



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2010-1438-3S

**INDEPENDENT STATE AUDITOR'S REPORT
ON THE
DUKES SHERIFF'S OFFICE TRANSITION TO
THE COMMONWEALTH OF MASSACHUSETTS
ON JANUARY 1, 2010**

**OFFICIAL AUDIT
REPORT
APRIL 30, 2010**

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INTRODUCTION

Background

Chapter 61 of the Acts of 2009, An Act Transferring County Sheriffs to the Commonwealth, was enacted on August 6, 2009. This Act transfers to the Commonwealth the remaining seven County Sheriff's Offices and, except where specified, all of their functions, duties, and responsibilities including assets, liabilities, and debt as of January 1, 2010. Also, Chapter 102 of the Acts of 2009, An Act Relative to Sheriffs, was enacted on September 29, 2009 "to provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2010" and amended certain sections of Chapter 61 of the Acts of 2009.

Chapter 61, Section 25, of the Act requires the Office of the State Auditor (OSA) to conduct an independent audit of the assets, liabilities, and potential litigation of each of the County Sheriff's Offices (Barnstable, Bristol, Norfolk, Plymouth, Suffolk, Nantucket, and Dukes) transferred to the Commonwealth. The audit shall also include a review of any accounts, programs, activities, and inventory of all property of the transferred Sheriff's Office. The OSA is required to file a report with the Secretary of Administration and Finance and Chairs of the House and Senate Committees for Ways and Means no later than April 30, 2010 that includes a summary of audit results for each Sheriff's Office and the cost of each audit.

The Dukes Sheriff's Office (DSO) ensures protection of the community by providing a safe and secure environment, as well as correctional and educational services, at its facilities. The DSO received funding for fiscal year 2010 to operate a jail and any other statutorily authorized facilities and functions.

There are currently 50 employees staffing the DSO. Its facilities have an inmate capacity of 19 inmates and during January 2010 it had an average daily inmate census of 30 inmates. The facilities also provide a secured detention area for juveniles and females in order to segregate them from the male population when the need arises.

The DSO is responsible for operating all aspects of the facilities as presently structured and has an inmate support network consisting of multiple programs. The Dukes County Correctional Facility is located at 149 Main Street in Edgartown.

The DSO has several other functions in addition to operating the Correctional Facility, including the Communication Center, the Drug Information Bureau, the Intermittent Police Officer Academy, the Beach and Boat Patrol, Transportation of Prisoners, Community Corrections, and Civil Process. Moreover, the Sheriff's Office employees are involved in a variety of functions and programs, including the Drug Task Force, the Honor Guard, the service of civil process, the Department of Public Works Anti-Litter Program, and community service.

The DSO has approximately five public safety and community relations programs that provide outreach, education, public safety, and support for the community, police departments, and victims of crimes. The DSO also provides approximately 21 inmate programs through its correctional and educational services. Programs offered include educational and human service programs such as vocational training and Alcoholic Anonymous to help smooth the reintegration of inmates into society.

Civil Deputies throughout the Commonwealth collect fees for their service of civil process conducted in accordance with Chapter 37, Section 11, of the Massachusetts General Laws, states:

Sheriffs and their deputies shall serve and execute, within their counties, all precepts lawfully issued to them and all other process required by law to be serviced by an officer. They may serve process in cases wherein a county, city, town, parish, religious society or fire or other district is a party or interested, although they are inhabitants or members thereof.

The serving of the civil process, in accordance with Chapter 262 of the General Laws, includes such activities as serving summonses, warrants, subpoenas, and other procedures requiring legal notification.

The Civil Process Division is a separate division of the DSO. The Civil Process Division is located at 20 Pine Street, Edgartown, MA. This division delivers legal notices and court papers from all Massachusetts courts, as well as from the various courts in other states or counties. They are legally capable to serve process in all seven towns within the County of Dukes. The cases vary from small claims matters to multi-million dollar real estate attachments and major Superior Court matters. The DSO's Civil Process Division consists of a sole Lieutenant. The division's operations as controlled by the General Laws are specialized. Attorneys or individual

plaintiffs, under a statutory-fee structure, pay for the service. The Civil Process Division handles approximately 1,020 services per year.

Audit Scope, Objectives, and Methodology

As authorized by Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an independent audit of the transfer of the DSO to the Commonwealth. Our audit was conducted in accordance with applicable generally accepted government auditing standards and accordingly included such audit procedures and tests, as we considered necessary under the circumstances.

The purpose of the audit was to:

- Determine whether all DSO duties, functions, and responsibilities were transferred in accordance with Chapter 61 of the Acts of 2009, including all applicable laws, regulations, and policies related to the transition to the Commonwealth;
- Determine whether all DSO assets, liabilities, and debt were transferred in accordance with Chapter 61 of the Acts of 2009; and
- Report the results of the audits to the Dukes County Sheriff, the Secretary of Administration and Finance, and the Chairs of the House and Senate Committees on Ways and Means.

