



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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March 11, 2015

James Deleon Guerrero
Commissioner
Department of Public Safety
Commonwealth of the Northern Mariana Islands
Jose M. Sablan Building
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Saipan, MP 96950

RE: REPORT ON THE AUDIT OF THE DEPARTMENT OF PUBLIC SAFETY,
EVIDENCE PRESERVATION, ACCOUNTABILITY AND CONTROL SECTION

Dear Commissioner:

The Office of the Public Auditor (OPA) conducted a performance audit of the Department of Public Safety's (DPS) Evidence Preservation, Accountability and Control Section (Evidence Section). In a previous performance audit conducted in 2005 (See OPA's website, Report No. AR-05-04), OPA had issued a lengthy and highly critical report of DPS' control and accountability in regards to the recording and retention of evidence.

The proper recording and retention of potential evidence is a critical element in the successful prosecution of individual suspects and resolution of criminal cases. Failure to maintain the recording and retention of evidence can jeopardize the ultimate conviction of apprehended defendants. When this happens, it not only will free a potentially dangerous person back into the community, but will also create an extreme waste of resources that were previously expended in the detection, investigation and prosecution of the suspected criminal.

Given the critical nature of the prior audit report findings and the fact that recent criminal cases have been reportedly dismissed due to irregularities and missing evidence, OPA determined that a second audit should be conducted. Accordingly, OPA developed an audit program and audit plan which emphasized the following objectives:

1. Has DPS made satisfactory progress on the recommendations of the 2005 audit report?
2. Are the current policies, procedures and physical operations of the Evidence Facility adequate to provide sufficient control and accountability in regards to the recording and retention of evidence?

To perform our audit, OPA interviewed management and staff, observed operations, reviewed existing laws, regulations and policies, selected and tested samples of data, and created an overall flowchart of the Evidence Section's operations. The scope of our work was to review the

operations of the Evidence Facility (Facility) from calendar year 2006 through December 2009, and to apply full audit procedures and testing for calendar year 2010 through July 2014.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States of America. These 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 upon our audit objectives.

During the course of our audit certain aspects of our findings and the related recommendations were determined to be confidential in nature. While the general description of the findings is noted in this report, the details of the findings and related recommendations have been reported in a Confidential Limited Use report as allowed by Generally Accepted Government Auditing Standards. Background information and detailed Scope and Methodology are contained in Appendixes A and B, respectively.

RESULTS IN BRIEF

Objective No. 1: Has the DPS made satisfactory progress based on the recommendations of the 2005 Audit Report?

Our review of the years 2006 through 2009 showed that some initial progress was made by the Evidence Section. However, the operations again deteriorated to unacceptable levels. These continuing, detailed weaknesses are listed under Objective No. 2. The results and observations noted from our review are contained in Appendix A, Background.

Objective No. 2: Are the current policies, procedures and physical operations of the Facility adequate to provide sufficient control and accountability in regards to the recording and retention of evidence?

Our audit showed that the Evidence Section instituted a major effort to organize and account for all evidence beginning in December 2013, following the discovery that evidence was missing from the Facility. While much has been accomplished, our audit showed the following findings:

- (1) The physical security of the Facility is inadequate.
- (2) Updated, written policies and procedures were not completed until 2010 and were not distributed until the beginning of OPA's current audit.
- (3) Certain existing policies and procedures are inadequate and do not meet acceptable standards.
- (4) The Facility is a multi-use facility that includes the offices of the Crime Scene Technicians, which is incompatible for the security of evidence.
- (5) The Evidence Section failed to properly account for and protect individual items of evidence.
- (6) Firearms seized and weapons submitted for safekeeping are inadequately documented, and in some cases records are nonexistent.

- (7) Evidence is not submitted to the Facility in a timely manner.
- (8) The Evidence Section has failed to dispose of outdated evidence items.

See Appendix C for the detailed findings relating to the above.

RESPONSE IN BRIEF

The Commissioner of Public Safety agreed with all of OPA's recommendations in a response letter dated March 2, 2015. The response indicated that most of the recommendations have been or are in the process of being implemented.

See Appendix D for Management's response to the findings.

AUDITORS CONCLUSION

Management and staff must remain vigilant in maintaining the integrity of evidence from the initial contact to the ultimate disposal. Regardless of how many arrests are made, all benefits are lost if the evidence needed to convict apprehended suspects has been misplaced, tampered with, or ruled inadmissible by the courts. DPS must also ensure that its departmental budgets are adequate to enable consistent and proper operations of the Evidence Section. The following recommendations corresponding to the findings listed above are based upon the results of our audit.

1. Management needs to ensure that the ongoing improvements to the Facility continue and that funding sources are sufficient and dedicated to achieve this goal. Specific recommendations are included in a separate Confidential Limited Use Report.
2. This finding was resolved prior to the completion of the audit.
3. These recommendations are discussed in a Confidential Limited Use Report.
4. Management needs to provide a separate facility for the evidence technicians, removing their access to the Evidence Section.
5. These recommendations are discussed in a separate, Confidential Limited Use Report.
6. The Evidence Custodian (Custodian) must continuously update the inventory as conducted by OPA. Firearms not seized as evidence should be stored in the DPS armory.
7. Specific written policies must be developed regarding the immediate submission of evidence to the Custodian, and all patrol persons, investigators and forensic technicians must be trained on the timely submittal of evidence to the Facility.
8. DPS and the Office of the Attorney General must develop adequate procedures to address the disposal of outdated or irrelevant items retained as evidence.

Our recommendations, if adopted and implemented by DPS, will improve the accountability and control of evidence. Currently, the management and staff of DPS have aggressively responded to correct the noted weaknesses. At the conclusion of our audit field work, the DPS had initiated procedures to address and resolve findings 1, 2, 4, and 5 and appears committed to resolving all remaining findings.

We congratulate the Commissioner and his staff for their recent efforts in responding to these issues and the recent improvements to the Evidence Section. We greatly appreciate the courtesy and professionalism shown to our auditors during this assignment.

Sincerely,

A handwritten signature in black ink that reads "Michael Pai". The signature is written in a cursive, flowing style.

Michael Pai, CPA
Public Auditor

cc: Governor
Lieutenant Governor
Senate President
House Speaker
Attorney General

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Appendix A. Background

DPS' enabling legislation is codified under 1 CMC § 2501 et al., and is established under the CNMI Government Executive Branch. It is headed by a Commissioner who is appointed by the Governor with the advice and consent of the Senate. The Evidence Section is one of multiple components under DPS which was established to assist the department in executing its law enforcement mandates. Historically, the Evidence Section was organizationally positioned under the Criminal Investigation Bureau (CIB), but a recent reorganization placed it directly under the Commissioner's Office. The general purpose of the Evidence Section is to ensure the safekeeping of any and all property submitted or collected as evidence in criminal cases.

In 2005, the Office of the Public Auditor (OPA) conducted an audit of DPS' evidence controls. The audit was initiated after OPA received a letter from a former DPS commissioner who expressed concern that evidence controls at the time needed improvement. The former commissioner wanted to ensure that DPS' controls over evidence were consistent with control systems established in other U.S. jurisdictions. The objective of the audit was to determine whether DPS had adequate controls and accountability over the receipt and storage of evidence. OPA concluded that DPS did not have adequate accountability and lacked critical controls to mitigate the risk of potential tampering and loss of evidence.

