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February 17, 2015

Steven J. Walters, Town Supervisor
Members of the Town Board
Town of Hamburg
5100 South Park Avenue
Hamburg, New York 14075

Report Number: S9-14-51

Dear Mr. Walters and Members of the Town Board:

The Office of the State Comptroller works to help local government officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support 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 assets.

In accordance with these goals, we conducted an audit of 10 municipalities (two counties, four cities, three towns and one village) throughout New York State. The objective of our audit was to determine if municipalities accounted for all property room inventory.[1] We included the Town of Hamburg (Town) Police Department (Department) in this audit. Within the scope of this audit, we examined the procedures of the Town and various property records for the period January 1, 2012 through November 7, 2013. Following is a report of our audit of the Town. 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 report of examination letter contains our findings and recommendations specific to the Town. We discussed the findings and recommendations with Town officials and considered their comments, which appear in Appendix A, in preparing this report. At the completion of our audit of the 10 municipalities, we prepared a global report that summarizes the significant issues we identified at all the municipalities audited.

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[1] Property room inventory can include items the Department receives or seizes, such as criminal case evidence, found property, property for safekeeping from a decedent or prisoner, property no longer needed as evidence for investigation, contraband, property pending release and property confiscated for forfeiture proceedings.

Summary of Findings

We found that the Department did not account for property room inventory adequately due to inaccurate records.

Of the 325 high-risk property items held by the Department that we tested, 69 items (21 percent) were not in the correct location, and 14 items (4 percent) were unaccounted for (missing from inventory), with no documentation to indicate their disposition. The missing items were comprised of one vehicle, two jewelry items and 11 miscellaneous items.

The Department also did not maintain adequate documentation to support the disposal of items. Of 323 disposed items tested, 143 items (44 percent) did not contain proper documentation to support their final disposition. These included:

- A total of 136 firearms listed as destroyed did not have proper documentation indicating they had been approved for destruction.

- Two drug items listed as destroyed could not be sufficiently traced back to the evidence of destruction documentation provided by the Department.

- Three items, a rifle scope and two electronic devices (iPods), listed as auctioned lacked documentation.

- One item (including 23 pills) listed as transferred to the laboratory did not have proper documentation.

- One item, a safe, listed as returned to owner was not signed for by the owner as received.

Town officials attributed the discrepancies to a lack of written procedures, monitoring, space and resources; occasionally storing items on a shelf that is more conducive to the item; and not updating the computerized property tracking system accordingly.

In addition, the Department could improve other control procedures to safeguard property room inventory. The Department granted administrative access rights to its property tracking system to two retired Department employees. Further, the Department has not performed physical inventories or audits of the property room.

Background and Methodology

The Town has a population of approximately 57,000 and is governed by a four-member Town Board and a Supervisor. The Town provides services to residents through municipal operations, including the Department. The Department's 2013 budgeted operating appropriations were $7.4 million of the Town's $15.5 million general fund budget.

The Town's Chief of Police (Chief) is responsible for the general management of the Department, which includes overseeing property room inventory. The Chief is assisted by a property room coordinator. In November 2013, the property room inventory contained about 1,700 items. The term "property room inventory" encompasses items in all locations used by the Department to hold and store non-Department property. This can include both on- and off-site areas such as storage

sheds, garages and vehicle lots. Property includes seized items, found items or property held for safekeeping. For example, items include criminal case evidence, found property, property from a decedent or prisoner kept for safekeeping, property no longer needed as evidence for investigation, contraband, property pending release and property confiscated for forfeiture proceedings. Typical property found in the property room can include biohazard materials, drugs, firearms, jewelry, money, weapons, vehicles and other miscellaneous items. The Department should secure and maintain the integrity of police evidence and other property until disposition.

We interviewed Department staff and officials, examined physical inventory and disposal records and reviewed monitoring procedures to determine whether Department staff accounted for all property. We also traced Department 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). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

Audit Results

Police departments should ensure that items held in the property room are properly accounted for by establishing good internal controls and maintaining accurate records. Good internal controls include written policies and detailed procedures that task designated personnel with executing specific actions consistently. Good property room management practices require documentation of when property came in, who checked it in, where it was located, when it was moved, where it was stored and by whom, when it was signed out, when it came back and how it was disposed of. Additional security measures in the property room may include the use of a safe, a chain to secure firearms and the installation of a floor-to-ceiling chain link fence. Lastly, police departments should conduct routine and unannounced inspections of the property room ensuring adherence to appropriate policies and procedures along with annual audits of the property room to compare physical inventory counts to the records of items maintained.

We found that, while the Department has established policy guidelines and procedures, they are deficient. For example, administrative access rights to the property tracking system were not granted to officials based on their job duties and responsibilities. In addition, no one in the Department monitored user activity in the system. Two retired Department employees still had administrative rights to the computer system, allowing for the potential to change the inventory records. In addition, the Department's inventory records were inaccurate. Because of the deficient procedures and inaccurate records, the Department could not account for items missing from its property room.

Property Evidence

The Department can hold property in the property room for extended periods. Officials should accurately track and record the movement of property items to safeguard them and preserve the chain of custody. Typically, an item is received in the property room; stored in location; moved to

and from the laboratory, the court and for investigative review; and moved to disposal. Policy guidance should be established and implemented to protect items from the loss of evidentiary value by outlining methods of documenting[2] and packaging items based on the needs and storage requirements of the laboratory used. Officials should also establish physical inventory procedures to identify missing or misplaced items.

The Department's established procedures have the officer receiving the property record information about it on an evidence receipt. Once the officer enters the information into the property tracking system, a label with a unique bar code is generated and placed on a sealed evidence bag with the property inside. Once the bag is sealed, the officer initials over the seal. After the officer packages the evidence, the Department requires it to be placed in large, locked temporary evidence lockers located on-site or turned over to the property coordinator. The property coordinator then removes the items from the temporary evidence lockers and enters information in the Department's property tracking system. After logging the items, the property coordinator places the item in a designated location in the property room.

The Department has procedures for transfers to laboratories and to court. Specifically, the property coordinator will scan out the property from its location and the officer taking the property will sign for it. In addition, items sent to a laboratory will contain a laboratory report, signed by the officer, which will identify the contents and provide instructions on where the item needs to go. The report is then scanned into the property tracking system once received by the laboratory.

A deficient Department procedure resulted in two former employees having administrative rights to the property tracking system. In addition, the property tracking system allows property evidence labels to be reprinted without being identified as a duplicate. An individual with both access to the property room and administrative rights to the computer system could create an opportunity for property to be misused, misplaced or stolen without detection.

We reviewed the list of currently stored property room items and judgmentally selected a sample of 325 high-risk items[3] (157 firearms, 22 drug items, 11 money items and 135 other items[4]). We examined the computer records to determine whether the property was adequately described, intact and stored in the designated location. Of the 325 items tested, 69 (21 percent) were not accurately recorded, and of these, 14 items were unaccounted for (missing from their property room location) during our audit fieldwork. Specifically:

- Of the 157 firearms tested, 17 (11 percent) were not stored in the location indicated by inventory records. The property room coordinator, however, was able to provide adequate documentation showing the disposition of the firearms.

- Of the 22 drug items tested, 19 items were not stored in the location indicated by inventory records. The property room coordinator was able to provide supporting documentation that these items were sent to the laboratory.

- Of the 11 money items tested, no discrepancies were noted.

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[2] Each item should have an identifier (tracking number), which corresponds to item descriptions, the individuals involved in the case and the location/movement information necessary to track the chain of custody.

[3] See Appendix B, Audit Methodology and Standards, for detail on our selection of test samples.

[4] Other items include found items, vehicles, jewelry, electronics and biological items.

- Of the 135 other items reviewed, 14 items could not be located: one vehicle, two jewelry items and 11 miscellaneous items. An additional 19 items that were not stored in the location indicated by inventory records had adequate documentation showing they were returned to their owners.

Department officials attributed the inaccurate records to a lack of written procedures, monitoring, space and resources; occasionally storing items on a shelf that is more conducive to the item; and not updating the property tracking system accordingly. Department officials also told us that no periodic inventory or audits are conducted.

Inadequate controls and inaccurate inventory records over items in the property room increase the risk that property could be misplaced, misused or stolen without timely detection.

Property Disposal

The disposition of property should be documented in written policies and procedures to guide the operation of item handling. Items returned to the owner, transferred or destroyed are all considered property room disposals. Recycling, burning or any other method to make an item unusable could be used to destroy an item properly. High profile items, such as drugs, firearms and money, require extra internal controls. The disposal of items should be documented with a clear trail in Department records. Further, good business practice requires that items should be removed from the property room after being held for the required length of time. If the Department has identified an owner or determined that the item has no evidentiary value, then it should be disposed of properly and promptly. It is in the Department's best interest to remove items from the property room as quickly as possible to free up space and remove the risk of theft or misuse. Records should indicate the details about the case, individuals involved, authorization for disposal, who destroyed the item (if it was destroyed), who witnessed the item being destroyed and other details required by the Department.

The Department has various procedures for disposing of property, depending on the type of item. For example, items returned to the owner require that the owner provide a signature but proof of identification for the Department's records is not required. While the Department has these procedures in place for the disposal of property evidence, controls can be improved. The Department procedures also do not address a method to destroy guns, drugs and knives and does not address how auction items are to be handled.

We reviewed a list of disposed inventory, totaling 2,424 items, and judgmentally selected a sample of 323 high-risk items, including money, biohazard items, drug items, firearms and electronics. These items were disposed of by being destroyed, returned to their owner, auctioned, released, returned to the agent of the owner, sent to the Town, sent to laboratories or retained for Department use. We reviewed the computer records to determine whether the items' disposal was documented adequately. Of the 323 items tested, 180 items (56 percent) were documented adequately.

Destruction – Our test of 323 items included 138 firearms and two drug items. The Department does not have a specific policy for the destruction of guns or drugs. However, Department policy indicates that the investigating officer shall notify the captain in charge when a case is disposed of so that arrangements may be made to return or destroy involved evidence. The captain in charge of property evidence and the captain in charge of the detective bureau shall approve or disapprove

the destruction or disposal of felony case evidence. Additionally, the property coordinator indicated he obtains the Chief's verbal approval to destroy the firearms.

- Firearms – Department officials provided a list of 140 firearms that was signed by the police captain attesting that the firearms were destroyed. However, 136 firearms lacked a written approval as required by Department policy authorizing the destruction of the firearms. The destruction of the firearms was conducted by a private vendor. No destruction receipts or signatures were obtained from the vendor.

- Drugs – Department officials indicated that drugs are sent to the Erie County laboratory to be retained and are not handled by the Department once they are transferred to the laboratory. Therefore, no drugs are destroyed by the Department. However, contrary to what officials indicated, we found two drugs that were listed as destroyed by the Department. For these two cases, there were no approvals or signatures in the records and we were unable to tie the proof of destruction to the drug items indicating they were destroyed.

Auction – The Department does not have a policy that addresses auction procedures. The Town utilizes an outside vendor to sell their property and receives 50 percent of the sales. Of the 25 items auctioned that we reviewed, one item did not have supporting documentation that the item was auctioned and two items were approved for auction but had yet to be auctioned. In addition, the Department does not obtain or review any sales records from the vendor to confirm it is properly receiving all proceeds from the sales.

Returned to Owner – Of the 30 items reviewed, Department officials had adequate documentation for 29 items returned to their owners. One item did not have the owner's signature listed but was approved to be returned.

To Laboratory – Of the 20 items reviewed, Department officials had adequate documentation for 19 items; the remaining item did not have proper signatures.

Retained for Department Use, Transferred to Town, Released and Returned to Agent of Owner – Of the 108 items reviewed, Department officials had adequate documentation for all items.

Good policies and procedures for the acquisition, storage and disposition of property items promote efficient use of property room space for easier access and keep handling to a minimum. Conversely, poor procedures (including a lack of oversight and monitoring) and inaccurate records of the items stored in a municipal property room increase the risk that property could potentially be unavailable for legal proceedings, or that firearms, drugs and highly valuable items could be lost, stolen, misused or could pose a danger to public safety.

Recommendations

Department officials should:

1. Review and update property room policies and procedures annually.

2. Monitor the activity in the property room, including the assignment of physical inventory testing to an individual who does not retain item custody.

3. Conduct routine and unannounced inspections of the property room ensuring adherence to appropriate policies and procedures along with annual audits of the property room to compare physical inventory counts to the records of items maintained.

4. Assign software user access based on job duties and responsibilities. In addition, if the Department cannot appropriately segregate the duties of custody and recordkeeping, someone without physical access to the inventory items should monitor user activity and the changes made on the computerized property tracking system.

5. Disable user access rights for employees who have separated from Town service.

6. Review and update the drug and firearm destruction policy to ensure that the identification officer prepares and retains detailed records identifying the items being destroyed. This documentation should include either the signature of the command level officer present during destruction or the signature of an independent third party who can attest to the destruction.

7. Continue to improve their inventory tracking and disposal process by clearly documenting property movement to provide an audit trail.

The Town Board 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. The Board should make the CAP available for public review in the Clerk's office.

We thank the officials and staff of the Town of Hamburg for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

DEPARTMENT OF POLICE
Town of Hamburg
S6100 South Park Avenue
Hamburg, New York 14075
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Michael Williams
Chief of Police

Ann C. Singer
Chief Examiner
State Office Building Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417

July 30, 2014

Dear madam,

Please accept this letter as the official audit response letter from the Town of Hamburg Police Department. I am in receipt of the Draft Audit Report from your agency regarding the audit of our evidence/property room that was conducted in the fall of 2013. I also had the opportunity to meet with officials from your agency on July 17th of this year to discuss the draft report. I worked closely with the examiners during the week of the audit and found them to be very competent and professional.

As a Captain with the police department I am responsible for the property room. I accept this audit as accurate and I take responsibility for the errors that were discovered. I feel that there are some circumstances which account for many of the discrepancies and I will address them later in this letter. Our department is already in the process of addressing some of the issues that came up in the audit. The audit did cover many items that were entered into evidence long before we had a bar code system. The tracking on these items is much more difficult as there is only a sheet of paper to trace the movement of these items. Over the years the paperwork and the items themselves have been moved several times and their condition has deteriorated. In the past 15 years we have also used three different record keeping systems in our department which makes researching what happened to some items more difficult.

I would now like to address some of the items discussed in the summary of findings on page 2. Of the 69 high risk items that were not in the proper location, I can attribute that to the way that I organized guns in our gun room. Our gun room consists of approximately 6 shelves , two handgun cabinets and a safe. Each of the shelves is assigned a letter designation, a, b, c etc. When storing an item in the gun room, my predecessor would designate which shelf the gun was put on. When I took over the evidence room ,I organized the guns by the case year and moved several of them from shelf to shelf. By doing so, it is now very easy to find a gun because they are stored in this fashion. My mistake was not changing the shelf location on these guns. The property system therefore may show a gun on shelf " b" when in fact I moved it to shelf " a" and did not update the system. Now, when I store a gun , I designate the location as " gun room".

This allows me to move the guns around a bit while still keeping them in a designated location where they are easy to find. The drug items and the pills that were not found ,I can say with confidence went to the lab. All drugs that we take in go to the lab, either for analysis or destruction. None are stored in our property room for more than a couple of days. In these cases ,I suspect that there were several items of drugs that were submitted into evidence. When the status was changed from "stored in location" to " to lab", not all of the boxes were checked for each item. In fact, all items were sent to the lab but because some of the boxes were unchecked, these items still showed as being stored in location. The safe that was not signed for was returned by a detective who did not notify me that the safe was being returned. Therefore, it still showed as being in the system. The three items that were auctioned that were not documented was an error on my part.

Page 4 of the report mentions that two individuals who have retired form the department still have administrative rights. I have attempted to remove these officers completely from the system but have been unsuccessful because they still have cases assigned to them. As I discussed with your auditors on July 17th, I will attempt to change their rights to "read only". Regarding the vehicle that was not located from page 5, it is not common practice in our department that vehicles that are impounded are put into the evidence system. We have a separate component of our record keeping system for vehicles. In this case ,I suspect that the vehicle was released per normal procedure and the person who released it was unaware that it was also entered in the property system. The 11 miscellaneous items and the 3 missing jewelry items I believe were from old cases and the documentation could not be located.

Regarding the disposal of property discussed in pages 5-7, I agree that more specific policies are required for the disposal of high risk items. The auditors suggested that I obtain written authorization from the Chief to destroy guns. Our practice has been to discuss each case with the Chief and obtain his consent verbally before destroying a gun. I have already adapted our gun destruction checklist to add a place for the Chief's signature. Regarding the errors in the auction items, those were computer and paperwork errors on my part. These were likely caused by a failure to check all of the boxes in the program when multiple items were transferred. I intend to add to our policies procedures for returning items to an owner or an agent of the owner, for auctioning items, retaining items for department use, sending items to the lab and for destroying items.

I agree with all of the audits recommendations and will immediately take steps to implement them.The auditors and myself have already talked about various ways to implement the recommendations at our meeting on July 17th. I was told by the auditors to hold off on submitting a CAP until your office has completed the audit review with all of the agencies that were involved. Please contact me when you determine when the CAP is due. In closing, I appreciate the courtesy and professionalism of your staff and I enjoyed working with them. I will take advantage of this opportunity to improve our policy and procedures as they pertain to evidence and property.

Sincerely,

Captain Gregory Wickett

Michael Williams Chief of Police_____

Steven Walters Town Supervisor_____

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We interviewed Department personnel to determine if processes existed to account for all property room inventory, if property inventory records were up-to-date and accurate and if internal controls were in place to safeguard all money, firearms, drugs and high-value items in the property room.

We reviewed the Department's physical inventory records and disposal records as well as monitoring procedures. We also traced Department 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 Department's facilities to determine what controls were in place over inventory.

- We judgmentally selected a sample of 10 items from a property item list. Our selection was based on an assortment of cases from various years. The item was pulled from 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 Department records.

- We then judgmentally selected a sample of 10 items from the physical location. Our selection was based on a random selection of items from various locations. The items were pulled from location to verify that the seal was intact, that there were no apparent signs of tampering and that the property label on the item matched the Department records.

- We used the Department's inventory report to judgmentally select eight categories to test from, comprising firearms, drug items, money, found property, jewelry, latent prints, biological evidence and vehicles. We selected these categories because of the potential for higher risk of theft or misuse. Based 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 coordinator, we tested physical inventory.

- For property room money, we conducted three tests:

  - We selected all bags of currency over $500 and traced each bag from the current evidence inventory report to its location in the property room.

  - We then verified the amount of money in the bag for the sample selected to the amount listed on the report. An Office of the State Comptroller (OSC) examiner and the Department's property coordinator conducted a physical inventory, going to each location to verify the item was in 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.

- For a judgmentally selected sample of bags, municipal employees unsealed the bags, counted the money inside and resealed the bag in the presence of OSC examiners. At the time of the count, all individuals had to be in agreement to proceed.

- We used the Department's disposal records to judgmentally select items disposed by the Department during our scope period and tested for compliance with Department policy.

- We selected a sample of Department incident reports prepared by officers at the time of collection and reviewed the narrative on the incident report to determine if the evidence noted as collected matched what was in the evidence bag.

- We also traced access rights to the Department's computer system and, for a selection of users, tested the ability of to add, edit and delete records.

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.