Our audit consisted of, but was not limited to, the following procedures:

- Reviewed Chapter 61 of the Acts of 2009, Chapter 102 of the Acts of 2009, and other applicable laws, rules, regulations, and policies relating to the transfer of the DSO;
- Met with the Dukes County Sheriff, County Treasurer, County Commissioner, and other Sheriff's Office and county officials;
- Met with officials from the Executive Office for Administration and Finance, Office of the State Comptroller, Division of Capital Asset Management, Office of the State Treasurer, Public Employee Retirement Administration Commission, Group Insurance Commission, and other Commonwealth officials;
- Reviewed and tested payroll and personnel records transferred;
- Reviewed and verified terms and conditions of transferred employee benefits coverage for continuation and compliance as specified in Chapter 61 of the Acts of 2009;

- Obtained listings and reviewed applicable policies and procedures for the processing and authorization of expenses, accounts payable, liabilities, leases, contracts, and pending litigation;
- Obtained listing of all cash and investment accounts as of January 1, 2010 to determine the status of all accounts;
- Obtained listings of accounts receivable as of January 1, 2010 to determine their comprehensiveness and accuracy;
- Identified revenue streams and status of retained revenue accounts as of January 1, 2010;
- Obtained listing of property, equipment, and inventory as of January 1, 2010 to determine its comprehensiveness and accuracy;
- Reviewed and analyzed fiscal year 2010 spending plans and budget projections;
- Reviewed and analyzed fiscal year 2010 appropriation and other accounts established in the Massachusetts Management Accounting and Reporting System (MMARS) as of January 1, 2010;
- Determined the nature, extent, and status of civil processing functions and other programs and activities as of January 1, 2010;
- Determined the establishment and activity status of the mandated Deeds Excise Fund as of January 1, 2010;
- Reviewed functions and activities related to the transition of employees to the Group Insurance Commission and State Retirement System.

Our audit of the DSO should not be construed to be an audit within the strict standards and guidelines adhered to by the Office of the State Auditor and promulgated by the Comptroller General of the United States in Government Auditing Standards January 2007 Revision, which discusses under the heading “General Standards” (Section 3.10) certain scope impairments, as follows:

Audit organizations must be free from external impairments to independence. Factors external to the audit organization may restrict the work or interfere with auditors’ ability to form independent and objective opinions, findings, and conclusions. External impairments to independence occur when the auditors are deterred from acting objectively and exercising professional skepticism by pressures, actual or perceived, from management and employees of the audited entity or oversight organizations. For example, under the following conditions, auditors may not have complete freedom to make an independent and objective judgment, thereby adversely affecting the audit:

c. unreasonable restrictions on the time allowed to complete an audit or issue the report;

Because of the DSO transition date of January 1, 2010 and the legislatively mandated OSA reporting deadline of April 30, 2010, it was not reasonable or feasible to conduct an extensive audit of the transfer of the County Sheriff's Offices. The DSO was conducting its regular business and transitioning to the Commonwealth at the same time that our audit was in progress, and the many changes and extensive activities required for this transition were still ongoing as the audit was being conducted. Because of the time constraints we did not have the timely availability of financial records and information. Prior to the January 1, 2010 transition, the County Treasurer processed DSO payrolls and bills. After the transition, Sheriff's Office staff was responsible for processing financial data and paying bills through the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) and using the Commonwealth's Human Resource/Compensation Management System (HR/CMS) to prepare its payroll. This transition required DSO staff to learn how to use two financial reporting and processing systems, populate the systems' databases, and continuously enter data to encumber funds and pay DSO obligations. The effect on our transition audit was that current financial data was not available in a timely manner because the financial data had not been entered into MMARS. The learning curve associated with utilizing two information systems is quite steep and requires additional time by all parties involved. As of mid-March 2010, a number of MMARS accounts were still being established and MMARS data fields were in the process of being populated. However, our review determined that the DSO's bi-weekly payroll was being accurately processed and that bills were in the process of being paid. Therefore, our audit approach was to determine the status of the DSO transition to the Commonwealth, identify and report any issues preventing compliance with Chapter 61 of the Acts of 2009 and all other applicable legislation related to the transition, and make recommendations for improvements or corrective action.

Chapter 61, Section 22, of the Acts of 2009 establishes a Special Commission to investigate and study all Sheriff's Offices throughout the Commonwealth and make recommendations for possible reorganization or consolidation of operations, administration, regulation, governance, and finances, including recommending legislation. Section 22 delineates the composition of the special commission and its mission as follows:

Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members: 1 of whom shall be a member of the Massachusetts Sheriffs Association; 2 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the minority leader of the house of representatives; 2 of whom shall be appointed

by the president of the senate; 1 of whom shall be appointed by the minority leader of the senate, and 2 of whom shall be appointed by the governor for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation operation, administration, regulation, governance and finances of sheriffs' offices...

The commission, as part of its review, analysis and study and in making such recommendations regarding the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices, shall focus on and consider the following issues, proposals and impacts:

- (1) the possible consolidation, elimination or realignment of certain sheriffs' offices and the potential costs savings and other efficiencies that may be achieved by eliminating, consolidating and realigning certain sheriffs offices to achieve pay parity;*
- (2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;*
- (3) the reallocation of duties and responsibilities of sheriffs' office as a consequence of any such consolidation or reorganization;*
- (4) the best management practices including, but not limited to, administrative procedures, payroll systems, software updates, sheriff's ability to negotiate cost effective contracts and the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;*
- (5) the consideration of any other issues, studies, proposals or impacts that, in the judgment of the commission, may be relevant, pertinent or material to the study, analysis and review of the commission; and*
- (6) The need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement services, family connection services and re-entry opportunities; provided however, the review shall consider the need and present adequacy of placement of female prisoners and detainees in each country and provided further, that all departments, divisions, commissions, public bodies, authorities, boards, bureaus or agencies of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the responsibilities of the commission subject to considerations of privilege or the public records law.*

The commission shall submit a copy of its final report of its findings resulting from its study, review, analysis and consideration, including legislative recommendations, if any, to the governor, president of the senate, speaker of the house of representatives, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on state administration and regulatory oversight and the clerks of the senate and house of representatives not later than December 31, 2010.

