

U.S. Department of the Interior Office of Inspector General

Virgin Islands Police Department Evidence Integrity at Risk





United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20240

MAR 3 1 2009

The Honorable John P. deJongh, Jr. Governor of the Virgin Islands No. 21 Kongens Gade St. Thomas, VI 00802

Re: Final Evaluation Report Virgin Islands Police Department Evidence Integrity at Risk

(Report No. VI-IS-VIS-0002-2008)

Dear Governor deJongh:

In an effort to determine whether the Virgin Islands Police Department maintains the appropriate measures to protect the integrity of evidence, we reviewed the Police Department's current policies and procedures in place for the handling, storage, and safeguarding of evidence. In addition, we reviewed the manner in which the Virgin Islands Firearms Bureau secures and maintains its collected firearms. This letter transmits our findings. Over the past 15 years, we have performed two prior audits related to the Police Department's handling of evidence and firearms and our current findings continue to document some of the same serious problems. These pervasive issues, left unaddressed, threaten the overall integrity of the Virgin Islands justice system.

Specifically, we determined that the Police Department does not adhere to relevant policies or procedures relative to the handling of evidence. The methods by which the Police Department handles, processes, and stores evidence is not in line with industry standards that the integrity of critical evidence is continuously at risk. In fact, there have been documented instances when the Police Department's disregard for careful maintenance of inventory has led to the destruction and loss of critical evidence. These long-standing deficiencies have been repeatedly voiced by Police Department staff and cannot continue to be ignored as the reliability of any criminal investigation and subsequent prosecutions are at stake.

We provide recommendations that we believe deserve your immediate attention, and if implemented, should rectify these serious problems. Please provide a written response to this report by May 6, 2009 to our Caribbean Field Office, Ron deLugo Federal Building – Room 207, St. Thomas, VI 00802. Your response should identify plans to address the recommendations cited in this report.

We appreciate the cooperation shown by Police Department personnel during our evaluation, and also the opportunity to discuss the report with you on March 24, 2009. If you have any questions concerning this report, you may contact me at 202-208-5745, or you may contact Mr. Hannibal M. Ware, Field Office Supervisor, St. Thomas, VI at 340-774-8300.

Sincerely,

Mary L. Kendall

Acting Inspector General

cc: James H. McCall, Police Commissioner

Nikolao Pula, Acting Deputy Assistant Secretary for Insular Affairs

WHY WE DID THIS REVIEW



We received a written request from the Virgin Islands Police Department Commissioner to conduct a review of Police Department evidence rooms. He later asked that we expand the review to include firearms storage areas.

OVERVIEW



The Virgin Islands Police Department is headed by a commissioner and is divided into two districts, the St. Thomas/St. John/Water Island District and the St. Croix District. For the St. Thomas/St. John/Water Island District, evidence is stored at two locations: the Alexander Farrelly Criminal Justice Complex and the abandoned Richard Callwood Command. For the St. Croix District, evidence is stored at the Wilbur Francis Command and the OSHA condemned Patrick Sweeney Headquarters. Each District has a Firearms Bureau which is responsible for the issuance of firearms licenses and the maintenance of firearms for safekeeping and disposal.

Crime in the Virgin Islands is increasing with 2,986 and 3,442 crimes committed in fiscal years 2007 and 2008 respectively (43 and 47 were homicides). This represents a 15 percent increase in crime in only 1 year. The Police Department collects an average of 7,000 pieces of evidence per year.



Evidence for the St. Thomas/St. John/Water Island District is stored at the abandoned Richard Callwood Command (left) and the Alexander Farrelly Criminal Justice Complex (right); both are located in St. Thomas.



Evidence for the St. Croix District is stored at the Wilbur Francis Command (left) and the Patrick Sweeney Headquarters (right)

WHAT WE FOUND



In the face of rising crime, the Virgin Islands public must have the security that stems from the efficient handling of evidence. The success or failure of any criminal investigation and subsequent prosecution often depends upon the availability of properly handled and maintained evidence. The Police Department does not meet this standard.

