

STATE OF CONNECTICUT

**AUDITORS' REPORT
BOARD OF FIREARMS PERMIT EXAMINERS
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 AND 2004**

AUDITORS OF PUBLIC ACCOUNTS
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**AUDITORS' REPORT
BOARD OF FIREARMS PERMIT EXAMINERS
FOR THE FISCAL YEARS ENDED JUNE 30, 2003 AND 2004**

We have examined the financial records of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2003 and 2004. This report on that examination consists of the Comments, Recommendations, and Certification which follow.

Financial statement auditing and presentation of the books and accounts of the State are being done on a Statewide Single Audit basis to include all State agencies. This audit examination has been limited to assessing the Board's compliance with certain provisions of laws, regulations, contracts and grants, and evaluating the Board's internal control policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Board of Firearms Permit Examiners operates under Title 29, Chapter 529, Section 29-32b of the Connecticut General Statutes. The Board functions as an autonomous agency; however, Section 29-32b, subsection (a), of the General Statutes placed the Board under the Department of Public Safety for "administrative purposes only." The Department of Administrative Services, under a Memorandum of Understanding, provided human resource, payroll, fiscal, and administrative support to the Board of Firearms Permit Examiners during the audited period.

The function of the Board is to hear appeals from persons aggrieved by the negative action of any authority with respect to permits to carry firearms. Such action, which may take the form of refusal to issue or renew a permit, limitation or revocation of an issued permit, or failure to supply upon request an application for the issuance of a permit, may be appealed to the Board. The Board is empowered to inquire into and determine the facts, and to either uphold the action or order the permit to be issued, renewed, or restored, or the limitation removed or modified, as the case may be, should it find that relief should be granted to the appellant.

Members of the Board:

Under the provisions of Section 29-32b, subsection (a), of the General Statutes, the Board's seven members are appointed by and serve terms concurrently with that of the Governor until their successors are appointed and qualify. Members of the Board are not compensated for their services but are reimbursed for reasonable expenses incurred in performing their duties. The Board on June 30, 2004, was comprised of one nominee from each of the following agencies or organizations:

Ye Connecticut Gun Guild, Inc.
Peter Kuck

The Connecticut State Rifle and Revolver Association, Inc.
Arthur C. Carr

Commissioner of Public Safety
Benjamin Goldstein

Connecticut State Association of Chiefs of Police
Chief John Karangekis

Commissioner of Environmental Protection
Captain Eric C. Nelson

The Public members of the Board are:
Adam Liegeot, Esq.
Philip Dukes Esq., Board Chairman

Commissioner of Public Safety nominee Benjamin Goldstein was appointed by the Governor on March 27, 2003, in succession to William P. Longo. The remaining members served on the Board throughout the audited period.

RÉSUMÉ OF OPERATIONS:

General Fund expenditures totaled \$97,848 and \$99,046 during the fiscal years ended June 30, 2003 and 2004, respectively. A comparison of total expenditures during the audited period and the fiscal year ended June 30, 2002, is presented below:

	<u>Fiscal Year Ended June 30,</u>		
	<u>2004</u>	<u>2003</u>	<u>2002</u>
Personal services	\$66,393	\$62,519	\$60,967
Contractual services	5,497	6,101	13,093
Commodities and Other	<u>27,156</u>	<u>29,228</u>	<u>25,995</u>
Total Expenditures	<u>\$99,046</u>	<u>\$97,848</u>	<u>\$100,055</u>

The increase in personal services costs during the audited period was mostly due to cost-of-living increases. The Commodities and Other charges consist primarily of administrative costs paid to the Department of Administrative Services under Memorandums of Understanding for accounting, payroll, personnel, and other services.

The following table summarizes the Board's case activity during the audit period.

	<u>Fiscal Year Ending June 30,</u>	
	<u>2004</u>	<u>2003</u>
Total Requests for Appeals Received	300	299
Active Cases:		
Cases Resolved or Cancelled before the Hearing	96	89
Hearings	70	61

The level of requests for appeals has been constant since June 30, 2002, which noted an approximately 60 percent increase during that year. That increase resulted from a number of factors including an increase in permit requests following the destruction of the World Trade Center and a higher frequency of permit denials from the local authorities. Although all appeals are scheduled for hearings, not all are heard. For example, the Board requires appellants to submit a follow-up questionnaire before their appeal can be heard, but approximately 30 percent of the appellants never submit the form. Also, the majority of appeals are either resolved or cancelled by the Department of Public Safety before the scheduled hearing date.

There were approximately 290 cases pending at May 12, 2005. We estimate that it will take approximately 14 months for these cases to be closed through hearings, withdrawals, or Department of Public Safety settlements. Our prior audit report disclosed an increase from a three-month to a 14-month backlog at January 22, 2003. This matter is discussed further in our "Condition of Records" section.

CONDITION OF RECORDS

Our examination of the financial records of the Board of Firearms Permit Examiners revealed five areas requiring improvement.

Hearing Backlog:

- Background:* Section 4, subsection (b), of Public Act 01-130 amended Section 29-28 of the General Statutes by eliminating local handgun permits. Individuals now apply for a State permit through their local authorities who may deny or issue a temporary 60-day permit, pending further review by the Department of Public Safety (DPS). Decisions to deny a permit at either the local or the State level may be appealed to the Board of Firearms Permit Examiners.
- Criteria:* Section 29-32b, subsections (b), (c), and (d), of the General Statutes indicate that the Board should schedule a hearing within ten days of receiving an appeal at such time and place as the Board reasonably determines to be required, but not less than once every ninety days. While an appeal is pending the Board must seek written statements from the appellant and issuing authority and shall inquire into and determine the facts from the beginning.
- Condition:* Our review found that the time lag between an appellant's request for a hearing and the scheduled hearing date may be inconsistent with the "reasonably determines" clause in the Statute. We noted that the backlog of cases increased from approximately three months during the 2001 fiscal year to a high of approximately 20 months during the audit period. During the fiscal years ending June 30, 2003 and 2004, the Board heard a total of 131 cases while the Department of Public Safety (DPS) settled 149 cases. Beginning in November 2004, the Board began reducing the backlog by asking the DPS to review additional cases. The backlog during May 2005 was approximately 14 months.
- Effect:* The length of the delay between the receipt of a request for an appeal and the related hearing or negotiated DPS settlement may be considered a denial of the appellant's right to a timely hearing.
- Cause:* The Board has not increased either the number of appeals scheduled at each hearing or the frequency of the hearings. The backlog was exacerbated when they did not reschedule two cancelled meetings. Also, the DPS contributed to the backlog by not reviewing and settling a majority of the cases until the month of the scheduled hearing. They might have settled some of these cases sooner if they did not wait to review them.

Recommendation: The Board should ensure timely hearings in compliance with Section 29-32b of the General Statutes either by increasing the frequency of its hearings or by increasing the number of appeals scheduled at each hearing. The Board should consider seeking the Department of Public Safety's review of cases sooner than the month before the hearing date. (See Recommendation 1.)

Agency Response: "The report concludes that the Board has a present backlog of 14 months. This number is only achieved using statistics from past years and does not accurately incorporate new procedures implemented that have reduced that number to 7.6 months.

The Board does not have the capacity to call cases in a vacuum. It relies on appellants to complete their applications and for State agencies, other than the Board, to do background checks prior to a case being made available for hearing. Presently, the Board has 230 cases that are ready for a hearing. As the result of hard work by the unpaid Board, the Department of Public Safety has agreed to do 60 background checks every two months for the Board, up substantially from years past. All 60 cases have been cleared in each two-month cycle since its adoption. For simplicity, if we average 30 cases cleared per month and divide that by 230 it comes out to approximately 7.6 months.

The Board appreciated the Auditor's willingness to reconsider a previous estimate, however, we remain disappointed at the agencies reliance on a calculation method that so closely binds itself to past performance as a method of calculating existing fact. We also would thank the Department of Public Safety for its cooperation in reducing the case backlog to less than eight months."

Auditor's Concluding

Comments:

The approximately 14-month backlog at May 2005 that is presented in this report was determined by the Board's staff. We audited and agreed with their methodology and calculations. The Board's calculation, as presented in the Agency's Response, is not based on the 290 cases pending during May 2005 and relies on the erroneous assertion that new procedures have resulted in all of the cases clearing during each two-month cycle. Therefore, the backlog during May 2005 was approximately 14 months. The Board should continue to improve the timeliness of its hearings.

Board Member Hearing Attendance:

Criteria:

Section 29-32b, subsection (a), of the General Statutes establishes the seven-member Board of Firearms Permit Examiners to hear appeals

from persons who have been denied a permit or had a permit limited or revoked. Subsection (e) of this Section requires a majority vote for the Board's decisions.

Condition: Our prior audit report, dated May 29, 2003, recommended that the Board improve its members' attendance. Although we noted some improvement, between May 2003 and April 2005, average attendance at hearings was still only approximately 76 percent. Also, the Board has not established standards for attendance and a quorum.

Effect: The loss of input from absent members and the corresponding reduction in the number of votes needed for a majority may compromise the hearing and decision process.

Cause: The Board has not established minimum standards for its members' attendance at hearings and the number of members necessary for a quorum.

Recommendation: The Board should establish and enforce standards for its members' attendance at hearings and the number of members necessary for a quorum. (See Recommendation 2.)

Agency Response: "The Board stands by its position that it lacks the statutory authority to establish or enforce standards for its member's attendance at hearings and the number of members necessary for a quorum.

In each instance the Board is aware of where minimum standards for attendance by a Board member exist, those standards have been authorized by Statute. A review of the Statute reveals no such delegated authority.

State case law interpretations of various State Statutes and the Connecticut Uniform Securities Act have clearly established that a quorum is more than 50 percent of the actual board membership, unless otherwise specified in Statute. An example would be the Connecticut Board of Pardons and Paroles' Statutes that clearly establishes two as constituting a quorum. Again, the Board concludes that it has no statutory authority to do anything regarding establishing what will constitute a quorum. That is a legislative prerogative."

Auditor's Concluding

Comments:

The Board should establish and enforce attendance standards for its members by whatever means, including legislative action if necessary.

Necessary Revisions to Statutes and Regulations:

- Criteria:* Section 29-32b, subsection (a), of the General Statutes establishes the Board under the Department of Public Safety for administrative purposes only. Section 4-38f, subsections (a) and (b), of the General Statutes define “administrative purposes only” and indicate that such association does not limit the Board’s regulatory authority and policy-making functions. The Section also indicates in part, that the Department of Public Safety shall provide record keeping, reporting and related administrative and clerical functions for the agency as deemed necessary.
- Section 4-167, subsection (a)(1), requires the Board to maintain regulations that include the methods for contacting the Board.
- Section 29-32b-4 of the Board’s Regulations indicates that all official communications to the Board should be directed to the Board’s official address at 251 Maxim Road, Hartford, Connecticut.
- Condition:* State Statutes and Regulations relating to the Board do not reflect its current operations. The Board has elected to have the Department of Administrative Services provide administrative and accounting services rather than the Department of Public Safety. The Board is no longer located at the address referred to by the Regulations.
- Effect:* State Statutes and Regulations conflict with the Board’s current operations. Official correspondence relating to the Board’s operations could be directed to the wrong address based on the Regulations.
- Cause:* The Board has not proposed changes to its Statutes and Regulations to reflect its current operations.
- Recommendation:* The Board should consider proposing changes to its Statutes and Regulations by formalizing the Department of Administrative Services as its administrative purposes only agency and by correcting its address in the Regulations. (See Recommendation 3.)
- Agency Response:* “The Board has a staff of one and one half people. None of those staff have any legal training nor do they have any experience that would enable them to draft regulations and Shepherd them through the arcane and hyper-technical regulations approval process in Connecticut. The Board, having no attorney to do such work, is more than willing to ask the Department of Administrative Services and the Department of Public Safety for assistance.”