The OSA has conducted numerous audits of the seven Sheriff's Offices previously transferred to the Commonwealth prior to the enactment of Chapter 61. Our audits have disclosed instances of

inconsistencies amongst the Sheriff's Offices regarding their financial operations and the application of various conflicting laws, rules, and regulations and have made recommendations to address these issues. Our recommendations in this audit, where appropriate, will also be directed to the Secretary for Administration and Finance and Chairs of the House and Senate Committees on Ways and Means, the Legislature, and the Special Commission for its consideration and use during its study and investigation for the reorganization and consolidation of Sheriff's Offices throughout the Commonwealth in the future.

The Audit Results section of this report outlines the status of the transition of the DSO.

AUDIT RESULTS

1. TRANSITION STATUS OF SHERIFF, PERSONNEL, AND PAYROLL

Sheriff Compensation

The elected Dukes Sheriff's annual salary as of January 1, 2010 is \$97,271 in compliance with Chapter 61 of the Acts of 2009, Section 1, An Act Transferring County Sheriffs to the Commonwealth, which states, in part:

The sheriff of the county of Dukes shall receive a salary of \$97,271.

Prior to the transfer, the Sheriff received salary payments from July 1, 2009 to December 23, 2009 of \$45,643. The Sheriff had no leave time balances including any longevity pay, sick, vacation, or other leave accruals maintained on the county records as of January 1, 2010 and as an elected official, the Sheriff accrues no leave time for state payroll purposes. Moreover, the Sheriff received an increase in compensation on January 1, 2010 that increased his annual salary from \$93,486 to \$97,271 in compliance with Chapter 61.

Payroll and Personnel

There were a total of 50 employees at the Dukes Sheriff's Office (DSO), including Civil Process Division employees, for the initial six months of fiscal year 2010. These employees were paid a total of \$1,863,168 through the county system from July 1, 2009 to December 19, 2009. As of December 19, 2009, these 50 DSO employees are now being paid through the Commonwealth of Massachusetts Human Resource/Compensation Management System (HR/CMS).

Since the transition, one employee resigned from the DSO and one employee has been hired and added into Commonwealth's HR/CMS payroll system. Therefore, the number of DSO employees currently paid through the Commonwealth's HR/CMS system is 50 employees.

As part of our review of the transferred employees, we randomly selected a sample of 25 employees from the total of 50 DSO employees. We reviewed payroll information and leave balances transferred from the DSO's county payroll for the period ended December 19, 2009 for comparison to the HR/CMS payroll for the period ended January 2, 2010.

The objectives of our sample test were to (1) ensure that the post-transition DSO payroll expenditures complied with applicable rules and regulations and were appropriately recorded,

and (2) determine whether DSO personnel were complying with DSO internal policies and procedures.

We reviewed and analyzed the listing of all employees by title, full-time or part-time status, rate of pay, education incentive, employee portion of Medicare, court-ordered deductions, retirement deductions, union dues deductions, collective bargaining agreements, non-union and other payroll-related information to determine whether all of the payroll information was transferred properly from the county to the HR/CMS payroll. Our testing of this information found no discrepancy for the selected employees.

We then reviewed the transferred employees' benefit accruals to verify the accuracy of the transition from the county to the Commonwealth. We noted that there were several variances with non-union employees' leave balances from what was recorded by the county before the transfer and what was transferred to HR/CMS. We brought this to the attention of the DSO's Special Sheriff, who stated that he was aware of the variances and is working with the Human Resources Division within the Executive Office for Administration and Finance (EOAF's) to reconcile the differences. Moreover, prior to the transfer and according to DSO policy and procedures, union employees by terms of their collective bargaining agreements earned "benefit days," as follows:

Effective July 1, 2004 employees will be credited annually with a total number of "benefit days" in lieu of a set number of vacation days, holidays, personal day and sick days.

According to DSO officials, there was an agreement with EOAF's Human Resource Division that all union employees' "benefit time" was to be transferred as vacation time and all leave accruals would be recorded as vacation time in HR/CMS going forward. However, our review of the union employees' accruals indicated that some of these employees had both vacation and sick time being accrued and recorded in HR/CMS. We brought this to the attention to the DSO Special Sheriff, who stated that he is attempting to resolve this issue.

Also, we reviewed the state rates for GIC benefits and calculated percentages of health insurance costs that employees would pay depending on their bargaining unit or non-union status. Our review disclosed that the premium percentage for all union employees' health insurance was 10%, in accordance with the union agreement, and remained as such after the transfer. Non-union employees' health insurance premium percentage was also 10% before the transfer, but

increased to 20% or 25%, the state rate dependent upon hire date, after the transfer because these employees were not covered by a union agreement. We reviewed these health insurance premium percentages for the sample of 25 employees and found no discrepancies in the transfer of these benefits from the county to the Commonwealth.

Finally, we reviewed DSO's policy and procedures regarding maintenance of personnel and payroll records. We reviewed a sample of the DSO personnel files and found that they were in compliance with the DSO personnel policy. We also found that the payroll and personnel records for the DSO are maintained on site in the Human Resource Office in a locked cabinet.

Recommendation

The internal control policies and procedures for the payroll and personnel function allowed for a smooth transfer of these functions to the Commonwealth. Policies, procedures, and internal controls for these functions should now be instituted and developed in compliance with Massachusetts's laws and regulations. Moreover, these policies and procedures should be referenced in the DSO's Internal Control Plan (ICP) for the protection and accountability of the DSO's personnel and payroll functions against the threat of loss, waste, fraud, and misuse. (See Audit Result No. 6.)

Auditee's Response

In response to the Audit Result, the DSO indicated that they are in the process of updating their policies and procedures to conform to applicable laws, rules, regulations, and procedural requirements required by the Commonwealth.

2. TRANSITION STATUS OF ASSETS TRANSFERRED

We determined the status of assets such as cash, accounts receivable, property and equipment, and inventory at the DSO that were being transferred to the Commonwealth in accordance with Chapter 61 of the Acts of 2009, as follows.

Cash

The DSO controlled a diverse group of funds at the time of the transfer. The respective account names, purpose, and amounts are listed below as of January 1, 2010:

<u>ACCOUNT NAME</u>	<u>PURPOSE</u>	<u>BALANCE 01/01/2010</u>
Civil Process Account	Receipts of Civil Process Revenue	\$26,894
Civil Process Escrow Account	Funds Held in Escrow	1,116
Civil Process Petty Cash Account	To Replenish Petty Cash As Needed	4,432
Inmate Account	Deposits to Inmate Accounts	3,540
Inmate Canteen Account	Telephone/Commissary Commissions	<u>3,387</u>
TOTAL		<u>\$39,369</u>

We also reviewed the cash, checking, savings, and all other bank accounts that were still controlled and in the custody of the Dukes County Treasurer's Office and determined that several DSO accounts were not transferred as of January 1, 2010. We followed up on the status of these accounts with the Dukes County Treasurer's Office and determined that the accounts were still not transferred to the custody of the DSO as of March 31, 2010 as follows:

<u>Fund Name</u>	<u>Fund Balance as of 3/31/10</u>
Sheriff's Account	\$(44,027)
Community Corrections	163,038
Substance Abuse Grant	0
Department of Public Work (DPW), Detail Duties	977
D.A.R.E.	-0-
E911 Set B Grant	75,372
Culinary Arts Grant	174
Safe Waterways Grant	2,950
Triad	500
Project Lifesaver	<u>607</u>
Total	<u>\$199,591</u>

We brought this to the attention of DSO officials, who stated that they were aware of these balances and are in the process of having all funds transferred over to the Commonwealth, except for the Department of Public Works' (DPW) detail duties funds. The DPW detail duties funds are going to remain in the control of the Dukes County Treasurer. The delay in transfer

of these accounts is because the two entities are working to determine and agree upon the cash balances to be transferred.

Accounts Receivable

According to the records maintained by DSO, there was one outstanding account receivable as of January 1, 2010 in regards to Emergency 911 grant revenue in the approximate amount of \$88,000. Also, as of March 31, 2010, the County Treasurer is holding the \$199,591 of funds listed above and will be transferred to the DSO once all accounts are settled.

Property and Equipment

The DSO is situated on properties in Edgartown and West Tisbury. All DSO properties, associated buildings, and equipment were to be transferred to the Commonwealth under Chapter 61, Section 7, as follows:

SECTION 7. (a) Notwithstanding any general or special law to the contrary, all rights, title and interest in real and personal property, including those real properties improved upon through construction overseen by the division of capital asset management and maintenance and paid with commonwealth funds and which are controlled by the office of a transferred sheriff on the effective date of this act including, without limitation, all correctional facilities and other buildings and improvements, the land on which they are situated and any fixtures, wind turbines, antennae, communication towers and associated structures and other communication devices located thereon or appurtenant thereto shall be transferred to the commonwealth, except as otherwise provided in this act. This transfer of all buildings, lands, facilities, fixtures and improvements shall be subject to chapter 7 of the General Laws and the jurisdiction of the commissioner of capital asset management and maintenance as provided therein, except as otherwise provided in this act. The commonwealth shall take all necessary steps to ensure continued access, availability and service to any assets transferred to the commonwealth under this subsection to a local or regional organization that currently uses such assets.

According to the DSO officials they submitted information regarding the following properties to DCAM: 149 Main Street, Edgartown - Building and land; 20 Pine Street; Edgartown - Two owned buildings on leased land; 8 Flight Path, West Tisbury - Owned building on leased land. In addition, they are currently compiling a listing of all equipment owned by the DSO that will be forwarded to DCAM when completed.

In respect to the property on which the current jail sits, Chapter 61, Section 7, of the Acts of 2009 states:

(e) Notwithstanding any provision of this section or sections 40E to 40I, inclusive, of chapter 7 of the General Laws to the contrary, in the event that the Dukes County jail and house of correction located at 149 Main Street in the town of Edgartown ceases to be used for public safety purposes and the commissioner of capital asset management and maintenance intends to sell said property, Dukes County shall hold the right of first refusal to purchase said property for nominal consideration, and shall hold such first refusal option for the first 60 days after receipt of the commissioner's notice of intent to sell said property, and upon the non-acceptance by Dukes County of any such offer, said property shall then be offered for sale by the commissioner pursuant to the provisions of said sections 40E to 40I, inclusive, of said chapter 7.

The DSO continues to pursue the goal set forth by the Citizen's Jail Task Force to construct a new correctional facility, with one potential site located near the airport in Vineyard Haven. However, no formal plans have been made to move the jail and house of correction located at 149 Main Street in Edgartown to a new location as of the audit period. The property was not for sale at that time.

Inventory

Chapter 61, Section 23, of the Acts of 2009 states the following:

Not less than 90 days after the effective date of this act, a sheriff transferred under this act shall provide to the secretary of administration and finance a detailed inventory of all property in the sheriff's possession which shall include, but not be limited to, vehicles, weapons, office supplies and other equipment.

We reviewed the DSO's compliance with this section of the law and determined that it did have a detailed inventory listing. We judgmentally sampled 20 items to determine if they could be located, were tagged for identification, and referenced in the DSO inventory database. Our review of inventory disclosed that none of the items reviewed were tagged for identification. However, these items were identified in the inventory listing provided by specific location and room assignment. Additionally, the DSO did have valuations for 36 capital assets items and 14 communication equipment items that totaled \$1,102,926 as of June 30, 2009. However, there were approximately 290 other items on the inventory with no values listed.

We discussed the status of the inventory with DSO officials, who are in the process of updating DSO's inventory to be in compliance with all applicable state regulations.

Recommendation

The DSO must continue to work in concert with the County Treasurer, the Office of the State Treasurer (OST), DCAM, and the OSC to ensure the transfer of accounts held by the county to the Commonwealth, thereby ensuring compliance with Commonwealth requirements and allowing for DSO's use of funds to meet its financial obligations.

The DSO needs to develop and institute policies, procedures, and internal controls to safeguard the transferred assets and inventory in compliance with Massachusetts's laws, rules, and regulations. These policies, procedures, and internal controls should include provisions for processing and monitoring cash control activities; establishing accounts receivable practices, including oversight activities; processing and monitoring inventories of property and equipment, including taking of periodic physical inventories; and developing equipment replacement planning steps for the custody, protection, and accountability of these assets against the threat of loss, waste, fraud, and misuse. These policies and procedures should be referenced in the DSO's ICP. (See Audit Result No. 6.)

Auditee's Response

Regarding Cash Balances, as of April 26, 2010, the DSO and the Dukes County Treasurer Office have reconciled the funds maintained by the Treasurers office. The agreed upon balances are as follows:

<i>Sheriff Account:</i>	<i>\$90,324</i>
<i>Community Correction:</i>	<i>\$14,169</i>
<i>E911 Set B Grant:</i>	<i>\$75,372</i>

Consequently, the DSO is now in the process of having these funds transferred over to the Commonwealth. We are awaiting confirmation from applicable state agencies on how to facilitate this transfer of funds.

3. TRANSITION STATUS OF LIABILITIES AND LITIGATION

As part of our audit, we reviewed the status of accounts payable, potential litigation, and contracts and leases that were being -transferred to the Commonwealth required by Chapter 61 of the Acts of 2009, as follows:

Accounts Payable

Chapter 61, Section 11, of the Acts of 2009, amended by Chapter 102 of the Acts of 2009, states:

Notwithstanding any general or special law to the contrary and except as otherwise provided in this act, any funds including, but not limited to, county correctional funds, deeds excise funds and other sources of income and revenue, credited to the office of a transferred sheriff on December 31, 2009 or received by the county treasury after that date on account of fiscal year 2010 activity through December 31, 2009, shall be paid to the state treasurer, but the county treasurer may pay appropriate fiscal year 2010 sheriff's department obligations after December 31, 2009.

Prior to the transfer, all expenses were sent to the County Treasurer for payment recordkeeping of the financial transactions. The DSO did not maintain any accounts payable records because it relied on the County Treasurer to maintain and process all accounts payables. Our review of the County Treasurer's financial records indicated that as of March 31, 2010, there were no outstanding accounts payables relating to the DSO.

Potential or Pending Litigation

There are two cases in active litigation involving the DSO. One is a lawsuit filed at Dukes County Superior Court in which the DSO is a defendant. However, DSO expects to be dismissed as a defendant because of its lack of involvement in the matter. The other case involves a notice of tort claim brought by an individual seeking to settle a claim for \$75,000, involving an alleged unlawful arrest. The DSO feels that it is unlikely that either of these claims will result in a judgment against the DSO and therefore has not recorded any contingent liabilities.

Contracts and Leases

As of the date of transfer, the DSO had seven leases and three contracts in place. Specifically, there are three property lease agreements for housing the community corrections, the Civil Process Division, and the 911-call center. The community corrections and the 911 call center leases expire in the year 2026 and the Civil Process Division lease expires in the year 2028. The future lease obligation for these leases is approximately \$306,652. There are also four lease agreements at no cost to the DSO for three antennas and radio cell sites and for lease of property where the DARE Rope Course is located.

The three contracts are for a maintenance agreement for emergency generators, pest control, and an employee assistance program (EAP). The remaining fiscal year contractual obligation for these contracts is \$4,015. The pest control contract expires on June 30, 2010. The EAP contract has an additional liability of \$11,850 for three additional years of service. The maintenance

agreement for the emergency generators expires February 28, 2011, with liability dependent upon level of service.

Recommendation

The DSO should continue to work on the transition to ensure the smooth and adequate transfer of all potential obligations over to the Commonwealth. The DSO needs to develop and institute policies, procedures, and internal controls to properly process the accounts payable and pending litigation in compliance with Massachusetts laws and regulations. These policies, procedures, and internal controls should be developed so that exposure to the Commonwealth against any financial loss is minimized and to ensure that there is transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to ensure that the DSO is in compliance with the OSC's closing instructions for proper Commonwealth financial recording and reporting purposes at year-end. These policies and procedures should be referenced in the DSO's ICP. (See Audit Result No. 6.)

Auditee's Response

In response to the Audit Result, the DSO indicated that they are in the process of updating their policies and procedures to conform to applicable laws, rules, regulations, and procedural requirements required by the Commonwealth.

4. TRANSITION STATUS OF ACCOUNTS, PROGRAMS, OR OTHER ACTIVITIES

Status of DSO Reporting in the Massachusetts Management Accounting and Reporting System (MMARS)

As of April 1, 2010, the DSO had encountered difficulties in establishing and processing transactions into MMARS for its General Maintenance Appropriation, Retained Revenue Appropriation, Federal Revenue, Grants, Fixed Assets, and Trust accounts. However, the DSO has been able to begin entering substantial expenditure transactions into MMARS. As of March 23, 2010, a total of 152 expenditure transactions, excluding HR/CMS payroll expenditures, in the amount of \$77,065 was entered and processed through MMARS. Moreover, DSO officials stated that as of April 1, 2010, the DSO is now close to being up-to-date in processing payments in MMARS. DSO officials indicated that the use of MMARS would be fully operational in the coming months.

Budgetary Status and Spending Plans

We obtained the budgets and spending plans for the DSO for fiscal year 2010 that were submitted to the Executive Office for Administration and Finance (EOAF). The projected spending plan totaled \$2,567,764, as detailed in the following chart:

Projected Spending for Fiscal Year 2010		
Code	Description	Amount
AA	STATE EMPLOYEE COMPENSATION	\$2,111,568
BB	EMPLOYEE RELATED EXPENSES	15,344
CC	SPECIAL EMPLOYEE/ CONTRACTED EMPLOYEES AND SERVICES	75,570
DD	PENSION AND INSURANCE-RELATED EXPENDITURES	46,405
EE	ADMINISTRATIVE EXPENSES	30,980
FF	FACILITY OPERATIONAL SUPPLIES AND RELATED EXPENSES	132,842
GG	ENERGY COSTS AND SPACE RENTAL EXPENSES	83,455
HH	CONSULTANT SERVICE CONTRACTS	0
JJ	OPERATIONAL SERVICES	0
KK	EQUIPMENT PURCHASE	3,000
LL	EQUIPMENT TAX EXEMPT LEASE-PURCHASE, LEASE AND RENTAL MAINTENANCE AND REPAIR	0
MM	PURCHASED CLIENT HUMAN AND SOCIAL SERVICES AND NON-HUMAN SERVICES PROGRAMS	0
NN	CONSTRUCTION AND IMPROVEMENTS OF BUILDINGS AND MAINTENANCE OF INFRASTRUCTURE AND LAND ACQUISITION	0
PP	GRANTS AND SUBSIDIES	0
RR	ENTITLEMENT PROGRAMS	0
SS	DEBT PAYMENT	0
TT	LOANS AND SPECIAL PAYMENTS	0
UU	INFORMATION TECHNOLOGY EXPENSES	68,600
	NOT SUBJECT TO SUBSIDIARY CONTROL	<u>0</u>
Total		<u>\$2,567,764</u>

The DSO received \$1,681,275 for the first six months of fiscal year 2010 prior to the transfer and the appropriation under the Chapter 102 Acts of 2009 grants an additional \$1,283,883. DSO officials anticipate a small surplus at the end of fiscal year 2010. They stated that they were not a

hundred percent confident with the spending plans, but were optimistic that they will be able to meet projected expenditure obligations with the current funding level.

Sheriff's Office Locally Held Funds

The DSO controls and maintains a diverse group of funds that are by statute not being transferred to the Commonwealth and recorded in MMARS but are to remain with the DSO. These funds include Inmate Canteen, Inmate Account, Civil Process Escrow, Civil Process, and Civil Process Petty Cash.

The DSO is responsible for reconciling the Civil Process, Civil Process Escrow, and the Civil Process Petty Cash accounts. Authorization for the Civil Process Escrow and the Civil Process Petty Cash accounts is the shared responsibility of the Sheriff, the Special Sheriff, and the Lieutenant responsible for the Civil Process Division. Authorization of the Civil Process Account is the shared responsibility of the Sheriff and the Special Sheriff. The Special Sheriff reconciles the Inmate Account and the Inmate Canteen Account balances. Authorization for these accounts is the shared responsibility of the Sheriff and the Special Sheriff.

All reconciliations are prepared within approximately 10 days after receiving the bank statements for each account.