The Police Department's failure to address long-standing deficiencies in maintaining the integrity of criminal evidence has perpetuated for nearly two decades. As a result, evidence is often difficult to locate due to a poor inventory system, and at times is completely unaccounted for. Evidence room overcrowding and disorganization is compounded by the lack of an appropriate evidence disposal system. Improper storage practices, including the use of an abandoned building to house evidence for active cases, have led to the damage, contamination, and destruction of critical evidence. The security of evidence has also been compromised due to unrestricted access to evidence rooms and an overall lack of physical security measures. Similar issues related to inventory, storage, and security also exist within the Firearms Bureau.

These conditions have been documented in two previous OIG reports; however, previous recommendations for corrective actions have been ignored (Appendix 2). In 1994 the same issues were addressed in a series of Pulitzer Prize-winning news articles published by the <u>Virgin Islands Daily News</u>. Without immediate and radical change, these problems will undoubtedly continue into the foreseeable future.

Lack of Formal Inventory System Puts Critical Evidence at Risk

Evidence rooms in both districts are disorganized and overcrowded, increasing the likelihood that critical evidence may be lost, stolen, or contaminated and therefore unavailable for use in criminal court cases. No formal inventory system is maintained by the Police Department, and the outdated and incomplete logbooks are virtually useless in locating items of evidence in a timely manner.

The evidence room in St. Croix is in a state of complete disarray, with evidence packages stacked from floor to ceiling. Each of the six district forensic employees has created their own "pile" of evidence, where each pile is differentiated simply by the initials of the collecting officer. Due to the small size of the room and the large quantity of evidence collected there is no clear



Evidence is piled from floor to ceiling in an evidence room in St. Croix.



Guns awaiting appropriate disposal continue to accumulate in the St. Thomas evidence room as there is currently no disposal system.



way to distinguish between each employee's pile, aside from the collecting officer's familiarity with the room.

We requested that the Forensic Unit Supervisor locate 28 evidence packages listed in the St. Croix inventory log books. After 45 minutes, the unit supervisor could not find a single item. As a result, every employee responsible for collecting evidence was called upon to search their respective piles over the weekend. After 4 days, the forensic unit employees still could not locate 6 of the 28 evidence packages.

We were unable to identify any form of inventory records for a large portion of the firearms at the St. Croix Firearms Bureau. The Supervisor accepted responsibility only for firearms acquired by the Police Department after her appointment in 2005. During our visit, we identified at least 628 firearms that the Supervisor did not believe were her responsibility.

A significant amount of the evidence maintained in these crowded and unorganized evidence rooms is no longer necessary and awaiting proper disposal. We found that no disposal system exists to discard evidence the Department does not need, or to break down and destroy guns maintained by the Firearms Bureau. The absence of a disposal system compounds the overcrowding and disorganization in these evidence rooms.

We also found that the Firearms Bureau in St. Thomas was in a similar state of disarray. We requested that the Bureau Supervisor locate 24 firearms listed in the inventory log books. She was unable to locate 11 of the 24 firearms we requested. We were unable to trace firearms we found within the Firearms Bureau back to the facility's logbooks

because a significant number did not have tags to identify their origin or owner. The Supervisor was also unaware of the total number of firearms in the Bureau's possession.

The lack of evidence disposal is challenging for many locations. The St. Croix Firearms Bureau Supervisory could not recall the last time unnecessary evidence was disposed of, and estimated that nearly 50 percent of its evidence inventory was awaiting appropriate disposal. Drugs obtained as evidence almost 20 years ago can still be found in the St. Thomas evidence room.



A forensic refrigerator inappropriately rigged with an extension cord was to blame for the loss of 100 rape kits.

Evidence at both the St. Thomas and St. Croix facilities is at risk of being compromised, as improper storage practices threaten to contaminate, damage, or destroy evidence before it is used in a court proceeding. We found that critical evidence has been destroyed due to poor storage practices, and despite continued warnings by staff, the conditions still prevail.

Upon requesting to review 28 evidence packages maintained at the St. Croix evidence room, we found that one had been destroyed. This package contained a rape kit with DNA evidence collected from a 7-year old girl who was allegedly raped on a school campus. The rape kit was contained in one of the facility's two forensic refrigerators that had been rigged with an extension cord to an outlet in the nearby cafeteria. The

outlet in the cafeteria lost power. The power failure went unnoticed for 3 days and in turn, the rape kit and DNA sample, as well as 100 other rape kits, were destroyed and rendered completely useless. It would be impossible to use as evidence in a criminal case, or for any future DNA testing.

