



A. JOSEPH DeNUCCI
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

TEL. (617) 727-6200

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

OFFICIAL AUDIT
REPORT
APRIL 30, 2010

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INTRODUCTION

Background

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

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

The Suffolk Sheriff's Office (SSO) maintains public safety for the communities of Boston, Chelsea, Winthrop, and Revere. The SSO is committed to providing safe care and custody for individuals at SSO facilities, offering extensive rehabilitative opportunities to offenders, and emphasizing reentry services as offenders return to their communities. Through a variety of offices, programs, services, and partners, the SSO's goal is to maintain, enhance, and improve public safety in the community.

The SSO ensures protection of the community by providing a safe and secure environment, as well as correctional and educational services at its facilities. The SSO received funding for fiscal year 2010 for the operation of a jail, house of correction (HOC), and related statutorily authorized facilities and functions. The SSO has approximately 1,046 employees. The HOC has a maximum inmate capacity of 1,800, and the average daily inmate population within the HOC in January 2010 was 1,493. Additionally, on average, 59 inmates were located outside the HOC at halfway houses and on community supervision. The HOC houses male and female offenders. It also houses federal detainees and overflow detainees for the Suffolk County Jail, located at Nashua Street. The jail has

an inmate capacity of 744 males, and no females and the average daily population in January 2010 was 720.

The SSO has an inmate support network consisting of multiple programs, offering a wide variety of religious, educational, social, and recreational services to the inmate populations at the HOC and jail.

The following is a sample of the programs offered:

- Religious Services
- HIV/AIDS Services (Education, Counseling, Post-Release Planning, and Treatment)
- Substance Abuse Counseling (Recovery Units, Alcoholic and Narcotics Anonymous)
- Academic Educational Opportunities (Adult Basic Education, Computer, English as a Second Language, Basic Literacy Skills, General Educational Development, etc.) - HOC only
- Vocational Education (Woodworking, drafting maintenance, landscaping, carpentry, food sanitation, etc.) - HOC only
- Post-Release Services - HOC only
- Parenting - HOC only
- Recreational
- Domestic Violence - HOC only
- Legal Services
- Food Preparation Training
- Community Works Program - HOC only

Chapter 37, Section 11, of the Massachusetts General Laws states:

Sheriffs and their deputies shall serve and execute, within their counties, all precepts lawfully issued to them and all other process required by law to be 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.

The serving of the civil process, in accordance with Chapter 262 of the General Laws, includes such activities as serving summonses, warrants, subpoenas, and other procedures requiring legal notifications. In addition to its correctional programs, the SSO is responsible for the service of legal

papers and notices, which it performs through its Civil Process Division. The Chief Deputy Sheriff in charge of the Civil Process Division is appointed by and reports to the Sheriff. The Civil Process Division operates independently from the SSO. Attorneys or individual plaintiffs, under a statutory fee structure authorized under Chapter 262, Section 8, of the General Laws, pay for the service. Civil Process Division employees are neither county nor state employees. The Civil Process Division payroll is processed by an outside payroll vendor and paid from the 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. The SSO Civil Process Division processed approximately 38,000 legal papers in calendar year 2009.

The mission of the SSO Civil Process Division is to assist attorneys and pro se litigants by first processing and then delivering or “serving” the legal documents necessary for civil courts to conduct their business. The division performs legal service of court documents by delivering them to defendants and others, thereby commencing lawsuits, summoning witnesses, and giving notice of protective orders. Additionally, after the courts make judgments, Civil Process Division staff help enforce these judgments by seizing property, garnishing wages, and performing Sheriff’s sales pursuant to a court order.

Audit Scope, Objectives, and Methodology

As authorized by Chapter 11, Section 12, of the Massachusetts General Laws and as required by Chapter 61, Section 25, of the General Laws, the Office of the State Auditor conducted an independent audit of the transfer of the SSO to the Commonwealth. Our audit was conducted in accordance with applicable generally accepted government auditing standards and accordingly included such audit procedures and tests as we considered necessary under the circumstances.

The purpose of the audit was to:

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

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

- Reviewed Chapter 61 of the Acts of 2009, Chapter 102 of the Acts of 2009, and other applicable laws, rules, regulations, and policies relating to the transfer of the SSO;
- Met with SSO, County Treasurer, and other county officials. (Throughout this audit report the City of Boston [COB] will be used in lieu of the term Suffolk County Treasurer, and COB officials in lieu of county officials, in accordance with Chapter 35, Section 1, of the General Laws);
- Met with officials from the Executive Office for Administration and Finance, Office of the State Comptroller, Division of Capital Asset Management, Office of the State Treasurer, Public Employee Retirement Administration Commission, Group Insurance Commission, and other Commonwealth officials;
- Reviewed and tested payroll and personnel records transferred;
- Reviewed and verified terms and conditions of transferred employee benefits coverage for continuation and compliance as specified in Chapter 61 of the Acts of 2009;
- Obtained listings and reviewed applicable policies and procedures for the processing and authorization of expenses, accounts payable, liabilities, leases, contracts, and pending litigation;
- Obtained listing of all cash and investment accounts as of January 1, 2010 to determine the status of all accounts;
- Obtained listings of accounts receivable as of January 1, 2010 to determine their comprehensiveness and accuracy;
- Identified revenue streams and status of retained revenue accounts as of January 1, 2010;
- Obtained listing of property, equipment and inventory as of January 1, 2010 to determine its comprehensiveness and accuracy;
- Reviewed and analyzed fiscal year 2010 spending plans and budget projections;
- Reviewed and analyzed fiscal year 2010 appropriation and other accounts established in the Massachusetts Management Accounting and Reporting System (MMARS) as of January 1, 2010;
- Determined the nature, extent, and status of civil processing functions and other programs and activities as of January 1, 2010;
- Determined the establishment and activity status of the mandated Deeds Excise Fund as of January 1, 2010;

- Reviewed functions and activities related to the transition of employees to the Group Insurance Commission and State Retirement System.

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

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

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

Because of the SSO 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 SSO transfer. The SSO was conducting its regular business and transitioning to the Commonwealth at the same time that our audit was in progress, and the many changes and extensive activities required for this transition were still ongoing as the audit was being conducted. Because of the time constraints, we did not have the timely availability of financial records and information. Prior to the January 1, 2010 transition, SSO payrolls and bills were processed by the COB. After the transition, SSO staff was responsible for processing financial data and paying bills through the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) and using the Commonwealth's Human Resource/Compensation Management System (HR/CMS) to prepare its payroll. This transition required SSO staff to learn how to use two financial reporting and processing systems, populate the systems' databases, and continuously enter data to encumber funds and pay SSO obligations. The effect on our transition audit was that current financial data was not available in a timely manner because the financial data had not been entered into MMARS. The learning curve associated with utilizing two information systems is quite steep and requires additional time by all parties involved. As of mid-March 2010, a number of MMARS accounts were still being established and MMARS data fields were in the process of being populated with

backlogged information. However, our review determined that the SSO's bi-weekly payroll was being accurately processed and that bills were in the process of being paid. Therefore, our audit approach was to determine the status of the SSO transition to the Commonwealth, identify and report any issues preventing compliance with Chapter 61 of the Acts of 2009 and all other applicable legislation related to the transition, and make recommendations for improvements or corrective action.

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

Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members: 1 of whom shall be a member of the Massachusetts Sheriffs Association; 2 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the minority leader of the house of representatives; 2 of whom shall be appointed by the president of the senate; 1 of whom shall be appointed by the minority leader of the senate, and 2 of whom shall be appointed by the governor for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices...

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

- (1) the possible consolidation, elimination or realignment of certain sheriffs' offices and the potential cost savings and other efficiencies that may be achieved by eliminating, consolidating and realigning certain sheriffs offices to achieve pay parity;*
- (2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;*
- (3) the reallocation of duties and responsibilities of sheriffs' offices as a consequence of any such consolidation or reorganization;*
- (4) the best management practices including, but not limited to, administrative procedures, payroll systems, software updates, sheriff's ability to negotiate cost effective contracts and the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;*

(5) the consideration of any other issues, studies, proposals or impacts that, in the judgment of the commission, may be relevant, pertinent or material to the study, analysis and review of the commission; and

(6) the need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement services, family connection services, and re-entry opportunities; provided, however, the review shall consider the need and present adequacy of placement of female prisoners and detainees in each county and provided further, that all departments, divisions, commissions, public bodies, authorities, boards, bureaus or agencies of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the responsibilities of the commission subject to considerations of privilege or the public records law.

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

The OSA has conducted numerous audits of the seven Sheriff's Offices previously transferred to the Commonwealth prior to the enactment of Chapter 61. Our audits have disclosed instances of inconsistencies amongst the Sheriff's Offices regarding their financial operations and the application of various conflicting laws, rules, and regulations and have made recommendations to address these issues. Our recommendations in this audit, where appropriate, will be directed to the Secretary for Administration and Finance and Chairs of the House and Senate Committees on Ways and Means, the Legislature, and the Special Commission for its consideration and use during its study and investigation for the reorganization and consolidation of Sheriff's Offices throughout the Commonwealth in the future.

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

AUDIT RESULTS

1. TRANSITION STATUS OF SHERIFF, PERSONNEL, AND PAYROLL

Sheriff Compensation

The elected Suffolk Sheriff's salary as of January 1, 2010 is \$123,209 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.

Prior to the transfer, the Sheriff received salary payments from July 1, 2009 to January 1, 2010 of \$61,605. In addition to her annual salary, the Sheriff receives an annual longevity payment, which in calendar year 2009 totaled \$884. The Sheriff's longevity payment was calculated in accordance with the Suffolk Sheriff's Office (SSO) Benefits Guide for Managerial Employees. There were no accrual balances for the Sheriff as of January 1, 2010. The Sheriff has no leave time balances on the City of Boston (COB) records because, as an elected official, the Sheriff accrues no leave time; therefore, the Sheriff has no leave time transitioning to the state payroll system.

Personnel and Payroll

Payroll expended through January 1, 2010 for SSO employees totaled \$32,672,607. The number of SSO employees on the COB's final payroll on December 18, 2009 was 1,046. There were 1,036 SSO employees compensated via the Commonwealth's Human Resources/Compensation Management System (HR/CMS) for the first SSO state payroll period ended January 2, 2010.

A review of the decrease in the SSO payroll immediately following the transition found that 11 employees who had previously retired under accidental disability retirement (ADR) or had a pending ADR application filed had to be hired as employees by the SSO. Under the COB, these 11 employees were listed under the Retirement Payroll, and not on the SSO payroll. These eligible employees would receive a check from retirement, a check from worker's compensation, and a check for assault pay processed through the City's Central Payroll Department, with the amount charged to SSO funds. Under the state system, the SSO was required to hire these retirees as employees in order to process the assault pay checks they are entitled to as a result of

their ADR claims. There were 21 employees not included in the first SSO HR/CMS payroll. Six employees retired under the COB, five employees were on military leave of absence, and 10 employees were receiving worker's compensation.

In order to test the transition of SSO employees from the COB payroll system onto HR/CMS, we selected a sample of 25 employees from the total population of 1,046 SSO employees. In order to select a representative sample we used a non-statistical approach to ensure that we proportionately selected employees from all six collective bargaining units and management. The objectives of our sample test were to (1) ensure that the post-transition SSO payroll expenditures were paid in a timely manner, complied with applicable rules and regulations, and were appropriately recorded and reconciled; and (2) determine whether SSO personnel were complying with SSO internal policies and procedures.

Our initial interview with SSO Human Resource officials disclosed that a few payroll errors did occur immediately following the transfer from the COB payroll system to HR/CMS. There were 238 employees who received a paper check rather than direct deposit. This occurred due to the paperwork being submitted by the SSO after the HR/CMS December 25, 2009 deadline. Many employees also experienced problems with their Boston Credit Union deductions. Both issues were rectified for the January 22, 2010 payroll period.

Our tests included a check for the accuracy of accrual balances (i.e., sick, vacation, personal, and compensation time) following the transfer from the 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. When asked about the discrepancies identified by our tests, the Director of Personnel at the SSO stated, in part:

The issues that currently impact the accrual balances in the state system, which are causing discrepancies between our official, internal time and attendance system balances (Kronos Timekeeper application):

- 1. When completing the MASSHIRE spreadsheet [MASSHIRE spreadsheet was used to collect SSO payroll records in a pre-determined format to facilitate the transfer of SSO payroll records from the COB payroll system to HR/CMS], we were instructed to list employee Department Service Date as the date the employee began working for the Sheriff's Dept, and the State Service Date as the earliest date the employee began working for the City of Boston. Pursuant to the collective bargaining agreements, employees are also eligible for service performed with Suffolk County and with the Commonwealth of Massachusetts. Therefore, some employees are not*

being credited with the proper service date, which is affecting the amounts of their annual accruals.

- 2. HR/CMS did not allow the carryover of some accrual balances from the previous year. Some of our collective bargaining agreements permit the automatic carryover of up to 2 weeks of vacation time. In addition, the Sheriff or her designee may authorize certain employees to carryover some vacation time, provided their supervisor authorizes the leave, justifies why the leave couldn't be used in the current year, and the employee uses the carryover time no later than March 31st of the next year.*
- 3. The first day we went on the state payroll was December 20, 2009. Accrual leave entered for the time period from December 20 - December 31 was charged against employees' 2010 accrual balances, instead of their 2009 balances.*
- 4. Finally, because of the large number of employees we have, and with most of those employees working off hour shifts and weekends, we are always 1 week behind on entering our overtime, docks, and accrual usage. For example, in the paycheck today (3/5/10), we paid the regular hours for the period from 2/14/10 - 2/27/10, in accordance with the state pay calendar. However, we processed the overtime, docks, and accrual usage only for the period from 2/6/10 - 2/19/10. So there is a week delay between the accrual balances in both systems.*

I spoke with HRD about the issues in items #1-3 above, and they agreed to work with us, after the upgrade has been completed, to resolve these issues. The resolution will include re-loading our accurate accrual balances from our Kronos Timekeeper system, and creating any necessary leave plan rules to permit the carryover of accruals as necessary. We will also provide HRD with the accurate accrual leave eligibility date for all employees, which will either be electronically uploaded or manually updated in the system, whichever way the state instructs us to proceed.

In the meantime, the Department is maintaining the accurate accrual balances in the Kronos Timekeeper system. If a situation arises where an employee's accrual balances are not permitting us to enter time for him/her in HR/CMS, we will manually update that employee's balances in HR/CMS as necessary. Otherwise, all employee balances will all be updated together through the reloading of the balances after the HRCMS upgrade is complete.

The SSO appears to have a plan in place to address accrual issues related to service dates, timing of accrual leave postings, and the definition of accrual leave time carryover rule changes necessary to maintain accurate accrual balances following the HR/CMS upgrade, 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. This interface is contingent on Human Resource Department methodology.

Except as noted above, our review disclosed that as of January 1, 2010, the SSO maintained its payroll records according to the prescribed requirements and complied with applicable laws,

rules, and regulations for those areas reviewed and tested. Specifically, for the items tested we noted that employee pay rates, withholdings, and deductions were accurately added into HR/CMS.

The payroll and personnel records for the SSO are currently being maintained on-site at the SSO administrative offices.

Recommendation

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

Auditee's Response

See Auditee's Response to Audit Result No. 6 – Transition Status of Other Matters.

2. TRANSITION STATUS OF ASSETS TRANSFERRED

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

Cash

The Director of Financial Services at the SSO provided copies of the inmate benefit bank accounts. These funds will be retained by the SSO in accordance with Chapter 61, Section 12(a), of the Acts of 2009. A listing of these accounts follows:

Inmate Bank Account Name	Purpose	Balance as of January 1, 2010
Jail Detainee Benefit – Checking Account	Retained revenue from the canteen, commissions from inmate collect calls, and other miscellaneous revenues used to purchase goods or services that benefit the jail inmate population	\$ 349,344
Jail Detainee – Checking Account	Jail detainee funds held in escrow by the SSO	2,199,033
HOC Inmate Benefit – Checking Account	Retained revenue from the canteen, commissions from inmate collect calls, and other miscellaneous revenues used to purchase goods or services that benefit the HOC inmate population	171,069
HOC Inmate – Checking Account	HOC inmate funds held in escrow by the SSO	<u>1,027,365</u>
Total		<u>\$3,746,811</u>

Additionally, we met with the Civil Process Chief Deputy Sheriff and the Civil Process Chief Financial Officer and obtained the following accounts and balances:

Civil Process Bank Account Name	Purpose	Balance as of January 1, 2010
Operating – Checking	Used to run the daily operations of the Civil Process Division	\$ 80,070
Payroll - Checking	Civil Process Division weekly payroll account	16,230
Escrow - Checking	Account used for funds collected by the Civil Process Division per order of the court to be disbursed within a short period of time (usually within 30 days)	27,030
Escrow - Savings	Account used for funds collected by the Civil Process Division per order of the court to be disbursed after an unspecified period of time (usually greater than two months)	66,434
General Savings	Used to accumulate interest on funds in excess of the funds needed to run the daily operations of the Civil Process Division	642
Refund - Checking	Used to refund customers for the overpayment of service fees	11,036
Witness Fee – Checking	Used to pay the witness fees associated with subpoenas	<u>8,836</u>
Total		<u>\$210,278</u>

Chapter 61, Section 6, of the Acts of 2009 states the following:

All assets of the Office of a transferred sheriff on the effective date of this act shall become assets of the Commonwealth....

As of January 1, 2010, the accounts listed below were being held by the COB for the SSO:

Account Name	Purpose	Balance as of January 1, 2010
Suffolk County 2010	Main SSO operating account on the Suffolk County (City of Boston) financial records	\$12,472,441
ABE State Corrections 2010	Contract with the Department of Elementary and Secondary Education for Adult Basic Education Instructional Programs for Incarcerated Adults (State Grant)	40,077
Title 1 2010	Contract with the Department of Elementary and Secondary Education for Title I, Neglected or Delinquent Program (Federal Grant)	88,177
Substance Abuse 2010	Multi-year contract with the Department of Public Health (State Grant)	28,285
Reimburse Control Panel Repair	Balance of funds used for building maintenance	39,942
Immigration Detainee Agree/ICE	Funds received from Immigration and Customs Enforcement (ICE) for space and services provided by the SSO	187
OCC Operational 2010	Funds received from Trial Court/Office of Community Correction for sub-lease of SSO space	54,343
Perkins Grant 2010	Contract with Executive Office of Public Safety for funding inmate education.	5,749
HIV/AIDS	Human and social services for clients, non-medical. Health services offered to HIV positive and high-risk HIV negative inmates and detainees (State Grant)	97,528
Title 1 2009	FY09 remaining balance - Federal Grant	158
Suffolk County 2009	FY09 remaining balance - Operating Account	3,846
Suffolk County 2008	FY08 remaining balance - Operating Account	23
Deeds Excise Fund	SSO Deeds Excise Funds	2,741,176
Suffolk County Prison Industries	Prison Industries Funds (balance from prior administration)	1,159
SSI Incentive Payment Program	Finders fees from SSI program	38,439
Suffolk County Fund	Used for the deposit of Community Works Program checks and other miscellaneous receipts	16,250
Total		<u>\$15,627,780</u>

On February 23, 2010, we met with the COB City Auditor, the First Assistant Treasurer, and other COB staff to determine the status of SSO accounts. As depicted in the above table, these

accounts totaled \$15,627,780. Subsequent to the transition, the COB processed expenditures for SSO for \$207,849 and credited an additional \$685,734 of revenue. As of February 26, 2010, the total balance of the SSO accounts held by the COB was \$16,105,665, which should be transferred to the SSO and the Commonwealth.

Accounts Receivable

We identified \$2,317,356 of SSO accounts receivable as of December 31, 2009. The \$2,317,356 consists of accounts receivable 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.

SSO Financial Services did not transfer ICE service contract billings for November and December 2009 to the Commonwealth pending the establishment of an SSO state account MMARS and funds to be deposited with the Office of the State Treasurer (OST).

The SSO has six Community Works Program agreements: one informal agreement (not in writing), and five formal (signed) agreements. These agreements are for inmate work crew services, correctional officer transportation, and supervision of these work crews.

Prior to the transition, the SSO was entitled to 85% of the Deeds Excise Fund. The distribution of the deeds excise funds was authorized in Chapter 64D, Section 12, of the Massachusetts General Laws. This law also authorized distributions of “not more than 15%” of these funds to Suffolk County (in this case the City of Boston) and “not more than 10% to the County Registry of Deeds.”

Chapter 64D, Section 12, of the General Laws states, in part:

There shall be established within the executive office for administration and finance a county government finance review board, hereinafter referred to as the “board”, consisting of the secretary for administration and finance or his designee, the commissioner of revenue or his designee, the secretary of public safety or his designee, the state auditor or his designee and a former Massachusetts sheriff, as appointed by majority vote of the Massachusetts Sheriff’s Association. The secretary of administration and finance or his designee shall serve as chairperson of the board....

(2) that of the amounts deposited in the Deed’s Excise Fund for each county from revenues derived under the provisions of this chapter after providing from such fund for the cost of meeting county loan obligations incurred for the purpose of operating and maintaining the county, (a) not less than seventy-five percent of the deposits is to be

disbursed and expended for the operation and maintenance of the county jails and houses of correction, including other statutorily authorized facilities and functions of the office of the sheriff; provided, however, that in Suffolk county, the seventy-five percent share of the deposits is to be disbursed and expended for (i) the operations of the office of the sheriff and the Suffolk county jail and (ii) the operations of the Suffolk County House of Correction and the operations of the penal commissioner for the city of Boston in a proportion to be determined by the secretary for administration and finance; (b) not more than fifteen percent is to be disbursed and expended for meeting the costs of the operation and maintenance of the county; and, (c) not more than ten percent is to be disbursed and expended for the automation, modernization and operation of the registries of deeds of the various counties;...

In accordance with Chapter 34B, Section 10, of the General Laws, the Suffolk County Registry of Deeds (SCRD) was transferred to the Commonwealth. As of July 1, 1999, the SCRD was transferred to the Office of the Secretary of State (SOS) and its deeds excise collections were transferred to the General Fund. Given that the County of Suffolk (City of Boston) was already receiving its maximum 15%, the County Government Finance Review Board determined that the SSO would receive an additional 10% that was previously paid to the SCRD.

The Deeds Excise Funds represented a significant source of revenue for the SSO. In January 2010, the SSO received \$573,818 for its share of the December 2009 Deeds Excise Fund. The Deeds Excise Fund checks were issued by the SOS and made payable to the COB. The COB would allocate 85% of the funds to the SSO and 15% to the COB.

As part of the transfer of the SSO from the county to the Commonwealth, the COB and the SSO are no longer eligible for distribution from the Deeds Excise Fund. Chapter 61, Section 2, of the Acts of 2009 states, in part:

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.

On March 1, 2010, we followed up with the SSO Deputy Director of Financial Services to determine whether the SSO or the COB had received disbursements from the Deeds Excise Fund for January 2010 collections. The SSO was not entitled to a check; however, our review found that on February 10, 2010, the SOS processed a check to the City of Boston for the total balance, \$400,916, of the Deeds Excise Fund as of January 2010. As of March 1, 2010, this check was still in the custody of the SOS.

Once notified that a Deeds Excise Fund check had been processed for the COB, the SSO Deputy Director of Finance called the SOS and found that, according to the Head Cashier, the SOS was unaware that all Deeds Excise Fund proceeds are now to be transmitted and retained by the Commonwealth's General Fund, in accordance with Chapter 61, Section 2, of the Acts of 2009. The SSO Deputy Director of Finance later received a call from the SOS Head Cashier, who indicated that this issue has been addressed and that all future Suffolk County deeds excise tax receipts will be transmitted to, and retained by, the Commonwealth's General Fund.

Property and Equipment

The Suffolk County Jail, located on Nashua Street in Boston, was built at a cost of \$54 million and was opened in 1990. The Suffolk County House of Correction (HOC), located at 20 Bradston Street in Boston, was built at a cost of \$115 million and was opened on December 26, 1991. The Commonwealth's Division of Capital Asset Management (DCAM) built the jail and the HOC. The Commonwealth owned all land, property, and buildings in use by the SSO prior to the transition, so no transfer of custody was necessary.

Inventory

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

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

We reviewed the SSO's compliance with this regulation and received five separate inventory lists: vehicle fleet, furniture and equipment, firearms, software application and the information technology (IT) network server inventory, and IT inventory summary. Several different managers provided inventory lists, and each list had a unique format and contained inconsistent information. Only the furniture and equipment and the software application and IT network server inventories listed both cost and acquisition date.

Recommendation

The SSO must continue to work in concert with the COB, the Office of the State Treasurer (OST), and the Office of the State Comptroller (OSC) to effect the transfer of accounts held by the COB to the Commonwealth, thereby ensuring compliance with Commonwealth

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

Auditee's Response

See Auditee's Response to Audit Result No. 6 – Transition Status of Other Matters.

3. TRANSITION STATUS OF LIABILITIES AND LITIGATION

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

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

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

The 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
- Medical services provided to inmates
- Miscellaneous 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 the service is provided until the invoice is received and paid by the SSO. Without the invoices, 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.

Total leave time accruals as of December 18, 2009 (the last COB payroll for the SSO) was 504,256 hours. These accrual hours consist of:

- Compensatory time – 8,711
- Credit time – 64,973 (Employees who work holidays that fall on their regular day off or during their vacation receive, in addition to their regular compensation, either an additional day off or an additional day's pay on a straight-time basis. Credit time may be carried over from one calendar year to the next.)
- Military time – 126,720 (Accrued but only used by military employees. These funds are used to compensate employees serving military reserve time for up to 17 days.)

- Personal time – 8,779 (Personal time exists only as a subset of sick leave accruals. By policy, all personal time used is deducted directly from the employee’s sick leave accrual balances.)
- Sick time – 271,632
- Vacation time – 23,441

There is an annual sick time buyback benefit in place for all SSO employees. Buyback benefit details vary slightly based on collective bargaining agreement and management policies. As an example of how this benefit works, the following is referenced from Article II, Section 2, of the Benefits Guide for Managerial Employees of the Suffolk County Sheriff’s Department:

Section 2. Annual Redemption.

Managers who use less than six (6) days of accrued sick leave in the twelve (12) months ending December 31 may elect to redeem such leave for cash in accordance with the following schedule:

<i><u>Days Used</u></i>	<i><u>Cash Redemption</u></i>
0	6
1	4
2	3
3	2
4	1
5	0

- A. The rate will be the hourly rate in effect on the preceding December 31, and managers may elect to redeem all, part, or none of their entitlement.*
- B. Unredeemed sick leave will be accumulated in the normal manner.*

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 the amount of \$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 Chief Legal Counsel 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 cost.

The largest potential liability that has come to our attention is a United States District Court case involving an inmate suit brought against SSO for lack of toilet and hand washing facilities in certain HOC cells (Demand is \$15,000,000). 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.

Leases and Rental Agreements

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, which is used to place offenders in controlled, collaborative, effective, and efficient intermediate sanctions (i.e., electronic monitoring, community service, drug and alcohol testing, and day reporting), thereby reducing fragmentation in criminal justice and providing a safe and cost-effective method of supervising offenders. 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.

Recommendation

The SSO should continue to work on the transition to ensure the smooth and adequate transfer of all potential obligations to the Commonwealth. The SSO needs to develop and institute policies, procedures, and internal controls to properly process the accounts payable and pending

litigation in compliance with Massachusetts laws, rules, and regulations. These policies, procedures, and internal controls should be developed so that exposure to the Commonwealth against any undue financial loss is minimized and to ensure that there is transparency in the processing of transactions. This process should function daily and at fiscal year end in order to guarantee that the SSO is in compliance with the closing instructions of the OSC for proper Commonwealth financial recording and reporting purposes at year-end. These policies and procedures should be referenced in the SSO's ICP. (See Audit Result No. 6.)

Auditee's Response

See Auditee's Response to Audit Result No. 6 – Transition Status of Other Matters.

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

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

As of March 2010, the SSO had encountered difficulties in establishing and processing transactions into MMARS for its General Maintenance Appropriation, Retained Revenue Appropriation, Federal Revenue, Grants, Fixed Assets, and Trust accounts. However, the SSO has been able to begin entering substantial expenditure transactions into MMARS. As of March 5, 2010, a total of \$14,165,622 expenditure transactions, including payroll expenditures in the amount of \$12,516,230, were entered into and processed through MMARS. Our audit disclosed that the establishment, functioning, and daily transaction processing needed improvement to ensure effective MMARS reporting. However, the SSO has been consistently improving. Prior to the transfer, the County Treasurer's Office and employees from other county departments handled most of the fiscal transactions related to the SSO. Therefore, SSO employees have, by the necessity of the transition, assumed additional duties and responsibilities not previously performed but are diligently adapting and acclimating to a new accounting system. Employees of the SSO received and are continuing to receive OSC MMARS training and daily assistance for transitioning SSO operations. In addition, mentoring personnel from other Sheriff's Offices previously transitioned from county government to the Commonwealth are also assisting the SSO, as needed. SSO officials anticipate that the use of this system will be fully operational in the coming months.

Budgetary Status and Spending Plans

We obtained the SSO spending plan for fiscal year 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, as detailed in the following chart:

Projected Spending for Fiscal Year 2010		
Code	Description	Amount
AA	State Employee Compensation	\$31,949,426
BB	Employee-Related Expenses	31,650
CC	Special Employee/Contracted Employees and Services	740,231
DD	Pension and Insurance-Related Expenditures	1,021,744
EE	Administrative Expenses	220,562
FF	Facility Operational Supplies and Related Expenses	2,979,472
GG	Energy Costs and Space Rental Expenses	2,478,835
HH	Consultant Service Contracts	84,921
JJ	Operational Services	435,907
KK	Equipment Purchases	127,526
LL	Equipment Tax Exempt Lease-Purchase, Lease and Rental Maintenance and Repair	86,370
MM	Purchased Client Human and Social Services and Non-Human Services Programs	81,153
NN	Construction and Improvements of Buildings and Maintenance of Infrastructure and Land Acquisition	453,181
PP	Grants and Subsidies	8,000,000
RR	Entitlement Programs	1,767,975
UU	Information Technology Expenses	262,415
Total		<u>\$50,721,368</u>

Between January 1, 2010 and March 5, 2010, 12 appropriation accounts were established in MMARS for the SSO. The table below represents the status of these appropriation accounts as of March 5, 2010:

Appropriation Account Number	Account Description	Obligation Ceiling	Expenses
8910-8800	Suffolk Sheriff's Office Main Operating Account	\$42,721,367	\$14,146,681
8910-8810	Suffolk Sheriff's Office Federal Inmate Reimbursement	-	-
0840-0109	Victims of Crime Act (VOCA) Funds - ARRA	-	-
1102-2494	Energy Demand Reduction Program Trust	28,193	-
4512-0103	Acquired Immune Deficiency Program	76,402	18,941
4512-0200	Division of Alcoholism Administration	40,350.00	-
6110-0001	Highway Administration and Maintenance (Community Works Program)	21,150	-

7035-0002	Basic Education Attainment and Work Related	-	-
7043-0001	Title I Grants to Local Education Agencies	-	-
7060-1001	Title I Local Educational Agencies Recovery Act - ARRA	-	-
8910-0000	For a Reserve to Fund County	3,705,566	-
8910-8899	FY2010 Suffolk Sheriff Temporary Expendable Trust	-	-
Total		<u>\$46,593,028</u>	<u>\$14,165,622</u>

