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Jeffrey S. Shapiro, Esq., CIG
Inspector General
Office of the Inspector General
One Ashburton Place, Room 1311
Boston, MA 02108

Re: EEA Office of Law Enforcement shifts at Department of Conservation and Recreation Facilities

Dear Inspector General:

We are in receipt of your letter dated May 30, 2024, relating to a review by the Office of the Inspector General (“OIG”) of the compliance of the Department of Conservation and Recreation (“DCR”) and the Massachusetts Environmental Police (“MEP”), both within the Executive Office of Energy and Environmental Affairs (“EEA”), with the reporting provisions of an Interdepartmental Service Agreement (“ISA”) for law enforcement shifts worked at DCR’s state parks and pools for fiscal years (“FY”) 2014 through 2021. We appreciate the opportunity to respond to your letter.

As noted in your letter, the ISA that was the subject of the investigation was discontinued in 2021. Because MEP is the primary law enforcement authority on DCR properties where MEP performs directed patrols, having funding available directly to MEP through its budget most closely aligns with that role and with MEP’s law enforcement jurisdiction on DCR property.

Pursuant to your letter’s recommendation, however, EEA and its agencies DCR and MEP will explore the creation of a non-financial ISA or other agreement to ensure transparency and accountability with regard to details through reasonable controls, which could, for instance, include periodic information sharing between the agencies, or spot audits by DCR and MEP.

Also, after reviewing your letter, we respectfully offer the following factual clarifications:

In the second paragraph of your letter, you note that “[t]he controls are just as important now that MEP receives direct funding in its budget, rather than through an ISA, to perform the details at DCR’s request.” Note that the decision as to where to dedicate patrols funded by MEP’s budget ultimately rests with MEP. After funding was moved to MEP’s budget, MEP suggested that DCR continue to

provide a list of DCR facilities at which MEP patrols were desired. This has continued, as it is helpful for DCR staff to develop this list so that shifts not filled by MEP can be offered to other law enforcement departments. Additionally, prior to the start of the summer season, DCR staff meets with MEP leadership to review past years' patrols and any issues associated with past law enforcement staffing.

The last sentence in the first paragraph under the "Background" section of your letter indicates that "MEP, MSP and local police departments were supposed to communicate with DCR before Memorial Day weekend with the list of details to be covered by their respective officers." To clarify, only MEP communicates to DCR what shifts MEP staff can fill before the start of the summer season—a practice that continues notwithstanding the discontinuance of the ISA. MSP, local police departments, sheriffs, and others have differing schedules for offering shifts to their staff, with some offering shifts a few days in advance, others offering shifts for the following day, and some offering shifts as late as the morning of the shift. DCR engages in an intensive effort to fill as many shifts as possible without offering shifts to all departments at one time, as that would likely result in double-booking and thus create more confusion.

In "Finding 2" (first paragraph) you state that "DCR lacked other documentation, such as shift narratives, that it could have used to ensure that details had been worked as charged by MEP." In many cases, shift narratives were not a viable option and/or would not have been a reliable way to ensure that shifts had been worked as charged by MEP. DCR staff that works at pools, parks, and campgrounds are often entry-level seasonal staff, many of whom are working their first job; they are not necessarily well equipped or positioned to be made responsible for signing off or otherwise attesting to a law enforcement officer's work hours. Additionally, DCR staff typically do not work in close proximity to an officer while on a shift: a DCR employee may see an officer only when the officer checks in for their shift before patrolling the facility; in other cases, DCR employees may leave the facility before an officer finishes a shift (for example, when the operational work at a facility is complete, but security and emergency response may be needed beyond the hours of facility operation).

There are several controls in place, however. DCR Ranger captains maintain a schedule of shifts; the Ranger captains share the schedule with facility managers and supervisors so that DCR staff know (when DCR is informed in advance that a shift has been filled) when an officer will be working at the facility, and what department the officer represents. In the rare case when there is an issue related to filling a shift (e.g., double-booking, or an absent officer when one was expected), DCR staff will contact the Ranger captain who will follow up with the appropriate department to inquire about the detail or shift, at which time the schedule will be updated. This has been DCR's process for many years and, given the fluid nature of scheduling (including last-minute changes and needs), the high rate of communication among facility staff, Rangers, and administrative staff as to law enforcement shifts at DCR facilities provides a climate in which inaccuracies in reporting shifts served would be detected.

Additionally, when MEP officers complete a DCR directed patrol/detail they enter their time worked on those shifts directly in SSTA along with their regular hours worked. Officers enter the SSTA code, DCROT, which denotes the shift is considered a DCR Overtime shift. Entering this code indicates that the EPO should be compensated at a "time-and-a-half" their regular rate, otherwise known as OT Premium or OTP. EPOs have been entering their payroll and this code into SSTA since 2012. Officers may also include a note in SSTA denoting the location of the DCR directed patrol/detail worked. Prior to submission of their hours worked, officers certify that the information entered into SSTA is

accurate and complete. False certifications are actionable.

Finally, the third paragraph in the "Conclusions and Recommendations" section of your letter states: "DCR should be responsible for the anticipated and actual costs of details at its facilities. DCR cannot fulfill its responsibility if it does not verify that the services were performed or monitor the expenditures of funds on its behalf." As noted above, MEP has primary responsibility for law enforcement on DCR property. Additionally, DCR and MEP both operate within EEA. As sister agencies, law enforcement services provided by MEP at DCR facilities are not characterized as expenses of operating DCR's recreational facilities in the same way that would be true if MEP provided services for non-EEA entities but, rather, are viewed as EEA costs for operating those facilities. The ISA was discontinued when MEP was provided with direct funding in its budget to cover MEP's costs associated with providing law enforcement services at facilities operated by a fellow EEA agency. This funding mechanism more closely reflects the reality of EEA's operations as a Secretariat, and both DCR's and MEP's operations as sister agencies within EEA.

We appreciate your staff's professionalism throughout the course of this inquiry and your continued partnership in ensuring transparency and efficiency in state government for the people of the Commonwealth. Please contact us if you have any questions or would like to discuss further.

Sincerely,



Rebecca Tepper
Secretary
Executive Office of Energy and Environmental Affairs



Brian Arrigo
Commissioner
Department of Conservation and Recreation



Patrick Moran
Colonel
Massachusetts Environmental Police