorized towing process, the impact of the recent state legislation on the towing process, and our recommendation to reengineer the process in the City of Detroit. Many of the issues detailed in this report continue because the longstanding causes underlying those conditions have not been addressed and, therefore, still exist.



We appreciate the assistance of the police-authorized towing companies, insurance company representatives, and police department personnel who contributed to our understanding of the towing process.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

Summary Report of the Police-Authorized Towing Process

December 2005

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PREVIOUS TOWING REPORT FINDINGS:

Administration of the Police-Authorized Towing Process	ATTACHMENT A
Compliance with the Impounded Vehicle Towing Process	ATTACHMENT B
Compliance with the Abandoned Vehicle Towing Process	ATTACHMENT C
Abandoned Vehicle Auction Process	ATTACHMENT D
Evidence Vehicle Process	ATTACHMENT E
DPD's Police-Authorized Towing Contract	ATTACHMENT F

EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine compliance with City Ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts; and the validity of the allegations of wrongdoing.

The State legislature amended both the Michigan Vehicle Code and the Natural Resources and Environmental Protection Act in December 2004. The amendments will hold vehicle owners accountable for abandoning their vehicles, and will transfer the responsibility for notifying vehicle owners of the police-authorized tow from the DPD to the Secretary of State.

Even considering the anticipated impact on the number of abandoned vehicles due to changes to state law, the DPD lacks the organization and resources to effectively manage its police-authorized towing process. As detailed in our previous audit reports, the DPD has little control over its current towing process. As a result, some police-authorized towing companies have taken advantage of the weaknesses to unfairly increase their respective shares of police towing, to overcharge for towing and storage services, and to improperly confiscate property, parts and even vehicles. Without adequate oversight of the police authorized towing process in the City, or adequate controls over vehicles taken into custody, there is a risk of continued overcharges and property theft.

The current DPD organization for the towing process is decentralized and fragmented throughout the Department. There are over 20 police officers dedicated to police-authorized towing, mainly towing abandoned vehicles. There is a lack of control at the operational level, and there is a lack of funding and personnel to effectively cope with abandoned, stolen, and impounded vehicles in the City. In addition, there are too many police-authorized towing companies and vehicle storage lots in the City for the City to effectively monitor.

The City of Chicago has centralized and civilianized most of its towing responsibilities in its Department of Streets and Sanitation Bureau of Traffic Services. A City of Chicago official indicated that the City receives sufficient revenue from towing to cover all of its towing expenses including the cost of its civilian staff who identify and tag abandoned vehicles and process them for towing.¹ Chicago receives an estimated \$20 million in towing related revenues of which \$15.5 million is generated from the services provided by the management company. Chicago has outsourced auto pound management and towing services for approximately 75% of its towing assignments, including the responsibility for the distribution of towing assignments to subcontracted towing companies and the auctions of unclaimed vehicles.

¹ The only revenues the City of Detroit earns from its towing programs are generated from the auction of abandoned vehicles. The proceeds generated, by type of tow and in total, are detailed below.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Police-Authorized Tows	unknown	unknown	\$286,206	\$283,401	\$355,408
Parking Enforcement Tows	<u>unknown</u>	<u>unknown</u>	<u>115,425</u>	<u>172,767</u>	<u>259,280</u>
Total Auction Proceeds	\$834,354	\$470,565	\$401,631	\$456,168	\$614,688

In Chicago, the City maintains control of the vehicles held by the management company. It pays the management company for each tow, and the City receives the revenues from the towing and storage fees on vehicles that are redeemed. After the requisite holding period that is established by Illinois state law, the City identifies the unredeemed vehicles that will be sold to the managing company at a pre-determined price. The management company is then free to dispose of the vehicles with salvage or rebuild titles. The management company's focus is on moving the vehicles through the system so the vehicles can be sold or scrapped at a profit. In contrast, in Detroit, the City does not receive revenues from vehicles it orders towed. Towing companies generate revenues through the towing and storage fees accumulated and paid by vehicle owners when they redeem towed vehicles. Some towing companies focus on maximizing the towing and storage fees on vehicles they expect to be redeemed or on vehicles they expect will be sold at auction. At times, their goal of maximizing towing revenue conflicts with the overall goal of efficiently returning vehicles to owners.

We recommend that the City of Detroit reengineer its towing process. The City should request proposals for the management of a City-authorized towing process that focuses on customer and owner satisfaction, permanently removes abandoned vehicles from the City's streets through the use of scrap or salvage titles, civilianizes the process to the extent possible, maintains City-control of towed vehicles, and allows for performance monitoring of the process. The request for proposal (RFP) should ask the respondent to: describe the best practices the City should employ, and recommend a new towing process for the City that would employ best practices, allow the City to recover its costs, and comply with state and local legal constraints, in order to meet the City's towing needs.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Office of the Auditor General conducted an audit of the DPD's towing process to determine the DPD's and the towing companies' compliance with City ordinances, DPD established towing policies and procedures, and the towing contracts' terms. The results of our audit have been published in six reports. The scope of this report is limited to reviewing the systemic problems reported in our previous reports, benchmarking Chicago's City-authorized towing process, analyzing legislative changes affecting the police-authorized towing process, and recommending matters to be considered in a reengineered City-authorized towing process.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years and we have not included the views of responsible individuals of the audited entity on our overall recommendation.

AUDIT OBJECTIVE:

To identify:

- Best practices for police-authorized towing used by other cities, and
- Elements to incorporate into a recommendation to improve the police-authorized towing process in the City of Detroit.

AUDIT METHODOLOGY:

To accomplish our audit objective, our audit included:

- Interviews with DPD management, police officers, towing companies, vehicle owners, City of Chicago personnel involved in the towing process, representatives from Chicago's auto pound management and towing services contractor, and others;
- Observation of the City of Chicago police-authorized towing process;
- Review of the City of Chicago Department of Streets and Sanitation's police-authorized towing procedures and contract for auto pound management and towing services;
- Review of Chicago's contractual auto pound procedures manual;
- Review of the towing process findings previously reported;
- Review of DPD towing procedures, City ordinances, and State laws, including the Michigan Vehicle Code, impacting police-authorized towing; and
- Review of the Illinois Vehicle Code.

RESULTS OF THE AUDIT OF THE POLICE-AUTHORIZED TOWING PROCESS

The DPD lacks the organization and resources to effectively manage its towing process. As detailed in our previous reports, the DPD has little control over the current towing process, and as a result, some police-authorized towers have taken advantage of the weaknesses to unfairly increase their respective shares of police towing, improperly confiscate property, and overcharge vehicle owners for towing and storage services.

The DPD organization for the towing process is decentralized and fragmented throughout the Department. The DPD cannot adequately monitor the police-authorized towing companies and their storage lots due to a lack of resources and control at the operational level. The control weaknesses noted in the DPD's towing process are summarized below. A complete list of our findings and recommendations is located in Attachments A through F to this report.

We found that the DPD showed a disregard for the City's policies, procedures, and the public's well-being when it increased the number of towing companies in the precincts' rotations without justification or approval, contracted with the police-authorized towing companies, leased the centralized evidence lot, and obtained management services for the evidence lot. This has resulted in:

- Several towing companies receiving an inordinate share of the towing business;
- Ineligible towing companies receiving contracts;
- Overpayment for leased space, payment for improvements and maintenance the City has not received; and
- Payments for management services without a contract.

The DPD could not provide the number of vehicles ordered towed, or the number of vehicles redeemed. There are weaknesses in the logging of towed vehicles, the notification of vehicle owners, and the recording of redeemed vehicles. Therefore, there is no assurance that all vehicles that the DPD orders towed are properly processed and accounted for.

- Officers circumvent the tow desk and the rotational towing process when ordering a tow truck to impound a vehicle. Some precincts' towing books do not contain a complete list of the authorized tows.
- There is no assurance that the DPD's list of towed abandoned vehicles is complete because the DPD relies on the towing companies to report the vehicles they have taken into custody.
- There is no assurance that the Notification and Crime Reporting Section (NCRS) is notified of all impounded vehicles, or is notified of all vehicles that have been redeemed.
- There is no assurance that all abandoned vehicle owners are properly notified, because the DPD relies on the towing companies to identify the impounded vehicles that have been in custody long enough to be processed for sale at public auction, and complete the notification forms for the DPD.
- Unclaimed vehicle reports are not submitted to the DPD. Even if the reports were submitted, the DPD does not have the necessary resources to research

each vehicle that has remained on the towing companies' lots longer than 30 days.

- Abandoned vehicles are not auctioned promptly, which increases the starting bid price and reduces the number of sales, thereby allowing the towing companies to take ownership of the vehicles.

Many vehicles that are moved through the process are not done so efficiently. This is evidenced by the excessive storage fees accumulated on some vehicles when auctioned, missing parts claims that towing companies settle "on the side," and the fact that vehicles are often added to the auction sheet on the day of the auction.

Weaknesses identified in the auction process are:

- There is no verification of vehicle condition prior to auction.
- Towing and storage fees are not verified, and overstated towing and storage fees are not detected.
- The Bill of Sale is not always properly completed, and there is no assurance that the change in ownership is recorded with the Secretary of State.
- Most vehicles are not sold, and are signed over to the towing companies in lieu of the City paying the accumulated towing and storage fees.

The current structure of the DPD's towing process makes it nearly impossible, especially with minimal staff and inadequate systems, to adequately manage and oversee the process. We noted the following control weaknesses:

- There is no management information system to track towed vehicles and towing company performance, on which management can rely, to make operational decisions for the towing process.
- There is no process to monitor DPD staff performance, and whether officers are adhering to the DPD's policies and procedures. The following items were noted as DPD deviations from the towing procedures:
 - Precinct towing assignments are not distributed equitably.
 - Recovered stolen vehicles are sometimes towed as abandoned vehicles, rather than being impounded.
 - Some evidence vehicles are not sent directly to the evidence lot as required.
 - The DPD does not always accurately note the vehicle's condition when the vehicle is towed.
 - There is no assurance that NCRS is notified of all impounded vehicles.
 - There is no assurance that abandoned vehicle owners are notified of the recovery of their vehicles.
- The DPD lacks a system and the appropriate resources to monitor and evaluate individual towing company performance and to hold towing companies accountable for complying with the Michigan Vehicle Code, the City's Police Authorized Towing Ordinance, and DPD's police-authorized towing contracts. Among the non-compliance areas noted in our audit reports are:

- Towing companies tow in precincts they are not authorized to tow in.
- Towing companies move vehicles prior to obtaining police authorization.
- Towing companies charge improper fees, including charging vehicle owners storage fees while the vehicles are held for evidence processing.
- Storage lots are not secure, and sometimes vehicles are stored on the streets.
- Owners are not allowed access to vehicles. Required business hours are not maintained.
- Towing company records are not adequately maintained.
- There is no formal contract for the management of the evidence lot, and there is no ongoing monitoring of the evidence lot management company's performance.

The City lacks the financial resources, personnel, and information system to properly manage the towing process. The process utilizes many uniformed police personnel to perform jobs that could be performed by non-uniformed City or contracted workers; and there are too many towing companies to effectively monitor. Rather than attempting to fix the current process, we recommend that the towing process be reengineered with the goal to fairly and efficiently return towed vehicles to owners and insurance companies. The new process should prevent abandoned vehicles from recycling through the process, only to be towed as abandoned again. Vehicles that will not be claimed through the towing process should be processed in a manner that will benefit both the City and the towing companies. The process should be such that towing companies are no longer motivated to accumulate towing and storage fees.

IMPACT OF STATE LAW CHANGES ON THE DPD'S TOWING PROCESS

In December 2004, the Michigan Legislature amended the laws affecting towed vehicles. Much of the legislation adopted became effective on October 1, 2005. According to the Michigan Secretary of State's Office, the changes in the law will free up law enforcement agencies to concentrate on more serious crimes by giving municipalities the option of using a designated agent or company to oversee the towing of abandoned vehicles from public property, and will provide a savings to local communities struggling with limited staffing and resources by no longer requiring that abandoned vehicles be tagged.

Many people we interviewed during the audit believe that one reason Detroit has experienced so many abandoned vehicles has been the lack of a provision in the state law to require vehicle sellers to ensure the Secretary of State's records were updated with the title transfer information. This gap precluded holding the vehicle owner responsible for abandoned vehicles. Under the new legislation, the seller is responsible for ensuring the registered owner information is updated in the Secretary of State's records or for maintaining a record of the sale. With the ability to hold vehicle owners accountable for abandoning their vehicles, the number of abandoned vehicles should sharply decline.

The DPD's lack of a centralized database, containing a listing of the vehicles ordered towed, has been remedied. For those vehicles that are entered into the centralized database through the law enforcement information network (LEIN), our concerns of timely vehicle owner notification, vehicles lost within the process, and unverifiable towing and storage fees have been addressed. However, our concerns about the completeness of the database are still valid. The DPD has acknowledged that not all vehicles are entered into the LEIN system, and auto theft units have complained that the DPD does not perform timely updates of stolen vehicle recoveries in LEIN. Furthermore, there will be no assurance that the vehicles towed from private property will be reported to a police agency, and that the Secretary of State will be notified of their tow.

Towing companies have lamented that they were stuck with useless abandoned vehicles, for which they obtained little value from the scrapping process. Under the new law, towing companies are able to recover some of their administrative fees, and will be able to recoup towing and storage fees from the last registered vehicle owner for the difference between the vehicle's value and the towing and storage fees that have accrued up to a maximum \$1,000. Our concern is that there continues to be an incentive for towing companies to accumulate towing and storage fees up to the \$1,000 limit in order to collect the maximum amount from the owners of unredeemed vehicles. The goal should be to quickly dispose of vehicles in the system, not to maximize fees.

A synopsis of the legislative changes follow:

Affix accountability for abandoning a motor vehicle -

- Require a person who sold a vehicle either to accompany the purchaser to a Secretary of State (SOS) branch office to ensure transfer of the title, or maintain a record of the sale for at least 18 months in order to avoid liability for any subsequent damages or violation of law resulting from the vehicle's use by the purchaser; and prescribe a \$15 civil fine for failure to do so. [Michigan Compiled Laws (MCL) Section 257.240]

- Expand the definition of litter to include an abandoned vehicle. [MCL Section 324.8901(a)]
- Require a violator, if court ordered, to pay the cost of removing the litter and/or perform community service in the form of gathering litter. If the litter consists of an abandoned vehicle, the violator would be subject to a civil fine of not less than \$500 or more than \$2,500. The fine for a repeat offender would be not less than \$1,000 or more than \$5,000. [MCL Section 324.8905a(4)]
- Hold the last registered vehicle owner accountable for an abandoned vehicle unless he or she can provide proof that the vehicle was sold. [MCL Section 257.252a(1)]

For vehicles abandoned on public property -

- Assess the last registered owner a \$50.00 civil fine, if the vehicle is not redeemed by the registered owner prior to its disposition. [MCL Section 257.252a(1)]
- Allow a police agency to designate another party to determine whether the vehicle has been reported stolen, and to have the towing agency take the vehicle into custody. [MCL Section 257.252a(3) & (4)]
- Remove the requirement that a written notice be affixed to the abandoned vehicle for 48 hours prior to its tow. [MCL Section 257.252a(3)]
- Continue to require the police agency to recheck to determine whether the vehicle is stolen, and update the abandoned vehicle in the LEIN system within 24 hours of the tow. The Secretary of State's office will now be notified of the abandoned vehicle through the LEIN system. [MCL Section 257.252a(5)]
- Require the Secretary of State, rather than the police agency, to notify the vehicle owner within 7 days that the vehicle has been taken into custody as abandoned. [MCL Section 257.252a(5)]
- Require the Secretary of State to maintain a website for the public's use in locating abandoned vehicles. Data will be maintained for one year, or until the vehicle is disposed of. [MCL Section 257.252a(5)]
- Establish an additional fee of \$40.00 that the vehicle owner must pay when redeeming his or her vehicle. The towing company (vehicle custodian) retains \$15.00 of the fee to cover costs; \$25.00 of the fee is forwarded to the Secretary of State's office to be deposited into the abandoned vehicle fund. [MCL Section 257.252a(6)]
- Require the police agency to continue to be responsible for offering the vehicle at public sale not less than 20 days after the date of the notice. [MCL Section 257.252a(16)]
- Require the Secretary of State's office to release the vehicle for disposition within 45 days after the vehicle has been entered into the LEIN system. [MCL Section 257.252a(18)]

For vehicles abandoned on private property -

- Require the owner or lessor of private property to post a notice meeting certain criteria before authorizing the towing or removal of a vehicle. [MCL Section 257.252k]
- Expand the definition of abandoned vehicle to include vehicles that have remained on private property without the consent of the owner. [MCL Section 257.252a(2)]
- Require the towing agency removing the vehicle to contact a police agency prior to the tow to determine whether the vehicle has been reported stolen, and enter the vehicle into LEIN as an abandoned vehicle. [MCL Section 257.252a(10)]
- Require that the Secretary of State's office and the vehicle owner be notified in the same manner as for abandoned vehicles towed from public property. [MCL Section 257.252a]

For vehicles impounded for safekeeping -

- Allow the towing company to charge a reasonable service fee for disconnecting a vehicle from the tow truck, prior to the vehicle being towed. [MCL Section 257.252d (2)]
- Continue to require the police agency to recheck to determine whether the vehicle is stolen, and update the abandoned vehicle in the LEIN system within 24 hours. [MCL Section 257.252d(3)]
- Follow the process for owner notification and auction that is established for abandoned vehicles. [MCL Section 257.252d(3)]
- Reduce the number of days, from 10 to 7, to notify the vehicle owner. [MCL Section 257.252d]

Notification of contested charges -

- Require that the court notify the towing service or the custodian of the vehicle, in addition to the owner and the police agency of the time and place of the hearing, if the owner contests the towing charges. [MCL Section 257.252f(1)]

Auction process -

- Require auctions of vehicles abandoned from public property or impounded to remain under the control of the police agency or the police agency's designee. [MCL Section 257.252a(16) and 257.252g(1)]
- Require public auction of vehicles abandoned on private property to be under the control of the custodian or the custodian's designee. [MCL Section 257.252a(16) and 257.252g(1)]
- Change the manner in which proceeds from the public sale are allocated. After the towing and storage fees, and the police agency or custodian fees are satisfied, the new \$40.00 abandoned vehicle fee is collected. Any remaining proceeds are sent to the Department of Treasury's unclaimed property division. [MCL Section 257.252g(2)]

- Where the vehicle is not sold at auction and the vehicle is turned over to the towing company or custodian to satisfy accumulated towing and storage fees, allow the towing company or custodian of the vehicle to collect the difference between the accrued towing and storage fees and the vehicle's value from the last titled owner. [MCL Section 257.252g(3)]
- Require the last registered vehicle owner to pay towing and storage fees for abandoned vehicles. Cap the amount of storage fees that can be collected from an abandoned vehicle owner at \$1,000. The cap does not apply to a commercial vehicle or a vehicle owned or leased by an entity other than an individual. [MCL Section 257.252i(2) & (3)]
- Require the police agency to not only cancel the entry in LEIN when the vehicle is disposed of, but also provide the Secretary of State with the vehicle's disposition and the name of the agency that disposed of it. [MCL Section 257.252g(5)]

BENCHMARKING RESULTS – CITY OF CHICAGO’S TOWING PROCESS

The City of Chicago has centralized and civilianized most of its towing responsibilities in its Department of Streets and Sanitation, Bureau of Traffic Services. The City of Chicago maintains five auto pounds including one for its evidence vehicles. Chicago has outsourced management and towing services for three of its auto pounds, including the abandoned vehicle lot, and has transferred the associated responsibility for the distribution of towing assignments and auctions of unclaimed vehicles to the management company. City employees provide towing in the central business district and at the airport. Chicago officials estimate that 182,000 vehicles are towed per year; most of these are towed by the management company. In 2002, the management company towed an estimated 135,000 vehicles; 55,000 vehicles were redeemed by the owner or authorized agent and 79,000 were scrapped or sold at auction during the same period.² Chicago receives sufficient revenue from its towing activities to cover its towing expenses, including the civilian staff that identifies and tags abandoned vehicles and processes them for towing. It is estimated that Chicago generates \$20 million in revenues from all of its towing programs, of which \$15.5 million can be tracked to the vehicles towed by the management company.

Chicago's Department of Streets and Sanitation, Bureau of Traffic Services is responsible for the management of the City's auto pounds and monitoring the towing services contract. All tows are based on tow cases and requests that are prepared by City employees from the Police Department, the Department of Streets and Sanitation, and the Department of Revenue. Vehicle Tow Reports, which serve as an order form, are prepared and faxed to the management company. The management company is responsible for towing the vehicles within a specified time - 90 minutes for immediate tows (impounded vehicles) and 24 hours for abandoned vehicles.

The management company tows vehicles to one of the City lots it manages, and distributes towing orders to subcontractors who tow vehicles to the other two lots it manages. When the towing companies deliver vehicles to the City-owned storage lots operated by the management company, they are paid for the tows. The management company is required to meet the City's Minority (MBE) and Women Business Enterprise (WBE) requirements. They claim 40 towing subcontractors are MBE and WBE companies. Subcontracted towing companies are paid \$30 - \$50 per towed vehicle depending on the location of the company. The management company also tows abandoned boats and trailers.

² The DPD's records of the number of vehicles towed and redeemed are incomplete. The towing volumes shown below are from the Auction Detail's statistical reports.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Total LEIN Transactions	68,180	63,280	unknown	unknown	unknown
Abandoned Vehicle Notifications Mailed	45,991	48,760	37,697	33,563	35,755
Vehicles Auctioned	32,704	36,364	33,973	33,468	21,798
Vehicles Sold	<u>unknown</u>	<u>unknown</u>	<u>530</u>	<u>1,116</u>	<u>1,033</u>
Vehicles Turned Over to Towing Companies	unknown	unknown	33,443	32,352	20,765
Auction Proceeds	\$834,354	\$470,565	\$401,631	\$456,168	\$614,688

For impounded vehicles, Chicago police generate an identification number and also perform a vehicle inventory that is not shared with the management company. When the vehicle arrives at the lot, management company employees use a handheld device to enter the vehicle stock number into the management company's system, and to produce a bar code that is attached to the vehicle. A city employee performs a vehicle identification number (VIN) check. A management company employee performs an inventory of the vehicle with the handheld device. Information from the bar code system is immediately transmitted to the management company's vehicle tracking system. The management company electronically provides the City with a tow report, including an inventory, within 30 minutes of the impound. The management company's inventory system updates the City's system with all tows. The system interfaces to the 311 system and the City's web site, and helps the City prepare the required vehicle notifications.