The potential for this power loss to the forensic refrigerators was brought to the attention of the former Chief of Police 2 months before the rape kits were actually destroyed. In a May 30, 2007 memorandum to the former Chief of Police, the Forensic Unit Supervisor wrote:

The two forensic refrigerators have been rigged with a [sic] extension cord to an outlet in the dining room. This very temporary and unreliable solution has been in place for a week. If the power fails for the two forensic refrigerators, hundreds of samples of biological evidence will have been lost....I cannot overemphasize how critical this situation is....I am requesting that your office call a QUALIFIED electrician AS SOON AS POSSIBLE. [Emphasis Included]

Despite the Forensic Unit Supervisor's warning, no action was taken, the evidence was destroyed, and the forensic refrigerators at the St. Croix facility still do not have a reliable power source. Evidence maintained in these refrigerators is at risk of being compromised as there is no backup source of electricity to this day.



Evidence requiring refrigeration is destroyed by power loss.



The forensic refrigerator in St. Croix remains without a reliable power source.

Additional evidence maintained at the St. Croix Forensic Unit is in danger of compromise as it has been utilizing a makeshift space for approximately 5 years to secure and perform forensic testing on vehicles involved in major crimes. The space is overcrowded, unclean, and too small to adequately accommodate the proper evidence collection associated with vehicles involved in a crime.

Forensic unit employees first brought this issue to the attention of the former Chief of Police in 2004, and the Forensic Unit Supervisor reiterated these long-standing concerns in a January 17, 2008 letter to the current Chief of Police:

The practice of using this inadequate and crowded room to process vehicles needs to cease immediately and an adequate location be designated in order to properly obtain and maintain the crucial evidence of the Forensic Unit. This practice has become highly questionable due to the many restraints to secure a vehicle at this location and the lack of an adequate space to properly process vehicles...this room was never intended or designed to allow for a vehicle to be driven or pushed through its narrow door way....

It's a shameful and embarrassing situation that the Virgin Islands Police Department has not establish [sic] an adequate impound lot to properly secure vehicles involve [sic] in criminal activities....I am seriously requesting a proper location where the Forensic Unit can properly secure and thoroughly process vehicles involved in major crime scenes, the integrity of the investigation depends on it!!

Again, despite the Forensic Unit Supervisor's warning, no action has been taken to remedy this situation, and vehicles maintained as evidence continue to be at risk of compromise.

We also observed the potential for contamination of blood-soaked evidence, as the Police Department's method of drying such evidence was to simply drape the soiled garments over makeshift drying racks. Even though drying machines are available to the Police Department, bloody evidence from multiple cases overlap each other on these drying racks, with no mechanism in place to prevent one item of evidence from contaminating another.

Forensic unit employees on St. Croix have been complaining about the inappropriate methods used to dry evidence since 1997. These concerns were emphasized by the former Forensic Supervisor in an October 15, 2002 letter to the former Chief of Police:

The Forensic Unit has been plaqued [sic] for years of not having an adequate location for the drying of clothing and/or evidence that are wet with blood and/or came from decomposed bodies...Being that we don't have a proper isolated spot it is also a problem with the integrity of these items that they do not become contaminated and/or lost evidence.

Additional contamination of this evidence by dust and pigeon droppings is possible due to the location of the drying racks. During our visit, the Police Department attempted to install the drying machine at the St. Thomas facility; however, it would not function properly because it had sat untouched for at least 8 years. The drying machine which cost \$15,000 at the time of purchase in 2001, will cost the Police Department considerably more to replace today.



Blood stained evidence from multiple cases dries on makeshift racks in St. Croix.

Active Evidence Maintained in Abandoned Building

The most egregious example of improper storage practices can be seen in the Police Department's decision to use an abandoned building, known as the Richard Callwood Command in St. Thomas, to store evidence from unresolved cases. The building is named after Officer Richard Callwood who was shot and killed while attempting to arrest a robbery suspect in December 1980. His case was never adjudicated; however, we located evidence related to his death inside the abandoned building.

