



# City of Middletown Police Department

## Internal Controls Over Property and Evidence

### Report of Examination

Period Covered:

January 1, 2008 — September 1, 2009

2010M-46



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

July 2010

Dear City 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 City Council 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 of the City of Middletown Police Department, entitled Internal Controls Over Property and Evidence. 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 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

The City of Middletown (City) has a population of approximately 25,000 residents and is governed by a nine-member Common Council (Council) and an elected Mayor. The City provides a wide range of services to its residents including police protection. The Police Department (Department) is governed by a five-member Board of Police Commissioners (Board) which is responsible for general oversight of Department operations. The Police Chief (Chief) is the chief executive officer and is responsible for the Department's day-to-day operations. The Department's budget for the 2009 fiscal year was approximately \$7.9 million. The Department has approximately 75 employees.

## Objective

The objective of the audit is to examine internal controls over the Department's property and evidence operations and procedures. The audit addresses the following related question:

- Is confiscated property and evidence properly accounted for, stored safely, adequately safeguarded from loss, fraud, or other mishandling, and disposed of properly?

## Scope and Methodology

We examined internal controls over the Department's property and evidence operations and procedures for the period January 1, 2008, to September 1, 2009. We extended our scope period to January 1, 2000, for the review of firearm 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 are included in Appendix C of this report.

## Comments of City Officials and Corrective Action

The results of our audit and recommendations have been discussed with City officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, City officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comment on an issue raised in the City's response letter.

The City Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the City Council to make this plan available for public review in the Clerk's office.

## Property and Evidence

Internal controls over confiscated property and police evidence help promote efficient and effective operations and help safeguard property and evidence from loss due to waste, abuse, mismanagement, errors and fraud. Good internal controls include written policies and detailed procedures. Policies are designed to guide decisions to achieve a desired outcome. Procedures define a specific series of actions to be executed in the same manner, ensuring that the same result will be achieved. Implementation of controls such as performing physical inventory ensure that all items contained in the property and evidence room have been accounted for and provide a foundation for the maintenance of complete and accurate records. Additional controls to help ensure the timely deposit of cash receipts are important because any delay in depositing cash receipts makes cash susceptible to theft or loss. Proper documentation of expenditures for drug seizure funds ensure compliance with program guidelines.

In the normal course of operations, the Department receives or seizes cash, vehicles, firearms, and controlled substances, which are referred to as property and evidence. The Department's 2008 annual report indicated that its Narcotics Unit seized cash in the amount of \$81,940,<sup>1</sup> narcotics with an estimated street value of \$222,630, at least two firearms, and four vehicles.

The Department's goal is to secure and maintain the integrity of evidence and property until disposition. The Department provides the following services related to property and evidence:

- Receiving, processing, and storing property and evidence
- Identifying and returning evidence and property to rightful owners
- Providing access to evidence for prosecuting or defense attorneys
- Maintaining and returning personal property to incarcerated prisoners
- Storing vehicles that are impounded, maintained as evidence, or held for forfeiture
- Storing bio-hazardous materials taken as evidence.

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<sup>1</sup> A portion of the cash will be returned to the City to be used to supplement the daily operations of the Narcotics Unit, and to provide training and purchase equipment for the entire Department.

All secured property and evidence is stored in the Department's property and evidence room. The evidence officer is responsible for storing and tracking all property and evidence under the Chief's direction. The Department participates in the United States Department of Justice (USDOJ) Asset Forfeiture program and is responsible for adhering to that program's guidelines.

The Department's property and evidence policy needs improvement because it does not require any written procedures for handling and storing property and evidence. In addition, discrepancies existed in the manual and computerized cash records. We also found that a physical inventory was not completed, cash items were not deposited timely, disposals were not removed from computerized tracking software, and documentation to support expenditures of drug seizure funds was inadequate. As a result, all property and evidence is not being processed, secured, used, or disposed of appropriately.

