

STATE OF CONNECTICUT



*AUDITORS' REPORT
STATE MARSHAL COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 2010 AND 2011*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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AUDITORS OF PUBLIC ACCOUNTS

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July 11, 2013

AUDITORS' REPORT STATE MARSHAL COMMISSION FOR THE FISCAL YEARS ENDED JUNE 30, 2010 AND 2011

We have made an examination of the books, records and accounts of the State Marshal Commission for the fiscal years ended June 30, 2010 and 2011. Financial statement presentation and auditing are performed annually on a Statewide Single Audit basis to include all state agencies. This audit examination has been limited to assessing the commission's compliance with certain provisions of laws and regulations, and evaluating the internal control structure policies and procedures established to ensure such compliance. This report on that examination consists of the Comments, Recommendations, and Certification that follow.

Pursuant to Section 31 of Public Act 09-7 of the September Special Session, effective October 5, 2009, the State Marshal Commission was placed within the Department of Administrative Services (DAS), provided that the commission has independent decision-making authority.

COMMENTS

FOREWORD:

The State Marshal Commission operates primarily under the provisions of Title 6, Sections 6-29 to 6-49a of the General Statutes.

In accordance with Section 6-38a of the General Statutes, state marshals have the authority to provide legal execution and service of process in the counties of the state as an independent contractor compensated on a fee for service basis, subject to any minimum rate promulgated by the state, by agreement with an attorney, court or public agency requiring execution or service of process.

The function of the commission, in consultation with the State Marshals Advisory Board, is to adopt regulations to establish the selection requirements for filling state marshal vacancies, as well as establish the applicable professional standards, training requirements, and minimum fees for the execution and service of process. The commission is also responsible for the equitable

assignment of service of restraining orders to state marshals in each county and ensuring that such restraining orders are served expeditiously.

Per Section 6-38b subsection (l) of the General Statutes, during the beginning of the audited period, the commission was within the Department of Administrative Services for administrative purposes only. As previously indicated, Public Act 09-7 of the September Special Session placed the commission within the Department of Administrative Services provided that the commission has independent decision-making authority.

State Marshal Commission Membership:

Section 6-38b subsection (a), provides that the State Marshal Commission is to consist of eight members appointed as follows: the Chief Justice shall appoint one member who shall be a judge of the Superior Court; the speaker of the House of Representatives, the president pro tempore of the Senate, the majority and minority leaders of the House of Representatives and the majority and minority leaders of the Senate shall each appoint one member; and the Governor shall appoint one member who shall serve as chairperson. No member of the commission shall be a state marshal, except that two state marshals appointed by the State Marshals Advisory Board in accordance with Section 6-38c of the General Statutes, shall serve as ex-officio, nonvoting members of the commission.

As of June 30, 2011, the commission consisted of the following members:

Appointed by Governor:
Peter J. Martin, Esquire, chairperson

Appointed by Chief Justice:
Honorable William Cremins

Appointed by Legislative Leaders:
William W. Cote, Esquire
Michael Cronin, Esquire
Vincent Mauro, Jr.
Joel I. Rudikoff, Esquire
Erron Smith
Joseph Ubaldi

Ex-Officio Members:
Thomas Burke
Lisa Stevenson

Peter J. Martin, Esquire, was appointed as chairperson on April 13, 2010, and served thorough the audited period. He was later replaced by Hope C. Seeley, Esquire who was appointed by Governor Malloy on October 15, 2012.

State Marshals Advisory Board:

Section 6-38c of the General Statutes establishes a State Marshals Advisory Board to consist of 24 state marshals. The state marshals in each county shall elect from amongst themselves the following number of state marshals to serve on the board: Hartford, New Haven, and Fairfield counties, four state marshals; New London and Litchfield counties, three state marshals; and Tolland, Middlesex and Windham counties, two state marshals. The board serves the commission in an advisory capacity only.

RÉSUMÉ OF OPERATIONS:

During the audited period, DAS handled the business office duties for the commission, including revenue accounting, and expenditure and payroll processing.

