



November 2008  
PE 08-14-438

# LEGISLATIVE PERFORMANCE REVIEW WEST VIRGINIA STATE POLICE

## AUDIT OVERVIEW

State Police Personnel Survey Identifies  
Several Issues

The West Virginia Concealed Weapon  
Law Should be Modified to Comply with  
Federal Law and to Improve  
the Security Permits



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November 18, 2008

The Honorable Edwin J. Bowman  
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The Honorable Jim Morgan  
House of Delegates  
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Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Performance Review of the *West Virginia State Police*, which will be presented to the Joint Committee on Government Operations and Joint Committee on Government Organization on Tuesday, November 18, 2008. The issues covered herein are "*State Police Personnel Survey Indicates and Identifies Several Issues*" and "*The West Virginia Concealed Weapon Law Should be Modified to Comply with Federal Law and to Improve the Security Permits.*"

We transmitted a draft copy of the report to the West Virginia State Police on October 24, 2008. We held an exit conference with the agency on October 30, 2008. We received the agency response on October 29, 2008.

Let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "John Sylvia".

John Sylvia

JS/tlc



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## EXECUTIVE SUMMARY

### **Issue 1: State Police Personnel Survey Identifies Several Issues**

The Legislative Auditor conducted a survey of West Virginia State Police field troopers in May 2008. The survey was initiated due to complaints levied by officials in two counties. County officials claimed that a change in West Virginia State Police policy resulted in slower response times and reduced state police coverage. The results of the survey indicate that nearly 70 percent of West Virginia State Police field troops believe that there is a shortage of officers in the counties in which they work. In addition, many field troopers responded that they are required to have a minimum number of contacts each month and may be required to produce a specified number of traffic citations as part of their activity each month. Across the state, 23 percent of all field troopers indicated that they are required to issue a specific number of traffic citations per month.

According to field trooper comments, this contact requirement has led to a reduction in criminal investigations due to a primary focus on traffic citations in order to meet requirements. The survey indicates that troopers who do not meet these mandates are disciplined. Finally, one in five troopers responded that they are subject to transfers as a form of discipline. If the claims made by field troopers are accurate, the West Virginia State Police is in violation of *WVC* §15-2-20, as well as its own policies, both of which state that transfers may not be used as a form of discipline.

In-depth analysis of the survey results exposed the following issues for field troopers currently working for the State Police:

- Inadequate Law Enforcement Coverage
- An Unofficial Contact Policy
- Improper Disciplinary Actions Taken Against Field Troopers
- Improper Transfer(s) of Field Troopers

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## **Issue 2 : The West Virginia Concealed Weapon Law Should be Modified to Comply with Federal Law and to Improve the Security of Permits**

West Virginia Code §61-7-4 requires concealed weapon carry licenses to include the licensee's social security number, which is in violation of the Federal Social Security Number Privacy Act of 2004. In addition, state code does not require the use of a unique paper stock, or unique sequential number on the forms provided to county sheriffs. The lack of a unique paper stock or sequential number creates a situation where the licenses can be duplicated on home computers. Moreover, there is no statutory requirement that license holders inform law enforcement officers if they are armed. The current situation may place both officers, as well as the public in danger.

### **Recommendations:**

- 1. The Legislative Auditor recommends that the WVSP Administration review current manpower to ensure adequate field troop coverage to rural areas with limited law enforcement and determine the number of hours officers are "on call" without compensation.*
- 2. The Legislative Auditor recommends that if goals establishing a number of contacts are used as performance measures, the WVSP Administration devise a system that gives appropriate weight to each contact activity.*
- 3. The Legislative Auditor recommends that the WVSP Administration investigate the alleged misuse of transfers, in violation of state code, to determine if this is occurring. Additionally, WVSP Administration should ensure that all detachment transfers are in compliance with WVC § 15-2-20. The WVSP should report the results of its findings to the Legislature, and any plans needed to be implemented to ensure this is not occurring.*
- 4. The Legislative Auditor recommends that the Legislature considering amending WVC § 61-7-4 to eliminate the requirement for social security numbers to be included on the application form and the concealed weapon license and that the State Police issue license cards to county sheriffs with unique paper stock and pre-printed sequential license numbers.*
- 5. The Legislative Auditor recommends the Legislature consider passing legislation requiring a notification be placed on individual driver's licenses or state identification cards when an individual is granted a concealed weapon permit.*



## OBJECTIVE, SCOPE & METHODOLOGY

### Objective

This Special Report is authorized by West Virginia Code § 4-2-5. It was initiated due to concerns and complaints from constituents of Senate District Three regarding a number of significant changes implemented by the West Virginia State Police from 2006 through 2007. The objective of this report is to determine the effect these changes may have had upon the citizens of Senate District Three.

### Scope

The scope of this report encompasses fiscal years 2003 to 2007, and includes all 55 West Virginia counties.

### Methodology

This report is based on a survey which was created by the Legislative Auditor and conveyed to 445 West Virginia State Police field troopers stationed in six of the State Police Troop Districts on May 23, 2008. The survey consisted of five separate sections: General Information, Communication between West Virginia State Police Administrators and Field Troopers, The State Police Employee Assistance Program, Road Law and Disciplinary Actions. Full survey results containing in excess of 1,800 comments from West Virginia State Police field troopers were not included in this report but are available upon request or via the Legislative Auditor's website.

In addition to the survey, legislative research staff interviewed community and law enforcement leaders from Senate District Three. A review was made of West Virginia State Police Annual Reports, data from the West Virginia Highway Safety Program, West Virginia Code and Legislative Rules pertaining to the West Virginia State Police. Lastly, this report reviewed federal statutes concerning the use of an individual citizen's social security number as it appears on the face of West Virginia's concealed weapon permits. All aspects of this review complied with Generally Accepted Government Auditing Standards (GAGAS).



## ISSUE 1

### State Police Personnel Survey Identifies Several Issues

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#### Issue Summary

The Legislative Auditor conducted a survey of West Virginia State Police field troopers in May 2008. The results of the survey indicate that West Virginia State Police field troopers believe that there is a shortage of officers in the counties in which they work. In addition, the survey indicates that field troopers are required to have a minimum number of “contacts” each month and may be required to produce a specified number of traffic citations as part of their activity each month. The survey indicates that troopers who do not meet these mandates are disciplined. Finally, troopers responded that they are subject to transfers as a form of discipline in violation of West Virginia Code §15-2-20, which states that persons may not be transferred as a form of discipline.

#### Survey Background

This review of the West Virginia State Police (WVSP) was initiated due to concerns and complaints from constituents of Senate District 3 regarding a number of significant changes implemented by the WVSP in 2006 through 2007. On May 23, 2008, the Legislative Auditor initiated a survey in an effort to properly identify and address problem areas for WVSP field troops. The results of the survey are contained within Appendix D. Prior to the survey, the Legislative Auditor’s staff conducted several interviews with Pleasants and Wirt County officials regarding concerns that State Police officers were pulled from local detachments in their counties resulting in a longer response time as well as reduced coverage. The survey was comprised of 26 questions on the following topics: General Information, Communication with WVSP Administration, the WVSP Employee Assistance Program, Road Law Enforcement, and Disciplinary Actions. Additionally, field troopers were offered a space within the survey, labeled question 27, to add any additional comments they may have that were not addressed by the survey. This survey was directed to all field troopers assigned to Troops 1, 2, 3, 4, 5, and 6 of the WVSP.<sup>1</sup> Appendix B contains a map of the WVSP field troop locations. Figure 1 below details the organizational structure of the WVSP:

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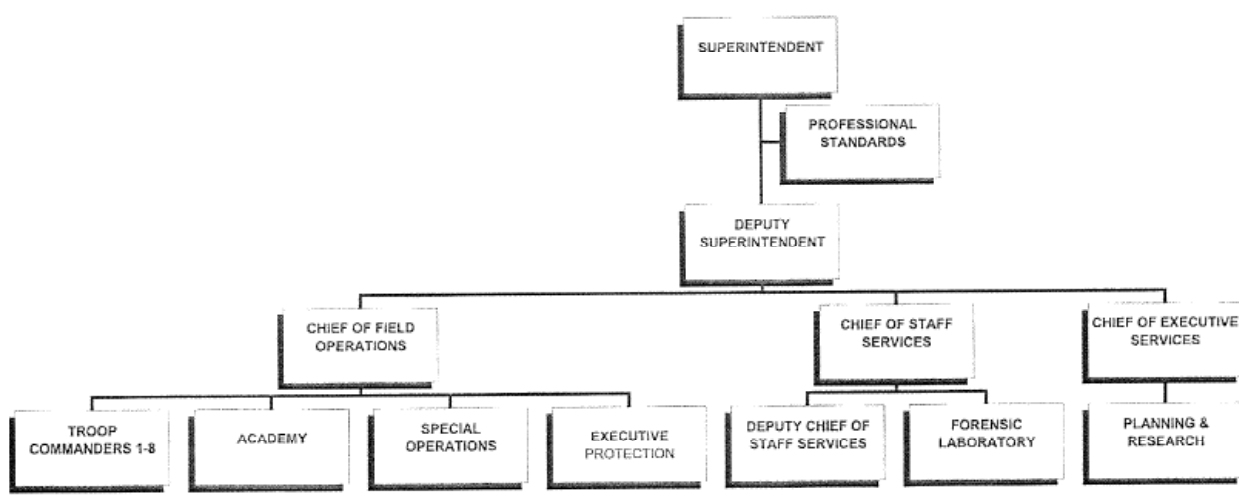
*This survey was directed to all field troopers assigned to Troops 1, 2, 3, 4, 5, and 6 of the WVSP.*

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<sup>1</sup>There are nine Troops within the WVSP. The primary responsibility of Troop Seven is policing the WV Turnpike, Troop Eight is the Bureau of Criminal Investigation, and Troop Zero is Headquarters and Academy. These three Troops were not included because the Legislative Auditor’s primary focus was on field troopers.

Figure 1  
WVSP Organizational Structure



The WVSP Statutory Mission reads as follows:

*§15-2-12 – The West Virginia state police shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state’s public streets, roads and highways.*

*WVSP is charged with “the responsibility of general and special law enforcement and criminal investigation services with concentration in rural, unincorporated areas of the state.*

The WVSP Organization Summary states the WVSP is charged with **“the responsibility of general and special law enforcement and criminal investigation services with concentration in rural, unincorporated areas of the state.”** State Police officers are assigned throughout the state.

The survey provided a wide variety of information and the Legislative Auditor found the following issues raised by State Police officers:

- Inadequate Coverage**
- An unofficial contact policy exists**
- Improper disciplinary actions against WVSP troopers**
- Improper transfer of WVSP troopers**

### **Manpower Issues Appear to be Creating Inadequate Field Trooper Coverage**

County officials in Wirt and Pleasants Counties expressed concerns to the Legislative Auditor regarding inadequate WVSP coverage within their counties due to district scheduling. Based on the concerns of county officials the Legislative Auditor developed survey question number six, which reads:

***Do you feel as though the area you work is provided adequate police coverage at all times?***

The field troopers had the option of answering *Yes* or *No* and were also provided a *Comments* section to indicate how adequate police coverage can be achieved. Table 1 shows that over two-thirds of field troopers responded “No,” indicating that, in their opinion, there is not adequate police coverage in the area they work at all times. Below are the results of the survey responses by troop:

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*County officials in Wirt and Pleasants Counties expressed concerns to the Legislative Auditor regarding inadequate WVSP coverage within their counties due to district scheduling.*

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*Two-thirds of field troopers responded “No,” indicating that, in their opinion, there is not adequate police coverage in the area they work at all times.*

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<b>Troop</b>	<b>Yes</b>	<b>% of troop</b>	<b>No</b>	<b>% of troop</b>	<b>Did not Respond</b>	<b>% of troop</b>
<b>1</b>	25	34%	47	64%	1	1%
<b>2</b>	9	17%	45	83%	0	0%
<b>3</b>	6	11%	44	81%	4	7%
<b>4</b>	25	39%	37	58%	1	2%
<b>5</b>	16	33%	30	63%	2	4%
<b>6</b>	26	37%	44	63%	0	0%
<b>Total</b>	<b>107</b>		<b>247</b>		<b>8</b>	
<b>% of Troopers Responding</b>	<b>30%</b>		<b>68%</b>		<b>2%</b>	

*Source: Calculations performed by Legislative Auditor using survey results.*

In addition to the numerical results, several comments were provided by respondents. Below are selected written comments of field troopers who participated in the WVSP Survey.

*We do not have the manpower for a 24hr patrol, but we do it, which causes fatigue and sleep disorders.*

*One trooper routinely covers two counties causing a significant delay in response times.*

*There are times when one or two troopers handle three counties and no one is working after midnight and must be called at home. Night calls are always for two counties, one trooper.*

*Coverage is horrible, we work two counties and coverage is extremely poor. It's becoming a safety issue.*

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*"Coverage is horrible, we work two counties and coverage is extremely poor. It's becoming a safety issue."*

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Many of the above comments from WVSP field troopers indicate a shortage of manpower within the WVSP, which creates a situation in which officers become frustrated due to the numerous hours of overtime.

Additionally, WVSP field troopers' comments to survey question six indicated concerns regarding the time a field trooper spends "on call." It stands to reason that when troopers are "on call," they must be prepared to respond to emergency calls for service quickly, with personal activity being restricted due to the need to be able to quickly respond to any 911 calls directed to the WVSP. Currently, the WVSP does not compensate troopers for being "on call." "On call" time is not counted as part of the standard work month of 173 hours. Below are written comments of field troopers regarding "on call" time:

*No active coverage from midnight to 8am. On call status. General public may not be aware of this.*

*Due to manpower shortages within the state police, a trooper is required to be "on call" from midnight until 0800 hrs each day.*

*We have 4 troopers to cover our county 7 days a week/365 days a year. We do this but sometimes our trooper is on call for days, but can only count 40 hours working.*

From the comments above, it appears that officers spend a significant amount of time "on call" without compensation. This is an indication that either there are not enough officers on the force, or the manner in which they are used is causing problems with coverage. The Legislative Auditor was unable to find a written policy or procedure concerning "on call" time. **The Legislative Auditor recommends that the WVSP Administration review current manpower to ensure adequate field troop coverage to rural areas with limited local law enforcement and determine the number of hours officers are "on call" without compensation.**

In addition, the WVSP utilized district scheduling in the Wood, Wirt and Pleasant County area as opposed to detachment scheduling of troopers in some areas of the state. District scheduling is centralized

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*"Due to manpower shortages within the state police, a trooper is required to be "on call" from midnight until 0800 hrs each day."*

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*It appears that officers spend a significant amount of time "on call" without compensation.*

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scheduling of WVSP personnel from one district headquarters utilizing the combined personnel of detachments within the district. According to an official WVSP letter, district scheduling was implemented to allow for a larger pool of personnel to be drawn from when fielding a work schedule as well to provide 24-hour WVSP coverage of the area. This is yet another indication that the WVSP may be suffering from a manpower shortage.

Within a short period of time several county officials whose counties were subject to district scheduling alleged that although district scheduling was supposed to allow for 24 hour coverage and faster response times from the WVSP, it actually reduced the officer's effectiveness and time spent in their counties. One county official remarked "during the month of December 2007, there were five consecutive days with no coverage in the county whatsoever by the WVSP." Additional citizen complaints were lodged with State Police Headquarters as well as other state representatives regarding the WVSP use of district scheduling.

A county official in Pleasants County received a letter from State Police Headquarters stating that district scheduling was being utilized in the area in an effort to provide 24-hour coverage, improved officer safety and supervision. Additionally, this letter encouraged the county official to give district scheduling an opportunity to succeed. Although district scheduling may provide 24-hour coverage, it does not necessarily improve response times. **In the event of an emergency, the "on call" officer responding may not be within the same county as the incident. Additionally, the officer may not be as familiar with the area as an officer who patrols that area on a daily basis.** During the course of this report, district scheduling was abandoned in Pleasants and Wirt Counties but continues in other areas of the state.

Several detachments within the WVSP still work a combined district schedule: Hundred and Paden City; Wellsburg and New Cumberland; Williamson and Gilbert; Richwood and Summersville. The counties affected by the district scheduling of these eight detachments are Nicholas, Wetzel, Tyler, Brooke, Hancock, and Mingo Counties.

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*District scheduling was implemented to allow for a larger pool of personnel to be drawn from when fielding a work schedule.*

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*Although district scheduling may provide 24-hour coverage, it does not necessarily improve response times.*

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<b>Table 2</b> <b>WVSP Detachments Subject to District Scheduling</b> <b>and Counties Affected</b>	
WVSP Detachments	County Location of Detachment
Richwood	Nicholas
Summersville	Nicholas
Hundred	Wetzel
Paden City	Wetzel and Tyler
Wellsburg	Brooke
New Cumberland	Hancock
Williamson	Mingo
Gilbert	Mingo
<i>Source: WVSP data.</i>	

PERD staff spoke with county officials in all six counties. One official in Wetzel County stated that the WVSP does not have enough field troopers to provide adequate coverage. An official in Tyler County stated that “doubling up of night calls on detachments for two counties or more, may look good on paper, but it just doesn’t work.”

Table 3 below was compiled from information in the WVSP’s Annual Reports. The table documents that district scheduling, which was implemented in February of 2007, appears to have had a negative effect on the criminal work done by the WVSP in Wirt and Pleasants Counties. The effect of district scheduling reduced activity in these counties while increasing the amount of WVSP activity in Wood County in all categories except hazardous moving violations and warnings in 2007. Wood County is the location where District 2 of the WVSP, Troop 4 centralizes its schedule.

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*One official in Wetzel County stated that the WVSP does not have enough field troopers to provide adequate coverage.*

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**Table 3**  
**Troop 4 District 2 Activity 2005-2007**

<b>Wirt County</b>			
	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Felony Arrests</b>	56	53	29
<b>Misdemeanor Arrests</b>	99	139	198
<b>HMV Citations</b>	403	563	148
<b>HMV Warning Citations</b>	801	1,971	745
<b>Major Investigation of Incidents</b>	44	30	27
<b>Major Investigation of Offenses</b>	70	32	33
<b>Other Investigations of Incidents</b>	165	227	214
<b>Other Investigations of Offenses</b>	181	237	297
<b>Pleasants County</b>			
	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Felony Arrests</b>	34	29	21
<b>Misdemeanor Arrests</b>	74	61	40
<b>HMV Citations</b>	323	334	161
<b>HMV Warning Citations</b>	1,172	1,906	752
<b>Major Investigation of Incidents</b>	18	13	10
<b>Major Investigation of Offenses</b>	32	12	10
<b>Other Investigations of Incidents</b>	71	77	85
<b>Other Investigations of Offenses</b>	78	78	88
<b>Wood County Activity</b>			
	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Felony Arrests</b>	52	219	188
<b>Misdemeanor Arrests</b>	126	272	505
<b>HMV Citations</b>	1,468	2,837	1,671
<b>HMV Warning Citations</b>	3,374	4,784	2,700
<b>Major Investigation of Incidents</b>	76	141	164
<b>Major Investigation of Offenses</b>	112	229	257
<b>Other Investigations of Incidents</b>	750	821	960
<b>Other Investigations of Offenses</b>	865	1,087	1,426
<i>*Source: WVSP Annual Reports 2005-2007</i>			

In addition to the above charts, the following are excerpts from interviews conducted with county officials from Wirt and Pleasants Counties. These statements indicate these two counties experienced a lack of coverage from the WVSP since district scheduling was implemented by the WVSP.

