



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
August 28, 2009

State Agencies Should Improve DCJS Reporting

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found that some state agencies failed to follow a statutory requirement to provide a current and updated list of peace officers and police officers in their employ to the New York State Division of Criminal Justice Services (DCJS). Although all agencies were aware of the basic reporting requirement, the Inspector General found that nearly every agency maintained an internal list of peace officers or police officers that varied from the registry maintained at DCJS. Furthermore, agency officials were unsure of how often they were required to update their registry information with DCJS.

The Inspector General also found that DCJS was unaware that some registered peace officers had not completed legally mandated training, and that other registered peace officers had not submitted waiver forms indicating their exemption from basic peace officer training based on prior training or experience. DCJS indicated that it would address the training deficiencies identified in the investigation and implement information technology improvements that would correlate its registries of police and peace officers with its training records.

The Inspector General recommended that agencies employing police and peace officers review available resources regarding training and registration as delineated on DCJS's Web site. The Inspector General also recommended that, pursuant to Executive Law §§ 845(3) and 845-a(3),¹ agencies with large peace officer or police officer turnover arrange with DCJS to update registry information more frequently.

BASIS OF REVIEW

In March 2008, the Inspector General initiated a proactive review of state agencies' compliance with reporting and training requirements for both peace officers and police officers.

¹Subdivision 3 of both Executive Law §§ 845 and 845-a provide: "Each such head shall have the option to enter into an agreement with the division whereby the required semi-annual updating of registry information may be regularly done on a more frequent basis."

SUMMARY OF REVIEW

New York State employs both police and peace officers in various agencies and in different capacities throughout the state. Under New York State law, “Police Officers” and “Peace Officers” are distinct classifications differentiated by the scope of their authority. In sum, police officers have broader powers than peace officers pertaining to, among other things, the nature of their authority to make arrests, their jurisdiction, and their ability to apply for and execute search warrants. In addition, not all peace officers are authorized to carry firearms. New York State Criminal Procedure Law § 1.20(34) lists approximately 22 different classifications of police officers. Criminal Procedure Law § 2.10 defines over 80 different types of peace officers. There are currently about 550 state and local police and sheriff departments employing over 82,000 police officers. Also, 1,825 state and local agencies together employ about 106,000 peace officers.

Agencies Examined in this Investigation

Twenty-three agencies employing over 31,000 peace and police officers fall within the Inspector General’s jurisdiction. Of the 23, four employ only police officers, 17 employ only peace officers, and two employ both peace officers and police officers.

The following agencies employ police officers:

<i>Agency</i>	<i>Approximate Number of Officers</i>
Division of State Police	4,900
State University of New York	560
NYS Department of Environmental Conservation	460
Waterfront Commission of New York Harbor	50

The following agencies employ peace officers:

<i>Agency</i>	<i>Approximate Number of Officers</i>
NYS Department of Correctional Services	22,200
NYS Division of Parole	1,300
City University of New York	600
NYS Office of Mental Health	560
NYS Office of Mental Retardation and Developmental Disabilities	250
NYS Department of Motor Vehicles	110
NYS Division of Taxation and Finance	100
NYS Office of Children and Family Services	60
NYS Insurance Department	55
NYS Department of Health	50
NYS Department of State, Office of Fire Prevention and Control	45
NYS Liquor Authority	45
NYS Department of Labor	20
NYS Banking Department	4

NYS Board of Elections	1
NYS Department of Agriculture and Markets	1
NYS Worker's Compensation Board	1

The following agencies employ both police and peace officers:

<i>Agency</i>	<i>Approximate Number of Police Officers</i>	<i>Approximate Number of Peace Officers</i>
Niagara Frontier Transportation Authority	95	35
NYS Office of Parks, Recreation and Historic Preservation	298	4

Methodology

The Inspector General reviewed compliance with requirements for registration and training for all of the aforementioned 23 agencies. The Inspector General obtained a current list of peace and police officers from each agency and compared that agency's list to DCJS's registry. When discrepancies were identified, an explanation was sought from the agencies.

The Inspector General obtained documentation of completion of required training for all 23 agencies, including any required initial and/or annual training. For agencies employing over 200 officers, the Inspector General reviewed a random sample of training documentation. The Inspector General examined annual training records for all agencies for 2008 and for previous years where available. Training records were obtained from the agencies themselves or from DCJS.

The Inspector General interviewed officials from each of the 23 agencies either in person or by telephone and consulted with DCJS throughout this review.

