



# The Commonwealth of Massachusetts

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**INDEPENDENT STATE AUDITOR'S TRANSITION  
REPORT OF THE PLYMOUTH COUNTY  
SHERIFF'S DEPARTMENT**

**JULY 1, 2004 THROUGH MARCH 31, 2005**

**OFFICIAL AUDIT  
REPORT  
MAY 27, 2005**

## TABLE OF CONTENTS/EXECUTIVE SUMMARY

**PAGE**

---

### **INTRODUCTION**

---

**1**

The Plymouth County Sheriff is an elected official and operates the Plymouth County Sheriff's Department (PCSD) in accordance with Chapter 37 of the Massachusetts General Laws. The responsibilities of the PCSD include operating a correctional facility, assisting in public safety, and overseeing the delivery of legal documents needed to support the operation of the courts. The PCSD's operations are funded through various county taxes, deeds excise taxes, intergovernmental funding from the Commonwealth, and reimbursement from the federal government for housing federal inmates. In accordance with Chapter 64D, Section 12, of the General Laws, the PCSD submits its annual operating budget to the County Government Finance Review Board (CGFRB) for review and approval. The CGFRB is functionally within the Commonwealth's Executive Office for Administration and Finance.

In January 2005, the newly elected Plymouth County Sheriff, and more recently members of the Legislature, requested a special-scope transition audit of the financial operations of the PCSD. The scope of our audit included a review of the fiscal operations at the PCSD and a determination of whether proper internal controls existed over all receipts and expenditures and whether efficient and effective operating procedures were in place. Specifically, the audit included, but was not limited to, a review of the status of the budget and spending for fiscal year 2005 and the identification of potential problems and solutions, a review and analysis of the budget process, a review of financial reporting and oversight activities, and a review and analysis of administrative operations and internal controls.

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### **AUDIT RESULTS**

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**5**

#### **1. REVENUE SHORTFALL, SPENDING ISSUES AND COST CONTAINMENT MEASURES CREATE BUDGET UNCERTAINTY**

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**5**

The CGFRB, which is responsible for approving the PCSD's annual operating budget, approved a budget of \$52,037,955 for fiscal year 2005. However, our review, analysis, and comparison of budgeted to actual revenues and expenditures for fiscal year 2005 through March 31, 2005 disclosed that PCSD revenues received through March 31, 2005 totaled \$38,150,387 and its projected revenues through June 30, 2005 was \$13,025,813, for total projected budgeted revenues of \$51,176,200, which projects to a revenue shortfall of \$861,755.

The budget revenue shortfall is primarily attributed to a decline in the inmate population. On an annual basis, the estimated lost revenue due to the decline in federal inmates amounts to \$1,922,400. However, the PCSD has available "off-budget" revenues of \$1,247,964 from grants and Canteen Fund revenue, making total estimated funds available of \$52,424,164. Our review also disclosed that for the fiscal year ending June 30, 2005, the CGFRB had approved the use of \$1 million from the Canteen Fund to pay inmate food service costs during fiscal year 2005. This approved use of Canteen Fund revenue for inmate food service costs increases the fiscal year's anticipated costs to \$53,037,955. Therefore, comparing \$53,037,955 of anticipated expenditures with

## TABLE OF CONTENTS/EXECUTIVE SUMMARY

### PAGE

\$52,424,164 in available funds results in a \$613,791 projected deficit. Moreover, the PCSD has continued to encounter additional, unforeseen, and extraordinary costs affecting both fiscal years 2005 and 2006 that must be addressed. These additional costs include, but are not limited to, \$436,914 for the training of new correctional officers, legal costs of \$1,249,970, retiree health insurance expenses totaling \$905,778, and \$954,600 of payments being held in order to meet payroll.

