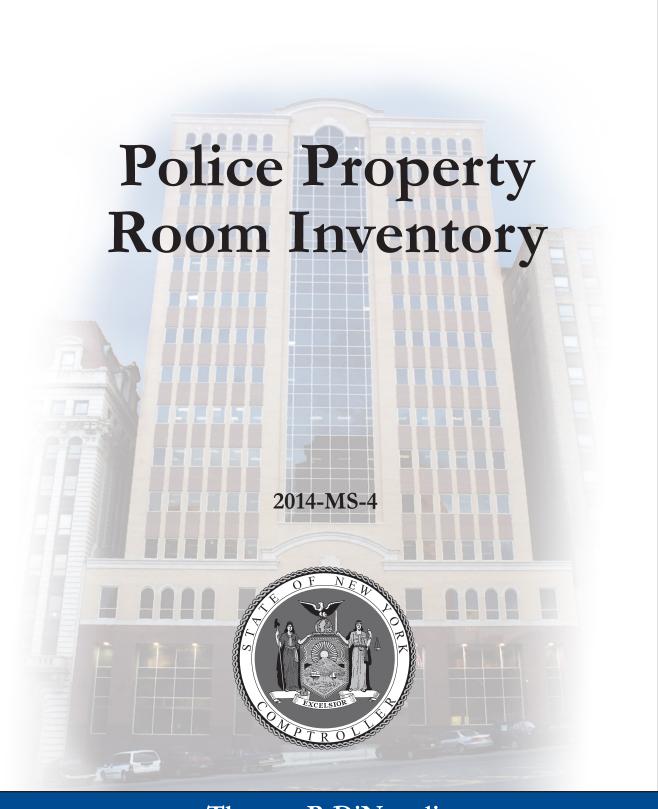
OFFICE OF THE NEW YORK STATE COMPTROLLER



Division of Local Government & School Accountability



Thomas P. DiNapoli

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Division of Local Government and School Accountability

February 2015

Dear Local Government Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit titled Police Property Room Inventory. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

Office of the State Comptroller Division of Local Government and School Accountability

Introduction

Background

Law enforcement agencies receive or seize multiple forms of property which can include cash, jewelry, firearms, weapons, controlled substances, vehicles and various other items which are considered property or evidence. Property is in the custody of law enforcement agencies for many different reasons, including criminal case evidence, found property, property for safekeeping from a decedent or prisoner, property no longer needed as evidence for an investigation, contraband, property pending release and property confiscated for forfeiture proceedings.

Securing and maintaining the integrity of property until its disposition is a critical element of police work. Establishing proper management controls and procedures over this function helps ensure the integrity of property held as evidence and assists in restoring and returning property to its owners in a timely manner. In addition, the establishment of internal controls can help safeguard property from loss, waste or misuse. The failure to safeguard property can affect the prosecution of criminal violators as well as lead to a loss of public confidence and trust.

Law enforcement agencies voluntarily accredited under the New York State Law Enforcement Agency Accreditation Program (Program) must follow Program standards that cover the main areas of administration, training and operations. The Program has general standards in the areas of evidence storage and inventory controls which provide best practice guidance for all law enforcement agencies to follow. These general standards include having written policies that describe the inventory system used, designate the person(s) accountable for control of property and incorporate additional safeguards for all money, firearms, controlled substances and highvalue items in protective custody. In addition, policies should require the performance of an annual inventory by a person independent of the custody of the property and the maintenance of inventory count records.¹

We audited 10 municipalities: Auburn (City), Elmira (City), Hamburg (Town), Herkimer County, Irondequoit (Town), Johnson City (Village), Madison County, Newburgh (Town), Troy (City) and Watertown (City). Figure 1 provides relevant statistics for each municipality.

http://www.criminaljustice.ny.gov/ops/docs/accred/standards_and_compliance_verification_manual.pdf

Figure 1: Relevant Municipality Statistics							
Municipality	2013 Budget (in millions) Population		Police/Public Safety Budget (in millions)	NYS Accredited			
City of Auburn	\$34.8	27,700	\$6.0	No			
City of Elmira	\$31.3	29,000	\$6.8	Yes			
Town of Hamburg	\$15.5	56,900	\$7.4	No			
Herkimer County	\$88.5	64,500	\$1.0	No			
Town of Irondequoit	\$18.0	51,700	\$9.3	Yes			
Village of Johnson City	\$16.8	15,200	\$3.3	Yes			
Madison County	\$100.6	73,400	\$3.3	No			
Town of Newburgh	\$43.3	29,800	\$6.3	No			
City of Troy	\$65.9	49,900	\$17.4	Yes			
City of Watertown	\$41.0	27,000	\$8.3	Yes			