The commission's revenues and expenditures for the audited period are summarized below:

Operating Revenues:

	<u>Fiscal Year Ended</u>	
	<u>6/30/10</u>	<u>6/30/11</u>
Annual State Marshal Fees	\$ 174,750	\$ 169,500
Miscellaneous Revenues	<u>56</u>	<u>32</u>
Total Revenue	<u>\$ 174,806</u>	<u>\$ 169,532</u>

Annual state marshal fees are required to be paid by each state marshal to the State Marshal Commission not later than October 1st of each year for deposit into the General Fund, as per Section 6-38m of the General Statutes. State marshal fees for the fiscal year ended June 30, 2009 totaled \$53,500. Section 74 of Public Act 09-1 of the June Special Session, effective July 1, 2009, increased the fee from \$250 to \$750 per year, commencing October 1, 2009, resulting in the significant increase in fee revenue.

Operating Expenditures:

	<u>Fiscal Year Ended</u>	
	<u>6/30/10</u>	<u>6/30/11</u>
Personal Services	\$ 185,467	\$ 126,223
Other Expenses	<u>42,247</u>	<u>55,446</u>
Total Expenditures	<u>\$ 227,714</u>	<u>\$ 181,669</u>

Total expenditures decreased by \$46,045 from fiscal year ended June 30, 2010 to fiscal year ended June 30, 2011. Total expenditures for the fiscal year ended June 30, 2009 totaled \$405,871. The significant reduction in expenditures was the result of the merger of the commission with DAS. As part of that merger, the director of the State Marshal Commission position was eliminated and the related duties were placed under an existing manager within DAS.

Other Matters:

Auditors of Public Accounts Review of Individual State Marshal Trust Accounts:

Pursuant to Section 6-38e of the General Statutes, the State Marshal Commission is required to periodically review and audit the records and accounts of state marshals. The commission never had the staffing or the funding that would be required to meet its statutory requirement regarding audits, thus the commission has not and does not perform any audits. The commission has developed a written audit policy, which the state marshals are made aware of and should comply with.

Pursuant to Public Act 06-186, codified as Section 2-90a of the General Statutes, effective

July 1, 2006, the Auditors of Public Accounts were authorized to audit the trust accounts maintained by state marshals. Trust accounts are to be used only for deposit and disbursement of funds related to the execution of a judgment or a tax warrant. Marshals maintain other accounts for their other business activities such as fees collected for the service of process. The State Marshal Commission has the obligation to periodically review other accounts. The Auditors of Public Accounts does not have authority to audit such accounts. The Auditors of Public Accounts have been reviewing the trust accounts of randomly selected state marshals since the passage of that public act, and issuing formal reports on those reviews to the State Marshal Commission and the selected state marshal. Each report consists of a listing of the areas reviewed and any related findings. The findings result from the exceptions noted in our tests for the marshals' compliance with the commission's audit policy.

Our office issued 42 reports on state marshal trust account reviews during the period from December 5, 2009 to September 1, 2012. The reports were all based on 2-year reviews, covering the calendar years 2006-2007, 2007-2008, 2008-2009, and 2009-2010. Information regarding the reviews and reported findings is presented below.

Items Included in Each Review:

In each of the 42 state marshal reports issued (except one which was a death audit) we reported on the following eight criteria regarding the activities pertaining to the trustee bank accounts:

1. Whether the account was in the state marshal's name only and whether the commission was notified within five days of any changes to the account information.
2. Whether there was any evidence of commingling of funds.
3. Whether the state marshal fees retained in the account did not exceed the regulatory maximum.
4. Whether receipts were recorded in a proper manner and deposited timely.
5. Whether disbursements were properly paid to authorized parties in a timely manner.
6. Whether the state marshal fees received for activities associated with trust account activities were in compliance with Section 52-261a of the General Statutes.
7. Whether the trust account records were complete and accurate.
8. Whether the required book and bank reconciliations were performed.

