

WEST VIRGINIA LEGISLATURE
Legislative Post Audit Division

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Denny Rhodes
Director

May 19, 2016

The Honorable William P. Cole, III, President
West Virginia State Senate
Post Audits Sub-Committee, Co-Chair
Room 229M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
Post Audits Sub-Committee, Co-Chair
Room 228M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. President and Mr. Speaker:

One of the objectives of our audit of the Office of the State Fire Marshal, was to examine 100% of the agency's firearm asset inventory. During this process, we noted several concerns regarding the firearm inventory as detailed in this letter. Maintaining complete, accurate, and up-to-date inventory records is paramount to ensure State owned assets, particularly firearms, are accounted for and not lost, stolen, or disposed of improperly.

The Office of the State Fire Marshal's firearm inventory consists of pistols and shotguns issued to active fire marshals employed by the agency, as well as spares that are kept in a gun safe at the Charleston Headquarters. As of February 2016, the agency's firearm inventory consisted of 37 service pistols and 16 shotguns. The agency maintains a record of its firearm inventory in the wvOASIS Fixed Asset Management System. Additionally, the State Fire Marshal maintains an internal firearm inventory record. We also reviewed purchasing documents from July 1, 2010 to December 31, 2014 for firearm purchases that may have been excluded from both inventory lists. We combined all firearms noted from both inventory records and purchasing documents into one master list. After completing the inventory audit, we noted the following:

1. **Unable to Account for Two Firearms:** The State Fire Marshal had two Sig Sauer P229 .40 Caliber Service Pistols with a combined purchase price of \$1,100 listed in their current wvOASIS Fixed Asset Inventory Records that we were unable to locate or account for during our audit. The agency asserted these weapons were sold pursuant to WV Code §29-3-32(c), which allows the sale of firearms at fair market value to any active or retired fire marshal once the weapons are, "...taken out of service due to routine wear..." The agency provided documentation in the form of deposited checks for the sale of several Sig Sauer pistols that had been retired, however, none of the checks were for pistols that matched the serial numbers of the two firearms we could not account for. One check that the agency

asserts was for the purchase of one of the two unaccounted for firearms noted a serial number that was one digit different. We were provided a copy of the email correspondence between the agency and the firearm manufacturer, Sig Sauer, which confirmed the serial number on the check was not a firearm purchased by the agency. However, the check is not sufficient to definitively confirm that it was for the purchase of the pistol the agency could not account for during the audit. We subsequently informed the Joint Committee on Government and Finance - Commission on Special Investigations of our inability to account for these weapons.

2. **Weapon Located at Home of Former Employee:** One Remington 12 Gauge Shotgun could not be located during our firearm inventory observation. The agency subsequently located this firearm by contacting former fire marshals who were responsible for the firearm inventory. According to the agency, the shotgun was found in the home of the former Acting Field Deputy who had taken it home to clean and forgot to return it to the agency's headquarters. We physically observed this weapon after it was returned to confirm it was in the possession of the agency.

3. **Incomplete and Inaccurate Inventory Records:**

We noted the following inaccuracies in the Office of the State Fire Marshal's inventory records:

- a. Five Glock 21 Service Pistols recently purchased at a total price of \$2,345 were not listed in the agency's inventory records at the time of our audit.
- b. Eleven firearms were listed in the agency's inventory records as issued to fire marshals who were not the fire marshals who had custody of the weapons.
- c. The wvOASIS Fixed Asset Inventory listed six firearms that were in the custody of a fire marshal; however, the weapons were located in the agency's gun safe in Charleston.
- d. Nine Remington 12 Gauge Shotguns were listed in the agency's internal firearm inventory record but were not included in their wvOASIS Fixed Asset Inventory record.
- e. Nine firearms consisting of one MAC-10 machine pistol, four Sig Sauer P229 Service Pistols, one Glock 21 Service Pistol, and three Remington 12 Gauge Shotguns were listed in the wvOASIS Fixed Asset Inventory, but were not included in the agency's internal firearms inventory record.
- f. A retired fire marshal who was previously in charge of the agency's firearm inventory was listed in the wvOASIS Fixed Asset Inventory record as the custodian of 12 firearms consisting of eight pistols, three shotguns, and one MAC-10 compact machine pistol. The retired fire marshal was not in custody of these firearms and was listed erroneously as the custodian as a result of the wvOASIS Inventory Record not being properly updated.
- g. Finally, One Sig Sauer .40 Caliber Service Pistol was listed in the agency's wvOASIS Fixed Asset Inventory as in the custody of a retired fire marshal. The agency was unable to account for this firearm during our initial inventory observation, but subsequently provided records documenting that the firearm was awarded to another retired fire marshal per WV Code §29-3-32(a).

The Legislative Auditor Recommends the Following Corrective Actions:

1. We recommend the State Fire Marshal comply with WV Code §5A-8-9; WV Code §5A-3-36, as amended; and the Purchasing Division Handbook by maintaining accurate and up-to-date inventory records in the wvOASIS Fixed Asset Inventory listing. The fire marshal to whom a firearm is issued should be listed as the custodian of that firearm in the inventory records. Any change in the custodianship of a firearm should be promptly updated in the records. Further, when taken out of service, the retirement date of firearms no longer in use and the method of disposal should be entered into the wvOASIS Fixed Asset system and the inventory records updated accordingly.
2. We recommend the State Fire Marshal conduct an internal inventory of all firearms no less than once each Fiscal Year and reconcile their inventory records to ensure that every firearm is properly accounted for and the custodian, location and, if applicable, the disposal of each, is accurately recorded.
3. We recommend the sale of any firearm pursuant to WV Code §29-3-32(c) be thoroughly documented by the agency. Any firearm to be sold should first be recorded in the wvOASIS Fixed Asset system as retired and should not be removed from the inventory records entirely. Once sold, the wvOASIS Fixed Asset records should indicate the disposal method as "sell on-site". The purchase should be made with check or money order and no cash should be accepted.