During our site visit, we discovered the only way to enter this abandoned building was from a door, located in the rear of the building on the second floor. The evidence custodian informed us that she did not have a key for the front door. This entry requires an individual to climb a flight of crumbling concrete stairs, cross an open cistern nearly 10 feet above the ground, and climb over a concrete wall before reach-



A metal desk among other items clutter the main entrance. There is no key to this door.



Accessing the evidence room on the second floor requires climbing over a concrete wall.

ing the door. A small wooden gate intended to prevent easy access to the rooftop door is tied shut with a telephone cord. While simply accessing the second floor entrance is troublesome, actually locating anything inside the abandoned building was nearly impossible.

The interior is so poorly lit that handheld lanterns were required during our visit. The area was filthy and evidence was randomly strewn throughout the hallways and packed inside adjacent rooms, including the bathroom. We observed no method of identifying where specific evidence was located, aside from the custodian's familiarity with an item. The custodian said most evidence in the building was already processed; however, she noted that larger active pieces of evidence such as comforters used in rape cases were stored in this building because the other St. Thomas evidence room did not have the space.

We were warned by the evidence custodian that entering one room posed a risk of electrocution due to extension cords running through standing water. The custodian noted that the roof was susceptible to water

leakage, and we observed several pieces of evidence that showed signs of water damage.

The exterior of the building consists of crumbling bricks, plant overgrowth, and rusted window-mounted air conditioning units. One air conditioning unit had been completely removed leaving an open hole in the wall leading directly into the evidence room. Nothing prevents an individual from crawling through this open hole, leaving the evidence completely accessible to the public.

Police officers informed us that the three cars we observed located behind the building were actually being held as evidence and had already been processed



A missing air conditioner leaves an open hole in the wall of the evidence room.

but not yet disposed of. There was no gate or fence to prevent the public's easy access to these vehicles. It was apparent that the cars, while still in police custody, had been vandalized.

Police were also aware that a particular vagrant was frequently found inside a bathroom located on the first floor of this building. The evidence custodian was also aware of the vagrant's use of the building, and even knew him by name.

Evidence Susceptible to Unauthorized Access

The abandoned Richard Callwood Command is a clear example of the Police Department's inability to restrict access to evidence. We found several other instances where the Police Department does not restrict access to evidence storage areas leaving it susceptible to alteration, unauthorized removal, theft, or other compromise.

The Forensic Ballistic Workshop is a small area within the St. Thomas facility which is used to conduct forensic testing on evidence such as vehicles and to dry evidence such as blood soaked items. Also in this room is a cistern which belongs to the Bureau of Corrections. Bureau staff therefore maintains keys to this room which holds criminal evidence, and can readily access it.

Access to the Workshop was also available to an unauthorized police officer. This police officer, on extended administrative leave due to attempted murder charges, was observed in this small area while a forensic test was being conducted on a vehicle involved in an unrelated homicide.

In St. Croix there is a Forensic Unit storage area which contains the forensic refrigerator, evidence such as vehicles, and blood-soaked items on drying racks. There are a very limited number of persons with authorized access to this area; however, because this space has no windows or air conditioning, the door is left open during business hours for ventilation, allowing unrestricted and unsupervised access. In addition, management information systems equipment, construction material, old equipment, and files for other divisions are also stored in the forensic unit storage area.

According to industry standards, to minimize unauthorized access, evidence rooms should be used solely for their intended purpose and not for other uses such as storage (Appendix 3). The standards also state that entry to these areas should be controlled to prevent compromise of stored evidence. In contrast, we observed that any departmental employee had access to this Forensic unit storage area.

Physical Security of Evidence Lacking

Not only is access to evidence storage areas not sufficiently restricted, these areas contain virtually no physical security measures to monitor or safeguard evidence. Neither the evidence rooms in St. Thomas or St. Croix contain any type of video surveillance or intrusion alarms. And while the St. Thomas Firearms Bureau has one surveillance camera, for reasons unknown to Police Department management, it has been disconnected.