Summary of the Findings Included in the Reports Issued:

There were a total of 155 findings included in the 41 audit reports. It should be noted that for criteria in which the result of testing was inconclusive due to a lack of documentation, we did not include such within our finding statistics.

- 4 of the 41 reports had no findings (9.8 percent)
- 31 of the 41 reports had three or more findings (75.6 percent)
- 9 of the 41 reports had six or more findings (22 percent)

Findings by Report Years:

- There were ten findings in the two reports issued on the 2006 and 2007 calendar year reviews (5.00 findings/report)
- There were 20 findings in the seven reports issued on the 2007 and 2008 calendar year reviews (2.86 findings/report)
- There were 55 findings in the 14 reports issued on the 2008 and 2009 calendar year reviews (3.93 findings/report)
- There were 70 findings in the 18 reports issued on the 2009 and 2010 calendar year reviews (3.89 findings/report)
- Overall: There were 3.78 findings per report for the 41 reports issued during the period from December 5, 2009 through September 1, 2012.

Most Frequent Findings:

There were findings for three of the eight criteria tested in at least 50 percent of the reports issued as summarized below:

Criteria #	Description of Finding	Number of Reports that Included the Finding	Number of Reports in which Results were Inconclusive	Percentage Based on only Findings in 41 Reports Issued
1	The account was not in the state marshal's name only and/or the commission was not notified within five days of any changes to the account information	19	-	46.34%
2	There was evidence of commingling of funds	12	2	29.27%
3	The state marshal fees retained in the account exceeded the regulatory maximum	14	-	34.15%
4	Receipts were not recorded in a proper manner or deposited timely	29	-	70.73%
5	Disbursements were not properly paid to authorized parties in a timely manner	13	17	31.71%
6	The state marshal fees received for activities associated with trust account activities were not in compliance with Section 52-261a of the General Statutes	10	-	24.39%
7	The trust account records were not complete and accurate	27	1	65.85%
8	The required book and bank reconciliations were not properly performed	31	-	75.61%

Generally, the purpose of the trust accounts is for the state marshal to accurately account for the monies held for others and disburse the monies to the authorized parties within the statutorily allowed time frame. Therefore, under that basic premise, one of the most important criteria would be accurate and timely reconciliation of the account balance to the state marshal fees remaining in the account and the monies collected but not yet disbursed. The commission's audit policy requires that the marshal perform this reconciliation at least quarterly. The reconciliations, if performed in accordance with the audit policy, would provide a degree of assurance that several of the other requirements included in the audit policy are being met. As indicated in the table above, our reviews disclosed a finding regarding the lack of book and bank reconciliations for 31 of the 41 state marshals reviewed. (See the Condition of Records section of this report, regarding State Marshal Trust Account Reporting).

The overall number of findings, combined with the percentage of reviews with findings, brings into question the awareness that the state marshals have of their responsibility to comply with the requirements included in the audit policy. While the policy is included in the commission's state marshal manual, it is a relatively small part of the manual, and its importance may have been overlooked. The audit policy has been in effect since May 26, 2004, and there have been amendments made to it since then. The state marshals are notified accordingly of such amendments via administrative bulletins.

Follow-up on the Findings Included in the Auditors of Public Accounts Reports:

The State Marshal Commission has an audit report review policy in place, which was formalized through the issuance of Administrative Bulletin 07-08, August 23, 2007. The policy requires that the administrative office of the State Marshal Commission review each report issued by the Auditors of Public Accounts to determine what action, if any, is needed. The report review focuses on the state marshal's obligations to comply with the commission's audit policy, state statutes, and regulations that are relevant to the state marshal's records and the trust account. The audit report review policy includes an administrative review process that requires the commission to notify each state marshal in writing of any audit findings and obtain written explanations from the state marshal that satisfactorily address those findings. Pursuant to the audit report review policy, the commission reserves the right to commence a grievance complaint at any time in the report review process, or seek an emergency summary suspension under the Section 6-38b-8 of the Regulations of State Agencies, when deemed appropriate. The policy also allows for the commission to review a state marshal's account at any time. We reviewed the State Marshal Commission files to determine that it has procedures in place to comply with the audit report policy and that those procedures were followed on a consistent basis. We reviewed a total of 12 of the 41 state marshal files for which reports were issued. It was clear from our review of those files that the State Marshal Commission staff has adequate procedures in place, and consistently followed them.