### **2. IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER THE OPERATING BUDGET, COST ACCOUNTING SYSTEM, CANTEEN FUND RECEIPTS, AND PROPERTY AND EQUIPMENT**

**8**

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Our prior audit (No. 2004-1448-3S) disclosed that the PCSD had not established an adequate operating budget and cost accounting system that controls, monitors, and reports the costs of each of its many activities. The financial accounting, reporting, and budgetary system should be activity-based and accurately identify the complete cost of each of the many activities, services, and programs maintained and operated by the PCSD, including the daily costs of housing the various inmates in custody. We also found that improvements were needed in the area of Canteen Fund receipts and property and equipment controls.

Our follow-up audit disclosed that the PCSD has not yet established an adequate operating budget and cost accounting system that controls, monitors, and reports the costs of each of its activities. Specifically, we found that the PCSD budgetary process does not incorporate the management and chain-of-command structure of the organization in order to be an effective tool to develop, implement, and control the PCSD's financial and operational activities. Each PCSD department should be responsible for controlling all costs of its operations. Moreover, all costs need to be accounted for by department and function in an activity-based cost system to better control the overall cost activity in order to improve the overall management of the PCSD's financial resources. Also, improvements are still needed in the PCSD's internal controls over Canteen Fund receipts and property and equipment controls.

### **3. SYSTEMS TO MONITOR THE PERFORMANCE OF THE FOOD SERVICE PROVIDER NEED TO BE ESTABLISHED**

**11**

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Our review of the inmate's food service contract determined that there was no executed contract with the food service provider on file at the PCSD or the County Commissioner's office. The original award was for three years, with two option years totaling over \$8,044,889 for the five-year period. In addition, we determined that the scope of service has been amended several times, including the cost and amount of food to be provided to each inmate, effectively increasing the price of a meal for correctional facility staff. We also determined that the PCSD and the food service provider were not complying with the terms of the PCSD's Invitation for Bids when reconciling the daily food ordered report to the daily food available report. The daily reconciliation of the meals tracking report is the source for the daily count recap sheet for reconciling the billing of daily food services.

**TABLE OF CONTENTS/EXECUTIVE SUMMARY****PAGE****4. LEGAL EXPENSES MAY BE EXCESSIVE FOR THE AMOUNT OF GRIEVANCES  
RESOLVED AND LITIGATION SETTLED****13**

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During the past two fiscal years, the PCSD has spent approximately \$1,424,333 for outside legal services. The majority of these expenses were incurred attempting to resolve grievances arising from overtime disputes and other labor complaints involving total claims of less than \$40,000. The newly elected Sheriff has hired his own legal counsel to resolve such complaints and grievances, and legal expenses are projected to be less than \$300,000 during fiscal year 2005. The PCSD has expended \$277,941 through March 31, 2005, and costs for outside legal counsel should be negligible during fiscal year 2006. The PCSD's Chief Legal Counsel informed us that there appears to be potential settlements of at least \$545,200 arising from pending litigation for the next fiscal year, and that the potential cost of trial expenses could range from \$248,000 to \$320,000.

## INTRODUCTION

### *Background*

The Plymouth County Sheriff is an elected official who operates the Plymouth County Sheriff's Department (PCSD) in accordance with Chapter 37 of the Massachusetts General Laws. The responsibilities of the PCSD include operating a correctional facility, assisting in public safety, and overseeing the delivery of legal documents needed to support the operation of the courts. The PCSD's operations are funded through various county taxes, deeds excise taxes, intergovernmental funding from the Commonwealth, and reimbursement from the federal government for housing federal inmates. In accordance with Chapter 64D, Section 12, of the General Laws, the PCSD submits its annual operating budget to the County Government Finance Review Board (CGFRB) for review and approval. The CGFRB is functionally within the Commonwealth's Executive Office for Administration and Finance. In addition to operating the County Correctional Facility, the PCSD assists in maintaining public safety throughout the county through the following component units:

- The Field Services Division supports county law enforcement agencies through its K-9, Warrant Apprehension Unit, Mounted Unit, and Honor Guard Unit.
- The Communication Unit coordinates all fire mutual aid in the county and serves as the communications link between paramedics and hospitals. The unit also provides communications services at the scene of major events.
- The Bureau of Criminal Investigation assists local police in collecting and analyzing evidence from crime scenes and in the photographing of major traffic accidents. The public safety support services are provided at the request of local police and fire departments.
- The Civil Process Division that is headquartered in Brockton dispatches deputies to serve legal documents in civil cases. The fees for this service, paid by attorneys and plaintiffs for the delivery of these documents, fund this division's operation.

Our prior audit of the PCSD reported that the CGFRB notified the PCSD of the resolution of its fiscal year 2003 budget crisis and set the PCSD's final budget's spending level at \$50,470,101. The CGFRB also indicated that, to close the budget deficit, the PCSD should utilize internally held funds totaling \$2,670,635, consisting of \$968,167 in telephone/Canteen Fund account revenues and \$1,702,468 carried forward from the prior year. In addition, through actions initiated by the PCSD,

the budgetary gap was reduced through spending cuts, cost containments, a hiring freeze, layoffs, a reduction in overtime, and three-day furloughs for non-union employees.

In a subsequent letter dated September 19, 2003, the CGFRB notified the PCSD that it had approved a budget for the fiscal year ended June 30, 2004 of \$50,949,398, which reflected an increase of less than one percent over the budget approved for fiscal year 2003. The PCSD budget for fiscal year 2004 included an anticipated increase in reimbursements for federal inmates of \$2,113,576, for total federal reimbursements of \$14,526,534. The increase in revenue was in addition to an increased reimbursement of \$2,765,356 in 2003 for federal inmates. The increase in reimbursements reflected an increase in the federal inmate population housed at the Plymouth County Correctional Facility. This budget also included the use of telephone/Canteen Fund revenue estimated at \$1 million and the carry-forward of the remaining \$115,953 balance of funds available from prior years. The CGFRB further advised the PCSD that it should adjust its expenditures accordingly if there is a revenue shortfall. In addition, the CGFRB instructed the PCSD to report on a monthly basis its revenue from federal inmates and to compare actual expenses to budgeted expenses.

The sources of revenue available to fund the \$50,949,398 fiscal year 2004 budget consisted primarily of approximately \$29 million from the Commonwealth, \$6.6 million from deeds excise taxes, and \$14.5 million from the federal government. The significant cost categories in the fiscal year 2004 budget include debt service, correctional facilities operating costs, 90% of employee health insurance, salary step increases, and potential settlement of pending litigation.

The PCSD employs approximately 500 people and has an approved budget of \$52,037,955 for fiscal year 2005. The sources of revenue available to fund the 2005 budget consist primarily of approximately \$30 million from the Commonwealth, \$6.7 million from deeds excise taxes, \$13.3 million from the federal government, and \$500,000 carried forward from prior fiscal years. An analysis of the fiscal year 2005 budget reveals that 86% of the budget's funding is for payroll, overtime, fringe benefits, and debt service. The remaining 14% of budgeted funds are for the operation of the jail, transportation of inmates, and plant operations. This analysis indicates that a budget with only 14 cents on every dollar dedicated to facilities operations has little room for unexpected, nonroutine, and unusual expenditures, such as legal settlements.

***Audit Scope, Objectives, and Methodology***

In January 2005, the newly elected Plymouth County Sheriff, and more recently members of the Legislature, requested that a special-scope transition audit be conducted of the PCSD's financial operations. The scope of our audit included a review of the PCSD's fiscal operations to determine whether proper internal controls existed over all receipts and expenditures and whether efficient and effective operating procedures were in place. Specifically, the audit included, but was not limited to, a review of the status of the budget and spending for fiscal year 2005 and the identification of potential problems and solutions, a review and analysis of the budget process, a review of financial reporting and oversight activities, and a review and analysis of administrative operations and internal controls.

In accordance with Chapter 11, Section 12 of the Massachusetts General Laws our audit was conducted in accordance with applicable Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States for the period July 1, 2004 to March 31, 2005 and included such audit procedures and tests as we considered necessary to meet those standards. GAGAS defines program accountability as follows:

*The concept of accountability for public resources is key in our nation's governing process. Legislators, other government officials, and the public want to know whether (1) government resources are managed properly and used in compliance with laws and regulations, (2) government programs are achieving their objectives and desired outcomes, and (3) government services are being provided efficiently, economically, and effectively. Managers of these programs are accountable to legislative bodies and the public.*

To accomplish our objectives we:

- Reviewed applicable General Laws, rules, and regulations pertaining to the management, operation, and reporting of County Government.
- Reviewed administrative and accounting policies and procedures manuals.
- Assessed management and administrative controls.
- Interviewed various county officials.
- Reviewed various budgetary filings, financial reports, and correspondence filed with the CGFRB, including the February 25 and May 4 letter to the CGFRB regarding the fiscal year 2005 budget deficit.

- Reviewed transactions and documentation pertaining to revenue, procurement, payroll, and operating expenditures.
- Reviewed the “agreed-upon procedures” engagement of an independent public accountant (IPA) that the outgoing sheriff commissioned. The IPA concluded that estimated expenditures were less than 50% of the budget by \$815,000 for the first half of fiscal year 2005 (July 1, 2004 to December 31, 2004).

During the course of our audit and at its conclusion, we met with the Plymouth County Sheriff and his executive staff to discuss the contents of our report and to take their comments into consideration.



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## AUDIT RESULTS

### 1. REVENUE SHORTFALL , SPENDING ISSUES AND COST CONTAINMENT MEASURES CREATE BUDGET UNCERTAINTY

Our review, analysis, and comparison of the Plymouth County Sheriff's Department (PCSD) actual revenues and expenses versus those budgeted and approved by the County Government Finance Review Board (CGFRB) for the fiscal year ending June 30, 2005 disclosed the following:

Revenue Budget for Year		\$ 52,037,955
Revenues Received through March 31, 2005	\$ 38,150,387	
Revenues Projected through June 30, 2005	<u>13,025,813</u>	<u>51,176,200</u>
Revenue Budget Shortfall		<u>\$ 861,755</u>

In addition, our analysis of the revenue budget shortfall determined that it is primarily attributed to a decline in the inmate population. On an annual basis, the estimated lost revenue due to the decline in federal inmate population amounts to \$1,922,400. Our prior audit recommended that it was essential that the PCSD develop a comprehensive cost accounting system, inclusive of all incurred costs, including direct and indirect costs, fringe benefits, and overhead costs in order to better and more accurately identify and understand the cost of services it provides and determine whether it is being adequately reimbursed and identify the extent to which it is under-reimbursed for its services. Unless and until this is accomplished, the PCSD cannot adequately account for, track, and monitor its cost centers and adequately determine its budget to actual revenue and expenditures during the year.

On the positive side, a review of the total operations of the PCSD disclosed that the Canteen Fund, which has been used in the past to supplement and support the food service costs for the inmate population, showed that as of March 31, 2005, unused Canteen Fund revenues on hand amounted to \$513,852, and it is further anticipated by the PCSD that an additional estimated \$450,000 will be collected for the three months ending June 30, 2005, making total available Canteen Fund revenues of \$963,852. Also, further review revealed that available State Criminal Alien Assistance Program Grant funds, which have been used in the past to support payroll costs, amounted to an estimated \$284,112. Accordingly, projected potential total funds available to cover operating costs for the fiscal year ending June 30, 2005 amount to an estimated \$52,424,164, which results in an additional \$386,209 potentially available over the approved budget revenues for fiscal year 2005.

Also, a review of the budgeted and unbudgeted expenditures versus projected funds available of the PCSD operations disclosed a projected deficit of \$613,791 as follows:

Budgeted Expenditures for the Fiscal Year Ending June 30, 2005	\$ 52,037,955
Unbudgeted Food Service Cost Anticipated to be Borne by the Canteen Funds	<u>1,000,000</u>
Projected Expenditures	\$ 53,037,955
Less: Projected Funds Available	<u>52,424,164</u>
Projected Estimated Deficit	<u>\$ 613,791</u>

- After taking office and discovering a potential revenue shortfall of \$861,755, the Sheriff initiated cost-containment measures to identify and control nonessential costs that could be deferred without impacting the day-to-day operations of the correctional facility. The Sheriff is currently delaying and managing potential payments of \$954,600 (expenditures for hospital and healthcare, food service, police and fire supplies, office supplies, utilities and other operational expenses) in order to meet payroll expenses through June 30, 2005, after which additional funding sources may become available. We emphasize that in managing payments arrangements should be made to avoid interest and late charges.