Prior Audit Recommendations

In July 2014, OPA performed a walkthrough of the evidence facility and interviewed relevant DPS personnel to determine if recommendations from the 2005 audit have been implemented. OPA provided two major recommendations in the 2005 audit report. First, OPA encouraged DPS to develop and implement a plan of action which, at a minimum, should include the following:

- Conducting a physical inventory to determine the actual quantity, classification and condition of evidence;
- Reconciliation of the physical inventory list with existing Chain of Custody forms (COC) or other evidence listings;
- Segregation of items to be disposed, disposal of evidence in accordance with laws and regulations, and proper documentation of all disposals;
- Implementation of an evidence tracking system; and
- Evaluation of the condition of the existing evidence storage facility and equipment and the implementation of necessary controls and improvements

In a letter to OPA received on September 6, 2005, the former deputy commissioner responded to the findings of the audit and explained that DPS had already initiated efforts to address some of the issues identified in the audit report. Specifically, DPS began planning to improve structural inadequacies related to physical security. In July 2014, OPA performed a walkthrough of the Facility and found that improvements were made to address structural concerns identified in the

2005 audit report. Exhibit 1 below illustrates that DPS sealed the gaps between the wall partitions and the ceiling identified in the prior audit. OPA recommended that DPS follow structural control standards provided by the International Association for Property and Evidence (IAPE) which requires evidence room walls to be constructed from the floor to the ceiling to prevent unauthorized entry.

Exhibit 1

2005

2014



OPA also noted that DPS disposed of outdated evidence in 2012, which involved a total of 209 items. According to documented correspondence, DPS first requested for approval from the Office of the Attorney General (OAG) to dispose the items in 2010. The items were identified by an Evidence Preservation and Accountability Committee which was specifically formed to address the overcrowding of evidence stored in the evidence facility. The items were eventually disposed in 2012 following written approval from the OAG in a letter dated August 16, 2012.

As part of its first recommendation, OPA encouraged DPS to implement an evidence tracking system, which DPS had at the time of the audit. Funding constraints prevented DPS from acquiring the necessary expertise to implement the software between the years 2005 and 2014. The Evidence Section relied on manual logbooks to keep track of inventory during these years, many of which have been lost. DPS reported during audit fieldwork on October 22, 2014, that the system had finally been implemented and is now operational.

Based on interviews with personnel, it appears that DPS did not entirely address all aspects of OPA's first recommendation. DPS could not provide documentation, nor could personnel recall if a full inventory of evidence was taken and if any reconciliation of inventory to COCs was performed after the 2005 audit.

OPA's second recommendation in the 2005 audit was to revise the 2002 Standard Operating Procedures (2002 SOP) to address specific procedures based on the findings identified during the audit. In addition, OPA recommended that these revisions to the 2002 SOP be made in consultation with industry standards and other jurisdictions. According to DPS management, a revised SOP was drafted in 2006 but was not officially adopted and implemented. No other

drafts were developed between 2005 and 2009 indicating that the Evidence Section was not guided by any updated SOP during this period. During the audit entrance meeting, the Commissioner stated that a revised SOP was drafted in 2010 and submitted to the then Commissioner for approval. However, management could not confirm whether the SOP was approved indicating that the Evidence Section was not guided by any updated SOP between the years 2005 through 2014.

Prior to conducting the 2014 audit fieldwork, DPS management was able to locate a copy of the 2010 revised SOP and noted it was signed and approved by the Commissioner on January 24, 2011. Although DPS did not utilize the 2010 SOP, OPA reviewed the manual in detail to determine whether the amendments recommended in the 2005 audit were incorporated. Exhibit 2 below lists the specific amendments recommended in the 2005 audit and its status based on the 2010 SOP.

Exhibit 2

2005 audit recommendation (revisions to 2002 SOP)	2010 SOP
A. Deadline for submission of evidence	✓
B. Temporary Storage of evidence	✓
C. Required documentation for the collection, transfer, and storage of evidence	✓
D. Classification, segregation, security, and disposal of evidence	✓
E. Structural measures and management controls over the evidence storage facility	✓
F. Duties and responsibilities of the evidence custodian and any alternates	✗
G. Prohibition of incompatible duties for evidence room personnel; and	✗
H. Periodic Inspections, inventory, and reports	✓

✓ = Finding Corrected

✗ = Finding Not Satisfied

Upon review of the 2010 SOP, OPA noted that DPS incorporated all but two of the audit recommendations. In the 2005 audit, OPA determined that the Custodian performed incompatible duties as he/she would act as an obtaining officer and procure evidence from the crime scene. As a result, OPA recommended that DPS develop a written description of the Custodian’s responsibilities and any alternates, and document this in its policy. OPA found that the 2010 SOP does not provide these definitions nor does it prohibit the evidence Custodian from performing conflicting duties.

