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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
WORCESTER COUNTY SHERIFF'S OFFICE

OFFICIAL AUDIT
REPORT
JUNE 9, 2005

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The Worcester County Sheriff's Office (WCSO) was established as an independent state agency as of July 1, 1998, as a result of the abolishment of Worcester County government pursuant to Chapter 48 of the Acts of 1997. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which stipulated that the Sheriff became an employee of the Commonwealth but remained an elected official. The Sheriff also retained administrative and operational control over the WCSO, the jail, and the house of correction, which has an inmate capacity of 822 and an average inmate census of 1,300 inmates during our audit period.

In accordance with Chapter 11, Section 12, of the General Laws and in consideration of the recent election of a new Sheriff, the Office of the State Auditor (OSA) conducted a transition audit of the status of financial activities, accounts, and functions and the related systems and control environment of the WCSO for the period July 1, 2004 to April 30, 2005 which includes the administration transition date of January 5, 2005. Also, our review was part of a statewide review of seven Sheriff's Departments within the Commonwealth. The purpose of our review was to inform the new Sheriff of the status of fiscal and administrative operations as of the date he assumed office, to enhance the transition from the prior administration to the new administration, and to identify systems and internal accounting and administrative controls needing corrective action and improvement. In addition, our audit focused on issues that were identified in the prior WCSO and County Transition audits.

AUDIT RESULTS

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1. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED

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Our prior follow-up audit disclosed that the Worcester County Sheriff's Office (WCSO) (a) needed to improve its inventory controls, (b) did not have adequate documentation to verify an exemption of other income to the Internal Revenue Service, and (c) needed to seek clarification regarding the disposition of its telephone commissions. Our follow-up audit revealed that these prior conditions had not been resolved, as discussed below.

a. Inventory Control Improvements Needed

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Our prior audit revealed that the WCSO was not conducting regular and sufficient inventory checks to properly control their food and supply items stored in the warehouse. Our follow-up audit showed the WCSO now conducts monthly inventories, however, the one monthly inventory that we observed had variances totaling \$16,075.

b. Inadequate Documentation for Reporting Exemption of Other Income to the Internal Revenue Service

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Our prior audit noted that the former Sheriff lived in a house on the correctional facility's grounds at no cost, and did not report this as other income for tax purposes due to an exemption ruling. However, the WCSO did not have a copy of this ruling on file. During our follow-up audit, we were presented with two separate rulings to verify that

this income was exempt from being reported on the Sheriff's income taxes. However, these rulings were not directed to the WCSO, but instead involved the lodging situation of the Bristol County Sheriff during 1986. We feel these rulings do not apply because they are untimely, the Sheriffs were county employees in 1986, the rulings are not directed to the living situation of the former Worcester Sheriff, and condition three of the IRS Code may not apply because it is not a necessity of employment, since other Sheriffs now employed by the Commonwealth do not live on the grounds of the jail and house of corrections and are performing their duties properly. Neither the newly elected Sheriff nor any members of his administration currently live on the grounds of the institution. Instead, the former Sheriff's home is currently being used for administrative offices, and in the future may be used to establish an inmate community re-entry program.

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Our prior audit disclosed that the WCSO deposited telephone commissions into its Commissary and Welfare Account (CWA), also know as the canteen account. However, this revenue may belong to the Commonwealth's General Fund because of the change in the WCSO's legal status from a county government entity to an independent agency of the Commonwealth. Chapter 29, Sections 1 and 2, of the General Laws state that revenue payable to the Commonwealth, unless otherwise specified, should be deposited into the Commonwealth's General Fund. Conversely, Chapter 127, Section 3, of the General Laws states that revenue from the sale of goods and services in correctional facilities may be expended for the general welfare of all inmates, at the discretion of the superintendent. As telephone commissions may meet the revenue criteria of both laws, our prior audit noted that legal clarification was needed as to which law applies. Our follow-up audit disclosed that the WCSO is still depositing telephone commission funds into its CWA and that no legislation has passed clarifying which General Law applies. The WCSO provided us with a ruling from its administrative counsel stating the reasons why the WCSO should deposit these revenues in its CWA. However, the ruling does not address the fact that Chapter 127, Section 3 only allows the interest earned from this revenue to be expended for the general welfare of the inmates. Therefore, clarification is still needed regarding depositing these funds in the Commonwealth's General Fund or the WCSO retaining and expending these funds. The WCSO should request that the Attorney General's Office review the ruling from its administrative counsel, and the Legislature should review and clarify the term "services" as it applies to Chapter 127, Section 3, of the General Laws.

2. A YEAR-END DEFICIT OF APPROXIMATELY \$1 MILLION IS ANTICIPATED

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As part of our transition audit of the WCSO, we reviewed budgetary activities for fiscal year 2005. Our review was intended to determine the sufficiency of funds to meet the department's obligations for the remainder of the fiscal year. The administration analyzed the budget and determined, based on the current rate of spending, that the WCSO is anticipating a year-end deficit of approximately \$1 million. The WCSO has filed for a supplemental budget to fund the anticipated deficit. However, they informed us that without the supplemental funding they will have to lay off employees. The WCSO sent letters to 240 employees informing them that they will be temporarily laid off from June 12 to the start of the new fiscal year, July 1.

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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 Sheriff established the Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO), also known as the civil processing division, as a self-sustaining adjunct to the WCSO. Its employees were not considered to be county employees, but rather worked under the direct operational control of the Sheriff to process transactions and handle all actions related to serving civil process in Worcester County. However, this organizational structure is in conflict with a ruling that was received from the Department of Employment and Training (DET) in 1994 that determined that the staff of the Process Division of the Office of the Sheriff of Worcester County were employees of Worcester County. Therefore, the WCSO needs to determine the status of these employees as to whether they should be state employees, contract employees or some other status that complies with all applicable Commonwealth laws, rules and regulations. Currently, the civil processing fees retained by the civil processing division are "off line" and not accounted for, reported, and recorded on the Massachusetts Management Accounting and Reporting System (MMARS). Chapter 29, Section 2, of the General Laws requires that all Commonwealth revenue be paid into a Commonwealth fund.

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INTRODUCTION

Background

The Worcester County Sheriff's Office (WCSO) was established as an independent state agency as of July 1, 1998 as a result of the abolishment of Worcester County government pursuant to Chapter 48 of the Acts of 1997. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which stipulated that the Sheriff became an employee of the Commonwealth but remained an elected official. The Sheriff also retained administrative and operational control over the WCSO, the jail, and the house of correction.

The WCSO ensures protection of the community by providing a safe and secure environment as well as correctional and educational services at its facilities. The WCSO received \$37,472,237 and \$38,034,321 for fiscal years 2004 and 2005, respectively, for the operation of the jail, house of correction, and any other statutorily authorized facilities and functions. The WCSO has approximately 650 employees. Its main facility, the Worcester County Sheriff's Office Jail and House of Correction, has an inmate capacity of 822, and during our audit period had an average inmate census of 1,300 inmates. The WCSO has an extensive inmate support network consisting of GED and Post-GED classes, special education, electronics repair courses, college courses, graphic arts, and educational counseling.