In addition, the Sheriff has instituted several cost-savings initiatives that may result in some cost reductions this year. Because he did not take office until January 2005, these savings were only effective for few months, but they will result in significant savings in subsequent years. Further, in some cases some start-up costs had to be incurred this year to effectuate savings going forward in subsequent years. These cost savings measures are as follows:

- The PCSD is currently placing two correctional officer classes through the Basic County Corrections Officer Academy. The current administration has taken steps to cut academy costs by \$100,718 per class. These steps will save approximately \$201,436 for training two classes in fiscal year 2005. However, to achieve these savings it will cost an additional \$436,914 for the current year, as compared to \$638,350 under prior guidelines for academy classes. As a result, PCSD officials predict savings of up to as much as \$1.6 million in overtime in fiscal year 2006 because of the additional correctional officers.
- The legal department provided us with an up-to-date accounting of pending litigation detailing the estimated amount of legal costs and settlements expected to be incurred by the PCSD in fiscal year 2006. For pending litigation, total costs are estimated to range between \$12,000 and \$17,200. For potential settlements, costs are estimated to be as high as \$545,200. For potential trial expenses, costs are estimated to range between \$248,000 to \$320,000. The new Sheriff reduced outside legal costs this year by an estimated \$300,000 and almost \$600,00 next year through the use of in-house attorneys to settle and resolve grievances. The net savings is estimated to be approximately \$250,000 and \$500,000, respectively. In addition, as late as April 25, 2005, the PCSD received an invoice in the amount of \$1,049,970 from its insurer in settlement of several pending claims. However,

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the PCSD disputes the basis for this bill and believes that its exposure could be as low as the \$50,000 deductible that may apply. As of May 2, 2005, the PCSD has settled another lawsuit in the amount of \$500,000, \$200,000 of which is not payable until July 2005.

- The PCSD received a letter from the County Commissioners informing them that the county would no longer fund the cost of health insurance for PCSD retirees who retired after 1991, and that the estimated cost for this health insurance for fiscal year 2006 would be \$905,778. This is in spite of the fact that the county has been paying these costs since 1991 and indicated in the letter that the cost for fiscal year 2005 was \$825,562 and that it would be funded by the county for fiscal year 2005. The transfer of these retirement costs from the county to the PCSD will not impact the fiscal year 2005 budget; however, it could impact the fiscal year 2006 budget. The PCSD's attorneys are challenging and questioning the legality of the sudden transfer of these costs from the county to the PCSD at this time.
- The prior administration allowed certain Deputy Sheriffs and other employees to "take home" their departmental vehicles. This practice for certain deputies and other employees has been discontinued by the current administration for the "take home" use of nine vehicles, which will result in some cost savings for "take home" vehicles in fiscal year 2005 and more in the subsequent fiscal year.
- The PCSD has returned its four Harley Davidson Motorcycles to the New Hampshire dealer from which they were leased at a total cost of \$300 per month. This will result in a cost savings of \$600 for the remainder of fiscal year 2005 and \$3,600 for fiscal year 2006, exclusive of gas and maintenance cost savings.
- The PCSD reviewed its cellular telephone service to determine whether cost savings could be achieved. As a result, the PCSD eliminated some cellular telephones, resulting in an estimated cost savings of \$1,400 and an additional estimated \$3,357 in potential credits from Verizon for previous disputed billings that can be accomplished in fiscal year 2005.
- As a result of our review we discussed with the PCSD that its water and sewage costs from the Town of Plymouth appeared excessive as compared to previous years. The PCSD sent a letter to the Town of Plymouth for an explanation of what it believes to be a discrepancy in meter readings, and is currently withholding payment of \$9,794 billed from the Town of Plymouth until this matter is resolved.
- A federal grant has been obtained that will pay for the training of inmates to embroider correctional officers' uniforms. The estimated cost savings for having uniforms for correctional officers embroidered at PCSD is approximately \$45,000 in future years.

Consequently, notwithstanding the measures taken by the Sheriff to control and cut spending, the PCSD's revenue shortfall is approximately \$861,755. However, with unforeseen, extraordinary costs continuing to unfold, particularly as a result of legal settlements (see Audit Result No. 4) and other unknown or uncertain obligations, it is impossible to project with confidence the PCSD's fiscal status for the year ending June 30, 2005.

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**Recommendation**

The PCSD should:

- Continue its strategy of ensuring that payroll, food services and other vital costs to operate and perform the functions of the department are met while freezing or holding other bills as June 30, 2005 approaches. Review all outstanding bills that are being held to determine the amounts owed, develop a payment schedule and avoid interest and late charges.
- Request a supplementary budget to be set aside and restricted for paying all fiscal year 2005 expenses in order to avoid ending the fiscal year with any unpaid bills. All supplemental spending should be approved by the CGFRB. (However, it is important to recognize that the PCSD will encounter other extraordinary, nonroutine costs, particularly from legal settlements that will need to be funded in the future.)
- Prepare a balanced budget for fiscal year 2006 that funds a level of expenditures necessary to provide the core services necessary to operate the PCSD and that can be supported by realistic revenue estimates.
- Implement a budget-forecasting process and adequate cost accounting system that controls, monitors, and reports the costs of each of the many PCSD activities.
- Report on a monthly basis to the CGFRB its actual versus budgeted revenues and expenses and obtain approval for unbudgeted expenditures or cost overruns.

**2. IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER THE OPERATING BUDGET, COST ACCOUNTING SYSTEM, CANTEEN FUND RECEIPTS, AND PROPERTY AND EQUIPMENT**

Our prior audit (No. 2004-1448-3S) disclosed that the PCSD had not established an adequate cost accounting system that controls, monitors, and reports the costs of each of its many activities. The financial accounting, reporting, and budgetary system should be activity-based and accurately identify the complete cost of each of the many activities, services, and programs maintained and operated by the PCSD, including the daily costs of housing the various inmates in custody. Generally Accepted Auditing Standards describe internal controls as follows:

*Management's plan, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing and controlling program operations, and the system in place for measuring, reporting, and monitoring program performance.*

We also found that improvements were still needed in the internal controls over Canteen Fund receipts and property and equipment. The specific internal control weaknesses noted are as follows:

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**a. Cost Accounting System**

Our follow-up review determined that the PCSD has not yet established an adequate cost accounting system that controls, monitors, and reports the costs of each of its many activities. Such a system should be activity-based and accurately identify the complete cost of the many activities, services, and programs maintained and operated by the PCSD, including the daily costs of housing the various categories of inmates.

The manner in which the PCSD presents its operating results is not useful for these purposes because it presents all expenses as if they occurred within only one cost center. The PCSD is an organization that performs many services, programs, and activities, each contributing to the overall cost of the PCSD. The PCSD needs to develop an activity-based cost accounting system that will capture and allocate the cost of the new \$12 million Administration Building that was opened in November 2002 and the many other activities of the PCSD that occur in that facility but are administration costs not related to the direct operation of the correctional facility. In addition, the PCSD's current accounting practice does not take into consideration costs for debt service and utility costs of the building or the staffing required for the activities listed above that occur in the building. Accordingly, it cannot be determined within a reasonable degree of reliability whether the PCSD is being adequately reimbursed for each of the services it provides to cities and towns of Plymouth County as well as the cost associated with the inmates it houses. Without such a system, in the event of future budget shortfalls, the PCSD will be forced to execute general, arbitrary, across-the-board costs cuts instead of requesting additional reimbursements for specific programs and costs or be able to determine the extent to which particular programs or services should be eliminated or cut.