Recommendation

Policies, procedures, and internal controls for these MMARS activities, budgetary processes, and locally controlled assets should be instituted and developed in compliance with Massachusetts laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of the maintenance appropriation, retained revenue, grants, and trusts established and set up in MMARS to prevent loss, waste, fraud, and misuse. These policies and procedures should be developed to ensure that exposure to the Commonwealth against any financial loss is minimized and that there is transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to ensure that the DSO is in compliance with the OSC's closing instructions for the relevant items and for proper financial reporting on the Commonwealth's books at year-end. These policies and procedures should be referenced in the DSO's ICP. In addition, the DSO should continue to monitor its budget and keep EOAF informed. (See Audit Result No. 6.)

Auditee's Response

In response to the Audit Result, the DSO indicated that they are in the process of updating their policies and procedures to conform to applicable laws, rules, regulations, and procedural requirements required by the Commonwealth.

5. TRANSITION STATUS OF REVENUES TRANSFERRED***Deeds Excise Fund***

Chapter 61, Section 2, of the Acts of 2009, which amends Chapter 64D, Section 11 to 13 of the General Laws states the following in regard to the Deeds Excise Fund:

Section 11. There shall be established upon the books of each county of a transferred sheriff... a fund, maintained separate and apart from all other funds and accounts of each county, to be known as the Deeds Excise Fund... On the first day of each month, 10.625 per cent of the taxes collected in the county of a transferred sheriff under this chapter shall be transmitted to the Deeds Excise Fund for each county; provided, however, that in any county in which its minimum obligation, established by the secretary of administration and finance in 2009, is insufficient in any given fiscal year to satisfy the unfunded county pension liabilities and other benefit liabilities of retired employees of the Sheriff's Office as determined by the secretary of administration and finance in consultation with appropriate county officials and county treasurers, beginning in fiscal year 2011, the county shall retain 13.625 per cent of the taxes collected in such county and transferred to the Deeds Excise Fund to satisfy the unfunded county pension liabilities

We verified with the Dukes County Register of Deeds that the correct percentage was remitted to the Commonwealth and to the Deeds Excise Fund after the transfer. We found that in January 2010, the Deeds Excise Fund was sent 10.625%, and the remainder was remitted to the Commonwealth in accordance with Chapter 61. The total deeds excise recorded for January 2010 was \$161,299, with \$17,138 sent to the County Deeds Excise Fund. This amount reconciled with the amounts recorded by the County Treasurer.

Grant Income

The DSO has grant income that is used for various programs and activities. The following is a listing of grants and the revenue generated in the first nine months of fiscal year 2010:

Grant Type	Revenue Received as of 3/31/2010
Emergency 911 Grant	\$174,724
Culinary Arts Grant	5,800
Project Lifesaver	<u>1,200</u>
TOTAL	<u>\$181,724</u>

Civil Process Revenue

The Dukes Civil Process Division generated \$30,645 in revenue between July 1, 2009 and December 31, 2009. Because the DSO is not a separate entity, DSO does not segregate or charge and account for expenses of the Civil Process Division separately.

Federal Revenue

According to DSO officials and the County Treasurer's Office, there was no federal revenue generated in fiscal year 2010.

Recommendation

Policies, procedures, and internal controls for these transferred revenues should be instituted and developed in compliance with Massachusetts's laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of all revenues including Commonwealth revenue, retained revenue, grants revenue, and trust revenue against the threat of loss, waste, fraud, and misuse. These policies and procedures should be developed to ensure that exposure to the Commonwealth against any financial loss is minimized and that there is transparency in the processing of and accountability for revenue transactions. These policies and procedures should be referenced in the DSO's ICP. (See Audit Result No. 6.)

Auditee's Response

In response to the Audit Result, the DSO indicated that they are in the process of updating their policies and procedures to conform to applicable laws, rules, regulations, and procedural requirements required by the Commonwealth.

6. TRANSITION STATUS OF OTHER MATTERS

Employee Benefits

Chapter 61, Section 14, of the Acts of 2009 states the following in regard to employee benefits:

The rights of all employees of each office of a transferred sheriff shall continue to be governed by the terms of collective bargaining agreements, as applicable.

The DSO has a collective bargaining agreement with the Massachusetts Correction Federated Union (MCFU). This agreement had an effective date of July 1, 2008 to June 30, 2012. Therefore, the rights of all employees continue to be governed by the terms of this collective bargaining agreement in accordance with Chapter 61, Section 14, of the Acts of 2009.

We reviewed the terms and conditions of this agreement and determined that the employees are entitled to specific benefits, including but not limited to shift bidding, longevity, overtime, benefit days, bereavement leave, etc. Also, as part of the terms of the agreement and as required by the statute, DSO must contribute 90% of the costs of the union employees' primary health insurance plan. As part of our testing, we were able to verify that union employees continued with all benefits governed by the terms of their collective bargaining agreements. Non-union DSO employees were transferred to the Commonwealth at the established Commonwealth share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

An Internal Control Plan Needs to be Developed as Required by Chapter 647 of the Acts of 1989

Because of the short timeframe and work involved in the transition of the DSO's operations from the county to the Commonwealth, the DSO did not have time to create an ICP in accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies. Chapter 647 states in part, "Internal control systems for the various state agencies and departments of the Commonwealth shall be developed in accordance with internal control guidelines established by the Office of the Comptroller." However, although the DSO does not have an ICP, we found that the DSO does have various comprehensive departmental policies and procedures manuals that can be used, in part, to develop its ICP. The OSC's Internal Control Guide, Chapter 1, Internal Control Plan Framework, outlines the importance of internal controls for all Commonwealth entities, as follows:

An organization is a living entity, which changes over time. As a result, the organization's mission, goals and objectives must be regularly evaluated and periodically revised. Thus, internal control is an ongoing process known as the Internal Control Cycle. After an organization analyzes its goals and objectives to determine its risks, management must analyze these risks and evaluate the policies and procedures in the identified high-risk areas. Part of the management process includes monitoring the progress made toward meeting goals and objectives. Monitoring also helps to ensure the effectiveness of the organization's internal controls and the effectiveness of the policies and procedures. Periodically, policies and procedures should be revised to mitigate risk and eliminate redundancy. They must also be communicated internally and externally, as necessary.

