



A. JOSEPH DeNUCCI
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

TEL (617) 727-6200
FAX (617) 727-5891

NO. 2010-8024-14S

**INDEPENDENT STATE AUDITOR'S REPORT
ON THE JANUARY 1, 2010
TRANSFER OF COUNTY SHERIFF'S OFFICES
TO THE COMMONWEALTH
IN ACCORDANCE WITH
CHAPTER 61 OF THE ACTS OF 2009**

**OFFICIAL AUDIT
REPORT
APRIL 30, 2010**

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April 30, 2010

The Honorable Jay Gonzalez, Secretary
Executive Office for Administration and Finance
State House, Room 373
Boston, Massachusetts 02133

The Honorable Steven C. Panagiotakos, Chairman
Senate Committee on Ways and Means
State House, Room 212
Boston, Massachusetts 02133

The Honorable Charles A. Murphy, Chairman
House Committee on Ways and Means
State House, Room 237
Boston, Massachusetts 02133

Dear Sirs:

As you know, Chapter 61 of the Acts of 2009, An Act Transferring County Sheriffs to the Commonwealth, which was enacted on August 6, 2009, transfers, except where specified, all functions, duties, and responsibilities of certain Sheriff's Offices. This correspondence is pursuant to Section 25 of the Act, which requires that the Office of the State Auditor (OSA) conduct a transition audit of the transfer of the Barnstable, Bristol, Norfolk, Plymouth, Suffolk, Nantucket, and Dukes County Sheriff's Offices to the Commonwealth and to file a report with the Secretary for Administration and Finance and the Chairs of the House and Senate Committees on Ways and Means no later than April 30, 2010.

Our audit was conducted pursuant to Chapter 11, Section 12, of the Massachusetts General Laws and 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 our audit was to:

- Determine whether all duties, functions, and responsibilities of the Sheriff's Offices were transferred in accordance with Chapter 61 of the Acts of 2009, including all applicable laws, rules, regulations, and policies relating to the transition to the Commonwealth;
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- Determine whether Sheriff's Offices' assets, liabilities, and debt were transferred in accordance with Chapter 61 of the Acts of 2009; and
- Report the results of our audits to the Sheriffs, the Secretary for Administration and Finance, and the Chairs of the House and Senate Committees on Ways and Means; prepare a summary report of these audits; and submit it to the aforementioned parties.

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

- Reviewed Chapter 61 of the Acts of 2009; Chapter 102 of the Acts of 2009; and other applicable laws, regulations, and policies relating to the transfer of Sheriff's Offices;
- Met with Sheriffs, various county treasurers, county commissioners, and other sheriff and county officials;
- Met with officials or received information (via a questionnaire) from the Office of the State Comptroller, Executive Office for Administration and Finance, 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 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 listings 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 listings of property, equipment, and inventory as of January 1, 2010 to determine their comprehensiveness and accuracy;
- Reviewed and analyzed fiscal year 2010 spending plans and budget projections;
- Reviewed and analyzed fiscal year 2010 appropriations 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 mandated Deeds Excise Funds 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 Sheriff's Offices should not be construed as an audit within the strict standards and guidelines adhered to by the OSA 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 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 organization. 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 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. The Sheriff's Offices were conducting their regular business while they were transitioning to the Commonwealth and while our audit was in progress. The many changes and extensive activities required for this transition were still ongoing as the audit was being conducted. Prior to the January 1, 2010 transition, County Treasurers (or in the case of the Suffolk Sheriff's Office, the City of Boston) processed Sheriff's Office payrolls and bills. After the transition, the staff of each Sheriff's Office was responsible for processing financial data and paying bills through MMARS and for using the Commonwealth's Human Resource/Compensation Management System (HR/CMS) to prepare its payroll. This transition required the staff of each Sheriff's Office to learn how to use two financial reporting and processing systems, populate the system's databases, and continuously enter data to encumber funds and pay obligations. The effect on our transition audits 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. Therefore, our audit approach was to determine the status of the Sheriff's Offices' 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.

This summary report outlines the status of the transition of the seven Sheriff's Offices being transferred in accordance with Chapter 61 and highlights areas in which inconsistencies exist between this Chapter and Chapter 34B of the General Laws, under which the seven prior Sheriff's Offices were

transferred. Copies of the seven individual reports have been included with this summary report. Additionally, each of these individual reports contains recommendations, where appropriate. The results of our transition audits are identified in greater detail in the Summary of Audit Results section of this report, as follows:

1. Transition Status of Sheriff's Compensation, Personnel, and Payroll
2. Transition Status of Assets Transferred
3. Transition Status of Liabilities and Litigation
4. Transition Status of Accounts, Programs, and Other Activities
5. Transition Status of Revenues Transferred
6. Transition Status of Other Matters
7. Transition Status of State Agency Responsibilities
8. Prior Audit Disclosures of Conflicts and Inconsistencies in Laws and Operations of Sheriff's Offices

As identified in our audits of the transition, the seven Sheriff's Offices have made progress in a number of areas over the past few months. Specifically, significant numbers of new employees have been successfully transferred from county government to the Commonwealth; real property parcels, equipment, property, and inventories have been transferred; initial spending plans and operational budgets have been adopted and are being monitored closely by the Executive Office for Administration and Finance and the Sheriff's Offices as first-year entities within state government; and a number of operational functions not conducted previously by the Sheriff's Offices have been adopted and implemented. We laud the efforts by the various state agencies that supported and facilitated the transition of these seven Sheriff's Offices, which was performed in a very constrictive timeframe of less than six months, with very limited staffing and resources, and during very difficult fiscal times. This transition differs greatly with that of the seven Sheriff's Offices as authorized under Chapter 34B, which was carried out over a four-year timeframe.

In addition to this transition audit, the OSA has conducted numerous audits of the seven Sheriff's Offices that were previously transferred to the Commonwealth. Our prior audits disclosed inconsistencies amongst the Sheriff's Offices regarding their financial operations and their application of various conflicting laws, rules, and regulations and made recommendations to address these issues. Chapter 61 further perpetuates these inconsistencies by imposing different requirements than those in the statute

under which the previous seven Sheriff's Offices were transferred. We have identified matters of conflict and inconsistency in these various areas in both our prior reports and in the Summary of Audit Results section of this report (See Part 8, "Prior Audit Disclosures of Conflicts and Inconsistencies in Laws and Operations of Sheriff's Offices.")

The future successful operation of the Sheriff's Offices under this trying current economic climate will require a serious effort to review and adopt legislative changes to existing laws and statutes that are now outdated and do not reflect the current operational structures of the Commonwealth's 14 Sheriff's Offices. Also, innovative approaches may be needed for the annual budgeting cycle; changes within operations; and the establishment of concise, consistent, and applicable internal controls. Further, significant changes to policies and procedures required to sustain a solid internal control system must be enacted and monitored.

In order to continue the transition and to support the significant effort already undertaken in shifting the 14 Sheriff's Offices from county government to the Commonwealth, responsible Commonwealth officials must ensure that effective laws, rules, and regulations are in place, including consistent, sufficient, and effective policies and procedures and the administrative capability to protect the significant investment of taxpayer dollars that have been expended thus far to secure this transition. To strengthen transition procedures and ensure the operational stability and future development of the 14 Sheriff's Offices, the Legislature and the Special Commission appointed to investigate and study all Sheriff's Offices throughout the Commonwealth should:

- Discuss with the seven Sheriffs the current operations of the newly transitioned Sheriff's Offices and the successes and problems encountered with the transition;
- Continue this discussion with the seven Sheriffs of the previously transitioned Sheriff's Offices on the current operations of their offices and the successful implementation or challenges encountered in their transition to the Commonwealth;
- Examine the results of our prior audits of the previously transferred Sheriff's Offices and the current transition audits to identify existing laws, rules, and regulations that are inconsistent or obsolete;
- Identify areas of ineffective and inefficient operations, and study computerized and electronic methods of communications within the Sheriff's Offices' operations;
- Identify areas of either insufficient or excess funding for operations;
- Identify areas of overlapping or duplicative operations and activities being performed by the Sheriff's Offices, other state correctional agencies, or state and local law enforcement agencies within the various geographic regions of the Sheriff's Offices;

- Ascertain areas in which inadequate internal controls within the Sheriff's Offices exist and make improvements;
- Assess any existing or proposed plans for the consolidation, expansion, or elimination of Sheriff's Offices or their functions, including civil process; and
- Contact other public, quasi-public, and private corrections entities to explore current development trends, best practices, and the possibility of sharing resources.

I hope this information will be helpful in your continued efforts to assess the transition and to secure the future direction, development, and financial stability of the 14 Sheriff's Offices within the Commonwealth. Should you have any questions or need further assistance concerning this or any other matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "A. Joseph DeNucci". The signature is written in a cursive, flowing style.

A. JOSEPH DeNUCCI
Auditor of the Commonwealth

cc: Massachusetts Sheriffs
Special Commission Pursuant to Chapter 61

SUMMARY OF AUDIT RESULTS

1. TRANSITION STATUS OF SHERIFF'S COMPENSATION, PERSONNEL, AND PAYROLLS

Sheriffs' Compensation

The salaries of the seven elected Sheriffs were found to be 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 sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and Worcester shall each receive a salary of \$123,209. The sheriff of the county of Dukes shall receive a salary of \$97,271. The sheriff of the county of Nantucket shall receive a salary of \$71,332.

The Sheriffs of Barnstable, Bristol, Norfolk, Plymouth, and Suffolk counties all were being paid at the statutory salary of \$123,209. The Sheriffs of Dukes and Nantucket counties were receiving salaries of \$97,271 and \$71,332, respectively, in compliance with the statutory requirement.

Additionally, we found that Sheriffs received other compensation and benefits that could be in conflict with the statutory salaries as allowed under the Commonwealth practices. Compensation and benefits received are summarized as follows:

- The Barnstable Sheriff received longevity pay of \$6,160 and an education incentive of \$2,500. The subsequent votes to approve and disburse funds for these longevity and education incentive benefits as part of a full compensation package to the Barnstable Sheriff have been affirmed on an ongoing basis by the Barnstable County Commissioners up to the transition date.
- The Suffolk Sheriff received longevity pay of \$884 as calculated in accordance with the Suffolk Sheriff's Office (SSO) Benefits Guide for Managerial Employees.
- The Nantucket Sheriff received no other forms of compensation, including any longevity pay, sick, vacation, or other leave accruals maintained or transferred for the Sheriff. It should be noted that the Sheriff did receive longevity pay, as part of a written county policy, in fiscal year 2009. Moreover, the Sheriff received a decrease in compensation on January 1, 2010 that adjusted his annual salary from \$93,683 to \$71,332, in compliance with Chapter 61. In addition, Chapter 61 eliminated the third paragraph of Chapter 37, Section 17, of the General Laws,

which previously enabled the Sheriff to retain all fees collected for service of process. In this regard, the Nantucket Sheriff's Office (NSO) opened a separate banking account as required by the Commonwealth, to maintain civil process funds. However, the personal bank account of the Sheriff used for civil process before the transfer was still being utilized as of February 2010. We brought this to the attention of NSO officials, who stated that this account would remain open until all outstanding prior liabilities have been cleared.

In addition to the salaries and compensation packages granted to certain Sheriffs, we found that all the Sheriffs received no other forms of benefits of sick, vacation, or other leave accruals maintained or transferred for these Sheriffs. We did, however, note the following:

- For the Bristol Sheriff, there was an accrual balance of sick time (900 hours) and personal time (24 hours) transferred initially to the Commonwealth's Human Resource/Compensation Management System (HR/CMS). We brought this to the attention of Bristol Sheriff's Office officials, who stated that this was an error, took immediate corrective action, and indicated that the Sheriff will have no such accruals in the future.
- The Nantucket Sheriff has brought legal action against the County of Nantucket for outstanding vacation pay for the past 10 years. If litigated in the favor of the Sheriff, a significant claim could result against the Commonwealth.

The Special Commission should review the issue of Sheriffs receiving longevity and educational stipends as state officials to determine the legality of the matter and for purposes of uniformity amongst Sheriffs and other elected officials.

Personnel and Payrolls

The transition of the seven Sheriff's Offices from county government to the Commonwealth resulted in the transfer of 2,881 employees. These employees have the responsibility for the incarceration, oversight, and custodial care of approximately 6,103 inmates, as shown in the following chart:

Sheriff's Office	State Employees After 01/01/2010	County Employees Before 01/01/2010	Inmates in Custody January 2010
Barnstable	325	330	450
Bristol	591	522	1,322
Dukes	50	50	30
Nantucket	5	5	-
Norfolk	302	304	645
Plymouth	572	573	1,360
Suffolk	<u>1,036</u>	<u>1,046</u>	<u>2,296</u>
TOTALS	<u>2,881</u>	<u>2,830</u>	<u>6,103</u>

Our testing of the Sheriff's Offices' transition of personnel and payroll noted the following exceptions:

Plymouth Sheriff's Office (PSO)

- We found that the 12 part-time Civil Process Division employees and deputies were not on HR/CMS but remain on payrolls processed by an outside payroll vendor and paid from civil process fee revenue.
- We did find minor payroll errors in regards to the longevity pay (4% error rate), roll call (72% error rate), and Medicare deductions (8% error rate) recorded in HR/CMS. Also, we found minor errors in the sick time (8% error rate) and compensation time (36% error rate) transferred. We brought this to the attention of the Human Resources Department, which took immediate corrective action and reviewed the remaining personnel records for any similar issues.
- Regarding employee health insurance premiums, we were able to verify that the union employees, whose collective bargaining agreement stipulated a 10% premium contribution for Health Care Insurance, had an error rate of 4%. Specifically, one union employee in our sample had the insurance contribution premium percentage increased from 10% to 25% after the transfer. Because of this discrepancy, we expanded our review of health insurance premium contribution percentages to review all employees' health care deductions and found 15 union employees whose contribution premium percentages increased from 10% to 25% after the transfer. We discussed these discrepancies with the Human Resources Assistant, who planned to review all health insurance

premiums. A discrepancy report was filed for the one employee for reimbursement of any additional funds paid in error for health insurance and, according to the Human Resource Assistant, additional discrepancy reports will be filed after a complete review of post-transfer contribution premiums is conducted. Upon review, the PSO demonstrated to our satisfaction that the 15 employees in question were being properly assessed.

Bristol Sheriff's Office (BSO)

- Our testing of accruals indicated that there were discrepancies in the County Treasurer's Office records and in the BSO payroll systems prior to the transfer. Specifically, the benefit accruals that were transferred to HR/CMS came from the BSO payroll system and in numerous instances did not reconcile to the County Treasurer's Office and BSO accrual records. We brought this to the attention of the BSO Payroll Department, which comprehensively reviewed accruals for all employees. The two systems showed discrepancies totaling 12,800 hours for sick time, 1,700 hours for vacation time, and 45 hours for personal time. As of the end of fieldwork, the BSO and the County Treasurer's Office were reviewing all discrepancies and anticipated that all variances will be reconciled before the end of the fiscal year.

Norfolk Sheriff's Office (NSO)

- Nineteen employees had vacation balances that were more than the maximum carry-over amount customarily allowed by state agencies, which is twice the annual accrual based on the years of service. The Norfolk County policy regarding vacation accrual carry-over states, "In no case can vacation leave be accumulated for more than one year, except on recommendation of the County Commissioner and approved by the County Personnel Board." According to the Norfolk County Administrator, "the purpose of the rule is to discourage multi-year accumulations of vacation time, but in practice operational realities have led to accumulations. The status of these accounts is reviewed annually. At the close of each fiscal year, staff prepare and submit schedules of recommended vacation carryovers to the County Commissioners for approval in the Commissioners' concurrent capacity as Commissioners and County Personnel Board. The most recent review with respect to Sheriff's personnel was for the carryover list effective July 1, 2009, which was the last annual review date prior to the transfer of the Sheriff's office to the state on January 1, 2010." Under the state's vacation accrual practices for these 19 employees, the potential liability for these accruals would be \$88,767 on January 1, 2010. The NSO indicated that due to the operational needs of this office and the work schedules of its employees, the Sheriff's Office can not afford to grant all of its employee's vacation time when requested. In addition, the NSO indicated that collective bargaining agreements do not specify that an employee must utilize all earned vacation time, and enforcing such a standard without bargaining would be in violation of said collective bargaining agreements. The NSO has notified the Commonwealth's Human Resources Division (HRD) of this issue throughout the transition process and continues to seek guidance on a resolution to this issue from HRD.

Suffolk Sheriff's Office (SSO)

- Our tests on the transition of payroll included a check for the accuracy of accrual balances (i.e., sick, vacation, personal, and compensatory time) following the transfer from the City of Boston (COB) payroll system onto HR/CMS. Our tests found that 21 of 25 employees had inaccurate accrual balances maintained in HR/CMS following the transition. In response to the inaccuracies, the SSO is initiating a plan to address accrual issues related to service dates, timing of accrual leave postings, and accrual leave time carry-over rule changes that are necessary to maintain accurate accrual balances following the transition to HR/CMS, which is planned to occur during March 2010. Additionally, SSO officials stated that eventually, the SSO Kronos timekeeping system would interface with HR/CMS and eliminate the burdensome amount of data entry currently needed to maintain accrual balances in HR/CMS.
- The Suffolk Civil Process Division operates independently from the SSO, and Civil Process Division employees are considered neither county nor state employees. The Civil Process Division payroll is processed by the use of an outside payroll vendor and paid from civil process fee revenue. There are 15 part-time deputies and 15 employees (14 full-time and one part-time) in the Civil Process Division.

Dukes Sheriff's Office (DSO)

- There were several variances with non-union employees' leave balances between what was recorded by the county before the transfer and what was transferred to HR/CMS. 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 that 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 of the DSO's Special Sheriff, who stated that he was aware of the variances and is working with the Human Resources Division within EOAF to reconcile the differences.

Nantucket Sheriff's Office (NSO)

- We reviewed the transferred employees' benefit accruals to verify their accuracy in the transition from the county to the Commonwealth. The county payroll system did not record individual leave history for NSO employees prior to the transfer. According to documentation received from the County Treasurer, the

county and the Commonwealth's Human Resources Division made a review, reconstruction, and determination of the amount of accruals allowed to be transferred to the HR/CMS system. We reviewed the documentation provided to the Commonwealth's Human Resource Division and noted that it corresponds to the amounts now being recorded in HR/CMS.

2. TRANSITION STATUS OF ASSETS TRANSFERRED

We determined the status of assets such as cash, accounts receivable, and property and equipment inventory at the seven Sheriff's Offices transferred from county government to the Commonwealth, as discussed below.

Cash

For the most part, the seven Sheriff's Offices controlled a significant amount of and diverse group of funds. Transferred Sheriff's Office funds were controlled by and in the custody of the respective County Treasurer's Offices except for the Suffolk Sheriff's Office, whose funds were in the control and custody of the City of Boston (COB).

Chapter 61, Section 12, of the Acts of 2009 requires that civil process, inmate, telephone, and commissary funds remain with the Sheriff's Offices. Also, revenue sources derived apart from the Office of the State Treasurer (OST) may be retained by the Sheriff's Offices to address the needs of the citizens within each county. Specifically, Chapter 61, Section 12, states, in part:

- (a) Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.*
- (b) Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state and local governments and other such accounts and regarding which revenues shall remain with the sheriff's office.*
- (c) Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.*

As of January 1, 2010, the types of accounts that are in the control and custody of the seven Sheriff's Offices included, but were not limited to, inmate canteen, fines, commissary, work

detail, civil process, federal grants, witness fee, inmate, substance abuse, and immigrant detainee accounts. The total amount of funds controlled by each Sheriff's Office at the time of transfer is as follows:

Sheriff's Office	Funds
Barnstable	\$ 2,571,444
Bristol*	3,408,605
Dukes*	238,960
Nantucket*	1,471
Norfolk*	4,974,644
Plymouth*	940,044
Suffolk*	<u>19,584,869</u>
Total	<u>\$31,720,037</u>

* Includes civil process funds.

Highlights of the cash accounts follow:

- The Barnstable Sheriff's Office's cash, checking, savings, and all other bank accounts were controlled by and in the custody of the Barnstable County Treasurer's Office, with the exception of the Civil Process Office, whose revenues, expenses, and operations were independently controlled as of January 1, 2010. The respective accounts totaled \$ 2,571,444 after the transition date.
- The Bristol Sheriff's Office County Appropriation Account, referred to as the Jail Account, was maintained by the County Treasurer as of December 31, 2009. We reviewed the status of this account on January 1, 2010 and again on March 16, 2010 and identified the cash balance was \$1,361,155, which was expected to be the final balance inclusive of all anticipated revenue and expenses. This account plus interest accrued in the amount of \$1,365,232 was deposited with the OST on March 19, 2010 as final settlement of the transfer. The BSO also controls a significant amount and diverse group of funds totaling \$2,637,788 that are controlled and in the custody of the BSO that are, by statute, not going to be transferred to the Commonwealth. We also reviewed other BSO cash, checking, savings, and all other bank accounts totaling \$770,817 that were still controlled and in the custody of the Bristol County Treasurer's Office and determined that the accounts had not been transferred to the custody of the BSO as of March 16, 2010.
- The Dukes Sheriff's Office, as of March 31, 2010 had not obtained custody of its cash, checking, savings and other bank accounts, totaling \$199,590, from Dukes County Treasurer's Office. The DSO also had funds totaling \$39,369 in its control and custody as of January 1, 2010.

- The Nantucket Sheriff's Office controlled minimal funds at the time of the transfer. According to NSO officials, the only account with a cash balance was the Sheriff's civil process account, which had a reconciled balance of \$1,471 at the time of transfer. Moreover, according to the County Treasurer's Office, all funds previously maintained by the NSO have been transferred to the Commonwealth.
- Prior to the transition, the Norfolk Sheriff's Office had control and custody of inmate and commissary accounts, whereas the Civil Process Division's accounts were maintained by the Norfolk County Treasurer's Office. As part of the transition from the county to the state, the Norfolk County Treasurer's Office transferred all civil process operations and related accounts to the NSO, which along with the existing inmate and commissary accounts will remain with the sheriff and not be transferred to the Commonwealth. The NSO administered accounts totaling \$4,974,644.
- As of January 1, 2010 the Plymouth Sheriff's Office controlled a significant amount and diverse group of accounts totaling \$940,044.
- The Suffolk Sheriff's Office, as of February 26, 2010, had not obtained custody of its accounts, totaling \$16,105,665 from the City of Boston. Also, the SSO had inmate funds totaling \$3,746,811 and Civil Process funds totaling \$210,278 that will remain with the SSO.

Accounts Receivable

Our review disclosed that some of the Sheriff's Offices had accounts receivable and others did not. However, on January 1, 2010, the County Treasurers (or the City of Boston for the Suffolk Sheriff's Office) maintained control and custody of certain Sheriff's Office funds, including accounts receivable. A summary of accounts receivable for each Sheriff's Office follows:

Barnstable Sheriff's Office

- There were no accounts receivable on the BSO's county records as of December 31, 2009. However, there were \$67,416 in Housing and Community Correction funds that need to be transferred from the county to the Barnstable Sheriff's Office. Also, there are leases, contracts, and rental agreements that have been set up in a Communication Trust Fund account in the Massachusetts Management Accounting and Reporting System (MMARS).
- Telecommunication revenue from the BSO's AT&T, Verizon, Nextel, and Evercom agreements for January, February, and March 2010 was \$30,545 and projected income for April, May, and June 2010 is \$30,550. The AT&T, Verizon, and Nextel funds are swept and then posted to the Communication Trust Fund; Evercom, Inc. funds are posted to the Inmate Canteen Account;

and the United States Department of Justice funds are posted to the Federal Grants Account.

- The separate fire dispatch revenue from the Barnstable, Brewster, Dennis, Mashpee, Orleans, and West Barnstable fire departments are projected to be \$80,957 through June 30, 2010. These amounts are deposited into a sweep account with the OST and then posted to the Communications Trust Fund for operational costs of the dispatch service.
- There are several MMARS accounts that track funds from the federal government. These include a budgetary account for the Federal Reimbursement Retained Revenue Account for the federal prisoners under the U.S. Marshals Service, a Trust Fund Account for Federal Detention for Work Release Program Employer Amounts, and grant accounts to handle the federal reimbursement funds for the purchase of bulletproof vests and for reimbursement under the Federal Bureau of Prisons Electronic Monitoring and Work Release Programs.
- Further, the BSO and Keefe Commissary Network contracted for the cash card system used for inmate purchases at the Inmate Canteen. The original contract time period was from July 1, 2007 to June 30, 2008 and was renewed for two additional years. The contract is based on monthly sales at the Inmate Canteen less postage and non-commissionable items, the adjusted gross sales of which is retained by the BSO at a 32.5% commission. All proceeds are deposited into the Canteen Fund. Provisions are made for supplies to be donated to indigent inmates.

Bristol Sheriff's Office

- As of January 1, 2010 the Bristol Sheriff's Office had accounts receivable totaling \$295,717 for grants. According to BSO officials, these were the only formal accounts receivable maintained prior to the transition date of January 1, 2010. However, as noted in this report, the County Treasurer controlled these accounts with significant balances as of January 1, 2010. BSO officials indicated that they were aware of this issue but did not maintain their own financial reporting of these accounts because they relied on the County Treasurer to do so. The BSO is currently working on setting up accounts receivable in MMARS as part of its new responsibilities of becoming a state entity.

Dukes Sheriff's Office

- As of January 1, 2010, there was one account receivable for an Emergency 911 grant totaling \$88,000. However, \$199,950 was held by the County Treasurer and should be transferred to the Dukes Sheriff's Office.

Nantucket Sheriff's Office

- There were no accounts receivable on the accounts of record at the NSO as of January 1, 2010. This is because the County Treasurer maintained all financial records of the NSO before the transfer. According to County Treasurer records, there was \$1,580 in NSO Third-Party Detail funds outstanding as of January 1, 2010 that dated back to June 13, 2003.

Norfolk Sheriff's Office

- Currently, the NSO has two separate grant agreements with the Department of Public Health to provide HIV and substance abuse services. As of December 31, 2009, the NSO was owed \$6,770 for the HIV program and \$273 for the substance abuse program. Also, the NSO is owed \$114,200 for commissary commissions for the period July 1, 2009 to December 31, 2009. There was a change in vendors at the start of the fiscal year, and a software compatibility issue developed between the two vendors who maintain the commissary operation and the inmate accounts, resulting in delayed payment of the commissions. These amounts constitute the total accounts receivable as of the transition date.

Plymouth Sheriff's Office

- As of January 1, 2010, there were no accounts receivable on the records of the Plymouth Sheriff's Office. However, there was \$187,305 that was held by the County Treasurer and should be transferred to the Plymouth Sheriff's Office.

Suffolk Sheriff's Office

- We identified \$2,317,356 in accounts receivables for SSO as of December 31, 2009. The \$2,317,356 consists of accounts receivables related to U.S. Immigration and Customs Enforcement (ICE) housing, transportation, and miscellaneous costs of \$1,673,643; SSO Community Works Programs costs of \$69,895; and December 2009 Deeds Excise Fund receipts of \$573,818. In addition, Chapter 61, Section 2, of the Acts of 2009 requires that as of January 1, 2010, deeds excise tax should be transmitted to the Commonwealth's General Fund. Our audit determined that the January 2010 deeds excise collection of \$400,916 was not remitted to the Commonwealth's General Fund by the Secretary of State's Office (which collects deeds excise for Suffolk County) but transmitted to the City of Boston. As a result of our audit, this issue has been addressed.

Property and Equipment

Chapter 61, Section 7(a), of the Acts of 2009 requires Sheriff's Office property and equipment be transferred to the Commonwealth as follows:

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.

Also, Chapter 61, Section 23, of the Act requires the Sheriff's Offices to provide EOAF with a detailed inventory of all property in their possession. However, we found that many of the Sheriff's Offices had property and equipment listings that were incomplete and did not include values for some of the items. As of the date of transition, the Sheriff's Offices were in various stages of compiling and transferring their property and equipment to the Commonwealth.

Chapter 61, Section 7(e), has a special provision for the Dukes County jail and house of correction if the facilities are no longer used for public safety purposes, as follows:

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 Dukes Sheriff's Office 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, of the Acts of 2009, as follows:

(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.

DSO officials indicated that 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 stated that 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, and the property was not for sale at that time.

The Plymouth County Correctional Facility is located on 38 acres of land that is leased from Plymouth County. The Plymouth County Correctional Facilities Corporation (PCCFC) constructed the facility in 1994 after obtaining funding for the construction project by issuing bonds. Chapter 61, Section 8, of the Acts of 2009 requires that the Commonwealth refinance any outstanding bonds of the PCCFC, which is then to be dissolved. Before the PCCFC is dissolved, any funds held in trust by the County Treasurer will be disbursed in accordance with the Trust Agreement; any remaining PCCFC reserves held by the County Treasurer will be transferred to the PSO and held in the Facilities Maintenance Trust Fund. This trust fund is to be used for maintenance, repairs, and replacements of the PSO's facilities, subject to DCAM's approval.

The PSO has transferred a listing of buildings and submitted a preventive maintenance listing to DCAM. Although some of the buildings were constructed at a cost of

\$82,223,000, none of the buildings on the listing contained a valuation amount. DCAM is required to assign a value to the listing of buildings that the PSO submitted. During the first two weeks of January 2010, DCAM was surveying the property of the PSO. It should be noted that Plymouth County officials are insisting that the property known as the farm will stay with the county and not be transferred to the Commonwealth. County officials believe that a lease agreement will be forthcoming between Plymouth County, DCAM, and the PSO, to that effect.

3. TRANSITION STATUS OF LIABILITIES AND LITIGATION

We reviewed the status of accounts payable, potential litigation, and contracts and leases that were being transferred to the Commonwealth as required by Chapter 61 of the Acts of 2009, summarized as follows:

Barnstable Sheriff's Office

Accounts Payable

- The final pre-transition accounts payable balance as of December 31, 2009 was \$68,294. Our review disclosed that all but four outstanding items totaling \$10,750 had been paid by either the county or the Commonwealth as of March 24, 2010.

Potential Litigation

- There are four cases in active litigation at the BSO, none of which require any contingencies due to any impending financial loss because three of the four cases have insurance and indemnification against loss, and the fourth was settled without financial loss.

Contracts and Leases

- As of the date of transfer, the BSO had one lease for eight photocopier machines and associated devices along with one separate photocopier leased for a machine in the Education Department. The BSO also had a wide range of services, some based upon usage and others on a fixed price. Our review found that all existing contract terms fell within the current 2010 fiscal year and appeared to be necessary and reasonable expenditures for the operation of a correctional facility. Moreover, the contracts we reviewed have been integrated into MMARS.

Bristol Sheriff's Office***Accounts Payable***

- The Bristol Sheriff's Office had outstanding accounts payable in the amount of \$86,360 due to numerous vendors for goods or services rendered prior to the transfer. In addition, the BSO and relevant state agencies, including the OSC and the OST, were still in the process of transferring the balance of these funds for the BSO's use. As of March 19, 2010, the BSO was still waiting for the OSC to set up the proper accounts to enable payment of these obligations.

Potential Litigation

- There are nine cases in active litigation at the BSO, and no contingent liabilities have been recorded. Six of these cases involve former or current employees bringing discrimination suits against the BSO. There are two pending cases between the BSO and the National Correctional Employees Union in regard to the right of canine officers to unionize and the right of the Group Insurance Commission (GIC) to bring union members under its control. Additionally, there is a construction case arising out of the creation of the U.S. Immigration Control Enforcement (ICE) Detention Center. The final outcome and potential financial impact these may have on the BSO and the Commonwealth has not yet been determined.

Contracts and Leases

- As of the date of transfer, the BSO had two leases and 14 contracts in place. The leases are for two photocopiers. The 14 contracts entered into by the BSO cover a wide range of services, with some based on usage and others on a fixed price. The two largest contracts are for medical services and pharmacy services and supplies, which totaled approximately \$6 million annually.

Dukes Sheriff's Office***Accounts Payable***

- Prior to the transfer, all DSO expenses were sent to the County Treasurer for payment and 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 payable. Our review of the County Treasurer's financial records indicated that as of March 31, 2010, there were no outstanding accounts payable relating to the DSO.