The agency should develop a form used specifically for recording the sale of retired firearms. At a minimum, this form should require the following information:

- The name, job title, and contact information of the purchaser
- The date and amount of the sale, including the check number or money order number used to make the purchase
- The serial number, caliber, make, and model of the firearm sold
- The wvOASIS Fixed Asset Number assigned to the firearm sold

This completed form should be signed by both the purchaser and an authorized representative of the agency and maintained by the agency indefinitely. Further the agency should also maintain documentation for the receipt of monies and proof of deposit of those monies for all firearms sold.

This letter is not representative of the complete audit of the State Fire Marshal's Office. The purpose of this letter is to inform the Committee of issues requiring prompt corrective action by the agency prior to the completion of a comprehensive audit report. This letter is the second update presented in regards to the State Fire Marshal audit as a previous letter was presented during the January 2016 interim meeting regarding issues noted in the agency's receipt collection procedures. Our audit of the Office of the State Fire Marshal is still ongoing and further audit report(s) will be presented to the Subcommittee upon completion.

Sincerely,



Denny Rhodes



Department of Military Affairs and Public Safety

Earl Ray Tomblin, Governor
Joseph Thornton, Cabinet Secretary
Kenneth E. Tyree, Jr., State Fire Marshal

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Dear Mr. President and Mr. Speaker:

In February 2015, one month after my appointment to this position; I requested the legislative audit that we're currently under, for the following reasons: First, to identify any potential deficiencies in the maintenance and operations of our agency pertaining to stewardship and accountability of all fixed and financial assets. Secondly, to make any necessary corrections to potential deficiencies pertaining to the said items.

The purpose of my request was to insure proper accountability and where necessary to implement agency policies and procedures to enact positive progressive change. In the last several months we have worked to provide and meet the request of the auditors in as timely a manner as possible.

It should be noted that for all requested documentation prior to my appointment; more than 50 percent of the staff responsible for the oversight of such documentation, no longer works for the agency. This would include my predecessor, the Chief Deputy Fire Marshal, the last two Field Deputies over the Investigation Division who were responsible for inventory control and the same records management thereof; also the individual who was responsible for fixed asset inventory coordination for the Agency. At this same time, we had a conversion from FIMS to the new Oasis system. With that said, we're committed to provide the utmost stewardship and to do our best to insure accountability for all inventory especially firearms.

The following information is provided to address the concerns as identified in the legislative auditor's report and as the agency head, to show a commitment to resolve any and all concerns and to insure proper accountability and stewardship to our agency's current inventory:

We are currently in the beginning stages of creating and adding a policy to our agency's existing policies and procedures manual titled, Inventory Control Policy, which will address all concerns from the auditor's report.

1. **Unable to Locate Two Firearms:** After an exhaustive effort by our staff to locate, identify, and account for the referenced firearms; we feel confident that we are only left with one unaccounted firearm, due to one of the two being

accounted for by the verification being made by our agency contacting the manufacturer as referenced by the auditors. No documentation could be found to validate our opinion concerning the other firearm which was purchased by a previous employee whom has since passed away and was buried with the said firearm per those who attended his funeral. We believe the firearm was sold properly but validation documents pertaining to the sale, could not be found. The implementation of an inventory control policy and its proper execution will help to eliminate these type of future mistakes.

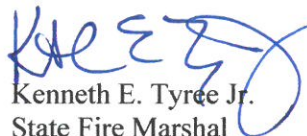
2. **Weapon Located at Home of Former Employee:** This unintentional event occurred and as such future incidents should not occur based on our immediate actions taken; as a part of any employee's exit/departure from the agency, an inventory check out/check in process with proper documentation shall be implemented to insure all required equipment is issued/returned and properly accounted for.
3. **Incomplete and Inaccurate Inventory Records:**
 - a. During a previous employee's transition/resignation from the agency, the new replacement employee had not received the training necessary to complete the fixed asset inventory assignment; since then the employee has entered all firearms into the proper system.
 - b. Inventory has been updated and is matched to the current custodians.
 - c. Same as Above.
 - d. OASIS has been updated to reflect correct information.
 - e. All firearms have been placed in the fixed asset system as well as the agency's internal inventory records and an annual inventory assessment shall be performed to ensure accuracy and accountability for all said equipment. The referenced Mac-10 machine at the time of inventory was not operable due to it being cut into two pieces; we'll retire this destroyed weapon in the system. The noted Sig Sauer weapons will also be retired in the system.
 - f. Since the new OASIS system is fully in place for these fixed assets and annually accountability will be performed, it should prevent this occurrence from ever happening.
 - g. All firearms have been place under the current custodian and within the OASIS system.

Based on the Legislative Auditor Recommendations our agency will take the following corrective actions:

1. We will follow their recommendation.
2. We will follow their recommendation.
3. Their recommendation has been implemented and will be followed. We have already created and put into immediate use a Sale/Retirement of Firearm form.

As the agency head, I'm committed to insuring proper accountability and application in all aspects pertaining to the resources under our charge.

Sincerely,


Kenneth E. Tyree Jr.
State Fire Marshal

Cc: Joseph Thornton, Cabinet Secretary, DMAPS