Objective The objective of our audit was to determine whether law enforcement agencies have established appropriate controls over property room inventory. Our audit addressed the following question: • Have law enforcement agencies adequately accounted for all property room inventory? **Scope and Methodology** For the period January 1, 2012 through December 5, 2013, we interviewed municipal officials, communicated with law enforcement agency officials, examined physical inventory and disposal records and reviewed monitoring procedures to determine whether law enforcement agency staff accounted for all property in their custody. We also traced law enforcement agency inventory and disposal reports to source documents and physical inventory, as appropriate, to ensure the accuracy of current inventory and disposals. We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report. **Comments of** The results of our audit and recommendations have been discussed Local Officials with municipality officials and their comments have been considered in preparing this report.

Property Room Inventory

Law enforcement agencies have the responsibility to safeguard seized and found property in their custody. Inventory records should be maintained by law enforcement agency personnel to accurately track and record each item and preserve the chain of custody of potential evidentiary matter. Property should be returned to its rightful owner or disposed of in accordance with laws when it is no longer needed for criminal proceedings. Law enforcement agency personnel should document the approval of the return or disposal of property in inventory records and maintain documentation supporting the final disposal of property. Appropriate access controls to the computerized systems used to maintain property inventory records should be in place to restrict access to only authorized users.

We found that law enforcement agencies have not adequately safeguarded all the property in their custody, resulting in 293 items missing from the inventories of eight of the 10 law enforcement agencies audited. These items included currency, drugs, electronics, firearms and vehicles and represent 7 percent of the inventory items tested. All 10 law enforcement agencies also stored a total of 625 items (15 percent of items tested) in locations that differed from those recorded in the inventory records. In addition, eight of the 10 law enforcement agencies did not adequately document the disposition and disposal of property. Specifically, 51 percent of the 2,894 items tested lacked supporting documentation that showed the items were disposed of or returned to the proper owner. Further, we found all law enforcement agencies we audited, except Watertown and Herkimer,² did not appropriately grant user rights to the inventory tracking system. The missing items and other errors occurred because the law enforcement agencies did not establish adequate safeguards and controls over property room inventory and the inventory tracking systems. Missing inventory items can jeopardize the prosecution of criminal cases and could result in dangerous items, such as drugs and firearms, making their way back into communities.

Property Inventory Law enforcement agencies must safeguard all seized and found property in their custody until the property is properly disposed of or returned to its owner. Safeguarding property includes maintaining accurate inventory records that identify the location and movement of property until final disposition. The movement of property should be accurately tracked and recorded to safeguard each item, preserve the chain of custody of all property and ensure the integrity of physical

² Herkimer does not utilize a computer system and Watertown's system was in the early development stage.

evidence. Because property that is evidence in court proceedings could potentially be held in the property room for an extended time period, accurate inventory records are important for locating property when needed.

Law enforcement agencies are not properly safeguarding property in their custody. We found that eight law enforcement agencies had missing inventory, and just two (Elmira and Irondequoit) were able to account for each item tested. Specifically, we tested the location of 4,244 property items and found 293 items (7 percent) were missing from law enforcement agency inventories. Some of the items that the law enforcement agencies were unable to account for included biohazard materials, drugs, electronics, firearms, jewelry, money and vehicles as well as other miscellaneous items.

Further, we found all law enforcement agencies had items that were found in locations other than the location indicated on inventory records. Specifically, 625 (15 percent) of the items tested were found in locations other than those listed in the law enforcement agencies' inventory reports.

Figure 2 : Missing Current Inventory						
Municipality	Items Tested	Found - In Correct Location	Found - Not in Correct location	Missing From Inventory	Percentage of Tested Items Missing	
City of Auburn	559	531	18	10	2%	
City of Elmira	430	360	70	0	0%	
Town of Hamburg	325	256	55	14	4%	
Herkimer County	307	252	54	1	.3%	
Town of Irondequoit	503	490	13	0	0%	
Village of Johnson City	417	289	102	26	6%	
Madison County	433	215	74	144	33%	
Town of Newburgh	376	111	214	51	14%	
City of Troy	508	491	7	10	2%	
City of Watertown	386	331	18	37	10%	
TOTAL	4,244	3,326	625	293	7%	

The missing items generally are considered high-risk and have significant value. For example:

 In Newburgh, we identified almost \$63,400 in currency recorded in current inventory, yet not present at the municipality. Police Department officials indicated the currency was transferred to other agencies or returned to its owners. However, Police Department officials were unable to provide any documentation detailing the movement of the currency to other agencies or to its owners and could not document its current location.