## **Policy and Procedures**

In 2007, the Department adopted a written policy governing the handling of property and evidence. We found the Department's property and evidence policy is inadequate because it did not require that procedures for handling and storing property and evidence be developed. In addition, the policy does not require an initial or periodic physical inventory count of any of the items taken into custody.

Due to the lack of inventory procedures, the Department maintained both manual and computer logs for cash items that were not periodically reconciled. We compared the manual cash log to the computer cash log to determine if there were any discrepancies. Of the 194 cash entries we reviewed, totaling \$120,623,<sup>2</sup> we found the following:

- Eleven entries totaling \$5,295 were included in the computer cash log, but not the manual cash log.
- Five entries totaling \$80 were included in the manual cash log, but not included in the computer cash log.
- Four entries were recorded with incorrect amounts: three in the manual cash log and one in the computer cash log.

The Department's policy requires cash to be logged into the property and evidence tracking system and a manual cash log that is maintained in the money locker. The property and evidence computer tracking system has reporting capabilities and an updated report could be generated at any time to reconcile with the manual inventory log.

<sup>2</sup> According to the manual cash log

Without a comprehensive policy and procedures, Department officials do not have adequate assurance that the Department's objectives relating to the handling of property and evidence are being achieved.

### **Physical Inventory**

An effective system of inventory control requires, among other things, a periodic physical count of all items in inventory and maintenance of perpetual inventory records. A complete physical inventory helps establish accountability for items contained in the property and evidence room. Periodic physical inventory counts should be done to maintain the accuracy and completeness of the property and evidence records. This check will disclose the possibility of theft or loss and reveal any weaknesses in the system for the custody and control of property and evidence. Any discrepancies between actual and recorded inventory items should be fully investigated.

The Department's property and evidence policy requires that an inspecting officer conduct inspections or audits of the inventories at least annually, by sampling various classifications of evidence such as money, firearms, or controlled substances, and prepare a written report of findings. While the sampling of various classes of evidence is adequate for periodic inspections, we found the samples taken were too small and infrequent to ensure that the evidence system is functioning properly. For example, the Department conducted an annual inspection which consisted of a sampling of 14 of the 17,500 items listed in the database. An inspection of a greater number of evidence items conducted on a more frequent basis than annually would provide better accountability. Furthermore, the inspecting officer generated reports only when exceptions were found. For example, a report was generated when a piece of evidence was not at the stated location; however, it was found elsewhere. The inspection report did not address the cause of the exceptions and any corrective action required to be taken to prevent recurrences.

Our review of the database indicated that the property and evidence database contained items from the period dating back to February 1999. Based upon our review and discussion with the evidence officer, we determined that evidentiary items (related to court cases) dating back to 1986 were also stored in the property and evidence room, but were not included in the database. Department officials were not aware that a periodic physical inventory was needed to help maintain accurate records. As a result of the lack of a complete physical inventory, Departmental records are not accurate. Therefore, Department officials do not have adequate assurance that errors or irregularities have not occurred.

### **Timeliness of Deposits**

Good business practices require cash and checks to be deposited daily or as quickly as possible to prevent loss or misuse of funds. Delay in depositing cash receipts makes them more susceptible to theft or

loss. Department policy requires the evidence officer to remove and transfer currency in the evidence room to the City Finance Department on a bi-weekly basis.

We reviewed 45 deposits, totaling \$34,066, made between January 18, 2008, and April 3, 2009, and found that 35 deposits, totaling \$24,198 were not deposited with the City Finance Department on a bi-weekly basis as required. The timeframe for which deposits were made ranged between 16 and 358 days. Department officials informed us that because of the nature of property handled by the Department, there are some instances, such as when the currency itself is evidentiary in nature, that it would be necessary to retain the currency and not make the deposit. Because the Department's records do not distinguish between items that are evidentiary in nature and those that are not, we were unable to determine the nature of those deposits. The failure to deposit cash with the City Finance Department in a timely manner increases the risk that these moneys could be misappropriated, misused, lost or stolen.