Based on OPA’s interviews and observations, it appears that the most significant improvements made to the Evidence Section occurred between 2013 and 2014. OPA performed multiple walkthroughs during the audit, and noted that the Facility was exceptionally organized in comparison to the conditions described in the 2005 audit. OPA also noted during the audit that DPS maintains a digital inventory log of all evidence received by the Evidence Section after

January 2013, and is actively working to include older evidence in the inventory. In a letter dated June 2, 2014 from the OAG to DPS, OPA noted that the Evidence Section is working closely with the OAG to identify and dispose outdated and inadmissible evidence.

On October 22, 2014, the Officer in Charge of the Evidence Section explained that DPS had already procured a new security system which includes: motion sensing technology, surveillance cameras and advance door lock security. In addition, the Facility will no longer be shared with the Crime Scene Investigation Section beginning November 2014 in order to segregate the Evidence Section and enhance security.

Appendix B. Detailed Scope and Methodology

The scope of our work included a review of the DPS Evidence Section for calendar years 2006 through 2009, and full audit procedures and testing for calendar years 2010 through July 2014. To achieve our objectives, we completed the following:

- Gained an understanding of prior audit coverage, applicable policies, and industry standards by thoroughly reviewing:
 - 2005 OPA Audit of the Department of Public Safety, Evidence Controls
 - 2010 Criminal Investigation Division Standard Operating Manual
 - 2012 International Association for Property and Evidence Standards
- Gained an understanding of the Evidence Section's processes, systems, procedures, and internal controls used to manage evidence by:
 - Conducting interviews with DPS management and staff
 - Conducting on-site observations and process walkthroughs
 - Developing process flowcharts
- Tested DPS inventory and COC records, both physical and digital, against attributes relevant to the audit objective. Specifically, we:
 - Tested random samples of COCs processed between calendar years 2010 through 2014
 - Conducted 100 percent physical inventory of all firearms evidence.
- Summarized audit findings

We conducted this performance audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States of America. These 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 conclusion based on our audit objectives.

Appendix C. Detailed Audit Results

OPA performed audit procedures for the years 2010-2014 in order to obtain an understanding of Evidence Section's current performance, with emphasis on internal controls established to safeguard and preserve the integrity of evidence. During OPA's testing, the following were noted:

1. *The physical security of the Facility is inadequate.* The Facility lacks adequate physical security when compared to recommended standards established by the IAPE. The Facility was in an unacceptably high risk of breach for nearly seven years. OPA identified several structural weaknesses that may provide opportunities for unauthorized access into the Facility. These findings are reported in a separate Confidential Limited Use Report issued directly to DPS management.
2. *Updated, written policies and procedures were not completed until 2010 and were not distributed until the beginning of OPA's audit.* Policies and Procedures are fundamental components of internal control that should be established and enforced by management. OPA determined that between the years 2005 and July 2014, DPS management did not distribute any updated SOPs to the Evidence Section for guidance and control. During the audit entrance meeting conducted in July 2014, DPS management explained that two updated SOP's were drafted during this period, but could not confirm if they were adopted.

A day after the audit entrance meeting, DPS management was able to locate a copy of an SOP developed in 2010, and adopted in January 2011. OPA interviewed Evidence Section personnel and noted that they were not aware of any policies and procedures other than occasional directives posted on the office bulletin. This indicates that the Evidence Section has largely operated on professional judgment to carry out its responsibilities without any clear direction. Management should be more proactive in reviewing its policies and procedures to ensure that they are effectively implemented and disseminated to relevant staff. Strict enforcement of these policies will help create a working environment where the Evidence Section is fully informed of its responsibilities, and understands the consequences of not effectively safeguarding and accounting for evidence.

3. *Certain existing policies are inadequate and do not meet acceptable standards.*

Duties and Responsibilities

As described in Appendix A, DPS did not fully incorporate the revisions to the SOP as recommended in the 2005 audit which would align with standards established by the IAPE. In addition, the 2010 SOP does not define the duties and responsibilities of the Custodian. In the 2005 audit report, OPA found that there was a tendency for the Custodian to perform duties as an obtaining officer resulting in an internal control

weakness. OPA noted that this was still being practiced between the years 2013 and 2014. The custodian assigned to the evidence section during the audit was officially designated on October 28, 2013. OPA examined 29 randomly selected COCs prepared after this date and found 3 (10%) instances where the Custodian performed duties as an obtaining officer.

As in the 2005 audit, OPA maintains its opinion that such incompatible duties constitute a weakness in internal control, and integrity of evidence may be scrutinized in cases where the Custodian procures evidence from a crime scene. OPA noted during the audit that the Custodian was previously a Crime Scene Technician (CST) for several years, and is often requested to procure evidence for cases that require a higher level of experience. In addition, the Custodian explained that the Crime Scene Investigation Section lacks staffing which has forced the Custodian to perform duties as a CST on occasion. DPS can significantly enhance its internal controls in the Evidence Section by clearly defining the duties and responsibilities of the custodian, including those that are prohibited. Further, this should be documented in written policy and strictly enforced by management.

Witness

In the 2005 audit, OPA specifically tested DPS' compliance with the 2002 SOP; procedures for documenting evidence. While the 2002 SOP did not specifically state that a witness must be indicated on the COC form, it did require that a witness be present during the recovery of the evidence. In addition, the COC form contains a field designated for the identification of a witness. OPA determined that DPS should properly complete all the fields required on the COC form, which would automatically document compliance with the SOP requirement.

OPA reviewed the 2010 SOP and found that there are no procedures in the manual requiring a witness to be present during recovery of the evidence, or that a witness be identified on the COC form. OPA maintains its argument, however, that the COC form contains a field for a witness and should therefore be completed as a general procedure. OPA examined 130 COCs and found that 40 (31%) did not identify a witness on the form. The IAPE standards generally promotes the "rule of two" when necessary, which is a principle where two persons are present anytime that a witness is necessary to provide testimony. DPS should include this practice in its policy as an internal control measure to protect the integrity of recovered evidence.

Handling of Drugs

Practices related to the handling of drugs confiscated for evidence are insufficient and are addressed in detail in OPA's Confidential Limited Use Report.

4. *The Facility is a multi-use facility which includes the offices of the Crime Scene Technicians; this is incompatible for the security of evidence.* The Evidence Facility contains the offices of three crime scene technicians, the Officer in Charge (OIC) of the both the Evidence and CSI Sections, and the evidence custodian. Each of the five officers hold keys to both the main and rear entrance doors of the Facility and are able to enter the building at any time in order to access their individual offices. OPA noted during field testing that the CSTs would enter and exit the building freely throughout the day through either one of the two doors. OPA also learned during interviews that CSTs, at times, will work at night and be present inside the facility while the Evidence Custodian and OIC are off duty. OPA has determined that having the two sections in the same facility constitutes a major security risk, which is compounded by a lack of adequate physical security measures.
5. *The Evidence Section failed to properly account for and protect individual items of evidence.* The fundamental purpose of the Evidence Section, as described in the 2010 SOP, is to “ensure that evidence is properly handled, and preserved to prevent contamination and/or inadmissibility in court”. OPA randomly selected and examined 135 COC’s (70 for the 2010-2012 period and 65 for 2013-2014) to determine if DPS is effectively accounting for and protecting evidence. Based on the results of the testing, OPA noted several control weaknesses. The details of these findings and OPA’s recommendations are contained in OPA’s Confidential Limited Use Report.
6. *Firearms seized and weapons submitted for safekeeping are inadequately documented, and in some cases records are non-existent.* According to the IAPE, “property for safekeeping should be released to the rightful owner or disposed of according to departmental policy as quickly as practical”. This suggests that the Evidence Section should maintain adequate information that would allow DPS to easily identify the owners of these items. During the audit, OPA learned that the Evidence Section was storing a total of 41 firearms submitted for safekeeping. Out of the 41 firearms, OPA found that 11 did not have any labeling (case no., control no., COC form) that would allow DPS to efficiently identify the owners of the firearms. This indicates that unless DPS chooses to destroy the firearms, the Evidence Section will continue to store them until the owners come forward and provide sufficient matching information to claim their weapons. The Custodian explained, however, that most of the firearms are relatively old and have not been claimed for many years. DPS must effectively account for items submitted for safekeeping in order to prevent excessive inventory levels through timely release or disposal of the items.
7. *Evidence is not submitted in a timely manner.* The 2010 SOP states that “the officer or employee who seizes or recovers evidence shall initiate the chain of custody and deliver the evidence to a depository as soon as possible.” Based on interviews with DPS personnel, evidence is generally procured by CSTs who will process the evidence before ultimate submission to the evidence Custodian. Certain evidence including drugs and wet clothing must be dried which may take several days prior to submission to the Custodian. There are also instances where evidence is directly submitted to other law enforcement organizations such as the Federal Bureau of Investigation and the Drug Enforcement

Agency Task Force, who after an unknown amount of time, will eventually submit the evidence to the DPS Evidence Custodian.

The policy that evidence should be submitted “as soon as possible” provides necessary flexibility that allows CSTs and other officers to process evidence as required before submission. However, this flexibility also creates the opportunity for situations where evidence is submitted long after it completes processing. To obtain an understanding of the time it takes for evidence to be received by the Custodian, OPA tested 130 COCs for the period 2010-2014 and compared the date the evidence was first obtained to the date it was first received by the Custodian. OPA found that 101 (79%) were first received by the Custodian more than 24 hours after the evidence was procured. Exhibit 3 below provides a detailed breakdown of the test results by time intervals.

Exhibit 3

	Time between procurement of evidence and initial receipt by the Custodian				
	24 hrs. - 7 days	7-30 days	30-90 days	90-180 days	180 +
COCs (out of 130)	25	28	18	15	15
Percent of Total	19%	22%	14%	12%	12%

In order to fully evaluate the timely submission of evidence, detailed testing must be conducted focusing on both patrol and crime scene investigation operations. OPA did not perform such testing due to the limited scope of the audit. However, OPA strongly advises that DPS assess its policies and procedures related to the timely submission of evidence to the Custodian in order to avoid unnecessary time lapse before submission. This will help protect the integrity of evidence, both in fact and appearance, which is the overarching goal of the Evidence Section.

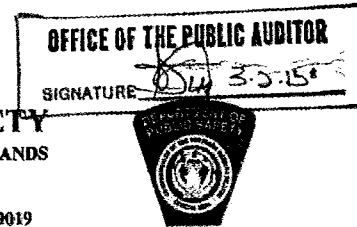
8. *The Evidence Section has failed to dispose of outdated items.* During the audit, OPA noted that DPS conducted a major disposal of evidence in 2012, which included a total of 209 items. DPS did not report any other significant disposal efforts between 2005 and 2014 which would have prevented excessive inventory levels. OPA learned during the audit that DPS is utilizing a satellite facility to store older evidence items that will mostly qualify for disposal. OPA performed a walkthrough of the facility and noted extremely poor conditions that indicate an overall failure to monitor inventory levels. This is concerning because OPA emphasized the need for DPS to focus its attention on this issue in the 2005 audit report. As explained in Appendix A, DPS did not perform a full inventory of evidence between 2005 and 2014 as recommended in the 2005 audit.

OPA reviewed the 2010 SOP and found that critical policies were established to promote the timely disposal of outdated evidence. For example, the SOP established an Evidence Review Committee to assess evidence for disposal on a quarterly basis. DPS documentation indicates that a similar committee had already been utilized to identify the items which were disposed in 2012. The SOP, however, was not distributed nor enforced by management which would have helped ensure that these efforts were continued. During the audit, DPS provided documentation of disposal efforts in 2014 initiated by the Evidence Section, in collaboration with the OAG.

Appendix D. Management's Response



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March 2, 2015

Michael Pai
Public Auditor
Office of the Public Auditor

Re: Evidence Room Audit

Dear Public Auditor Pai:

The Department of Public Safety is in receipt of the Limited Use Report findings issued by the Office of the Public Auditor. I would like to thank you and your staff for performing such a thorough review of our evidence room. The efforts of your office have improved the operation and security of our evidence room. The Department will work hard to build off its recent success and will continue to enhance the operability of the evidence room.

The Department's response includes references to evidence room regulations which are being drafted, but have not been completed. The first draft of a portion of the regulations has been completed. The draft regulations will be completed and promulgated within ninety days of our Response.

The Department of Public Safety hereby responds to each finding of the Limited Use Report as follows:

I. Finding #2

Response: The Department agrees that the evidence room standard operating procedures must be accessible to all employees and must be strictly enforced. The Department has determined that the best way to ensure transparency, accessibility, and strict adherence to evidence room policies is to promulgate all evidence room policies as binding regulations. The new evidence room regulations are currently being drafted and will be in full compliance with industry standards as described and defined by the IAPE. Finally, the Department will begin year-round training of all personnel to increase understanding and compliance with evidence room regulations and procedures.

II. Finding #3

Response: The Department of Public Safety agrees that the evidence custodian should not serve as a crime scene technician. The present evidence custodian is solely dedicated to the operation of the evidence room. The Department is in the process of publishing regulations which will clearly define the responsibilities of the evidence custodian and prohibit the custodian from participating in the collection of evidence. The new regulations will also require the presence of

a witness when evidence is being recovered, when possible. The remainder of the Department's response is included in a separate letter to your office.

III. Finding #4

Response: The crime scene technicians have been relocated and no longer have access to the evidence room.

IV. Finding #6

Response: The Department has moved to a digital system for tracking the ownership of property held by the evidence room. The enhanced tracking system and improved organization of the evidence will reduce the likelihood that the present situation will repeat itself in the future. Further, the Department is in the process of drafting and adopting regulations which will allow for regular auditing, inventorying, and the disposal of firearms in Department custody. The Department recognizes and agrees that its facilities cannot be used for the indefinite storage of firearms or any other property.

V. Finding #7

Response: The Department agrees with Finding #7, which advises the Department to "assess its policies and procedures related to the timely submission of evidence to the Custodian in order to avoid unnecessary time lapse before submission." The Department has recently published a procedure manual for use by all police officers employed by the Department. The procedure manual requires the submission of evidence to the evidence room as quickly as possible, but always before the end of the officer's shift. The Department is currently working to secure evidence lockers to be used for temporary evidence storage when the evidence room is not accessible.

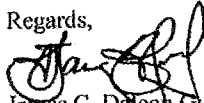
VI. Finding #8

Response: The Department agrees that it must institute policies and procedures which will require the disposal of evidence and property when the evidence or property is no longer useful to the Department or the Office of the Attorney General. Therefore, the Department has drafted regulations which will allow for the timely disposal of all evidence and property retained by the evidence room. The Department anticipates the promulgation of its new evidence room regulations within the next ninety days.

If you feel that the Department's response does not fully address your findings and recommendations, then please inform my office and I will ensure that the Department's response is promptly supplemented. I look forward to working with your office to further improve the operation of the evidence room.

Thank you for your hard work on this important matter.

Regards,



James C. DeLeon Guerrero
Commissioner
Department of Public Safety