- Drugs accounted for 31 percent of the missing items. In Watertown, we identified 699³ missing tablets, including 632 muscle relaxers (Soma) and 67 acetaminophen with codeine tablets. In Madison, 100 marijuana plants⁴ were listed on the current inventory, but not found. Other drug items missing from various other law enforcement agencies included cocaine, crack, heroin, marijuana, methadone, oxycodone, steroids and Vicodin.
- Four law enforcement agencies (Herkimer, Johnson City, Madison and Newburgh) were missing 21 firearms consisting of handguns, pistols, semi-automatic firearms, shotguns and rifles.
- Six law enforcement agencies (Hamburg, Johnson City, Madison, Newburgh, Troy and Watertown) had vehicles listed on current inventory that were no longer in their possession, including eight vehicles such as a Ford Explorer, Dodge Durango and Jeep Grand Cherokee along with two dirt bikes.

³ These 699 tablets account for one item of inventory according to law enforcement inventory records.

⁴ These 100 plants account for one item of inventory according to law enforcement inventory records.

Figure 3: Breakdown of Missing Items						
Unit	Currency	Drugs	Firearms	Vehicles	Other ^ª	Total
City of Auburn	0	0	0	0	10	10
City of Elmira	0	0	0	0	0	0
Town of Hamburg	0	0	0	1	13	14
Herkimer County	0	0	1	0	0	1
Town of Irondequoit	0	0	0	0	0	0
Village of Johnson City	0	15	1	1	9	26
Madison County	4	14	13	1	112	144
Town of Newburgh	17	23	6	4	1	51
City of Troy	0	3	0	1	6	10
City of Watertown	0	35	0	2	0	37
Total	21	90	21	10	151	293
^a Other items include biological items, electronics, jewelry and miscellaneous items.						

Law enforcement agency officials were provided a list of missing items and given the opportunity to locate the items or provide supporting documentation as to their whereabouts or disposition. Law enforcement agency officials acknowledged that some of the missing items may have been destroyed, disposed of, transferred to other agencies or returned to owners without appropriate supporting documentation. Given the lack of accurate inventory records and documentation of inventory disposition, we were unable to determine if the missing items are the result of poor recordkeeping or theft.

According to law enforcement agency officials, there are several reasons for missing and inaccurate inventory. For example, staffing issues result in a lack of personnel or priority allocated to staffing the property room. The Newburgh Police Chief indicated that there have been significant budget cuts which have resulted in positions not being re-filled and one individual left in charge of inventory who also handles information technology issues. Law enforcement agency officials also cited computer system upgrades which have failed to integrate older property into the new system as a reason for the inaccurate inventory records.

We found that all of the law enforcement agencies audited had policies and procedures that are outdated and need updating. For example, the City of Auburn's Police Department procedure manual is 20 years old and the Herkimer County Sheriff's Office does not have policies or procedures in place regarding property inventory. A lack of policy guidance regarding protocols for recording, identifying, tracking and monitoring municipal property has contributed to missing and misplaced inventory.

Inaccurate inventory records maintained by law enforcement agencies increase the risk that property could potentially be unavailable for legal proceedings or that guns, drugs and highly valuable items could be lost, stolen, misused or pose a danger to the public's safety.

Property Disposal All property in the care of a law enforcement agency should be returned to its rightful owner or disposed of in accordance with laws. Law enforcement agency personnel should document the approval of the return or disposal of property in inventory records and maintain documentation supporting the final disposition of property. The disposal of items considered to have a high risk of misplacement or theft, such as drugs, firearms and money, should be clearly documented in law enforcement agency records.⁵ For property that is to be destroyed (e.g., firearms and drugs), detailed records should be maintained that include case information and an accurate description of each item. Property authorized for destruction should be staged,⁶ verified by an independent witness and placed in a sealed container with the validated firearm or drug destruction list attached. The destruction of each item on the destruction list should be individually initialed and witnessed.

> We found that eight of the 10 law enforcement agencies are not adequately documenting the disposition of property. Specifically, 51 percent of the 2,894 items tested lacked supporting documentation showing that the items were disposed of or returned to the proper owner. The law enforcement agencies lacked an appropriate audit trail as outlined in each of their specific policies and procedures documenting the final disposition of items destroyed or returned. For example:

• In the Newburgh Police Department, five firearms that were marked as destroyed were in fact not destroyed and found in the office of the detective who conducts property inventories. An additional four items that were identified as destroyed did not have any receipt of destruction for review. Also, 68 drugrelated items were reported as destroyed during our audit period; however, Department officials were unable to provide any supporting documentation to show that destruction

⁵ New York State Penal Law provides that firearms declared a nuisance should be destroyed or rendered ineffective at least annually, while surrendered firearms shall be retained for one year and destroyed if the owner does not choose to take action.