In addition to the jail and house of correction, the WCSO is responsible for the civil process service of legal papers and notices through the Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO). The SWCDSO is under full control of the Worcester County Sheriff and currently has 27 employees. The Assistant Deputy Superintendent and the Deputy Sheriff/Office Manager of the SWCDSO are paid through the WCSO's state appropriations. All other employees are paid from revenue collections and are not employees of the Commonwealth of Massachusetts.

Annual audited financial statements for the fiscal year ended June 30, 2004 showed fees collected totaling \$1,764,337, less operating expenses of \$1,581,462, resulting in an income from operations of \$182,875. In past years the SWCDSO retained all revenues collected; however, Chapter 26, Section 639, of the Acts of 2003 requires that starting in fiscal year 2004, the SWCDSO must submit 50% of the increase in its fees to the Commonwealth. In addition, effective February 1, 2004, Chapter 26, Section 649, of the Acts of 2003, required the Sheriff to submit a report with the House and Senate

Committees on Ways and Means detailing the civil process fees charged by the SWCDSO. Records of the SWCDSO showed that \$238,124 was remitted to the General Fund representing fee increases for the period July 1, 2003 to June 30, 2004.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, and in consideration of the recent election of a new Sheriff, we conducted a transition audit of the status of financial activities, accounts, and functions and the related systems and control environment of the WCSO for the period July 1, 2004 to April 30, 2005, which includes the administration transition date of January 5, 2005. Also, our review was part of a statewide review of seven Sheriff's Departments within the Commonwealth's system that covered the period July 1, 2002 to December 31, 2003. Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such audit procedures and tests as we considered necessary under the circumstances.

The purpose of our review was to inform the new Sheriff of the status of fiscal and administrative operations as of the date he assumed office, to enhance the transition from the prior administration to the new administration, and to identify systems and internal accounting and administrative controls needing corrective action and improvement. . The recommendations in the report are intended to assist the new administration in implementing its internal control structure to ensure that it is adequate to minimize errors, losses, shortages, or illegal acts from occurring.

The objectives of our review were to:

- Review and examine fiscal operations to determine the status of all accounts, activities, and records.
- Determine whether records are complete, accurate, and up-to-date, whether the internal control structure and environment is adequate, and whether the WCSO was complying with applicable laws, rules, and regulations.
- Review and analyze fiscal year 2005 spending from July 1, 2004 through the date of transition to determine and project the sufficiency of funds to meet the WCSO's obligations for the remainder of the fiscal year.
- Review and examine payroll records to determine whether expenditures for payroll are appropriate, particularly that personnel and payroll transactions are properly managed,

overseen, documented and recorded, including proper authorizations and records for personnel actions.

- Follow-up on the prior WCSO audit report (No. 2001-1423-3) and the Abolition of Worcester County Government and Transfer of the Functions, Assets and Liabilities to the Commonwealth of Massachusetts audit report (No. 99-5066-2) as it pertains to the WCSO.

To accomplish our objectives, we conducted interviews with management and staff and reviewed prior audit reports, spending plans, applicable laws and regulations, and fiscal monitoring reports. We also obtained and reviewed policies and procedures, accounting records, and supporting source documents and performed tests of these records, where necessary.

At the conclusion of our audit, we met with the Sheriff, the Deputy Superintendent, and the outgoing and newly appointed Deputies of Administration, to discuss the contents of the report.

As a result of our transition audit of the status of financial activities, accounts, and functions of the WCSO, we have identified certain prior administration operations that lacked adequate fiscal and administrative internal controls (see the Audit Results section of this report). The recommendations in our report are intended to assist the new administration in implementing its internal control structure and fiscal and administrative operations to ensure that they are adequate and that the WCSO is run in an economical, effective, and efficient manner and in compliance with all applicable rules, regulations, and laws.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED

Our prior follow-up audit disclosed that the Worcester County Sheriff's Office (WCSO) (a) needed to improve its inventory controls, (b) did not have adequate documentation to verify an exemption of other income to the Internal Revenue Service, and (c) needed to seek clarification regarding the disposition of its telephone commissions. Our follow-up audit revealed that these prior conditions had not been resolved, as discussed below.

a. Inventory Control Improvements Needed

Our prior audit disclosed that the WCSO was not conducting regular and sufficient inventory checks to properly control food and supply items stored in its warehouse, inmates used to transport and count items were not adequately supervised in order to rely on the accuracy of their work, no perpetual inventory records were maintained, and non-food supply items had not been inventoried for a long period of time (in fact, WCSO officials could not determine when such an inventory was last prepared). Without proper controls, the WCSO cannot adequately account for, safeguard, and monitor its food and supply inventories.

During our follow-up review we determined that the WCSO instituted a perpetual inventory process. We reviewed the policies and procedures for the operation of the warehouse, tested the perpetual inventory records, and observed a monthly inventory of food and supplies in the warehouse. We found that the WCSO now conducts monthly inventories in accordance with the WCSO's Warehouse Policy, which states, "The warehouse staff will be responsible to keep a running inventory of all items stored on the premises. The staff will be responsible [for] of doing a physical inventory monthly...." We were also provided with copies of the prior six monthly inventory reports, which indicated small net variances. However, the one monthly inventory that we observed had variances totaling \$16,075, or eight percent of the total inventory valued at \$198,572.

As part of our assessment of inventory controls, we tested the perpetual inventory system maintained by the warehouse, by randomly selecting seven items from the inventory list. We found that four of these items had variances when we compared our count of the inventory to the warehouse's perpetual inventory listing. Based on these results, we determined additional

testing was necessary, and we observed the next monthly inventory conducted by warehouse staff.

Immediately prior to the physical inventory count taken by the warehouse staff, we were given a copy of the inventory listing of items on hand, which we were told, represented an accurate listing with all requisitions and invoices entered and up to date. The warehouse policy states, in part:

During the monthly inventory there will be no deliveries accepted from outside vendors; and no items can be requisitioned out of the warehouse during the inventory.

Over a two-day period, we observed the initial count of inventory items by the warehouse staff. We also observed recounts of items that had variances when compared to the perpetual inventory list. During the period of our observation we found numerous items, such as food items, cleaning supplies and clothing, that had variances when compared to the inventory listing. After the completion of the inventory count, the warehouse supervisor stated that she would review her records to determine whether any adjustments were needed due to requisitions or deliveries not being recorded prior to the start of the inventory process. However, we were told the list we received prior to the initial physical count was up-to-date in regard to requisitions and invoices entered. After making adjustments to the inventory list, the warehouse supervisor provided us a report that indicated variances for 17 items totaling \$526. These variances consisted of both overages and shortages that were reported as a net variance of \$99.

While the warehouse supervisor was reviewing and reconciling the inventory records, we reconciled the perpetual inventory records to the physical count that we observed. We determined from our analysis that there was an overall inventory variance totaling \$16,075.