City of Chicago employees work at the managing company's auto pounds to: (1) collect towing and storage fees for the City; and (2) perform LEADS (similar to the City of Detroit LEIN) checks for stolen vehicles. The City obtained permission for civilian employees to access LEADS after they had training and signed confidentiality statements.

When a vehicle is redeemed, the management company generates an invoice, and a city worker receives the payment. Seaway Bank collects all cash and revenue from the auto pounds. The City collects all towing (\$150) and storage (\$10 per day for the first 5 days and \$35 thereafter) fees and pays the managing company \$95 (\$75 for the tow and \$20 for administrative work) for every non-abandoned vehicle tow.

The managing company has a goal of turning over all vehicles in the auto pound within 30 days of the impound either by owner redemption, auction sale, or scrapping.

Each day, the Department of Streets and Sanitation provides the management company with a contract sale list of vehicles that have been held longer than required by State law. The management company buys these vehicles, and then auctions the vehicles once a week. Under Illinois law, vehicle owners waive ownership rights to their vehicle when the date to redeem the vehicle is past. In August 2003, the contractor paid the City of Chicago \$85³ for every non-redeemed immediate tow and \$15 for every abandoned vehicle tow.

The management company auctions the vehicles it obtains from the City to junk and salvage dealers. The buyers obtain a junk or salvage title, the only title allowed under these circumstances by Illinois law, so they can strip the car for parts and then scrap it. This prevents the vehicle from being resold and then abandoned again. Junkyards pay an average \$150 per vehicle. They can then sell catalytic converters, radios, radiator cores, tires, windshields, and other parts. The management company makes an average of \$120 per car scrapped. The management company told us they receive a higher rate for scrap metal than received in Detroit, because they control so many cars. The management company is the largest provider of scrap metal in Chicago.

³ The price paid to the City of Chicago for unredeemed impound vehicles is based on the scrap metal prices in the "Iron Age Publication" and an average of 1.4 tons of ferrous metal per vehicle.

The management company claims the number of abandoned vehicles in Chicago has declined significantly since it was contracted in 1997. They used to tow 100,000 abandoned vehicles per year, now they tow around 40,000. The management company estimated that 33% of its immediate tows are sold to salvage yards, rebuilders, and junk dealers. It makes between \$200 and \$250 on each unredeemed immediate tow vehicle. The management company estimated that 20% of its abandoned vehicles are sold to salvage yards, rebuilders, and junk dealers. It makes between \$100 and \$125 on each abandoned vehicle. The management company does not sell any vehicles to the public.

The management company's electronic inventory system will, in "real time," simultaneously update its data management system regarding all vehicle releases, sell/auction, and crush/dismantle information through the use of handheld terminals equipped with bar code scanners. A management company representative bragged that it has 14,000 vehicles in auto pounds and it can tell you about every vehicle.

The City of Chicago has a comprehensive vehicle management system integrated with its management company that accounts for every impounded vehicle in the City. The system includes inquiry capability on the City's website for vehicle owners to find information on their impounded vehicle. The system produces reports on the number of: impounded vehicles; vehicles redeemed by owner, secured party, or insurance company; unclaimed vehicles sold at auction; and unclaimed vehicles remaining on the storage lot. The system produces an aging report on the length of time a vehicle has been impounded at the storage lot. The data is used to help City staff perform LEADS checks for stolen vehicles and produce notification forms to be sent to vehicle owners. The system ensures Chicago's 311 system is immediately updated with the impound data. Chicago's system provides assurance that all impounded vehicles are properly accounted for and that the State laws for vehicle notification are complied with. Also the system provides the City with reliable data to manage abandoned and impounded vehicles.

All tow lots and auto pounds are on city-owned property. The auto pounds are approximately 40 acres each, and have storage capacity for 12,000 vehicles. The management company, its owners, and its employees do not own any auto repair facilities, auto parts businesses, or used car dealerships and have no conflict of interest with the storing and disposal of impounded vehicles. The management company is subject to an outside audit. One performed several years ago produced no significant findings. Chicago has an abandoned vehicle hot line.

A representative of the Bureau of Traffic Services, responsible for managing the City of Chicago's towing process, was pleased with the process, which was designed and implemented by the management company who now provides similar services to other cities around the country.

However, Chicago's process is not perfect or free from criticism. There have been several print articles critical of the towing process, including a November 2004 series in the Chicago Sun Times titled, "TAKEN FOR A RIDE – THE SCANDAL OF CHICAGO'S TOWING PROGRAM." The major criticisms are outlined below:

- There were allegations that there was cronyism involved in the award of the multi-million dollar towing contract to the management company. Yet, another

article reported that the managing company's bid was "head and shoulders above the competitors."

- The articles criticized the City for selling unclaimed vehicles to the management company for \$125.54 each, which then sells the vehicles for a "handsome profit."
- The City of Chicago paid \$101,287, during a four-year period, in settlements to owners whose cars were wrongfully sold to the management company, which resold them.
- No background checks were performed, so criminals and ex-convicts work as tow truck drivers.
- City employees moonlight as subcontracted tow truck drivers, which is a conflict of interest.
- The use of a management company does not eliminate stealing by unscrupulous tow truck drivers. As the result of a sting operation, two tow truck drivers were arrested for stealing personal property from vehicles.
- The newspaper was critical of the City's boot and tow process for unpaid parking tickets, which they noted was entirely legal. When vehicle owners were unable to pay parking tickets plus the towing and storage fees in 15 days, their unclaimed vehicles were auctioned. Proceeds from the sale were not applied to the owner's outstanding bill, and the now former vehicle owners were left without a vehicle and still owing the City for the parking tickets and the towing and storage fees.

In answer to the criticism, a representative of the Streets and Sanitation Department was reported as saying that the City "chose 'guaranteed revenues, regardless of whether some of the cars had resale value or not' because it was determined to 'shift the risk'" to the management company. He also argued that retaining vehicles at the auto pounds would be turning the auto pounds into used car dealerships.

We noted that in Chicago's process, once the management company has ownership of the vehicles it is able to generate a large amount of revenues from the resale and scrapping of vehicles. In the new contract, any vehicle valued at \$10,000 and up is excluded from the sale to the managing company. Because the management company also provides towing services there is the risk that it can receive an inequitable share of the towing business.

RECOMMENDATION FOR AN IMPROVED CITY-AUTHORIZED TOWING PROCESS

Police-authorized towing is a revenue-generating activity and all costs associated with the process, including management and administrative overhead, should be recovered from the towing and storage fees charged, auction proceeds, and the salvage value of parts and scrap metal received from the disposal of the abandoned vehicles that were not sold.

An effective towing process requires competent leadership and management along with sufficient resources of personnel, funds, tow trucks, storage space, and equipment. An automated system to track, account for, and report on impounded vehicles, that can be used as the basis for making management decisions is an integral component of an effective towing process. Effective management of the towing process ensures that: towing contracts are fairly awarded to towing companies who have the appropriate resources to meet their contractual obligations; vehicles are towed promptly; the LEIN system is promptly updated; vehicles in custody are properly safeguarded; vehicle owners are promptly notified and are charged the correct towing and storage fees; the process is customer friendly; properly negotiated professional services are obtained at a fair price; towing assignments are fairly distributed; DPD personnel and towing companies are monitored and are held accountable for conforming to laws and rules governing the City's towing process; abandoned vehicle auctions are conducted efficiently and timely; and the process complies with the Michigan Vehicle Code, the City Police Authorized Towing Ordinance, and the DPD's towing contracts terms.

We recommend that:

- 1 a - The City transfer primary responsibility for towing into a division of the Department of Public Works. This division should include the activities performed by the Auction Unit, abandoned vehicle personnel, DPD personnel responsible for police-authorized towing, DPD auto pound personnel, environmental officers and any other DPD units responsible for towing vehicles except the Commercial Auto Theft Unit. This division should manage and provide oversight to the towing process.
- 1 b - The City request proposals from management companies to provide recommendations for a reengineered City-authorized towing process. The reengineering proposal should consider the following:
 - How the City can collect sufficient revenues from towing to pay its towing-related costs;
 - The controls necessary for oversight of the towing process to be incorporated into the reengineered process. Consideration should be given to:
 - Compliance with the Michigan Vehicle Code, City Police Authorized Towing Ordinance, City towing contracts, and City towing policies and procedures;
 - Internal controls, including policies and procedures, essential to the towing process;
 - Performance measures to hold City employees, the management company, and subcontracting towing companies accountable for the

towing process, and to determine the success of the reengineered process.

- Reports needed by the City to provide oversight of the towing process, to enable an accounting of all vehicles towed, and to provide a method to verify that the towing and storage fees charged to vehicle owners, secured parties, and insurance companies are valid and proper.
- The resources needed to efficiently handle the City of Detroit's towing needs, including:
 - The number and sizes of storage lots that are needed, and the location within the City.
 - The number of towing companies required to provide a prompt response to the City's towing requests;
 - Components of an information system that will track and account for vehicles from the time of the tow to the disposition of the vehicle from the impound lot; and
 - Reliable access to the LEIN system by DPD personnel;
- And the following:
 - Assurance that the Secretary of State is notified via LEIN of every tow within 24 hours as required by the Michigan Vehicle Code;
 - The need for timely, frequent, and publicly announced auctions that make all qualified vehicles available for auction;
 - The proper handling of towing complaints;
 - Indemnification to the City for all losses and damages to the vehicles from towing companies and the custodian of the vehicle;
 - Training for City employees and towers; and
 - Compliance with environmental laws.

PREVIOUS TOWING REPORT FINDINGS

Our previous audit reports included detailed findings that describe a City of Detroit police-authorized towing process that is inadequate. The City does not currently possess the financial and human resources to improve the existing process. The police-authorized towing process needs to be reengineered to correct the findings previously reported.

Listed below are our previous police-authorized towing audit reports and findings:

Report 1 - Audit of the Detroit Police Department's Administration of the Police-Authorized Towing Process

- **Finding 1 – Former Deputy Chief of the Management Services Bureau Exceeded His Authority**

We found that the former Deputy Chief of the MSB exceeded his authority, by entering into contracts and making precinct assignments that were not in conformance with DPD policies and procedures. We could find no record that the procedural changes were approved by the Chief of Police or by the Board of Police Commissioners. The City's ordinance dictates that the Board of Police Commissioners promulgates the rules and regulations under which the towing companies are called for tows. These rules provide for equitable distribution of towing when practicable. DPD's General Procedures state that those towers authorized after May 1984 may only be assigned to one precinct, and that there be between two and four towing companies assigned to each precinct. The Police Authorized towing contracts entered into in November 2001, and the associated towing company assignments, circumvented the restrictions on precinct assignments.

We recommend that police-authorized towing contract terminology be reviewed by the Chief of Police and the Board of Police Commissioners prior to the contracts being signed to insure that the contract terms conform with the rules and regulations established by the Commissioners. We also recommend that the Board of Police Commissioners review the towing rules and regulations before each contract period to determine whether they are relevant. Any changes to the process or to the precinct assignments should be incorporated into the DPD's General Procedures and the towing contract.

- **Finding 2 – Award of the November 2001 Towing Contracts Did Not Follow the City's Purchasing Ordinance**

The DPD did not adhere to the City's purchasing ordinance in awarding the November 2001 police authorized towing contracts. The DPD classified the towing contracts as professional service contracts less than \$25,000, and estimated that they would pay less than \$5,000 per contract. However, each of the contracts has a value of over \$25,000. The contracts grant the 30 authorized towing companies access to an estimated \$3.9 to \$5.4 million of towing business. Therefore, the contracts' approval should follow the ordinance.

We recommend that the DPD adhere to the City's purchasing ordinance, which provides assurance that the companies awarded contracts meet the contract

requirements, are able to perform the contracted services, and have the required City clearances.

- **Finding 3 – Expansion of Towing Companies Assigned to the Precinct Rotations Was Not Warranted**

Additional towing companies were added to the precinct towing rotation in violation of the DPD's General Procedures for towing vehicles. The DPD's General Procedures stipulate that a minimum of two and a maximum of four towing companies will be assigned to each precinct's towing rotation. In conjunction with the November 2001 towing contracts, five towing companies were assigned to 12 of the 13 precincts, a net increase of 17 rotational towing positions. The additional assignments were made despite an internal study that showed that towing assignments were adequate to meet each precinct's demand for services.

We recommend that the DPD evaluate the appropriate number of towing companies to be assigned to each precinct based on each precinct's towing requirements at contract renewal time, and use this information to make precinct towing assignments based on each precinct's requirements. The DPD's General Procedures should be updated if the DPD finds that the stipulation to assign between two and four towing companies is no longer adequate.

- **Finding 4 – Towing Companies Were Treated Inequitably in the Award of Precinct Towing Positions**

Ten of the 18 rotational towing positions that were filled in the precincts were awarded to six towing companies that are controlled by the same owners, managers or agents. Five towing companies, which previously did not have police-authorized towing contracts with the City, applied for rotational towing positions in 2001. Four companies were awarded one towing position each as stipulated in the DPD's General Procedures. The remaining company, associated with the controlled companies, was awarded three towing positions. When Gene's Towing was purchased in 2001, the new owner was awarded multiple towing slots in the next contract cycle. The previous owner had unsuccessfully tried to expand his towing business with the DPD. DPD procedures state that those companies authorized to tow after 1984 should be assigned to one precinct, the ordinance states that distribution of towing assignments should be as equitable as possible.

We recommend that the DPD follow its established procedures in awarding precinct towing assignments, and that each towing company be treated equitably. The award of precinct assignments due to an expansion of towing positions should be conducted in an equitable manner.

- **Finding 5 – Transfer of Police-Authorized Towing Contracts Were Not Pre-Approved**

Since 1997, DPD's police-authorized towing contracts have been transferred when companies were sold without the required DPD approval. The City's Law Department opined that the continued use of the new towing company to provide towing service gave tacit approval to the contract transfers. In most cases, the new owners have retained the previous company name. For those owners with

control over multiple companies, DPD has not required that the contracts be consolidated under one name, thus allowing the development of towing conglomerates, and effectively altering the equitable distribution of tows in the City.

We recommend that the DPD continue to include the contract clause that was added to the 2001 towing contract that requires that the City be notified when a contract is transferred, and that the acquiring company apply for a new contract when more than 40% of the towing company's ownership changes. In addition, we recommend that the DPD establish procedures to address the purchase of multiple companies by a single owner or group.

- **Finding 6 – Towing Companies With Commingled Assets, Owners and Management are Treated as Separate Companies for Towing Assignments**

Police-authorized towing contract applications for seven companies show there is a commingling of vehicles, storage facilities, company ownership, employees, insurance policies, and management. These companies were awarded separate police-authorized towing contracts, yet they substitute for each other in providing towing services. These companies have been awarded 20 of the 63 available rotational towing positions.

We recommend that the Board of Police Commissioners and DPD establish procedures to consider bids, and to award towing contracts to the owners of multiple companies that align with the City's ordinance requirement of providing an equitable distribution of tows among the authorized companies.

- **Finding 7 –Towing Contracts' Related Business Conflict of Interest Clause is Not Enforced**

While the towing contracts provided that no police-authorized tower shall have or acquire any interest that would conflict with the performance of the contract, 22 of the 30 police-authorized towers own or are associated with businesses, such as used car dealerships or parts businesses, which represent a potential conflict of interest.

We recommend that the DPD strictly enforce the conflict of interest clause contained in the police-authorized towing contracts. The DPD should not employ or sign a contract with a person or company having any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the service under the contract.

- **Finding 8 – The Management Services Bureau Has Been Willing to Accept DPD's Procedural and Towing Companies' Contractual Abuses**

The DPD has acknowledged that there are widespread abuses of the towing process, perpetrated by both the towing companies and DPD personnel. These abuses have been tolerated by the DPD.

We recommend that the DPD actively enforce its policies, procedures, and the towing contract provisions. A progressive system of notification and documentation should be implemented. Major offenses should result in disciplinary action or in termination of the towing contract.

Report 2 - Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process

- **Finding 1 – Most Precincts Are Not Distributing Towing Requests Equitably Among the Five Assigned Towing Companies**

We found that patrol officers, at the precincts reviewed, often circumvent the rotational towing procedures by contacting the towing companies directly, rather than following DPD procedures and contacting the precinct tow desk for the rotational tow truck assignment. In most precincts, the rotational towing assignments are not equitably distributed among the five towing companies assigned. Favored towing companies are receiving a greater share of the precincts' towing business; companies are substituting for other companies on calls; and non-favored companies' towing business is suffering.

We recommend that the Management Services Bureau (MSB) regularly review the precinct tow books and the assignment of towing requests to identify instances where DPD's rotational towing procedures have not been followed. Officers who continue to circumvent the DPD's procedures should be disciplined.

- **Finding 2 – Precinct Officers Are Not Always Reporting Towed Vehicles to the Telephone Crime Reporting Unit As Required**

We found many impound cards that did not contain proof that the officer requesting the tow contacted the Notification and Crime Reporting Section (NCRS) to report the tow and the vehicle's condition. NCRS is required to update the Law Enforcement Information Network (LEIN) within 24 hours of the tow to conform to state law, notify vehicle owners that their vehicle has been impounded, and answer inquiries as to where a towed vehicle is located. The lack of proof or notification indicates that the towed vehicles are not reported at all, or that the vehicles are reported by the towing companies directly. The risk of towing companies reporting tow information directly is that they may be towing vehicles without police authorization or they can erroneously report a vehicle's condition.

We recommend that DPD take steps to ease the frustration associated with reporting towed vehicles to NCRS. Precinct officers should be equipped with the equipment needed to contact NCRS and the LEIN system. NCRS should be staffed appropriately to handle the volume of calls it receives. Officers found to be deliberately disobeying procedures, should be disciplined. Towing companies reporting tows to NCRS should be suspended.

- **Finding 3 – Incomplete Impound Cards Effect DPD's Ability to Assign Accountability for Vehicle Damage**

We observed many impound cards that were not fully completed. Specifically, the vehicle condition report was not marked on many cards and the form was not authorized by the officer requesting the tow. Towing companies are required to have a signed form authorizing the tow before they move any vehicle. An incomplete vehicle condition report makes it impossible to affix accountability to any party for damage done to the vehicle.

We recommend that the DPD instruct officers on the DPD's towing procedures and on the importance of completing the impound cards accurately. DPD should

take steps to make the process less burdensome on the officer by creating a multi-copy form that needs to be completed only one time and issue cameras to aid in recording the vehicle condition. Further, officers that are not complying with DPD procedures should be disciplined.

- **Finding 4 – Record of Precinct-Authorized Towing Assignments is Deficient**

We found that many precincts' permanent records of their requested and authorized towing assignments are incomplete and the supporting documentation, Form DPD 406, is not uniformly retained. License and vehicle data was frequently missing. It was difficult to reconcile between the impound cards and the tow book due to the missing information. All impound cards are unlikely to be accounted for because they are not sequentially numbered.

We recommend that Form DPD 406 be revised to contain a sequential number. We further recommend that the DPD establish document retention and filing procedures in order to maintain the impound cards until the associated tow book can be audited.

- **Finding 5 – Payment of Precinct-Ordered Towing Assignments Made Without Supporting Authorization**

We found most precincts are not submitting the Form DPD 73 – Vehicles Towed by Private Companies, with the associated towing company invoices, to the Fiscal Section by the 10th of each month. Towing companies are submitting invoices directly to the Fiscal Section for payment. Of the 117 invoices reviewed, 24 contained questionable billings. Without a listing of the tows that have been authorized by each precinct, there is a high level of risk that the DPD will pay for services, at an incorrect price, that have not been authorized.

We recommend that the Fiscal Section reject all invoices that are submitted to it directly by the towing companies, and require that precinct commanders adhere to the tow slip procedures and submit Form DPD 73 with the towing companies' invoices monthly. We further recommend that MSB establish standard rates for towing services that fall outside of the rates set by City Council.

Report 3 - Audit of the Detroit Police Department's Compliance with the Abandoned Vehicle Towing Process

- **Finding 1 – The DPD Does Not Process the City's Abandoned Vehicles in an Effective Manner**

We observed that precinct abandoned vehicle officers are often assigned to other duties, and lack the necessary equipment to perform their duties in an effective manner. Furthermore, the Auction Detail is understaffed. DPD Directives require that police officers complete Abandoned Vehicle Reports, check and update the LEIN system, and send notifications to vehicle owners within certain timeframes. The DPD has been unable to perform these tasks, and has allowed the towing companies to assume a portion of its responsibilities, thereby eliminating controls within the abandoned vehicle towing process.

We recommend that the DPD ensure that the abandoned vehicle officers and the Auction Detail are provided with the appropriate resources to complete their job duties effectively, and to comply with State laws.

- **Finding 2 – There is Not Always a Reliable Record of the Vehicle's Condition When the Abandoned Vehicle is Towed**

Form DPD 131 – Abandoned Vehicle Report, which should be completed by a DPD officer, includes a space to report on the abandoned vehicle's condition. The DPD does not complete the DPD 131 at the time the vehicle is towed. Furthermore, we noted that the vehicle condition report is frequently left blank or the abandoned vehicle towing company may complete the form. Completion of the form by the towing companies is a violation of the segregation of the record keeping and custody duties. Completion of the form by the DPD should provide for an independent verification of the vehicle condition at the time of the tow, and the information contained on the form should be used to hold towing companies accountable for any damage and thefts occurring while the vehicle is in the towing company's custody.

We recommend that DPD personnel be held accountable for the completion of the form DPD 131, including the vehicle condition reports, for abandoned vehicles ordered towed and that any towing companies found to be completing the form for vehicles towed as abandoned be suspended. We recommend that the DPD update its procedures to insure that the recording of the vehicle condition occurs at the time the vehicle is taken into custody.

- **Finding 3 – Recovered Stolen Vehicles are Routinely Towed by The Abandoned Vehicle Towing Companies**

We found that some abandoned vehicle officers are using the abandoned vehicle towing companies to tow recovered stolen vehicles, rather than impounding the vehicle as prescribed by DPD Directives. Recovered stolen vehicles that are towed as abandoned vehicles may not be reported to the Notification and Crime Reporting Section's (NCRS) Telephone Crime Reporting Unit when they are towed, and the vehicle owners may not be contacted as quickly as under the impound vehicle process. There is a risk that recovered stolen vehicles may not be held for evidence as required; and that insurance companies may pay claims on vehicles because they are unaware that the vehicles have been recovered.

Abandoned vehicle officers using the abandoned vehicle towing companies in this manner are steering towing business away from the precinct's rotational towing companies.

We recommend that the DPD enforce its procedures for towing recovered stolen vehicles.

- **Finding 4 – There is No Assurance That All Owners of Vehicles Considered Abandoned Have Been Appropriately Notified**

The DPD's Auction Detail relies on towing companies to complete and submit the form TR-52 – Michigan Department of State Notice of Abandoned Vehicle. The forms are not reconciled to supporting lists of unredeemed impounded vehicles and lists of towed abandoned vehicles to insure that the mailings are complete and that all vehicle owners are appropriately notified. The DPD is not monitoring whether the forms are submitted within the timeframe established by State law. Towing companies completing both the DPD-131 and the TR-52 could falsify information on the TR-52. Towing companies could run up towing and storage charges or keep a vehicle from auction without the DPD's knowledge.

We recommend DPD personnel reconcile between the TR-52s that are submitted and a master list of vehicles that require a form TR-52 to be mailed. We recommend that the DPD provide adequate resources for the form TR-52s to be completed and mailed by the DPD within the seven-day window that is required by State law.

Report 4 - Audit of the Detroit Police Department's Abandoned Vehicle Auction Process

- **Finding 1 – Abandoned Vehicle Auctions Yield Little City Revenues**

We found that few vehicles are sold at auction and the proceeds to the City are insufficient to fund the costs of the abandoned vehicle officers and the Auction Detail. Unredeemed vehicles are not sold as promptly as they could be, which results in higher accumulated towing and storage fees at the time of the auction, and thus a higher starting bid. Towing companies occasionally overstate the towing and storage fees, which also drives up the starting bid. Auctions require cash payments, which discourages individuals as purchasers. Those familiar with the process know they can purchase unsold vehicles after the auction at a cheaper price.

We recommend that the DPD reduce the amount of accumulated towing and storage fees at the time of the auction by auctioning vehicles as promptly as allowed by State law, and by preventing the overstatement of towing and storage fees. We recommend that the DPD utilize the scrap vehicle provisions of Michigan's law to dispose of junk vehicles without an auction. For the better quality vehicles, we recommend that the DPD gain title to the vehicles to sell following the auction for a higher price.

- **Finding 2 – Abandoned Vehicles Are Not Auctioned Promptly**

We found that abandoned vehicle auctions are scheduled well after the time provided by the Michigan Vehicle Code, which results in the accumulation of additional storage fees. Additional storage fees are also accumulated when unredeemed impounded vehicles are not converted to abandoned status and processed for auction as quickly as they could be. Auction bidding starts at the accumulated towing and storage fees. The additional fees incurred due to the Auction Detail's inefficient process may result in vehicle prices that are too high to receive a bid.

We recommend that until the entire process is reengineered, that the DPD create a database to track the status of all impounded vehicles to ensure that unredeemed vehicles are converted to abandoned status and processed for auction as promptly as allowed under the State law. We recommend that the DPD establish a goal to auction abandoned vehicles as quickly as allowed, and assign the appropriate staffing level to achieve the goal.

- **Finding 3 – Towing Companies Are Not Held Accountable for Damage Occurring While Vehicle is in Their Custody**

We found that the Auction Detail's process does not include a check of the vehicle's condition to verify that no additional damage is done or that parts are missing while the vehicle is in the towing companies' possession. Consequently, towing companies are not held accountable for additional damage that occurs. Parts can be stolen from vehicles, and the theft would not be detected unless the vehicle owner complains.

We recommend that the DPD update its auction process to include the comparison of the vehicle's condition at the time of auction to the vehicle's condition when it is towed; that towing companies be held accountable for the

vehicle's condition while it is in their possession; and that those companies repeatedly incurring a high level of damage or missing parts from vehicles be suspended.

- **Finding 4 – Overstated Towing and Storage Fees Are Not Detected**

At the time of auction, towing companies have the Auction Detail "correct" the accumulated towing and storage fees on some better-quality vehicles. It appears that the correction is made on those vehicles that are expected to sell at auction. Of the 34 vehicles reviewed with "corrected" towing and storage fees, the towing and storage fees were overstated by \$30,108. The City received proceeds of \$35,248 on these vehicles; it should have received \$65,356.

We recommend that the DPD revise its auction sales sheet to correctly calculate the accumulated towing and storage fees from the date the vehicle is towed, that the DPD recalculate to verify the amount of adjusted towing and storage fees presented by the towing companies before accepting the amount, and hold towing companies accountable for repeated submission of erroneous fees.

- **Finding 5 – Bill of Sale by Police Agency Not Always Properly Completed**

We found that the Bill of Sale by Police Agency for Abandoned Vehicle is often incomplete. Some of the forms reviewed did not contain the purchaser's name; none of the forms contained the purchaser's address, some of the forms were not signed by the police agency representative, and none of the forms were signed by the purchaser. Failure to fully complete the Bill of Sale may result in there being no complete record of the change in vehicle ownership.

We recommend that the DPD periodically audit the Bills of Sale maintained by the Auction Unit to ensure that the forms are fully completed and the ownership transfer is fully documented.

- **Finding 6 - No Assurance That Change in Vehicle Ownership is Recorded**

We found that the DPD does not submit vehicle ownership transfer data to the Secretary of State's office following the vehicle auction. There is the risk that, if the title is not transferred by the vehicle purchaser, the Secretary of State will be unaware that the ownership has changed and the State's record of vehicle ownership will be incomplete.

We recommend that the DPD work with the Secretary of State's office to create a process whereby the DPD can provide the Secretary of State's office with vehicle transfer information for the vehicles that it auctions.

Report 5 - Audit of the Detroit Police Department's Evidence Vehicle Process

- **Finding 1 – Procurement of the Evidence Lot Did Not Comply With City's Property Leasing Directives**

The DPD did not comply with Finance Directive #131 when it leased the property at 7770-7800 Dix Road. The Finance Directive recognizes the need for centralized facilities management control, and requires that City agencies submit plans to the Finance Director prior to entering into any negotiations, involve the Finance Director in lease negotiations, and stipulates that the Finance Director sign all leases for the City. The DPD did not publicly announce its requirement for a centralized evidence lot, or actively seek alternative properties to house its evidence lot. There is no indication that the Finance Director was involved in obtaining or negotiating the lease, or that the DPD obtained the leased property at a fair price.

We recommend that the DPD comply with Finance Directive #131, and use the expertise of the Finance Department – Asset and Facilities Division to assist in defining its facility and operational needs, and in deciding whether it should renegotiate the lease for 7770-7800 Dix Road or seek an alternative property once the lease term has expired. We recommend that the City Council ask its Research and Analysis Division to review the City's compliance with Finance Directive #131, and the Asset and Facilities Division's progress in effectively utilizing the City's leased space, negotiating market-based terms for leases, and requiring landlords to upgrade properties before they are leased to the City.

- **Finding 2 – Erroneous Square Footage Results In Excessive Lease Payment**

The square footage upon which the annual building rental rate is based is overstated by 8,773 square feet resulting in an annual lease payment that is \$65,000 higher than it should be. The inaccurate square foot calculation will result in additional costs being charged to the City totaling between \$650,000 and \$717,000 over the life of the ten-year lease.

We recommend that the DPD utilize the Finance Department – Asset and Facilities Division's expertise when leasing future properties and facilities and when renegotiating current leases. We also recommend that the DPD seek the Law Department's opinion as to whether a monetary adjustment can be obtained from the landlord based on the erroneous square footage on which the current lease is based.

- **Finding 3 – Contracted Leasehold Improvements Have Not Been Completed**

At the time of our fieldwork, 19 months after the lease was signed, the contracted leasehold improvements had not been fully completed. The lessor had not pulled the appropriate permits to perform the improvements, and had not received a certificate of occupancy for the building. Some of the improvements that had been made do not conform to the required improvements listed in the lease agreement. A new heating and cooling system was contracted; however, a used heating and cooling system was installed. The lockers installed in the men's and women's locker rooms were used lockers that had been provided by the DPD. The parking lot had not been paved, and the roof was not repaired. The DPD's

lease did not stipulate when the required leasehold improvements should be completed although the lease payment for the entire term of the lease includes payment for all of the improvements.

We recommend that the DPD's Facilities Management Unit confirm that all improvements have been completed to its satisfaction, and that the DPD request a Law Department opinion as to whether a financial remedy should be sought for improvements that do not meet the agreed upon plans, and for the period of time the improvements were not satisfactorily complete.

- **Finding 4 – Contracted Operating Services and Maintenance Have Not Been Performed**

The lessor was not performing the contracted building maintenance and the facility was not secure. We observed that the offices were poorly cleaned, the water was lukewarm rather than hot, and some of the locker rooms and offices were poorly heated. The DPD paid for snow removal on two occasions which, according to the lease agreement, is the responsibility of the lessor. The battery-operated security gate was not working.

We recommend that the DPD hold the lessor to the terms of the lease and require a well-maintained and safe facility. The DPD should seek a monetary settlement to compensate for the lessor's default.

- **Finding 5 – No Contract Was Awarded for the Management of the Evidence Lot**

The DPD violated the City's Purchasing Ordinance when it granted Gene's Towing management responsibilities for the centralized evidence lot. The professional services required were not advertised, DPD did not actively seek competitive bids, a scope of services was not created, and the award was not subjected to the City's required approvals by the Budget, Law and Finance departments, and City Council. The DPD received only one proposal for management of the evidence lot. The proposal from Gene's Towing⁴ was not detailed as to how the services would be provided. Because there is no formal contract or a detailed scope of services, the DPD has no measurable criteria to hold the managing company accountable for meeting DPD's service expectations.

We recommend that the DPD, with assistance from the Finance Department – Purchasing Division, develop a comprehensive scope of services for the management of the evidence lot, and procure a professional services contract with a managing company in accordance with the City's Purchasing Ordinance including approval by City Council.

- **Finding 6 – Vehicle Owners are Improperly Charged While Vehicles are Held for Evidence Processing**

The managing company is charging vehicle owners storage fees while the vehicle is held for evidence processing by the DPD, which conflicts with the terms of the DPD's police-authorized towing contract. We reviewed 11 invoices, and found excess storage fees of \$2,320 had been charged. The managing

⁴ Gene's Towing is one of the seven police-authorized towing companies owned by Gasper and Joan Fiore.

company charged vehicle owners for 309 days of storage, when only nine days of storage should have been assessed. In two instances, fees were not waived when specifically requested by the releasing officer.

We recommend that the DPD update existing procedures and communicate to the managing company that all vehicles towed to the evidence lot are exempt from storage fees unless they are presented with written documentation approving the assessment of storage fees from authorized MSB or the Notification and Crime Reporting Section (NCRS) personnel. The managing company should be required to post the towing rates and the City's storage policy at the checkout, so that evidence vehicle owners are aware of the amount they should be required to pay. The DPD should update its property release forms to conform to the current procedures, and include both the Ombudsperson's and the Office of the Auditor General's (OAG) telephone numbers. The OAG should periodically audit the managing company's invoices to verify that the company is charging the correct amounts to the vehicle owner and to the City. The managing company should be considered in default if it fails to charge fees in accordance with established City policies and rates or fails to cooperate with the audit. The DPD should require the managing company to reimburse vehicle owners for any overcharges that are identified.

- **Finding 7 – Some Evidence Vehicles are Not Towed Directly to The Evidence Lot**

Impounding officers are occasionally sending evidence vehicles to police-authorized towing companies' storage lots instead of to the centralized evidence lot. The City then incurs an additional towing charge when the evidence lot's managing company is required to pick up the vehicle and deliver it to the evidence lot.

We recommend that the MSB require DPD personnel to adhere to established procedures for impounding evidence vehicles.

Report 6 - Detroit Police Department's Police-Authorized Towing Contract

• **Finding 1 – DPD Awarded Contracts to Ineligible Towing Companies**

Some towing companies were awarded contracts even though they did not meet the DPD's eligibility requirements. We found that the MSB did not document a formal application review. Discrepancies between contract requirements and towing company files include: required certificates of insurance were not in the files; company resources were sometimes overstated, as the same storage lots, tow trucks, insurance policies, and employees were listed on two or more applications; property tax clearances granted for towing companies were not based on all properties owned; storage lot security was not verified; zoning and permits necessary to operate abandoned vehicle storage yards and towing services were often lacking; and there was no documentation that criminal history checks were performed. Furthermore, there was no documentation of the companies' ownership at the time the contracts were awarded so that the extent of subsequent ownership changes can be determined.

We recommend that an agency independent of the DPD be involved in the awarding of the contracts and that the contracts be approved by City Council. The City-authorized towing contract application should be expanded to collect the additional information required to determine towing company eligibility. The City should perform and document a thorough application review to ensure that the assertions made by the applying companies meet the criteria specified in the City's towing ordinance and in the towing contract's terms and scope of service.

• **Finding 2 – Towing Companies Tow in Unauthorized Precincts**

Four towing companies tow vehicles in precincts they are not authorized to tow in. Three of the companies perform towing for prostitution stings, which is considered a non-impound towing assignment. Another company substitutes on a related company's rotational calls in the 8th precinct, which is a violation of the towing contract.

We recommend the City strictly enforce the terms of the police-authorized towing contracts and require towing assignments generated outside the precincts to use the towing companies assigned to those precincts. Towing in unauthorized precincts should not be tolerated.

• **Finding 3 - Towing Companies Move Vehicles Prior to Obtaining Police Authorization**

Towing companies are moving abandoned or stolen vehicles prior to obtaining police approval, which is in effect stealing the vehicle. Several drivers have been caught performing unauthorized towing. Complicating this issue is that the Auto Theft Prevention Authority⁵ (ATPA) funded auto theft units occasionally order

⁵ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

vehicles towed verbally, and then recover⁶ the vehicles later at the towing companies' lots. Some towing companies use the auto theft unit's process to explain their unauthorized possession of stolen vehicles. Some towing companies have the auto theft units recover stolen vehicles that have already been moved to their lots.

We recommend that the City and the Michigan State Police auto theft units coordinate stolen vehicle recovery efforts to curb the towing of vehicles prior to obtaining verifiable police permission. Processes should be understood so that these agencies can hold towing companies fully accountable for the stolen vehicles in their possession that have not been recovered.

- **Finding 4 – Towing Companies' Storage Lots are Not Properly Secured**

Most towing companies report at least some theft from their storage lots. One towing company estimated missing parts claims of \$15,000 in 2002. Several towing companies keep inventories of frequently stolen parts to replace parts removed from vehicles when the vehicle owner complains, and to curb the number of claims submitted to their insurance companies. These "self insured" towing companies have no incentive to fully secure their storage lots, which increases the likelihood that theft of parts will occur.

We recommend that the City ensure that the vehicle condition reports are completed when a vehicle is towed, so that the towing company can be held accountable for parts while the vehicle is in the towing company's custody. The City should inspect the storage lots and require the towing companies to make changes in security if warranted.

- **Finding 5 – Towing Companies are Storing Vehicles on the Streets**

We observed towed vehicles sitting on the street outside two towing companies in violation of the provisions of the police-authorized towing contract.

We recommend that the City enforce the provisions of the towing contracts. Prior to the award of the next towing contracts, the City should reevaluate the storage lot space requirements necessary to meet the City's towing needs and make any necessary adjustments to the towing contracts.

- **Finding 6 – Towing Companies are Not Open During Required Business Hours**

Nine towing companies do not maintain the required hours of 7:00 a.m. to 7:00 p.m. in order to be available to release vehicles to owners. We observed one storage lot that was open to trespass and unattended. At the same lot, we observed a vehicle owner climbing the gate to leave after he had been locked in during the required business hours.

We recommend that the City enforce the storage lot hours stipulated in the towing contract.

⁶ The term "recover," as used in the recovery of stolen vehicles refers to the process by which a found stolen vehicle's status is reported and updated in the Law Enforcement Information Network (LEIN) and National Crime Information Center (NCIC) computer systems. The recovery process determines the proper disposition of the recovered vehicle - whether the vehicle can be impounded by the recovering jurisdiction, held for evidence processing, or impounded for another jurisdiction.

- **Finding 7 - Towing Companies are Not Allowing Access to Vehicles**

Vehicle owners and insurance companies are being pressured to give up their rights or ownership in order to view a vehicle. We found that towing companies are requiring some vehicle owners to sign over the vehicle title before being allowed access to the vehicle. Some towing companies are requiring that insurance companies redeem the recovered stolen vehicle before seeing its condition. Towing companies allege they are taking these steps to minimize their costs; they want to be able to easily dispose of the vehicle if the vehicle owner or the insurance company decides the vehicle is in such poor condition that they do not want it.

We recommend that the City ensure the owners access to their vehicles while the vehicles are in the possession of the towing companies.

- **Finding 8 – Towing Companies Charge Improper Fees**

Some towing companies are charging vehicle owners for items, such as winching and labor, which are not authorized in the towing rates approved by City Council. Many towing companies are not waiving the storage fees for the first three days of storage, especially when vehicles are redeemed by auction companies or by insurance companies. Towing rates are not posted, so vehicle owners are not made aware of the amounts they should be paying for the towing service, and therefore are not aware that they are improperly charged.

We recommend that the City require towing companies to post rates so vehicle owners will be made aware of them, and suspend towing companies found to be overcharging vehicle owners, insurance companies, and others.

- **Finding 9 – Towing Companies' Records are Not Adequately Maintained**

Towing companies were generally able to produce documents stating the reason the vehicle was towed, but were unable to produce documents indicating the vehicle's disposition. We found that several companies did not have a form DPD-131, authorizing the towing of the vehicle, for some vehicles on their storage lots. One company could not produce invoices for towed vehicles for a 14-month period.

We recommend that the City specify the records that the towing companies are required to maintain to satisfy its record keeping requirements and enforce the terms of the contracts, which require records be maintained for three years.

- **Finding 10 – Towing Companies are Not Reporting Unclaimed Vehicles Monthly**

Towing companies are not submitting the Unclaimed Vehicle Report by the 10th of the month as required by the contracts. As a result, the DPD is unaware of vehicles towed to the towers' storage lots outside the police-authorized towing process, and is unaware of vehicles that have sat on a tower's lot, garnering storage fees, for long periods without being redeemed or auctioned.

We recommend that the City require that towing companies submit the monthly list of unclaimed vehicles, so the City is made aware of vehicles that have sat unclaimed and is able to process them appropriately.

- **Finding 11 - DPD Did Not Require New Owners to Reapply for Towing Contracts**

We found no indication that the MSB was notified of Boulevard & Trumbull's, E&G's, or Javion & Sam's ownership change in September 2002. As such, MSB did not require the new owner of these companies to reapply for the police-authorized towing contracts as is required.

We recommend that the City enforce this contract term.

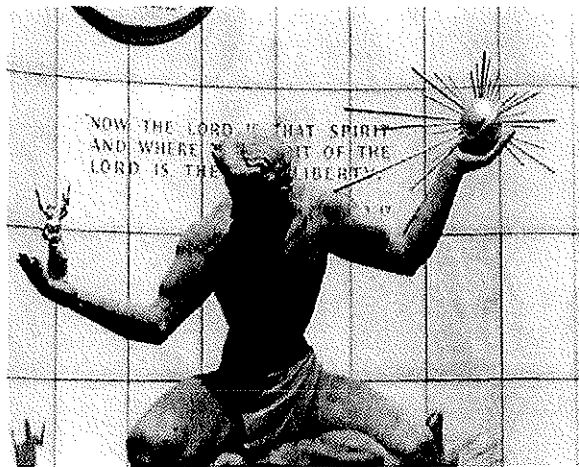
- **Other Towing Issue - Towing Companies Charge Higher Fees on Auto Theft Unit Recoveries**

Some towing companies are charging vehicle owners towing and storage fees on stolen vehicles that are recovered by the Auto Theft Prevention Authority funded auto theft units at rates substantially higher than those established for vehicles ordered towed by the DPD. The rates charged on the auto theft unit tows are not regulated, and vary between \$135 and \$175 per tow plus \$12 per day storage beginning on the first day while rates charged on the DPD and the Michigan State Police ordered tows are \$75 per tow plus \$8 per day storage after the third day. In our opinion, the cost to the vehicle owner should not be dependent on which law enforcement agency happens to recover the stolen vehicle or order the vehicle towed.

We recommend, in the interest of protecting the public from inordinately high fees, that the auto theft units' contracts with the towing companies require the towing companies charge the fees established by the City of Detroit on the vehicles recovered and ordered towed by all law enforcement agencies within the City. We also recommend that the City Council issue a resolution calling for the standardization of towing and storage fees on law enforcement ordered tows within the City of Detroit.

City of Detroit

OFFICE OF THE AUDITOR GENERAL



**Audit of the Detroit Police Department's
Evidence Vehicle Process**

December 2003



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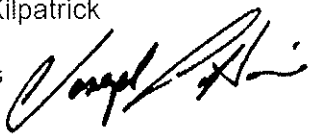
Joseph L. Harris, CPA, CIA
Auditor General

Sharon L. Gipson, CPA
Deputy Auditor General

MEMORANDUM

DATE: October 21, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Evidence Vehicle Process

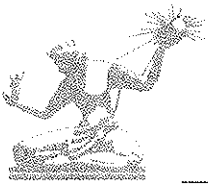
C: Chief Ella M. Bully-Cummings

Attached for your review is our fifth of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process are as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (issued January 18, 2005)
4. Abandoned Vehicle Auction Process (issued February 8, 2005)
5. Evidence Vehicle Process (issued October 21, 2005)
6. Accounting and Reporting System (A separate report was not issued. The findings have been incorporated into the other reports in this series.)
7. DPD's Police-Authorized Towing Contracts
8. Best Practices and Recommendations.

This audit was initiated by the Auditor General to determine the validity of allegations of malfeasance committed by police-authorized tow companies and by DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the process of towing vehicles for evidence processing. Included in that process are: the centralized evidence lot lease, management of the evidence lot, and compliance with the rate schedule dictated by the DPD's policies and towing



contracts for vehicles towed and held by the DPD for evidence processing. This report contains our findings and recommendations specific to this process, and the DPD's response. Many of the issues detailed in this report continue because the longstanding causes underlying those conditions have not been remedied and therefore, still exist.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in developing the reengineered policies and procedures. The recommendations included in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

**Audit of the Detroit Police Department's
Evidence Vehicle Process**

December 2003

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EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether State laws, City ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts are being complied with and whether the allegations of improprieties are valid.

To ensure adequate conditions for the processing of evidence, the DPD has centralized its processing and storage of evidence vehicles. Throughout the period that the DPD was consolidating the processing of evidence vehicles, the Towing Rate Commission¹, at the request of City Council, was researching a way to legally exempt crime victims from paying towing fees when their vehicles were towed for evidence processing. Because of the City Council's request, the Towing Rate Commission was apprised of and discussed planned procedural changes to the evidence vehicle towing process.

In our opinion, the actions of the Management Services Bureau (MSB) – including the review of its existing evidence facilities in 1999, the award of the evidence lot lease in July 2001, and the award of the management function of the evidence facility in 2001– were coordinated to award all aspects of the DPD's centralized evidence vehicle towing business to Gasper and Joan Fiore.²

The City now pays approximately \$450,000 per year, in lease payments and towing fees for evidentiary vehicles, to Fiore-owned companies for centralized evidence vehicle processing. By managing the evidence lot, the Fiore's have been granted access to additional lucrative towing opportunities, as Mr. Fiore has stated that 75% of the owners of vehicles held for evidence request a second tow to a repair shop.

Over the ten-year term of the evidence lot lease, Mr. Fiore will likely overcharge the City and the public \$1 million. The City will pay between \$650,000 and \$717,000 in excessive lease payments because the building square footage is overstated in the lease. Our analysis indicates that excessive storage fees, charged to owners of vehicles held for evidence processing by the police department, will approximate \$300,000.

Following is a summary of our specific findings and recommendations relative to the centralized evidence vehicle lot and the evidence vehicle towing process.

¹ The Towing Rate Commission is charged with reviewing towing rates at least once every two years. The Commission is composed of the Auditor General as chairperson, the director of Consumer Affairs or a designated representative, the police chief or a designated representative, a member of the public appointed by the Mayor, and a representative of the towing industry appointed by City Council.

² Gasper and Joan Fiore own or control seven towing companies with City of Detroit police-authorized towing contracts – Boulevard & Trumbull, B&G, Citywide, E&G, Gene's Towing, Javion & Sams, and Troy Auto Bans. In addition, Mr. Fiore served as the towing industry representative on the Towing Rate Commission, and owns The Realty Company from whom the DPD leases its centralized evidence lot at 7770-7800 Dix Road. Mrs. Fiore owns Gene's Towing who manages the centralized evidence lot.

Finding 1 – Procurement Of The Evidence Lot Did Not Comply With City's Property Leasing Directives

The DPD did not comply with Finance Directive #131 when it leased the property at 7770-7800 Dix Road. The Finance Directive recognizes the need for centralized facilities management control, and requires that City agencies submit plans to the Finance Director prior to entering into any negotiations, involve the Finance Director in lease negotiations, and stipulates that the Finance Director sign all leases for the City. The DPD did not publicly announce its requirement for a centralized evidence lot, or actively seek alternative properties to house its evidence lot. There is no indication that the Finance Director was involved in obtaining or negotiating the lease, or that the DPD obtained the leased property at a fair price.

We recommend that the DPD comply with Finance Directive #131, and use the expertise of the Finance Department – Asset and Facilities Division to assist in defining its facility and operational needs, and in deciding whether it should renegotiate the lease for 7770-7800 Dix Road or seek an alternative property once the lease term has expired. We recommend that the City Council ask its Research and Analysis Division to review the City's compliance with Finance Directive #131, and the Asset and Facilities Division's progress in effectively utilizing the City's leased space, negotiating market-based terms for leases, and requiring landlords to upgrade properties before they are leased to the City.

Finding 2 – Erroneous Square Footage Results In Excessive Lease Payment

The square footage upon which the annual building rental rate is based is overstated by 8,773 square feet resulting in an annual lease payment that is \$65,000 higher than it should be. The inaccurate square foot calculation will result in additional costs being charged to the City totaling between \$650,000 and \$717,000 over the life of the ten-year lease.

We recommend that the DPD utilize the Finance Department – Asset and Facilities Division's expertise when leasing future properties and facilities and when renegotiating current leases. We also recommend that the DPD seek the Law Department's opinion as to whether a monetary adjustment can be obtained from the landlord based on the erroneous square footage on which the current lease is based.

Finding 3 – Contracted Leasehold Improvements Have Not Been Completed

At the time of our fieldwork, 19 months after the lease was signed, the contracted leasehold improvements had not been fully completed. The lessor had not pulled the appropriate permits to perform the improvements, and had not received a certificate of occupancy for the building. Some of the improvements that had been made do not conform to the required improvements listed in the lease agreement. A new heating and cooling system was contracted; however, a used heating and cooling system was installed. The lockers installed in the men's and women's locker rooms were used lockers that had been provided by the DPD. The parking lot had not been paved, and the roof was not repaired. The DPD's lease did not stipulate when the required leasehold improvements should be completed although the lease payment for the entire term of the lease includes payment for all of the improvements.

We recommend that the DPD's Facilities Management Unit confirm that all improvements have been completed to its satisfaction, and that the DPD request a Law Department opinion as to whether a financial remedy should be sought for improvements that do not meet the agreed upon plans, and for the period of time the improvements were not satisfactorily complete.

Finding 4 – Contracted Operating Services And Maintenance Have Not Been Performed

The lessor was not performing the contracted building maintenance and the facility was not secure. We observed that the offices were poorly cleaned, the water was lukewarm rather than hot, and some of the locker rooms and offices were poorly heated. The DPD paid for snow removal on two occasions which, according to the lease agreement, is the responsibility of the lessor. The battery-operated security gate was not working.

We recommend that the DPD hold the lessor to the terms of the lease and require a well-maintained and safe facility. The DPD should seek a monetary settlement to compensate for the lessor's default.

Finding 5 – No Contract Was Awarded For The Management of the Evidence Lot

The DPD violated the City's Purchasing Ordinance when it granted Gene's Towing management responsibilities for the centralized evidence lot. The professional services required were not advertised, DPD did not actively seek competitive bids, a scope of services was not created, and the award was not subjected to the City's required approvals by the Budget, Law and Finance departments, and City Council. The DPD received only one proposal for management of the evidence lot. The proposal from Gene's Towing³ was not detailed as to how the services would be provided. Because there is no formal contract or a detailed scope of services, the DPD has no measurable criteria to hold the managing company accountable for meeting DPD's service expectations.

We recommend that the DPD, with assistance from the Finance Department – Purchasing Division, develop a comprehensive scope of services for the management of the evidence lot, and procure a professional services contract with a managing company in accordance with the City's Purchasing Ordinance including approval by City Council.

Finding 6 – Vehicle Owners Are Improperly Charged While Vehicles Are Held For Evidence Processing

The managing company is charging vehicle owners storage fees while the vehicle is held for evidence processing by the DPD, which conflicts with the terms of the DPD's police-authorized towing contract. We reviewed 11 invoices, and found excess storage fees of \$2,320 had been charged. The managing company charged vehicle owners for 309 days of storage, when only nine days of storage should have been assessed. In two instances, fees were not waived when specifically requested by the releasing officer.

³ Gene's Towing is one of the seven police-authorized towing companies owned by Gasper and Joan Fiore.

We recommend that the DPD update existing procedures and communicate to the managing company that all vehicles towed to the evidence lot are exempt from storage fees unless they are presented with written documentation approving the assessment of storage fees from authorized MSB or Telephone Crime Reporting Unit (TCRU) personnel. The managing company should be required to post the towing rates and the City's storage policy at the checkout, so that evidence vehicle owners are aware of the amount they should be required to pay. The DPD should update its property release forms to conform to the current procedures, and include both the Ombudsperson's and the Office of the Auditor General's (OAG) telephone numbers. The OAG should periodically audit the managing company's invoices to verify that the company is charging the correct amounts to the vehicle owner and to the City. The managing company should be considered in default if it fails to charge fees in accordance with established City policies and rates or fails to cooperate with the audit. The DPD should require the managing company to reimburse vehicle owners for any overcharges that are identified.

Finding 7 – Some Evidence Vehicles Are Not Towed Directly To The Evidence Lot

Impounding officers are occasionally sending evidence vehicles to police-authorized towing companies' storage lots instead of to the centralized evidence lot. The City then incurs an additional towing charge when the evidence lot's managing company is required to pick up the vehicle and deliver it to the evidence lot.

We recommend that the MSB require DPD personnel to adhere to established procedures for impounding evidence vehicles.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Office of the Auditor General (OAG) conducted an audit of the DPD's towing process to determine the DPD's and the towing companies' compliance with State laws, City ordinances, DPD established towing policies and procedures, and the terms of the towing contracts. This report covers our review of the evidence vehicle towing process including the lease and management of the centralized evidence lot.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years.

AUDIT OBJECTIVES:

Specifically, we wanted to determine whether the:

- Lease for the evidence lot was properly obtained.
- Annual lease rate is fair.
- Lease terms are being followed.
- Management contract for the evidence lot was properly awarded.
- Owners of vehicles towed for the collection of evidence are assessed the appropriate charges.

AUDIT METHODOLOGY:

To accomplish our objectives, our audit included:

- Interviews with DPD management, police officers, towing companies, and others;
- Reviews of DPD towing procedures, and City ordinances;
- Examinations of contracts and other documents related to the evidence lot;
- Inspection of the evidence lot, including a tour of the buildings, and observation of improvements and maintenance conditions; and
- Analyses of invoices and related towing and property release documents for vehicles held at the evidence lot.

EVIDENCE VEHICLE PROCESS

The Detroit Police Department (DPD) has estimated that less than 10% of all of its police-authorized tows are for evidentiary purposes. Evidence vehicles are towed to an indoor facility so they may be processed for fingerprints, searched for evidence, or photographed. With the lease of the 7770-7800 Dix Road property and the signing of the November 2001 police-authorized towing contract, the DPD consolidated the processing and storage of vehicles towed for the processing of evidence. Prior to this contract, vehicles held for evidence were stored at 13 police-authorized towing companies' storage yards located throughout the City. The storage yards varied in their suitability for holding and processing evidence vehicles.

The DPD had expressed an interest in consolidating its evidence vehicles into one secure storage facility prior to 2001. In early 1998, the DPD drafted a request for proposal (RFP) for an evidence lot that was never issued. The RFP contained both operating and facility considerations, and indicated that a building of at least 60,000 square feet would be needed to handle the DPD's evidentiary requirements as well as to house the Commercial Auto Theft Section (CATS) and the Evidence Technicians Unit.

In the summer of 1999, a sergeant from the Evidence Technicians Unit visited each of the towing facilities holding evidence vehicles and assessed the suitability of each for storing evidence vehicles. The results of the assessment were detailed in a February 18, 2000 internal memo. The sergeant found that:

Most of these locations offer minimal security and very poor conditions to properly collect evidence. For example, many of these indoor facilities have little or no lighting; crowded conditions; dogs and other animals running loose; leaking roofs; no 24-hour access; and little or no heat. (Heating is very important for it allows the vehicle to reach normal temperature so it can be adequately processed for latent prints.)

Vehicle security at most locations runs the gamut from nonexistent to minimal. Most tow lots allow access by employees, mechanics, tow truck drivers, etc. At some locations (ABA Tow) the evidence storage area is also the collision shop/repair shop and evidence vehicles are frequently covered with sanding dust making them unsuitable for latent print processing.

The memo concluded that the only storage lot the sergeant found to be acceptable was a Road One⁴ lot located at 7800 Dix Road with capacity for 75 to 100 vehicles.

No explanation is given as to why this property was included in the DPD's facility evaluation, as there was no documentation in the DPD towing files to show that Road One or the Fiores utilized the location on Dix Road as a storage facility for processing evidence vehicles at the time the evaluation was conducted. The Fiores did, however, own the adjacent property located at 7900 Dix Road.

On February 29, 2000, a commander from DPD's Management Services Bureau (MSB) Support Services Division, who was also the DPD's liaison to the Towing Rate

⁴ At the time of our review, Boulevard & Trumbull, E&G, and Javion & Sams were owned by Road One / Miller Industries, a national towing company. Gasper and Joan Fiore, the former owners, managed the companies for Road One. In September 2002, the Fiores purchased these companies from Road One.

Commission, sent Gasper Fiore, at Boulevard and Trumbull Towing, a proposal for the lease of 7800 Dix Road for \$317,697 annually.

On March 30, 2000, Boulevard & Trumbull Investments Inc., which is owned by Mr. Fiore, purchased 7770-7800 Dix Rd. from Nagaet Associates for an undisclosed amount. On the same day, Boulevard & Trumbull Investments obtained a five-year mortgage on the property in the amount of \$675,000.

DPD records show that some negotiations occurred between the initial proposal letter and the time the lease agreement with The Realty Company was approved by City Council on July 18, 2001.

According to the lease:

- The property includes two facilities consisting of office and warehouse space totaling 62,487 square feet, and the surrounding property.
- The Realty Company is responsible for providing janitorial and maintenance services, as well as for providing utilities, grass cutting, and snow removal services.
- The Realty Company is responsible for making more than \$700,000 in leasehold improvements.
- The Evidence Technicians Unit, Headquarters Surveillance, Carjacking Unit, and Commercial Auto Theft Unit commands were relocated to the facilities.
- The lease covers a ten-year term, for the period July 1, 2001 to July 13, 2011, for a total amount of \$4,082,264, with two five-year renewal options. The lease also includes increases on the 2nd, 4th, and 6th year anniversaries of an amount equal to the increase in the consumer price index, but not to exceed 5%.
- Either the lessee or the lessor can terminate the lease for cause if the other party fails to cure a default of or violation of any term or obligation within 30 days of receipt of notice.
- Mr. Fiore signed the lease for The Realty Company, and MSB Deputy Chief John A. Clark,⁵ whose MSB unit negotiated the lease, signed the lease for the DPD.

The DPD began occupying the buildings at 7770-7800 Dix Road in October 2001. In addition to the police units listed in the lease, the Armed Robbery and Sex Crimes Units have also relocated to the facility.

The lease covers the rental of the building and grounds and does not contain any provisions for the management of the evidence lot. On October 2, 2001, Gene's Towing, which was purchased by Mrs. Fiore in August 2001, submitted a proposal for the management and administration of the evidence garage. As justification of the need for a management company to oversee the lot, Gene's listed confusion and frustration for vehicle owners trying to claim their vehicles; no oversight in tracking and accounting for bills submitted by towers to MSB, and no inspection of vehicles for fresh damage or inventory of personal property. The process proposed by Gene's Towing included:

⁵ Mr. Clark is reported to have begun working for Gasper Fiore, the owner of The Realty Company, the following year, after leaving employment with the City.

- Vehicles would be received by a representative of Gene's Towing at its lot at 7900 Dix Road, who would inspect the vehicle and note the vehicle condition, before moving the vehicle to the evidence lot at 7770-7800 Dix Road.
- The police-authorized towing company delivering the vehicle would submit an invoice to Gene's for its services. Gene's would pay the towing companies weekly for services at the rate of \$50.00 for each tow.
- After the vehicle had been processed for evidence, the vehicle would be released to Gene's Towing, which would then move the vehicle to Gene's storage lot at 7800 Dix Road.⁶
- Gene's Towing would notify the owner that the vehicle had been released and that it could be claimed. Gene's Towing would also notify the Telephone Crime Reporting Unit (TCRU) of the vehicle's release.

The current police-authorized towing contracts were signed in mid-November 2001. The contracts include a new provision for vehicles towed for the processing of evidence, and delineate the procedures for delivering the evidence vehicle to the evidence lot, and the towing companies' compensation. The contracts state that the police-authorized towing companies will be paid \$50.00 per vehicle towed to the evidence lot by the managing towing company; while the managing towing company will be paid in accordance with the towing rates established by City Council.

Current MSB personnel could find no record that it had entered into a formal contract for the management of the evidence lot with Gene's Towing, however, its files did contain a copy of an Inter-Office Memo dated November 20, 2001 from the manager of Gene's Towing to the Dix Lot Security Guards. The memo states that Gene's Towing had been assigned management responsibility of the Police Evidence Garage at 7800 Dix Road effective November 19, 2001. The memo contains the following procedures:

- Evidence vehicles will be delivered to 7900 Dix Road (Gene's Lot).
- Once the vehicles have been checked and an invoice has been turned over, the driver, accompanied by a Security Guard, will take the vehicle to the building and drop it in the area reserved for evidence vehicles.
- If the Security Guard is working alone or has other duties, the driver may be asked to drop the vehicle in front of the trailer; the vehicle will be moved to the area reserved for evidence vehicles by a Gene's driver.
- Evidence processing is complete when the vehicle is moved from the evidence building to the storage lot.

Gene's procedures for respotting (moving) evidence vehicles, include:

- As a general rule, the police department will have processed impounded vehicles within four days of delivery to the evidence lot.
- When advised that the police department has completed evidence processing of a vehicle, that vehicle will be stored in Gene's lot.

⁶ The letterhead on this Gene's Towing memorandum indicates that Gene's Towing is located at 7800 Dix Road, the same address as the evidence lot that the DPD leases from The Realty Company. It is not clear whether the author of this memo intended to state that the vehicles would be moved to the Gene's Towing storage lot at 7900 Dix Road, or whether Gene's intended to portion off a piece of the property leased by the DPD for Gene's separate storage area.

While the DPD was acquiring a centralized evidence lot, the Towing Rate Commission, at the request of City Council, was investigating how to exempt victims of crime from paying towing-related fees when their vehicles were towed for the processing of evidence. In December 2000, the Towing Rate Commission provided City Council with a summary of its recommendation for waiving towing fees for victims of crime. The summary indicated that the DPD had already adopted the following procedure:

Vehicles that are towed for the purpose of collecting and processing evidence are transported and held for the collection of evidence without cost to the registered owner. The Police Department pays the cost of the tow fee. Funds to cover these costs are included in the Department's budget for the year.

The summary concluded that vehicles towed for victims of crime were a subset of vehicles towed for evidentiary purposes. Therefore, by addressing all evidentiary vehicles, crime victims were exempted from paying towing and storage fees.

FINDINGS AND RECOMMENDATIONS

1. Procurement Of The Evidence Lot Did Not Comply With City's Property Leasing Directives

The Detroit Police Department's (DPD) process for leasing the evidence lot at 7770-7800 Dix Road did not conform to the City's Finance Directive #131 for leasing property, follow responsible government procurement practices, or even follow common-sense leasing practices. Although a request for proposal (RFP) was developed for a centralized evidence lot in 1998, it was not used to solicit facilities for the DPD's consideration.

The DPD did not actively seek suitable alternative properties on which to consolidate vehicles for evidence processing purposes prior to leasing the property at 7770-7800 Dix Road. Rather, the results of a review of tow facility conditions, as reported in a February 2000 inter-office memorandum, was used to support the selection of a site for the evidence lot. An Evidence Technicians Unit sergeant toured 14 facilities to assess their suitability for processing evidence vehicles. Facilities were rated on 24-hour access, heat, lighting, overall conditions (acceptable rating in three previous categories, plus security), and vehicle capacity.

- 13 of the facilities reviewed were being used at that time to store and process DPD evidence vehicles. One of the facilities, located at 7800 Dix Road, was not owned by a towing company or used to store or process evidence vehicles.
- Only 2 of the 14 facilities, 7800 Dix Road and 2042 W. Davidson, had adequate capacity to accommodate a centralized evidence lot, with stated capacity between 75 and 100 vehicles. The other facilities reviewed had vehicle capacities between 2 and 15 vehicles.
- The facility located at 7800 Dix Road was the only facility found to have acceptable conditions for processing evidence vehicles.

No other facilities, owned by towing companies or by others, were considered for use as the centralized evidence facility. Most towing companies were unaware that the DPD was looking for a site suitable for centralizing the processing of evidence vehicles, and thus could not submit alternate facilities for consideration.

Although some negotiation between the DPD and The Realty Company did occur, there is no indication that the Finance Director was aware of or was involved in these negotiations. Mr. Fiore signed the lease for The Realty Company, and Management Services Bureau (MSB) Deputy Chief John A. Clark⁷ signed the lease for the DPD.

The City's Finance Directive #131, Lease or Purchase of Property or Space by City Agencies, dated September 1, 1994, which was in effect at the time the property was leased, recognized the need for central "facilities management" control to coordinate the City's space and property needs. Finance Directive #131 requires that City Departments submit plans to the Finance Director for leasing space prior to any negotiations. The Directive states that the Finance Director is to be involved in all lease transactions and must sign all lease agreements on behalf of the City.

⁷ Mr. Clark is reported to have begun working for Gasper Fiore, the owner of The Realty Company, when his appointment as Deputy Chief was terminated.

Those responsible for government procurement are charged with analyzing the entity's needs and creating specifications that satisfy the entity's requirements. When acquiring a facility, through lease or purchase, an analysis of the use of a facility, and the needs of those who will occupy the space should be performed. Government purchasing policies routinely require that a government entity competitively solicit bids in order to provide assurance that taxpayers' dollars are spent in the most efficient manner and that the government entity is not overpaying for goods and services. Public solicitation of proposals for services, and stated criteria for accepting services also assures that favoritism is not present in the award of contracts.

When entering into a lease for real property, the lessee should determine that the cost is reasonable and consistent with market values of any comparable leased properties that may be available. Market values or current appraisals should be used to determine whether the lease rate is justified. A determination should also be made as to whether it is more cost effective to lease rather than buy a facility.

Although Finance Directive #131 was in effect at the time the lease was approved, in practice, the Finance Directive was not followed and each agency director was responsible for negotiating the terms of its lease agreements. In our opinion, the DPD did not seek alternative properties in a competitive manner in order to award all aspects of its evidence vehicle processing business to Mr. Fiore.

Because the DPD did not actively solicit competing proposals to house its evidence lot, the DPD may have leased property and buildings that were not the best solution to its evidence processing needs. Because the DPD did not involve the Finance Department or other experts in negotiating its lease, the City may be paying a higher price for the property than would be required in a competitive market and the terms of the lease may not be in accordance with industry standards.

We recommend that:

- a. The DPD adhere to Finance Directive #131, and involve the Finance Department - Asset and Facilities Division in analyzing the DPD's space needs for processing evidentiary vehicles, including both the facilities and the operations. In conjunction with the Asset and Facilities Division, the DPD should determine whether the lease for 7770-7800 Dix Road should be renegotiated when it expires or whether the DPD should seek an alternative site.
- b. The City Council require its Research and Analysis Division to review the City's compliance with Finance Directive #131 and the Finance Department - Asset and Facilities Division's progress in effectively utilizing the City's leased space, negotiating market-based terms for leases, and requiring landlords to upgrade properties before they are leased by the City.

2. Erroneous Square Footage Results In Excessive Lease Payment

The lease payment for 7770-7800 Dix Road is excessive because the square footage asserted in the lease is overstated.

The evidence lot lease payment is based on a total of 62,487 square feet (39,904 square feet of warehouse space and 22,583 square feet of office space) at a blended rate of \$6.53 per square foot. We measured the square footage of the building, along with officers from the DPD's Facilities Management Unit, and found that the square footage is overstated by 8,773 square feet. The incorrect building measurements resulted in an additional \$65,534 lease payment in the first year of the lease, and could total as much as \$717,000 over the life of the ten-year lease when contracted cost of living increases are taken into account.

	Square Footage Per Lease	Square Footage Measured by DPD	Amount Overstated	Rate per Square Foot	Excess Annual Lease Payment
Warehouse Space	39,904	36,617	3,287	\$5.25	\$17,257
Office Space	22,583	17,097	5,486	\$8.80	48,277
Total	62,487	53,714	8,773		\$65,534

It is common practice when entering into a real estate transaction to verify the property owner's assertions. Property and building sizes, the building condition, and the classification of space should be independently corroborated when property is leased or purchased.

Since the beginning of 2002, when Finance Directive #131 was revised, the General Manager of the Finance Department - Asset and Facilities Division and the Law Department are required to be directly involved in property and space transactions. Since 2004, the City has contracted with a global real estate services company to locate properties, negotiate the City's new leases, and re-negotiate expiring leases.

Because the incorrect square footage was used in the calculation of the annual lease payment, the City is paying excess rental amounts for the evidence lot that are expected to total between \$650,000 and \$717,000 over the ten-year lease period.

We recommend that:

- a. The DPD utilize the expertise of the Finance Department - Asset and Facilities Division when leasing property for its use in the future.
- b. The DPD seek a Law Department opinion as to whether the City should pursue an adjustment to its annual lease payment, and compensation for past amounts paid due to the erroneous square footage contained in the evidence lot lease documents.

3. Contracted Leasehold Improvements Have Not Been Completed

We could not determine the extent to which the improvements detailed in the lease agreement had been made because The Realty Company failed to pull permits for the improvement work, which would have included a description of the work to be performed and an estimate of its value. Nevertheless, it is evident that several of the improvements stipulated in the lease have not been made.

We noted the status of the contracted building improvements in February 2003, 19 months into the lease term. Our observations are listed below:

Contracted Improvement	Status
Install new heating and cooling system.	Installed a used furnace above the back office.
Paint garage area.	Complete.
Construct offices on 2nd floor balcony.	New offices were constructed.
Construct offices and workstations in 1st floor space.	New offices were constructed.
Replace floor tiles, ceilings, and paneling.	Substantially complete. Not all of the floor or ceiling tile had been replaced.
Construct men's locker room with 200 lockers.	Construction is complete. Used lockers, provided by the DPD, were installed.
Construct women's locker room with 50 lockers.	Construction is complete. Used lockers, provided by the DPD, were installed.
Install exterior perimeter fence and electronic security gate.	A fence separates Gene's from the DPD's evidence lot. The security gate is battery powered and it does not always work.
Pave lots adjacent to buildings and area to be used for storage of vehicles towed for the processing of evidence.	The parking lot has not been paved. Parking lot needed grading.
Update plumbing.	Done.
Install additional outside lighting.	Status unknown.
Repair roof.	The roof was patched, and had not been repaired.
Replace or repair windows in the garage area and, to the extent necessary, in the rest of the building.	Complete.
Paint exterior building.	Complete.

The City's Buildings and Safety Engineering Department (BSED) inspectors verified that some work had been done on the facility, as they issued written violations to The Realty Company for failing to obtain permits for plumbing, heating and cooling, and building renovations. In addition, a violation was issued to The Realty Company for failure to obtain a Certificate of Occupancy.

The lease agreement includes an estimated \$701,500 in renovations to the leased premises, but it does not provide a timeline for the improvements to be completed. Payment for the leasehold improvements is included in the monthly lease payment at a rate of \$1.12 per square foot.

The DPD has not enforced the terms of its lease. As a result, DPD has paid for improvements that have not been made. Because the required permits were not pulled for the improvements that have been made, property tax assessments for the property are understated.

We recommend that:

- a. The DPD's Facilities Management Unit confirm that all the contracted leasehold improvements have been completed and that the improvements conform to the plans that were mutually agreed upon by the lessor and the lessee.
- b. If the improvements are found to be non-conforming, the DPD should obtain a Law Department opinion as to whether the non-conformance is sufficient to consider this a violation of the lease agreement.
- c. The City seek a monetary settlement for the value of the lease improvements that were not completed for the entire lease term.

4. Contracted Operating Services And Maintenance Have Not Been Performed

We toured the premises on Dix Road and noted many issues with the maintenance of the property and security, as follows:

- The offices were poorly maintained.
- Water was lukewarm, not hot.
- The men's and women's locker rooms were not properly heated.
- The furnace had an improper intake on the second floor of 7800 Dix Road. Officers complained of fumes. It is possible that fumes from the garage are transferred to the offices.
- Some offices were not being used because they were too cold.
- We found two instances where the DPD paid invoices for snow removal.
- A MSB police officer stated that the light bill for the Dix Road location had not been paid and that Detroit Edison temporarily cut off the power in February 2003.

In addition, because this is the facility where DPD evidential material is held, there are security concerns.

- There was a broken window in the garage of 7800 Dix Road.
- The battery-operated gate at 7800 Dix Road was not working. As a result the grounds were not secured.

Terms of the lease require the lessor to pay the following building utilities and operating expenditures:

- Utilities, provided that they do not exceed \$60,000 per year;
- Building insurance;
- Maintenance of the electrical, mechanical, heating, plumbing and air conditioning systems;
- Light bulb changes, grass cutting and snow removal;
- Removal of snow, ice, rubbish, dirt and obstructions from public areas;
- Janitorial service, not to exceed 30 hours per week; and
- Real property taxes.

The DPD has not required that the lessor uphold its contractual obligations to maintain the electrical, mechanical, heating, plumbing, and air conditioning in good order; to provide snow removal and janitorial services; and to keep and maintain the premises in good repair during the lease term. As a result, the City is paying for services that it is not receiving.

We recommend that:

- a. The City seek a monetary settlement to compensate for the lessor's defaults.

5. No Contract Was Awarded For The Management of the Evidence Lot

The DPD violated the City's Purchasing Ordinance when it granted Gene's Towing the responsibility for managing the evidence lot without an approved professional services contract. In addition to there being no signed contract, the DPD did not develop a request for proposal containing the required specification of services, advertise its need for a company to manage its centralized evidence lot, or competitively seek proposals for the management of the evidence lot from multiple qualified vendors as is required by the City's Purchasing Ordinance. Furthermore, the professional services the DPD is obtaining from Gene's Towing were not subjected to the required approvals by the Purchasing, Budget, Finance, Law departments, and by City Council.

The only proposal the DPD received for management of the evidence lot was from Gene's Towing, the operator of the neighboring storage lot. The proposal was received in October 2001, nearly three months after the lease of the property was approved by City Council, and close to the time that the facilities were occupied by DPD. The Fiore purchased Gene's Towing in August 2001. The management proposal is not detailed, as it consists of a one-page memo with four bullet points.

The proposal from Gene's Towing was submitted to the MSB six weeks prior to the signing of the current police-authorized towing contracts. The towing companies that are not associated with the Fiore may not have been aware of the impending evidence towing process changes or aware of the DPD's need for a company to manage the operation of the new evidence lot. The Fiore was aware of the process changes due to the Fiore's lease of the evidence processing facility to the DPD, and the assistance of a Fiore employee in developing the centralized evidence vehicle process. In addition, Mr. Fiore influenced the Towing Rate Commission, of which he was a member, to recommend this arrangement to City Council.

Responsible government procurement practices dictate that all contracts for public goods and services be competitively bid to assure that services are objectively purchased from vendors providing a competent product at a fair price. Section 18-5-33, of Detroit's City Code entitled Procedure for Procurement of Professional Services dictates the procedures City agencies should follow when procuring professional services. The Code states, in part, that:

- Either Purchasing or the Department must maintain a file of professional service providers that is updated annually through an advertisement in the newspaper designated to print the City's official business and trade newspapers, if applicable.
- A request for proposal should be sent by the contracting department to all firms on file and other competent providers, or advertised.
- The request for proposal is to be in the Purchasing Department's standard form. Among the items required in the request for proposal are a description of the services required, a deadline for submitting proposals, and the criteria by which the proposals will be evaluated.

Section 18.5.5(a) of the City's Purchasing Ordinance requires that the following contracts should not be entered into without City Council agreement:

Goods and services over the value of twenty-five thousand dollars (\$25,000.00); all contracts for personal services, regardless of the dollar value; all grant-funded contracts; all revenue contracts, regardless of dollar value, including contracts for services rendered by the city, its departments and agencies; and all purchases and sales of and other transfers of interest in municipal land.

The DPD estimated its cost to manage the centralized evidence lot to exceed \$25,000. In 2000, a lieutenant from DPD's Forensic Services estimated that 1,205 vehicles were processed for evidence in 1999, and that the City's cost would have been \$90,375 if it had paid for the vehicles to be towed.

Current MSB personnel do not know why the DPD did not enter into a written contract with Gene's Towing to manage the storage lot, contrary to the City's Purchasing Ordinance that requires competitive bidding, a formal contract, and City Council oversight and approval of all contracts over \$25,000. In our opinion, the contract was not competitively bid to ensure that the management of the lot, and the associated lucrative towing opportunities, could be awarded to the Fiores.

The DPD violated the City's Purchasing Ordinance. Because the DPD did not define a scope of services to be provided, and contract for those services, the DPD has no measurable way of holding the managing company to DPD's required standards.

We recommend that:

- a. The City, through the Finance Department – Purchasing Division, and following the City's Purchasing Ordinance, immediately begin the process to obtain a professional services contract with a company to manage the DPD's evidence lot.

6. Vehicle Owners Are Improperly Charged While Vehicles Are Held For Evidence Processing

Gene's Towing was improperly charging storage fees while vehicles were being held for evidence by the DPD. Also, fees, which the DPD specifically requested to be waived, were charged to the vehicle owners.

We reviewed 11 invoices for vehicles released from the evidence lot in December 2002, with the following results:

	Towing	Storage	Second Tow	Total	Number of Storage Days Charged
Per Tower's Invoice	\$825	\$2,472	\$800	\$4,097	309
Correct Charge	675	152	800	1,627	9
Variance	\$150	\$2,320	\$ 0	\$2,470	300

- The DPD's impound cards for seven of the vehicles stated that the vehicles were on hold, and could not be released.
- The managing company's internally generated impound cards had a different hold status than the status noted on the DPD's impound card for seven of the vehicles.
- Property tags were not issued for three of the vehicles requiring evidentiary work.
- Two of the DPD's release forms indicated that the vehicle owners should not be charged towing and storage fees – one was a victim of crime, the other was a fee waiver. Towing and storage fees were charged to both vehicle owners.
- Although the vehicles were at the evidence lot for 295 days, and were released from hold status for a total of nine days, the managing company billed the vehicle owners for 309 days of storage.

Prior to the centralization of the evidence lot, the DPD's stated intention was that towing fees for vehicles towed to the evidence lot would be paid by the City of Detroit. The police-authorized towing contracts dictate the rates that the towing companies are required to charge vehicle owners. The rates should be applied differently when vehicles are ordered towed and held for the processing of evidence. Victims of certain crimes – homicide, criminal sexual conduct, robbery or carjacking - should not be charged towing fees; rather the DPD has instructed the towing companies that it will pay those fees. Owners, whose vehicles are towed for other evidentiary reasons, are responsible for paying both the towing and storage fees. However, as stated in paragraph 24 of Exhibit A, of the police-authorized tower contract:

If there is a valid police hold on a vehicle, the Contractor shall not charge a storage fee for the period of the hold.

A June 2001 DPD inter-office memorandum included procedures for processing the tow bills for vehicles towed for the processing of evidence. The procedures, which were written prior to the consolidation of evidence vehicles in a centralized storage lot, indicate:

- The officer in charge notifies the registered owner and prepares the property (vehicle) release form. The officer in charge of the case shall indicate "**Vehicle Processed for Evidence.**" (Do not indicate on this form that the tow fee is waived. The Department is actually paying the tow fee. Only Management Services Bureau and TCRU [Telephone Crime Reporting Unit] can waive tow fees.)
- The registered owner picks up the property release form.
- The owner takes the property release form to the tow yard.
- The tow yard releases the vehicle at no charge to the owner.

Gene's procedures for the release of evidence vehicles do not address the payment or non-payment of fees by the vehicle owner. Gene's representative stated that the "bad guy" is charged all charges, even when the vehicle is held for evidence.

A representative of Gene's indicated that he is not always there to make sure his administrative staff properly charges fees. The DPD's forms for impounding and releasing evidence vehicles have not been updated to accommodate the centralized process and the payment of towing fees by the City for victims of crime. The managing company is asking evidence technicians to determine whether vehicle owners should be charged fees.

Evidence vehicle owners are erroneously charged and have paid towing fees and storage fees for the period vehicles are on hold. In our opinion, Gene's is receiving a significant amount of towing and storage fees for the period vehicles are being held by the DPD for evidence on a lot being leased by the DPD. Overcharges to vehicle owners could easily approach \$300,000 over the ten-year term of the evidence lot lease.

We recommend that:

- a. When vehicles are towed to the evidence lot, the vehicles should be considered exempt from storage fees unless the managing company is presented with written documentation approving the assessment of storage fees from authorized MSB or TCRU personnel.
- b. The DPD procedures be updated to incorporate changes in the process due to the centralized lot. The DPD should update the property release form to indicate that owners of vehicles held for evidence processing should not be charged towing and storage fees while the vehicle is "on hold," and include both the Ombudsperson's and the OAG's telephone numbers.
- c. The DPD require that the managing company notify the owners of evidence vehicles of the appropriate towing and storage fees by posting the fee schedule and a telephone number for owners to report any variances from the schedule.
- d. The OAG periodically audit the managing company's invoices for evidence vehicles to insure that vehicle owners are not improperly charged. If the managing company fails to charge towing fees in accordance with the contract, the contract should be

considered in default, and the DPD should take the necessary steps to terminate the contract.

- e. The City demand that all illegally collected fees be paid to the City; and that the City notify and reimburse all victims of the improper charges.

7. Some Evidence Vehicles Are Not Towed Directly To The Evidence Lot

Some police officers are not sending evidence vehicles to the evidence lot at 7770-7800 Dix Road. At times, towing companies are directed to hold evidence vehicles at their lots, rather than deliver them to the evidence lot. If a vehicle is towed to a location other than 7770-7800 Dix Road, Gene's Towing has to pick up the vehicle. The City is then charged for two tows - \$50 for the original tow and \$75 for Gene's Towing to pick up the vehicle and deliver it to 7800 Dix Road.

Exhibit A, Section 28 of the 2001 Police Authorized Tow contract indicates that:

Vehicles towed for the processing of evidence shall be towed to 7800 Dix Road.

The manager of Gene's Towing attributed the towing of evidence vehicles to other storage lots to police or towing company error.

As a result of these errors, the City is incurring additional charges; the processing of evidence can be delayed; and evidence may be tainted.

We recommend that:

- a. The DPD ensure that towing companies and DPD officers are aware that evidence vehicles should be towed directly to the centralized evidence lot.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

ATTACHMENT A

1300 BEAUBIEN, SUITE 303
DETROIT, MICHIGAN 48226
PHONE 313•596•1800
CHIEFOFPOLICE@DPDHQ.CI.DETROIT.MI.U

October 12, 2005

Joseph L. Harris
Auditor General, City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Room 208
Detroit, Michigan 48226

**SUBJECT: AUDIT OF THE DETROIT POLICE DEPARTMENT'S
EVIDENCE VEHICLE PROCESS**

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the sixth report of findings and related recommendations in the December 2003 "*Audit of the Detroit Police Department's Evidence Vehicle Process*" as prepared by the Office of the Auditor General.

**Finding 1: PROCUREMENT OF THE EVIDENCE LOT DID NOT
COMPLY WITH CITY'S PROPERTY LEASING DIRECTIVES**

Response to Finding: The department agrees that it may not have complied with finance directives when initially leasing the property located at 7770-7800 Dix in 2001. The contract was approved by the Budget, Finance and the Law Departments in 2001 and the City Council approved the contract on July 18, 2001.

Response to Recommendations: The department has been working with the city's real estate agent, *Jones Lang LaSalle* since the spring of 2005 to assist the department on all future lease negotiations. This agency maintains a list of all department facility leases with their expiration dates. The department will solicit the aid of *Jones Lang LaSalle* realtors, or whomever the Finance Department designates for property management to renegotiate the lease or seek alternative properties, when the lease on the Dix properties expires in July 2009.

KWAME M. KILPATRICK, MAYOR



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

Joseph L. Harris
October 12, 2005
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Finding 2: ERRONEOUS SQUARE FOOTAGE RESULTS IN EXCESSIVE LEASE PAYMENT

Response to Finding: The department agrees that the square footage may be overstated which may result in higher lease payments.

Response to Recommendations: The department will have *Jones Lang LaSalle* calculate the square footage at this property and give an estimate of what the annual lease payment should be based upon their calculation. The department will seek the opinion of the Law Department once the analysis has been completed by the realtor.

Finding 3: CONTRACTED LEASEHOLD IMPROVEMENTS HAVE NOT BEEN COMPLETED

Response to Finding: The department agrees that at the time of the audit inspection in the early months of 2002, that some of the leasehold improvements may have not been fully completed. In February 2003, the landlord received violation notices from the City of Detroit, Buildings and Safety Engineering Department (Notice No. BB-03-17315-B). On March 7, 2003, Stephen Morgan, Assistant Corporation Counsel, City of Detroit Law Department sent a "*Notice of Default of Lease Agreement*" to the landlord regarding the violations.

Additionally, Deputy Chief Brenda Goss Andrews, Management Services Bureau, sent the landlord a letter on March 12, 2003, "*Notice of Termination*". This letter served as formal notification to the landlord to cure all deficiencies cited within thirty (30) days of receipt of the letter. The Facilities Management Section, of the Management Services Bureau, continued to monitor this property for compliance to ensure these defaults were corrected.

As a result, on July 2, 2003, the City of Detroit, Department of Buildings and Safety Engineering sent the landlord a "*Certificate of Occupancy and Compliance*" (Permit No. 63832) stating that building code violations had been corrected.

Response to Recommendations: Since the improvements have been made, the department does not feel that a Law Department opinion is warranted in this matter.

KWAME M. KILPATRICK, MAYOR



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

Joseph L. Harris
October 12, 2005
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Finding 4: CONTRACTED OPERATING SERVICES AND MAINTENANCE HAVE NOT BEEN PERFORMED

Response to Finding: The department agrees that at the time of the audit, the landlord may not have been maintaining the property as required, or that prior to this audit the department may not have monitored the conditions of the property to ensure contract compliance.

Response to Recommendations: Since its' inception in July 2002, the Facilities Management Section of the Management Services Bureau, has worked diligently to monitor the department's property leases to ensure compliance to contract terms. Landlords have received deficiency letters when they failed to uphold the terms of their contract. The Management Services Bureau has been able through this aggressive approach to force landlords to make leasehold improvements as required in their contract.

The department will research to ascertain if payments were paid that should have been the responsibility of the lessor. If this is accurate, the department will seek compensation for this default.

The Facilities Management Section will continue to monitor all leased properties for compliance to contract terms.

Finding 5: NO CONTRACT WAS AWARDED FOR THE MANAGEMENT OF THE EVIDENCE LOT

Response to Finding: The department agrees that the city's purchasing ordinance may have been circumvented in 2001.

Response to Recommendation: The department will seek the advice of *Jones Lang LaSalle* in developing a scope of services for the management of the evidence lot and will abide by all city purchasing ordinances in procuring a professional services contract.

Finding 6: VEHICLE OWNERS ARE IMPROPERLY CHARGED WHILE VEHICLES ARE HELD FOR EVIDENCE PROCESSING

Response to Finding: The department agrees that in some cases vehicle owners may have been improperly charged storage fees while their vehicle was being held for evidence processing.

KWAME M. KILPATRICK, MAYOR



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

Joseph L. Harris
October 12, 2005
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Responses to Recommendations:

- a. The Officer-in-Charge of the case, in addition to Management Services Bureau and Telephone Crime Reporting (TCRU) personnel are able to waive fees if the nature of the crime warrants exemption.
- b. The department's Resource Management will review the current property release forms to determine the feasibility and costs of printing new forms to include the information recommended by the Office of the Auditor General (OAG).
- c. Resource Management made site visits to tow companies to ensure they had an accurate fee schedule posted in prominent view of the public. Those companies not in compliance were required to update and post fee schedules. In previous audit finding reports, the OAG has made reference to the fact that the department lacked the necessary personnel to oversee and monitor close to 30 companies. The department continues to agree with this assessment. However, with limited personnel, the department continues to monitor tow companies and take necessary action when required.
- d. The department agrees that the OAG should periodically audit evidence vehicle invoices to ensure that vehicle owners were not improperly charged. Once notified by the OAG's office of any irregularities commensurate with this audit, the department will take the necessary steps to sanction the tow lot up to and including termination of the contract, if warranted.
- e. The OAG's audit indicated that some vehicle owners were improperly charged. Once the OAG presents the necessary information to the department with the names of vehicle owners, addresses, dates and amounts of overcharges, the department will conduct an investigation and pursue reimbursement to these owners, if warranted.

Finding 7: ALL EVIDENCE VEHICLES ARE NOT TOWED DIRECTLY TO THE EVIDENCE LOT

Response to Finding: The department agrees that in **some** instances evidence vehicles may have been towed improperly.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS


Joseph L. Harris
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Response to Recommendation: It should however, be noted that the audit failed to point out that in some cases a vehicle is towed for an initial crime, but through further research and investigation it might be discovered that the vehicle was involved in another crime that necessitates evidence collection, hence an additional tow is required. In all other cases, department members are aware that evidence vehicles should be towed directly to the centralized evidence tow lot.

In conclusion, the department has worked diligently with limited staff to oversee the mammoth task of monitoring close to 30 tow companies. The department realized, as far back as mid 2002, that the Detroit Police Department should not be in the tow business. As such, in April 2005, a recommendation was made that, 1) the tow process no longer be a function of the police department; 2) that an outside vendor be contracted to manage the entire tow process; 3) that another city agency be tasked with this function so that the department could realize additional police response units; 4) that the department and the City of Detroit realize for the first time, revenues from the tow process.

Should you have any questions or concerns regarding this matter, please feel free to contact me at 596-1800, Monday through Friday, 9:00 a.m. to 5:00 p.m.

Sincerely,

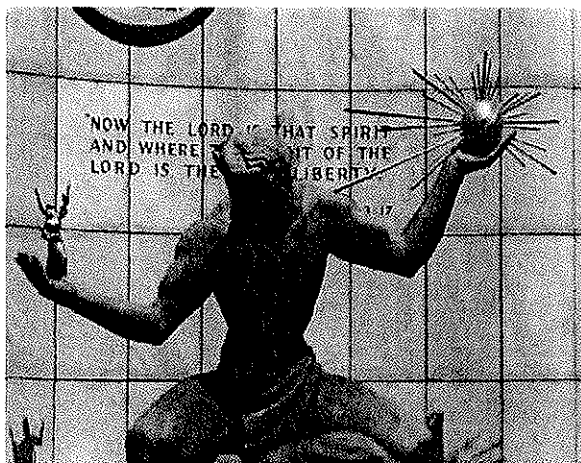


ELLA M. BULLY-CUMMINGS
Chief of Police

EMB-C:bga

City of Detroit

OFFICE OF THE AUDITOR GENERAL



Audit of the Detroit Police Department's Police-Authorized Towing Contracts

December 2003



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Joseph L. Harris, CPA, CIA
Auditor General

Sharon L. Gipson, CPA
Deputy Auditor General

MEMORANDUM

DATE: October 26, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Police-Authorized Towing Contracts

C: Chief Ella M. Bully-Cummings

Attached for your review is our seventh of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process are as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (issued January 18, 2005)
4. Vehicle Auction Process (issued February 3, 2005)
5. Evidence Vehicle Process (issued October 21, 2005)
6. Accounting and Reporting System (A separate report will not be issued. The related findings have been incorporated into the other reports in this series.)
7. Police-Authorized Towing Contracts
8. Best Practices and Recommendations.

This audit was initiated by the Auditor General to determine the validity of allegations of malfeasance by police-authorized tow companies and DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the towing companies' compliance with the DPD's policies and procedures, and the terms of the towing contract. This report contains our findings and



recommendations specific to this process, and the DPD's response. Many of the issues detailed in this report continue because the longstanding causes underlying those conditions have not been remedied and therefore, still exist.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in developing reengineered policies and procedures. The recommendations included in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

Audit of the Detroit Police Department's Police-Authorized Towing Contracts

December 2003

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EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of malfeasance committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether State laws, City ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts are being complied with and whether the allegations of improprieties are valid.

The subject of this report is the qualifications of the towing companies that were awarded police-authorized towing contracts, and compliance of the police-authorized towing companies and the DPD with the contracts' terms. Police-authorized towing company qualifications were stated on the application form and within the police-authorized towing contract. Procedures, that the towing companies and the DPD agreed to follow, are specified in the DPD's police-authorized towing contract.

Our first report in this series, "Audit of the Detroit Police Department's Administration of the Police-Authorized Towing Process," revealed that there were no checks and balances in the award of the towing contracts, and that the contracts were not approved by City Council. Titles of the related findings that are contained in the first report are listed below:

- Award of the November 2001 Towing Contracts Did Not Follow the City's Purchasing Ordinance;
- Towing Companies with Commingled Assets, Owners and Management are Treated as Separate Companies for Towing Assignments; and
- Towing Contracts' Related Business Conflict of Interest Clause is Not Enforced.

DPD's Management Services Bureau (MSB) does not proactively monitor the police-authorized towers' compliance with towing procedures and contract requirements due to a lack of personnel; therefore, police-authorized towers are not held accountable and there is no assurance that the towing companies are meeting their contractual obligations. The lack of monitoring increases the risk of public corruption of police officers; the risk of theft of vehicles, auto parts, and personal property; and the risk that excessive towing and storage charges to vehicle owners go undetected. Furthermore, neighborhoods are blighted by police-authorized tower storage yards that are not properly maintained or located within the proper zoning district.

We believe that the City should reengineer the entire police-authorized towing process. Following is a summary of our specific findings and recommendations relative to the award of and compliance with the police-authorized towing contract:

Finding 1 – DPD Awarded Contracts to Ineligible Towing Companies

Some towing companies were awarded contracts even though they did not meet the DPD's eligibility requirements. We found that the MSB did not document a formal application review. Discrepancies between contract requirements and towing company files include: required certificates of insurance were not in the files; company resources were sometimes overstated, as the same storage lots, tow trucks, insurance policies, and employees were listed on two or more applications; property tax clearances granted

for towing companies were not based on all properties owned; storage lot security was not verified; zoning and permits necessary to operate abandoned vehicle storage yards and towing services were often lacking; and there was no documentation that criminal history checks were performed. Furthermore, there was no documentation of the companies' ownership at the time the contracts were awarded so that the extent of subsequent ownership changes can be determined.

We recommend that an agency independent of the DPD be involved in the awarding of the contracts and that the contracts be approved by City Council. The City-authorized towing contract application should be expanded to collect the additional information required to determine towing company eligibility. The City should perform and document a thorough application review to ensure that the assertions made by the applying companies meet the criteria specified in the City's towing ordinance and in the towing contract's terms and scope of service.

Finding 2 – Towing Companies Tow in Unauthorized Precincts

Four towing companies tow vehicles in precincts they are not authorized to tow in. Three of the companies perform towing for prostitution stings, which is considered a non-impound towing assignment. Another company substitutes on a related company's rotational calls in the 8th precinct, which is a violation of the towing contract.

We recommend the City strictly enforce the terms of the police-authorized towing contracts and require towing assignments generated outside the precincts to use the towing companies assigned to those precincts. Towing in unauthorized precincts should not be tolerated.

Finding 3 - Towing Companies Move Vehicles Prior to Obtaining Police Authorization

Towing companies are moving abandoned or stolen vehicles prior to obtaining police approval, which is in effect stealing the vehicle. Several drivers have been caught performing unauthorized towing. Complicating this issue is that the Michigan Auto Theft Prevention Authority (ATPA) funded auto theft units¹ occasionally order vehicles towed verbally, and then recover² the vehicles later at the towing companies' lots. Some towing companies use the auto theft unit's process to explain their unauthorized possession of stolen vehicles. Some towing companies have the auto theft units recover stolen vehicles that have already been moved to their lots.

¹ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

² The term "recover," as used in the recovery of stolen vehicles refers to the process by which a found stolen vehicle's status is reported and updated in the Law Enforcement Information Network (LEIN) and National Crime Information Center (NCIC) computer systems. The recovery process determines the proper disposition of the recovered vehicle - whether the vehicle can be impounded by the recovering jurisdiction, held for evidence processing, or impounded for another jurisdiction.

We recommend that the City, the Michigan State Police, and the auto theft units coordinate stolen vehicle recovery efforts to curb the towing of vehicles prior to obtaining verifiable police permission. Processes should be understood so that these agencies can hold towing companies fully accountable for the stolen vehicles in their possession that have not been recovered.

Finding 4 – Towing Companies' Storage Lots are Not Properly Secured

Most towing companies report at least some theft from their storage lots. One towing company estimated missing parts claims of \$15,000 in 2002. Several towing companies keep inventories of frequently stolen parts to replace parts removed from vehicles when the vehicle owner complains, and to curb the number of claims submitted to their insurance companies. These "self insured" towing companies have no incentive to fully secure their storage lots, which increases the likelihood that theft of parts will occur.

We recommend that the City ensure that the vehicle condition reports are completed when a vehicle is towed, so that the towing company can be held accountable for parts while the vehicle is in the towing company's custody. The City should inspect the storage lots and require the towing companies to make changes in security if warranted.

Finding 5 – Towing Companies are Storing Vehicles on the Streets

We observed towed vehicles sitting on the street outside two towing companies in violation of the provisions of the police-authorized towing contract.

We recommend that the City enforce the provisions of the towing contracts. Prior to the award of the next towing contracts, the City should reevaluate the storage lot space requirements necessary to meet the City's towing needs and make any necessary adjustments to the towing contracts.

Finding 6 – Towing Companies are Not Open During Required Business Hours

Nine towing companies do not maintain the required hours of 7:00 a.m. to 7:00 p.m. in order to be available to release vehicles to owners. We observed one storage lot that was open to trespass and unattended. At the same lot, we observed a vehicle owner climbing the gate to leave after he had been locked in during the required business hours.

We recommend that the City enforce the storage lot hours stipulated in the towing contract.

Finding 7 - Towing Companies are Not Allowing Access to Vehicles

Vehicle owners and insurance companies are being pressured to give up their rights or ownership in order to view a vehicle. We found that towing companies are requiring some vehicle owners to sign over the vehicle title before being allowed access to the vehicle. Some towing companies are requiring that insurance companies redeem the recovered stolen vehicle before seeing its condition. Towing companies allege they are taking these steps to minimize their costs; they want to be able to easily dispose of the

vehicle if the vehicle owner or the insurance company decides the vehicle is in such poor condition that they do not want it.

We recommend that the City ensure the owners access to their vehicles while the vehicles are in the possession of the towing companies.

Finding 8 – Towing Companies Charge Improper Fees

Some towing companies are charging vehicle owners for items, such as winching and labor, which are not authorized in the towing rates approved by City Council. Many towing companies are not waiving the storage fees for the first three days of storage, especially when vehicles are redeemed by auction companies or by insurance companies. Towing rates are not posted, so vehicle owners are not made aware of the amounts they should be paying for the towing service, and therefore are not aware that they are improperly charged.

We recommend that the City require towing companies to post rates so vehicle owners will be made aware of them, and suspend towing companies found to be overcharging vehicle owners, insurance companies, and others.

Finding 9 – Towing Companies' Records are Not Adequately Maintained

Towing companies were generally able to produce documents stating the reason the vehicle was towed, but were unable to produce documents indicating the vehicle's disposition. We found that several companies did not have a form DPD-131, authorizing the towing of the vehicle, for some vehicles on their storage lots. One company could not produce invoices for towed vehicles for a 14-month period.

We recommend that the City specify the records that the towing companies are required to maintain to satisfy its record keeping requirements and enforce the terms of the contracts, which require records be maintained for three years.

Finding 10 – Towing Companies are Not Reporting Unclaimed Vehicles Monthly

Towing companies are not submitting the Unclaimed Vehicle Report by the 10th of each month as required by the contracts. As a result, the DPD is unaware of vehicles towed to the towers' storage lots outside the police-authorized towing process, and is unaware of vehicles that have sat on a tower's lot, garnering storage fees, for long periods without being redeemed or auctioned.

We recommend that the City require that towing companies submit the monthly list of unclaimed vehicles, so the City is made aware of vehicles that have sat unclaimed and is able to process them appropriately.

Finding 11 - DPD Did Not Require New Owners to Reapply for Towing Contracts

We found no indication that the MSB was notified of Boulevard & Trumbull's, E&G's, or Javion & Sam's ownership change in September 2002. As such, MSB did not require the new owner of these companies to reapply for the police-authorized towing contracts as is required.

We recommend that the City enforce this contract term.

Other Towing Issue - Towing Companies Charge Higher Fees on Auto Theft Unit Recoveries

Some towing companies are charging vehicle owners towing and storage fees on stolen vehicles that are recovered by the Auto Theft Prevention Authority (ATPA) funded auto theft units³ at rates substantially higher than those established for vehicles ordered towed by the DPD. The rates charged on the auto theft unit tows are not regulated, and vary between \$135 and \$175 per tow plus \$12 per day storage beginning on the first day while rates charged on the DPD and the Michigan State Police ordered tows are \$75 per tow plus \$8 per day storage after the third day. In our opinion, the cost to the vehicle owner should not be dependent on which law enforcement agency happens to recover the stolen vehicle or order the vehicle towed.

We recommend, in the interest of protecting the public from inordinately high fees, that the auto theft units' contracts with the towing companies require the towing companies to charge the fees established by the City of Detroit on the vehicles recovered and ordered towed within the City. We also recommend that the City Council issue a resolution calling for the standardization of towing and storage fees on all law enforcement ordered tows within the City of Detroit.

³ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of malfeasance by police-authorized towing companies and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Office of the Auditor General (OAG) conducted an audit of the DPD's towing process to determine the DPD's and the towing companies' compliance with State law, City ordinances, DPD established towing policies and procedures, and the towing contracts' terms.

The scope of work covered in this report was limited to a review of the qualifications of the towing companies that were awarded police-authorized towing contracts, and compliance of the police-authorized towing companies and the DPD with the contracts' terms.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years.

AUDIT OBJECTIVES:

Specifically, we wanted to determine whether:

- Companies receiving towing contracts were eligible;
- Towing companies and the DPD are complying with the contract terms; and
- Other issues should be addressed in subsequent towing contracts.

AUDIT METHODOLOGY:

To accomplish our objectives, our audit included:

- Interviews with DPD management, police officers, towing companies, and others;
- Reviews of DPD towing procedures, and City ordinances;
- Reviews of contracts, applications and towing company files;
- Reviews of zoning documents, tax records, and clearances;
- Reviews of documents supporting the towing of vehicles located on ten towing companies' lots; and
- Reviews of records at all towing companies supporting their 2002 police-authorized tows.

OVERVIEW OF THE POLICE-AUTHORIZED TOWING CONTRACTS

Chapter 55 of Detroit's City Ordinances entitled Traffic and Motor Vehicles and the State of Michigan's Motor Vehicle Code establish the City's framework for its police-authorized towing process. All of the requirements for police-authorized towing companies that are established by the ordinance are contained in the police-authorized towing contract except:

- The requirement that the towing company provide the vehicle owner or driver with a copy of the towing rate schedule approved by City Council. [Section 55-15-3 (b)]
- The requirement that the towing company report all wrecked or disabled vehicles removed from any freeway or from the scene of any accident in the city and which are being stored for the driver or owner within 24 hours. [Section 55-16-6 (a)]
- The requirement that any place at which wrecked or disabled vehicles are stored shall post the name, address and phone number of the operator of the place and the hours during which the place is open for business. [Section 55-16-6 (b)]

The agreements between the DPD and the police-authorized towing companies have evolved. Prior to 1998, the agreements between the DPD and the police-authorized towing companies were detailed in the form of a Letter of Understanding for the Private Authorized Tow Program. In 1998, the agreement became formalized in Police-Authorized Tower Contracts. In late 1999, the 1998 contracts were extended indefinitely, until new contracts could be crafted that would address towing of crime victims' vehicles, storage rates, and processing issues related to the timely release of vehicles. Towing companies and the MSB signed the current contracts in November 2001. The contracts were not sent to City Council for approval in violation of the City's Purchasing Ordinance. The contracts require the DPD to pay very little, yet they do allow the towing companies access to revenues from vehicle owners redeeming their cars and from auction sales. The more recent contracts were in effect until March 31, 2005. These contracts have been extended until March 31, 2006.

Highlights from the contracts include:

- The Contractor agrees to perform according to the terms of the contract, City ordinances, and Michigan law.
- The sole compensation that the Contractor will receive is payment from the owner or driver of the vehicle or from the proceeds of the abandoned vehicle auction. The City will only pay for towing services as required by law.
- The Contractor shall not charge fees in excess of those set by City Council.
- The Contractor is to maintain records reflecting operations related to the contract in accordance with generally accepted accounting principles for at least three years after the contract ends.
- The City can audit records and supporting data.
- The Contractor cannot have any interest that conflicts with the performance of the police-authorized towing service.

- The Contractor will comply with federal, state and local laws.

The contracts specify some of the Contractors' eligibility requirements:

- The Contractor must be a Detroit-based business.
- The Contractor must be approved for participation in the program.
- The Contractor represents, by signing the contract, that it has or will acquire the personnel, equipment and licenses necessary to perform the services assigned.
- The Contractor will not hire, contract or utilize persons with a theft or fraud criminal conviction.
- The Contractor shall maintain workers' compensation, employer's liability, commercial general liability, garage keeper's legal liability, and automobile liability insurance.
- The Contractor will not be or is not in arrears to the City on any obligation.

The contracts' Scope of Services includes 30 specific services to be performed. The scope of services is included as Attachment A to this report.

Two factors complicate the evaluation of the towing companies' provision of services and performance. First, the Michigan State Police and the Auto Theft Prevention Authority's grant funded auto theft units order "police" towing in the City of Detroit that does not fall under the DPD's police-authorized towing contract. Second, insurance companies are not specifically addressed in the contract. Insurance companies interact with towing companies because they may pay towing and storage fees. They can be involved with the recovery of stolen vehicles, and they can become the vehicle owner if the stolen vehicle's owner's claim has been settled.

FINDINGS AND RECOMMENDATIONS

1. DPD Awarded Contracts to Ineligible Towing Companies

Some towing companies did not meet the Detroit Police Department's (DPD) eligibility requirements for the 2001 police-authorized towing contract. Results of a formal application review, demonstrating that the assertions made by the towing companies on the application had been verified or that the towing companies had met the eligibility criteria, were not contained in the Management Service Bureau's (MSB) towing company files.

Specifically:

- Companies were asked to provide proof of general liability, workers' compensation, employer's liability, commercial general liability, garage keeper's legal liability and automotive liability insurance at certain amounts; however:
 - Proof of insurance coverage was not contained in some towing companies' files.
 - Several of the towing companies' files did not contain proof of the required general liability insurance coverage.
 - Some of the insurance certificates had expired before the contract start date.
 - Some of the insurance certificates were issued in another company's name.
 - The requirement to name the "City of Detroit" as an additional insured was not always met.
- The towing companies were asked to provide information about company resources to insure that the company could provide the services required by the contract. Towing companies were allowed to overstate their resources by claiming another company's storage lots, vehicles, employees, and insurance coverage as its own.
- Applying towing companies were asked to provide property tax and income tax clearances to show that they were not currently in arrears to the City on any debt, contract or obligation. Property tax clearances granted by the City were based on the principal business address only, and did not include other properties owned by the companies or the business owners. We reviewed 51 properties owned by the 30 towing companies and found that 4 of the towing companies had delinquent taxes at 6 properties. We also found that several of the towing companies listed property addresses do not have property assessor's data in the City's database.
- The towing companies' contract files contained no documentation that the storage lots were inspected by the MSB, and that the assertions that the storage lots were fenced and secure and could store the number of vehicles indicated on the application were verified.
- The lots were not checked by the MSB for appropriate zoning and permits. We asked the Building and Safety Engineering Department (BSED) to review a list of 52 properties owned by the towing companies. They found that 24 of the

properties, owned by 17 towing companies, lacked the appropriate permits to be operated as police-authorized abandoned vehicle yards and towing services. In all, 12 towing companies lacked permits or zoning for police-authorized abandoned vehicle storage, or any other type of vehicle storage according to BSED records.

- The DPD had no documentation that criminal history checks were performed on towing company owners or employees.
- Documentation or certification of company ownership at the time the contract was let was not obtained, which makes it difficult to enforce the contract provision that towing contracts cannot be transferred, or that the towing company has to reapply if there is a change of ownership by more than 40%.

Eligibility criteria that towing companies must meet and maintain to become or continue as a police-authorized towing company were stated in the MSB's announcement that it was accepting applications for towing contracts. The stated criteria included:

- Proof of the required insurance coverage;
- Ability to provide fenced storage facilities for a minimum of twenty vehicles at the principal place of business;
- Ability to maintain 24-hour service, seven days per week;
- Ability to release vehicles to owners between the hours of 7:00 a.m. and 7:00 p.m.;
- Capability for flatbed or dolly tows;
- Company trucks that are clearly marked with the company's name and phone number, and that do not suggest they are police vehicles; and
- Possession of the required property and income tax clearances.

Additional requirements imposed on the towing companies by the police-authorized towing contract include the:

- Requirement that the company not be or become in arrears on City obligations including real, personal and income taxes;
- Agreement not to hire, employ or utilize persons with a criminal conviction involving theft or fraud;
- Agreement not to use a storage facility or additional storage lot without first securing proper zoning approvals; and
- Prohibition of transferring the towing contract.

Contracts were awarded to ineligible towing companies. Ineligible employees, inadequate resources, and insufficient insurance coverage put the City at risk. A towing company's inability to perform contracted services will ultimately have a negative impact on the vehicle owners' ability to redeem their vehicles in a timely manner. Inappropriately located storage lots, in locations without proper zoning, contribute to neighborhood blight. Moreover, these failures by the DPD and the towing companies

have put citizens at risk, and the need to resolve towing issues causes unnecessary inconvenience.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. An agency independent of the DPD be involved in the awarding of the police-authorized towing contracts, and the contracts be subjected to the normal City approval process including City Council approval.
- b. The City expand the application for the towing contracts to require all towing contract applicants to:
 - List all properties owned;
 - List company ownership and the percentage each owner controls;
 - Submit independent insurance policies for each towing company listing the City as an additional insured;
 - Separate any shared resources so that each resource is listed only one time on all applications;
 - List the number of spaces on its storage lot, excluding those needed to fulfill other towing contract requirements, that are available for City use;
 - Certify that the owners and employees have no criminal record; and
 - Submit up-to-date insurance certificates.
- c. The City perform and document a thorough review of each application to determine whether the information submitted is accurate and is in conformance with eligibility criteria, and whether the towing company has adequate resources to perform the requirements of its police-authorized towing contract.

2. Towing Companies Tow in Unauthorized Precincts

We found that at least four companies - Area Towing, Gene's Towing, B&G Towing and Boulevard & Trumbull – are towing in precincts in which they are not authorized.

B&G Towing and Area Towing have been used to tow vehicles for prostitution stings in the 7th precinct, even though they are not authorized in that precinct. Area Towing is also used for prostitution stings in the 2nd and the 4th precincts, although it is not authorized in those precincts.

Gene's Towing substitutes for B&G Towing in the 8th precinct at B&G Towing's request. The impound cards reviewed at Gene's Towing indicate that B&G Towing is the towing company; however Gene's Towing is actually performing the tow.

Paragraph 1 (b) of the police-authorized towing contract states:

If the Contractor is unable to respond to the scene within twenty minutes, the Contractor agrees to so inform the officer requesting the tow. If the Contractor has not arrived at the scene within twenty minutes of receiving notification, the requesting officer will notify the next company on the authorized list.

Paragraph 11 of the contract's Scope of Services states:

The Contractor shall be authorized to tow only in a precinct or precincts for which it has been authorized as shown on Exhibit C.

Paragraph 21 states:

Contractors may serve in all precincts for which they qualify and for which they have received an Authorized Police Tower contract which is in force at the time of the service.

Some towing companies aggressively pursue additional towing opportunities in the City, and, in the past, some non-impound towing assignments have not been assigned to a rotational towing company authorized in that precinct. One tower stated he tows in precincts in which he is not authorized, because he feels he was cheated when the extra rotational towers were added to the precinct rotation in 2001.

In addition to violating the police-authorized towing contract, towing companies operating in precincts for which they have not been authorized are stealing towing business that belongs to the rotational police-authorized towing companies authorized in that precinct.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require DPD units and the precincts to adopt a strict interpretation of the police-authorized towing contract and award non-impound towing assignments to the rotational authorized towing companies. Towing in unauthorized precincts should not be tolerated.

3. Towing Companies Move Vehicles Prior to Obtaining Police Authorization

We noted several instances where police-authorized towing companies towed vehicles before obtaining police permission. Aside from being against the law, the risk is that the towing companies may not obtain police approval for the tow at all, resulting in police-authorized towing companies possessing undocumented vehicles on their storage lots that can be disposed of without anyone's knowledge.

Complicating this issue is that the towing procedures used by the Michigan Automobile Theft Prevention Authority's⁴ (ATPA) auto theft units working to recover⁵ stolen vehicles in the City differ from the procedures used by the DPD.

Instances where vehicles were towed prior to obtaining police permission include the following:

- A former 7th precinct abandoned vehicle officer allowed towing companies to tow stolen vehicles without police-authorization. A current abandoned vehicle officer informed us that he still receives calls from towing companies to recover stolen vehicles on their lots.
- A B&G Towing tow truck driver was stopped by a DPD officer on April 11, 2002 and found to be carrying two stolen vehicles without having obtained police permission to tow them. The tow truck driver claimed that the Macomb Auto Theft Squad (MATS) had given him permission to tow the vehicles. However, the police officer checked with MATS and found it was not so. A member of MATS stated they would never have B&G Towing tow recovered stolen vehicles unless they had inspected them first.
- A B&G Towing representative told us that most of the time the Michigan State Police (MSP) are at the site to recover a stolen vehicle before it is towed. But it has towed stolen vehicles into its Lynch Rd. lot without police presence at the recovery site. After the vehicle is towed, it will phone one of the auto theft units to ensure there are no holds on the vehicle, and to obtain verbal permission to tow the vehicles.
- MATS recovers vehicles stolen from Macomb County at the B&G Towing lot at 8100 Lynch. As a courtesy to DPD's Commercial Auto Theft Section (CATS), a representative of MATS said they will recover other stolen vehicles that B&G Towing has in its possession that have been stolen from Detroit. MATS will complete a vehicle inspection report, cancel the stolen status on the LEIN system, and call the insurance company to notify it of the recovery.

⁴ The Michigan ATPA was established to combine the efforts of law enforcement, communities and business against theft. The ATPA is funded by an annual \$1 assessment on each insured non-commercial passenger vehicle. The ATPA awards grants to law enforcement agencies to prevent auto theft, catch auto thieves, and put the thieves in jail. Grant recipients, in addition to the DPD, that recover stolen vehicles in Detroit are the Michigan State Police (MSP) Western Wayne Team (WWATU), the MSP Downriver Team (DRATT), and the Macomb Sheriff's Macomb County Auto Theft Squad (MATS). Boulevard & Trumbull, B&G Towing, and Gene's Towing are used to tow stolen vehicles recovered by WWATU, DRATT and MATS in the City of Detroit.

⁵ The term "recover," as used in the recovery of stolen vehicles refers to the process by which a found stolen vehicle's status is reported and updated in the Law Enforcement Information Network (LEIN) and National Crime Information Center (NCIC) computer systems. The recovery process determines the proper disposition of the recovered vehicle - whether the vehicle can be impounded by the recovering jurisdiction, held for evidence processing, or impounded for another jurisdiction.

Section 257.252d of Michigan's Vehicle Code provides that

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner.

The Code does not require that the police agency make a written record of its request for vehicle removal to the towing company.

The City's Police-Authorized Towing Ordinance establishes when a vehicle can be towed. Section 55-15-3(a) of the City Code, states:

No person shall perform any police authorized towing of any wrecked or disabled vehicle or any vehicle for safekeeping pursuant to MCLA 257.252d [MSA 9.1952(4)] without first having obtained written permission on forms approved by the City police department, from the driver or owner of the vehicle or until the police officer of the city investigating the wrecked or disabled vehicle or vehicle subject to removal shall have completed his investigation, and has given written permission to the towing service. A copy of the completed permission form shall be given to the authorizing person. Any person performing police authorized towing shall maintain a record of completed permission forms of all such towing for a period of six (6) months. Completed forms must show total fees charged for services rendered.

Some towers told us that they would tow stolen vehicles without police permission for safekeeping because if they wait for a police officer to recover the vehicle more damage will occur. Furthermore, towing immediately improves the value of the recovery for owners and the insurance companies.

Moving vehicles without the authorization of the vehicle owner or an authorizing police agency is, in effect, stealing the vehicle. Police agencies are unable to hold the towing companies accountable for vehicles that they are unaware have been towed, and unscrupulous towing companies or drivers could cause vehicles to disappear, without a trace, if authorization approving the tow is not properly documented.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City work with the MSP and the auto theft units to coordinate the stolen vehicle recovery efforts within the City, communicate concerns related to the towing companies' undocumented towing of stolen vehicles, and develop a unified procedure that will curb the problem and allow the police agencies to hold the towing companies accountable for vehicles in their possession.
- b. The City prosecute drivers and/or towing companies to the full extent of the law when found moving vehicles without prior police permission.

4. Towing Companies' Storage Lots are Not Properly Secured

The towing companies' storage lots we visited lacked adequate security. As a result, auto parts and property were stolen from vehicles. Every towing company we interviewed reported a problem with the theft of parts from impounded vehicles. Some of their conditions are reported below:

- The owner of one towing company said they have had a security problem and parts have been stolen. He recently obtained a dog that has deterred theft from the lot.
- A representative of another towing company said that it pays claims for missing parts directly to the vehicle owner. It does not file a report with its insurance company, because it is afraid its premiums will go up. He estimated the towing company had paid \$15,000 in missing parts claims in 2002. The manager said he reduces the financial impact of the claims by taking radios and speakers off vehicles that it obtains after auction. When vehicle owners claim their radio is missing, the representative offers them a radio from his collection.
- The owner of another towing company told us that he has a problem with thievery at his lots. He said he has caught people stealing, but the DPD doesn't respond to his calls. He also blamed the courts for not prosecuting the cases. Most of the vehicles we looked at were missing radiators. The owner told us that someone came into the lot and stole the radiators.
- A representative of another towing company reported that it also pays lost part claims directly to vehicle owners rather than filing insurance claims, because it is afraid its insurance premiums will increase. The manager told us that radios, speakers, CD players, and CDs are removed from vehicles it receives after the auction and it will offer these to vehicle owners who claim they lost property at the storage lot. The manager told us that the thefts at his and other towers' lots were most likely an internal problem. He said drivers and security personnel are probably involved in most of the thefts.
- A representative of another towing company reported a theft problem at one of its storage lots. It has a security guard, surveillance cameras, and lights; however, it still experiences theft. The representative reported they have caught people stealing radios from the cars.
- A representative of another towing company said that his lot is broken into by thieves jacking up the gates and crawling in.

Vehicle owners should be assured that towed vehicles are safe and secured from theft. The police-authorized towing contract, Exhibit A, Scope of Services, Section 3, requires in part:

Outdoor parking and storage areas shall be fenced and secured.

In addition, Section 13 states:

The Contractor shall be responsible for damage and theft to any vehicle and the parts, accessories and equipment attached, installed or affixed thereto, or any contents in said vehicle in its custody and to satisfy reasonable complaints for provable damages and losses.

The theft of parts from vehicles on storage lots has become an accepted aspect of the towing business. There is no incentive to make storage lots secure, when towing companies are able to satisfying vehicle owner's complaints of missing parts. Because storage lots are not secured, there is a high likelihood that the theft of parts will occur when a vehicle is in a towing company's custody.

Gene's Towing stores evidence vehicles that are still being held by the DPD in the same lot as non-evidence vehicles. There is potential for evidence to be tampered with. The mere potential for tampering can be used against the City in court.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City ensure that the vehicle condition reports are completed when a vehicle is towed, so that towing companies can be held accountable for parts removed from vehicles while they are in the towing companies' custody.
- b. Towing companies take additional measures to safeguard the vehicles on their storage lots.

5. Towing Companies are Storing Vehicles on the Streets

Several towing companies are not holding all of their impounded vehicles in their storage lots. We observed impounded abandoned vehicles parked on West Chicago. Another towing company parked several abandoned vehicles on Westwood. The 6th Precinct has issued environmental tickets to a towing company for parking vehicles on the street at its Southfield Rd. location.

The police-authorized towing contract, Exhibit A, Scope of Services, Section II, paragraph 3, requires:

The Contractor agrees to provide for the individual parking and storage of a minimum of 20 vehicles at the principal place of business. Outdoor parking and storage areas shall be fenced and secured. No vehicle will be parked or stored, even on a temporary basis, on the City streets, in alleys or easements.

Towing companies did not offer a reason for storing vehicles outside their storage lots. In one case, we observed that the storage lot was almost filled to capacity when the vehicles were parked on the street.

Abandoned vehicles parked on City streets are traffic hazards, and contribute to urban blight. Vehicles stored outside the fenced storage lots are more susceptible to theft.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City enforce the towing contract clause that prohibits storage of vehicles outside the storage lots. The City should issue the offending towing companies a warning, and continue to pursue the issuance of environmental tickets to those violating the contract terms.
- b. Prior to the next towing contract, the City should evaluate whether the current parking and storage requirement of space for 20 vehicles is adequate considering the current towing conditions. The City should require that the appropriate space be set aside for City tows and that any additional space required by the towing company for other towing contracts or obligations be in addition to the space required to meet the storage requirements for the City's authorized towing requests.

6. Towing Companies are Not Open During Required Business Hours

Many towing companies are not keeping their facilities open and accessible to the public between the hours of 7:00 a.m. and 7:00 p.m. as required, to allow vehicle owners to redeem their towed vehicles.

Five police-authorized towing companies' applications document that they are not open from 7:00 a.m. to 7:00 p.m. as required by the towing contract. They are Bobby's Towing, Citywide Towing, E&G Towing, Long & Sons, and Troy Auto-Bans.

Four additional towing companies are not maintaining the required hours. This includes J&C Recovery, V&F Collision, Detroit Auto Recovery, and Area Towing.

We observed that although a towing company's storage lot was open, it was unsecured. The gates were open, equipment was left running, but it was not attended. We were later told that the attendant, who was also a driver, had probably responded to a call. At the same lot, we observed a man, attempting to redeem his towed vehicle, who was locked in the storage yard when it closed during the required business hours. He had to throw his personal belongings over the gate and climb over it to leave.

The police-authorized towing contract, Exhibit A, Scope of Services, Section II, paragraph 6, requires full access to the towing companies' storage yards:

The Contractor agrees to have an employee present from 7:00 a.m. to 7:00 p.m. seven days a week with the authority to release vehicles promptly to citizens.

Paragraph 7 requires:

The Contractor agrees that access to its premises shall not be unreasonably denied to citizens or police officers because of the presence of locked or closed gates or presence of dogs.

An owner of a company that is not open until 7:00 p.m. told us that he thought it was too dangerous for employees to maintain late hours.

As a result, the public is not being properly served in accordance with the police-authorized towing contract. Vehicle owners are denied access to vehicles, and vehicles are being assessed additional storage charges in the process.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require towing companies maintain the required hours and staff to allow vehicle owners access to their vehicles during the hours listed in the police-authorized towing contract.

7. Towing Companies are Not Allowing Access to Vehicles

The towing contract does not address situations where neither the vehicle owner nor the insurance company want to redeem the vehicle.

Some police-authorized towers require owners of recovered stolen vehicles to pay the towing and storage charges or sign over the vehicle's title before they are allowed access to their vehicle. Then, if the owner decides he does not want to pay the towing and storage fees owing on their vehicle, the towing company is able to take possession of the vehicle without going through the abandoned vehicle auction process.

We witnessed on March 12, 2003 a vehicle owner being told that she would have to sign over the title of her vehicle before she could see the vehicle in the towers lot. The towing company owner promised to return the title if the vehicle owner paid the towing and storage fees.

This practice is widespread.

- Detroit Auto Recovery (DAR) requires recovered stolen vehicle owners to sign over title to see the car.
- Michigan Auto Recovery (MAR) requires the owners of recovered stolen vehicles to sign over the title before they can see their vehicle.
- The owner of J&C requires the vehicle owners sign the title over before they look at the car, but he prefers that they settle the bill.
- Gene's Towing does not require the vehicle owner to sign over the title to see the vehicle, but they will request the title if the owner wants to abandon the vehicle.

Insurance companies are also not allowed access to the vehicles or told the vehicles condition until the vehicle is redeemed. A representative of one insurance company reported that he is required to bring cash, a notarized copy of the title, a notarized letter from the insurance company, and proof of workers' compensation insurance that is valid on the date the vehicle is claimed before he is able to redeem a vehicle. Towing companies claim they require the documents and payment to prevent the insurance companies from walking away from the junk vehicles without paying the towing and storage fees. The insurance companies claim the towing companies require an excessive number of documents to enable them to accumulate more storage fees.

Section 6.02 of the police-authorized towing contract specifies, in part:

Contractor shall not charge fees in excess of rates set by resolution of City Council.

Paragraph 14, of the Scope of Services indicates that:

The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented. Contractor may release vehicles to insurance companies provided (1) a copy of title, accompanied by a hold harmless letter is presented or (2) a letter of authority is presented signed by the owner and accompanied by a hold harmless letter and copy of title.

We were told by police-authorized towers that many vehicle owners and even insurance companies will not pay the towing and storage fees when they see that their vehicle has been totaled. If the vehicle owner decides not to redeem his vehicle, the police-authorized towing company can sell or scrap the vehicle to recover all or part of its towing and storage fees without going through the abandoned vehicle process.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City ensure the owners access to their vehicles while the vehicles are in the possession of the towing companies.

8. Towing Companies Charge Improper Fees

Most police-authorized towing company records that we reviewed showed that the towing companies are charging excessive and improper towing and storage fees. Fees are charged for items that are excluded from the rates established by City Council, storage is charged for the first three days, indoor storage rates are charged when it has not been authorized, and high rates are charged for heavy-duty tows.

- At Michigan Auto Recovery (MAR) -
 - We noted some invoices had labor charges. The MAR owner said he charges labor on items requested by the customer. For example, MAR will charge labor for putting tires on a vehicle that has had its four tires stolen to protect the undercarriage. The ordinance does not allow a charge for labor.
 - We observed a MAR invoice for a Thunderbird, which had a \$75 winching fee. The ordinance does not allow this additional fee.
 - MAR charged \$25 per day storage for an Art Van truck. The ordinance specifies \$15 per day storage for trucks.
- At Gene's Towing -
 - We found many invoices with charges for the first three days of storage.
 - We noted that Gene's is charging vehicle owners, insurance companies, auction companies, and repair shops storage fees for vehicles on hold by the DPD for evidence processing.
 - We found invoices where vehicle owners were charged \$12 per day for indoor storage. We did not see any evidence that vehicle owners approved the indoor storage of their vehicle.
- At Detroit Auto Recovery (DAR) –
 - We found charges for the first three days of storage.
- At Boulevard & Trumbull –
 - We found indoor storage rates of \$12 per day were charged even though there was no documentation to support that the vehicle owner authorized the indoor storage.
 - On two occasions, recovered stolen vehicles were towed directly to Auto Body #1⁶, a collision shop. As the vehicle owner was not present, he could not have authorized the tow to a place other than a storage lot, or authorized the indoor storage.
 - Storage fees were not waived for the first three days on several invoices.
 - Labor charges of \$50 were included on a couple of the invoices reviewed.
- Both B&G Towing and Boulevard & Trumbull charged \$250 or more towing fee and \$25 storage per day for trucks and Ford tractors. A representative from B&G Towing indicated that costs for towing trucks are variable. He said tows of trucks

⁶ Gasper Fiore, the owner of Boulevard & Trumbull Towing incorporated Auto Body #1 in 1996, and is listed as the corporation's vice president on its 2001 and 2002 corporation filings. This information was left blank on the 1997, 1998, 1999, 2000, 2003, and 2004 corporation information updates.

involve labor. Trucks that roll on their sides require costly air bags and clean up costs are more expensive.

Insurance companies are being charged towing and storage fees that are not in accordance with the rates established by City Council. The most prevalent overcharge was the failure to waive storage for the first three days. We reviewed ten invoices and noted five instances where four towing companies overcharged the insurance company for the tow fee, or charged for mileage or labor.

In addition, none of the police-authorized towing companies we visited - J&C Recovery, Detroit Auto Recovery, ABA Impound, MAR, B&G Towing, Troy Auto-Bans, V&F Collision Shop, Gene's Towing, Boulevard & Trumbull Towing, and Executive Towing – posted the DPD towing and storage rates where the vehicle owners could see them.

Section 6.02 of the police-authorized towing contract specifies, in part:

Contractor shall not charge fees in excess of rates set by resolution of City Council.

The rates in effect at the time of our audit include:

- (e) To private storage pursuant to 38-1-32.1 (a) (4), a flat rate of \$75 for towing and storage of the vehicle for up to three days, shall be charged to, and paid for by the owner of the vehicle towed. This rate shall apply regardless of the time and equipment used during such tows. An additional \$8.00 per day may be charged for each day of storage in excess of three days.
- (f) Storage rate for large trucks and semi-trailers commencing on the first day: \$15.00 / day.
- (g) For indoor storage commencing on the first day when authorized by the owner/agent of the vehicle: \$12.00 / day.

The City Code, Section 55-15-3 (b) specifies,

The tower shall provide the vehicle owner or driver with a copy of the towing rate schedule approved by city council.

The DPD does not monitor the rates the police-authorized towers charge the public for towing and storage fees. The only way the DPD is made aware of excessive charges is if the vehicle owner or the insurance company complains. Representatives of several towing companies mentioned that they think that insurance companies and criminals should not be entitled to three days of free storage.

Towing companies pad the bills to insurance companies, because they expect them to redeem the vehicle. If the insurance companies do not pay, the towing companies can auction the vehicles. Insurance companies will pay the excessive costs to prevent the vehicle from being auctioned. If the vehicle is auctioned, the insurance companies face a much higher payoff to the vehicle owner.

Towing companies can charge rates in excess of those set by City Council, as many vehicle owners are not aware of the appropriate rates and cannot readily discern that

they are being overcharged. Some vehicle owners and insurance companies are willing to pay the excessive fees assessed because they want to take possession of their vehicles rather than have their vehicles sold at public auction.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require towing companies to inform vehicle owners of the applicable rates by requiring them to post towing and storage rate charts at a place that is visible to the vehicle owners redeeming their towed vehicles. Also posted should be a telephone number where vehicle owners can notify the City of any improper charges.
- b. Towing companies found to be overcharging vehicle owners, insurance companies, and others should be suspended.

9. Towing Companies' Records are Not Adequately Maintained

Towing companies are not maintaining the records required to document that police authorization was obtained prior to towing vehicles and are not maintaining full and complete records reflecting operations under the contract.

At seven towing companies, we sampled supporting documentation for vehicles located on the storage lot and for vehicles that precinct records had shown were towed to the lot. Three police-authorized towing companies were unable to provide us with complete documentation for some of the vehicles towed.

- One company did not have a DPD-131 Impound Card or any other documentation evidencing DPD's written permission authorizing the impound for two of the five abandoned vehicles we observed on its storage lot.
- The owner of the same company prepared a DPD-131 form for one of the vehicles that we observed on the lot in the presence of an OAG auditor on March 27, 2003. The vehicle had been impounded on November 23, 2002.
- There was no DPD-131 form for two of the six vehicles checked at another towing company's lot.
- The manager of another company could not provide us with invoices prior to February 2003. He told us that his server crashed and that he had no backup and did not keep copies of his invoices.

At all of the police-authorized towing companies, we reviewed records to determine the number of vehicles towed under the DPD's police-authorized towing contract, the reason for the tow, and the disposition of the vehicle. As the DPD has no centralized record of the vehicles towed, we were unable to verify the records provided for completeness. Most of the towing companies were able to provide records substantiating the reason for the tow; however, many were not able to account for the disposition of the vehicle. Records for vehicles impounded were most often not incorporated with the records for abandoned vehicles. Some companies maintained logs – manual or electronic – listing all of the vehicles towed. These logs varied in their completeness and accuracy when compared with the source documents.

The City's Ordinance, Section 55-15-3 (a), states that a record of the permission form authorizing the towing service should be maintained for six months. The forms should include the total charged for the services rendered.

Further record keeping requirements are detailed in paragraph 6.04 of the police-authorized towing contract, which states:

The Contractor shall maintain full and complete Records reflecting all its operations related to this Contract. The Records shall be kept in accordance with generally accepted accounting principles and maintained for a minimum of three (3) years from the Contract completion date.

One reason offered for the absence of authorizing records by one towing company owner was that his drivers would not inform the administrative staff that they brought in a vehicle. The owner would only find vehicles that lack documentation when he conducted a periodic inventory of the lot. The manager of the lot that was unable to provide

invoices stated they had no backup system and they did not keep a copy of their invoices.

Because record keeping requirements are not specific, towing companies are maintaining various documents that may not meet the objective of the record keeping requirements. When the impound cards are not properly completed by a police officer prior to the vehicle being towed, there is a lack of assurance that these vehicles were properly impounded. When invoices are not available for review, it is impossible to verify whether vehicle owners are charged the proper towing and storage fees. When records documenting vehicle disposition are not available there is no assurance that the vehicles have been properly redeemed by the vehicle owners or auctioned as is required by State law.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City enforce City ordinances and the terms of the contract, and require companies to maintain records for three years. Records that the City requires to be maintained should be specified in the contract.

10. Towing Companies are Not Reporting Unclaimed Vehicles Monthly

Most towing companies are not submitting the required monthly listing of vehicles that have remained on the tower's storage lot for more than 30 days.

As shown in the accompanying chart, only four of the 30 towing companies submitted unclaimed vehicle reports to the MSB in the fourth quarter of 2002. Only two companies submitted reports for each of the three months of the quarter as required by the police-authorized towing contract.

Towing Company	Number of reports submitted October – December 2002
Detroit Auto Recovery	3 reports
Elite	1 report
Murff & Son	3 reports
Washington	1 report

The DPD police-authorized towing contract, Exhibit A (Scope of Services), paragraph II, 2, states:

Contractor shall submit, by the 10th of the month a complete list of all police authorized tows to their lots that have not been claimed (including vehicles from previous lists). The list shall indicate which vehicles have been in the possession of the Contractor for 30 or more days and shall be submitted to the Support Services Division in Room 802 of Police Headquarters.

Towing companies gave the following reasons for not submitting the unclaimed vehicle report:

- B&G Towing maintains an unclaimed inventory report for its own use. The manager indicated that MSB does not want the report, because they do not use it.
- The manager of Gene's Towing is not preparing the unclaimed inventory report because he was told not to submit it. The manager indicated that he had 90 unclaimed vehicles in September 2002, and 122 unclaimed vehicles in October 2002.
- J&C 's owner indicated that he has not done an unclaimed vehicle report in nine years.

The absence of reports of vehicles remaining on the tower's storage lots allows towing companies to be unaccountable for the vehicles towed and still in their possession. Vehicles can be forgotten and accumulate storage fees, or vehicles can go missing. Moreover, it is indicative of the lack of accountability required by MSB.

During our audit, we noted the following vehicles that would have been brought to MSB's attention if the towing companies had submitted the Unclaimed Vehicle Report monthly.

- The OAG observed a recovered stolen vehicle that had been sitting on a company's storage lot for nearly seven months.
- Another towing company's reports showed three unclaimed vehicles from the year 2000.

- Another towing company complained it has evidence vehicles that have been in its lot for five to eight years that the DPD has never followed up on.

Until a re-engineered City-authorized towing process is completed, we recommend that:

- a. The City require the towing companies complete the unclaimed vehicle reports and submit them by the 10th of the month.
- b. The City follow-up on reported unclaimed vehicles to ensure they are expeditiously processed.

11. DPD Did Not Require New Owners to Reapply for Towing Contracts

The new owners of Boulevard & Trumbull, E&G, and Javion & Sams were not required to apply for police-authorized towing contracts as required by the police-authorized towing contract.

The Fiore sold Boulevard & Trumbull and Javion & Sams to Road One in 1997. E&G was sold to Road One in 1999. While Road One owned these companies, the Fiore managed them. The MSB was not notified of the Fiore's re-purchase of Boulevard & Trumbull, E&G, and Javion & Sams from Road One / Miller Industries on September 30, 2002. Although the MSB became aware of the ownership change later, the MSB did not require the new owners reapply for the police-authorized towing contracts as is required in the contract terms.

The DPD's conduct in accepting services from the new owners of the police-authorized towing companies is de facto authorization of the transfer.

Paragraph 22, of the DPD's towing contract Scope of Services prohibits the transfer of the police-authorized towing contract as follows:

This agreement is not transferable and may not be sold, leased or assigned in any manner except as provided herein. In the event that a corporate contractor is subject to a change of ownership equal to forty per cent or more of its controlling interests, it must notify the City of this circumstance and apply for a new contract.

There is the appearance that the owner's of Boulevard & Trumbull, E&G, and Javion & Sams have received preferential treatment from MSB.

Until a re-engineered City -authorized towing process is completed, we recommend that:

- a. The City continue to enforce the contract terms that pertain to contract transfers.

OTHER TOWING ISSUE

1. Towing Companies Charge Higher Fees on Auto Theft Unit Recoveries

Some towing companies are charging vehicle owners towing and storage fees on stolen vehicles that are recovered by the Auto Theft Prevention Authority (ATPA) funded auto theft units at rates substantially higher than those established for vehicles ordered towed by the DPD. The rates charged on the auto theft unit tows are not regulated, and vary between \$135 and \$175 per tow plus \$12 per day storage beginning on the first day while rates charged on the DPD and the Michigan State Police ordered tows are \$75 per tow plus \$8 per day storage after the third day.

Several towing companies request that the auto theft units, rather than the DPD, recover stolen vehicles so they are able to charge vehicle owners higher towing and storage fees. The stolen vehicles the auto theft units are asked to recover may have been spotted on a street, or may have already been towed to the towing companies' storage lots without prior police permission.

Towing and storage fees charged on auto theft unit ordered tows are not regulated. Representatives from several of the auto theft units stated that they do not have formal contracts with the towing companies used in the City of Detroit, nor do they dictate the towing and storage fees that the towing companies charge vehicle owners. They were aware that the towing companies were charging higher rates on the tows they order than were being charged for the City of Detroit ordered tows.

The result of the two-tiered rate structure used by the towing companies is that a person whose stolen vehicle is recovered by an auto theft unit in the City of Detroit will be charged much more for towing and storage fees than a person whose stolen vehicle is recovered by the DPD. The cost to the vehicle owner should not be dependent on which law enforcement agency happens to order his or her vehicle towed.

We recommend that:

- a. In the interest of protecting the public from inordinately high fees, that the auto theft units' contract with the towing companies require the towing companies to charge the fees established by the City of Detroit on the vehicles they order towed within the City of Detroit that they anticipate will be redeemed by the vehicle owner.
- b. That the City Council issue a resolution calling for the standardization of towing and storage fees on all law enforcement ordered tows within the City of Detroit.

EXHIBIT A
SCOPE OF SERVICES

I. Notice to Proceed

(a) Notice to Proceed

The *Contractor* shall commence performance of this *Contract* upon receipt of the *City's* delivery of a written "Notice to Proceed".

(b) Fixed Expiration Date

The *Contractor* shall commence performance of this *Contract* on the date and in the manner specified in the Notice to Proceed. The *Contract* shall be completed on March 31, 2005.

II. Services to be Performed

1. The *Contractor* agrees to promptly respond and remove a vehicle in accordance with the ordinances of the City of Detroit and the laws of the State of Michigan, upon request by the *City*.

(a) The *Contractor* shall be at the scene to tow the vehicle as requested by the *City* within twenty minutes of receiving notification.

(b) If the *Contractor* is unable to respond to the scene within twenty minutes, the *Contractor* agrees to so inform the officer requesting the tow. If the *Contractor* has not arrived at the scene within twenty minutes of receiving notification, the requesting officer will notify the next company on the authorized list.

2. *Contractor* shall submit, by the 10th of the month, a complete list of all police authorized tows to their lots that have not been claimed (including vehicles from previous lists). The list shall indicate which vehicles have been in the possession of the *Contractor* for 30 or more days and shall be submitted to the Support Services Division in Room 802 of Police Headquarters.

3. The *Contractor* agrees to provide for the individual parking and storage of a minimum of 20 vehicles at the principal place of business. Outdoor parking and storage areas shall be fenced and secured. No vehicle will be parked or stored, even on a temporary basis, on the *City* streets, in alleys or easements.

4. The *Contractor* agrees that all vehicles towed at the request of the *City* will be taken only to the *Contractor's* lot or other location as directed by the *City*.

The contractor agrees not to use a storage facility or additional storage lot-
without first securing proper zoning approvals and obtaining approval from the Deputy Chief, Management Services Bureau, Detroit Police Department. Such requests shall be made in writing to the Deputy Chief, Management Services Bureau and shall include the zoning approval. Approval of the Contractor's request is at the sole discretion of the City, but shall not be unreasonably withheld.

5. The Contractor agrees to maintain 24-hour service, seven days a week.
 6. The Contractor agrees to have an employee present from 7:00 a.m. to 7:00 p.m. seven days a week with the authority to release vehicles promptly to citizens.
 7. The Contractor agrees that access to its premises shall not be unreasonably denied to citizens or police officers because of the presence of locked or closed gates or presence of dogs.
 8. The Contractor agrees to provide direct telephone communication to the Contractor 24 hours a day, and each tow truck must have direct radio contact with the company's operation base.
 9. The Contractor agrees to be capable of a dolly tow.
 10. The Contractor agrees to maintain its company trucks so that they are clearly marked with the name, address and phone number of the business and the trucks bear no sign or words indicating or suggesting they are police vehicles.
 11. The Contractor shall be authorized to tow only in a precinct or precincts for which it has been authorized as shown on Exhibit C.
 12. The Contractor agrees to meet the requirements for independent contractors doing business with the City of Detroit.
 13. The Contractor shall be responsible for damage and theft to any vehicle and the parts, accessories and equipment attached, installed or affixed thereto, or any contents in said vehicle in its custody and to satisfy reasonable complaints for provable damages and losses.
 14. The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented. Contractor may release vehicles to insurance companies or their representatives provided (1) a copy of title, accompanied by a hold harmless letter is presented or (2) a letter of authority is presented signed by the owner and accompanied by a hold harmless letter and copy of title.
- The Contractor will release vehicles promptly to individuals in possession of a valid court order for release of the vehicle.
15. The Contractor agrees to refer to the Support Services Division of the Police

Department all repossessions or cases involving a question of or contested ownership.

16. The Contractor agrees to refer to the Support Services Division of the Police Department all disputes concerning the towing and/or storage rates, or the reason for the tow.

17. If advised to do so by an officer of the Telephone Crime Reporting Section and/or the Support Services Division, the Contractor agrees that in the event a vehicle is towed to the Contractor's lot at the direction of a police officer and through mistake, negligence or any other reason the owner is not properly notified, the storage fees will be reduced to begin on the date that the owner was properly notified. Further, if the Court orders a return of the vehicle, the Contractor will do so upon being presented with the Court Order.

18. The Contractor agrees not to solicit towing business out of or derived from recovered stolen automobiles and shall avoid probing into or tampering in any way with automobiles suspected as stolen. Further, that upon discovery of a suspected stolen automobile, the Contractor shall immediately contact the police, apprizing them of the automobile's location and condition. Further, Contractor shall not directly contact any owner of a suspected stolen vehicle prior to the police department's recovery of the vehicle and the department directing that the vehicle be towed. Once the vehicle has been ordered by the police department to the Contractor's lot, the Contractor is authorized to contact the owner, to inform the owner of the vehicle's location and status.

19. The Contractor agrees to deal with members of the public and other Contractors in a courteous and professional manner.

20. The City agrees to establish a system of assignments of towers as Contractors based on the needs of the City.

21. Contractors may serve in all precincts for which they qualify and for which they have received an Authorized Police Tower contract which is in force at the time of the such service.

22. This agreement is not transferable and may not be sold, leased or assigned in any manner except as provided herein. In the event that a corporate contractor is subject to a change of ownership equal to forty per cent or more of its controlling interests, it must notify the City of this circumstance and apply for a new contract.

23. The Contractor agrees to equip each tow vehicle with a broom, shovel, container and any other needed equipment to clean the street/area of any debris. Contractor will completely remove from the site of an accident all resulting wreckage or debris, including all broken glass, before leaving the site. If more than one Contractor is at a scene, each driver will share equally in the cleanup operation. All vehicle parts will be secured before leaving the site of any tow scene.

24. If there is a valid police hold on a vehicle, the Contractor shall not charge a storage

fee for the period of the hold.

25. The *Contractor* shall cooperate and provide additional services as deemed necessary by the Detroit Police Department during the City's various anti-abandoned vehicle efforts including but not limited to, the City's anti-arson initiatives, Operation Clean Sweep and similar programs.

26. The *City* agrees to utilize a fair and impartial system of assignment of vehicles to be towed based on the use of a rotating list by each precinct, wherein the last called tower will be put at the bottom of the list and will not be utilized until all other towers authorized for that precinct have been utilized or have been contacted and they either cannot be contacted or are unable or refuse to respond within twenty minutes for any reason.

27. It is specifically agreed that in view of the indemnity agreement included as Article 7 of this agreement it will constitute a default for any contractor to seek by complaint, motion or otherwise to involve the City in any litigation arising out of activities undertaken pursuant to this contract.

28 VEHICLES TOWED FOR THE PROCESSING OF EVIDENCE

For purposes of this section, "*designated authorized tower*" shall mean the tower authorized to receive vehicles towed for the processing of evidence safekeeping, or V.I.N. identification on behalf of the City when they are delivered to 7800 Dix.

For purposes of this section, "*authorized Tower*", shall mean the original tower of the vehicle.

Vehicles towed for the processing of evidence shall be towed to 7800 Dix. The *authorized tower* shall proceed to the *designated authorized tower* located at 7800 Dix. The vehicle will be inventoried and inspected. At the direction of the *designated authorized tower*, the vehicle will be delivered to the Evidence Technicians' garage for processing. The *authorized tower* will be compensated by the designated authorized tower in the amount of \$50.00. The *designated authorized tower* will be paid by the Department consistent with Exhibit B for all vehicles towed for the processing of evidence for the victims of the following crimes: Homicide, Carjacking, Criminal Sexual Conduct and Robbery. This will not apply to cases where it is determined that a false felony report was made. The owner of the vehicles shall be responsible for the payment of the towing fee and any storage which occurs consistent with the current towing agreement. If the owner or their representative abandons the vehicle, The *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.

29 VEHICLES TOWED FOR THE SAFEKEEPING (STRAIGHT STEALS)

Upon direction of the Officer requesting the tow, vehicles towed for safekeeping, that may be investigated for defendant identification, shall be towed to 7800 Dix. The authorized tower shall tow the vehicle to the *designated authorized tower* located at 7800 Dix. The *authorized tower* will have the vehicle inventoried and inspected, when possible. At the direction of the *designated authorized tower*, the vehicle will be delivered to the Evidence Technicians' garage for processing. The *authorized tower* will be compensated by the *designated authorized tower* in the amount of \$50.00. The owner of the vehicle or their representative shall be responsible for the payment of the towing fee to the designated authorized tower and any storage which occurs consistent with the current towing agreement. If the owner or their representative abandons the vehicle, the *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.

30 VEHICLES TOWED FOR V.I.N. IDENTIFICATION

Upon direction of the Officer requesting the tow, vehicles towed for V.I.N. identification shall be towed to 7800 Dix. The *authorized tower* shall tow the vehicle to the designated authorized tower. The *authorized tower* will have the vehicle inventoried and inspected, when possible. At the direction of the representative from the *designated authorized tower* the vehicle will be delivered to the Evidence Technicians' garage for processing. The authorized tower will be compensated by the *designated authorized tower* in the amount of \$50.00. The owner of the vehicle or their representative will compensate the designated authorized tower. If the owner or their representative abandons the vehicle, The *designated authorized tower* assumes the responsibility of processing the vehicle as an abandoned vehicle in accordance with the current procedures established in the authorized tower agreement.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

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October 19, 2005

Joseph L. Harris
Auditor General, City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE AUTHORIZED TOWING PROCESS

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the seventh report of findings and related recommendations in the December 2003 *"Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process"* as prepared by the Office of the Auditor General.

Finding 1: DPD Awarded Contracts to Ineligible Towing Companies.

Response to Finding: The department agrees with the finding that in 2001 tow companies were awarded tow contracts even though they did not meet the eligibility requirements.

Response to Recommendations: The department has recommended that another city department(s) independent of the Detroit Police Department be involved in the tow contract award(s). As part of the award process, the Purchasing Department collects all required documentation to determine the tow companies' eligibility. The Law Department reviews the contract to ensure that the criteria, as specified in the City's towing ordinance, are captured in scope of services.

Finding 2: Towing Companies tow in Unauthorized Precincts

Response to Finding: The department agrees that on occasion, some tow companies were utilized in precincts in which they are not authorized to tow. Further, the department agrees that there have been occasions where a tow company has substituted for a related company's rotational calls. Finally, the department agrees that towing companies are used for prostitution stings to impound vehicles. However, this finding seems to

KWAME M. KILPATRICK, MAYOR

imply that it is improper to impound vehicles used to solicit prostitutes, which the department disagrees with. The defendant must pay the required fines prior to the vehicle being returned to him.

Response to Recommendations: The department will ensure that all police commands are re-instructed that towing companies must be used on a rotating basis. Regarding companies towing in unauthorized precincts, this occurs when officers utilize companies that they are familiar with, rather than calling the precinct desk to order a tow as prescribed by department general orders. The department will re-instruct all commands on this issue and ensure that supervision monitors this practice.

Finding 3: Towing Companies Move Vehicles Prior to Obtaining Police Authorization.

Response to Finding: The department agrees that there have been occasions where tow companies have removed vehicles prior to obtaining police authorization.

Response to Recommendations: Department officers and tow companies will be re-instructed to obtain prior written approval, not verbal approval, to tow vehicles.

The department disagrees with the recommendation regarding coordination of stolen vehicle efforts with the Michigan State Police. The department has no jurisdiction over State Police activities. However, the department will forward a letter explaining that their policy of towing vehicles on verbal approval makes it difficult for Detroit Police Officers to determine if a tow is legitimate or not. The department also agrees with the recommendation that tow companies be held responsible for stolen vehicles in their possession that have not been recovered.

Finding 4: Tow Company Storage Lots are not Properly Secured.

Response to Finding: The department agrees that theft from vehicles occurs occasionally from tow lots.

Response to Recommendation: The department will ensure that officers complete a thorough vehicle condition report prior to the vehicle being towed and hold the tow companies liable for any theft to vehicles that occur while in their custody, as stated in the contract.

Although the tow contract does not give the department authority to require the tow company to make changes in security, the department will make recommendations for improvement to a company's security measures, where warranted.

Finding 5: Towing Companies are Storing Vehicles on the Streets.

Response to Finding: The department agrees with the finding that due to a lack of space, some tow companies have store towed vehicles on the street in violation of the contract.

Response to Recommendation: The department agrees and recommends that the lot space needed for the city's towing requirements be reevaluated, and that increased storage capacity be required on future contracts. Further, the department will thoroughly inspect and monitor tow companies to ensure that tow companies owners/operators are well informed of the companies contractual obligations.

Finding 6: Tow Companies are not Open During Required Business Hours.

Response to Finding: The department agrees with the finding that some tow companies are not open during required business hours.

Response to Recommendation: The department agrees with the recommendation and will enforce the storage lot hours as stipulated in the contract. In an effort to curtail this practice, the department will randomly inspect contracted towing facilities for compliance.

Finding 7: Towing Companies are Not Allowing Access to Vehicles.

Response to Finding: The department agrees with the finding that some tow companies are impeding owner and insurance company access to vehicles in the tower's possession.

Response to Recommendation: The department disagrees with the recommendation that the City ensure that vehicle owners are permitted access to their vehicles on the basis that this issue is not fully addressed in the contract. As the Auditor General points out, paragraph 14 of the Scope of Services indicates that:

The Contractor agrees to release the vehicle directly to its owner only when proper documentation of ownership and identification is presented.

However, there is no mention of payment for the vehicle. The contractor cannot be expected to release a vehicle prior to receiving payment. Therefore, the remaining issue is whether the owner shall be allowed access to the vehicle after documenting ownership, but prior to payment. This issue is not addressed in the contract. The Auditor General suggests the tow company sell or scrap the vehicle in the event the owner fails to redeem it. The contract does not require the tow company to resort to this action in lieu of requiring payment.

Finding 8: Tow Companies Charge Improper Fees.

Response to Finding: The department agrees with the finding that several tow companies charge(d) excessive and improper towing and storage fees.

Response to Recommendations:

8a - The department agrees that tow companies shall be required to post, in conspicuous view of customers, all applicable rates as they appear in the contract.

8b - In the event a citizen makes a credible report of overcharges, the tow company will be required to refund the overcharges. The citizen also reserves the right to contest the overcharges in court.

Finding 9: Tow Companies Charge Excessive Fees on Michigan State Police Auto Theft Unit Recoveries.

Response to Finding: The department agrees with the finding that the tow companies charge(d) excessive fees on vehicles towed in the city of Detroit on the authority of the Michigan State Police Auto Theft Unit, contrary to the rates indicated in the contract.

Response to Recommendation: The department will re-instruct all tow companies that City Ordinance regulates tow fees charged for recoveries in Detroit, regardless of the recovering police agency. The department will take enforcement action if the tow companies continue to violate the ordinance.

Finding 10: Towing Companies Records are Not Adequately Maintained.

Response to Finding: The department agrees with the finding that tow companies are not maintaining the required records of police authorization prior to towing and are not maintaining complete records on their operations under the contract.

Response to Recommendation: The department will re-instruct tow companies on the specific documents that must be maintained for a three year period. The department will also conduct periodic inspections to ensure compliance until the issue can be addressed in the contract.

Finding 11: Towing Companies are not Reporting Unclaimed Vehicles Monthly.

Response to Finding: The department agrees with the finding that in the 4th quarter of 2002, only four of 30 tow companies submitted the required monthly Unclaimed Vehicle Report.

Response to Recommendation: The department will ensure that all tow companies submit a list of unclaimed vehicles on a monthly basis, as required by the contract.

Finding 12: DPD Did Not Require New Owners to Reapply for Towing Contracts.

Response to Finding: The department agrees that this finding existed in the past.


Response to Recommendation: The department has implemented the recommendation to enforce the provision of the contract that prohibits transfer to a new owner.

Joseph L. Harris
October 19, 2005
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Finally, the Detroit Police Department developed a proposal to re-engineer the towing process. The proposal is currently under review. We believe our proposal addresses all, if not most, of the findings contained in this audit report.

Should you have any additional questions or concerns regarding this matter, please feel free to contact me at 596-1800, Monday through Friday, 9:00 A.M. to 5:00 P.M.

Sincerely,



ELLA M. BULLY-CUMMINGS
Chief of Police

EMB-C/rc:dc