Registration of Peace Officers and Police Officers

Executive Law §§845 and 845-a, respectively, mandate DCJS to maintain registries of all police officers and peace officers in the state. With regard to peace officers, DCJS is required to maintain the following information: the officer's name, date of birth, rank or title, official station and full-time or part-time status. With regard to police officers, DCJS also maintains their social security numbers and departments. The registries do not include information regarding officer qualifications or training, but merely reflect the employment of police officers or peace officers at various agencies.

DCJS officials informed the Inspector General that the registry is used for several purposes. Members of law enforcement routinely contact DCJS to verify the identity of individuals who claim to be officers and possibly carrying a weapon. In addition, law enforcement agencies may use the registry to verify if

purchases of firearms by peace or police officers were legitimate. State agencies also use the registry to determine the validity of a basic training certificate previously issued to an applicant formerly employed and trained as a police officer.

In addition, law enforcement agencies may use the registry to verify that certain purchases of firearms were made for legitimate law enforcement purposes. State agencies also use the registry to verify qualifications of applicants for employment as peace officers or police officers.

Pursuant to Executive Law §§ 845(2) and 845-a(2), respectively, an agency employing police officers or peace officers must provide DCJS with updated information regarding such officers employed at the agency at least twice per year, in January and July. This requirement is not voluntary and, specifically with regard to peace officers, failure by agencies to submit registry information to DCJS may be compelled by court order and disobedience subject to contempt.² Information about registration, including the requirement for agencies to provide semiannual reports, is available on the DCJS Website, as are forms for updating registry information. Each January, DCJS provides each agency with its current list of police and/or peace officers in order to assist that agency with the updating requirements. DCJS officials responsible for the registry stated that, currently, no system exists to automatically notify or remind agencies that fail to update their registries, but that reminders are forwarded in some instances.

The Inspector General found that agency officials were unfamiliar with the laws governing agency registration of police officers and peace officers with DCJS. Although all agencies were aware of the obligation to report, officials interviewed by the Inspector General were uncertain how often they were required to update DCJS of changes to agency staffing. While seven agencies only provided updates once in 2008, 12 agencies updated DCJS at least 2-3 times during the year. Although all agencies informed the Inspector General that they were aware of the requirement to register, DCJS records disclose that four agencies did not provide any updates to DCJS in 2008. Officials from some agencies stated they were uncertain whether the agency was required to provide DCJS updates if not specifically requested by DCJS. Only one agency, the Insurance department, forwards updates to DCJS as soon as a change occurs.

The Inspector General also found that there were discrepancies between nearly every agency's records and the DCJS registry of officers. In fact, of the 23 agencies investigated by the Inspector General, DCJS's records were consistent with only three agencies which employ only one peace officer each: NYS Department of Agriculture and Markets, NYS Board of Elections, and NYS Workers Compensation Board. Niagara Frontier Transportation Authority officials stated that the agency does not maintain an internal list of its peace and police officers, but reviews the list provided by DCJS each January and notes any changes to staffing.

² Executive Law §845-a(5)

In general, the identified discrepancies were a result of new hires, terminations, retirements and transfers to other departments. The Department of Correctional Services, which employs the most peace officers of any agency reviewed, reported that the agency might lose or gain up to 200 employees per month, many of whom are peace officers. Because the majority of agencies only send periodic updates, these discrepancies are to be expected. However, three agencies, the Department of Health, Office of Children and Family Services, and Office of Mental Retardation and Developmental Disabilities admitted they employed officers that should have appeared on DCJS's list. Some agencies claimed that certain officers were registered with DCJS according to prior lists, but those officers did not appear on the lists obtained from DCJS by the Inspector General.

Documentation of Training

The Municipal Police Training Council, whose composition and functions are described in Executive Law §§ 839-840, develops and recommends the specific form and content of the required training for both peace officers and certain police officers. Under Executive Law § 841, the DCJS commissioner is responsible, in cooperation with the Municipal Police Training Council, for approving municipal training programs and certifying instructors of police and peace officers. In addition, DCJS certifies courses completed by police and peace officers in satisfaction of the minimum training requirements for their positions.

Criminal Procedure Law § 2.30 mandates that all peace officers in the state must complete basic training within one year of appointment. The Municipal Police Training Council is limited by Criminal Procedure Law to the establishment of no more than 35 hours of basic training, in addition to 47 hours of initial training in the use of firearms and deadly physical force for those peace officers authorized by their employer or by law to possess a firearm. Peace officers authorized by their employer to carry other weapons such as batons or aerosol spray devices must complete initial training in those weapons as appropriate.

Of the six agencies employing police officers under the Inspector General's jurisdiction, only police officers employed by the State University of New York are required by law to obtain a certificate from the Municipal Police Training Council. However, three other agencies voluntarily abide by the Municipal Training Council's standards and participate in its certification programs: the Niagara Frontier Transportation Authority, the Department of Environmental Conservation, and the Office of Parks, Recreation, and Historical Preservation. And, while the State Police conducts its own training, the agency reported that it meets and exceeds all guidelines and standards promulgated by DCJS and the Municipal Police Training Council.

In a separate investigation of the Waterfront Commission of New York Harbor, the Inspector General found that, while officers attended police academies in New York or New Jersey, most were insufficiently trained in light of the Commission's bi-state jurisdiction. Waterfront Commission police officers were typically only trained in the

laws of the state in which they attended training, despite being charged with enforcing criminal laws in both states.

DCJS, in conjunction with its authority to certify mandated basic training courses completed by peace officers and municipal police officers, maintains a database of persons to whom it has issued certificates. The database is maintained separate from the police and peace officer registries discussed above. DCJS does not conduct the yearly instruction required of peace officers carrying weapons, but does retain records of such training when course curricula and rosters are filed by the employing agency.

The Inspector General found that all of the aforementioned agencies were aware that police and peace officers they employ must complete basic and annual training requirements. In fact, the agencies generally provided training in excess of that required: at least six agencies exceed initial training requirements for police and peace officers. Further, while the law does not mandate annual firearm training for police officers, all police agencies require their officers to attend training at least annually. Most agencies employing peace officers require the officers to take numerous annual training courses, in addition to the required weapons training.

The Inspector General's review of training records maintained at DCJS revealed that DCJS did not receive documentation of basic training for two peace officers at the State Insurance Department and one peace officer at the State Liquor Authority. These officers were not required to complete peace officer basic training as they maintained valid police officer basic training certificates issued to them while appointed as police officers in New York State, but the agencies never notified DCJS that the officers had previously completed training. The Inspector General alerted both agencies to this deficiency, and both subsequently submitted the required documentation.

DCJS's records also revealed that not all peace officers had completed a basic peace officer course. Three staff members at Niagara Frontier Transportation Authority did not attend a basic course. Officials at the Authority stated that the individuals did not take the course because, although by contract they are peace officers, in actuality they are fire department staff. DCJS informed the Inspector General that it would inform the Niagara Frontier Transportation Authority that its three peace officers were required to attend training to hold peace officer status, and would audit the training records of the agency.

DCJS officials stated that due to limitations of the division's computer system, it had not previously identified the aforementioned instances in which peace officers were registered but DCJS had not issued a certificate for completion of basic training within the one-year period. DCJS officials also informed the Inspector General that the division has received limited documentation regarding the annual training required of peace officers carrying firearms. While some agencies submitted curricula and evidence of completion to DCJS, others simply checked on their annual registration forms that the officers had completed the required training as permitted under applicable regulations.

DCJS informed the Inspector General that it encourages agencies to submit complete curricula so that it can better enforce the annual training requirements.

While the review did not find any peace officers who had not completed the required annual deadly weapons training, the Inspector General identified two agencies, the State University of New York and the Niagara Frontier Transportation Authority, which did not maintain centralized training records. Training records were kept only in each officer's personnel folder, making it more difficult to identify officers who had not completed the required training.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that state agencies inconsistently followed a statutory requirement to provide a current and updated list of peace officers and police officers in their employ to the New York State Division of Criminal Justice Services. Although all agencies were aware of the basic reporting requirement, the Inspector General found that nearly every agency maintained an internal list of peace officers or police officers that varied from the registry maintained at DCJS. Furthermore, agency officials were unsure of how often they were required to update their registry information with DCJS.

The Inspector General also found that DCJS was unaware that some registered peace officers had not completed legally mandated training, and that other registered peace officers had not submitted waiver forms indicating their exemption from basic peace officer training based on prior training or experience.

The Inspector General recommended that state agencies employing peace officers and/or police officers review available resources regarding training and registration on DCJS's Web site. The Inspector General also recommended that, pursuant to Executive Law §§ 845(3) and 845-a(3), agencies with large peace officer and/or police officer turnover review and amend their procedures to ensure compliance with the law and collaborate with DCJS to update registry information more frequently.

The Inspector General also recommended that all state agencies employing peace and police officers submit training curricula to DCJS for comment and approval, and maintain centralized lists of peace officer or police officer training to ensure that all training is completed as required. DCJS, in turn, indicated it would, when economically practical, address the training deficiencies identified in the investigation and implement technology improvements that would correlate its registries of police and peace officers with its training records.

The Inspector General afforded DCJS the opportunity to respond to this report prior to its publication. In a letter dated August 20, 2009, Deputy Commissioner John Bilich stated, "DCJS renders no objection to the findings of the Inspector General and is committed at the highest levels to implementing the recommendations contained therein."