The CGFRB instructed the PCSD to report on a monthly basis its revenue from federal inmates and advised the PCSD that it should adjust its expenditures accordingly if there is a revenue shortfall. However, we determined that the prior administration of the PCSD had not followed the directions of the CGFRB. Also, our follow-up audit determined that the PCSD, in its budgetary process, has not incorporated its management and chain-of-command structure into an effective tool to develop, implement, and control its operational activities.

**b. Controls over Canteen Fund Receipts**

Our prior audit disclosed that cash receipts of the Canteen Fund were generated from several other areas beside telephone revenue, including the greenhouse, print shop, commissary (commissions), vending machines (commissions), and visitor lockers. Our follow-up audit disclosed that the receipts from these locations are recorded in the PCSD automated accounting system, as are the PCSD's other revenues. The cash for these receipts is handled exclusively by one employee of the PCSD, who fills out deposit slips for the cash, takes the deposit to the bank for the receipts for each location, and reconciles the bank statements. This lack of segregation of duties for the receipt, recording, and depositing of revenues is contrary to sound management and internal controls.

**c. Controls over Property and Equipment**

Our prior and follow-up audits disclosed that there are inadequate controls over the items in the PCSD's listed property and equipment inventory. These items are listed as inventory but are expensed in the year of their purchase. The inventory system employed by the PCSD lists the purchase price, location, and description for the entire inventory but does not sort, tabulate, report, and analyze the cost effect on the cost center from which they were requisitioned and delivered, contrary to the PCSD's "Policy 343 Physical Property and Inventory Control."

Each PCSD department manager should be responsible for establishing a departmental budget and then controlling all costs of their department including inventory costs. All of these costs need to be differentiated by department in an activity-based cost system to better facilitate overall cost control and the efficient management of the PCSD's financial resources.

***Recommendation***

The PCSD should:

- Develop, implement, and monitor the financial activities of its functional departments with individual departmental budgets and ensure that these budgets are monitored against actual activity at specified periods during the fiscal year to detect and locate areas of operational variance that have an effect on the PCSD financial management as a whole.

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- Develop a comprehensive cost accounting system inclusive of all incurred costs, including direct costs, indirect costs, fringe benefits, and overhead costs, in order to facilitate management's decision-making and responsibilities.
  - Separate operational functions between employees so that one person does not handle all of the duties involved in the receipt, reporting, and custody of the Canteen Fund cash.
  - Develop inventory procedures for each department so that equipment is monitored and controlled in a similar fashion and annual operating costs for each department are properly reported. Each department's costs need to be differentiated from the operating costs of the other departments in the PCSD, and additions, subtractions and location status of all inventoried items are a part of this cost-control responsibility.

### **3. SYSTEMS TO MONITOR THE PERFORMANCE OF THE FOOD SERVICE PROVIDER NEED TO BE ESTABLISHED**

Our review of the inmate's food service contract determined that there was no executed contract with the food service provider on file at the PCSD or the County Commissioner's office. The original award was for three years with two option years totaling over \$8,044,889 for the five-year period. In addition, we determined that the contract's scope of service has been amended several times, including the cost and amount of food to be provided each inmate, effectively increasing the price of a meal prepared for correctional facility staff, inclusive of milk and other dairy products. We also determined that the PCSD and the food service provider were not complying with the terms and conditions of the Invitation for Bids (IFB) and that the PCSD's daily count recap sheet was not reconciled to the provider's daily food available report. The daily reconciliation of the meals tracking report is the source for the daily count recap sheet for reconciling the billing of daily food services.

The PCSD's Procurement Specialist stated that all bids are received, opened, and filed at the County Commissioners' Office. We were informed that in accordance with Sections 2 and 3 of Chapter 30B of the General Laws, the State's Uniform Procurement Act, all original documentation is maintained in a procurement file at the County Commissioner's office and that the County Commissioners are designated as the Chief Procurement Officer for all county procurements.

Also, we determined that the original IFB was not posted in the Secretary of State's Goods and Services Bulletin as required by Chapter 30B, Section 5(c), of the General Laws. All contracts with a value of \$100,000 or more must be posted in the Goods and Services Bulletin in addition to being advertised in a local news publication.

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Our review of documentation indicated that the County Commissioners reviewed the responses to the IFB and voted to accept the proposal on August 23, 2000. However, a copy of the executed contract could not be located at either the County Commissioners' Office or the Administrative Office of the PCSD. In fact, there is no known documentation that a written contract with the provider was ever executed after the County Commissioners voted to accept the proposal. Chapter 30B, Sections, 17(a), (b), and (c), of the General Laws describes the requirement of having a written contract as follows:

- (a) All contracts in the amount of five thousand dollars or more shall be in writing, and the rendered prior to the execution of such governmental body shall make no payment for a supply or service contract.*
- (b) Subject to the provisions of section three A of Chapter forty, a contract made in violation of this chapter shall not be valid, and the governmental body shall make no payment under such contract.*
- (c) A person who causes or conspires with another to cause a contract to be solicited or awarded in violation of a provision of this chapter shall forfeit and pay to the appropriate governmental body a sum of not more than two thousand dollars for each violation. In addition, the person shall pay double the amount of damages sustained by the governmental body by reason of the violation, together with the costs of any action. If more than one person participates in the violation, the damages and costs may be apportioned among them.*

Contrary to this provision of the law, the PCSD paid approximately \$8 million dollars to the provider for food services during the term of the procurement without a written contract. The initial term of the procurement was for three years (August 23, 2000 to August 23, 2003). The County Commissioners voted to extend the contract two additional years until August 23, 2005.

An additional stipend of 60 cents per snack was added to the original contract price of 86.9 cents. However, there is no documentation that the County Commissioners either voted on, had knowledge of, or approved any increase to the original approved price of 86.9 cents per meal. The General Terms and Conditions of the PCSD's IFB for food services states, in part:

*No changes to these terms and price will be made, except with the specific written consent of both parties.*

Also, Chapter 30B, Section 13, of the General Laws describes making increases to quantity or quality of services or supplies specified in contract as follows:

*The governmental body may increase the quantity of supplies or services or both specified in a contract provided: . . .(2) the procurement officer has specified in writing that an increase is*



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*necessary to fulfill the actual needs of the governmental body and is more economical and practical than awarding another contract....*

***Recommendation***

The PCDS should adhere to all provisions of the state's Uniform Procurement Act (Chapter 30B of the General Laws) as well as its own internal control procedures in regard to the procurement, administration, documentation, and monitoring of the food service contract and other contracted services.

**4. LEGAL EXPENSES MAY BE EXCESSIVE FOR THE AMOUNT OF GRIEVANCES RESOLVED AND LITIGATION SETTLED**

During the past two fiscal years the PCSD has spent approximately \$1,424,333 for outside legal services. The majority of these expenses were incurred during attempts to resolve grievances arising from overtime disputes and other labor complaints involving total claims of less than \$40,000. However, since being sworn into office in January 2005, the new Sheriff has hired his own legal counsel to resolve such complaints and grievances. Legal expenses are projected to be less than \$300,000 during fiscal year 2005. The PCSD has expended \$277,941 through March 31, 2005, and costs for outside legal counsel should be negligible during fiscal year 2006.

The PCSD's Chief Legal Counsel informed us that there appear to be potential settlements of at least \$545,200 arising from pending litigation for fiscal year 2006. The potential cost of trial expenses could range from \$248,000 to \$ 320,000. In addition, on May 2, 2005 the PCSD settled a lawsuit involving the prior administration for \$200,000. This settlement will not be payable until July 1, 2005. This lawsuit was estimated to potentially be as high as \$500,000. PCSD officials also informed us that on May 3, 2005, they received an invoice from the PCSD's insurer stating that the PCSD owes \$1,049,970 for claims arising from a prior class action lawsuit concerning strip searches at the correctional facility. PCSD officials told us that they intend to contest the insurer's invoice because there is a dispute over the amount of the deductible owed by the PCSD on each original claim.

***Recommendation***

The PCSD should continue its efforts to control the cost of its legal services while attempting to resolve outstanding labor grievances, arbitrations, and pending litigation.