- *A lack of communication with the WVSP District Command creates a hardship in regards to scheduling law enforcement coverage for the county because WVSP District Command does not know what is going on in Wirt County. This situation often leaves the citizens of Wirt County without any scheduled state police law enforcement coverage.*
- *The new WVSP district scheduling appears to be causing gaps in law enforcement coverage for Wirt County.*
- *A prosecutor noticed a decline in the criminal investigations when the WVSP started scheduling troopers by district rather than detachment and while the 100 contact rule has been in effect for troopers.*
- *The County Sheriff's Department is the only law enforcement agency working the 11:00 p.m. to 7:00 a.m. shift in Pleasants County. This creates a safety issue for deputies who are working the entire county with back-up possibly as much as an hour away. St. Marys Police Department has one officer working until 12 a.m., but only the municipal area of St. Marys.*

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*A prosecutor noticed a decline in the criminal investigations when the WVSP started scheduling troopers by district rather than detachment and while the 100 contact rule has been in effect for troopers.*

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*West Virginia's ratio of law enforcement officers per 1,000 residents is 1.69 officers.*

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All interviews were conducted separately but yet echo the same concerns regarding the difficulties each county experienced with regard to WVSP coverage under district scheduling. Appendix C provides a chart detailing the per capita ratio of police officers by county within the state. Although some research cautions against the use of a set per capita rate, the national average is 2.5 law enforcement officers per 1,000 residents<sup>2</sup>. West Virginia's ratio per 1,000 residents is 1.69 officers (including municipal, county and state officers). The West Virginia State

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<sup>2</sup>The national average of law enforcement officers includes municipal, county and state officers.

Police strives to provide 24 hour police protection for the State. The WVSP has attempted to provide this coverage using a combination of approaches to schedule field troopers and to require field troops to be “on call” for a significant amount of time. However, it is the opinion of the Legislative Auditor that the lack of manpower hinders the overall efforts of the State Police to provide 24-hour police coverage, and based on trooper’s comments, adds stress to the field troopers.

### **Officers Response Indicates the WVSP Requires a Specific Number of Traffic Citations Issues Each Month**

The second area of concern for the Legislative Auditor came from survey questions number 21 and number 23. Survey question number 21 reads:

***Does the WVSP require each trooper to issue a specified number of traffic citations or warning citations on a monthly basis?***

The field troopers had the option of answering ***Yes*** or ***No*** and were also provided a ***Comments*** section to be used for explanation for the field troopers who indicated ***Yes***. Of the officers responding, 23 percent responded yes, they were required to issue a specific number of traffic citations or warning citations per month. Although only 23 percent of the officers indicate that they are required to issue a specified number of traffic citations, the Legislative Auditor further reviewed the results due to statements made in interviews with county officials conducted prior to the State Police survey. Of the respondents from Troop 4, 55 percent responded yes, they were required to issue a specific number of traffic citations or warning citations. Table 4 below details the responses by troop:

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***Lack of manpower hinders the overall efforts of the State Police to provide 24-hour police coverage.***

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***Of the respondents from Troop 4, 55 percent responded yes, they were required to issue a specific number of traffic citations or warning citations.***

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<b>Table 4</b> <b>Responses to Question 21:</b> <b>“Does the WVSP Require Each Trooper to Issue a Specific Number of Traffic Citations or Warning Citations On a Monthly Basis?”</b>						
Troop	Yes	% of troop answering yes	No	% of troop answering no	Did not respond	% of troop that did not respond
1	10	14%	62	85%	1	1%
2	11	20%	43	80%	0	0%
3	4	7%	49	91%	1	2%
4	35	55%	19	30%	7	11%
5	14	29%	34	71%	0	0%
6	10	14%	57	81%	2	3%
<b>Totals</b>	<b>84</b>		<b>264</b>		<b>11</b>	
<b>% of Troopers Responding</b>	<b>23%</b>		<b>73%</b>		<b>3%</b>	

*Source: Calculations performed by Legislative Auditor using survey results.*

Below are comments from the survey which indicate that officers are required to issue a specified number of traffic citations or warnings and are disciplined if the goals are not met.

*Here is the deal on our activity; a murder investigation is worth one point, so is one citation, so if they want numbers up, they tell you to go out and write citations. It all looks good on the outside. My (goal) a month is fifty contacts. Other troops are requiring 100 contacts.*

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*"If you do not write 100 you are wrote up."*

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*Troopers are encouraged to obtain at or near 100 contacts per month-If they say it isn't true--they are lying! Even if you have several days off during the month or have a criminal investigation, they expect numbers.*

*Unofficially we are required to maintain 100 contacts during a one month period.*

*If you do not write 100 you are wrote up.*

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*It is no secret that troop 4 and troop 5 require 100 contacts a month. 100 warnings will keep you out of trouble. It is totally ridiculous to compare the value of a felony arrest equally with one warning.*

*Troopers are given a “goal,” if not reached then letters are written and EPA are given.*

Survey question 23 also indicates that officers are required to obtain a specific number of “contacts” each month. Officers who do not meet the requirement are subject to disciplinary action. Question 23 reads as follows:

***Are Troopers disciplined or reprimanded if they fail to write a specified number of citations or warnings each month?***

The field troopers had the option of answering *Yes*, *No* or *N/A*. Field troopers were also provided a ***Comments*** section to be used to identify the type of discipline for those field troopers who responded in the affirmative. Nearly one-third of all field troopers responded yes, that they were subject to discipline or reprimand if they fail to write a specified number of citations or warnings each month. Although 30 percent of all field troopers statewide responded in the affirmative, over 50 percent of field troopers responding from Troop 4 stated yes, that they were indeed disciplined or reprimanded if they failed to write a specified number of citations or warnings each month. This gives the appearance that Troop 4 is subject to a mandate and is apparently disciplined for failing to meet or conform to this unwritten mandate. Some of the types of discipline or reprimands conveyed to the Legislative Auditor via the survey consisted of: verbal counseling, negative EPA (performance appraisal), change of days off duty, change of work hours, extra details and temporary transfers.

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***“Troopers are given a “goal,” if not reached then letters are written and EPA are given.”***

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***Although 30 percent of all field troopers statewide responded in the affirmative, over 50 percent of field troopers responding from Troop 4 stated yes, that they were indeed disciplined or reprimanded if they failed to write a specified number of citations or warnings each month.***

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<b>Troop</b>	<b>Yes</b>	<b>% of troop</b>	<b>No</b>	<b>% of troop</b>	<b>Did not respond</b>	<b>% of troop</b>
<b>1</b>	24	33%	44	60%	1	1%
<b>2</b>	14	26%	32	59%	1	2%
<b>3</b>	8	15%	39	72%	3	6%
<b>4</b>	35	55%	15	23%	6	9%
<b>5</b>	14	29%	27	56%	0	0%
<b>6</b>	15	21%	42	60%	3	4%
<b>Total</b>	<b>110</b>		<b>199</b>		<b>14</b>	
<b>% of Troopers Responding</b>	<b>30%</b>		<b>55%</b>		<b>4%</b>	

*Source: Calculations performed by Legislative Auditor using survey results.*

It should be noted that Troops 1, 2, and 5 also had in excess of 25 percent of their respective field troopers respond yes, that they were disciplined or reprimanded if they fail to write a specified number of citations or warnings each month. Below are comments from field troopers responding to survey question 23:

*Written up, low evaluation etc. Asked to work harder, as if because we haven't written up enough tickets we must not be working. Felony cases don't count for much anymore.*

*We are in constant stress of not having enough "contacts" for the month. Numbers are stressed over criminal work. It's difficult to follow-up on investigations when you are constantly in fear of not having enough "contacts" for the month.*

*Discipline could come in the forms of verbal reprimands, temporary transfers for 30, 60 or 90 days or eventually loss of employment.*

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*Troops 1, 2, and 5 also had in excess of 25 percent of their respective field troopers respond yes, that they were disciplined or reprimanded if they fail to write a specified number of citations or warnings each month.*

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Additionally, county officials in Pleasants and Wirt Counties began to voice concerns about the 100 contact rule in early 2007. According to county officials, **the 100 “contacts” rule has resulted in officers placing a focus on higher traffic areas, such as Wood County, to the detriment of more rural areas such as Pleasants and Wirt Counties.** An official in Wetzel County also voiced concern about the 100 contact rule and stated that WVSP troopers assigned to the Hundred detachment seem to be focusing on the Wheeling area. The official also stated that this “doesn’t make sense if they are supposed to protect Wetzel County.”