Potential Litigation

- There are two cases in active litigation. One is a lawsuit that the DSO expects to be dismissed because of its lack of involvement in the matter. The other case involves a tort claim of allegedly unlawful arrest brought by an individual seeking damages of \$75,000. The DSO believes these claims will not result in a judgment against it and therefore has not recorded any contingent liabilities.

Contracts and Leases

- The DSO had seven leases and three contracts in place. Specifically, there are three property lease agreements for housing community corrections, the Civil Process Division, and the 911 call center. The community corrections and the 911 call center leases expire in 2026, and the Civil Process Division lease expires in 2028. The future 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 DSO has three contracts 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.

Nantucket Sheriff's Office***Accounts Payable***

- The NSO did not maintain any accounts payable records and relied on the County Treasurer to maintain and process all accounts payable. Our review of the County Treasurer's financial records indicated that as of December 31, 2010, there were outstanding accounts payable relating to legal fees in the amount of \$3,321 and computer-related expenses in the amount \$567.

Potential Litigation

- According to NSO officials, there is only one outstanding legal case. The Sheriff brought this case against Nantucket County for his outstanding vacation pay for the past 10 years. This action is still pending in Nantucket Superior Court.

Contracts and Leases

- The NSO pays an annual rental rate of \$5,400 to the town and county government, but there is no formal rental agreement. There are two written lease agreements for storage space totaling \$3,197 annually, with one-year options for renewals. The NSO has only one contract with the Barnstable Sheriff's Office to house inmates. The yearly contract obligation is \$200,000 and, effective the date of transfer, the NSO and the BSO entered into an Interdepartmental Service Agreement (ISA) for the time period of January 1, 2010 to June 30, 2010 in the amount of \$100,000.

Norfolk Sheriff's Office***Accounts Payable***

- Prior to the transfer, the NSO sent its bills to the County Treasurer, who would then process the invoices for payment. We determined that as of January 1, 2010, the NSO had \$223,279 in unpaid obligations incurred prior to the transition. Included in this total is approximately \$50,000 in medical bills from fiscal year 2009; however, the NSO has transferred funds to pay these bills. The NSO is in the process of entering vendor information into MMARS to encumber and pay invoices. As of April 6, 2010, the NSO had paid 466 invoices totaling \$1.7 million through MMARS.

Potential Litigation

- We obtained and reviewed a listing of pending cases from the NSO's general counsel. Currently, there are three cases pending in court. In one case, summary judgment was issued in December 2009 in favor of the NSO, but the case has not yet been dismissed. The second case, which has remained inactive since 2008, involves an inmate who claims that medical personnel did not provide him care for chronic asthma. The NSO is waiting for the court to either move forward or dismiss this case. The final case involves an inmate who claims he was denied access to the law library. This case is still pending in court. No estimated cost has been assigned to these cases.

Contracts and Leases

- The NSO had seven leases that were transferred from the county. We obtained and reviewed these lease agreements, which now will become the responsibility of the Commonwealth. These leases were for photocopier services, office and warehouse space rentals, mailing equipment and services, and a communications vehicle at a cost of approximately \$242,000 annually. These leases are in the process of being entered into MMARS to encumber the funds and make payment on the invoices.

Plymouth Sheriff's Office***Accounts Payable***

- Our audit disclosed that as of January 1, 2010, the PSO had \$2,700,000 in unpaid invoices dating back to August 2009 due to a lack of available funding. As of March 18, 2010, the County Treasurer was still in the process of paying invoices, and there were approximately \$15,000 in unpaid expenses dating back prior to December 31, 2009. However, according to the County Treasurer, there is now sufficient funding to pay off all invoices prior to the transfer, and the balance of funds, estimated to be \$165,000, will be remitted to the Commonwealth for redistribution to the PSO. The PSO and relevant state agencies, including the OSC and the OST, were still in the process of transferring these funds for the PSO's use.

Potential Litigation

- There are several cases in active litigation for which no contingent liabilities have been established and recorded. These cases include a lawsuit filed by the Association of County Employees seeking to prevent the transfer of employee union health insurance benefits from the county to the GIC. In addition, there are two lawsuits involving PSO employees and the Massachusetts Commission Against Discrimination (MCAD), one of which Plymouth County has lost with a judgment for approximately \$120,000, but has appealed; the other of which was dismissed due to lack of probable cause, but is being appealed. Moreover, there are three lawsuits pending at the United States District Court within Plymouth County that involve either PSO inmates or employees. Finally, there are two cases pending at the Division of Labor Relations involving bargaining agreements. The potential financial impact that these cases may have on the PSO and the Commonwealth has not been determined.

Contracts and Leases

- The PSO had seven leases in place. Specifically, there are two leases for office equipment, one for equipping vehicles for lights, and four lease agreements covering 22 vehicles. As of January 1, 2010, the yearly lease obligation for the PSO was \$176,200, and the remaining future lease obligations were approximately \$344,280. Also, in addition to these leases, the PSO had six inmate betterment contracts and 58 contracts for jail operations. These inmate betterment contracts cover a wide range of services, including training, counseling, and various supply contracts, and the jail operations contracts included waste disposal, medical services, and various supply and service contracts. These contracts are utilized and expenditures are incurred dependent upon the level of usage and services as delivered.

Suffolk Sheriff's Office***Accounts Payable***

- The SSO did not provide an accounts payable list (payee, amount owed, payment due date, etc.) as of the transition date of January 1, 2010. The City of Boston (COB) and the SSO had an agreement that all bills received by the COB by December 18, 2009 would be paid by the COB using SSO accounts. Some goods and services received prior to December 18, 2009 were not invoiced by the vendor prior to the cut-off date and will be paid by the SSO. A few examples include food service management; inmate medical services; and utilities, communications, and gasoline expenses.
- The SSO has a multi-year food service management contract for the correctional facilities. For fiscal year 2010, the food service management contract totaled \$3,994,040. Prior to the transition, the SSO had not been invoiced by the vendor for services provided during the second half of December. Regarding invoices from hospitals for inmate medical services, there is a routine delay of six to eight months from the time of service until the invoice is received and paid by the

SSO. Without the invoices, the SSO cannot identify the services rendered and therefore cannot accurately estimate the extent of the liability. The SSO pays the Medicaid rate for inmate medical services, and the Deputy Director of Financial Services stated that these services typically cost approximately \$500,000 annually. There is a comprehensive memorandum of agreement being drafted between the COB and the SSO as the SSO continues to procure several different types of goods and services from the COB (e.g., some utilities, radio and telephone services, and gasoline). At the time of our fieldwork, the SSO and COB chief legal counsels were preparing the agreement. Prior to the transition, some of these expenses had not been invoiced.

- There is an annual sick time buyback benefit in place for all employees at the SSO. Buyback benefit details vary slightly based on collective bargaining agreements and management policies. It is anticipated that calendar year 2009 sick time buyback payments will be disbursed by March 31, 2010. The March 2009 anticipated liability was budgeted for \$194,000, but actual disbursement totaled approximately \$40,000. Due to continuing fiscal constraints, this program was suspended for non-bargaining unit employees for calendar year 2009. Sick time buyback for calendar years 2007 and 2008 was \$173,405.43 and \$185,422.93, respectively.

Potential Litigation

- The SSO provided two litigation lists, as follows:
 - One list that had been submitted to the Office of the Attorney General listed 44 cases as of September 17, 2009. This list included 21 cases with a potential liability of \$22,185,051 and another 23 cases with no dollar amount. The SSO Chief Legal Counsel provided a second litigation list as of January 12, 2010. This list cites 45 cases but does not include potential costs.
 - The largest potential liability that has come to our attention is a United States District Court case involving an inmate brought against the SSO by an inmate for lack of toilet and handwashing facilities in certain house of correction cells, claiming \$15,000,000 in damages. This matter is listed as an unfunded planned project on the Commonwealth of Massachusetts Fiscal Year 2010 Capital Budget, Appendix D – Project and Program Descriptions, Executive Office for Administration and Finance, September 2009. According to the SSO Chief of Operations and Planning, bond funds for this project have not been issued.
 - There was also one pending litigation issue involving a lawsuit resulting from a seizure of property by the SSO's Civil Process Division. No dollar amount for this potential liability was provided.

Contracts and Leases

- The SSO has a \$2,908,800, 10-year lease for a two-story building located at 33 Bradston Street, Boston. This property is used for the operation of a Community Corrections Center. The existing 10-year lease expires on September 30, 2010. The SSO sub-leases the first floor of the 33 Bradston Street property to the Trial Court Community Corrections program. The sub-lease is for a one-year period (July 1, 2009 to June 30, 2010) at a cost to the Trial Court of \$236,588. The SSO Civil Process Division has a \$588,000, five-year lease (May 1, 2007 to April 30, 2012) for space at 151 Merrimac Street, Boston.

4. TRANSITION STATUS OF ACCOUNTS, PROGRAMS, AND OTHER ACTIVITIES***Status of Sheriff's Office Reporting in the Massachusetts Management Accounting and Reporting System (MMARS)***

Prior to January 1, 2010, the County Treasurer's Offices (or in the case of the Suffolk County Sheriff's Office, the City of Boston) processed Sheriff's Office expenditures and financial transactions. After the transition to the Commonwealth, the Sheriff's Offices were responsible for processing expenditures and financial transactions in MMARS. During the transition period, the seven Sheriff's Offices were in various stages of establishing the necessary information and processing transactions in MMARS. The learning curve is quite steep and requires additional time by all parties involved. Each Sheriff's Office continues to progress toward full implementation of MMARS for all of their financial activities. Subsequent to our audit review at the individual Sheriff's Offices, and in order to give an updated status report on the accounts entered into MMARS, we obtained the status of accounts for the seven Sheriff's Offices entered into MMARS as of April 15, 2010 (see Appendices No. I to VIII).

Budget Status and Spending Plans

Chapter 27, Section 2(b), of the Acts of 2009, line item 8910-0000, appropriated certain funds for the expenditures of the Barnstable, Bristol, Dukes, Nantucket Norfolk, Plymouth, and Suffolk Sheriff's Offices. The funds transferred from this appropriation are to be expended for the purposes authorized by the Secretary of Administration and Finance and the County Government Finance Review Board is responsible for approving all transfers from this appropriation. This funding was for the first half of fiscal year 2010; July 1, 2010 to December 31, 2010. Chapter 102, Section 3, of the Acts of 2009 amended line item 8910-000 from the original appropriation of \$70,407,014 to \$162,427,746.

Chapter 102 of the Acts of 2009 appropriated funds for the operation of the Sheriff's Offices for the second half of the fiscal year 2010; January 2010 to June 30, 2010. Also included in the Act was authorization and appropriations to expend certain amounts from the revenues received from federal inmate reimbursements. The appropriated amounts for each Sheriff's Office follow:

Sheriff's Office	Operations Appropriation	Federal Inmate Appropriation
Barnstable	\$10,588,350	\$250,000
Bristol	13,628,167	6,500,000
Dukes	1,283,882	0
Nantucket	391,296	0
Norfolk	11,435,979	2,500,000
Plymouth	11,971,689	16,000,000
Suffolk	<u>42,721,367</u>	<u>8,000,000</u>
Total	<u>\$92,020,730</u>	<u>\$33,250,000</u>

The Sheriff's Offices submitted their fiscal year 2010 budget and spending plans to EOAF with their projected funding sources, expenditures, and surplus/deficit for the fiscal year. As with the Sheriff's Offices transition to MMARS, the Sheriff's Offices personnel required additional time to acclimate to the Commonwealth's budget process. Highlights of the status of each Sheriff's Office budget and spending plan for fiscal year 2010 follow:

Barnstable Sheriff's Office

- For the period January 1, 2010 through June 30, 2010, the Barnstable Sheriff's Office anticipates a slight surplus in its temporary Expendable Trust Account. This account, which expires June 30, 2010, was established for the BSO by the OSC and EOAF so that it could expend the positive balance that existed in its operating account at the county on December 31, 2009 to cover accounts payable and the two December payrolls. The balance of this Expendable Trust was not known to the BSO until December 2009, well after the proposed spending plans were submitted; therefore, the BSO does not have the exact amount of the anticipated slight surplus. The BSO's projected spending for fiscal year 2010 is \$22,902,809.

Bristol Sheriff's Office

- Bristol Sheriff's Office officials indicated that they encountered several issues when preparing this spending plan, including limited access to the database to make changes, and that they were not confident that the figures provided were representative of the remaining spending in fiscal year 2010. Moreover, when the

BSO submitted the spending plan to EOAF on November 20, 2009, they noted these issues in their correspondence. However, as of March 31, 2010, EOAF had not consulted with or contacted the BSO in regard to its submittal. BSO officials provided us with their own budgetary spending plan that they indicated was more representative of the BSO's fiscal year 2010 revenue and expenses.

- The BSO provided us with its spending plan for fiscal year 2010, projecting revenue of \$48,074,610 and expenditures of \$48,074,610. The County Government Finance Review Board (CGFRB) specifically earmarked \$12,346,175 for Employee Health Insurance (\$3,625,761), Pension (\$4,384,976), and fiscal year (FY) 2009 Shortfall (\$4,335,438). Therefore, the actual fiscal year 2010 state operating budget for the BSO is \$35,728,435, and the CGFRB supplemented this amount with the additional \$12,346,175, for a total BSO budget of \$48,074,610.
- The BSO is in the process of reviewing all sources of revenue and expense in an effort to balance its budget. Through cuts in expenditures before the close of the fiscal year, BSO will continue to explore all avenues available to finish the year with a balanced budget.

Dukes Sheriff's Office

- We obtained the budgets and spending plans for the DSO for fiscal year 2010 that were submitted to EOAF. The projected spending totaled \$2,567,764. 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 granted an additional \$1,283,883. DSO officials anticipate a small surplus at the end of fiscal year 2010. They stated that they are optimistic that they will be able to meet projected expenditure obligations with the current funding level.

Nantucket Sheriff's Office

- NSO officials indicated that the NSO did not submit a formal spending plan to EOAF. However, NSO did submit a letter to EOAF dated July 7, 2009 regarding its budgets and spending plan. The letter referenced the Governor's supplemental budget of \$586,945 and fixed costs of \$671,553, which would result in a shortfall of at least \$84,608. More specifically, the letter stated, in part:

*These are by no means the only expenses, but they are basic expenses.
They are what are needed to open the doors of the Sheriff's Office here.
There is a shortfall of **\$84,608.31** that does not include vehicle
maintenance, travel, supplies, etc.*

According to NSO officials, this was the only correspondence with EOAF for fiscal year 2010. Moreover, as of April 15, 2010, the NSO had submitted a spending plan for fiscal year 2011, but NSO officials expressed concerns that the projected budget will be inadequate to fund NSO operations going forward.

Norfolk Sheriff's Office

- We obtained the budgets and spending plans for the NSO for fiscal years 2010 and 2011 that were submitted to EOAF and in place as of January 1, 2010. The projected spending totaled \$27,807,994. We contacted NSO officials about the current state of the budget and whether they expect to have sufficient funding to cover expenses for the remainder of fiscal year 2010. They indicated that for the period of January 1, 2010 through June 30, 2010, the NSO projects a deficit of approximately \$500,000. The Director of Finance is reviewing NSO accounts to determine whether non-personnel reductions can be made to address this anticipated deficit. Also, the NSO anticipates that it may receive an additional \$200,000 in federal inmate funding.
- The NSO has also completed and submitted its fiscal year 2011 spending plan totaling \$29,082,669 and anticipates a deficit of approximately \$4.5 million. Included in the spending plan is the hiring of 20 new correctional officers. If no new officers are hired, the anticipated deficit will be reduced to approximately \$3 million. Currently, the NSO is working with state officials to address this anticipated deficit.

Plymouth Sheriff's Office

- We obtained the budgets and spending plans for the PSO for fiscal years 2010 and 2011 that were submitted to EOAF on February 8, 2010 and were in place as of January 1, 2010. The projected spending totaled \$40,296,674. We contacted the PSO Director of Finance about the current state of the budget and whether sufficient funding exists to cover expenses for the remainder of fiscal year 2010. He stated that for the period of January 1, 2010 through June 30, 2010, the PSO projects a deficit of slightly over \$2 million. The main reason for this deficit is that the federal revenue budgeted amount of \$16 million for fiscal year 2010 is not going to be met. The PSO indicated that it has diligently attempted to generate the budgeted amount of federal revenue, but is still projecting a shortfall of over \$1.4 million in federal revenue. The PSO is currently in the process of reviewing all sources of revenue and expenses in an effort to balance its budget. Through cuts in expenditures before the close of the fiscal year, PSO officials anticipate that they will be able to significantly reduce this deficit and will continue to explore all avenues available in an effort to finish the year with a balanced budget.

Suffolk Sheriff's Office

- We obtained the SSO spending plan for fiscal years 2010. The plan, approved by EOAF and in place as of January 1, 2010, projects total spending for the second half of fiscal year 2010 at \$50,721,368. On February 16, 2010, we received the SSO spending plan for January 1, 2010 to June 30, 2010 as submitted to EOAF and noted that the funds appropriated for the SSO main operating account, MMARS account number 8910-8800, are consistent with this spending plan. Through March 5, 2010, the SSO expended \$14,165,622 of its state-appropriated funds. The majority of these funds (\$12,516,230) were payroll-related. The remainder of expenses totaled

- \$1,649,392, which represents approximately one month's accounts payable. As of March 5, 2010, no Interagency Service Agreement (ISA) or federal or state grant funds had been credited to any of these MMARS accounts, and none of the approximately \$16,000,000 in SSO funds held by the COB had been transferred to the SSO MMARS accounts. No timeframe for acquiring grant funds or transferring funds held by the COB has been established. This could potentially result in insufficient funds available for meeting SSO expenses, such as payroll and accounts payable.
- In an effort to determine the current budgetary status of the SSO, we attempted to acquire the approved fiscal year 2010 budget along with actual expenditures through January 1, 2010. The SSO Director of Financial Services provided a spending plan but stated that there was no final approved version of the fiscal year 2010 spending plan. According to the Director of Financial Services, there is no budget per se, and the spending plan submitted to the County Government Finance Review Board, which is subsequently sent to the Legislature for approval, has historically been reduced prior to approval. Every year for the last five years, the SSO has had to receive a supplemental budget increase around April in order to cover expenses for the remainder of the fiscal year. There are a few factors related to the transition that make a projection difficult to verify until additional information is received from the SSO Director of Financial Services. These factors include certain planned expenses associated with health insurance and retirement costs that may no longer be incurred by the SSO, and the lack of an established timeframe for when funds held by the COB will be transferred to the SSO state appropriation accounts. The Director of Financial Services could not initially state whether the SSO will have a surplus or a deficit at the end of fiscal year 2010. However, in an e-mail dated April 2, 2010, the Director of Financial Services estimated that the SSO's deficit would be approximately \$3 million at the end of fiscal year 2010.

Sheriff's Office Locally Held Funds

As stated in Chapter 61, Section 12, of the Acts of 2009, civil process, inmate telephone, commissary funds, and other revenue derived apart from the State Treasury that addresses the needs of the citizens within each county shall remain with the Sheriff's Offices. The Sheriff's Offices control and maintain significant and diverse funds that are not being transferred to the Commonwealth. Funds being held by each Sheriff's Office are as follows:

Sheriff's Office	Types of Accounts
Barnstable	Inmate Canteen, Inmate Accounts, Work Release, and Fines
Bristol	Inmate Canteen, Inmate Accounts, Community Relief, Civil Process, and Federal Sharing Proceeds
Dukes	Inmate Canteen, Inmate Account Civil Process Escrow, Civil Process, and Civil Process Petty Cash
Nantucket	Civil Process
Norfolk	Inmate Canteen, Inmate Accounts, and Civil Process
Plymouth	Inmate Canteen, Inmate Accounts, Community Relief, Civil Process, and Federal Sharing Proceeds
Suffolk	Inmate Accounts, Inmate Benefit Accounts (telephone and commissary receipts), Civil Process Accounts (operating payroll escrow, general refunds and witness fees)

5. TRANSITION STATUS OF REVENUES TRANSFERRED

Deeds Excise Fund

As part of the operation of county government, a conveyance tax known as a Deeds Excise Tax is assessed on the sale of a property within that county. Chapter 61, Section 2, of the Acts of 2009, which amends Chapter 64D, Sections 11 to 13, of the General Laws, states the following in regard to the Deeds Excise Fund:

Section 11. Except for Barnstable and Suffolk counties, there shall be established upon the books of each county of a transferred sheriff, the government of which county has not been abolished by chapter 34B or other law, a fund, maintained separate and apart from all other funds and accounts of each county, to be known as the Deeds Excise Fund.

Notwithstanding any general or special law to the contrary, except for Barnstable and Suffolk counties, 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 and other benefit liabilities of retired employees of the sheriff's office until the minimum obligation is sufficient or until such county has paid such unfunded pension liability in full; and provided further, that once such liabilities are satisfied, the following month

and each month thereafter, 10.625 per cent of such taxes collected shall be retained by such county; provided, however, that an additional 30.552 per cent of said taxes collected in Nantucket county shall be transmitted to the Deeds Excise Fund on the first day of each month for said county through June 1, 2029; and provided further that if in a fiscal year the dollar amount that equals 30.552 per cent of said taxes collected in Nantucket county exceeds \$250,000, the amount in excess shall be transmitted to the General Fund. The remaining percentage of taxes collected under this chapter, including all taxes collected under this chapter in Barnstable and Suffolk counties and all counties the government of which has been abolished by chapter 34B or other law, but not including the additional excise authorized in section 2 of chapter 163 of the acts of 1988, shall be transmitted to and retained by the General Fund in accordance with section 10.

We verified with the County Register of Deeds the deeds excise activity at each county to determine that the correct amount of deeds excise was remitted to the Commonwealth and to the respective Deed Excise Funds during the transfer. The results of our review are as follows:

- The total deeds excise recorded for December 2009 for the Barnstable Sheriff's Office was \$1,170,898, with \$207,655 sent to the County Deeds Excise Fund. For January 2010, the entire \$921,196 collected was sent to the Commonwealth. These amounts reconciled with the amounts recorded by the County Treasurer. As of January 1, 2010, all deeds excise will be remitted to the Commonwealth.
- For the Bristol Sheriff's Office, we found that in January 2010 the Deeds Excise Fund was sent 10.625% of deeds excise collected and that the remainder was remitted to the Commonwealth in accordance with Chapter 61. The total deeds excise recorded for January 2010 was \$208,944, with \$22,200 sent to the County Deeds Excise Fund. This amount reconciled with the amounts recorded by the County Treasurer.
- For the DSO, we noted 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.
- For the NSO, we verified with the Norfolk County Register of Deeds that the correct percentage of deeds excise was remitted to the Commonwealth and to the Deeds Excise Fund after the transfer. Prior to the NSO's transfer to the Commonwealth, the Deeds Excise Tax was allocated with 50% paid to the General Fund, 7.5% to the State County Correction Fund, and 42.5% retained by the county; 75% of which went to the operation of the NSO. Since the transfer, 89.375% of the deeds excise collected is now transferred to the Commonwealth, and the county retains 10.625%. Beginning in fiscal year 2011, based on actuarial estimates, an additional 3% may be retained in the Deeds Excise Fund to fund an unfunded pension liability until 2029 or until the unfunded pension liability is fully funded.

During our review, we concluded that the December 2009 and January 2010 Deeds Excise Tax collected totaled \$1,643,025 and \$2,141,325, respectively, and that these amounts were allocated properly to the Commonwealth in accordance with Chapter 61 of the Acts of 2009.

- For the Nantucket Sheriff's Office, we verified with the Nantucket County Register of Deeds that the correct percentage of deeds excise 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 41.18% (includes standard 10.625% and supplemental 30.552%) of deeds excise collected, and the remainder was remitted to the Commonwealth in accordance with Chapter 61. The total deeds excise recorded for January was \$54,921, with \$22,615 sent to the County Deeds Excise Fund. This amount reconciled with the amounts recorded by the County Treasurer.
- For the PSO, we verified with the Plymouth County Register of Deeds that the correct percentage of deeds excise 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% of deeds excise collected and that the remainder was remitted to the Commonwealth in accordance with Chapter 61. The total deeds excise recorded for January was \$814,220, with \$86,511 sent to the County Deeds Excise Fund. This amount reconciled with the amounts recorded by the County Treasurer.
- The Suffolk Sheriff's Office received a Deeds Excise check, dated January 19, 2010, totaling \$675,080 (representing December 2009 collections, including the final payment due to the SSO under previous provisions of amended Chapter 64) and made payable to City of Boston. The SSO's share was \$573,818 (85%), and the City of Boston's share was \$101,262 (15%). The OSC instructed the SSO to forward this check to the COB for deposit. These funds were subsequently credited to the COB Deeds Excise Fund, project/grant account, 201-81196A and were classified as the SSO's accounts receivable as of March 31, 2010. As of January 1, 2010, all deeds excise will be remitted to the Commonwealth.

Grant Funds and Other Revenues

The Sheriff's Offices maintained grants and other revenue programs, which included the following:

- The Barnstable Sheriff's Office had grant and other income on January 1, 2010 totaling \$542,376 received from 11 various grant programs and activities totaling \$1,516,165.
- The Bristol Sheriff's Office had grant and other income on January 1, 2010 totaling \$295,717 that it received from 16 grant programs and activities.

- The Dukes Sheriff's Office had grant income from three programs. On March 31, 2010, \$181,724 was received to fund various programs and activities, including Emergency 911, Culinary Arts, and Project Lifesaver.
- The Norfolk Sheriff's Office will receive approximately \$470,000 in fiscal year 2010 from federal and state grants. These grants will help support inmate programs, substance abuse programs, victim programs, and the purchase of equipment such as bulletproof vests. Additionally, in fiscal year 2010, the Norfolk Sheriff's Office received \$25,000 in funding from the American Recovery and Reinvestment Act of 2009 (ARRA) to support an inmate educational program. Additional revenue sources include commissions paid by the Social Security Administration for information on inmates who are inappropriately collecting Social Security payments while incarcerated and rental revenues from private communication companies for use of the communications tower located on NSO property.
- The Plymouth Sheriff's Office had grant and other income on January 1, 2010 totaling \$2,324,829 that it received from 10 various grant programs and activities totaling \$2,628,165.
- The Suffolk Sheriff's Office had grant and other income on January 1, 2010 totaling \$578,259 received from nine various grant programs and activities totaling \$1,066,010. The Suffolk Sheriff's Office also received State Criminal Alien Assistance Program (SCAAP) funds from the federal government as reimbursement for correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and incarcerated for at least four consecutive days. SCAAP funding received by SSO during July 1, 2009 through December 31, 2009 totaled \$770,099. In addition, we were able to determine that from July 1, 2009 through December 31, 2009, \$2,144,446 in telephone commissions, commissary revenues, and inmate escrow funds were received.

Civil Process Revenue

Each Sheriff's Office has varying civil process operations conducted as authorized by law. Civil deputies throughout the Commonwealth collect fees for their services of civil process conducted in accordance with Chapter 37, Section 11, of the General Laws, which 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 served 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.

In regard to the civil process functions conducted by each Sheriff's Office, we noted the following in regard to revenue from fees for service:

- The Barnstable Sheriff's Office has designated a for-profit entity to serve process and collect fees for the services. The Barnstable Deputy Sheriff's Office is a for-profit corporation filing with the Commonwealth of Massachusetts Office of the Secretary of State. It is operationally independent of the Barnstable's Sheriff's Office, and there are no accounting records for it at the County Treasurer's Office or at the Sheriff's Office.
- The Bristol Sheriff's Office has a separate Civil Process Division. For the period July 1, 2009 to December 31, 2009, the Civil Process Division had revenue of \$929,644 and expenses of \$876,237, resulting in a profit of \$53,407.
- The Dukes Civil Process Division generated \$30,645 in revenue between July 1, 2009 and December 31, 2009. Because the Civil Process Division is not a separate entity, the Dukes Sheriff's Office does not segregate or charge and account for expenses of the Civil Process Division separately.
- From July 1, 2009 to December 31, 2009, the Nantucket Sheriff's Office Civil Process Division collected approximately \$18,855 in revenues, had expenses of \$18,128, and a net surplus of \$727. However, as noted in our report on the NSO, the Nantucket Sheriff had a unique arrangement regarding civil process revenue before the transfer, in that the revenue was considered part of the Sheriff's compensation. Therefore, when reviewing the civil process revenue and the account in which it was maintained, we noted that numerous charges and expenses were personal in nature to the Sheriff, which was allowable under the prior legislation before the transfer under Chapter 61.
- At the Norfolk Sheriff's Office as of January 1, 2010, the Sheriff's civil process revenue totaled \$596,505 with expenses of \$690,739.
- At the Plymouth Sheriff's Office, the Civil Process Division had revenue of \$1,377,534 for the period July 1, 2009 to February 27, 2010. Expenses for this time period were approximately \$1,233,613. As of February 27, 2010, the Civil Process Division's net profit was approximately \$143,921.
- At the Suffolk Sheriff's Office for the period July 1, 2009 to December 31, 2009, the Civil Process Division collected revenue of \$865,595 and had expenses of \$976,921.

Federal Revenue

- The Barnstable Sheriff's Office has an Intergovernmental Agreement with the Federal Bureau of Prisons (BOP) to handle BOP inmates. The current daily rate for inmates is \$90 per day per inmate for detention and pre-release services for housing these inmates and \$45 per day for home confinement services for these inmates. The estimated maximum number of inmates to be handled by the BSO for these services is two for detention and home confinement and six for detention and pre-release at any given time under the agreement.

- At the Bristol Sheriff's Office, federal revenue received for the first six months of fiscal year 2010 totaled \$3,824,750. The federal revenue received was for federal inmates placed under the care of the BSO through contracts with ICE and the United States Marshals Service. The amount of federal revenue received for the first six months of fiscal year 2010 represents 59% of the budgeted amount of federal revenue for fiscal year 2010 of \$6,500,000.
- At the Norfolk Sheriff's Office, the United States Marshals Service will pay the Sheriff's Office \$2,500,000 per year for the housing, safekeeping, and subsistence of federal prisoners. Also, the NSO will continue to receive revenues of over \$100,000 a month from ICE to house and maintain illegal alien inmates.
- At the Plymouth Sheriff's Office, federal revenue received for the first six months of fiscal year 2010 totaled \$5,165,623. The federal revenue received was for federal inmates placed under the care of the Sheriff's Office through contracts ICE and from the United States Marshals Service. ICE revenue received was \$3,828,496. United States Marshals Service revenue received was \$1,337,127. The amount of federal revenue received for the first six months of fiscal year 2010 represents only 32% of the budgeted amount of federal revenue for fiscal year 2010 of \$16,000,000. The number of federal inmates has been on a steady decline for the past year.

6. TRANSITION STATUS OF OTHER MATTERS

Civil Processing

The civil process operations for the newly transferred Sheriff's Offices and the prior transferred Sheriff's Offices vary in many respects (see Summary of Transition Status No. 8, Civil Process). For the newly transferred Sheriff's Offices, Bristol, Dukes, and Nantucket are separate divisions of the Sheriff's Office, whereas Nantucket is a combined operation of the Sheriff's Office. The Barnstable Sheriff's Office civil process is operating independently as a for-profit corporation, and the Norfolk Sheriff's Office was operating as a division of the county, as follows:

Barnstable Sheriff's Office

- Prior to the transition, the Civil Process Office (CPO) was functioning as a for-profit corporation and filing with the Commonwealth of Massachusetts Office of the Secretary of State as the Barnstable County Deputy Sheriff's Corporation. It is operationally independent of the BSO and there are no related accounting records at the County Treasurer's Office or at the BSO. The Sheriff of Barnstable County swears in employees of the corporation and the corporation's operations are conducted in a leased facility in the town of Barnstable. The Sheriff indicated that there are no employees of the BSO that are employed by the Barnstable County Deputy Sheriff's Corporation. Although we inquired about the availability of financial information from the corporation, we were not given access to the

corporation's records. As of the transition, the financial operations of the CPO continued to be run by the for-profit corporation.

Norfolk Sheriff's Office

- Prior to the transition, the Civil Process Office (CPO) was functioning as a division of the county, with the Norfolk County Treasurer's Office controlling all financial matters. All assets and functions have been transferred to the NSO, and the CPO has been established as a municipal agency separate from the operations of the jail and house of correction. As of the transition, seven NSO employees paid by the Commonwealth were employed at the CPO, and an additional nine CPO deputies were being paid as contract employees from revenues generated by the CPO's operation. The financial operations of the CPO are overseen by the NSO.

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.

In this regard, we noted the following:

Barnstable Sheriff's Office

- We reviewed the terms and conditions of all BSO contracts entered into by the various union employees at BSO. We noted that in accordance with the terms of the agreement, the union employees are entitled to specific amounts related to the various benefits, including but not limited to shift differentials; overtime; roll call; educational incentives; holidays; and vacation, sick, personal, and bereavement leave. Also, as part of the terms of the contracts, the BSO, and now the Commonwealth, must contribute to the costs of the union employees' primary health insurance premiums. 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. Conversely, non-union BSO employees were transitioned over to the Commonwealth at the established Commonwealth share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

The six unions representing employees at the BSO on December 31, 2009 were covered by health insurance provided by Blue Cross and Blue Shield. These employees paid a share as a portion of the entire health care premium. Five of these unions were covered by this plan under contracts that expire on June 30, 2012, and the sixth union that was covered under this plan has a contract that expires on June 30, 2011. The five unions with contract expiration dates of June 30, 2012 are the Barnstable Correctional Officers Union; National Association of Government Employees Administrative Office Workers Local 220-Clerical; International Brotherhood of Correctional Officers Local 217, Public Safety Division-

Telecommunications; National Association of Government Employees Registered Nurses and Licensed Practical Nurses; and International Brotherhood of Correctional Officers Local 217, Public Safety Division-Radio Technicians. The only union with a contract expiration date of June 30, 2011 was the American Federation of State, County and Municipal Employees, AFL-CIO Council 923 (Captains Union).

Bristol Sheriff's Office

- The BSO has contractual collective bargaining agreements with the National Association of Government Employees (NAGE), the Massachusetts Correction Officers Federated Union (MCOFU), and the National Correctional Employees Union (NCEU). The MCOFU and NCEU agreements have an effective date of July 1, 2009 through June 30, 2012. The NAGE agreements (Unit A - Ad tech and Unit C - Maintenance and Food Service) have an effective date of July 1, 2008 through June 30, 2011. Therefore, the rights of all employees continue to be governed by the terms of these collective bargaining agreements in accordance with Chapter 61, Section 14.
- We reviewed the terms and conditions of all BSO contracts entered into by the various union employees at the BSO. We noted that, in accordance with the terms of the agreement, the union employees are entitled to specific amounts related to the various benefits, including but not limited to shift differentials; overtime; roll call; holidays; and vacation, sick, personal, and bereavement leave. Also, as part of the terms of the contract, and as required by the statute, the BSO, and now the Commonwealth, must contribute 95% 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. Conversely, non-union BSO employees were transitioned over to the Commonwealth at the established Commonwealth share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

Dukes Sheriff's Office

- The DSO has a collective bargaining agreement with the Massachusetts Correction Officers Federated Union (MCOFU). 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 differentials, longevity, overtime, benefit days, bereavement leave, etc. Also, as part of the terms of the agreement and as required by the statute, the 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.

Nantucket Sheriff's Office

- The NSO is a non-union Sheriff's Office. Non-union employees were transitioned over to the Commonwealth at the established Commonwealth health insurance share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

Norfolk Sheriff's Office

- As addressed in Chapter 61, Section 19, of the Acts of 2009, eligible employees, including retirees, had the opportunity to register for health insurances through the GIC. We found that 27 correctional officers elected to stay with Blue Cross/Blue Shield and not register for GIC health insurance as allowed under their collective bargaining agreement. An employee who was covered by a collective bargaining agreement on January 1, 2010 could continue to receive group insurance benefits required by the agreement until June 30, 2012. Also, under the current collective bargaining agreements, employees will contribute 20% and the Commonwealth 80% of their insurance premiums. The premium contributions percentages are the same as current state employees but are for a plan not currently offered to other state employees.

Plymouth Sheriff's Office

- The PSO has contractual collective bargaining agreements with the Association of County Employees, the Massachusetts Correction Officers Federated Union, and the National Correctional Employees Union. These agreements, bargained in good faith, all have an effective date of July 1, 2009 through June 30, 2012. Therefore, the rights of all employees continue to be governed by the terms of these collective bargaining agreements, in accordance with Chapter 61, Section 14.
- We reviewed the terms and conditions of all PSO contracts entered into by the various union employees. We noted that, in accordance with the terms of the agreement, the union employees are entitled to specific amounts related to the various benefits, including but not limited to shift differentials; overtime; roll call; educational incentives; holidays; and vacation, sick, personal, and bereavement leave. Also, as part of the terms of the contract, and as required by the statute, the PSO, and now the Commonwealth, must contribute 90% of the costs of the union employees' primary health insurance premiums. 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. Conversely, non-union PSO employees were transitioned over to the Commonwealth at the established Commonwealth share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

Suffolk Sheriff's Office

- As of the transition date of January 1, 2010, approximately 50% of the SSO's medical plans were switched to the GIC. There are 455 of the approximate 543 members of the Suffolk County House of Correction Union Local 419 still insured through the COB medical plans. Union Local 419's contract expired on June 30, 2008, and a new collective bargaining agreement (CBA) has not been ratified. Chapter 61, Section 19, of the Acts of 2009 states, in part:

Employees, retired employees and the surviving spouses of retired employees of the office of a transferred sheriff without a collective bargaining agreement in effect shall not be transferred to the group insurance commission until November 1, 2010 or until a successor collective bargaining agreement is ratified and funded whichever occurs first.

- Members of Suffolk County House of Correction Union Local 419 will not be transitioned to the state's GIC medical insurance and will continue their current COB medical coverage in compliance with Chapter 61, Section 19, of the Acts of 2009. The state will be required to reimburse the COB for the employer's share of the premium. The SSO's Director of Financial Services stated that the County Government Finance Review Board appropriated \$3,479,862 for the period January 1, 2010 to June 30, 2010 for the employer's portion of the Union Local 419 membership health insurance premium. These funds are included in the \$3,705,566 in the SSO's MMARS appropriation account 8910-0000.

The status of Suffolk Sheriff's Office collective bargaining agreements (CBA) for the Suffolk Sheriff's Office follows:

Union Contracts

- The SSO has contractual CBAs with the National Association of Government Employees (NAGE); the American Federation of State, County, and Municipal Employees; and the Jail Officers and Employees Association of Suffolk County. These agreements, bargained in good faith, all have an effective date of July 1, 2009 through June 30, 2012. The rights of all SSO union employees continue to be governed by the terms of these collective bargaining agreements in accordance with Chapter 61, Section 17(a), which states:

Notwithstanding any general or special law or rule or regulation to the contrary, the sheriff, special sheriff, deputies, jailers, superintendents, deputy superintendents, assistant deputy superintendents, keepers, officers, assistants and other employees of the office of a transferred sheriff, employed on the effective date of this act in the discharge of their responsibilities set forth in section 24 of chapter 37 of the General Laws and section 16 of chapter 126 of the General Laws shall be transferred to the commonwealth with no impairment of employment rights held on the effective date of this act, without interruption of service, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation. Any collective bargaining agreement in effect on the

effective date of this act shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. Nothing in this section shall confer upon any employee any right not held on the effective date of this act or prohibit any reduction of salary, grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before the effective date of this act. Such employees shall not be considered new employees for salary, wage, tax, health insurance, Medicare or any other federal or state purposes, but shall retain their existing start and hiring date, seniority and any other relevant employment status through the transfer.

- We reviewed the terms and conditions of all the CBAs entered into by the various union employees at SSO. We noted that, in accordance with the terms of the agreements, union employees are entitled to specific benefits at various rates, including but not limited to the following: shift differentials, overtime, educational incentives, paid holidays, vacation time (up to 30 days annually), sick time (accrued at 1 – 1.25 days monthly), personal time (two to six days of sick time may be used as personal time), compensatory time, credit time, and bereavement leave. Additional benefits include redemption of 27% of an employee’s total accumulated unused sick time upon retirement; annual longevity payments to qualified employees up to a maximum of \$1,040; uniform allowance; and in lieu of cash payment, employees may convert up to five sick days to vacation days on a one-for-one basis. This is an incentive-based program that is not available to all employees.
- Additionally, our review disclosed that the NAGE Local 298 contract conveyed additional benefits, as follows:

In conjunction with the execution of their 2009-2012 collective bargaining agreement, the parties hereby agree to the following:

WAGE ADJUSTMENT

Should state tax revenues in FY2010 exceed one or the other of two benchmarks, the Municipal Employer agrees to revise the Article 21, section 1 pay scales for FY 2010, as follows:

1. *If state tax revenues exceed \$20.3 billion in FY 2010:*
 - a. *The weekly salary rate will be increased an additional 1%, retroactive to July 4, 2009; and*
 - b. *The FY 2010 raise will be retroactive to July 4, 2009 but payable in FY 2011.*
1. *If state tax revenues exceed \$21.4 billion in FY 2010:*
 - a. *The weekly salary rate will be increased an additional 2%, retroactive to July 4, 2009; and*
 - b. *The FY 2010 raise will be retroactive to July 4, 2009 but payable in FY 2011.*

- Furthermore, our review of the Benefits Guide for Managerial Employees of the SSO disclosed that management employees' benefits are very similar to the benefits detailed in the CBAs. Similarities include the annual accrual of up to 30 days of vacation time, redemption of 27% of an employee's total accumulated unused sick time upon retirement, and longevity pay.
- Group health insurance is available for all union employees with an employee premium contribution of 10% for a health maintenance organization plan and a 25% employee premium contribution for an indemnity plan.
- Finally, prior to the transition, the COB maintained SSO employee payroll records. The payroll records will remain at the COB, but the SSO will have access to and run reports from these payroll records. The COB will review this access annually. Post transition, payroll records will be maintained on HR/CMS by the SSO, and personnel files will be maintained in the SSO's administrative offices.

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 operations of all seven Sheriff's Offices from the counties to the Commonwealth, the Sheriff's Offices did not have time to create ICPs developed in accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies. Chapter 647 states, "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 Sheriff's Offices do not have ICPs, we found that the Sheriff's Offices have various comprehensive departmental policies and procedures manuals that can be used, in part, to develop their ICPs. The OSC's Internal Control Guide, Chapter 1, Internal Control Plan Framework, outlines the importance of internal controls for all Commonwealth entities.

All seven Sheriff's Offices need to create ICPs to be in compliance with Chapter 647 and OSC guidelines. The Sheriff's Offices should identify within their ICPs 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 Sheriff's Offices need to develop and fully integrate risk assessments to identify and mitigate the greatest risks to their missions, goals, and objectives. 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 Sheriff's Office. Developing and updating their ICPs ensures the integrity and effectiveness of their internal control systems and enhances their ability to respond to changes while maintaining effectiveness.

Unfunded Pension Liability of Retired Plymouth Sheriff Office Personnel

Chapter 61, Section 2, of the Acts of 2009 states the following in regard to the unfunded pension liability:

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 and other benefit liabilities of retired employees of the sheriff's office until the minimum obligation is sufficient or until such county has paid such unfunded pension liability in full.

County officials, including County Treasurers and Retirement Board members, have expressed concerns that the retired employees of the Sheriff's Offices will become a significant burden for the county retirement systems. To obtain an understanding and secure information relative to this issue, we met with the Plymouth County Treasurer to determine whether the amounts specified in this law would be sufficient to cover the liabilities of the retired PSO employees in Plymouth County. The County Treasurer indicated that the amounts specified by law, as currently constituted, would not be sufficient to cover the retirement liability of retired PSO employees. This is because the state is leaving the liabilities of the retirees with the county, but the state is taking the current

employees' contributions, which help fund this liability. The County Treasurer and the Plymouth County Retirement Board have cautioned and warned for months that the additional 3% in Deeds Excise funds and money retained from the Maintenance of Effort (MOE) funding is inadequate to cover the retiree liability left behind by the state. The County Treasurer provided us with calculations, provided to EOAF in the spring of 2009, that showed a net positive cash flow of \$7,147,300 prior to the transfer that the county had available to pay down its unfunded pension liability of \$71,773,628. The net result of the legislation, after the transfer of the assets and revenue stream to the Commonwealth, resulted in only a net positive cash flow of \$34,241 available for the county to pay down the unfunded liability. According to the County Treasurer, the \$34,241 would not be sufficient to pay off even the accrued interest, and the county would never be able to pay down the pension liability without increasing the contributions of county employees or receiving state aid. Accordingly, the legislation is not revenue-neutral, and Plymouth County, as well as its member units, is concerned about this matter and feels that it needs to be addressed in the near future by the Legislature. County officials in other counties have expressed this same sentiment for future legislative relief or assistance from the Commonwealth to help resolve this issue.

7. TRANSITION STATUS OF STATE AGENCY RESPONSIBILITIES

As part of our review of the Sheriff's Offices transfer to the Commonwealth, we sent questionnaires to state agencies with specific responsibilities pursuant to Chapter 61 and, where necessary, had follow-up discussions with agency personnel. The departments included the following:

Public Employees Retirement Administration Commission (PERAC)

Chapter 61, Section 10, of the Acts of 2009 requires the Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth counties to appropriate and pay to their respective county retirement boards and any other entities due payment the minimum obligation as determined by the actuary of PERAC to fund the unfunded county pension liabilities and other benefit liabilities of the retired Sheriff's Offices employees who remain in the county retirement systems. Similarly, the State Treasurer is to assess the City of Boston and remit to the retirement system the minimum obligation of Suffolk County to fund its unfunded liabilities. The Secretary of EOAF is to establish a plan for county governments and an

amortization schedule to pay off these unfunded county pension liabilities. The amortization schedules and plan for county governments is dependent on PERAC's actuary determinations.

Two actuarial firms that regularly evaluate, every other year, the unfunded liabilities of the retirement systems will determine the amounts required by Chapter 61. The actuarial determinations are in progress. One actuarial firm will determine the valuations for the City of Boston (which includes Suffolk County) and Barnstable County. Another actuarial firm will evaluate the pension and other benefit liabilities for the remaining counties. To date, the determination for Barnstable County has been completed and has been submitted for PERAC's review. Although Bristol County's determination is near completion, the remaining determinations are incomplete.

Executive Office for Administration and Finance (EOAF)

Under Section 10 of Chapter 61, EOAF is to determine and notify the counties of the minimum obligations to satisfy the unfunded pension and other liabilities of retired Sheriff's Offices employees that remain in the county retirement systems as determined by the PERAC actuary. In response to our inquiries, EOAF indicated that it could not make such a determination until the PERAC actuary determines the amount of the unfunded county pension liability. As mentioned above, the actuarial determinations are in progress.

Division of Capital Asset Management (DCAM)

Chapter 61, Section 7, of the Acts of 2009 states, in part:

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 . . . which are controlled by the office of a transferred sheriff . . . including . . . all correctional facilities and other buildings and improvements, . . . land . . . and any fixtures, wind turbines, antennae, communication towers and associated structures and other communication devices . . . shall be transferred to the Commonwealth . . . and be subject to Chapter 7 of the General Laws and the jurisdiction of the commissioner of capital management and maintenance.

In response to our questionnaire, DCAM indicated that it had established procedures to identify county Sheriff's Office properties that are being transferred to the Commonwealth. The procedures included the following:

- Meeting with each sheriff and their staff to determine properties used by the Sheriff's Offices;
- Obtaining all pertinent property documents and operating information to identify all properties, property rights, tenants, property users, current property users, and property operating issues;
- Reviewing all documents and property information; and
- Clarifying or resolving any business, legal, or operational issues regarding properties that the Sheriff's Offices will continue to use.

Additionally, DCAM indicated that it was reviewing lease agreements under which the Sheriff's Offices will continue to occupy county-owned space to determine whether such occupancy relationships will continue and will draft lease agreements as appropriate.

Also, although Chapter 61 provides that property transfers will be binding on all persons with or without notice, without further action or documentation, the law states that DCAM may "execute and record and file for registration with any registry of deeds or land court, a certificate confirming the Commonwealth's ownership" of the transferred property.

Group Insurance Commission (GIC)

Chapter 61, Section 19, of the Acts of 2009 states, in part:

Employees or retired employees of the office of a transferred sheriff and the surviving spouses of retired employees . . . who are eligible for group insurance coverage . . . shall have that eligibility and coverage transferred to the GIC.

The law further states that without a collective bargaining agreement in effect, retired employees and surviving spouses of retired employees shall not be transferred to the GIC until November 1, 2010.

According to the GIC, all employees have been transferred as of February 1, 2010 except for two groups, which will be transferred on November 1st after their current contracts expire. The two groups are the Bristol County Canine Unit, consisting of approximately 10 to 12 employees, and Suffolk County Sheriff Local 419, consisting of approximately 550 employees. These groups were not transferred as of February 2, 2010 because new collective bargaining agreements had not been approved for these employees.

State Treasurer/State Retirement System (SRS)

Under Section 14 of Chapter 61, employees with and without collective bargaining agreements are to be transferred to the State Retirement System (SRS). Additionally, under Section 20 of the Acts of 2009, the annuity savings funds of the Sheriff's Offices employees that become state employees shall be transferred to the SRS.

Our review determined that active Sheriff's Office employees are in the SRS and that the SRS has received information for Sheriff's Office employees seeking to retire. However, not all retirement information relative to the transferred employees has been transferred to SRS. Specifically, transfers of data from Dukes, Norfolk, Bristol, and Plymouth counties are in progress, whereas employee retirement data for Suffolk, Barnstable, and Nantucket counties have not been transferred.

One issue that may be delaying the transfer of Sheriff's Office employee retirement data to SRS is the requirement that any data transferred to the SRS be confirmed by the county as accurate in regard to membership and employees' years of service.

8. PRIOR AUDIT DISCLOSURES OF CONFLICTS AND INCONSISTENCIES IN LAWS AND OPERATIONS OF SHERIFF'S OFFICES

Effective January 1, 2010, the Commonwealth has taken over all 14 Sheriff's Offices. As of January 1, 2010, the state took over the remaining seven County Sheriff's Offices (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) as required by Chapter 61 of the Acts of 2009 and amended by Chapter 102, Sections 5 to 10, and Chapter 166, Section 39, of the Acts of 2009. The other seven Sheriff's Offices had been previously taken over by the state. Furthermore, Chapter 61, Section 22 of the Acts of 2009 states, in part:

Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members...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: ... (2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;

Regarding the Commission, we offer our recommendations and conclusions drawn from our previous audits of all of the now 14 transferred Sheriff's Offices. Specifically, we have found that there is no consolidated chapter of laws that addresses the operations for the Sheriff's Offices. Our review of the state laws and regulations related to the 14 Sheriff's Offices identified the need for a comprehensive review and assessment to potentially repeal and amend laws to address the 14 Sheriff's Offices taken over by the state.

In addition to this review on the transition of the final seven Sheriff's Offices to the Commonwealth, the Office of the State Auditor has conducted numerous audits of the seven Sheriff's Offices previously transferred to the Commonwealth prior to the enactment of Chapter 61. Our prior 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. Chapter 61 further perpetuates these inconsistencies by imposing requirements that differ from those in the statute under which the previous seven Sheriff's Offices were transferred. These conflicts and inconsistencies are summarized as follows:

Chapter 37 of the General Laws covers only part of the laws and statutes subject to review during an audit. The Sheriff's Offices' legal guidance and precedents as cited in Massachusetts General Laws relate to such diverse matters as annual accounting of all fees and money received and the disposition of funds to the county treasurer (Chapter 37, Section 22), inmate telephone commissions (Chapter 29, Sections 1 and 2 and Chapter 127, Section 3), the civil process function as addressed by policy and procedures, federal and state employer laws and regulations and rendered employment decisions, and free meals for employees (Chapter 7, Section 3B).

Background**Abolition of County Government**

The transitioning of County Sheriff's Offices to the Commonwealth began with the enactment of Chapter 34B of the General Laws. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, Abolition of County Government, which addresses the abolition of seven county governments (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, and Worcester) taken over by the state. Chapter 34B, Section 1, states, in part:

The government of each of the following counties, in this chapter called an "abolished county" is hereby abolished as of the following date, in this chapter called the "transfer date", or on such earlier date 30 days after the commissioner of revenue certifies in writing that the county has failed to make a required payment on an outstanding bond or note: (a) Middlesex county, as of July 11, 1997; (b) Hampden and Worcester counties, as of July 1, 1998; (c) Hampshire county, as of January 1, 1999; provided, however, that all functions, duties and responsibilities for the operation and management of the jail, house of correction and registry of deeds of Hampshire county and all duties and responsibilities for operation and management of property occupied primarily by the sheriff, registry of deeds and the trial courts in Hampshire county are hereby transferred to the commonwealth, effective September 1, 1998, subject to the provisions of this chapter; (d) Essex county as of July 1, 1999; and (e) Berkshire county on July 1, 2000, but all functions, duties and responsibilities for the operation and management of the registries of deeds of Suffolk and Berkshire counties and all duties and responsibilities for the operation and management of property occupied primarily by the registries of deeds in Berkshire and Suffolk counties are hereby transferred to the commonwealth, effective on July 1, 1999, subject to the provisions of this chapter.

Review of Laws and Regulations - Noted Conflicts**Telephone Commissions**

Our prior audits disclosed that the various Sheriff's Offices receive commissions on telephone services to inmates and deposited these commissions into Commissary, Canteen, or Inmates Benefit Accounts. When the Sheriffs were transferred to the Commonwealth, uncertainty existed regarding where these funds should be deposited and which Massachusetts General Laws were applicable.

Specifically, Chapter 29, Section 2, of the General Laws states, in part:

All revenue payable to the commonwealth shall be paid into the General Fund, except revenue required by law to be paid into a fund other than the General Fund and revenue for or on account of sinking funds, trust funds, trust deposits

and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

Moreover, Chapter 29, Section 1, of the General Laws defines state revenue as follows:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earning on such income.

However, Chapter 127, Section 3, of the General Laws states, in part:

Any monies derived from interest earned upon the deposit of... money and revenue generated by the sale or purchase of goods or services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent.

Further, Chapter 61, Section 12, of the Acts of 2009 also now conflicts with prior legislation, as follows:

(a) Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.

For comparison purposes, we reviewed the Department of Correction's (DOC) policies and procedures (103 Code of Massachusetts Regulations 482.07[6]) for inmate telephone access and use, and found that DOC returns all telephone commissions to the Commonwealth's General Fund, with the exception of revenues derived from international collect calls, which are remitted to the Inmate Benefit Fund.

Because telephone commissions meet the revenue criteria of all these laws, it is unclear whether they should be paid into the Commonwealth's General Fund or retained within the other Sheriff's Offices Commissary, Canteen, or Inmate Benefit Accounts. Governing language and application of the law should be consistent in regard to the use and deposit of telephone commissions, a revenue source to the Commonwealth, whether from Sheriff's Offices, DOC, or other state entities receiving and processing telephone commissions.

Along with the pertinent sections of laws identified in this report and all other Sheriff's Office reports issued by the OSA, we have provided a tentative listing of existing laws

that impact the operations of the Sheriff's Offices (see Appendix X), which should be reviewed and considered by the Special Commission and the Legislature in conjunction with their efforts to effectuate recommendations relating to the reorganization, consolidation, operation, administration, regulation, governance, and finances of Sheriff's Offices.

Civil Process

Employees of Civil Process Divisions

Since the beginning of the transfers of County Sheriff's Offices to the Commonwealth, the status of civil process employees as state or county employees has been unclear. Individuals working for civil process divisions in connection with the Sheriff's Offices who had not previously been properly classified as public employees were therefore denied the benefits outlined in the laws transferring Sheriff's Offices from county governments to the Commonwealth. Chapter 34B, Section 13, of the General Laws directed that "an employee of a sheriff of an abolished county . . . shall be an 'employee' or 'public employee' as defined in Section 1 of Chapter 150E, and the sheriff of such county shall be an 'employer' or 'public employer' as defined in said Section 1 of said Chapter 150E." Moreover, Chapter 150E, Section 1, of the General Laws defines an employee as "any person in the executive or judicial branch of a government unit employed by a public employer."

The Sheriff's Offices transferred to the Commonwealth are not handling civil processing and collection of fees in the same manner. Our audits have disclosed that Sheriff's Offices have set up non-profit entities, for-profit corporations, and civil process divisions both within and outside their state organizational structure to serve civil process. The OSA has reported on numerous occasions the major differences between these entities and the need for the Legislature and state officials to review the statewide performance and fragmented processes in place for collecting civil processes for Sheriff's Office's that have been transferred to the Commonwealth. All employees and the Sheriff's Offices, which operate the jails and houses of correction and other various programs including the civil process division, are under the jurisdiction and authority of the Sheriff. However, although these private and public operations are independently functioning, Deputy Sheriffs appointed to work in the civil process division have duties

and responsibilities that differ significantly from the Deputy Sheriffs working in the jails and houses of correction and their various programs. Each group is vital to the safety of the community, and each has its own degree of high personal risk within the work environment that requires a high level of experience and professionalism unique to that environment.

Our audits disclosed that, subsequent to the initial transfer under Chapter 34B of the first Sheriff's Offices, legislation has been filed each year since 2001 to effect change to the methods of collecting civil process and restructure the entire state civil process system.

Also, as disclosed in our prior audits, in accordance with Chapter 37, Sections 3 and 11, of the General Laws, Deputy Sheriffs throughout the Commonwealth collect fees for the service of civil process. The serving of civil process, in accordance with Chapter 262 of the General Laws, includes serving summons, original writs and precepts, warrants, subpoenas, notices of process, evictions, executions, levys, capias arrest, peace keepers, complaints, temporary restraining orders, notice to quit, notice to show cause, and other legal procedures requiring legal notification.

The civil process fees collected by Sheriffs and Constables are defined in Chapter 262, Section 8, of the General Laws. Each of the 14 Sheriff's Offices provides civil process duties as defined in Chapter 262, Sections 8 to 22. The civil process fees earned in the civil process account(s) are usually used to subsidize the operations of the Sheriff's Offices civil process as reviewed and authorized by the Sheriff. However, there is no legislation or uniform guidelines in place to stipulate how any surpluses generated from operations of the civil process function at the Sheriff's Offices should be used. We found instances in which civil process surpluses were used to purchase such items as equipment, weapons, vehicles, consultant fees, technology software and hardware upgrades, and other expenditures to support the general operations within other areas of the Sheriff's Offices.

The Sheriff's Offices civil process fees collected are not accounted for, reported, and recorded on MMARS, which is the state's accounting system that is designed to support the financial functions of the Commonwealth, including all revenue and expenditure

activity. Also, the special commission should review the accounting, reporting, processing, and management of civil processing fees, consult with the OSC, and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate accounting mechanism that is in compliance with applicable laws, rules, and regulations. Consideration should be given to depositing civil process fees into a retained revenue account or an authorized State Treasurer's bank account, or depositing civil process fees in the Commonwealth's General Fund.

Chapter 262, Section 8A, of the General Laws requires an annual account to be filed with the County Treasurer, as follows:

Each deputy sheriff and constable shall annually on or before the fifteenth day of April file with the county treasurer an account signed by him under the penalties of perjury of all fees and money received by him under the provisions of section eight for the service of civil process, or, if two or more deputy sheriffs and constables share such fees and money between themselves, they may file such an account jointly, provided that each shall subscribe the same under the penalties of perjury.

Thus, the 14 Sheriff's Offices are no longer required to make this annual accounting for civil process fees since they are now state agencies and exempt from this prior oversight process.

The Legislature has either addressed or is aware of these inconsistencies, and bills have been filed to restructure the Sheriff's Offices Civil Processing Division to have a retained revenue account established in MMARS for reporting and recording receipts, fees, and revenues collected by the Civil Process Division. Therefore, clarification is needed to determine whether full- and part-time employees paid from civil process fees should be classified as state employees, contract employees, or some other status that complies with applicable Commonwealth laws, rules, and regulations.

Purchase of All Pharmacy Services

It appears from existing legislation that the Sheriff's Offices should continue or start using the State Office of Pharmacy Services (SOPS). Chapter 27 of the Acts of 2009, An Act Making Appropriations for Fiscal Year 2010, Section 2B, line item 4510-0108, states that the SOPS shall continue to be the sole provider of pharmacy services for the Bristol, Essex, Franklin, Hampden, Hampshire and Plymouth Sheriff's Offices. It further

stipulates that the SOPS shall become the sole provider of pharmacy services and develop an implementation transition plan for the Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable, and Dukes Sheriff's Offices. Although the Governor vetoed this measure, the Legislature overrode the veto, and the measure was enacted on June 29, 2009.

Chapter 102 of the Acts of 2009, An Act Relative to Sheriffs, which pertains to the Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk Sheriff's Offices, states, "all pharmacy services shall be paid through the SOPS chargeback . . . not later than June 30, 2010." Further, for the Barnstable, Dukes, Norfolk, and Suffolk Sheriff's Office, "upon transitioning to the state office for pharmacy services, no charge or contract shall be made with an alternative vendor to provide services other than the state office of pharmacy."

On September 29, 2009, the Governor submitted to the Legislature a letter indicating his disapproval of the language contained in Chapter 102, stating, in part:

Based on the experience of the Sheriffs themselves, most of whom have strenuously objected to this requirement, the mandated use of the State Office of Pharmacy Services (SOPS) may increase rather than reduce costs at a time when they can least afford it within their appropriations. Although SOPS should be considered an option, the Sheriffs, in their judgment, should be free to select the most efficient and cost effective pharmacy service to meet their individual department's needs. The Governor subsequently filed Senate Bill 2164, which, if passed will repeal the language relating to the use of SOPS contained in Chapter 27.

Meals for Employees of Sheriff's Offices

Our review of the seven Sheriff's Offices that transitioned to the Commonwealth as of January 1, 2010 and the other seven Sheriff's Offices already transferred to the Commonwealth identified that staff employees may be receiving free meals in conflict with existing state law. In general, the Sheriff's Offices have cited collective bargaining agreements and informal policies that allowed employee meal benefits for the convenience of the operations of the 24 hour-a-day, seven days-a-week, locked facilities with the realistic need for staff to be on site for immediate recall on an as-needed basis. We also noted that various Sheriff's Offices' collective bargaining agreements had clauses

that varied in regard to employee meals. Some agreements stipulated that meals be given at no cost to the employee, whereas others stipulated a per cost charge for employees ranging from \$1.50 to \$2.00 per meal.

Clarification is needed regarding the discrepancies in pricing and lack of uniform regulation amongst the various Sheriff's Offices for essentially the same benefit. The legislative standard policy is stated in within Chapter 7, Section 3B, of the General Laws, which states, in part:

No service shall be performed for the sole benefit of any person at less than cost... by any personnel or agency of the commonwealth ... nor shall any meal be served to any employee of the commonwealth by an institution thereof at less than the cost to the commonwealth.

Moreover, during our transition review, the Suffolk Sheriff's Office provided a copy of a Labor Board Decision that established its present obligation to provide employee meals unless otherwise compensated for with sufficient notice and opportunities extended to the unions. However, the policy was for county employees and not state employees.

Furthermore, Chapter 61, Section 14, of the Acts of 2009 states, in part:

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. If a collective bargaining agreement has expired on the transfer date, the terms and conditions of such agreement shall remain in effect until a successor agreement is ratified and funded. Notwithstanding the provisions of chapter 150E of the General Laws or any other general or special law or regulation to the contrary, employees of the office of a transferred sheriff, without a collective bargaining agreement in effect on the transfer date, shall not be transferred to the state retirement system until November 1, 2010 or until a successor agreement is ratified and funded whichever occurs first.

Sheriff's Offices' Accounting and Computer Systems

Our audits of all Sheriff's Offices disclosed that there were numerous different accounting systems and computer systems in place throughout the now consolidated system of Sheriff's Offices. We found both manual and computerized accounting applications utilized at various Sheriff's Offices for accounting for funds, including canteen, commissary, inmates, inmate benefits, civil process, and other locally controlled accounts. Further, certain Sheriff's Office accounts are still maintained by the counties, accounting firms, and in one instance the regional Council of Governments under

contracts with the Sheriff's Offices. Consideration should be given to adapting uniform accounting and computing applications throughout current system of Sheriff's Offices.

Currently, many of the Sheriff's Offices locally controlled accounts that are "off line" and not recorded and reported in MMARS, and revenues are not deposited in the General Fund or some other fund approved by the State Treasurer. The Sheriff's Offices should request from EOAF that retained revenue accounts be established for their locally controlled funds in order for them to be accounted for, reported, and recorded on MMARS, the state's accounting management system that is designed to support the financial functions of the Commonwealth, including all revenue and expenditure activity. As a state agency, serious consideration should be given to have all Sheriff's Offices financial activities managed through MMARS.

Health Insurance Premiums

In an audit report issued by the OSA in May 2000 regarding the abolishment of Hampden County and the transfer of its functions to the Commonwealth, the OSA recommended, "For future county takeovers, EOAF should transfer county employees that are eligible for group insurance coverage in compliance with Chapter 32B of the General Laws and the Commonwealth's Annual Appropriation Acts." Chapter 61 allows for transferred Sheriff's Office union employees to continue paying health care premiums at the rates established in collective bargaining agreements, which in many cases are significantly less than active state employees.

In accordance with Chapter 27 of the Acts of 2009, the Commonwealth's Appropriation Act for fiscal year 2010, it was established that the Commonwealth's share of health care premiums for all active state employees hired on or before June 30, 2003 shall be 80% and that the Commonwealth's share for all active employees hired after June 30, 2003 shall be 75%. However, the Commonwealth's share of health care premiums for active transferred Sheriff's Offices union employees varies by county and collective bargaining agreement. For example, the Commonwealth's share for health care premiums for Bristol Sheriff's Office union employees is 95%; for Plymouth union employees it is 90%; for Barnstable it is either 85% or 80%, depending on hire date; for Dukes it is 90%; for Norfolk it is 80%; and for Suffolk it is either 90% or 75%, depending on the health plan selected by the employee. This variation in health care premiums paid by the

Commonwealth not only has resulted in extra work and costs for the GIC, but also means the Commonwealth will not realize the initial cost savings it anticipated in the health insurance premiums for these transferred Sheriff's Offices until their collective bargaining agreements expire. The variation also results in an unfair system whereby long-time state employees pay more in health premium costs than new state employees who have been transferred to the state from Sheriff's Offices.

Recommendation

The Secretary of EOAF, the Legislature, and the Special Commission should review all the existing laws, rules, and regulations in the areas cited above and along with all other laws regarding the authorizations, duties, and requirements of the Sheriff's Offices operations that were transferred to the Commonwealth. Many of the existing laws are rooted in legislation for the abolished and defunct county governments. In addition, many other laws and regulations of the still existing counties are linked to the former County Sheriff's Offices.

Once the appropriate reviews have taken place, the Secretary of EOAF the Legislature, and the Special Commission will make the appropriate recommendations and, where necessary, will make the relative changes, including eliminating, amending, and clarifying inconsistent and conflicting laws and regulations requiring Sheriff's Offices to conduct their operations, processes, and programs in a uniform and compatible manner throughout the Commonwealth.

APPENDIX I

**Summary of Appropriations,
All Sheriffs
April 15, 2010**

Sheriff's Office	Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
Transition Spec. Acct.	8910-0000	Maint/Operations	\$ -	\$162,427,746.00	\$ -	\$162,427,746.00	\$ -	\$ 654,256.00	\$144,844,557.00	\$16,928,933.00
Barnstable	8910-8200	Maint/Operations	\$21,176,700.00	\$ 10,588,350.00	\$ -	\$ 10,588,350.00	\$ 5,000.00	\$ 732,686.68	\$ 5,037,854.30	\$ 4,812,809.02
Bristol	8910-8300	Maint/Operations	\$ 27,245,334.00	\$ 13,628,167.00	\$ -	\$ 13,617,167.00	\$ 5,000.00	\$ 149,577.49	\$ 8,151,373.90	\$ 5,311,215.61
Dukes	8910-8400	Maint/Operations	\$ 2,567,765.00	\$ 1,283,882.00	\$ -	\$ 1,283,882.00	\$ 2,500.00	\$ 90,055.03	\$ 777,469.85	\$ 413,857.12
Nantucket	8910-8500	Maint/Operations	\$ 782,593.00	\$ 391,297.00	\$ -	\$ 391,296.00	\$ -	\$ 140.05	\$ 80,305.36	\$ 310,850.59
Norfolk	8910-8600	Maint/Operations	\$ 22,871,958.00	\$ 11,435,979.00	\$ -	\$ 11,435,979.00	\$ 5,000.00	\$ 609,740.60	\$ 5,836,886.52	\$ 4,984,351.88
Plymouth	8910-8700	Maint/Operations	\$ 23,943,379.00	\$ 11,971,690.00	\$ -	\$ 11,971,689.00	\$ -	\$1,087,686.03	\$ 6,737,310.58	\$ 4,146,692.39
Suffolk	8910-8800	Maint/Operations	\$ 85,442,734.00	\$ 42,721,367.00	\$ -	\$ 42,721,367.00	\$10,000.00	\$1,858,341.81	\$ 22,398,565.03	\$18,454,460.16
Total			\$184,030,463.00	\$254,448,479.00	\$ -	\$254,437,476.00	\$27,500.00	\$5,182,483.69	\$193,864,322.54	\$55,363,169.77
Barnstable	8910-8210	Federal Inmates	\$ 250,000.00	\$ -	\$ -	\$ 250,000.00	\$ -	\$ -	\$ -	\$ 250,000.00
Bristol	8910-8310	Federal Inmates	\$ 6,500,000.00	\$ -	\$ -	\$ 6,500,000.00	\$ -	\$1,518,714.72	\$ -	\$ 4,981,285.28
Dukes			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Nantucket			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Norfolk	8910-8610	Federal Inmates	\$ 2,500,000.00	\$ -	\$ -	\$ 2,500,000.00	\$ -	\$ -	\$ -	\$ 2,500,000.00
Plymouth	8910-8710	Federal Inmates	\$ 16,000,000.00	\$ -	\$ -	\$ 16,000,000.00	\$ -	\$ -	\$ 718,681.06	\$15,281,318.94
Suffolk	8910-8810	Federal Inmates	\$ 8,000,000.00	\$ -	\$ -	\$ 8,000,000.00	\$ -	\$5,703,886.76	\$ -	\$ 2,296,113.24
Total			\$ 33,250,000.00	\$ -	\$ -	\$ 33,250,000.00	\$ -	\$7,222,601.48	\$ 718,681.06	\$25,308,717.46

Transition Spec. Acct.	8910-0010	Public Health Inmates	\$ -	\$ 2,172,244.00	\$ -	\$ 2,172,244.00	\$ -	\$ -	\$ 1,989,326.00	\$ 182,918.00
Total			\$ -	\$ 2,172,244.00	\$ -	\$ 2,172,244.00	\$ -	\$ -	\$ 1,989,326.00	\$ 182,918.00
Grand Total			\$ 217,280,463.00	\$256,620,723.00	\$ -	\$289,859,720.00	\$27,500.00	\$12,405,085.17	\$196,572,329.60	\$80,854,805.23
Transition Spec. Acct.	1233-3300	County Corrections	\$ -	\$ -	\$ -	\$ 3,244,575.17	\$ -	\$ -	\$ 3,089,076.00	\$ 155,499.17
Transition Spec. Acct.	8910-0000	Maint/Operations	Recap Expenditures			Transition Spec. Acct.	1233-3300	County Corrections	Recap Expenditures	
		Barnstable	\$ 14,595,936.00						Barnstable	\$ 27,501.00
		Bristol	\$ 24,049,479.00						Bristol	\$ 1,149,657.00
		Dukes	\$ 1,665,694.00						Dukes	\$ 26,606.00
		Norfolk	\$ 15,797,533.00						Norfolk	\$ 373,876.00
		Plymouth	\$ 31,745,708.00						Plymouth	\$ 1,177,798.00
		Suffolk	\$ 56,225,113.00						Suffolk	\$ 333,638.00
		State Office of Pharmacy- Drugs	\$ 532,501.00						Total	\$ 3,089,076.00
		State Office of Pharmacy- Services	\$ 232,593.00							
		Total.	\$ 144,844,557.00							

APPENDIX II

Barnstable Sheriff's Office Status of Appropriations, April 15, 2010

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8200	Maint/Operations	\$21,176,700.00	\$10,588,350.00	\$ -	\$10,588,350.00	\$ 5,000.00	\$732,686.68	\$5,037,854.30	\$4,812,809.02
8910-8210	Federal Inmates	<u>\$ 250,000.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 250,000.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 250,000.00</u>
Total Approp. FY 2010		<u>\$21,426,700.00</u>	<u>\$10,588,350.00</u>	<u>\$ -</u>	<u>\$10,838,350.00</u>	<u>\$ 5,000.00</u>	<u>\$732,686.68</u>	<u>\$5,037,854.30</u>	<u>\$ 5,062,809.02</u>
0840-0110	Crime Victims A				\$ 26,131.25	\$ -	\$ -	\$ 15,108.37	\$ 11,022.88
1102-2494	EDR (Demand response)				\$ 20,063.00	\$ -	\$ -	\$ -	\$ 20,063.00
6110-0001	Highway Administration				\$ 14,424.00	\$ -	\$ -	\$ -	\$ 14,424.00
7038-0107	Adult Basic Education(ABE Grant)				\$ 57,607.00	\$ -	\$ 570.36	\$ 35,041.85	\$ 21,994.79
7043-1001	Title I Basic P(Grant)				\$ 57,939.00	\$ -	\$ 150.62	\$ 27,642.94	\$ 30,145.44
7060-1001	ARLEA Title I (ARRA)				\$ 6,343.00	\$ -	\$ 670.62	\$ 30.54	\$ 5,641.84
8000-0911	Enhanced 911				\$ 121,282.53	\$ -	\$ -	\$ -	\$ 121,282.53
8000-4611	Justice Assist				\$ 23,522.35	\$ -	\$ 253.06	\$ 16,660.30	\$ 6,608.99
8910-8211	SDC Communication Fund				\$ 94,296.42	\$ -	\$ -	\$ 17,800.60	\$ 76,495.82
8910-8212	SDC Police Detail Fund				\$ 13,637.38	\$ -	\$ -	\$ -	\$ 13,637.38

8910-8214	SDC Soc Sec Admin Fund				\$ 73,400.00	\$ -	\$ -	\$ -	\$ 73,400.00
8910-8215	SDC State Drug Forfeiture Fund				\$ 9,213.87	\$ -	\$ -	\$ -	\$ 9,213.87
8910-8216	SDC Federal Drug Forfeiture Fund				\$ 15,416.90	\$ -	\$ -	\$ -	\$ 15,416.90
8910-8222	SDC Federal Detention Fund				\$ 377,127.52	\$ -	\$ 4,631.09	\$ 4,883.91	\$ 367,612.52
8910-8299	FY10SDC Temporary Trust				\$ 2,017,558.85	\$18,414.57	\$ 38,077.18	\$1,008,102.28	\$ 952,964.82
8910-8599	FY10NSD Temporary Trust(From Nantucket Sheriff for prisoner housing)				\$ 107,000.00	\$ -	\$ -	\$ -	\$ 107,000.00
4512-0103	AIDS Program				\$ 23,731.66	\$ -	\$ -	\$ 10,752.98	\$ 12,978.68
4512-0200	Alcoholism				\$ 4,651.00	\$ -	\$ -	\$ 3,875.25	\$ 775.75
					<u>\$ 3,063,345.73</u>	<u>\$18,414.57</u>	<u>\$ 44,352.93</u>	<u>\$1,139,899.02</u>	<u>\$1,860,679.21</u>

APPENDIX III

**Bristol Sheriff's Office
Status of Appropriations,
April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8300	Maint/Operations	\$ 27,245,334.00	\$13,628,167.00	\$ -	\$13,617,167.00	\$5,000.00	\$ 149,577.49	\$8,151,373.90	\$ 5,311,215.61
8910-8310	Federal Inmates	\$ 6,500,000.00	\$ -	\$ -	\$ 6,500,000.00	\$ -	\$1,518,714.72	\$ -	\$ 4,981,285.28
Total Approp. FY 2010		\$ 33,745,334.00	\$13,628,167.00	\$ -	\$20,117,167.00	\$5,000.00	\$1,668,292.21	\$8,151,373.90	\$ 10,292,500.89
1102-2494	EDR (Demand response)				\$ 16,602.00	\$ -	\$ -	\$ -	\$ 16,602.00
6110-0001	Highway Adminis				\$ 30,416.40	\$ -	\$ -	\$ -	\$ 30,416.40
7038-0107	Adult Basic Edu(ABE Grant)				\$ 41,035.00	\$ -	\$ 16,547.98	\$ -	\$ 24,487.02
7043-1001	Title I Basic P(grant)				\$ 130,599.00	\$ -	\$ -	\$ -	\$ 130,599.00
8000-6613	Juvenile Acct Blk				\$ 187,500.00	\$ -	\$ 1,465.26	\$ 2,191.21	\$ 183,843.53
8910-8399	FY10BSD Temporary Trust				\$ 1,552,955.72	\$ -	\$ 112,206.70	\$1,249,998.14	\$ 190,750.88
4512-0103	AIDS Program				\$ 55,325.12	\$ -	\$ 5,749.98	\$ -	\$ 49,575.14
4512-0200	Alcoholism				\$ 31,550.00	\$ -	\$ 5,258.33	\$ 10,516.66	\$ 15,775.01
					\$ 2,045,983.24	\$ -	\$ 141,228.25	\$1,262,706.01	\$ 642,048.98

APPENDIX IV
**Dukes Sheriff's Office
Status of Appropriations,
April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8400	Maint/Operations	\$2,567,765.00	\$1,283,882.00	\$ -	\$1,283,882.00	\$2,500.00	\$ 90,055.03	\$777,469.85	\$ 413,857.12
Total Approp. FY 2010		\$ 2,567,765.00	\$1,283,882.00	\$ -	\$1,283,882.00	\$2,500.00	\$ 90,055.03	\$777,469.85	\$ 413,857.12
6110-0001	Highway Admin				\$ 7,082.88	\$ -	\$ -	\$ -	\$ 7,082.88
8910-0911	Enhanced 911				\$1,093,903.43	\$ -	\$ -	\$ -	\$1,093,903.43
0339-1003	Community Corre				\$ 163,037.50	\$ -	\$ 4,113.35	\$ 12,279.50	\$ 146,644.65
4512-0200	Alcoholism				\$ 2,300.00	\$ -	\$ 417.26	\$ 1,882.74	\$ -
					\$1,266,323.81	\$ -	\$ 4,530.61	\$ 14,162.24	\$1,247,630.96

APPENDIX V
**Nantucket Sheriff's Office
 Status of Appropriations,
 April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8500	Maint/Operations	<u>\$782,593.00</u>	<u>\$391,297.00</u>	\$ -	<u>\$391,296.00</u>	\$ -	<u>\$140.05</u>	<u>\$80,305.36</u>	<u>\$310,850.59</u>
Total Approp. FY 2010		<u>\$782,593.00</u>	<u>\$391,297.00</u>	\$ -	<u>\$391,296.00</u>	\$ -	<u>\$140.05</u>	<u>\$80,305.36</u>	<u>\$310,850.59</u>
8910-8599	FY10 NSD Temporary Trust				\$156,340.23		\$19,510.38	\$16,281.67	\$120,548.18

APPENDIX VI

**Norfolk Sheriff's Office
Status of Appropriations,
April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8600	Maint/Operations	\$22,871,958.00	\$11,435,979.00	\$ -	\$11,435,979.00	\$5,000.00	\$ 609,740.60	\$5,836,886.52	\$ 4,984,351.88
8910-8610	Federal Inmates	\$ 2,500,000.00	\$ -	\$ -	\$ 2,500,000.00	\$ -	\$ -	\$ -	\$ 2,500,000.00
Total Approp. FY 2010		\$25,371,958.00	\$11,435,979.00	\$ -	\$13,935,979.00	\$5,000.00	\$ 609,740.60	\$5,836,886.52	\$ 7,484,351.88
0840-0110	Crime Victims A				\$ 29,981.84	\$ -	\$ -	\$ 12,192.34	\$ 17,789.50
7038-0107	Adult Basic Edu(ABE Grant)				\$ 58,663.00	\$ -	\$ -	\$ 19,897.86	\$ 38,765.14
7043-1001	Title I Basic P(ABE Grant)				\$ 83,318.00	\$ -	\$ 19,412.50	\$ 10,412.50	\$ 53,493.00
7060-1001	ARLEA Title I (ARRA)				\$ 22,423.00	\$ -	\$ 14,324.69	\$ 6,150.00	\$ 1,948.31
8910-8622	Communications				\$ 3,792.50	\$ -	\$ -	\$ -	\$ 3,792.50
8910-8699	FY10SDN Temporary Trust				\$ 4,588,965.69	\$ -	\$1,819,707.47	\$1,170,157.41	\$ 1,599,100.81
0339-1003	Community Corre				\$ 411,371.00	\$ -	\$ 72,429.48	\$ 191,832.80	\$ 147,108.72
4512-0103	AIDS Program				\$ 22,505.54	\$ -	\$ 9,810.00	\$ 10,121.20	\$ 2,574.34
4512-0200	Alcoholism				\$ 39,270.00	\$ -	\$ 31,808.76	\$ 7,461.24	\$ 0.00
					\$ 5,260,290.57	\$ -	\$1,967,492.90	\$1,428,225.35	\$ 1,864,572.32

APPENDIX VII

**Plymouth Sheriff's Office
Status of Appropriations,
April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8700	Maint/Operations	\$23,943,379.00	\$11,971,690.00	\$ -	\$11,971,689.00	\$ -	\$1,087,686.03	\$6,737,310.58	\$ 4,146,692.39
8910-8710	Federal Inmates	<u>\$16,000,000.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$16,000,000.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 718,681.06</u>	<u>\$15,281,318.94</u>
Total Approp. FY 2010		<u>\$39,943,379.00</u>	<u>\$11,971,690.00</u>	<u>\$ -</u>	<u>\$27,971,689.00</u>	<u>\$ -</u>	<u>\$1,087,686.03</u>	<u>\$7,455,991.64</u>	<u>\$ 19,428,011.33</u>
1102-2494	EDR (Demand response)				\$ 9,912.00	\$ -	\$ -	\$ -	\$ 9,912.00
6110-0001	Highway Adminis				\$ 7,650.00	\$ -	\$ -	\$ -	\$ 7,650.00
7038-0107	Adult Basic Edu(ABE Grant)				\$ 43,346.00	\$ -	\$ 902.05	\$ 19,367.14	\$ 23,076.81
7043-1001	Title I Basic P(ABE Grant)				\$ 304,157.00	\$ -	\$ 8,740.35	\$ 90,680.91	\$ 204,735.74
7060-1001	ARLEA Title I (ARRA)				\$ 102,448.00	\$ -	\$ -	\$ -	\$ 102,448.00
8000-0911	Enhanced 911				\$ 1,743,750.00	\$ -	\$ -	\$ -	\$ 1,743,750.00
8000-4611	Justice Assist				\$ 33,707.50	\$ -	\$ -	\$ 99.00	\$ 33,608.50
8000-4624	Formerly 8600-				\$ 4,326.00	\$ -	\$ -	\$ -	\$ 4,326.00
8910-8799	FY10SDP Temporary Trust				\$ 2,430,971.55	\$ -	\$ -	\$2,430,971.55	\$ -
0339-1001	Commissioner of				\$ 995.27	\$ -	\$ -	\$ -	\$ 995.27
4512-0103	AIDS Program				\$ 46,928.05	\$ -	\$ -	\$ 8,572.00	\$ 38,356.05
4512-0200	Alcoholism				<u>\$ 22,480.00</u>	<u>\$ -</u>	<u>\$ 11,872.33</u>	<u>\$ 7,337.67</u>	<u>\$ 3,270.00</u>
					<u>\$4,750,671.37</u>	<u>\$ -</u>	<u>\$ 21,514.73</u>	<u>\$2,557,028.27</u>	<u>\$ 2,172,128.37</u>

APPENDIX VIII

**Suffolk Sheriff's Office
Status of Appropriations,
April 15, 2010**

Sheriff's Office Appropriation #	Type	Original Amount	Chapter 102 Acts of 2009	Amended 9c & Amended Other	Final	Advances	Obligated or Encumbered	Expended	Unobligated & Available 4/15/10
8910-8800	Maint/Operations	\$ 85,442,734.00	\$42,721,367.00	\$ -	\$42,721,367.00	\$10,000.00	\$1,858,341.81	\$22,398,565.03	\$18,454,460.16
8910-8810	Federal Inmates	<u>\$ 8,000,000.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 8,000,000.00</u>	<u>\$ -</u>	<u>\$5,703,886.76</u>	<u>\$ -</u>	<u>\$ 2,296,113.24</u>
Total Approp. FY 2010		<u>\$ 93,442,734.00</u>	<u>\$42,721,367.00</u>	<u>\$ -</u>	<u>\$50,721,367.00</u>	<u>\$10,000.00</u>	<u>\$7,562,228.57</u>	<u>\$22,398,565.03</u>	<u>\$20,750,573.40</u>
0840-0109	VOCA-ARRA				\$ 35,547.71	\$ -	\$ -	\$ -	\$ 35,547.71
1102-2494	EDR (Demand response)				\$ 28,193.00	\$ -	\$ -	\$ -	\$ 28,193.00
6110-0001	Highway Adminis				\$ 21,150.00	\$ -	\$ -	\$ -	\$ 21,150.00
7043-1001	Title I Basic P				\$ 265,193.00	\$ -	\$ 5,718.24	\$ -	\$ 259,474.76
7060-1001	ARLEA Title I (ARRA)				\$ 70,073.00	\$ -	\$ 1,655.00	\$ -	\$ 68,418.00
4512-0103	AIDS Program				\$ 76,402.50	\$ -	\$ 7,357.74	\$ 38,027.08	\$ 31,017.68
4512-0200	Alcoholism				\$ 40,350.00	\$ -	\$ -	\$ -	\$ 40,350.00
7035-0002	Adult Basic Ski				<u>\$ 148,208.00</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 148,208.00</u>
					<u>\$ 685,117.21</u>	<u>\$ -</u>	<u>\$ 14,730.98</u>	<u>\$ 38,027.08</u>	<u>\$ 632,359.15</u>

APPENDIX IX
**Status of Deeds
Excise Taxes**

Deeds Excise		Prior to 1/1/2010 ¹			After 12/31/2009 ²			
County	Deeds Excise Collections	% To County	% To County Correction Fund	% To General Fund	Deeds Excise Collections	% To County	% To County Correction Fund	% To General Fund
Barnstable	100.000%	28.333%	5.000%	66.667%	100.000%	0.000%	0.000%	100.000%
Bristol	100.000%	42.500%	7.500%	50.000%	100.000%	10.625%	0.000%	89.375%
Dukes	100.000%	42.500%	7.500%	50.000%	100.000%	10.625%	0.000%	89.375%
Nantucket	100.000%	42.500%	7.500%	50.000%	100.000%	41.177%	0.000%	58.823%
Norfolk	100.000%	42.500%	7.500%	50.000%	100.000%	10.625%	0.000%	89.375%
Plymouth	100.000%	42.500%	7.500%	50.000%	100.000%	10.625%	0.000%	89.375%
Suffolk	100.000%	42.500%	7.500%	50.000%	100.000%	0.000%	0.000%	100.000%

¹ Massachusetts General Law Chapter 64D, Section 11 for the above counties except for Barnstable County, that allows for additional deeds excise authorized under provisions of Chapter 163, Section 2, of the Acts of 1988.

² For the above counties, except for Nantucket County, the Acts of Chapter 61, Section 2, states, in part: “and provided further that if in a fiscal year the dollar amount that equals 30.552% of said taxes collected in Nantucket County exceeds \$250,000, the amount in excess shall be transmitted to the General Fund.”

APPENDIX X**LEGISLATION AFFECTING SHERIFF'S OFFICES THAT SHOULD BE CONSIDERED FOR REVIEW BY THE SPECIAL COMMISSION**

CHAPTER 7. EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Chapter 7 Section 3B Services performed at less than cost; commonwealth buildings and facilities used for private gain; prohibition; determination and review of cost.

CHAPTER 29. STATE FINANCE

Chapter 29, Section 1. Definitions.

Chapter 29, Section 2. State revenues; disposition.

Chapter 29: Section 66. Violation of state finance laws; penalties

CHAPTER 30. GENERAL PROVISIONS RELATIVE TO STATE DEPARTMENTS, COMMISSIONS, OFFICERS AND EMPLOYEES

Chapter 30: Section 5. Conflicting orders or regulations; appeal to governor and council

Chapter 30: Section 15. Bonds; determining amount

Chapter 30: Section 16. Schedule bonds

Chapter 30: Section 18. Examination of bonds

Chapter 30: Section 19. Failure to file sufficient bonds; removal of principal

Chapter 30: Section 20. Bonds deposited with county treasurers; examination

Chapter 30: Section 25B. Out-of-state travel expenses; restrictions

CHAPTER 32A. RETIREMENT SYSTEMS AND PENSIONS

CHAPTER 34B. ABOLITION OF COUNTY GOVERNMENT

CHAPTER 37. SHERIFFS

Chapter 37: Section 2. Oath and bond

Chapter 37: Section 4. Special sheriff; appointment; oath; bond; powers

Chapter 37: Section 7. Failure to post bond; penalty

Chapter 37: Section 8. Suits on bonds of sheriffs

Chapter 37: Section 9. Copies of sheriff's bonds; source; use as evidence

Chapter 37: Section 10. Suits against sheriff; procedure for satisfying judgment

Chapter 37: Section 15. Service of writs against the sheriff or deputies

Chapter 37: Section 17. Salaries

Chapter 37: Section 21. Traveling expenses
Chapter 37: Section 22. Accounting of fees; disposition of funds
Chapter 37: Section 24. Transportation of prisoners or persons in custody; sheriffs' duties
Chapter 37: Section 25. Transportation of prisoners or persons in custody; costs; appropriations; report

CHAPTER 64D. EXCISE ON DEEDS, INSTRUMENTS AND WRITINGS

Chapter 64D, Section 11. Deed's Excise Fund.
Chapter 64D, Section 12. County government finance review board.
Chapter 64D, Section 13. County correction fund.

CHAPTER 94C. CONTROLLED SUBSTANCES ACT.

Chapter 94C: Section 47. Forfeiture of property.

CHAPTER 124. POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTION

Chapter 124: Section 1. Powers and duties of commissioner of correction
Chapter 124: Section 6. Annual reports to general court
Chapter 124: Section 9. Monthly reports of arrests
Chapter 124: Section 10. Corporate status of department for purpose of grants, gifts or bequests; site selection for new facilities; title to property

CHAPTER 125. CORRECTIONAL INSTITUTIONS OF THE COMMONWEALTH

Chapter 125: Section 1. Definitions
Chapter 125: Section 6. Treasurers; appointment; bond; duties
Chapter 125: Section 9. Training academy for officers; appointment of trainees; provisional and permanent appointment as officers; probationary period; tenure and benefits; restriction

CHAPTER 126. JAILS, HOUSES OF CORRECTION AND REFORMATION, AND COUNTY INDUSTRIAL FARMS

INSPECTION OF PRISONS.

Chapter 126: Section 1. County commissioners; inspection of prisons; duties
Chapter 126: Section 2. Exhibition of prison books, documents and accounts; examination of prison officers
Chapter 126, Section 3. Violation of laws relative to prisons; notice.

JAILS.

Chapter 126: Section 6. Reimbursement of sheriff for damages for escape
Chapter 126: Section 7. Return of list of prisoners to superior court

HOUSES OF CORRECTION

Chapter 126: Section 8. Establishment
Chapter 126: Section 8A. Superintendents
Chapter 126: Section 9A. Uniforms
Chapter 126: Section 11. Rules; examination of accounts; records

JAILS, HOUSES OF CORRECTION, AND PRISONERS

Chapter 126: Section 16. Custody and control of jails and houses of correction; jailer; assistants; bond
Chapter 126: Section 17. Rent from jailers and keepers of houses of correction
Chapter 126: Section 18. Compensation and duties of officers and assistants
Chapter 126: Section 18A. Injuries to jail or house of correction employees; compensation
Chapter 126: Section 22. Burial of deceased prisoners
Chapter 126: Section 24. Death of sheriff; temporary custody and control of jail; bond
Chapter 126: Section 25. Care of jail or house of correction
Chapter 126: Section 26. Removal of prisoners in case of disease
Chapter 126: Section 27. Removal of prisoners in case of danger from fire or bombing

EXPENSE OF SUPPORTING PRISONS

Chapter 126: Section 28. Supplies for jails and houses of correction
Chapter 126: Section 29. Expense of keeping and maintaining convicts
Chapter 126: Section 30. Advances for expenses
Chapter 126: Section 31. Application for advance expenses; approval
Chapter 126: Section 32. Account of expenditures
Chapter 126: Section 33. Fuel, bedding and clothing for prisoners
Chapter 126: Section 34. Direction to furnish specific rations; conformance thereto

COUNTY INDUSTRIAL FARMS

Chapter 126: Section 35. Acquisition, reclamation, improvement and sale of land
Chapter 126: Section 36. Erection of temporary buildings; management
Chapter 126: Section 37. Removal of prisoners to industrial farms; custody
Chapter 126: Section 38. Borrowing money to meet expenses; bonds or notes
Chapter 126: Section 39. Payment of loan

CHAPTER 127 OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS PAROLES AND PARDONS

DEFINITIONS

Chapter 127, Section 1. Definitions.

Chapter 127, Section 1A. County correctional facilities; minimum standards; establishment and revision; financial or other assistance.

Chapter 127, Section 1B. Inspection of county correctional facilities; compliance with minimum standards; report; notice of violations; enforcement procedure.

OFFICERS

Chapter 127: Section 3. Chapter 127: Section 3. Money and property of prisoners; records; custody and return; transmission to court; interest on deposits

Chapter 127: Section 5. Calendar of prisoners; contents

Chapter 127: Section 8. Prison books; contents; accessibility

Chapter 127: Section 9. Invoice books; contents

Chapter 127: Section 10. Annual report to commissioner of correction

Chapter 127: Section 13. Removal of incompetent jailers or keepers of houses of correction

Chapter 127: Section 14. Removal of officers using intoxicating liquor to excess

Chapter 127: Section 21. Classification of prisoners in jails and houses of correction; approval

Chapter 127: Section 22. Separation of prisoners; minors

SOLITARY CONFINEMENT

Chapter 127: Section 41. Confinement to isolation unit in jails or houses of correction

EDUCATION, TRAINING AND EMPLOYMENT PROGRAMS

Chapter 127: Section 48. Establishment and maintenance; rules and regulations

Chapter 127: Section 48A. System of compensation; graduated scale; credits; appropriations

Chapter 127: Section 49. Participation of inmates in programs outside correctional facilities; eligibility; sentence credit; rules and regulations; escape, punishment; public employment; labor dispute restriction

Chapter 127: Section 49A. Evaluation of inmates for participation in programs outside correctional facilities; committees; recommendation

Chapter 127: Section 49C. Employment of prisoners of county correctional institutions on municipal properties within county

Chapter 127: Section 61. Establishment of industries

Chapter 127: Section 66A. Purchase of tools and materials for jails and houses of correction; approval

Chapter 127: Section 71. Receipts from sale of products, services, or labor of committed offenders; disposition

Chapter 127: Section 72. Payment of salaries and bills for tools, machinery and materials; schedules

Chapter 127: Section 73. Suits on contracts by and against principal officers; arbitration

OUTDOOR LABOR

Chapter 127: Section 83. Outdoor labor of inmates

Chapter 127: Section 83A. Establishment of camp for male prisoners for reforestation; approval; hearing.

Chapter 127: Section 83C. Escapes from prison camp

Chapter 127: Section 84. Purchases or lease of land for improvement by prison labor; payment to county
Chapter 127: Section 86F. Work release programs
Chapter 127: Section 86G. Work release programs; Suffolk county
Chapter 127: Section 86I. Public speaking engagements; inmates of county correctional facilities

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