Summary:

Although there is an audit policy in place, which is established in part to provide for uniform policies and procedures and to provide guidance on the maintenance of trust accounts and the related recordkeeping, it is clear from the results of the reviews we performed that the audit

policy is not being consistently followed by all of the state marshals we reviewed. (See the Condition of Records section of this report.)

CONDITION OF RECORDS

Our examination of the records of the State Marshal Commission disclosed certain areas requiring attention, which are detailed in this section of the report.

State Marshal Trust Account Reporting:

Criteria: Section 6-38e of the General Statutes states in part that “The State Marshal Commission shall periodically review and audit the records and accounts of the state marshals...” Section 2-90a states that “The Auditors of Public Accounts shall have the authority to audit the trust accounts maintained by state marshals.”

An entity’s internal controls are procedures carried out by management and staff of the entity. An effective internal control system includes monitoring of the internal controls by management to consider whether they are operating as intended and that they are modified as appropriate for changes in conditions. This process is accomplished through ongoing activities, separate evaluations or a combination of the two.

The State Marshal Commission has adopted an audit policy regarding state marshal client fund accounts (trust accounts) “to direct state marshals to manage their trust accounts in a fiduciary manner that is consistent with laws, standards, procedures and the state marshal commission professional standards.” The policy includes a requirement that, at least quarterly, state marshals reconcile the book balance of the trust account to the marshal fee due and the monies collected but not yet disbursed. It also includes requirements regarding accounting for receipts and disbursements processed through the account. There are no requirements in the audit policy for state marshals to periodically report information regarding the status of their trust accounts to the commission.

Condition: The commission never had the staffing or the funding that would be required to meet its statutory requirement regarding audits, thus has not and does not perform any audits. As previously indicated in this report, our office has performed reviews of the trust accounts for randomly selected state marshals and issue formal reports thereon. The commission uses our reports as a monitoring tool to ensure the marshals are complying with the audit policy. The 41 reports we issued for the period from December 5, 2009 through September 1, 2012, disclosed findings for three of the eight criteria tested in at least 50 percent of the reports issued. In particular, 76 percent of the reports issued included a finding that the required book and bank reconciliations were not properly performed.

Effect: By relying solely on the Auditors of Public Accounts trust account reviews, the State Marshal Commission cannot become aware of a

marshal's noncompliance with its audit policy until an Auditors of Public Accounts report on the marshal is issued.

Cause: We were informed that adequate resources were not available to perform this function.

Recommendation: The State Marshal Commission should require state marshals who engage in trust account activity to submit to the commission their trust account reconciliation as of December 31st of each year. The reconciliations should be submitted within 45 days after the close of the year, and should include a listing of the owners of the monies being held and the total marshal fees remaining in the account, reconciled to the account balance. The commission staff should review the reconciliations for reasonableness and follow up on them as necessary. (See Recommendation 1.)

Agency Response: "The State Marshal Commission ("SMC") historically was not properly staffed to audit state marshal accounts and has relied upon the Auditors of Public Accounts ("APA") to perform this audit function on its behalf. This arrangement has been in place beginning with the FY07 budget, when the APA received additional funding and statutory authority to execute audits of state marshals. As mentioned above, the APA performs detailed field audits and issues formal reports on randomly selected state marshal accounts for the SMC to maintain statutory compliance.

The SMC agrees with the APA recommendation that it makes sense to broaden marshal account auditing, in particular to (1) require that each state marshal who engages in trust account activity submit to the commission their trust account reconciliation as of December 31; (2) require that such reconciliations are submitted within 45 days after the close of the year; and (3) require that the reconciliation include a listing of the owners of the monies being held and the total marshal's fee remaining in the account, reconciled to the account balance. The SMC staff will continue to work with the APA to maintain statutory compliance. Specifically, the SMC will work with the APA to streamline the field audits it conducts, to reduce the APA resource commitment on this function and to have the APA assist, in the form of initial training, the DAS State Marshal Commission office in establishing guidelines on how to best review the annually-submitted reconciliation reports."