**Of particular concern to the Legislative Auditor is the fact that some WVSP officers stated that a felony conviction was equal to one contact, as was a traffic citation.** If these comments are accurate, the Legislative Auditor fails to see how the time spent issuing traffic citations is equal to time spent conducting felony investigations and arrests.

**State Police officials have stated in communications with the Legislative Auditor that there is no statewide policy in existence requiring officers to issue a specified number of citations or warnings.** However, WVSP officials have stated that there are “reasonable expectations for performance and generating ‘activity’ which vary from detachment to detachment.” Therefore, there can be a variety of emphases throughout the state, without necessarily having a statewide policy. **A memorandum from a detachment in Troop 4 dated September 16, 2005 indicates that officers in Troop 4 are required to have a specific number of “contacts.”** This memo states in part:

*On the activity, the old guideline was 100 road law per month. Now we have 100 contacts, including road law and several other things, per month. This is more relaxed than it was.*

Additionally, a handwritten note from the same district dated September 12, 2005 states:

*Effective immediately anyone who does not have 100 min. contacts in the highlighted areas EPA-2 at the end of the month, or before if you see they aren’t producing<sup>3</sup>.*

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*The Legislative Auditor fails to see how the time spent issuing traffic citations is equal to time spent conducting felony investigations and arrests.*

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*WVSP officials have stated that there are “reasonable expectations for performance and generating ‘activity’ which vary from detachment to detachment.*

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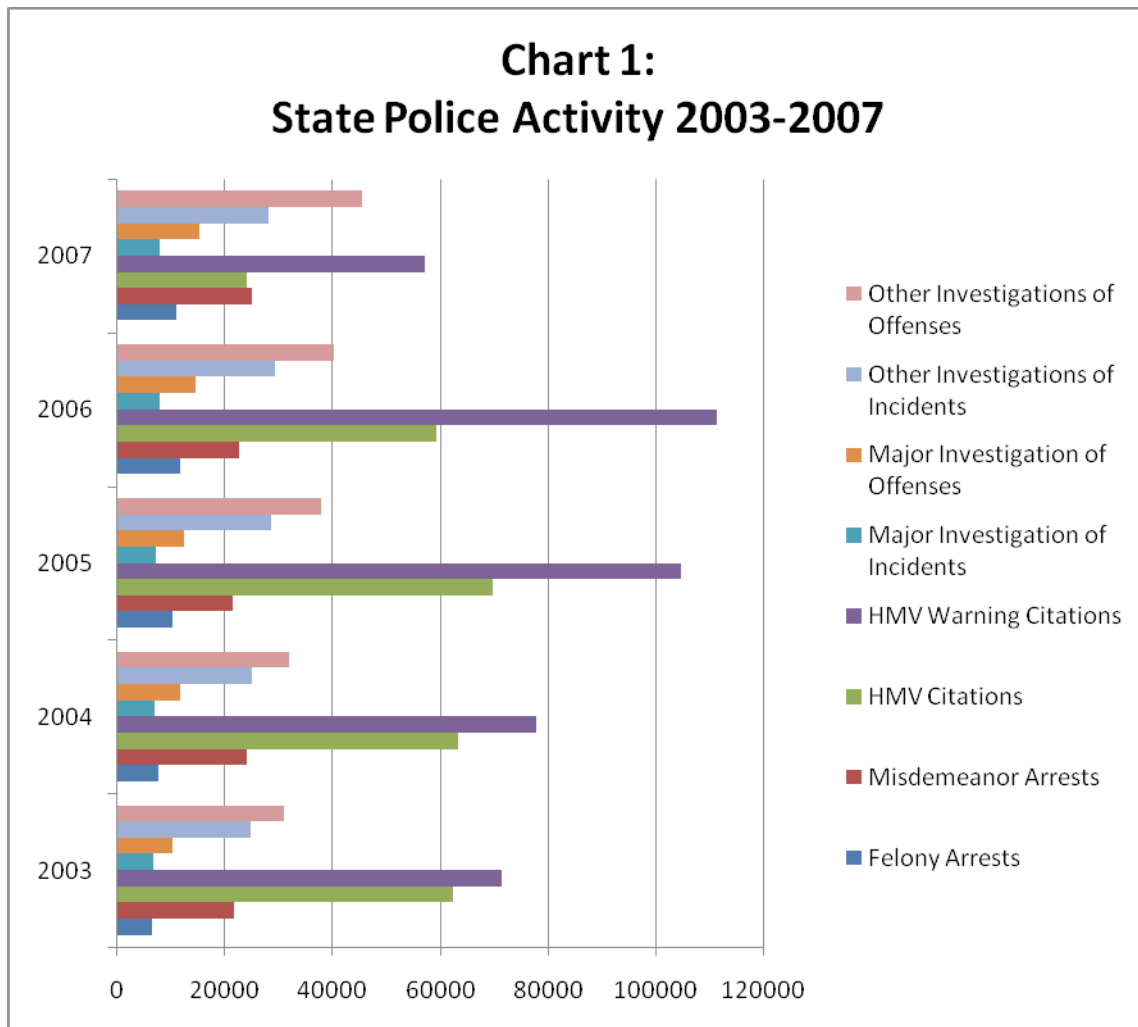
<sup>3</sup>EPA-2 is a WVSP employee performance appraisal issued for performance that fails to meet expectations.



Taking this memo into consideration, the Legislative Auditor is of the opinion that disciplining officers who fail to meet a specified number of citations or “contacts” has the effect of transforming a goal into an unofficial quota.

Chart 1 documents State Police activities from 2003 through 2007. Compared to 2007 data on Hazardous Moving Violations (HMV) citations and warnings, it appears that from 2003 to 2006 there was an emphasis by the WVSP to increase the number of traffic citations and warnings. In 2007, the level of activity dropped back to below 2003 levels. It is noteworthy that HMV citations and warnings levels dropped during the time that numerous county officials were levying complaints.

*It is noteworthy that HMV citations and warnings levels dropped during the time that numerous county officials were levying complaints.*



## Requiring Specific Activity Numbers May Have Negative Consequences

With consideration to the lack of direct supervision inherent to police work, some law enforcement organizations have utilized goals or quotas as a tool to manage and evaluate officers. The use of quotas has been criticized because they can have the unintended effect of causing law enforcement officers to issue unwarranted violations. Some states have prohibited their law enforcement agencies from using quotas, and there have been attempts by other states to prohibit this practice. Any type of system that is designed to measure police performance should be carefully weighted to avoid some activities being neglected. For example, requiring officers to write a specified number of citations or warnings may focus officers solely on that task to the detriment of other tasks. It is also possible that utilizing goals may lead officers to patrol heavily traveled areas in order to achieve the goal, taking them away from less populated areas and discouraging them from pursuing other types of investigations.

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*Requiring officers to write a specified number of citations or warnings may focus officers solely on that task to the detriment of other tasks.*

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From the responses to the Legislative Auditor's survey, 23 percent of the respondents state there is a requirement for officers to issue a required number of traffic citations or warning citations each month. When evaluated at the troop level, 55 percent of officers in Troop 4 indicated that they are required to write a specified number of warnings and citations. Statements from county officials also indicate there is such a requirement. Moreover, Chart 1 shows the number of HMV written from 2003 to 2006 increased over 56 percent. Actual hazardous moving violation citations issued increased slightly from 2003 to 2005, but decreased significantly in 2007. **Although there is no state law against having performance measures or goals, the Legislative Auditor is concerned that if individual troops, districts or detachments require officers to meet specific goals, such as a minimum contact goal, without properly weighing other activities, important areas of law enforcement may suffer.**

Table 6 illustrates that the number of traffic crashes decreased from 2003 through 2007. These numbers decreased during the time that the WVSP increased its activity in issuing traffic warnings and citations. Fatalities remained constant, but total injuries declined. It is possible that the WVSP's emphasis on traffic patrol during these time periods has resulted in these declines.

**Table 6**  
**West Virginia Governor’s Highway Safety Program**  
**Problem Identification Analysis**  
**2003-2007**

<b>Year</b>	<b>Crashes</b>	<b>Fatalities</b>	<b>Vehicle Miles Traveled (VMT)</b>	<b>Fatality Rate</b>	<b>Total Injuries</b>	<b>Serious Injuries</b>	<b>Serious Injury Rate per VMT</b>
2003	51,376	394	19,207.13	2.05	25,366	12,123	63.12
2004	49,082	410	19,417.78	2.11	24,989	12,108	62.36
2005	47,100	382	19,714.73	1.94	23,246	11,619	58.94
2006	46,625	414	19,893.94	2.08	22,945	11,472	57.67
2007	39,848	418	19,740.56	2.12	20,950	10,305	52.20
<b>Total</b>	<b>234,031</b>	<b>2,018</b>	<b>97,974.14</b>	<b>-</b>	<b>117,496</b>	<b>57,627</b>	<b>-</b>
<b>Average</b>	<b>46,806.2</b>	<b>403.60</b>	<b>19,594.83</b>	<b>2.06</b>	<b>23,499</b>	<b>11,525</b>	<b>58.86</b>

*Source: West Virginia Governor’s Highway Safety Program. Vehicle Miles Traveled is determined by highways via a count and then averaged at a rate at 100,000.*

Traffic enforcement is certainly important and has several positive benefits. However, less populated rural areas with lower levels of traffic may be adversely affected by reduced patrols while areas of higher traffic activity will gain patrols due to officers attempting to meet the requirements of supervisors. Additionally, several field trooper comments indicate that the WVSP is more focused on road law, as opposed to criminal investigation. One trooper remarked “troopers can not properly focus on criminal investigations and properly prepare cases because of the focus of the WVSP seems to be on traffic (sic).” Another field trooper commented that “the focus of the WVSP should be solving crime and putting people in prison while helping the citizens of this state, not worrying if we have written enough speeding tickets.” Yet another officer remarked that “the WVSP should be based on performing criminal work not writing tickets.”