Confidentiality of Board Records and Proceedings:

- Criteria:* Section 1-210, subsection (a), of the General Statutes provides that all records maintained by a public agency shall be available for public inspection. Exclusions to this requirement are summarized in subsection (b) of the same Section. They include medical files, records of law enforcement agencies not otherwise available to the public, and information to be used in a prospective law enforcement action if prejudicial to such action.
- Section 29-32b, subsection (e), of the General Statutes requires that, “the statements of witnesses made under oath shall be privileged.”
- Section 29-28, subsection (b), of the General Statutes requires that the name and address of a person issued a permit to sell at retail a pistol and revolver...or a permit to carry a pistol or revolver...shall be confidential and shall not be disclosed....”
- Condition:* The Board’s public hearings may conflict with confidentiality provisions of the Statutes. We noted the following:
- Although the Statutes require the statements of witnesses to be privileged, the Board requires such witnesses to make their statements publicly during the hearings.
 - Since the hearings are open to the public and the appellant’s identities are not kept confidential during the hearings, the public could identify permit holders based on the availability of case files.
 - Confidential information could be disclosed at public hearings.
- Effect:* Hearings that are open to the public may compromise the confidentiality of permit holders’ identities, and make public other private information.
- Cause:* The Board had not considered the impact of its public hearings on its ability to maintain the confidentiality of certain information.
- Recommendation:* The Board should compare its current practices with relevant statutory confidentiality provisions to prevent breaching the confidentiality of information disclosed during public hearings and should seek a formal opinion from the Freedom of Information Commission. (See Recommendation 4.)
- Agency Response:* “The Board disagrees that there is any conflict between its present practices and current law. The Board will write to the FOI Commission for clarification so that this issue is settled.”

Controls over the Appeals Process:

Criteria: Section 29-32b of the General Statutes authorizes the Board to hear appeals from persons aggrieved by the negative action of any authority with respect to permits to carry firearms. Subsection (b) of this Section establishes the Board's authority to order that a permit or certificate be issued, renewed, or restored to appellants.

It is management's responsibility to establish and maintain adequate and effective internal controls over the appeals process. Controls should ensure that the Board's minutes are compiled completely and accurately prior to taking relevant action. Electronic data files used to manage the appeals process should be accurate and up-to-date.

Condition: Internal controls over the Board's minutes and correspondence do not ensure that only successful appellants receive permits. Although the Board's minutes should provide the basis for written orders, we noted that the minutes are not reviewed or approved by the Board and that they may not accurately reflect the Board's decisions regarding appellants' cases. Also, the Board's order to the Department of Public Safety (DPS) is issued without the Board's oversight. The DPS does not corroborate the order because it does not wait for the Board to return from the Executive Session portion of the hearings.

The Board uses two separate electronic spreadsheet files to manage the appeals process. One file is a roster of cases that is also used to record the cases' current status and other information. This file is not designed to provide a complete historical record of status changes. The second spreadsheet is used to schedule hearings and must frequently be manually reorganized thereby increasing the risk of clerical errors. There is no system in place to monitor these files for errors and they are not reconciled with each other. We noted the following clerical errors that were not detected by controls over the appeals process.

- The roster incorrectly identified the status of 50 cases.
- Two individuals were given the same case number. The first individual was not included in the scheduling file while the second individual was not included in the roster.
- Nine cases were included in the scheduling file twice.

Effect: There is no way to determine whether the Board's staff has only instructed the DPS to issue permits or certificates to those appellants approved by the Board. Also, cases may never be heard or may not be heard in the correct order if the files contain inaccurate data.

