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DEPARTMENT OF AUDIT  
DIVISION OF MUNICIPAL AUDIT**

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March 9, 2011

Honorable Mayor and Members of the  
Board of Aldermen  
Town of Baxter  
P. O. Box 335  
Baxter, TN 38544

Gentlemen:

We have completed our investigative audit of selected records of the Town of Baxter Police Department. The investigative audit was limited to an inventory of items in the department's evidence safe and a review of police records related to the confiscation and storage of evidence. However, when warranted, this scope was expanded. The investigation was conducted pursuant to a request by the Baxter Police Chief.

We performed a complete inventory of the evidence safe and also reviewed police records related to the period January 1, 2008, through October 31, 2010. Our examination revealed the following weaknesses and discrepancies:

1. A small amount of marijuana and four and one half confiscated pills seized in three separate arrests was unaccounted for.
2. The department had not maintained an accurate and complete log of all evidence seized and the disposition of that evidence.
3. Seized weapons and drugs were not disposed of in a timely manner.
4. Records were inadequate to determine how some confiscated guns had been acquired.
5. Some drugs still in evidence had been seized up to eight years ago.

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Section 39-17-1317(b), *Tennessee Code Annotated*, states, “Any weapon declared contraband shall be sold in a public sale or used for legitimate law enforcement purposes, at the discretion of the court, by written order.” Section 39-17-1317(g)(1), *Tennessee Code Annotated*, further states:

A weapon that may be evidence in an official proceeding shall be retained or otherwise preserved in accordance with the rules or practices regulating the preservation of evidence. The weapon shall be sold or retained for legitimate law enforcement purposes not less than sixty (60) days nor more than one hundred eighty (180) days after the last legal proceeding involving the weapon.... No weapon seized by law enforcement officials or judicial district drug task force members shall be used for any personal or law enforcement purposes or sold except in accordance with this section.

The proper procedures for disposal of drugs and paraphernalia seized pursuant to Section 53-11-451, *Tennessee Code Annotated*, is set forth in Section 53-11-451(j), *Tennessee Code Annotated*, which states:

Any property of the type set forth in subdivisions (a)(1) and (7) which is in the custody and possession of a clerk of any court of this state by virtue of the property having been held as evidence or exhibits in any criminal prosecution where all appeals or potential appeals of a judgment have ended, or when the case has been dismissed or otherwise brought to a conclusion, shall be disposed of as follows:

(1) The clerk of the court having custody of the property to be disposed of shall, no less than once annually, inventory the property and prepare a list of the property proposed to be destroyed with references to the cases involved and the name of the case, the case number and date when such property was used;

(2) The clerk shall submit the inventory list with a filed petition to the court and shall serve a copy of the petition upon the district attorney general. After determining that the listed property is not needed as evidence in any pending or potential judicial proceeding, the court shall order the property to be destroyed; and

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(3) The clerk, or a deputy clerk that the clerk may designate, shall completely destroy each item by cutting, crushing, burning or melting and shall file, together with the petition and order relating to the destroyed property, an affidavit concerning the destruction, showing a description of each item, the method of destruction, the date and place of destruction, and the name and addresses of all witnesses to the destruction.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 5, Chapter 25, also describes procedures for the maintenance of an evidence room log, and the safeguarding and security of seized evidence.

Auditors noted that the police chief had already addressed some of these issues. However, town officials should take immediate action to correct any unresolved deficiencies.

If you have any questions concerning this matter, please contact me.

Very truly yours,



Dennis F. Dycus, CPA, CFE, Director  
Division of Municipal Audit

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