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*One trooper remarked “troopers can not properly focus on criminal investigations and properly prepare cases because of the focus of the WVSP seems to be on traffic (sic).”*

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The Legislative Auditor is of the opinion that using goals and guidelines for field troops is one way for leadership to determine the effectiveness of its force. However, when goals are relied upon as the primary or the exclusive performance criteria, there can be some

negative side effects. For instance, if field troopers are subject to goals and requirements for traffic citations the public may begin to question the legitimacy of arrests and citations, due to their understanding of the pressures that such requirements put on law enforcement professionals. Additionally, the nature of a field trooper's assignment may create special difficulties for that trooper with regard to reaching minimum contact goals. The geographical area of assignment, the time of shift, weather conditions, and traffic density may negatively influence the number of arrests or citations a field trooper makes in a given period. A WVSP internal memo states that there could be justifications for less than 100 "contacts." However, according to field trooper comments, this may not be the case. Additionally, determination of whether a field trooper has ample justification for not meeting the minimum goal is purely subjective. **The Legislative Auditor concludes that if goals are used, a performance system should be devised that gives appropriate weight to each activity so that other important activities are not devalued.**

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*The geographical area of assignment, the time of shift, weather conditions, and traffic density may negatively influence the number of arrests or citations a field trooper makes in a given period.*

---

## **Officers Indicate Trooper Relocation as a Form of Discipline Is Occurring**

The survey also revealed that the WVSP may be using trooper relocation as a form of discipline. Survey question number 24 reads:

*Have you or do you have knowledge of a Trooper(s) being arbitrarily transferred or relocated as a form of discipline?*

The field troopers had the option of answering **Yes** or **No**. Field troopers were also provided a **Comments** section to be used for explanation for the field troopers who indicated **Yes**. One in five field troopers responded yes, that they were themselves or had knowledge of a trooper being arbitrarily transferred or relocated as a form of discipline. Forty-eight percent of respondents in Troop 4 responded in the affirmative; more than double the percentage of officers in the other troops.

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*One in five field troopers responded yes, that they were themselves or had knowledge of a trooper being arbitrarily transferred or relocated as a form of discipline.*

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<b>Table 7</b> <b>Responses to Question 24:</b> <b>“Have You or Do You Have Knowledge of a Trooper(s) Being Arbitrarily Transferred or Relocated as a Form of Discipline?”</b>						
Troop	Yes	% of troop	No	% of troop	Did not respond	% of troop
1	9	12%	64	88%	0	0%
2	3	6%	49	91%	2	4%
3	7	13%	43	80%	4	7%
4	31	48%	30	47%	3	5%
5	10	21%	37	77%	1	2%
6	17	24%	48	69%	4	6%
<b>Total</b>	<b>77</b>		<b>271</b>		<b>14</b>	
<b>% of Trooper Responses</b>	<b>21%</b>		<b>75%</b>		<b>4%</b>	
<i>Source: Calculations performed by Legislative Auditor using survey results.</i>						

WVC § 15-2-20 states that “A transfer may not be made as a disciplinary measure.” If the statements made by WVSP field troopers are accurate, the WVSP is in violation of state code as well as the WVSP’s own Operational and Policy Procedures. WVSP Administrative Regulation number 6.03 reads in part:

*...The Superintendent may transfer members to meet the operational needs of the department. A transfer may not be made as a disciplinary measure. Company commanders are authorized to initiate intra company temporary transfers.*

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*WVC § 15-2-20 states that “A transfer may not be made as a disciplinary measure.”*

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**Below are unedited comments from field troopers responding to survey question 24:**

*This has happened in the past but it’s always classified as departmental need.*

*Troopers get transferred under departmental need where it is actually a disciplinary transfer.*

*Not personally, but I know there is a constant threat that such discipline can and will be carried out if expectations are not met.*

Survey results suggest that those in leadership positions may be using transfers and temporary transfers as a disciplinary, personnel management tool. According to one in five of the respondents, the WVSP is in violation of *WVC* § 15-2-20 as well as its own policy. It gives the appearance that leadership styles are being utilized by the WVSP that may have a negative effect on morale. **The Legislative Auditor recommends that the WVSP Administration investigate this issue to determine if this is happening and the extent to which this is occurring. Additionally, WVSP Administration should ensure that all detachment transfers are in compliance with *WVC* § 15-2-20. The WVSP should report the results of its findings to the Legislature, as well as plans implemented to ensure this is not occurring.**

---

*Survey results suggest that those in leadership positions may be using transfers and temporary transfers as a disciplinary, personnel management tool.*

---

## Conclusion

The Legislative Auditor reviewed three major areas in this issue: district scheduling of WVSP detachments, the use of “contacts” as a performance measure, and the transfer of WVSP field troopers as a disciplinary measure. The Legislative Auditor recognizes that district scheduling of WVSP detachments is an attempt to provide better police coverage for the more rural areas of the state. District scheduling provides the WVSP with more available officers to maintain an officer “on call” status because multiple WVSP detachments are working the same area. While district scheduling appears to provide better coverage to the counties affected by it, the result may be a longer WVSP response time. In the event of an emergency, the officer “on call” may not be within the same county as the incident. This potentially creates a situation where an “on call” officer is forced to drive at high speeds, during night-time hours and on rural roads, to respond to an area that he or she is not as familiar with as an officer who patrols that area on a daily basis. Due to the fact that district scheduling has benefits as well as potential risks for the citizens of West Virginia, the WVSP should assess its apparent manpower shortage which has created the need for district scheduling and take appropriate steps to correct the problem.

The Legislative Auditor understands that goals are an important and useful performance measure within law enforcement when used appropriately. However, according to the results of the WVSP field trooper survey, requiring a specific number of “contacts” is having a negative effect on both WVSP performance as well as the morale of field troopers. A significant number of WVSP field troopers stated that if they do not achieve a certain number of “contacts” each month then they are punished with a negative personnel evaluation. The Legislative Auditor believes that performance cannot always be measured solely by quantitative means. Field troopers stationed in rural areas with a relatively small population base are at an inherent disadvantage when attempting to reach a specific number of “contacts.” As a result, officers located in rural areas may focus their efforts in more populated regions within their coverage area. Additionally, the use of quantitative means to measure performance may result in areas of law enforcement being neglected in favor of more easily obtained “contacts” to achieve the specific goal. When a traffic citation is equal to the same number of “contacts” as a criminal investigation, field troopers may be forced to focus on traffic enforcement while neglecting other areas of law enforcement. For these reasons, if the survey results represent actual WVSP policy, the Legislative Auditor concludes that a properly weighted performance system should be established that takes into consideration the increased amount of time required for more complex activities such as criminal investigations.

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*The Legislative Auditor concludes that a properly weighted performance system should be established that takes into consideration the increased amount of time required for more complex activities such as criminal investigations.*

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The Legislative Auditor is concerned that 20 percent of WVSP field troopers surveyed stated that the WVSP is using trooper relocation as a disciplinary tool. The Legislative Auditor is of the opinion that this belief is prevalent enough that it may be having a negative effect on field trooper morale. This practice, if occurring, is in violation of *WVC* § 15-2-20 which states that “A transfer may not be made as a disciplinary measure.” The WVSP should take immediate action to ensure that this is not occurring as well as implement safeguards at the detachment level to prevent it from occurring.

## **Recommendations:**

1. *The Legislative Auditor recommends that the WVSP Administration review current manpower to ensure adequate field troop coverage to rural areas with limited law enforcement and determine the number of hours officers are “on call” without compensation.*

2. *The Legislative Auditor recommends that if goals establishing a number of contacts are used as performance measures, the WVSP Administration devise a system that gives appropriate weight to each contact activity.*

3. *The Legislative Auditor recommends that the WVSP Administration investigate the alleged misuse of transfers, in violation of state code, to determine if this is occurring. Additionally, WVSP Administration should ensure that all detachment transfers are in compliance with WVC § 15-2-20. The WVSP should report the results of its findings to the Legislature, and any plans needed to be implemented to ensure this is not occurring.*



## Issue 2

### **The West Virginia Concealed Weapon Law Should Be Modified to Comply with Federal Law and to Improve the Security of Permits**

#### **Issue Summary**

West Virginia residents who want to obtain a state license to carry a concealed weapon are required to apply at the sheriff's office in the county where they reside. The WVSP is responsible for issuing a uniform application form and license cards to all sheriff offices. Currently, West Virginia Code §61-7-4 requires the application and the concealed weapon license card to include the licensee's social security number, which is in violation of the Federal Social Security Number Privacy Act of 2004. In addition, the license card that the WVSP issues does not have a unique sequential number and it is not on unique paper stock. The lack of a unique paper stock or sequential number creates a situation where a concealed weapon license card can be easily replicated. Moreover, there is no statutory requirement that license holders inform law enforcement officers that they are armed. The Legislative Auditor recommends that amendments be made to the concealed weapon law to comply with federal law concerning the disclosure of social security numbers on the application and license card. Consideration should be given by the WVSP to develop a license card that has unique sequential numbers and unique paper stock to avoid easy replication and for tracking purposes. Furthermore, for the sake of enhancing safety, the state driver's license should include information indicating the driver has a concealed weapon permit.

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*Currently, West Virginia Code §61-7-4 requires the application and the concealed weapon license card to include the licensee's social security number, which is in violation of the Federal Social Security Number Privacy Act of 2004.*

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#### **Current Process to Receive a Concealed Weapon Permit**

West Virginia Law currently allows eligible citizens age 21 and older to apply through the Sheriffs' Office in the county in which they reside for a license to carry a concealed pistol or revolver. The applicant is required to complete the application, take any required weapons safety courses and meet all other requirements stipulated in *WVC* § 61-7-4 in order to receive a license. Current law stipulates that the WVSP is responsible for providing the uniform application form and license form to county sheriff offices. Each individual sheriff is responsible for receiving the applications, conducting the required background check and issuing the license. All approved licenses are required to be notarized and signed by the sheriff. In addition, the license is required to have the sheriff's seal. Before an approved concealed weapon license is issued, an additional fee of \$15 is paid to the sheriff of the issuing county. The fee is then forwarded to the WVSP within 30 days of receipt. The sheriff of each county has a copy of each approved license application and maintains a

list of all license holders in the county. A certified copy of the approved license application is required to be provided to the superintendent of the WVSP. The license is valid for five years.

## West Virginia License Requirements Violate Federal Law

Current West Virginia law requires that each license contain the full name, social security number and address of the licensee as well as a space upon which the signature of the licensee shall be signed in ink. The requirement to include the social security number violates the Federal Social Security Number Privacy Act of 2004. The Act states in part:

Sec.3.

*445.83 Prohibited use of social security number of employee, student or other individual; exceptions.”*

*(1) Except as provided in subsection (2), a person shall not intentionally do any of the following with the social security number of an employee, student or other individual:*

*(c) Visibly print all or more than 4 sequential digits of the social security number on any identification badge or card, membership card, or permit or license...*  
(emphasis added)

The WVSP is required by code to “prepare uniform applications for licenses and license cards.” As identified by a recent Legislative Post Audit report, the “license cards do not have a unique identifying control number.” The audit recommended that unique sequential control numbers be developed and recorded prior to issuing the license forms to county sheriffs. The Performance Evaluation and Research Division is in agreement with the Legislative Post Audit’s recommendation. **Therefore, the Legislative Auditor recommends that the Legislature change WVC § 61-7-4 to eliminate the requirement for social security numbers to be included on the concealed carry license and that the State Police issue license forms to county sheriffs with pre-printed sequential license numbers.** Legislative Post Audit’s recommendation would provide the State Police a control mechanism not only to account for the licenses, but also the fees which are remitted to the WVSP in regard to each license. In addition, this recommendation would provide a number to replace the social security number should legislation pass to remove the social security number.

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*The Legislative Auditor recommends that the Legislature change WVC § 61-7-4 to eliminate the requirement for social security numbers to be included on the concealed carry license and that the State Police issue license forms to county sheriffs with pre-printed sequential license numbers.*

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## The License Can Be Easily Replicated

In addition to issues with the concealed weapon license identification numbers, the actual license can be produced on a personal computer because a unique paper stock and sequential number are not used. State Police officials indicate that counterfeit licenses have not been a problem. Figure 1 below is a copy of the actual uniform license form provided to county sheriffs:

*The actual license can be produced on a personal computer because a unique paper stock and sequential number are not used.*

Figure 2

WVSP 44

STATE OF WEST VIRGINIA  
**CONCEALED PISTOL/REVOLVER LICENSE**

\_\_\_\_\_ COUNTY:

This is to certify that the Sheriff of \_\_\_\_\_ County, under the authority vested in said Sheriff by Section 4, Article 7, Chapter 41, West Virginia Code 1931 as amended, and upon conducting an investigation to confirm that the licensee named herein has met the licensing requirements as specified by law, has issued to:

LICENSEE: \_\_\_\_\_  
 Last First Middle

SOCIAL SECURITY: \_\_\_\_\_ Signature of Licensee \_\_\_\_\_

of \_\_\_\_\_ Street \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ West Virginia, a license to carry concealed about his/her person a PISTOL and/or REVOLVER as defined by Section 2, Article 3, Chapter 61, West Virginia Code 1931 as amended, within the boundaries of the State of West Virginia beginning the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, Sheriff, \_\_\_\_\_ County.

License Type  Initial  Duplicate  Renewal

Licensee must carry a state issued photo identification with this license

\_\_\_\_\_  
 Sheriff's Seal

## Enhancing the Safety of Law Enforcement Officers and the Public

WVC § 67-7-4 subsection (n) requires all licensees when carrying a concealed weapon to have in their possession not only the actual license, but a state-issued photo identification card as well. A licensee can be found guilty of a misdemeanor if he or she does not carry both. **However, nothing requires license holders to disclose to a law enforcement officer that they have a concealed weapon permit or that they are**

**armed.** According to State Police Officials, license holders are trained during required hand gun safety courses to disclose to law enforcement officers that they are armed. Failure of the licensee to inform an officer of a concealed weapon immediately upon contact may place the licensee and the officer in danger.

Law enforcement officers do not obtain concealed weapon license information from running a check on a driver's license or vehicle license plate. Checking the concealed weapon license status of an individual is not part of the standard procedure during a traffic stop. If the officer is not notified of the concealed weapon license by the licensee, then the officer will be uninformed. If, at a traffic stop, the officer felt a need to request a check for a concealed weapon permit through WVSP communication, the information may or may not be available, and if it is available it would be time consuming to acquire.

One way to improve the safety of all law enforcement officers and the public would be to include on the West Virginia drivers license and state ID a notification that a person also has a concealed weapon permit. Interviews with the State Department of Motor Vehicles indicate that it is possible to provide a notification on the license to accomplish this. This would immediately alert an officer to the fact that a person may be armed. The DMV would charge the standard \$5 fee that it charges when a licensee adds any endorsement to his or her license. A unique number should still be included to control the license process. **Therefore, the Legislative Auditor recommends the Legislature consider legislation requiring a mandatory notification be placed on individual driver's licenses or state identification cards when an individual is granted a concealed weapon permit.** With this method there would be additional checks and security since West Virginia drivers licenses already carry many of the recommended security features of "Real ID" which may be implemented within two years. The Real ID program may also require that information such as concealed weapon licenses be included in the information available to law enforcement officers.

## Conclusion

The safety and notification of the concealed weapon license can be protected and enhanced. Presently, the concealed weapon license can be easily counterfeited unless unique paper stock and sequential numbers are used in the production of the licenses. In addition, without a unique number, the concealed weapon license card lacks a system of controls. These controls are necessary to ensure that the counties remit all required fees and also to ensure all licensees are included on registers for entry into the State Police licensee database. In addition, the concealed weapon

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*Law enforcement officers do not obtain concealed weapon license information from running a check on a driver's license or vehicle license plate.*

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*One way to improve the safety of all law enforcement officers and the public would be to include on the West Virginia drivers license and state ID a notification that a person also has a concealed weapon permit.*

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permit status of an individual is not apparent at the time of a traffic stop. Although concealed weapon permit holders are trained to notify an officer of this permit, they are not required to do so under state law and they may neglect to do so at a traffic stop. Determining the permit status of an individual can be a time-consuming process for law enforcement officers. Records may not always be accurate due to the time lapse created by the transfer of information from the counties to the WVSP. Placing a notification on driver's licenses will instantly alert a law enforcement officer that an individual may be armed. This information will increase the safety of law enforcement officers and citizens.

### **Recommendations:**

4. *The Legislative Auditor recommends that the Legislature considering amending WVC § 61-7-4 to eliminate the requirement for social security numbers to be included on the application form and the concealed weapon license and that the State Police issue license cards to county sheriffs with unique paper stock and pre-printed sequential license numbers.*
5. *The Legislative Auditor recommends the Legislature consider passing legislation requiring a mandatory notification be placed on individual driver's licenses or state identification cards when an individual is granted a concealed weapon permit.*



## Appendix A: Transmittal Letter

### WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

October 24, 2008

Colonel D. L. Lemmon  
West Virginia State Police  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698

Dear Colonel Lemmon:

This is to transmit a draft copy of the Performance Review of the West Virginia State Police. This report is scheduled to be presented during the November 16-18, 2008 interim meetings of the Joint Committee on Government Operations, and Joint Committee on Government Organizations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on or before Monday, November 3, 2008. Please notify us to schedule an exact time. In addition, we need your written response by noon on November 6, 2008 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, November 13, 2008 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

