

STATE OF CONNECTICUT



*AUDITORS' REPORT
BOARD OF FIREARMS PERMIT EXAMINERS
FOR THE FISCAL YEARS ENDED JUNE 30, 2005, 2006, 2007 AND 2008*

AUDITORS OF PUBLIC ACCOUNTS

KEVIN P. JOHNSTON ❖ ROBERT G. JAEKLE

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June 9, 2009

**AUDITORS' REPORT
BOARD OF FIREARMS PERMIT EXAMINERS
FOR THE FISCAL YEARS ENDED JUNE 30, 2005, 2006, 2007 AND 2008**

We have examined the financial records of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2005, 2006, 2007 and 2008. 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

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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, 2008, 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

Joseph T. Corradino, Esq.

Connecticut State Association of Chiefs of Police

Chief T. William Knapp (Ret.)

Commissioner of Environmental Protection

Captain Eric C. Nelson

The Public members of the Board are:

Christopher Adams Esq., Board Chairman

Kenneth Tramadeo

Commissioner of Public Safety nominee Joseph T. Corradino, Esq., was appointed by the Governor on August 21 2008, in succession to Christopher Adams, Esq. The remaining members served on the Board throughout the audited period.

RÉSUMÉ OF OPERATIONS:

General Fund expenditures totaled \$102,632, \$78,343, \$86,337 and \$91,823 during the fiscal years ended June 30, 2005, 2006, 2007 and 2008, respectively. A comparison of total expenditures during the audited period and the fiscal year ended June 30, 2004, is presented below:

	Fiscal Year Ending June 30,				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Personal Services	\$66,965	\$70,999	\$66,086	\$76,912	\$84,996
Other Expenses	32,081	31,633	12,257	9,425	6,827
Capital Equipment					
Purchase Fund	-	-	-	2,213	-
Total Expenditures	<u>\$99,046</u>	<u>\$102,632</u>	<u>\$78,343</u>	<u>\$88,550</u>	<u>\$91,823</u>

The increase in personal services costs during the audited period was mostly due to cost-of-living increases. The decrease in personal services during fiscal year 2006 was due to a part time employee who left State service and was not replaced for 10 months. The 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>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Total Request for Appeals Received	296	330	337	318
Active Cases:				
Resolved or Cancelled Prior to a Hearing	177	196	175	145
Hearing	88	85	74	80

The level of requests for appeals has been constant since June 30, 2004, 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 31 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 407 cases pending at August 8, 2008. We estimate that it will take approximately 16 months for these cases to be closed through hearings, withdrawals, or Department of Public Safety settlements. Our prior audit report disclosed an increase from three months to a 16-month backlog at May 12, 2005. 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 four 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 14 months during the 2004 fiscal year to approximately 16 months during the audit period. The following data shows cases that have been settled and cases that are pending:

During the fiscal years ending June 30, 2005 through June 30, 2008, there were 1,281 cases opened by the Board. Of these cases, 1,052 were settled. We noted 693 cases were settled prior to a hearing process by the Department of Public Safety (DPS). Of the 327 cases that went through a hearing process, the Board settled a total of 242 cases while the DPS settled 55 cases. In addition to the cases mentioned above 32 cases were barred by State Statute and/or the appellants did not respond or attend their hearings.

During the fiscal years ending June 30, 2005 through June 30, 2008, there were 229 cases that appellants had not completed the required form, the "Appellant Questionnaire", necessary to be ready for a hearing. In addition, as of August 2008, the Board's "Summary of Pending Cases Report" contained 407 cases that appellants had completed all required forms, were considered ready to be heard and had pending hearings.

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 four cancelled meetings during the audit period. 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: "On July 10, 2008, at the recommendation of the Board's subcommittee, the Board decided to increase the annual number of meetings from twelve to sixteen to reduce the backlog. Chairman Corradino said by having the additional meetings, the number of cases heard would increase by a third, making a substantial dent in the backlog. Corradino asked staff to scheduled 4 additional meetings to be added in the months of October, January, April and July. Proposed reduction to the Board's staff is anticipated to have a negative impact on efficiency and the backlog. At the request of the Board's sub-committee and the Department of Public Safety, the Board staff submitted on January 1, 2009 and May 11, 2009, 347 cases, the entire backlog of cases ready to be heard, scheduled for 2009 and 2010."

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 August 30, 2005, recommended that the Board improve its members' attendance. Although we noted some improvement, between July 2005 and June 2008, average attendance

at hearings was still only approximately 74 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 attendance standards for its members by whatever means, including legislative action if necessary. (See Recommendation 2.)

Agency Response: "As of March 12, 2009, the Board has increased the average attendance to 76 percent while increasing the number of meetings from twelve to sixteen per year. The Board has established the quorum of 4 members and has not had to cancel a meeting due to a lack of quorum. The Board's subcommittee will address the issue of minimum standards for attendance. It should be noted that the Board members are volunteers and in accordance with C.G.S. 29-32b, shall serve without compensation, but its members shall be entitled to reasonable subsistence and travel allowances in the performance of their duties. Only two members have asked for travel allowance."

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.

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.

Effect: State Statutes and Regulations conflict with the Board's current operations.

- Cause:* The Board has not proposed changes to its Statutes and Regulations to reflect its current operations.
- Recommendation:* The Board should amend its Statutes and Regulations to remove the incorrect reference to the Department of Public Safety as its provider of administrative and accounting services. (See Recommendation 3.)
- Agency Response:* “A subcommittee of the Board has been established primarily to address the backlog and to recommend updating the Board Regulations. The Board will ask the Department of Administrative Services 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.

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- 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 it’s present practices and current law. The Board will refer the matter to its subcommittee considering revision of its regulations and also consider asking the FOI Commission for clarification so that this issue is settled.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Board contained five recommendations. There has been satisfactory resolution of one of these recommendations. The four remaining recommendations have been repeated or restated to reflect current conditions.

- *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.*

The condition remained substantially unchanged during the audited period. Therefore, the Recommendation will be repeated in modified form. (See Recommendation 1.)

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

The condition remained substantially unchanged during the audited period. Therefore, the Recommendation will be repeated. (See Recommendation 2.)

- *The Board should amend its Statutes and Regulations to remove the incorrect reference to the Department of Public Safety as its provider of administrative and accounting services.*

The Department has not taken the necessary corrective action to address this recommendation. The Recommendation will be repeated. (See Recommendation 3.)

- *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.*

The condition remained substantially unchanged during the audited period. Therefore, the Recommendation will be repeated. (See Recommendation 4.)

- *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.*

This Recommendation was substantially addressed and will not be repeated.

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 14 months during the 2004 fiscal year to a high of 16 months during the audit period. The backlog at August 2008 was 16 months.

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

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 amend its Statutes and Regulations to remove the incorrect reference to the Department of Public Safety as its provider of administrative and accounting services.**

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

- 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.

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, 2005, 2006, 2007 and 2008. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grant agreements 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 grant agreements applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, 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, 2005, 2006, 2007 and 2008, 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 grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

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

In planning and performing our audit, we considered the Board of Firearms Permit Examiners internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Agency's internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Agency's ability to properly initiate, authorize, record,

process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the Agency's internal control. We consider the following deficiency, described in detail in the accompanying "Condition of Records" and "Recommendations" sections of this report, to be a significant deficiency in internal control over financial operations, safeguarding of assets and compliance with requirements: Recommendation 1- 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.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, of the significant deficiency described above, we consider the following item to be a material weakness: Recommendation 1- 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.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Board of Firearms Permit Examiners complied with laws, regulations, contracts and grant agreements, 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, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those 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 or other matters that are required to be reported under Government Auditing Standards. However, we noted certain matters which we reported to Agency management in the accompanying "Condition of Records" and "Recommendations" sections of this report.

The Board of Firearms Permit Examiners response to the findings identified in our audit is described in the accompanying “Condition of Records” section of this report. We did not audit the Board of Firearms Permit Examiners response and, accordingly, we express no opinion on it.

This report is intended for the information and use of Agency management, 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.

Nikolaos Perdikakis
Auditor 1

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts