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February 17, 2015

Gil Piaquadio, Acting Town Supervisor  
Members of the Town Board  
Town of Newburgh  
1496 Route 300  
Newburgh, NY 12550

Report Number: S9-14-56

Dear Mr. Piaquadio 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.<sup>1</sup> We included the Town of Newburgh (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 September 26, 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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<sup>1</sup> 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 376 high-risk property items held by the Department that we tested, 265 items (70 percent) were not in the correct location, and of these, 51 items (14 percent), were unaccounted for (missing from inventory), with no documentation to indicate their disposition. The missing items were comprised of 17 money items totaling over \$63,400, 23 drug items, six firearms, four vehicles and one washer of an unidentified type.

The Department also did not maintain adequate documentation to support the disposal of items. Of 108 disposed items tested, 88 items (81 percent) did not contain proper documentation to support their final disposition. These included the following:

- Nine weapons listed as destroyed did not have proper documentation (five were found in the identification officer's office).
- Sixty-eight drug items listed as destroyed could not be sufficiently traced back to the evidence of destruction provided by the Department.
- Three items (a handgun, wallet and bag of watches) listed as returned to owner had no documentation.
- Eight items (including money, drugs, a firearm and fingerprint/DNA samples) listed as transferred to three different agencies did not have proper documentation.

Town officials attributed the discrepancies to a lack of written procedures, monitoring, space and resources.

In addition, the Department could improve other control procedures to safeguard property room inventory. The Department granted administrative access rights to its computerized property tracking system to five individuals, three of whom have access to property room inventory. No one monitored user activity in the system. Further, the Department has not performed physical inventories since 2011.

## **Background and Methodology**

The Town has a population of approximately 30,000 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 \$6.3 million of the Town's \$43.3 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 an identification

officer. In September 2013, the property room inventory contained about 92,000 items.<sup>2</sup> 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. Three software application administrators with access to the items in the property room also had administrative rights to the property tracking system, allowing for the potential to change the inventory records. In addition, the Department’s

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<sup>2</sup> The inventory report included current inventory such as evidence and property, along with all incidents logged, including emergency calls and complaints. Due to this mixed format, we were unable to isolate all inventory and disposed items to determine a complete total.

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<sup>3</sup> 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 packages the evidence, the Department requires it to be placed in large, locked temporary evidence lockers located on-site. The identification officer then removes the items from the temporary evidence lockers and enters information in the Department's property tracking system and manual logbooks based on the type of item. After logging the items, the identification officer places the item in a designated location in the property room.

The Department policy also provides guidelines for transfers to laboratories and to court. Specifically, the policy states that when leaving evidence with the District Attorney or the District Attorney's identification officer, the officer will obtain a receipt indicating the transfer of evidence. The officer will immediately deliver this receipt to the identification detective at headquarters as proof of transfer. In addition, the policy provides that the identification officer or evidence technician will obtain the signature of the laboratory employee accepting the evidence, with a notation of the date and time received and return with the copy of the laboratory report to headquarters.

A deficient Department procedure resulted in three of the five application administrators having access to items in the property room as well as administrative rights to the property tracking system, allowing for the potential to change the inventory records. An individual with both access to the property room and administrative rights to the property tracking 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 527 high-risk items<sup>4</sup> but were able to test only 376<sup>5</sup> items (210 firearms, 89 drug items, 47 money items and 30 other items<sup>6</sup>). We examined the computer records to determine whether the property was adequately described, intact and stored in the designated location. Of the 376 items

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<sup>3</sup> Each item should have an identifier (tracking number), which corresponds to the item description, the individuals involved in the case and the location/movement information necessary to track the chain of custody.

<sup>4</sup> See Appendix B, Audit Methodology and Standards, for detail on our selection of test samples.

<sup>5</sup> The inventory report included current inventory, along with all incidents logged including emergency calls and complaints. Due to this mixed format, we were unable to isolate all inventory and disposed items to determine a complete total.

<sup>6</sup> Other items include found items, vehicles, jewelry, electronics and biological items.

tested, 265 (70 percent) were not accurately recorded, and of these, 51 items were unaccounted for (missing from their property room location) during our audit fieldwork. Specifically:

- Of the 210 firearms tested, 173 (82 percent) were not stored in the location indicated by inventory records. The identification officer was unable to account for six firearms missing from the inventory room.<sup>7</sup>
- Of the 89 drug items tested, 37 items were not stored in the location indicated by inventory records. Of these, 23 items had no documentation or proof that they were destroyed, and 14 items had documentation, but it did not follow the Department's policy regarding drug destruction.
- Of the 47 money items tested, 33 (70 percent) were not found in the safe as indicated on the current inventory. Of those, 17 money items totaling over \$63,400 that were marked as going to other agencies or returned did not have proper documentation detailing the movement of the transaction.
  - Two items totaling over \$1,100 were unaccounted for.
  - Six items totaling over \$32,000 were marked as sent to other agencies, but the identification officer was unable to furnish a receipt detailing the transfer. In one instance, the identification officer indicated that over \$25,000 was turned over to the District Attorney's Office. However, neither the Department nor the District Attorney's Office was able to furnish documentation showing that the transfer occurred. In addition, the identification officer was unable to furnish documentation of the transfer of over \$5,800 that was sent to the U.S. Marshal's Office for a seizure. The identification officer did not know which district office of the U.S. Marshal's Office received the money. Accordingly, we could not seek documentation of the transfer from the U.S. Marshal's Office.
  - Nine items totaling over \$29,600 were marked as returned. While Department receipts documenting the return existed, the identification officer was unable to provide independent support (e.g., copy of a driver's license) that showed the recipient of the money.
- Of the 30 other items reviewed, five could not be located: four vehicles and a "washer."<sup>8</sup> These five cases originated between 2007 and 2011.

Department officials attributed the inaccurate records and missing inventory to a lack of oversight and cutbacks to the Department that resulted in the identification officer being the sole individual in charge of property inventory as well as serving as the Department's information technology coordinator. In almost all of the cases, Department officials told us the identification officer did not update the property tracking system with the status or movement of the evidence. Department officials also told us that no periodic inventory or audits are conducted.

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<sup>7</sup> For the remaining 167 firearms, the identification officer provided adequate supporting documentation indicating that 114 were returned to their owners, 22 were destroyed, eight were to be destroyed and 23 were turned over to other agencies or found.

<sup>8</sup> The inventory list does not define the type of washer (e.g., dishwasher, washing machine, etc.).

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 and proof of identification for the Department's records. While the Department has these procedures in place for the disposal of property evidence, controls can be improved.

We reviewed a list of disposed inventory, totaling 4,295 items,<sup>9</sup> and judgmentally selected a sample of 108 high-risk items, including money, biohazard items, drug items, firearms and electronics. These items were disposed of by being destroyed, returned to their owner, or transferred to the District Attorney or other agencies such as the New York State Police; the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); and the U.S. Secret Service. We reviewed the computer records to determine whether the items' disposal was documented adequately. Of the 108 items tested, 20 items (19 percent) were documented adequately. For example:

Destruction – Our test of 108 items included 10 firearms and 68 drug items that were destroyed. Two private vendors completed the destruction of firearms and drugs.

- Firearms – Department policy states that on an annual basis, the identification officer will take an inventory of firearms to be destroyed and deliver this list to the Chief for approval. Upon approval by the Chief, the list will be sent to the New York State Police to authorize the destruction of the firearms. Upon receipt of written authorization, the officer will transport the firearms for destruction and receive a receipt for the destroyed firearms. Following the destruction, the identification officer will complete an incident report indicating the time, date, place and persons present for the destruction.

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<sup>9</sup> The inventory report included current inventory items, along with all incidents logged including emergency calls and complaints. Due to this mixed format, we were unable to isolate all inventory and disposed items to determine a complete total.

Of the 10 firearms selected for testing, only one was destroyed as outlined by the policy. Four items were marked as having been sent to the New York State Police for destruction. However, the Department did not have a receipt evidencing proof of destruction or any other documentation of disposal. In addition, five firearms shown as having been destroyed in the Department inventory records were still sitting in the identification officer's office.

- **Drugs** – The Department policy states that, on an annual basis, the identification officer will take an inventory of drugs to be destroyed and will deliver a list to the Chief. The Chief, or the Chief's designee, will obtain a court order authorizing the destruction of the drugs and have an arrangement made with a business or agency that has an incinerator. When the drugs are to be destroyed, the identification officer and a command officer designated by the Chief will collect the drugs and together deliver them to the location of the incinerator. In the presence of a destruction-site employee, the identification officer will personally place the drugs in the incinerator and both officers will remain until the drugs are destroyed. Following the destruction, the identification officer will record in detail exactly what was destroyed, what actions were taken and who was present. However, the policy is deficient in that it does not require a receipt or signature from the command level officer or a third party who participated in the destruction attesting to the items being destroyed.

Of the 68 items reviewed, none were destroyed as outlined by the policy. The Department did not provide us with any documentation showing that the drugs were destroyed, including the identification officer's detailed record of destruction, or a receipt or other correspondence to that effect from the incinerating facility.

Returned to Owner – Of the 15 items reviewed, Department officials had adequate documentation for 12 items returned to their owners. The Department was unable to provide any documentation supporting the return of the other three items (handgun, wallet and watches) to their owners.

Transfers to the District Attorney – Department records indicated transfers of two items to the District Attorney. However, the Department was unable to provide any documentation to show that the two items transferred (money and fingerprints) were effectively received by the District Attorney. Our attempt to verify the money transfer proved unsuccessful because the District Attorney's Office could not provide us with documentation that it had occurred.

Transfers to the New York State Police – Of the six items reviewed, the Department had adequate documentation for four items transferred to the New York State Police. The Department was unable to provide documentation supporting the transfer of two items to the New York State Police laboratory - a drug item and DNA swabs.

Transfers to Other Agencies – Of the seven items sampled that Department inventory records showed were transferred to other agencies, only three had adequate documentation. The Department was unable to provide documentation of a transfer for the remaining four items, which included counterfeit money, drug items, fingerprints and a firearm. Our attempt to verify the money transfer proved unsuccessful because the identification officer did not know which district office of the U.S. Marshal's Office received the funds.

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 record keeping, someone without physical access to the inventory items should monitor user activity and the changes made on the property tracking system.
5. 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.
6. Continue to improve the inventory tracking and disposal process by clearly documenting property movement to provide an audit trail.

The 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 Newburgh 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.



## **TOWN OF NEWBURGH POLICE DEPARTMENT**

300 Gardnertown Road, Newburgh, New York 12550

**Michael Clancy**  
**Police Chief**

**(845) 564-1100**

Ms. Ann Singer  
Office of the State Comptroller  
State Office Building., Suite 1702  
44 Hawley Street  
Binghamton, NY 13901-4417

August 12, 2014

Re: Response for Report #S9-14-56

Dear Ms. Singer,

Auditors from the Office of the State Comptroller visited the Town of Newburgh Police Department over a number of days in the Fall of 2013 for the purpose of examining property room inventory, procedures, etc. It was explained to Department administrative personnel that a draft report of findings and recommendations would be provided several months later. The draft report was sent to the Department and read by our personnel on July 21, 2014.

The draft report cites a number of instances where the OSC examiners found discrepancies in property room-related records and suggested that some evidence or property was missing or stored improperly. These issues have been discussed by Department Administrative personnel. They have also been discussed with the Detective who handles evidence and maintains the property room.

Subsequent to the review of the draft report, Department personnel immediately spot-checked certain property and found that there were discrepancies in some paperwork but that the property in each case we examined was located. In discussions with the property room Detective, he agreed that there were some discrepancies but was able to produce items upon request. One problem seems to be that some property examined by the auditors had been moved but the new locations of that property had not yet been updated on the computer. Other problems involved lack of signatures on some receipts for property that was returned to the owner or for property that was destroyed.

There were other issues identified in the draft report that need to be examined internally. They will be further discussed by the Administrative staff and with the property room Detective. Unfortunately, due to scheduled vacations, etc., Department Administrative

personnel were only able to spend a few hours reviewing the draft report with the Detective prior to preparing this response letter. We will spend more time with him addressing issues and areas of concern once he returns to work.

The draft report also mentioned department policies that were found to be defective in some ways. As a result, we are already examining the policies related to evidence and property. We'd like to note, however, that the Department went through the New York State DCJS process for receiving Accreditation in 2010 and 2011. During that time, all our policies were examined by the Law Enforcement Accreditation Council. Any recommendations the Council made were followed and some policies were modified. In addition, several new policies were developed to meet accreditation standards. The Council ultimately approved the final versions of all department policies. Toward the end of the accreditation process, an assessment team from the Accreditation Council spent several days visiting our Department to examine property room and evidence handling among other things. That team reported their findings back to the Council and accreditation was granted to the Department in April, 2012.

The OSC audit certainly helped identify some areas of concern. The Department is taking the audit very seriously and we intend to consider all the recommendations made in the draft report. Some of the recommendations are being addressed at this time while others will take longer to review and implement. We will follow up with OSC by providing the required Corrective Action Plans in the near future.

We'd like to thank the OSC staff for their efforts and for their assistance in answering the many questions that came up during and after the audit process.

Yours,

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Michael P. Clancy, Police Chief

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Gil Piaquadio, Acting 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 seven items from a property item list. Our selection was based on an assortment of cases from various years. Each 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 seven 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 five categories to test from, comprising firearms; drug items; money; miscellaneous items, comprising jewelry and electronics; and vehicles and related items. 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 identification officer, 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 identification officer 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.