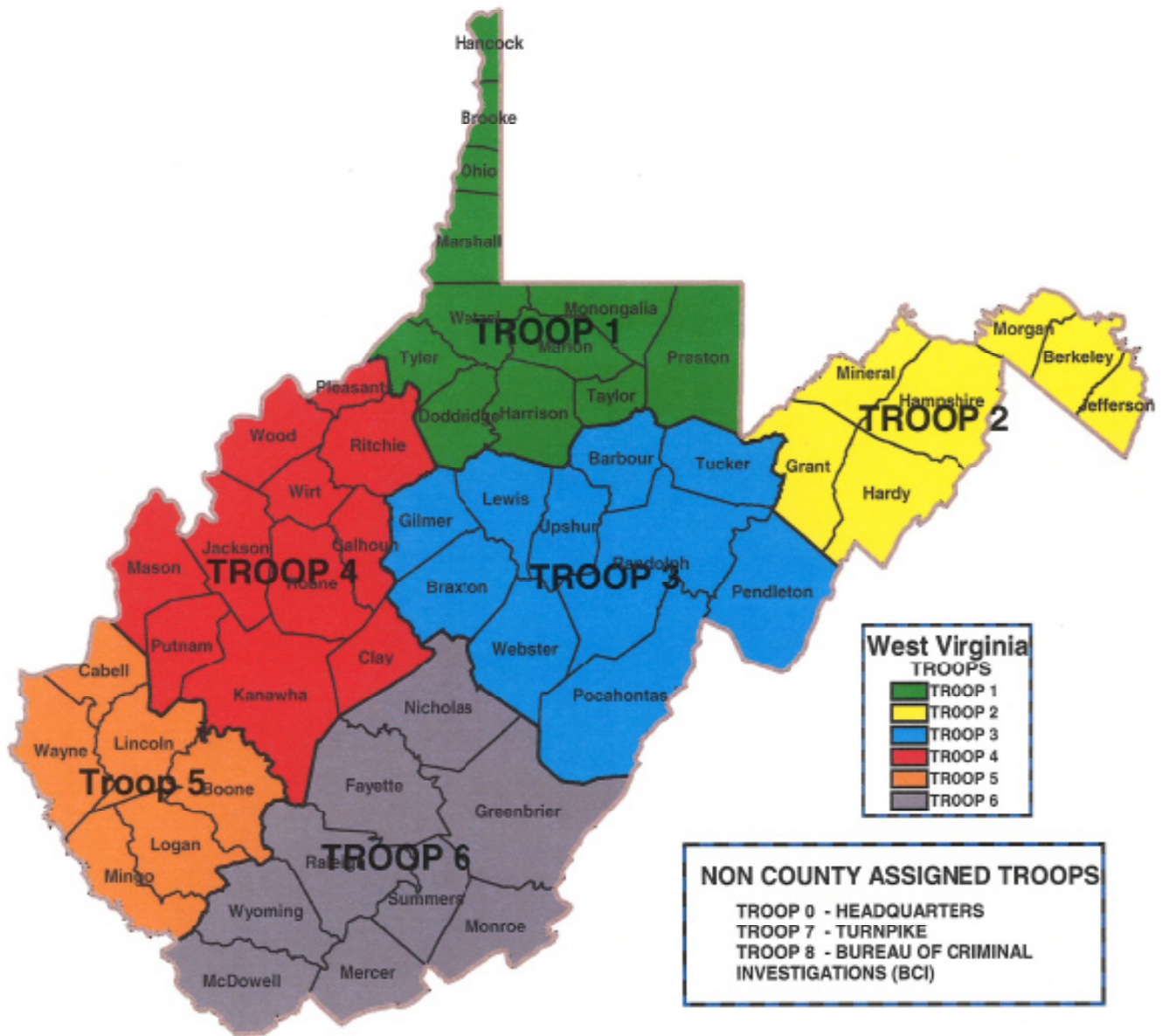
Enclosure

\_\_\_\_\_ *Joint Committee on Government and Finance* \_\_\_\_\_





## Appendix B: State Police Troop Map





## Appendix C: WV Law Enforcement Per Capita Ratios (as of February 2008)

County	Population in 2000	Number of WVSP Assigned	Number of County Officers	Number of Municipal Officers	Total Officers per County	Ratio of WVSP per 1000 residents	Ratio of All Officers per 1000 residents
Barbour	15,557	5	6	9	20	0.32	1.29
Berkley	75,905	24	57	0	81	0.32	1.07
Boone	25,535	8	20	13	41	0.31	1.61
Braxton	14,702	6	8	5	19	0.41	1.29
Brooke	25,447	3	16	14	33	0.12	1.30
Cabell	96,784	19	42	124	185	0.20	1.91
<b>Calhoun</b>	<b>7,582</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>6</b>	<b>0.40</b>	<b>0.79</b>
Clay	10,330	4	6	0	10	0.39	0.97
Doddridge	7,403	4	4	0	8	0.54	1.08
Fayette	47,579	12	32	45	89	0.25	1.87
Gilmer	7,160	4	5	4	13	0.56	1.82
<b>Grant</b>	<b>11,299</b>	<b>3</b>	<b>6</b>	<b>2</b>	<b>11</b>	<b>0.27</b>	<b>0.97</b>
Greenbrier	34,453	12	31	26	69	0.35	2.00
Hampshire	20,203	10	13	5	28	0.49	1.39
Hancock	32,667	3	23	46	72	0.09	2.20
Hardy	12,669	3	10	8	21	0.24	1.66
Harrison	68,652	19	39	87	145	0.28	2.11
Jackson	28,000	5	14	18	37	0.18	1.32
Jefferson	42,190	17	28	42	87	0.40	2.06
Kanawha	200,073	40	97	464	601	0.20	3.00
Lewis	16,919	6	12	7	25	0.35	1.48
Lincoln	22,108	12	8	2	22	0.54	1.00
Logan	37,710	21	19	20	60	0.56	1.59
Marion	56,598	8	27	45	80	0.14	1.41
Marshall	35,519	6	23	33	62	0.17	1.75
Mason	25,957	5	17	19	41	0.19	1.58
McDowell	27,329	9	13	18	40	0.33	1.46
Mercer	62,980	17	28	47	92	0.27	1.46
Mineral	27,078	6	13	17	36	0.22	1.33
Mingo	28,253	9	17	16	42	0.32	1.49
Monongalia	81,866	20	34	80	134	0.24	1.64
<b>Monroe</b>	<b>14,583</b>	<b>4</b>	<b>5</b>	<b>2</b>	<b>11</b>	<b>0.27</b>	<b>0.75</b>
Morgan	14,943	5	9	4	18	0.33	1.20
Nicholas	26,562	8	25	19	52	0.30	1.96
Ohio	47,427	5	28	85	118	0.11	2.49
<b>Pendleton</b>	<b>8,196</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>7</b>	<b>0.37</b>	<b>0.85</b>
<b>Pleasants</b>	<b>7,514</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>15</b>	<b>0.40</b>	<b>2.00</b>
Pocahontas	9,131	6	7	1	14	0.66	1.53
<b>Preston</b>	<b>29,334</b>	<b>6</b>	<b>14</b>	<b>9</b>	<b>29</b>	<b>0.20</b>	<b>0.99</b>
Putnam	51,589	8	39	22	69	0.16	1.34
Raleigh	79,220	20	47	52	119	0.25	1.50
Randolph	28,262	20	9	10	39	0.71	1.38
Ritchie	10,343	5	6	2	13	0.48	1.26
Roane	15,446	5	6	7	18	0.32	1.17
Summers	12,999	5	5	10	20	0.38	1.54
Taylor	16,089	3	7	6	16	0.19	0.99
Tucker	7,321	4	4	1	9	0.55	1.23
<b>Tyler</b>	<b>9,592</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>10</b>	<b>0.31</b>	<b>1.04</b>
Upshur	23,404	4	11	8	23	0.17	0.98
Wayne	42,903	10	20	9	39	0.23	0.91
Webster	9,719	5	3	6	14	0.51	1.44
Wetzel	17,693	3	9	16	28	0.17	1.58
<b>Wirt</b>	<b>5,873</b>	<b>2</b>	<b>231</b>	<b>0</b>	<b>4</b>	<b>0.34</b>	<b>0.68</b>
Wood	87,986	10	36	80	126	0.11	1.43
Wyoming	25,708	3	19	14	36	0.12	1.40
<b>Total</b>	<b>1,808,344</b>	<b>473</b>	<b>993</b>	<b>1591</b>	<b>3057</b>	<b>0.26</b>	<b>1.69</b>



## Appendix D: Summary of Survey Responses

### Methodology and Response Rate

On May 23, 2008, the Legislative Auditor initiated a survey in an effort to properly identify and address problem areas for WVSP field troops. The survey was comprised of 26 questions on the following topics: General Information, Communication with WVSP Administration, the WVSP Employee Assistance Program, Road Law Enforcement, and Disciplinary Actions. Additionally, field troopers were offered a space within the survey, labeled question 27, to add any additional comments they may have that were not addressed by the survey. This survey was directed to all field troopers assigned to Troops 1, 2, 3, 4, 5, and 6 of the WVSP. The Legislative Auditor sent out 445 surveys to WVSP field troopers and received 363 responses. This indicates an 82 percent response rate from the target audience, WVSP field troopers. The “percentage without DNR” column tabulates the percentage of WVSP field troopers who gave that answer without including the officers who chose to not respond to that question. Complete survey and results are as follows:

### Legislative Auditor Field Trooper Survey Results

1. *Please circle the Troop you are currently assigned to.*

*Troop 1- 73*  
*Troop 2- 54*  
*Troop 3- 54*  
*Troop 4- 65*  
*Troop 5- 47*  
*Troop 6- 70*  
*Total – 363*

2. *Please circle the level at which your work schedule is prepared.*

		<i>Percentage without DNR</i>
<i>Detachment- 337</i>	<i>92.84%</i>	<i>93.35%</i>
<i>District- 18</i>	<i>4.96%</i>	<i>4.99%</i>
<i>Troop Headquarters- 6</i>	<i>1.65%</i>	<i>1.66%</i>
<i>Did not respond- 2</i>	<i>0.55</i>	

3. *Please indicate by a percentage of time spent, the time spent on each of the following activities:*

<i>Responding to 911 or other calls for assistance</i>	<i>27.63%</i>
<i>Patrolling Interstate/Major State Routes</i>	<i>11.77%</i>



<i>Patrolling Rural Roadways</i>	10.57%
<i>Conducting Criminal Investigations</i>	30.43%
<i>Court Appearances</i>	7.88%
<i>Miscellaneous</i>	12.32%
<i>Totaling: 100%</i>	

4. Under the present WVSP Administration, what do you consider to be the overall goal or mission to be? Please circle one below.