We reviewed the warehouse's variance report and compared it to our inventory analysis and found that 70 changes had been made to the quantity of items on hand according to the perpetual inventory list, and that 128 changes had been made to the observed physically counted items. When we requested the documentation from the warehouse supervisor to support these changes, we were given three requisitions and two adjustment reports that were intended to support the changes made to the inventory list. However, we found that there was insufficient supporting documentation for the adjustment reports. In addition, we went to three different departments to review their copy of the warehouse requisitions we were given. Two

departments, whose practice is to maintain copies of the warehouse requisitions, did not have a copy of the requisitions given to us by the warehouse supervisor. The third department does not normally retain copies of the requisition forms. However, the departmental supervisor that routinely orders items from the warehouse stated that some of the items on the requisition were questioning either were not items that his department would have ordered or were in quantities greater than his department would have ordered. Although it is a warehouse policy for departments receiving goods from the warehouse to verify the orders, there is no WCSO policy for signing and retaining the requisition forms. Moreover, it appeared that the items on these requisitions were in the exact amounts needed to correct some of the variances. Even if the warehouse documents were substantiated, there were still numerous unexplained variances.

Also, agencies are required to immediately report all unaccounted-for variances, losses, shortages or thefts of funds or property to the OSA, in accordance with Chapter 647 of the Acts of 1989, which states, in part:

All unaccounted for variances, losses, shortages or thefts of funds or property shall be immediately reported to the state auditor's office, who shall review the matter to determine the amount involved which shall be reported to appropriate management and law enforcement officials. Said auditor shall then make recommendations to the agency official overseeing the internal control system and other appropriate management officials. The recommendations of said auditor shall address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The agency oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified.

Recommendation

Warehouse inventories should continue to be taken monthly; however, a member of the finance department or another independent staff member should be assigned to oversee the physical inventory to ensure the integrity of the count. Members of the warehouse staff should not be responsible for verifying and adjusting their own perpetual inventory records. All adjustments made to the monthly inventory should be reviewed and approved by the Deputy in charge of the warehouse. Monthly Variance Report totals should not be reported as a net variance, but rather as a total variance. Reporting the net monthly variance can be misleading to the user of the report. The WCSO should implement a policy that all departments must verify the accuracy of the received goods and acknowledge receipt of the goods on the warehouse requisition form. Also, all departments should be required to maintain a copy of the requisition form received

from the warehouse. The WCSO should report all unaccounted for variances, losses, shortages or thefts of funds or property immediately to the OSA, as required by Chapter 647 of the Acts of 1989.

b. Inadequate Documentation for Reporting Exemption of Other Income to the Internal Revenue Service

Our prior audit noted that the former Sheriff of Worcester County lived in a house on the correctional facility's grounds at no cost. The WCSO stated that the fair-market rent value did not have to be reported to the Internal Revenue Service (IRS) and the Massachusetts Department of Revenue as income, because it had received a ruling from the IRS stating that this income was exempt from taxes. The WCSO did not have a copy of this ruling on file to verify the IRS exemption. It was recommended that the WCSO obtain a copy of this ruling.

During our follow-up audit we were presented with two separate rulings. However, neither ruling pertained directly to the WCSO, and both were dated 1986. The first ruling, dated April 9, 1986, was directed to the lodging situation of the Bristol County Sheriff at that time. The District Director of the IRS signed this ruling. The second ruling, dated May 15, 1986, was directed to the County Treasurer of Bristol County and was signed by a private attorney from Fall River. It was the private attorney's opinion that the Bristol County Treasurer could not include the Bristol County Sheriff's lodging as part of the Sheriff's gross income.

Both these rulings stated that IRS Code Section 119 applied because three conditions were met to exclude the lodgings from gross income. The three conditions were as follows:

The value of lodging furnished to an employee by the employer shall be excluded from the employee's gross income if three tests are met: [1] The lodging is furnished on the business premises of the employer, [2] The lodging is furnished for the convenience of the employer, and [3] The employee is required to accept such lodging as a condition of his employment. The requirement of subparagraph [3] of this paragraph that the employee is required to accept such lodging as a condition of his employment means that he be required to accept the lodging in order to enable him properly to perform the duties of his employment.

We feel that these rulings are not applicable to the WCSO for the following reasons:

- These rulings were not written to address the lodging situation of the former Sheriff of the WCSO, but are addressed to a Congressman and a County Treasurer of Bristol County in 1986.

- These rulings are not only untimely, being written in 1986, but also due to the fact that the Sheriffs were County employees at that time, and are now employees of the Commonwealth.

Additionally, we feel that condition 3 of IRS Code 119 does not apply, because it is not a necessity of employment, since other Sheriffs transferred to the employment of the Commonwealth are not currently living on the grounds of their jails and house of corrections and have been properly performing their duties. Neither the newly elected Sheriff nor any members of his administration currently live on the grounds of the institution. Instead, the former Sheriff's home is currently being used for administrative offices, and in the future may be used to establish an inmate community re-entry program.

Recommendation

The WCSO should obtain an updated ruling from the IRS and DOR, specifically addressing the former Worcester Sheriff's income tax exemption for the value of his lodging while employed by the WCSO. Although the former sheriff's residence is currently being used for administrative offices, should it again be used as a residence, the WCSO should obtain a tax ruling and, if applicable, work with the appropriate state agencies, including the Executive Office for Administration and Finance, the Department of Capital Asset Management, and the Office of the State Comptroller, to properly establish a value of the lodging that may be potentially included in gross income.

c. Clarification Needed Regarding the Deposit of Telephone Commissions

Our prior audit reported that the WCSO deposits the commissions it receives on telephone services to inmates into its Commissary and Welfare Account, also known as the canteen account. When the WCSO transferred to the Commonwealth, uncertainty existed regarding where these funds should be deposited and which 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.

Because telephone commissions may meet the revenue criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the WCSO's Commissary and Welfare Account. Therefore, our prior report recommended that the WCSO seek legal clarification on which law applies.

Our follow-up audit showed that, due to the advice of its legal counsel, the WCSO is still depositing the telephone revenues into its Commissary and Welfare Account. The WCSO provided us with a copy of a letter dated August 22, 2001 from its administrative counsel that stated, in part:

The revenues generated by the inmate payphone service should be deposited in the Worcester Jail Commissary and Welfare Account pursuant to M.G.L. c.127, 3. G.L. c.29, 2 states, in pertinent 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." The exception, then, to the requirement of revenue being payable to the commonwealth and being deposited in the General Fund is a legislative provision establishing an agency fund which shall be maintained and revenue applied in accordance with law or the purposes of the fund. G.L. c. 127, 3 establishes such a fund. The statute states, in pertinent part, "Any monies derived from interest earned upon the deposit of such 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." The payphone service at the Worcester County Jail and House of Correction is such a service provided to inmates in the facility, which generates revenue. Under the plain language of the statute, said revenue may be applied to the Commissary and Welfare Account to be expended for a particular purpose, viz., the general welfare of all prisoners.

However, the letter does not address the fact that Chapter 127, Section 3 only allows the interest earned from this revenue to be expended for the general welfare of the inmates. Therefore, clarification is still needed regarding depositing these funds in the Commonwealth's General Fund or the WCSO retaining and expending these funds.

The Legislature has not made any changes to these statutes as of the date of our report.