RECOMMENDATIONS

We presented four recommendations in our previous report, of which the commission has implemented three. One recommendation is repeated in this report. This report does not contain any new recommendations from our current review. The following is a summary of the recommendations presented in our prior report and the actions taken by the commission:

Status of Prior Audit Recommendations:

- The State Marshal Commission should require that each state marshal who engages in trust account activity, submit to the commission, trust account reconciliation as of December 31st. The reconciliations should be submitted within 45 days after the close of the year, and should include a listing of the owners of the monies being held and the total marshal fees remaining in the account, reconciled to the account balance. The commission staff should review the reconciliations for reasonableness and follow up on them as necessary. This recommendation was not implemented and is being repeated. (See Recommendation 1.)
- The State Marshal Commission should implement a procedure to periodically remind state marshals of their responsibility to comply with the audit policy. This recommendation has been resolved.
- The State Marshal Commission should enforce the requirement that employees who are out on sick leave for more than five consecutive workdays submit a medical certificate. This recommendation has been resolved.
- The State Marshal Commission should implement an effective procedure to determine an employee's eligibility to receive compensatory time prior to awarding it. This recommendation has been resolved.

Current Audit Recommendations:

- 1. The State Marshal Commission should require state marshals who engage in trust account activity to submit to the commission their trust account reconciliation as of December 31st of each year. The reconciliations should be submitted within 45 days after the close of the year, and should include a listing of the owners of the monies being held and the total marshal fees remaining in the account, reconciled to the account balance. The commission staff should review the reconciliations for reasonableness and follow up on them as necessary.**

Comment:

The Auditors of Public Accounts issued 41 reports for the period from December 5, 2009 through September 1, 2012 and disclosed findings for three of the eight criteria tested in at least 50 percent of the reports issued. In particular, 76 percent of the reports issued included a finding that the required book and bank reconciliations were not properly performed.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the State Marshal Commission for the fiscal years ended June 30, 2010 and 2011. This audit was primarily limited to performing tests of the commission's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the commission's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the commission are complied with, (2) the financial transactions of the commission are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the commission are safeguarded against loss or unauthorized use. The financial statement audits of the State Marshal Commission for the fiscal years ended June 30, 2010 and 2011, 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 State Marshal Commission 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:

Management of the State Marshal Commission is responsible for establishing and maintaining effective internal control over financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts, and grants. In planning and performing our audit, we considered the State Marshal Commission's 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 commission's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of expressing an opinion on the effectiveness of the commission's internal control over those control objectives. Accordingly, we do not express an opinion on the effectiveness of the State Marshal Commission's internal control over those control objectives.

A *deficiency in internal control* 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 and correct on a timely basis, unauthorized, illegal or irregular transactions, or breakdowns in the safekeeping of any asset or resource. A *material weakness* is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions and/or material noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that would be material in relation to the commission's financial

operations will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance with requirements was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the commission's financial operations, safeguarding of assets, or compliance with requirements that we consider to be material weaknesses, as defined above. However, we consider the following deficiencies, described in detail in the accompanying Condition of Records and Recommendations sections of this report, to be significant deficiencies. Recommendation 1 - State Marshal Trust Account Reporting. A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the State Marshal Commission 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 commission'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.

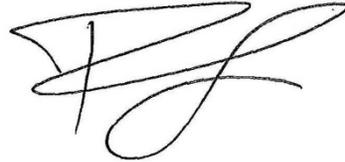
The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

The State Marshal Commission's response to the findings identified in our audit are described in the accompanying Condition of Records section of this report. We did not audit the State Marshal Commission's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the commission's 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 appreciation for the courtesy and cooperation extended to our representatives by the personnel of the State Marshal Commission during the course of this examination.



Dennis R. Collins
Principal Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts