

H. CARL McCALL  
STATE COMPTROLLER



A.E. SMITH STATE OFFICE BUILDING  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 30, 2000

Mr. James W. McMahon  
Superintendent  
New York State Division of State Police  
State Campus, Building 22  
Albany, NY 12226

Re: Report 99-S-5

Dear Mr. McMahon:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law we have audited the Division of State Police's Confidential Fund for the period April 1, 1998 through July 31, 1999.

**A. Background**

State agencies, Commissions and Task Forces have money available to them to pay informants, witnesses, bills for electronic surveillance and various other expenses incurred in conducting investigations. These monies are placed in confidential fund accounts enabling agencies to make payments without revealing sensitive information that could possibly jeopardize the investigators or the results of the investigations. The Office of the State Comptroller authorizes the accounts and the agencies generally maintain their authorized fund balances in checking accounts from which account managers make disbursements to investigators. Reimbursement for Confidential Fund expenditures is subsequently obtained by submitting a special voucher to the State Comptroller.

Confidential Fund expenditures are not required to undergo the same pre-audit process required for other State expenditures. The special vouchers submitted to the State Comptroller's Office only show the amount to be reimbursed so as not to compromise the confidential nature of the expenditures. Responsibility for the adequate documentation and proper use of Confidential Fund expenditures rest primarily with agency management, who review and approve the special vouchers before they are submitted to the State Comptroller for reimbursement. Management of each agency that administers Confidential Funds has a special duty to ensure internal controls over

the accounts are strong and that all transactions are proper. Agency management must, therefore, establish the necessary internal controls to ensure transactions are proper, adequately supported, and in compliance with existing laws, rules and regulations, procurement policies and legislative and budgetary intent.

Agencies authorized to administer Confidential Fund accounts include: Division of Parole, Division of Criminal Justice Services, Attorney General's Office, Department of Environmental Conservation, Education Department, Department of Health, Department of Family Assistance, Department of Taxation and Finance, Welfare Inspector General Office, Temporary Commission of Investigation, Office of Parks, Recreation and Historic Preservation, Department of Correctional Services, Department of Motor Vehicles, Division of State Police, and the Division of Alcoholic Beverage Control.

Our audit focused on the Division of State Police (State Police) and the Attorney General's Office. This report contains the results of our audit at the State Police. Our audit results at the Attorney General's Office are presented in a separate report (Report 99-S-54).

## **B. Audit Scope, Objectives and Methodology**

We audited the Confidential Fund accounts for State Police for the period April 1, 1998 through July 31, 1999. The objectives of our financial-related audit focused on whether management at the State Police has established an effective and efficient system of internal controls for administering Confidential Funds. To accomplish our objectives, we evaluated compliance with applicable laws, rules, regulations, policies, and procedures; interviewed agency management and staff; reviewed agency records; and tested transactions for accuracy, authorization, validity, and accountability. We tested transactions at two judgmentally selected sites in Menands and Loudonville.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the State Police which are included within the audit scope. Further, these standards require that we understand the State Police's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We therefore focus our audit efforts on those activities we have identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort reviewing operations that may be relatively efficient or effective. As a result, we prepare our audit reports

on an "exception basis." This report, therefore, highlights those areas needing improvement and does not necessarily address activities that may be functioning properly.

**C. Internal Control and Compliance Summary**

Internal controls are the integration of the activities, plans, attitudes, policies and efforts of the people of an organization working together to provide reasonable assurance that the organization will achieve its mission. Our evaluation of internal controls did not identify any significant weaknesses at the State Police.

**D. Results of Audit**

Our audit found that the State Police has a strong system of internal controls over the use of its Confidential Fund. In general, we found that the State Police's internal control system ensures that transactions are proper and adequately supported. Except for the items described below, our test of transactions showed that advances were properly accounted for, and disbursements were properly authorized and adequately supported.

We recommend that: restitution moneys received from the courts as a result of Confidential Fund investigations be forwarded to the State Comptroller's Office for deposit into the State's General Fund; and bank reconciliations be prepared accurately.

**1. Use of Funds**

Our audit found that State Police has a strong system of internal controls over Confidential Fund accounts ensuring that monies are used in an appropriate manner. In 1997, State Police officials conducted a study of their Confidential Fund and established improved policies and procedures in 1998. During 1999, State Police officials began conducting Troop audits which included Confidential Fund reviews. As of May 1999, officials had completed seven Troop audits and began taking appropriate follow-up action to correct identified deficiencies. At the Menands and Loudonville sites, we tested all disbursements, which totaled \$91,149.39, and all receipts, which totaled \$81,429.49, made during the period April 1, 1998 through July 31, 1999. Except for one disbursement and the deposit of restitution money described below, we found all remaining transactions were in compliance with applicable laws, rules, regulations, policies and procedures.

**2. Court Restitution Funds**

Sections 72 and 121 of the State Finance Law require revenues such as restitution money, received from the courts as a result of confidential fund investigations, be forwarded to the State Comptroller's Office for deposit into the State's General Fund. Such receipts may not be used to defray the expenses of the State Police. However, we found that existing State Police procedures require that any restitution money received from the courts be deposited into the Confidential Fund.

Our review at the Menands and Loudonville sites identified court restitution moneys totaling \$738.88 and \$1,200, respectively, that were deposited into their Confidential Fund accounts. Since this is the accepted practice at the State Police, we believe that State Police's other troop sites handle restitution monies in a similar manner. As a result, the actual fund balance for these sites exceeds their approved fund balance by the amount of the restitutions. We recommend State Police remit any excess funds to the State Comptroller's Office for deposit into the General Fund, or seek proper authorization through an appropriation to expend those funds.

### **3. Bank and Fund Reconciliations**

According to New York State's Accounting System User Procedure Manual, bank statement reconciliations should be made as soon as possible after receiving bank statements, and bank accounts should be reconciled by an employee independent of both the bookkeeping and cashiering functions. We found that the individuals responsible for the bookkeeping and cashiering functions at the Menands and Loudonville sites are also responsible for reconciling the Confidential Fund bank accounts.

We also found that State Police's Central Office has not assigned staff to review Troop bank reconciliations to ensure that they are prepared timely and accurately, and to aggregate and compare individual Troop accounts to the total Confidential Fund balance. As a result, State Police has been unable to accurately account for their total fund balance. However, nothing came to our attention during our review of the internal control system and our tests of transactions, which would cause us to believe that Confidential Fund accounts were used inappropriately.

### **Recommendations**

1. *Remit restitution money to the State Comptroller's Office for deposit into the State's General Fund in accordance with the State Finance Law, or seek proper authorization through an appropriation to expend those funds.*
2. *Assign appropriate staff, who are independent of the bookkeeping and cashiering functions for the Confidential Fund, to prepare monthly bank reconciliations. Also, individual fund accounts should be aggregated and reconciled to the total authorized fund balance.*

Draft copies of this report were provided to State Police officials for their review and comment. Their comments have been considered in preparing this report, and are included as Appendix A. Officials generally agreed with our recommendations and indicated that they are in the process of being implemented.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Superintendent of State Police shall report to the Governor, the State Comptroller and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Abe Markowitz, Brian Lotz, William Hughes, Deb Spaulding, Amy Pertgen and Betsy Guillmen.

We wish to thank the management and staff of the Division of State Police for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

William P. Chalice  
Audit Director

cc: Charles Conaway



JAMES W. MCMAHON  
SUPERINTENDENT

NEW YORK STATE POLICE  
BLDG. 22, 1220 WASHINGTON AVE.  
ALBANY, NY 12226-2252

June 2, 2000

Mr. William P. Challice  
Audit Director  
Office of the State Comptroller  
A. E. Smith Office Building  
Albany, New York 12236

Dear Mr. Challice:

This is in response to your draft audit report (99-S-5) on the Division of State Police's Confidential Fund for the period April 1, 1998 through July 31, 1999. We have reviewed the report and its findings. Confidential funds are important tools in law enforcement allowing agencies to make payments which, if processed through normal channels, could comprise a criminal investigation. We are pleased that your audit did not identify any significant weaknesses in our system of internal controls over the use of these funds.

We recognize that audit reports are generally exception based and that your findings are focused on those areas that need improvement or corrective action. Therefore, we will address the specific recommendations contained in the report.

***Recommendation 1. Remit restitution to the State Comptroller's Office for deposit into the State's General Fund in accordance with the State Finance Law, or seek appropriation to expend those funds.***

As the report notes, the practice of the Division of State Police has been to deposit court restitution funds into the Confidential Fund and to reduce the amount of reimbursement from the General Fund by the amount of restitutions deposited in the Confidential Fund. Any monies in excess of the approved fund balance will be deposited into the General Fund. We will amend our current practices to deposit court restitution funds into the General Fund in accordance with Section 121 of the State Finance Law. It is our intention to seek a future appropriation to expend court restitution monies in accordance with our existing practice.



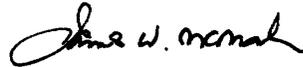
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***Recommendation 2. Assign appropriate staff, who are independent of the bookkeeping and cashiering functions for the Confidential Fund, to prepare monthly bank reconciliations. Also, individual fund accounts should be aggregated and reconciled to the total authorized fund balance.***

To the maximum extent possible, given confidentiality and staffing considerations, fund custodians will be reminded that bank reconciliations should be conducted by someone other than staff with responsibilities for bookkeeping and cashiering functions. Additionally, staff in Division Headquarters has been assigned to conduct aggregate reconciliations for the total fund balance.

If you have any questions or require any additional information, feel free to contact Mr. William Callahan, Administrative Officer, at 457-6622.

Sincerely,



James W. McMahon  
Superintendent