Everyone in an organization has responsibility for internal control.

An internal control plan is a description of how a department expects to meet its various goals and objectives various goals and objectives by using policies and procedures to minimize risk. The Commonwealth has defined the internal control plan to be a high-level summary supported by lower level policy and procedures. Each department's internal control plan will be unique; however, it should be based on the same framework – the organization's mission statement, goals and objectives, and components of internal control recommended by COSO. The plan should be reviewed and updated as conditions warrant, but at least annually.

Because the department's policies and procedures provide the detail for the internal control plan, it is important that they be reviewed in conjunction with the plan. It is not uncommon for the detailed policies and procedures to be modified due to changes in personnel, audit or quality assurance recommendations, etc. As these modifications occur, the department's documentation should be updated to reflect them.

As stated in Chapter 647 of the Acts of 1989, the department's Internal Control Officer is responsible for its internal control plan. The designated Internal Control Officer should be a senior manager, equivalent in title or rank to an assistant or deputy to the department head. It should be noted, however, that internal controls are the responsibility of every employee.

Moreover, Chapter 3 of the OSC Guide states, in part:

All operating departments in Massachusetts state government are required to develop and document departmental internal controls, which must be prioritized and summarized into a departmental internal control plan based on a risk assessment. Responsibility for the department internal control plan resides with the department's Internal Control Officer (ICO). The role of the ICO, as stated in Chapter 647 of the Acts of 1989, is described as follows: "...an official, equivalent in title or rank to an assistant or deputy to the department head, whose responsibility...shall be to ensure that the agency has written documentation of its internal accounting and administrative control system on file. Said official shall, annually, or more often as conditions warrant, evaluate the effectiveness of the agency's internal control system and establish and implement changes necessary to ensure the continued integrity of the system."

The Office of the Comptroller defines a department-wide risk assessment as the identification and analysis of the risks that could prevent the department from attaining its goals and objectives. This identification and analysis form the basis for determining the risk management strategy. A precondition to risk assessment is the establishment of

the organization's mission and goals. A risk assessment is an integral part of an internal control plan.

The Office of the Comptroller defines an internal control plan as a high level department-wide summarization of the department's risks and the controls used to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures.

The DSO needs to create an ICP to be in compliance Chapter 647 and OSC guidelines. The DSO should identify its ICP with the eight components of enterprise risk management (ERM). For an ICP to be considered to have an effective high-level summarization of its internal controls, all eight components of the ERM must be present as described in the OSC Internal Control Guide. These components are described in the OSC Internal Control Guide as follows: Internal Environment, Objective Setting, Event Identification, Risk Assessment, Risk Response, Control Activities, Information and Communication, and Monitoring.

The DSO needs to develop and fully integrate a risk assessment throughout the entire DSO to determine how the DSO's greatest risks to its mission, goals, and objectives would be identified and mitigated. Once risks are identified, the ICP should be adequately developed and cross-referenced to supporting lower-level detail (i.e., departmental policies and procedures) for most of its organizational areas to ensure that a reliable ICP is in place for the daily operation of the entire DSO. Updating its ICP is important for the DSO to ensure the integrity and effectiveness of its internal control system and enhance its ability to respond to changes while maintaining the system's effectiveness.

The following links provide guidance to the newly transferred Sheriff's Offices regarding the development and implementation of their respective ICPs. The first link displays the OSC's most recent revision of its Internal Control Guide, incorporating the principles of Enterprise Risk Management. The second link provides additional guidance on internal controls for departments in transition.

http://www.mass.gov/Aosc/docs/business_functions/bf_int_cntrl/Internal_Control_Guide_Volume_I.doc

http://www.mass.gov/Aosc/docs/policies_procedures/internal_controls/po_ic_add_guide_dept.doc

Recommendation

In order to adequately safeguard assets, promote operational efficiency, and comply with Chapter 647 of the Acts of 1989, the DSO should initiate plans to work with the OSC and with other Sheriff's Offices already transferred to the Commonwealth to develop an ICP in accordance with Chapter 647 and OSC guidelines. Development of the ICP is important in order for DSO to achieve its mission and objectives efficiently, effectively, and in compliance with applicable state laws, rules, and regulations. The ICP will also provide support and guidance in the event of employee turnover and safeguard its assets against loss, waste, theft, or misuse. Furthermore, once the ICP is implemented, the DSO should ensure that its internal control system is reviewed and evaluated and that any necessary changes are implemented at least annually or when conditions warrant.

Auditee's Response

In response to the Audit Result, the DSO indicated that they are in the process of updating their policies and procedures to conform to applicable laws, rules, regulations, and procedural requirements required by the Commonwealth.