		Percentage without DNR	
A) Primarily Highway Patrol-	58	15.98%	16.52%
B) Primarily Criminal Investigations-	95	26.17%	27.07%
C) Primarily both A and B-	198	54.55%	56.41%
Did Not Respond-	12	3.31%	

5. Does your detachment have a good working relationship with other law enforcement agencies/officers in your work area?

		Percentage without DNR	
Yes –	306	84.30%	86.69%
No-	43	11.85%	12.18%
Yes and No-	4	1.10%	1.13%
Did Not Respond-	10	2.75%	

6. Do you feel as though the area you work is provided adequate police coverage at all times?

			Percentage without DNR	
Yes-	107	29.48%	30.14%	
No-	247	68.04%	69.58%	
Yes and No-	1	0.28%	0.28%	
Did Not Respond-	8	2.20%		

7. Has there been any change in WVSP Administrative Policy that has affected the level of job related stress you experience while on duty?

			Percentage without DNR	
A) No significant policy change-	154	42.42%	43.87%	
B) Policy change has increased stress level-	98	27.0%	27.92%	
C) Policy change has decreased stress level-	0	0%	0.0%	
D) No policy change has effected stress level-	99	27.27%	28.21%	
Did Not Respond-	12	3.31%		

8. Have you experienced or observed any type of discrimination based on race, color, creed, age, religion, national origin, or sex within the WVSP?

			Percentage without DNR	
Yes-	18	4.96%	5.07%	
No-	336	92.56%	94.65%	
Did Not Respond-	8	2.20%		
N/A-	1	0.27%	0.28%	

9. Are you aware of State Police policies and procedures for reporting incidents of discrimination?

		Percentage without DNR
Yes- 349	96.14%	98.31%
No- 6	1.65%	1.69%
Did Not Respond- 8	2.20%	

10. Are minorities and female troopers treated fairly with respect to the application of policy and disciplinary actions?

		Percentage without DNR
Yes- 315	86.78%	93.20%
No- 20	5.51%	5.92%
Yes and No- 1	0.28%	0.30%
N/A- 2	0.55%	0.59%
Did Not Respond- 25	6.89%	

11. Are qualified minorities and female troopers treated fairly when being considered for promotion by supervisors and the Promotion Evaluation Board?

		Percentage without DNR
Yes- 315	86.78%	97.52%
No- 6	1.65%	1.86%
N/A- 2	0.55%	0.62%
Did Not Respond- 40	11.02%	

12. Is there open and effective communication within your Troop/District/Detachment?

		Percentage without DNR
Yes- 322	88.71%	90.20%
No- 35	9.64%	9.80%
Did Not Respond- 6	1.65%	

13. To what degree are you satisfied with the overall quality of supervision you receive while on duty?

		Percentage without DNR
A) Very Satisfied- 238	65.56%	66.67%
B) Somewhat Satisfied- 58	15.98%	16.25%
C) Neutral- 42	11.57%	11.76%
D) Somewhat Dissatisfied- 11	3.03%	3.08%
E) Very Dissatisfied- 8	2.20%	2.24%
Did Not Respond- 6	1.65%	

14. Do you feel comfortable expressing your concerns to supervisors in your District/Detachment?

		Percentage without DNR
Yes- 311	85.65%	90.14%
No- 34	9.37%	9.86%
Did Not Respond- 18	4.96%	

15. *What, if any, law enforcement training needs are you aware of that are currently not being met?*

*See attached Comments.*

16. *What, if any, law enforcement equipment needs are you aware of that are not currently being met?*

*See attached Comments.*

17. *What, if any, uniform needs are you aware of that are not currently being met?*

*See attached Comments..*

18. *If you had a professional or personal situation that was negatively affecting your ability to perform your job duties, would you feel comfortable seeking help via the State Police Employee Assistance Program (EAP)?*

		Percentage without DNR
Yes- 257	70.80%	72.19%
No- 98	27.0%	27.53%
Yes and No- 1	0.28%	0.28%
Did Not Respond- 7	1.93%	

19. *Is seeking mental health services discouraged by the WVSP Administration?*

		Percentage without DNR
Yes- 10	2.75%	3.09%
No- 313	86.23%	96.60%
N/A- 1	0.28%	0.31%
Did Not Respond- 39	10.74%	

20. *Would you feel more comfortable seeking mental health services other than those provided by the WVSP?*

		Percentage without DNR
Yes- 161	44.35%	46.53%
No- 182	50.14%	52.60%
Yes and No- 1	0.28%	0.29%
N/A- 2	0.55%	0.58%
Did Not Respond- 17	4.68%	

21. *Does the WVSP require each Trooper to issue a specified number of traffic citations or warning citations on a monthly basis?*

		Percentage without DNR
Yes- 84	23.14%	23.86%
No- 264	72.73%	75.0%
Yes and No- 4	1.10%	1.14%
Did Not Respond- 11	3.03%	



22. Does the number of traffic citations and warning citations issued by each trooper affect advancement, promotion or retention?

		<i>Percentage without DNR</i>
Yes- 55	15.15%	15.71%
No- 227	62.53%	64.86%
Yes and No- 2	0.55%	0.57%
N/A- 66	18.18%	18.86%
Did Not Respond- 13	3.58%	

23. Are troopers disciplined or reprimanded if they fail to write a specified number of citations or warnings each month?

		<i>Percentage without DNR</i>
Yes- 110	30.30%	31.52%
No- 199	54.82%	57.02%
Yes and No- 3	0.83%	0.86%
N/A- 37	10.19%	10.60%
Did Not Respond- 14	3.86%	

24. Have you or do you have knowledge of a Trooper(s) being arbitrarily transferred or relocated as a form of discipline?

		<i>Percentage without DNR</i>
Yes- 77	21.21%	22.06%
No- 271	74.66%	77.65%
Yes and No- 1	0.28%	0.29%
Did Not Respond- 14	3.86%	

25. Have you or do you have knowledge of a Trooper(s) being required to work additional hours without additional pay for not meeting his/her field supervisor's expectations?

		<i>Percentage without DNR</i>
Yes- 23	6.34%	6.42%
No- 335	92.29%	93.58%
Did Not Respond- 5	1.38%	

26. Have you or do you have knowledge of a Trooper(s) being informed NOT to speak with their elected officials regarding any issues or concerns they may have?

		<i>Percentage without DNR</i>
Yes- 22	6.06%	6.15%
No- 336	92.56%	93.85%
Did not respond- 5	1.38%	

27. Additional Comments: See separate document entitled State Police Survey Comments.



## Appendix E: Agency Response



West Virginia State Police  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698  
Executive Office  
October 28, 2008

RECEIVED  
OCT 29 2008

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

Joe Manchin III  
Governor

Colonel A. L. Hemmon  
Superintendent

John Sylvia, Director  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard East  
Charleston, WV 25305-0610

Dear Sir:

I am in receipt of your most recent draft audit report and I'm writing to offer my agency response to the five recommendations set forth therein. In the interest of simplicity, I will address them in the same order that they were presented in the report.

### Recommendation #1

We constantly monitor and adjust our manpower allocations as we attempt to provide the best law enforcement services possible with limited Trooper manpower. Likewise, every effort is made to reduce uncompensated "on call" hours while still providing a police response all day, every day. The last two years legislation was introduced to compensate Troopers for any time spent "on call" but it did not pass.

### Recommendation #2

Performance measures vary from detachment to detachment, troop to troop and from trooper to trooper based on a variety of factors. Generally those performance measures are established by the detachment commanders, district commanders and troop commanders and they take into consideration many factors, including the following: geography, population, police presence, weather, terrain, demographics, crime patterns, traffic patterns, crime rate, accident rates, public sentiment, individual ability and many others. In the past a scientific formula was utilized to measure productivity. It met with substantial resistance within the Trooper workforce and was eventually discarded as a complete failure.

### Recommendation #3

We have a grievance system which allows any member to challenge their permanent transfer. Last week I received the first grievance related to an involuntary transfer during my forty-two months as Superintendent. Although there have been only operational need transfers during my tenure, I will investigate any specific allegation levied.

**John Sylvia, Director**  
**Performance Evaluation and Research Division**  
**October 28, 2008**  
**Page Two**

**Recommendation #4 and #5**

Any changes enacted to WVC §61-7-4 will be implemented.

I was generally pleased with the results of your survey. I think it identifies several positive trends throughout the State Police and a work force that is generally satisfied with the direction the agency is headed. As with any work force, there is a minority that chooses to complain about some aspect of their employment rather than focus on the positive, set goals and work to achieve them. In the West Virginia State Police that group is a very small minority and the vast majority of our employees are hard-working, dedicated, loyal public servants.

Sincerely,



Colonel D.L. Lemmon  
Superintendent

cc Secretary Spears

DLL/sct



WEST VIRGINIA LEGISLATIVE AUDITOR

**PERFORMANCE EVALUATION & RESEARCH DIVISION**

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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