Simple security measures for storing valuable or sensitive items of evidence such as cash and jewelry are also lacking. In St. Thomas, valuables such as money and jewelry are stored in the evidence room in an unlocked file cabinet. Cash totaling at least \$20,000 as well as jewelry was being stored in an open and

unlocked safe at the St. Croix facility. In fact, the door to the safe could not be closed and was held shut with a bottle of bleach.

Industry standards recommend that cash held as evidence be temporarily maintained in a secured and separated location, and deposited into a financial institution as soon as practical. Based on our observations, the Police Department does not follow these standards (Appendix 3).

The St. Croix Firearms Bureau maintains firearms in an unlocked file cabinet located in the bureau's lobby area. Visitors to the bureau often frequent this area.



An evidence room safe containing jewelry and at least \$20,000 cash is held shut by only a bottle of bleach.



Cash held as evidence in a St. Thomas evidence room is stored in an unlocked file cabinet.

Formal Policy and Procedure Documentation is Obsolete

Problems documented throughout this report stem from the fact that Police Department management has consistently ignored long-standing issues relative to the handling of evidence. Formal documentation of rules and regulations related to the handling of evidence are either nonexistent or essentially obsolete.

The departmental police manual has not been updated to reflect proper industry standards and best practices since 1985. This outdated and antiquated manual does not address critical issues such as how to properly dispose of evidence, the need for periodic inventories, or how to appropriately code and store evidence. The procedures followed by the Police Department in the handling of evidence are not in line with industry standards and best practices and the integrity and security of criminal evidence is continuously at stake (Appendix 3). Additionally, property officers, supervisors, and managers should be trained in established procedures based on industry standards.

RECOMMENDATIONS



To ensure the integrity of criminal evidence handled by the Virgin Islands Police Department, we recommend that the Governor of the Virgin Islands:

- 1. Conduct periodic inspections to ensure that all items of evidence are properly accounted for and retrievable.
- 2. Identify and store articles of evidence in a manner to protect the evidence from contamination or damage, allowing them to be easily retrieved.
- 3. Implement a proper disposal system, with established time lines, to discard evidence and firearms once they are no longer required.
- 4. Ensure the preservation of evidence through proper storage of special handling evidence, including DNA and blood samples. Equip refrigerators with alarms that indicate equipment malfunction and a backup generator to prevent power loss.
- 5. Immediately discontinue the practice of using abandoned facilities for evidence storage and transfer the evidence to a secure location.
- 6. Install intrusion alarms and video surveillance cameras at evidence and firearms storage areas that detect unauthorized entry.
- 7. Store currency, jewelry, and other valuables in areas of enhanced security. Currency should be at a location where enhanced security separates it from other locations where items of general evidence are kept.
- 8. Restrict access and entry to evidence areas to authorized officials only, such as forensic personnel and evidence room custodians.
- 9. Develop and implement written policies and procedures that mirror industry standards for the proper storage, handling, and security of criminal evidence.
- 10. Require property officers, supervisors and managers to attend a Property and Evidence Management school provided by organizations such as the International Association of Chiefs of Police, the International Association for Property and Evidence, or other professional associations.

OBJECTIVE, SCOPE, AND METHODOLOGY



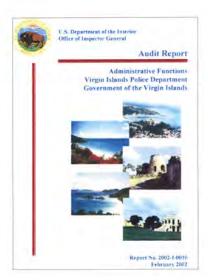
The objective of our inspection was to determine whether the Virgin Islands Police Department took appropriate measures to protect the integrity of evidence in its possession, and secure guns maintained by the Firearms Bureau.

We performed our work from July 2008 to January 2009 in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency. To accomplish our objective, we interviewed officials and reviewed Police Department standard operating procedures, inventory logbooks, property control forms, crime reports and statistics, correspondence, and tested the inventory. We performed site visits to several Police Commands on St. Thomas and St. Croix and consulted with officials from the U.S. Department of Justice.

We also conducted a best practice analysis utilizing the International Association for Property and Evidence Standards (IAPE), the largest property and evidence association in the United States (Appendix 3).



Over the past 15 years, we have performed two audits related to the handling of evidence and firearms at the Virgin Islands Police Department. Common to both reports are some of the same deficiencies documented in this current evaluation. Our reports are as follows:



February 2002, Administrative Functions, Virgin Islands Police Department, Government of the Virgin Islands (No. 2002-I-0010). The report noted the poor condition of the abandoned building where evidence was stored on St. Thomas. An accountability test on St. Thomas revealed that 19 of 55 items, including 14 firearms, were not located. We eventually closed two recommendations directly related to evidence storage because of the lack of response from the V.I. Government.



January 1994, Selected Property Management Functions, Police Department, Government of the Virgin Islands (No. 94-I-248). Among other deficiencies, the report detailed the grave condition of evidence at the VIPD. The report stated that property storage areas were in disarray and were not adequately secured from unauthorized access. From a review of 100 arrest cases reviewed; 1) 30 confiscated property such as cash, weapons, narcotics, and audio-video equipment could not be located or accounted for, 2) 34 firearms sent to the Forensic Division for analysis were missing, and 3) in at least two instances firearms confiscated in criminal cases were later identified as having been used during the commission of subsequent crimes.



International Association for Property and Evidence Standards

Virgin Islands Police Department Practices for Handling Evidence

INVENTORY

In order to provide system integrity, a full inventory is always recommended. An integral part of the inventory process is to ensure that all items of property are accounted for. The inventory should be conducted annually or whenever key holding personnel changes are made.

Periodic inventories are not conducted to ensure proper record keeping and accountability of evidence. With the exception of the St. Thomas Evidence Room, inventory listings are not maintained to document evidence in the Police Department's custody.

DISPOSAL

The timely and appropriate disposition of evidence is extremely important to the efficient management of evidence, the integrity of evidence security and the effectiveness of prosecutorial efforts. Overcrowded evidence rooms require more manpower to manage simply because the size of their inventory has a tendency to slow down routine operations involving evidence location and retrieval, inventories of evidence and related functions that create general inefficiencies in the overall operation.

The Department does not have a systematic disposal system. Evidence custodians cannot recall the last time evidence was disposed of and the rooms store evidence dating back to at least 1988. In St. Thomas half of the inventory in the evidence room is awaiting disposal, creating serious overcrowding.

STORAGE

Refrigerators and freezers used to store evidence should be equipped with alarms that indicate if the temperature rises above a designated threshold level. Contamination due to thawing after an equipment malfunction is unacceptable. The alarm should be monitored in a 24-hour location, such as the communications center.

Refrigerators used to store evidence are rigged to extension cords on an overloaded circuit. There is no backup power generator or alarm system to prevent or indicate power loss.

International Association for Property and Evidence Standards

Virgin Islands Police Department Practices for Handling Evidence

UNAUTHORIZED ACCESS

A written directive should require that only authorized personnel have access to the areas used by the agency for storage of evidence. Entry to evidence areas should be controlled to prevent the alteration, unauthorized removal, theft, or other compromise of evidence stored by the agency to maintain a chain of custody. No one other than evidence room personnel should have keys to the evidence storage areas.

In St. Croix there is a regular flow of unauthorized personnel at the Forensic Unit where evidence is processed and packaged. The Forensic Unit Room does not restrict access and the door is kept open once Forensic Personnel are present.

In St. Thomas the Corrections Bureau has keys to one of the Department's evidence areas where vehicles are processed and blood evidence is dried. Access is also granted to unauthorized personnel.

PHYSICAL SECURITY

All property rooms should be fitted with an intrusion alarm that detects when the entry doors are opened without authorization. Additional motion detectors should protect the enhanced security area for the firearms, narcotics, and currency. Employees at a 24/7 workstation should monitor these alarms. Currency should be at a location where enhanced security separates it from other locations where items of general evidence are kept.

Video surveillance and intrusion alarms to safeguard evidence and firearms are practically nonexistent at the Virgin Islands Police Department.

In St. Thomas money and jewelry is stored in the Firearms, Narcotics, and Currency evidence room in an unlocked file cabinet. In St. Croix, money and jewelry was stored in the evidence room in a safe held shut by a bottle of bleach. There were no secondary locks in addition to the lock to enter evidence room.

Report Fraud, Waste, Abuse And Mismanagement



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