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 go to the inmate benefit fund.

Recommendation

We recommend that the WCSO request that the Attorney General's Office review the WCSO's legal determination regarding the applicability of Chapter 29, Sections 1 and 2, and Chapter 127, Section 3, of the General Laws as to the deposit of telephone commissions and that the Legislature review and clarify the term "services" as it is applied in Chapter 127, Section 3, of the General Laws.

2. A YEAR-END DEFICIT OF APPROXIMATELY \$1 MILLION IS ANTICIPATED

As part of our transition audit of the WCSO, we reviewed budgetary activities for fiscal year 2005 to determine the sufficiency of funds to meet the department's obligations for the remainder of the fiscal year. The administration analyzed the budget and determined, based on the current rate of spending, that the WCSO is anticipating a year-end deficit of approximately \$1 million.

As part of the Commonwealth's annual budgetary process, all agencies are required to prepare budgetary estimates outlining anticipated expenditure levels. Under the current funding process, the WCSO is given an appropriation to fund operating and administrative costs. During fiscal year 2004, the WCSO received a state appropriation of \$37,472,237. For fiscal year 2005, they received \$38,034,321, a 1.5 percent increase from the prior year. To address concerns raised by the new administration, we reviewed the first six months of each year to determine whether the WCSO had expended a similar portion of their appropriated budget. We found that 49% of the budget was expended during the first six months of fiscal year 2004, and 51% of the budget was expended during the first six months of fiscal year 2005. Moreover, fiscal year 2005 expenditures increased over fiscal year 2004 by approximately \$906,000. Part of this increase is attributable to increases in payroll and fringe benefit costs, which included payouts of accrued

benefits to retiring employees, special employee and contracted services costs, and medical costs, which totaled approximately \$840,000.

In fiscal year 2004, the WCSO used approximately \$92,000 from the civil process division to supplement its appropriation and thus avoid a budget deficit. During fiscal year 2005, to supplement the current state appropriation, the WCSO has already expended \$116,580 of civil processing funds. However, even with the benefit of utilizing these civil processing funds, the new administration is projecting a budget deficit of \$1 million for fiscal year 2005. In an effort to control spending, administrative staff has taken steps to reduce expenditures during the last half of fiscal year 2005. Specifically, the Sheriff rescinded promotions and raises for staff given just prior to the new Sheriff taking office, and the Deputy Superintendent monitors weekly budget reports and reviews and approves all purchase requests.

During fiscal year 2005, the WCSO requested a supplemental budget of \$3,060,000 to cover increased costs for payroll and benefit related items and medical services. In addition to those items, the WCSO also requested funds to purchase such things as equipment and infrastructure improvements. However, this supplemental budget was reduced to approximately \$1million by the Governor's Office.

In addition to reviewing the expenditures made from the state appropriation and the civil process division, we reviewed expenditures from the canteen account. According to the WCSO's Budget and Fiscal Policy, the canteen account is used to purchase recreational items for use by all inmates and for subsidies for indigent inmates. This account is supported by revenues generated from the sale of goods to the inmates, telephone commissions, and disciplinary fees assessed to inmates. As of July 1, 2002, the canteen account had a fund balance of \$859,488, and as of the date of the transition to the new administration, January 5, 2005, the balance was only \$284,974. We noted that the WCSO has suspended the practice of charging disciplinary fees to inmates until a final legal determination can be made as to the appropriateness of this practice. If it is determined that the fees were charged inappropriately and need to be refunded, the canteen account fund balance will be further reduced by approximately \$131,000.

We found the WCSO is using the canteen account to pay for such things as medical expenses, a video conferencing system, and employee parking. While these expenditures do not conform to

the WCSO's Budget and Fiscal Policy, WCSO staff stated that these expenditures were approved by the WCSO administration. In discussions with the WCSO administrative staff, it was noted that at the current rate of spending, the canteen account may be unable to fund these types of expenditures in the near future, and that they will have to be budgeted in the WCSO's annual budget requests, which will be problematic in the future based on the current levels of state funding and the current anticipated deficits.

Subsequent to our field work, in an effort to address the anticipated deficit, the Sheriff's Office informed us they sent letters to 240 employees, telling them they will be temporarily laid off from June 12 to July 1, the start of the new fiscal year. Of those who received letters, 200 are civilian workers, including clerical help, teachers and social workers, and 40 are temporary workers, including some guards.

Recommendation

The new administration should continue to review its expenditures and institute cost-saving measures to ensure that there are adequate funds to cover the operations of the WCSO. Also, the new administration should review the Budget and Fiscal Policy as it relates to canteen fund expenditures. The WCSO should either comply with the policy as it relates to the use of canteen funds or amend its policy to allow for the current types of expenditures that benefit all inmates.

3. CLARIFICATION NEEDED REGARDING THE ORGANIZATION OF THE CIVIL PROCESSING FUNCTION AND THE DEPOSIT OF FEES

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 such things as serving summons, warrants, subpoenas, and other legal procedures requiring legal notification. The Sheriff established the Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO), also known as the civil processing division, which was organized to function as a self-sustaining adjunct to the WCSO. Its employees were not considered to be county employees, but rather worked under the direct operational control of the Sheriff to process transactions and handle all actions related to serving civil process in Worcester County. However, this organizational structure is in conflict with a ruling that was received from the Department of Employment and

Training (DET) in 1994 that determined that the staff of the civil process division were employees of Worcester County.

For many years prior to 1989, the civil processing division operated as either a proprietorship or partnership owned by individuals appointed by the Sheriff. As of August 1, 1989, the Sheriff established the SWCDSO to perform the civil processing functions of his office. This office currently employs 27 employees, including two full-time employees that are state employees whose salary is paid through the WCSO's state appropriation. The remainder of the employees who are not state employees are paid from revenues generated from the civil processing fees. These employees have their own benefit plan. During fiscal year 2004, the civil processing division generated revenue from fees totaling \$1.8 million that are used to offset the division's expenditures.

We questioned the status of this entity and its employees and found that this organization is not listed with the Office of the Secretary of State as having the legal status as either a nonprofit or a for-profit corporation. Our review of the independent public accountant's (IPA) financial statement review indicated the SWCDSO was "organized to function as an adjunct to the Office of the Sheriff of Worcester County." Also, in the Summary of Significant Accounting Policies section of the report, under the section describing Income Taxes, which states in part, "The Office of the Sheriff of Worcester County, operating as a division of the Sheriff of Worcester County, a political subdivision of the Commonwealth of Massachusetts government system, is exempt from State and Federal income taxes." It would appear from this description of the entity that the civil processing division is exempt from taxes because it is a division of a political subdivision of the Commonwealth. Therefore, the SWCDSO would be considered a Commonwealth entity, not a nonprofit or for-profit corporation.

We contacted SWCDSO's independent accountant to clarify the entity's status. She stated that she was unclear herself, but she did provide to us two legal rulings she had received from the WCSO. One of the documents was a ruling from the Internal Revenue Service dated March 26, 1990, which found the civil process division is tax exempt because "the Division is an integral part of County X, which in turn is a political subdivision of State Y. Thus, as an integral part of a political subdivision of State Y, the income of the Division is not subject to federal income taxation." The second document was a decision by the Board of the Department of

Employment and Training. The decision stated that the SWCDSO employees were employees of the Sheriff, who was a county employee, and that therefore these employees were also county employees.

Specifically, in 1992, DET held a hearing to determine the employer/employee status of the Civil Process Division of Sheriff of Worcester County. The DET Commissioner's representative determined that the staff of the Process Division of the Office of the Sheriff of Worcester County are employees of Worcester County within the meaning of MGL Chapter 151A, Section 1(i). Counsel for the Commonwealth of Massachusetts, County of Worcester, Office of the Sheriff, appealed the Commissioner's decision to the DET Board. In 1994, the DET Board found the "Office of the Sheriff is created by the Massachusetts Constitution . . . the County of Worcester is a political subdivision of the Commonwealth of Massachusetts, and is an employer subject to the Massachusetts Employment and Training Law." The DET Board upheld the original Commissioner's decision stating:

The issue in the case is which entity, the Process Division or Worcester County, is the employer of the workers in the Sheriff's Process Division for the purposes of G.L. C.151A. The Sheriff of Worcester County asserts that the Process Division itself is an instrumentality or political subdivision of the Commonwealth as defined in Section 1 (i) of the Law cited above, and hence, is the appropriate employing unit. The Commissioner determined that the deputies who serve in the Sheriff's Process Division are employees of the County of Worcester. The Board has concluded that the determination was correct and affirms the decision of the Commissioner's representative for the following reasons.

The duties and responsibilities of the Office of the Sheriff are established by statute. Neither the Sheriff nor the deputies are financially independent of the county. The Sheriff's salary is paid by the county and he must account for and pay over all fees and money received by virtue of his office to the county. G.L. c. 37, s. 22. The Sheriff's appointed deputies are answerable to the Sheriff but must make a financial accounting to the county for all fees collected. G.L. c. 262, s. 8A.

Moreover, there is no evidence that the Sheriff is vested with the authority by statute to establish the Process Division as a separate instrumentality or political subdivision of the Commonwealth of Massachusetts, notwithstanding the fact that the workers in the division perform functions established by law.

Therefore, in accordance with Section 1 (i) of the Law cited above, the employer of all of the employees working for the Sheriff of Worcester County, including the Process Division workers, is the County of Worcester.

On July 1, 1998, with the abolition of county government, the WCSO's functions, duties, and activities were transferred to the Commonwealth. Chapter 34B, Section 4, of the General Laws states: "all functions, duties and responsibilities of an abolished county pursuant to this chapter

including, but not limited to, the operation and management of the county jail and house of correction...are hereby transferred from said county to the commonwealth....” Within the WCSO is the function of civil processing. According to MGL, Chapter 34B, Section 12, “ the Sheriff of an abolished county... in office immediately before the transferred date... shall become an employee of the commonwealth with salary to be paid by the commonwealth...Such sheriff shall retain administrative and operational control over the office of the sheriff, the jail and the house of correction as of the transfer date....”

Since the status of these employees was clearly defined in the above referenced DET ruling, they should have been treated as county employees at the time of the ruling. 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 employees as, “any person in the executive or judicial branch of a government unit employed by a public employer” Therefore, the WCSO needs to determine the status of the employees as to whether they should be state employees, contract employees or some other status that complies with all applicable Commonwealth laws, rules and regulations. It appears that the prior administration disregarded this ruling and continued to operate the civil processing division as a separate independent entity.

Deputy Sheriffs throughout the Commonwealth collect fees for their service 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 part or interested, although they are inhabitants or members thereof.

Annual audited financial statements for the fiscal year ended June 30, 2004 showed fees collected by the SWCDSO totaled \$1,764,337, less operating expenses of \$1,581,462, resulting in an income from operations of \$182,875. In the past years the civil processing division retained all revenues collected, however, Chapter 26, Section 639, of the Acts of 2003 requires that starting in fiscal year 2004, the SWCDSO must submit 50% of the increase in its fees to the

Commonwealth. Effective February 1, 2004, Chapter 26, Section 649, of the Acts of 2003, required the sheriff to submit a report with the House and Senate Committees on Ways and Means detailing the civil process fees charged by the civil processing division. Records of the civil processing division showed that \$238,124 was remitted to the General Fund, representing fee increases for the period July 1, 2003 to June 30, 2004, and a report was submitted to the committees.

On July 1, 1998, the Sheriff's functions, duties and responsibilities were transferred to the Commonwealth. Since the civil processing function is within the Sheriff's legislatively defined duties and responsibilities, fees collected and retained by the Deputy Sheriffs since the transfer should be considered Commonwealth revenue. Chapter 29, Section 1 of the MGL's defines "fees" as state revenue, as follows:

"State revenue", 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 earnings on such income.

Chapter 29, Section 2 of the MGLs requires that all Commonwealth revenue be paid into a Commonwealth fund, as follows:

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.

All such revenue shall be deposited in and credited to the General Fund or other state funds during the fiscal year in which it is received. In the event that a question arises as to the correct year to credit the receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and the determination of the comptroller shall be conclusive.

Currently, the fees retained by the civil processing division are "off line" and not deposited in the general fund or some other fund, such as a retained revenue account that would have to be authorized by the Legislature, nor are they accounted for, reported and recorded on the Massachusetts Management Accounting and Reporting System (MMARS). MMARS is the state's accounting management system that is designed to support the financial functions of the Commonwealth, which include all revenue and expenditure activity. As a state agency, WSCO's financial activities should be managed through MMARS.

The OSA has reported on numerous occasions the need for state officials, including the State Comptroller and the Secretary of Administration and Finance, to review the statewide performance and fragmented processes in place for managing the civil process function by sheriff departments that have been transferred to the Commonwealth. In fact, subsequent legislation has been filed each year since 2001 to effect change to the methods and management of civil process fees. For example, in fiscal year 2006, legislation has been filed to establish a retained revenue account within MMARS for reporting and recording receipts, fees, and revenues collected by the Middlesex Sheriff's Department's Civil Processing Division. All these funds would be deposited to the State Treasury. The Civil Processing Division could expend funds from this account for all expenses associated with their operation. Expenses from the account would conform with existing expenditure regulations and generally accepted accounting principles and comply with all relevant provisions of Chapter 29 of the General Laws (State Finance Law).

Finally, if the civil process fees are deposited into the General Fund as required by Chapter 29, Section 2, of the General Laws, the WCSO would not have the ability to access these fees in order to operate their civil process division. Legislative action in the form of enacting a revenue retention account would be necessary to facilitate funding the operation of the civil process division consistent with similar programs throughout the Commonwealth.

Recommendation

WSCO should review the status of all employees within the civil process division with respect to the DET ruling and the existing legislation that govern the civil process function to ensure compliance with all applicable Commonwealth laws, rules, and regulations regarding state finance. Also, the WCSO should review the accounting, reporting, processing, and management of civil processing fees and consult with the Office of the State Comptroller (OSC) and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate Commonwealth accounting mechanism that is in compliance with applicable laws, rules, and regulations.