Cause: The Board has not established adequate internal controls over the appeals process, including its orders to issue permits or certificates. There are no procedures in place to detect clerical errors in either the roster or scheduling files.

Recommendation: Internal controls over the appeals process should be improved to ensure that only those appellants approved by the Board obtain permits or certificates. Clerical errors in the Board's electronic spreadsheet files should be corrected and internal controls to prevent and detect such errors should be implemented. (See Recommendation 5.)

Agency Response: "The Board has no comment."

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Board contained two recommendations that are both being repeated.

- The Board should reduce the current time lag between the receipt of an appeal and the corresponding hearing date by establishing standards and by increasing the number of cases heard each month. This recommendation has been restated. (See Recommendation 1.)
- The Board should improve its members' attendance at hearings. Further, the Board should establish and enforce standards for a quorum and majority vote for its meetings, and for the minimum attendance requirements of its members. This recommendation has been restated. (See Recommendation 2.)

Current Audit Recommendations:

- 1. The Board should ensure timely hearings in compliance with Section 29-32b of the General Statutes either by increasing the frequency of its hearings or by increasing the number of appeals scheduled at each hearing. The Board should consider seeking the Department of Public Safety's review of cases sooner than the month before the hearing date.**

Comment:

Our review found that the time lag between an appellant's request for a hearing before the Board and the scheduled hearing date increased from approximately three months during the 2001 fiscal year to a high of 20 months during the audit period. The backlog at May 2005 was 14 months.

- 2. The Board should establish and enforce standards for its members' attendance at hearings and the number of members necessary for a quorum.**

Comment:

The Board has not established minimum standards for its members' attendance at hearings and the number of members necessary for a quorum.

- 3. The Board should consider proposing changes to its Statutes and Regulations by formalizing the Department of Administrative Services as its administrative purposes only agency and by correcting its address in the Regulations.**

Comment:

Although the Board is under the Department of Public Safety for administrative purposes only, the Department of Administrative Services has been providing administrative and accounting services. The Regulations instruct appellants to file appeals at the Board's former address.

- 4. The Board should compare its current practices with relevant statutory confidentiality provisions to prevent breaching the confidentiality of information disclosed during public hearings and should seek a formal opinion from the Freedom of Information Commission.**

Comment:

Public hearings may compromise the Board's ability to maintain the confidentiality of the names, addresses, and certain other appellant information.

- 5. Internal controls over the appeals process should be improved to ensure that only those appellants approved by the Board obtain permits or certificates. Clerical errors in the Board's electronic spreadsheet files should be corrected and internal controls to prevent and detect such errors should be implemented.**

Comment:

Internal controls over the Board's instructions to the Department of Public Safety to issue, renew, or restore permits do not adequately ensure that only individuals approved by the Board receive the permits. Internal controls were not designed to detect and correct clerical errors contained in the electronic spreadsheets used to manage, record, and report on the appeals process.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2003 and 2004. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grants and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2003 and 2004 are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit 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 the Board of Firearms Permit Examiners complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grants and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations, contracts and grants applicable to the Board of Firearms Permit Examiners is the responsibility of the Board of Firearms Permit Examiners' management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts and grants, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 2003 and 2004, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

The management of the Board of Firearms Permit Examiners is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts and grants applicable to the

Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Board of Firearms Permit Examiners' financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grants and not to provide assurance on the internal control over those control objectives.

However, we noted certain matters involving the internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts and grants. We believe the following finding represents a reportable condition: Internal controls over the Board's process to manage, record, and report appeals and to issue, renew, and restore permits were inadequate.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, contracts and grants or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we believe that the reportable condition described above is a material or significant weakness.

We also noted other matters involving internal control over the Agency's financial operations and over compliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

This report is intended for the information of the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Board of Firearms Permit Examiners during the course of our examination.

Ramona Weingart
Associate Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts