

SPECIAL REPORT

WEST VIRGINIA STATE POLICE EVIDENCE ROOMS

FOR THE PERIOD JULY 1, 2008 - JUNE 30, 2009

REPORT OVERVIEW

Lack of evidence related to misdemeanor charges; lack of documentation to support the disposition of such evidence

Lack of documentation to support the disposition of plants

Incomplete or contradictory documentation



WEST VIRGINIA LEGISLATIVE AUDITOR POST AUDIT DIVISION



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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have conducted a special report of the West Virginia State Police Evidence Rooms for the period July 1, 2008 through June 30, 2009.

We have conducted our audit in accordance with Government Auditing Standards, issued by the Comptroller General of the United States. Our audit has disclosed findings which are detailed in this report. The West Virginia State Police did not provide us with any responses to be included in this report.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

TABLE OF CONTENTS

Independent Auditor’s Report	2
Executive Summary	4
Introduction	7
Post Audit Authority.....	7
Background.....	7
Administrative Officers and Staff	9
Report Scope	10
Objectives and Methodologies	10
Conclusion	11
Exit Conference	11
Compliance Matters	12
Finding 1 – Evidence seized as part of a Misdemeanor Possession Charge.....	13
Finding 2 – Marijuana Eradication.....	15
Finding 3 – Incomplete or Contradictory Documentation	17
Finding 4 – Internal Audits of Evidence Rooms.....	19
Finding 5 – Safekeeping Weapons for the Wyoming County Sherriff’s Department.....	21
Certificate of Director, Legislative Post Audit Division	22

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

INDEPENDENT AUDITOR'S REPORT

Post Audit Subcommittee:

Compliance

We have audited the West Virginia State Police's (WVSP) compliance with the laws, rules, and regulations applicable to the WVSP's evidence rooms for the year ended June 30, 2009. Compliance with the requirements referred to above is the responsibility of WVSP's management. Our responsibility is to express an opinion on the WVSP's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above that could have a material effect on the evidence rooms. An audit includes examining, on a test basis, evidence about the WVSP's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the WVSP's compliance with those requirements.

In our opinion, except for noncompliance noted in Findings 1, 2, and 4, the WVSP complied, in all material respects, with the compliance requirements referred to above that are applicable to evidence rooms for the year ended June 30, 2009.

Internal Control

Management of the WVSP is responsible for establishing and maintaining effective internal control over compliance with the compliance requirements referred to above. In planning and performing our audit, we considered the WVSP's internal control over compliance to determine the auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the WVSP's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their functions, to prevent, or detect and correct, noncompliance on a timely basis. *A material weakness* in internal control over compliance is a deficiency, or combination of deficiencies in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses in internal control over compliance. We did not identify deficiencies in internal control over compliance that we consider to be *material weaknesses*.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and management of the West Virginia State Police. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Respectfully Submitted,

A handwritten signature in black ink that reads "Stacy L. Sneed". The signature is written in a cursive style with a loop at the end of the last name.

Stacy L. Sneed, CPA, Director
Legislative Post Audit Division

February 18, 2010

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

EXECUTIVE SUMMARY

Finding 1

Evidence seized as part of a Misdemeanor Possession Charge

- We noted four of the five West Virginia State Police (WVSP) detachment's evidence rooms that we audited did not maintain, as evidence, small quantities of drugs confiscated in relation to misdemeanor possession charge.

Auditor's Recommendation

We recommend the WVSP follow Sections 1.15 and 1.23 of the WVSP Evidence Maintenance & Security policy and contact the prosecuting attorney prior to disposing of evidence seized. Furthermore, we recommend the WVSP document this correspondence. (See pages 13 and 14)

Spending Unit's Response

No response from the spending unit.

Finding 2

Marijuana Eradication

- We noted approximately \$270,000.00 in live marijuana plants at the Jesse Detachment were seized. We noted a court destruction order or PDR was not provided to note the destruction of these plants, nor was a photographic record required or taken of the destruction of the plants. While the eradication practices may not require documentation of eradication, without proper documentation we were unable to determine if the plants were properly destroyed and not used for other purposes.

Auditor's Recommendation

We recommend the WVSP update the Evidence Maintenance & Security policy to include procedures for marijuana plant eradication and properly document the destruction of marijuana plants by requiring a photographic record of the actual destruction of the plants and a court destruction order and/or proper completion of the bottom of the PDR to note the destruction of these plants. (See pages 15 and 16)

Spending Unit's Response

No response from the spending unit.

Finding 3 **Incomplete or Contradictory Documentation**

- Four of 16 PDRs tested at the Jesse Detachment in Troop 6, or 25%, did not include the date. In addition, we noted the color of two pills' was incorrectly documented on a Criminal Investigation (CI) Report. Also, during our audit of the Hinton Detachment, we noted ammunition had not been logged into the evidence room and no documentation was provided to us to support the disposition of this evidence.

Auditor's Recommendation

We recommend the WVSP follow the Evidence Maintenance & Security policy by completing all proper forms correctly and logging all evidence into the evidence rooms in a timely manner. (See pages 17 and 18)

Spending Unit's Response

No reponse from the spending unit.

Finding 4 **Internal Audits of Evidence Rooms**

- We noted the fourth quarter 2008 Detachment Inventory Affidavits for all five detachments, included in our audit, lacked the Troop Executive Officer's signature. Also, the WVSP were unable to provide us with documentation to support the audit of evidence rooms including a review of random CI reports to the physical evidence.

Auditor's Recommendation

We recommend the WVSP follow the Evidence Maintenance & Security policy by ensuring inventories are performed by the Detachment Commander in concert with the Troop Executive Officer during the fourth quarter of each calendar year. This should be documented with the proper signatures being affixed to the appropriate Detachment Inventory Affidavit. We also recommend the WVSP ensure evidence is audited using the entire audit trail available, including auditing from the CI reports to the physical evidence. (See pages 19 and 20)

Spending Unit's Response

No reponse from the spending unit.

Finding 5 **Safekeeping Weapons for the Wyoming County Sheriff's Department**

- During our audit of the Jesse Detachment, we noted that the Detachment was storing weapons at the request of the Wyoming County Sheriff's Department. The WVSP's policy does not address the liability of the WVSP while storing items at the request of the Sheriff's Department or other entity and no guidelines were provided to shed light on any standing agreement.

Auditor's Recommendation

We recommend the WVSP implement an agreement with other law enforcement agencies for which they may store items that outlines responsibilities and procedures. Additionally, we recommend the WVSP assess any liability concerns potentially created by storing items at the request of another law enforcement agency. Finally, we recommend the WVSP include specific guidelines as defined under Section 1.00 of the Evidence Maintenance & Security policy when developed. (See page 21)

Spending Unit's Response

No response from the spending unit.

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

INTRODUCTION

POST AUDIT AUTHORITY

This is the special report on the post audit of the West Virginia State Police Evidence Rooms for the period of July 1, 2008 through June 30, 2009. The audit was conducted pursuant to Chapter 4, Article 2 of the West Virginia Code, as amended, which requires the Legislative Auditor to “make post audits of the revenues and expenditures of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units.”

BACKGROUND

The West Virginia State Police (WVSP) was created in 1919 by Chapter 15, Article 2 of the West Virginia Code, as amended, and continues to operate in accordance with the following mission statement:

“It is the mission of the West Virginia State Police to provide direct and indirect law enforcement services, in a proficient and courteous manner, to the citizens of the state and to other law enforcement entities to ensure the continued security of persons, residential, governmental and business properties, and the safety of motorists operating on the state’s streets and highways.”

As West Virginia’s statewide law enforcement agency, the WVSP is charged with the responsibility of general and special law enforcement criminal investigation services with concentration in rural, unincorporated areas of the state. Troopers conduct highway patrol and traffic enforcement for both unincorporated areas and highways, and provide security and police services throughout the state for many athletic events, fairs, and festivals.

The WVSP also provides the following services to law enforcement agencies and governmental entities within the state: central criminal records repository for all state arrests and dispositions; central clearinghouse for law enforcement reporting data; forensic laboratory services; law enforcement training, certification, and annual in-service; West Virginia Motor Vehicle Inspection Program; legislative security; executive protection service; natural disaster or emergency assistance to other public agencies; and criminal investigation assistance to other law enforcement agencies.

In order to accomplish the mission and perform the duties and responsibilities required, the WVSP is comprised of four divisions: Executive Services, Staff Services, Field Services and Field Operations. Personnel within the Staff Services and Executive Services perform the administrative, accounting, and executive services necessary to operate the WVSP. Existing organizationally within the Executive

Services is Media Relations, Personnel and the Medical Unit. Staff Services is comprised of Accounting, Communications, Criminal Records, Forensic Laboratories, Planning and Research, Procurement, Promotional Standards, Traffic Records, and the Traffic Academy Uniform Crime Reporting. Professional Standards and the Legal Section are separate units of Department Headquarters reporting directly to the Superintendent. During Fiscal Year 2009, 39 uniformed members were assigned within Staff and Executive Services.

Field Operations is the operational and largest division of the State Police. Field Operations is responsible for providing necessary police functions to all citizens of this state. These functions are provided on a daily basis by seven uniformed Field Troops, which are divided into 20 Districts consisting of 60 detachments. In addition, Troop Eight, the Bureau of Criminal Investigations, provides personnel statewide for undercover and criminal investigations. Special Operations, Executive Protection and the Training Academy are organizationally within Field Operations.

As of June 30, 2009, there were 613 uniformed members assigned to the Field Operations Division. The State Police employed 359 civilian personnel during the 2009 fiscal year.¹

A listing of personnel of the WVSP is on the following page.

¹ *Information obtained from the West Virginia State Police 2009 Annual Report.*

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

**ADMINISTRATIVE OFFICERS AND STAFF
AS OF JUNE 30, 2009**

Colonel Timothy A Pack Superintendent
Lieutenant Colonel Bruce A. Sloan..... Deputy Superintendent
Major Kevin J. Foreman Chief of Staff Services
Captain Charles N. Zerkle III Deputy Chief of Staff Services
Major Jack C. Chambers Chief of Field Services
Captain Jeffrey B. Schoolcraft Deputy Chief of Field Services
Captain Stephen C. Tucker Chief of Executive Services
Captain David L. Lemmon II Director of Planning and Research
Captain Gordon A. Ingold..... Director of Professional Standards
Major Mark G. Debord Director of Training
Captain Robert L. Stickley Troop 6 Commander
Captain Timothy D. Bradley Troop 8 Commander
Sergeant John Pauley Princeton Detachment Commander
Sergeant Ron Lilly Richwood/Summersville Detachment Commander
Sergeant Ray Bailey Jesse Detachment Commander
Sergeant Tim Bragg Hinton Detachment Commander

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

REPORT SCOPE

We have audited the evidence rooms of five randomly selected West Virginia State Police (WVSP) detachments for the period of July 1, 2008 through June 30, 2009. Our audit scope included reviewing the documentation and maintenance of evidence and compliance with the WVSP's own policies and procedures pertaining to evidence. The audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

OBJECTIVE AND METHODOLOGIES

The objectives of our special report were to audit the evidence rooms of five randomly selected WVSP evidence rooms; to report any noncompliance with the WVSP Evidence Maintenance & Security Policy and any other relevant rules and regulations, that we find; to ascertain facts; and to make recommendations to the Legislature concerning post audit findings and functions of the WVSP. We were to determine whether there was proper evidence maintenance and whether evidence was properly documented. Additionally, we were to evaluate their compliance with applicable State Laws, rules and regulations as they pertained to evidence.

In preparation for our testing, we reviewed prior audits of the West WVSP completed by our division, applicable WV Code Sections, and the WVSP Evidence Maintenance & Security Policy. Compliance with requirements was verified by inspection of evidence found in State Police documents by random selection, and thorough inspection of documents and records.

A nonstatistical sampling approach was used. Our samples of evidence were designed to provide conclusions about the accuracy and completeness of documentation as well as evidence maintenance. Evidence was selected for testing using professional judgment.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and management of the WVSP. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

West Virginia State Police's management is responsible for establishing and maintaining effective internal control over evidence and evidence rooms. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

CONCLUSIONS

We noted four of the five [all Troop 6] detachment's evidence rooms that we audited did not maintain, as evidence, small quantities of drugs confiscated in relation to misdemeanor possession charges and documentation was not provided to us to support the disposal of such evidence at two of these evidence rooms. Also, we noted there is no policy addressing the procedures required for marijuana plant eradication and approximately \$270,000.00 (street value) in marijuana plants were seized by the Jesse Detachment during our audit period and destroyed without any documentation to support the destruction of the evidence. We were unable to assure ourselves that the evidence was properly disposed of and not used for other purposes.

This report includes findings regarding significant instances of noncompliance with applicable laws, rules or regulations.

EXIT CONFERENCE

We discussed this report with the management of the West Virginia State Police on March 26, 2010. All findings and recommendations were reviewed and discussed.

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

COMPLIANCE MATTERS

Chapter 15, Article 2 of the West Virginia Code, as amended, generally governs the West Virginia State Police. We tested applicable sections of the above code plus other applicable chapters, articles, and sections of the West Virginia Code, as well as rules and regulations as they pertain to evidence maintenance.

We audited five of 62 West Virginia State Police evidence rooms. These five evidence rooms were randomly selected. The locations of the evidence rooms were as follows: Princeton Detachment; Richwood Detachment; Jesse Detachment; Hinton Detachment and the Bureau of Criminal Investigations (BCI) Headquarters. We noted findings at all five detachments. Our findings are discussed on the following pages of this report.

**SPECIAL REPORT OF
WEST VIRGINIA STATE POLICE
EVIDENCE ROOMS**

FINDINGS

Finding 1

Evidence seized as part of a Misdemeanor Possession Charge

Condition:

We noted four of the five West Virginia State Police (WVSP) detachment's evidence rooms that we audited did not maintain, as evidence, small quantities of drugs confiscated in relation to misdemeanor possession charges. We were told that drugs under 15 grams were deemed a misdemeanor possession charge. The four detachments (Princeton, Jesse, Richwood and Hinton Detachments) were all Troop 6.

Specifically, we noted seven items (four glass bowls with residue; one snort tube with residue; .12 grams of marijuana; and marijuana seeds and .5 grams of marijuana) listed on Criminal Investigation (CI) Reports at the Richwood Detachment and three items (two hydrocodone pills; ten carisprodal pills; and pea size crack) listed on CI Reports at the Princeton Detachment [that were cited as a misdemeanor possession] were not located in the evidence room and a Property Disposition Report (PDR), court destruction order or other documentation was not present to support the disposition of the evidence.

The WVSP Superintendent told us the procedure for destruction of misdemeanor evidence varies county to county and is determined by the Prosecuting Attorney's Office of each county. Also, he told us he is certain that members of the WVSP are not using the misdemeanor quantities of drugs because the WVSP performs periodic drug testing. Additionally, he informed us that drug residue has no value or use.

Criteria:

The West Virginia State Police Evidence Maintenance & Security policy states in part:

"...1.15 The primary investigator shall contact the appropriate prosecuting attorney and determine whether the evidence must be retained, released to the owner, or destroyed....

1.23 If the evidence is to be destroyed, the primary investigator... shall obtain the appropriate destruction documentation from a court of competent jurisdiction. The evidence shall be destroyed in the presence of the Detachment/Assistant Detachment Commander

according to reasonably accepted practices. The date, time and manner of destruction shall be documented on the Evidence Log Sheet and Property Disposition Report and shall be attested to be the primary investigator and the Detachment/Assistant Detachment Commander....In instances where the primary investigator is not readily available due to change in duty station, etc. the Detachment/Assistant Detachment Commander shall assume responsibility for obtaining the proper documentation and the destruction of the property.”

- Cause: We were told by the respective Commanders of the aforementioned Troop 6 Detachments that they do not maintain evidence for misdemeanor possession charges as it can over crowd their evidence room. The WVSP Superintendent provided us with a written statement that, “...*Drugs seized as part of a misdemeanor possession charge can be destroyed at the direction of the Prosecuting Attorney prior to inclusion in the evidence room pursuant to Section 1.15 of the policy on Evidence Maintenance & Security....*” Further, we were unable to determine whether the WVSP audit of the evidence rooms included tracing from the CI reports to the physical evidence. Such an audit step would assist WVSP in ensuring evidence is not destroyed without the proper approval of the Prosecuting Attorney. (See Finding 4 of this special report).
- Effect: Without correspondence from the Prosecuting Attorney, we were unable to assure ourselves the evidence was properly disposed of along the guidelines established by the WVSP. The possibility exists that items could have been used for other purposes.
- Recommendation: We recommend the WVSP follow Sections 1.15 and 1.23 of their own policy and contact the Prosecuting Attorney prior to disposing of evidence seized. Furthermore, we recommend the WVSP document this correspondence.
- Spending Unit’s Response: *No response from the spending unit.*

Finding 2

Marijuana Eradication

Condition:

During our audit of the WVSP Jesse Detachment evidence room, we learned of the seizure of approximately \$270,000.00 (street value) in live marijuana plants. Following WVSP procedure, we were told the plants were burned on site and plants such as these are not taken into detachments for health reasons. The WVSP told us they adhere to the eradication practices established by HIDTA and the United States Office of National Drug Control Policy.

We noted a court destruction order or PDR was not provided to note the destruction of these plants, nor was a photographic record required or taken of the destruction of the plants. While the eradication practices referenced above may not require documentation of eradication, without proper documentation we were unable to determine if the plants were properly destroyed and not used for other purposes.

A newspaper article dated December 14, 2009 stated in part, "...The West Virginia State Police say they seized more than 222,600 marijuana plants in 2009, an all-time record....the street value of the plants is roughly \$450 million...."

Criteria:

The West Virginia State Police Evidence Maintenance & Security policy states in part:

"...**1.23** If the evidence is to be destroyed, the primary investigator shall photographically record the description and nature of the evidence and shall obtain the appropriate destruction documentation from a court of competent jurisdiction. The evidence shall be destroyed in the presence of the Detachment/Assistant Detachment Commander according to reasonably accepted practices. The date, time and manner of destruction shall be documented on the Evidence Log Sheet and Property Disposition Report and shall be attested to be the primary investigator and the Detachment/Assistant Detachment Commander. The photographs shall be marked as exhibits and attached to the file copy of the incident report. In instances where the primary investigator is not readily available due to change in duty station, etc. the Detachment/Assistant Detachment Commander shall assume responsibility for obtaining the proper documentation and the destruction of the property...."

1.36 Drug evidence shall be forwarded to the Forensic Laboratory for analysis as soon as practicable following its seizure or receipt. The Forensic Laboratory will make a weight/quantity determination for submitted evidence and retain samples for analysis. Any remaining

evidence will be sealed in tamper-proof packaging and returned to the investigating officer along with a Results of Analysis.

NOTE: Members shall obtain representative samples of drug evidence recovered during marijuana eradication activities. The representative samples shall then be forwarded to the Forensic Laboratory for analysis and returned to the investigating officer in compliance with this section.”

Cause: The WVSP told us they adhere to the eradication practices established by HIDTA and the United States of National Drug Control Policy, which does not require PDRs to be completed for the evidence and does not require photographs of the actual destruction of the plants to be taken. The WVSP Evidence Maintenance & Security policy does not address the procedures required for plant eradication.

Effect: We were unable to determine if the plants were properly destroyed and not used for other purposes.

Recommendation: We recommend the WVSP update the Evidence Maintenance & Security policy to include procedures for marijuana plant eradication and properly document the destruction of marijuana plants by requiring a photographic record of the actual destruction of the plants and a court destruction order and/or proper completion of the bottom of the PDR to note the destruction of these plants.

Spending Unit’s Response: *No response from the spending unit.*

Finding 3

Incomplete or Contradictory Documentation

Condition:

PDRs are completed for evidence that is placed into the evidence rooms of the WVSP. Four of 16 PDRs tested at the Jesse Detachment, or 25%, did not include the date. In addition, two pills in the evidence room that were pink in color were reported as blue in color on the respective Criminal Investigation (CI) Report, completed to document the events and other notations during a criminal investigation.

Additionally, during our audit of the evidence room for the Hinton Detachment we examined a CI report which listed three boxes of 9mm ammunition. However, we were unable to locate the ammunition or a completed PDR and learned the ammunition had not been logged into the evidence room.

Criteria:

The West Virginia State Police Evidence Maintenance & Security policy states in part:

“...**1.16** Evidence that is to be retained shall be turned over to the Detachment/Assistant Detachment Commander for placement into the detachment evidence room, submitted to the Forensic Laboratory or placed into a secure temporary storage area prior to the end of that member’s tour of duty....

1.18 The primary investigator shall complete, or cause to be completed, Part A of the Evidence Log Sheet, WVSP Form #109, the uppermost portion of a Property Disposition Report, WVSP Form #31; and an Evidence Tag, WVSP Form #118 prior to the receipt of the evidence by the Detachment/Assistant Detachment Commander.

- a. These documents shall contain a complete description of the evidence being submitted for placement into the evidence room.
- b. Descriptive information shall include the item’s make model, serial number, color, quantity and denomination and total value if currency.”

Cause:

We were told by the Jesse Detachment Commander the pills were probably incorrectly noted as blue in the report and the officers completing the four reports without dates neglected to fill out the form completely was, likely, a simple oversight by the investigating officer. Also, the WVSP Superintendent told us pills such as this are chemical compounds that can change in shade and color. The Hinton Detachment Commander believed the PDR for the ammunition was on another officer’s desk and the ammunition was returned to the rightful owner.

Effect: As a result, we could not assure ourselves the evidence collected was placed into the Jesse evidence room in a timely manner and whether two blue pills or two pink pills were collected on the instance noted above as the information on varying reports is contradictory. Additionally, we cannot assure ourselves the ammunition seized by the Hinton Detachment was handled properly by officers of the WVSP and that the ammunition was returned to its rightful owner. The possibility exists that items could have been used for other purposes.

Recommendation: To avoid possible misplacement of evidence and inaccurate reporting, we recommend the WVSP follow the Evidence Maintenance & Security policy by completing all proper forms correctly and logging all evidence into the evidence rooms in a timely manner.

Spending Unit's Response: *No response from the spending unit.*

Finding 4

Internal Audits of Evidence Rooms

Condition:

We noted the fourth quarter 2008 Detachment Inventory Affidavits were completed for all five detachments (i.e., Hinton, Richwood, Princeton, and Jesse Detachments and BCI Headquarters) and were signed by the Detachment Commander and the District Commander, but lacked the Troop Executive Officer’s signature.

Additionally, we were told as part of the audit of evidence rooms by WVSP personnel, random CI reports were reviewed periodically and the disposition of evidence listed was audited. The WVSP, however, were unable to provide documentation to support this review took place at the five evidence rooms included in our audit.

Criteria:

Section 1.10 of the West Virginia State Police Evidence Maintenance & Security policy states in part:

“...The Detachment and District Commanders and Troop Executive Officers shall be responsible for auditing the evidence room on a regular basis...”

Section 1.38 of the West Virginia State Police Evidence Maintenance & Security policy states in part:

“...Additional inventories shall be performed by the Detachment Commander in concert with the District Commander during the second quarter and the Troop Executive Officer during the fourth quarter of each calendar year....”

Cause:

The WVSP Director of Professional Standards told us the WVSP’s practice is to maintain the original documentation at the detachment and forward a copy to the Troop Commander for review. He further told us the copy sent to the Troop Commander is not required to be returned to the detachment or maintained on the Troop level. Also, he could not confirm the officers were present at all the inspections based on the records, and the Executive Officer over Troop 6 retired and some of the detachment commanders have changed since that time.

Additionally, the WVSP Director of Professional Standards informed us the inventory form does not require the CI reports to be reviewed and the review of CI reports is usually not documented.

Effect:

We were unable to verify the Troop Executive Officer was present during the fourth quarter 2008 inventories of the evidence room in concert with the Detachment Commander. Lastly, we were unable to determine CI reports were being utilized during all internal evidence

room audits to significantly decrease the risk of misappropriation after evidence is initially seized and remanded to the WVSP evidence rooms.

Recommendation:

We recommend the WVSP follow their own policy by ensuring inventories are performed by the Detachment Commander in concert with the Troop Executive Officer during the fourth quarter of each calendar year. This should be documented with the proper signatures being affixed to the appropriate Detachment Inventory Affidavit. We also recommend the WVSP implement additional procedures and update the appropriate forms to ensure evidence is audited using the entire audit trail available, including auditing from the CI reports to the physical evidence.

Spending Unit's Response:

No response from the spending unit.

Finding 5

Safekeeping Weapons for the Wyoming County Sheriff's Department

Condition: During our audit of the evidence room of the Jesse Detachment we noted numerous weapons entered into the evidence room on July 14, 2008 were returned to their owner on January 12, 2009 without a corresponding investigation report to describe how the WVSP came into possession of the weapons. The Detachment Commander stated the detachment was holding the weapons on behalf of the Wyoming County Sheriff's Department. A "post-it" note attached to a PDR indicated a domestic violence petition had been served and the owner requested the guns be taken until the issue was resolved.

The WVSP's policy does not address the liability of the WVSP while storing items at the request of the Sheriff's Department or other entity and no guidelines were provided to shed light on any standing agreement. Additionally, no documentation was present clearly defining under what circumstances the weapons were kept away from their rightful owner.

Criterion: The West Virginia State Police Evidence Maintenance & Security policy states in part:

"...1.00 This policy outlines the procedures which shall be followed by members of the West Virginia State Police to ensure the proper safekeeping, documentation and disposal of evidence or found property which comes into their possession and the procedures to be followed when submitting same to the Detachment/Assistant Detachment Commander for inclusion into the detachment evidence room."

Cause: The Jesse Detachment Commander stated the weapons were being held for the Wyoming County Sheriff's Department then were returned to their owner. We were also not provided any formal agreement between the Wyoming County Sheriff's Department and the WVSP to detail a relationship for the storing of items and related procedures.

Effect: We were unable to determine what liability the WVSP assumes when storing items at the request of another law enforcement agency.

Recommendation: We recommend the WVSP implement an agreement with other law enforcement agencies for which they may store items that outlines responsibilities and procedures. Additionally, we recommend the WVSP assess any liability concerns potentially created by storing items at the request of another law enforcement agency. Finally, we recommend the WVSP include specific guidelines as defined under Section 1.00 of the Evidence Maintenance & Security policy when developed.

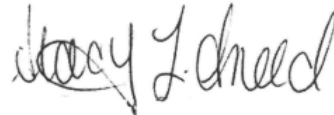
Spending Unit's Response: *No response from the spending unit.*

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 12th day of April 2010.



Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the West Virginia State Police; Governor; Attorney General; State Auditor; and Cabinet Secretary of Military Affairs and Public Safety.