## **Disposal of Property**

According to Department policy, guns are required to be destroyed on an annual basis. Departmental management should be able to track disposed items. Property and evidence protection begins with good recordkeeping. Detailed property and evidence records help establish accountability and allow for the development of additional controls and safeguards. Due to the nature of property and evidence maintained by the Department, the accuracy and completeness of these records can also have an impact on public safety. For these reasons, property and evidence records must be complete, accurate, and up-to-date. When an item is removed from the property and evidence room, the record related to the item should be updated to indicate that the item is no longer in the property room. Further, all documentation supporting property disposal should be maintained.

We obtained a complete list of firearms held by the Department and performed a physical inventory of these firearms by matching each firearm with the firearms listed in the computerized database. The Department destroyed firearms five times between 2002 and 2009. Of the 491 firearms contained in the database, 235 guns had been destroyed, 75 were in custody and accounted for during the inventory, and 35 were returned to the owner. The remaining 146 firearms should have been destroyed. However, due to the lack of supporting documentation for weapons destroyed prior to July 30, 2002, we could not conclusively determine the status of the remaining 146 firearms. The Department does not remove the firearms from the list, or indicate that they have been destroyed, when they are disposed of. Without proper recordkeeping, Department officials have no assurance that firearms are not inappropriately removed from the evidence room.



## Drug Seizure Funds

The USDOJ Asset Forfeiture program is a nationwide initiative designed to foster cooperation among Federal, State and local law enforcement agencies. The USDOJ, which administers the program, authorizes the sharing of forfeited proceeds with local law enforcement agencies and sets forth the guidelines for officials with regard to internal controls, and accounting for and proper use of shared funds.

According to USDOJ guidelines, some permissible uses of forfeiture funds are to support law enforcement investigations, training, equipment, travel and transportation, and asset accounting and tracking costs. Salaries of permanent law enforcement personnel, uses of funds by non-enforcement personnel and purchases of food and beverages, except in limited circumstances, are considered to be inappropriate uses of the funds.<sup>3</sup> To determine if expenditures are in accordance with guidelines, proper documentation should be kept to support all expenditures. For food and beverage expenditures, Department officials should ensure that documentation is maintained showing how the expenditures fit the criteria.

During the audit period, the Department expended \$55,000 in shared funds. We reviewed the documentation related to those expenditures to determine whether the Department expended funds according to guidelines. The Department spent \$1,188 for food and beverages during the audit period without sufficient documentation to support how the monies were expended or to show whether expenditures were in accordance with the established guidelines. Without proper documentation showing compliance with the established guidelines, the Department risks the loss of participation in the USDOJ Asset Forfeiture program.

## Recommendations

1. Department officials should develop detailed operational procedures as a supplement to the property and evidence policy.
2. Department officials should conduct periodic physical counts of all property and evidence, and update the computerized property and evidence tracking system to include all items currently in custody.
3. The Board should consider amending the current policy to require more frequent and extensive inventory counts.
4. Department officials should ensure that cash deposits are made in accordance with Departmental policy.

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<sup>3</sup> Food and beverages are permitted to be purchased as part of a conference package policy or for meals during local operations.

5. Department officials should ensure that items disposed of are properly documented and tracked.
6. Department officials should ensure that there is sufficient documentation for the expenditure of drug seizure funds that supports how the expenditure meets the program guidelines or criteria.

**APPENDIX A**  
**RESPONSE FROM CITY OFFICIALS**

The City officials' response to this audit can be found on the following pages.

RAMON BETHENCOURT JR.  
CHIEF OF POLICE



TELEPHONE  
845-343-3151  
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Written Audit Response  
City of Middletown Police Department  
Internal Controls Over Property and Evidence  
2010M-46

Dear Sir,

This letter is submitted in response to the Office of the State Comptrollers audit of the property and evidence system of the Middletown Police Department.

The City of Middletown Police Department is in agreement with the findings of the audit. It appears that most of the findings relate to our written policies, and as such, we will be altering and improving our General Orders to match the objectives detailed within the audit. We do, however, wish to point out that the information contained on page seven (7) under "Timeliness of Deposits" requires an immediate response via this written audit response.

The audit indicates that there were 45 deposits of cash and checks, totaling \$34,066 made between January 18, 2008 and April 3, 2009 and additionally, 35 deposits, totaling \$24,198 were not deposited with the City Finance Department on a bi-weekly basis as required. The issue of timeliness of deposits still must be reviewed as it appears that the written policy in place does not adequately distinguish between checks and currency held for evidence versus checks and currency held for safekeeping and/or forfeiture. The deposits of cash and currency can be affected by the nature of the initial retention itself and as such, we do disagree that it is "unlikely" as stated on page seven (7), paragraph four (4) that the time frame for some deposits made at or around 365 days would be deposits of evidence. The audit states that "evidentiary currency would only be available for deposit after court proceedings, which generally takes more than one year". Generally and "always" are obviously entirely different and stating that checks and currency deposited at or around 365 days were "unlikely" to be of evidentiary nature is painting with too broad a stroke. Many cases are resolved within 365 days and many exceed 365 days.

While we agree with the findings based on the written policy and agree that the policy should be altered, it is worthy of noting that the deposits were in fact made and there does not appear

See  
Note 1  
Page 13

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to be any question of malfeasance in regards to the handling of currency. Certainly, policy and recording should distinguish between checks and currency seized, held for safekeeping and/or held for evidence. The change of policy will clarify the issue of whether a deposit of funds should or will be turned over to the City Finance Department and when that deposit should be made.

The City of Middletown Police Departments welcomes the audit of our evidence system. We are continually striving for not only professionalism, but transparency as we protect and serve the residents and visitors to the City of Middletown. It is fully our intention to not only address the audit of the Office of the State Comptroller, but to put into place a corrective action plan for immediate and continuing improvements to our evidence system.

Sincerely,

Ramon Bethencourt  
Chief of Police  
City of Middletown Police Department

RB: gm

## **APPENDIX B**

### **OSC COMMENT ON THE CITY OFFICIALS' RESPONSE**

Note 1

We have revised our report to address the concern that City officials raised in their response.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by the Police Department to safeguard property in custody. To accomplish this, we performed an initial assessment of internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: policy and procedures, inventory, drug seizure receipts and disbursements, narcotics, and petty cash disbursements.

During the initial assessment, we interviewed appropriate Department officials, performed limited tests of transactions, reviewed pertinent documents and processes, such as policies and procedures, property inventory records, USDOJ Guidelines to Equitable Sharing, bank statements and Finance Department records related to drug seizure funds, purchase orders related to expenditures for drug seizure funds, and documents supporting property and evidence in custody.

In addition, we obtained information directly from the computerized financial databases and then analyzed it electronically using computer-assisted techniques. This approach provided us with additional information about the Department's financial transactions as recorded in its databases. Further, we reviewed the Department's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated these weaknesses for the risk of potential fraud, theft, and/or professional misconduct. We then decided on the reported objective and scope by selecting for audit those areas most at risk. We selected to audit the Department's controls over cash, firearms, and narcotics for the period January 1, 2008 through September 1, 2009. We expanded the scope of our firearm testing to include the period of January 1, 2000 through September 1, 2009.

To accomplish our audit objectives and obtain relevant audit evidence, our procedures included the following:

- We interviewed Department officials to gain an understanding of the internal controls over property and evidence.
- We reviewed policies and procedures used to control, record, and monitor property and evidence in custody.
- We obtained an electronic file which included the complete record of the property and evidence tracking system and used it to perform various tests.
- We performed a physical inventory of the cash and firearms held in the property and evidence room.
- We compared the manual cash notebook with the cash recorded in the computerized database.

- We compared the manual cash notebook with the general ledger to the deposit slips and bank statements during the 2008-09 period.
- We traced all drug seizure receipts to the supporting documentation and determined whether funds were used for permissible or impermissible uses.

We conducted our performance audit in accordance with generally accepted government auditing standards (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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



## APPENDIX D

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**AND SCHOOL ACCOUNTABILITY**

Steven J. Hancox, Deputy Comptroller  
John C. Traylor, Assistant Comptroller

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