4. IMPROVEMENTS NEEDED IN MANAGING COMPENSATORY TIME

During our prior audit of the Abolition of the Worcester County Government (No. 99-5066-2) we found that Worcester County allowed employees to accrue unlimited compensatory time. Specifically, as of June 30, 1998, there were 421 employees from the Sheriff's Department who had accumulated a total of 5,529 days of compensatory time with an estimated value of \$766,124.

In accordance with Chapter 48 of the Acts of 1997, the Human Resources Division determined that county employees would be allowed to transfer compensatory time earned up to July 1, 1998, after which they will not be allowed to transfer any more accrued compensatory time. As of July 1, 1998, employees who have compensatory time on the books were allowed to utilize such time for a one-year period, until June 30, 1999. Under no circumstances were employees allowed to utilize accrued compensatory time after June 30, 1999.

At that time, Sheriff Department officials indicated that, since the county operated under deficit budgets, it could not hire additional employees or pay employees for overtime. As a result, compensatory time accumulations were built up by county employees. The Sheriff Department's legal counsel advised the sheriff that under federal employment law no employee's compensatory time could be forfeited.

During our current audit, we found that the WCSO continues to grant compensatory time in lieu of overtime payments. Currently, the WCSO does not have a written policy to regulate the accumulation and usage of compensatory time. Staff may elect to be paid or accrue compensatory time for overtime hours worked. Compensatory time is allowed to accrue indefinitely. As of April 27, 2005, there were 428 employees from the Sheriff's Department who had accumulated a total of 3,611 days of compensatory time with an estimated value of \$627,217. In addition to the current balances, during fiscal year 2005, seven employees retired and received \$92,630 in compensatory time. Although the total cost of compensatory time has decreased since 1998, the cost per day has increased by \$35.13. The cost continues to increase the longer earned compensatory time remains on the books.

For example, the Deputy Superintendent who retired during our audit period had a balance of 792.5 hours of compensatory time, or 7.5 hours less than the amount he had as of June 30,

1998. The WCSO policy was that only non-management employees could earn compensatory time. The Deputy Superintendent would have earned that compensatory time approximately 20 years earlier at a non-management rate of \$10.05 per hour, however he retired recently and was paid for these hours at the much higher management rate of \$49.82. By allowing compensatory time to accrue without a policy that required employees to use the accrued time within a reasonable period, the Deputy Superintendent was paid \$31,518 more than the value of the compensatory time at the time it was earned.

As noted, by allowing compensatory time to accrue without a policy that required employees to use the accrued time within a reasonable period, the cost to the Commonwealth has increased significantly over time and an unfunded liability has been created that will have to be addressed in future budgets.

Recommendation

The WCSO should establish a written policy for the use and control of compensatory time. Compensatory time should be used within a reasonable amount of time. Accumulation of hours should be kept at a minimum, in order to establish control within the WCSO's annual budget structure.

5. IMPROVEMENTS NEEDED IN GAAP REPORTING

Our audit disclosed that improvements were needed in the filing of WCSO's fiscal years 2003 and 2004 Generally Accepted Accounting Principles (GAAP) financial reporting to the Office of the State Comptroller (OSC), which annually requests agencies to provide information that is used to prepare the Commonwealth's Comprehensive Annual Financial Report (CAFR). We noted the following issues during our audit.

a. Certain Assets Held in Trust Were Not Reported

Our review of the WCSO's GAAP reporting to the OSC indicated that the WCSO did not report certain assets held in trust as required by the OSC's GAAP instructions. Specifically, we found the WCSO did not report the assets in the canteen account or the civil processing division. The assets in the canteen account for fiscal year 2003 and 2004 were \$585,883 and \$389,230, respectively. The assets of the civil processing division were \$246,178 and \$474,987, respectively, for fiscal years 2003 and 2004.

OSC's GAAP instructions define Assets Held in Trust as follows:

"Assets held in Trust" are the cash and other assets which the Commonwealth holds in a trustee capacity for third parties. Examples include patient or canteen and gift funds, property and bank accounts. Special GAAP reporting is needed only for those assets that are held at the department or facility, or at a local bank, and not accounted for through MMARS.

The canteen account and the civil processing assets meet the requirements of the GAAP reporting. These assets are under full control of the Sheriff, who is an employee of the Commonwealth, serving in a trustee capacity for a third party. Additionally, these assets are held at the facility or a local bank. It is important that all financial information be reported on the GAAP transmittal report in order for the CAFR to be complete and accurate.

b. Vacation Balances Were Not Properly Reflected and Reported

Pursuant to Massachusetts General Laws, Chapter 7A, the Office of the State Comptroller (OSC) has the responsibility for establishing the Commonwealth's accounting system and has full authority to prescribe the requisite forms and books of accounts, which includes the classification and accounting of payroll expenditures. Prior to December 31, 1999, the OSC managed two distinct payroll systems for the employees of the Commonwealth. The Personnel Management Information System (PMIS) was used by the executive branch (i.e., all departments except for higher education, district attorneys, judiciary, and state elected offices) and processed payroll on a weekly basis. The Commonwealth Automated Payroll System (CAPS) was used by the non-executive branch (i.e. higher education, district attorneys, judiciary, and state elected offices), and processed payroll on a monthly basis. In January 2000, in an effort to standardize the Commonwealth's payroll systems and incorporate human resource and time and attendance information, the OSC converted the Commonwealth's payroll systems using PeopleSoft's software known as the Human Resources Compensation Management System (HR/CMS). By March of 2000, PMIS and CAPS were converted to HR/CMS, which is a biweekly payroll system that supports all employees in all branches of government. The HR/CMS system integrates all applicable human resource data and time and attendance information each time payroll and pay calculations are run.

As part of our review of payroll policies and procedures and the WCSO response to implementing HR/CMS in March 2000, we found that at the time of conversion to HR/CMS

the WCSO did not transfer all existing vacation time balances for 443 employees on to the HR/CMS system. We found that the WCSO continued to maintain vacation balances on an internal payroll system (KRONOS). The only amount of vacation time that was on HR/CMS was a small portion of accrued vacation time. As of April 1, 2000, the unreported vacation balances maintained on KRONOS that were not transferred to HR/CMS had a value of \$1,120,714. All current vacation time is maintained on HR/CMS. However, the unreported vacation balances are carried on KRONOS and have never been integrated into the HR/CMS system. As of April 4, 2005, the value of the unreported vacation time for 301 employees is \$724,817. The decrease is due to staff usage and retirement payouts.

As the official record of time and compensation for commonwealth's employees, all time and attendance information must be maintained on HR/CMS. Annually, information from HR/CMS is provided to the Office of the Comptroller (OSC) that is used in preparing the Commonwealth's financial statements. The OSC's FY2004 GAAP Instructions, states, in part:

Vacation and Sick Leave Balances - All departments are on the HR/CMS System. The Comptroller's Office will use this report to calculate compensated absence accruals, no action is needed by departments. The departments are responsible for accuracy of the personnel data. Departments must verify that all accrued vacation and sick leave buyback balances are recorded on HR/CMS.

When employees earn the right to compensated absence time and can carry it forward from one fiscal year to the next, a liability is created. At year end the employer "owes" the employee a certain amount related to past service, which can be calculated from the accumulated amount of unused time earned and the employee's current rate of pay. Under GAAP, the Commonwealth must measure and record this liability. For statutory basis reporting this is not an issue, since the Commonwealth uses the "pay-as-you-go" method. The Comptroller's Office will use the HR/CMS Report HMBEN008 to calculate these liabilities.

Since vacation balances are maintained on the KRONOS system, those balances are not part of OSC's calculation of compensated absences that is reported on the state's financial statements. Proper submission of the GAAP Reporting information is required of all departments so that the Commonwealth's financial statements may meet the highest standards for financial accounting and reporting. By not initially entering all vacation credits on HR/CMS, employee vacation time is understated and therefore the potential liability is also understated on the Commonwealth's financial statements.

Recommendation

The WCSO should ensure that all future GAAP reports contain all necessary information related to assets held in trust required by the OSC's GAAP Instructions. Also, the WCSO should ensure that future GAAP information properly reflects all vacation credits in accordance with GAAP and OSC requirements. If the vacation balances are not put on HR/CMS, then the WCSO should work with the OSC to ensure that the correct information is filed annually.

6. STAFF OFFERED MEALS AT NO COST

During our audit we found that the WCSO staff are offered meals at no cost. This had been the practice of the prior administration, and it continues under the current administration. The kitchen staff estimated that approximately 180 meals are served each day at an average cost of \$2.35 per meal. Annually, the estimated cost of providing staff meals is \$154,395, which is approximately 11 percent of the projected fiscal year 2005 budgeted food cost.

Chapter 7, Section 3B, of the General Laws 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.

The secretary of administration shall, on or before January first, nineteen hundred and seventy-six and from time to time thereafter, after notice and a hearing in the manner provided by chapter thirty A, determine the cost hereinbefore mentioned and shall inform each department, agency and institution of the commonwealth furnishing such services or meals or having control of such property or equipment of the cost so determined. Thereafter the cost determined by the secretary shall be collected by such department, agency or institution unless a greater charge has been fixed by the general court. ...

Notwithstanding any other general or special law to the contrary, for the period beginning March first, nineteen hundred and ninety-one, the secretary of administration ... (3) shall determine the charge to be made by the commonwealth for all meals served in state institutions or facilities to employees thereof.

We contacted the Executive Office for Administration and Finance to determine the appropriate rate that employees should be charged for meals. However, established rates as prescribed in Chapter 7, Section 3B, of the General Laws were not available. By offering staff meals at no cost, the WCSO is incurring unnecessary costs which could have otherwise been used for other institutional expenses. Also, consideration should be given to charging a nominal amount for meals due to budget concerns.

In response to this issue, WCSO officials stated that providing meals to employees at no cost may be considered an existing non-negotiated condition of employment and that any change to require employees to pay for meals may be subject to collective bargaining between the Sheriff and the unions.

Recommendation

The WCSO should review the current policy, consider the cost of meals due to the budget concerns, and determine whether they may want to consider charging a nominal amount for the meals to defray the cost.

7. THEFTS OF INMATE FUNDS NOT REPORTED AS REQUIRED BY CHAPTER 647 OF THE ACTS OF 1989

The WCSO incurred thefts totaling \$9,731 from its inmate funds account on two separate occasions, and did not report these losses to the OSA, contrary to the requirements of Chapter 647 of the Acts of 1989. The first theft totaling \$7,735 occurred in March 2003, while the second theft totaling \$1,996 occurred in May 2003. A former inmate of the WCSO perpetrated both thefts.

The two thefts were perpetrated using the same scheme each time. The former inmate used the bank account number of the WCSO's inmate funds account to create counterfeit checks for a fictitious business. The inmate obtained the bank account number from the check the WCSO used to pay off the balance of his inmate account when the inmate was released. After the first scheme was discovered, the WCSO closed its inmates fund account and opened a new account, and the bank made restitution to the WCSO. With the help of several accomplices, the former inmate again used the WCSO's inmate bank account number to create counterfeit checks for the second theft. The Worcester Police, along with the WCSO, apprehended the inmate and his accomplices. The bank made restitution again on the second theft.

Agencies are required to immediately report all unaccounted-for variances, losses, shortages, or thefts of funds, or property to the OSA in accordance with Chapter 647 of the Acts of 1989, which states, in part:

All unaccounted for variances, losses, shortages or thefts of funds or property shall be immediately reported to the state auditor's office, who shall review the matter to determine the amount involved which shall be reported to appropriate management and

law enforcement officials. Said auditor shall then make recommendations to the agency official overseeing the internal control system and other appropriate management officials. The recommendations of said auditor shall address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The agency oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified.

WCSO prior administration officials stated they felt these thefts did not need to be reported to the OSA since the thefts occurred from inmates' funds instead of the Commonwealth's funds. Also, these officials thought that internal control adjustments could not be made, since the thefts occurred outside the facility. Further, the WCSO stated it needs to have an inmate funds checking account for disbursements of inmates' funds, and that ultimately the bank is responsible for verifying the legitimacy of the documents presented to it for payment.

However, Chapter 647 states that all unaccounted-for variances, losses, shortages, or theft of funds of property must be immediately reported to the OSA. The OSA is an independent audit agency that can review and make appropriate recommendations for corrective action. If the thefts were reported timely to the OSA, it is possible that recommendations could have been made that could have prevented subsequent thefts from occurring.

Recommendation

The WCSO should immediately report all unaccounted-for variances, losses, shortages, or thefts of funds of property to the OSA, as required by Chapter 647 of the Acts of 1989.

APPENDIX I

Chapter 647, Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies

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Chapter 647

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

AN ACT RELATIVE TO IMPROVING THE INTERNAL CONTROLS WITHIN STATE AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Notwithstanding any general or special law to the contrary, the following internal control standards shall define the minimum level of quality acceptable for internal control systems in operation throughout the various state agencies and departments and shall constitute the criteria against which such internal control systems will be evaluated. 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.

(A) Internal control systems of the agency are to be clearly documented and readily available for examination. Objectives for each of these standards are to be identified or developed for each agency activity and are to be logical, applicable and complete. Documentation of the agency's internal control systems should include (1) internal control procedures, (2) internal control accountability systems and (3), identification of the operating cycles. Documentation of the agency's internal control systems should appear in management directives, administrative policy, and accounting policies, procedures and manuals.

(B) All transactions and other significant events are to be promptly recorded, clearly documented and properly classified. Documentation of a transaction or event should include the entire process or life cycle of the transaction or event, including (1) the initiation or authorization of the transaction or event, (2) all aspects of the transaction while in process and (3), the final classification in summary records.

(C) Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority. Authorizations should be clearly communicated to managers and employees and should

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include the specific conditions and terms under which authorizations are to be made.

(D) Key duties and responsibilities including (1) authorizing, approving, and recording transactions, (2) issuing and receiving assets, (3) making payments and (4), reviewing or auditing transactions, should be assigned systematically to a number of individuals to ensure that effective checks and balances exist.

(E) Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved. The duties of the supervisor in carrying out this responsibility shall include (1) clearly communicating the duties, responsibilities and accountabilities assigned to each staff member, (2) systematically reviewing each member's work to the extent necessary and (3), approving work at critical points to ensure that work flows as intended.

(F) Access to resources and records is to be limited to authorized individuals as determined by the agency head. Restrictions on access to resources will depend upon the vulnerability of the resource and the perceived risk of loss, both of which shall be periodically assessed. The agency head shall be responsible for maintaining accountability for the custody and use of resources and shall assign qualified individuals for that purpose. Periodic comparison shall be made between the resources and the recorded accountability of the resources to reduce the risk of unauthorized use or loss and protect against waste and wrongful acts. The vulnerability and value of the agency resources shall determine the frequency of this comparison.

Within each agency there shall be an official, equivalent in title or rank to an assistant or deputy to the department head, whose responsibility, in addition to his regularly assigned duties, shall be to ensure that the agency has written documentation of its internal accounting and administrative control system on file. Said official shall, annually, or more often as conditions warrant, evaluate the effectiveness of the agency's internal control system and establish and implement changes necessary to ensure the continued integrity of the system. Said official shall in the performance of his duties ensure that: (1) the documentation of all internal control systems is readily available for examination by the comptroller, the secretary of administration and finance and the state auditor, (2) the results of audits and recommendations to improve departmental internal controls are promptly evaluated by the agency management, (3) timely and appropriate corrective actions are effected

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by the agency management in response to an audit and (4), all actions determined by the agency management as necessary to correct or otherwise resolve matters will be addressed by the agency in their budgetary request to the general court.

All unaccounted for variances, losses, shortages or thefts of funds or property shall be immediately reported to the state auditor's office, who shall review the matter to determine the amount involved which shall be reported to appropriate management and law enforcement officials. Said auditor shall also determine the internal control weaknesses that contributed to or caused the condition. Said auditor shall then make recommendations to the agency official overseeing the internal control system and other appropriate management officials. The recommendations of said auditor shall address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The agency oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified.

House of Representatives, December 21, 1989.

Passed to be enacted, *George Luvaan*, Speaker.

In Senate, December 22, 1989.

Passed to be enacted, *William W. Budge*, President.

January 3, 1990.

Approved, *Richard H. Kiah* Governor.

APPENDIX II

Chapter 647 Awareness Letter from the State Auditor and the State Comptroller



The Commonwealth of Massachusetts

Office of the State Auditor
State House
Boston, MA 02133

Office of the Comptroller
One Ashburton Place
Boston, MA 02108

September 19, 2000

Legislative Leadership
Judicial Branch Administrators
Elected Officials
Secretariats
Department Heads

The State Auditor and the Comptroller are both committed to departmental improvements in the Internal Control structure of the Commonwealth. A good system of controls, as you know, assists management in meeting objectives while avoiding serious problems. Chapter 647 of the Acts of 1989, *An Act Relative To Improving Internal Controls Within State Agencies*, establishes acceptable Internal Control systems for state government operations and constitutes the criteria against which we will evaluate internal controls. With the passage of this law, we began a campaign to educate all department staff on the significant role of internal controls in department operations.

In the past few years, departments have made significant progress in the area of internal controls. Every department has certified that they have documented internal controls in the form of an Internal Control Plan. In Fiscal Year 2001, we are focusing our Internal Control Campaign on the review of department risk assessments, as documented within the departments' internal control plans. Internal control plans must, of course, include all aspects of a department's business, programmatic operations as well as financial.

A major requirement of Chapter 647 is that "an official, equivalent in title or rank to an assistant or deputy to the department head, shall be responsible for the evaluation of the effectiveness of the department's internal controls and establish and implement changes necessary to ensure the continued integrity of the system". This official, whom we refer to as the Internal Control Officer, is responsible for ensuring that the plan is evaluated annually or more often as conditions warrant.

During this annual Statewide Single Audit, we continue with our review of the Commonwealth's internal controls. We analyze and evaluate information obtained during the audit process in our continuing effort to educate agencies regarding both the need for internal controls and the risks of not having adequate internal controls in place.

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To assist departments with this effort, we provide the following support activities:

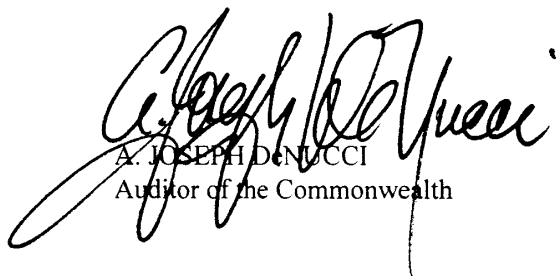
- ◆ The Office of the Comptroller offers departments free monthly training on internal controls. These classes are listed in the *OSC Training Bulletin*.
- ◆ The Office of the Comptroller provided a new document entitled the *Internal Control Guide for Managers* on the Office of the Comptroller's Web page:
<http://www.osc.state.ma.us/>. Part II of the guide will be available shortly and will replace the current *Internal Control Guide for Departments*, currently available on the Web.
- ◆ Upon request, the Office of the Comptroller provides assistance to departments in the process of redefining or reviewing their internal control plans.
- ◆ As part of the Statewide Single Audit, auditors will review and comment upon departments' internal control plans, risk assessments, and the reporting level of the Internal Control Officers.
- ◆ We have updated and automated the Internal Control Questionnaire (ICQ) for easier submission. These changes to the ICQ will enable OSA and OSC to evaluate department internal controls and monitor their progress.

Chapter 647 also requires that "all unaccounted for variances, losses, shortages, or thefts of funds or property be immediately reported to the Office of the State Auditor" (OSA). The OSA is required to determine the amount involved and the internal control weaknesses that contributed to or caused the condition, make recommendations for corrective action, and make referrals to appropriate law enforcement officials. In order to comply with this law instances must be reported on the *Report on Unaccounted for Variances, Losses, Shortages, or Thefts of Funds or Property* and be submitted to the OSA. Reporting forms can be obtained by contacting the Auditor's office, Room 1819, McCormack State Office Building, or Web Site:

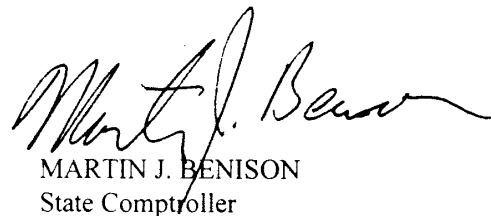
<http://www.magnet.state.ma.us/sao/>.

In conjunction with the above requirement, please note that management is responsible for financial records and systems and must inform, disclose and make representations to the auditors with regards to their management of funds, account activities, programs and systems.

The Offices of the State Comptroller and the State Auditor are committed to the goal of improving the Internal Control structure of the Commonwealth. Thank you for your cooperation and attention on this worthwhile task. Please do not hesitate to call upon the staff of either office for assistance.



A. JOSEPH DENUCCI
Auditor of the Commonwealth



MARTIN J. BENISON
State Comptroller