⁶ Presented or shown

actually occurred.

- The Hamburg Police Department drug and firearm destruction policy requires that items to be destroyed are approved and witnessed as such during destruction. However, we found that 138 drugs and firearms reported to have been destroyed did not have supporting documentation indicating the items were approved for destruction. Positively, the Hamburg Police Department generally had officers witness the destruction and maintained signatures supporting the destruction.
- The Watertown Police Department requires that drugs to be destroyed must be approved for destruction and must be signed off as destroyed by the destruction facility where the drugs are destroyed. We found, however, that 66 percent of the drugs that were documented as destroyed did not have all the required approvals.
- The Madison County Sheriff's Office was unable to provide supporting documentation for 13 items, including a cell phone, laptop and firearm, that were marked in the inventory tracking system as being returned to the owners.
- Eleven firearms that were held for safekeeping in the Herkimer County Sheriff's Office were marked as returned in the Sheriff's Office's log book but were lacking adequate corresponding documentation.

Only two of the law enforcement agencies (Johnson City and Watertown) required a third-party, independent witness to attest to the destruction of drugs and firearms. However, the Watertown Police Department adhered to this policy just more than half of the time. In the City of Troy Police Department, weapon and firearm destructions are videotaped; however, the videotape lacked sufficient evidence such as the observation of serial numbers or the make and model to support which specific weapons were destroyed. Additional measures such as having independent, third-party witnesses and videotaping of high-risk items upon destruction is a practice that could be effective if properly implemented and consistently adhered to.

In most cases, law enforcement agency officials were not aware or cognizant of the advantage of reviewing audit logs and audit trails. Law enforcement agency officials were unaware that disposition policies were not being followed because no audit or monitoring of the process was conducted.

When the disposition of property is not adequately documented in law enforcement agency records, the risk of items being lost or stolen increases. In addition, failure to adequately document property disposition may result in potential legal ramifications, physical hazards, increased time to locate items and unsuccessful prosecution.

Law enforcement agencies should ensure there are procedures in place for granting, changing and terminating user rights to the computerized property inventory records so only those individuals necessary to the process have access. An effective system of internal controls for safeguarding computerized data includes restricting users' access to only those software applications needed to perform their job duties. Such authorizations should also preserve the proper segregation of duties so that the same person is not involved in multiple aspects of a transaction (e.g., maintaining custody of inventory items and recording items as being destroyed in the records). In addition, municipal officials should periodically review audit logs⁷ to ensure that only authorized users have access to and are performing only those functions needed for their job duties.

We found all law enforcement agencies we audited, except Watertown and Herkimer,⁸ do not have appropriate procedures and are not granting user rights to their inventory tracking systems (Systems) appropriately. Further, law enforcement agencies are not monitoring the users' activity and reviewing activity reports for the Systems. For example, Irondequoit and Hamburg granted administrative user rights over their Systems to four individuals who are no longer employed by their respective Police Departments. In addition, seven of the law enforcement agencies we audited allowed individuals who had physical access to the property room to also have administrative user rights to their Systems. None of the law enforcement agencies reviewed audit logs to monitor activity of users.

The weaknesses we identified were the result of a general lack of oversight demonstrated by law enforcement agency officials regarding their Systems. Law enforcement agency officials were unaware that some Systems' users were granted inappropriate administrative user rights and they were unaware of the Systems' capability to provide audit logs for review. In addition, law enforcement officials were not aware of the potential risks associated with granting inappropriate user rights.

Information System

Controls

⁷ Automated trails of user activity

⁸ Herkimer does not utilize a computer system and Watertown's system was in the early development stage.

By allowing individuals access to the physical inventories and the System, high-value assets are vulnerable to risk of loss, theft or misuse.

Recommendations

Law enforcement agency officials should:

- 1. Annually review and update their policies and procedures for controlling property in their custody.
- 2. Monitor the activity in the property room, including assigning physical inventory tests to individuals who do not have custody of the items.
- 3. Improve physical inventory testing procedures by having someone independent of the process trace items from the property room to the inventory list and from the inventory list to the property room.
- 4. Improve records of disposals, making sure to include identifying information about the items being destroyed and signatures of those actually performing and completing the destruction.
- 5. Continue to improve their inventory tracking and disposal process by clearly documenting the property movement to provide an audit trail.
- 6. Assign software user access based on job duties and responsibilities.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

We provided a draft copy of this report to each of the 10 municipalities we audited and requested responses. The seven law enforcement agencies that responded indicated that they plan to initiate corrective action. The City of Troy, Town of Irondequoit and the County of Herkimer were provided with an opportunity to respond to our report but chose not to.

The following comments were excerpted from the responses we received.

City of Auburn: "The Police Department does acknowledge that the policy and procedure titled 'Evidence and Non-Agency Property Management' is outdated and that we are in the process of reviewing and updating this policy."

City of Elmira: "The City of Elmira takes very seriously the handling and documentation of our property and evidence storage as well as retrieval systems for those items and records. Disposal documentation seems to plague many of these Police Departments audited." "The City of Elmira appreciates the oversight that your office has provided to us. Your audit has drawn our attention to improving our program, policies and efficiencies in our Police Property room."

Town of Hamburg: "In reading the report, I see that other departments had many of the same issues that were found with our department. I agree with the recommendations made in the report and have already addressed some of them."

Village of Johnson City: "At this time we have addressed some of the issues and are reviewing and revising others as needed."

Madison County: "All recommendations made in this report, as well as provided in the initial report have been implemented by this Office."

Town of Newburgh: "The Department is already addressing or will soon be addressing issues brought out in the draft report."

City of Watertown: "The City of Watertown takes very seriously the responsibility of effectively and efficiently managing government resources and the accountability for spending tax dollars to support operations. I, and the new leadership within the City's Police Department, embrace the recommendations contained in this report to continuously improve our posture in managing operations and meeting the expectations of our constituents."

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We interviewed law enforcement agency personnel to determine if processes existed to account for all seized and found property, if property inventory records were up to date and accurate and if internal controls were in place to safeguard all money, firearms, controlled substances and high-valued items in the property room.

We reviewed the law enforcement agencies physical inventory records, disposal records and monitoring procedures. We also traced law enforcement agency inventory and disposal reports to source documents and physical inventory, as appropriate, to ensure the accuracy of records related to current inventory and disposals. Our audit included the following steps:

- We conducted a walk-through of the law enforcement agencies' facilities to determine what controls were in place over inventory.
- We judgmentally selected a sample of items from a property item list. Our selection was based on a random assortment of cases from various years. Each item was pulled from its location to verify that it was present, that the seal was intact, that there were no apparent signs of tampering and that the property label on the item matched the law enforcement agency records.
- We then judgmentally selected a sample of items from the physical locations. Our selection was based on a random selection of items from various locations. The items were pulled from their locations to verify that the seals were intact, that there were no apparent signs of tampering and that the property labels on the items matched the law enforcement agencies records.
- We used the law enforcement agencies' inventory reports to judgmentally select categories to test from, comprising biohazard materials, drugs, electronics, firearms, jewelry, money and vehicles as well as other miscellaneous items. We selected these categories because of the potential for higher risk of theft or misuse. Depending on the volume of the evidence category, we tested the entire population, 10 percent of the population or a combination of percentage, availability and the risk and sensitivity factor. With the assistance of the property room coordinators, we tested physical inventories.
- For property room cash, we conducted three tests:
 - We selected all bags of currency over \$500 and traced each bag of money from the current evidence inventory reports to their locations in the evidence rooms.
 - o Then, we verified the amount of money in each bag for the sample selected to the amount listed on the report. An Office of the State Comptroller (OSC) examiner and each law enforcement agency's property room coordinator conducted a physical inventory, going to each location to verify each item was in the correct location and that the label

information on the bag matched report information, and observing if the evidence bag seal was intact, noting the date on the seal and documenting any discrepancies.

- o For a judgmentally selected sample of bags containing over \$1,000, municipal employees unsealed the bags, counted the money inside and resealed the bags in the presence of OSC examiners. At the time of the count, all individuals had to be in agreement to proceed.
- We used each law enforcement agency's disposal records to judgmentally select a variety of items from various categories disposed of during our scope period and tested for compliance with the law enforcement agency's policy.
- We selected a sample of law enforcement agencies' incident reports prepared by officers at the time of collection and reviewed the narratives on the incident reports to determine if the evidence noted as collected matched what was in the evidence bags.
- We traced access rights to each law enforcement agency's computer system, judgmentally selected users with administrative rights and tested their ability to add, edit and delete records.
- We traced vehicle identification numbers for vehicles that were missing from current inventory to determine if the vehicles were returned to the correct owners.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C

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