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 have been credited to any of these MMARS accounts, and none of the approximately \$16,000,000 in SSO funds held by the COB have been transferred to the SSO MMARS accounts. No timeframe for acquiring grant funds or transferring funds held by 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 no timeframe

has been established as to 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 deficit at the end of fiscal year 2010. However, in an email 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

The SSO controls and maintains a significant amount of and diverse group of funds that are by statute not being transferred to the Commonwealth and into MMARS but are to remain with the SSO. These funds include inmate accounts (i.e., inmate funds held in escrow) and inmate benefit accounts (e.g., telephone and commissary receipts). The Director of Financial Services is responsible for reconciling these accounts on a monthly basis. Civil Process Division accounts (i.e., operating, payroll, escrow, general, refund, and witness fee) are the responsibility of the Assistant Chief Deputy Sheriff and the Chief Financial Officer and are reconciled monthly.

Recommendation

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

Auditee's Response

There were several different funding methods and sources utilized by the County Government Finance Review Board (CGFRB) to fund each of the county sheriffs' operations. The three primary sources were: 1) lump sum "county pool" allocation by the state; 2) a "Maintenance of Effort" (MOE) contribution from the county that, in the case of the SSO, this contribution came exclusively from the City of Boston; and 3) a statutorily authorized percentage of the revenue generated from county deeds excise taxes.

The County Government Finance Review Board had the discretion and authority to divide the county pool funds according to the needs of the individual sheriff's department and the amounts of deeds excise tax revenue it was projected to receive. The CGFRB focused on the total budget allocation and not the breakdown of accounts that normally accompanies a "final budget." Because it was constantly projecting expenses and estimating available revenue throughout the fiscal year, budget allocations to the county sheriffs were not made as a lump sum, at the beginning of the fiscal year, but rather through a series of distributions based on those projections and estimates. As a result, the CGFRB never actually formulated a "final budget."

At the beginning of any given fiscal year and notwithstanding the SSO Spending Plan, the Department would often be under funded, with the expectation that deeds excise revenue would close the gap by fiscal year's end. Even when real estate sales were robust, these revenues rarely covered the gap entirely. The decrease in these revenues became sharp and steady and over the past five fiscal years, supplemental appropriations were sought and received from the state. These appropriations were never annualized – by ANF or the legislature – into the county sheriffs' budgets and became one-time payments for long term fixed costs.

As a result, a significant structural deficit was created for all of the county sheriffs. Because the SSO has more than twice the number of inmates and pretrial detainees than the next largest transferred county sheriff's department, the deficit was comparatively much larger. The "snow-ball effect" of the repeated failure to annualize these appropriations culminated in the SSO's need for more than \$15 million dollars in supplemental funds to continue operating through the end of FY09.

This chronic funding problem is what led the county sheriffs to agree to the so-called transfer legislation, which gives each a line item in the state budget and (arguably) much greater certainty as to what their funding will be.

Currently, our projected deficit is approximately \$3 million. It is a reflection of both the failure to annualize the FY09 supplemental appropriation and substantial cost control measures by the SSO. In fact, the SSO has reduced costs so greatly that a structural deficit that was once over \$25 million dollars has shrunk to less than 3% of the SSO's total FY10 budget. This was accomplished by not replacing staff attrition (we currently have 90 vacant positions), redeployment of staff, collapse of open inmate units and posts, related reduction of overtime expenses, supplies and contract reductions, deferred maintenance and upgrades, energy saving initiatives, and a host of other cost saving measures which have saved tens of millions of dollars in potential costs. These cost saving measures continue to be employed by the SSO to further reduce the FY10 deficit.

5. TRANSITION STATUS OF REVENUES TRANSFERRED

Deeds Excise Fund

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.

SSO received a Deeds Excise Fund Check, dated January 19, 2010, totaling \$675,080 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.

Other Revenues

We reviewed SSO inmate, telephone, and commissary funds revenue collected from July 1, 2009 to December 31, 2009. The inmate receipts are received in three ways: from the inmate, when being booked into an institution; through the mail; and through friends and family members at the visitor's lobby desk. The following tables represent summaries of these collections for the first half of fiscal year 2010 (July 1, 2009 through December 31, 2009):

**SSO Detainee/Inmate Receipts Held in Escrow
July 1, 2009 through December 31, 2009**

Revenue Type	Personal Property	Mail	Visitor	Total
HOC – Inmate (Escrow)	\$28,349	\$203,773	\$528,787	\$760,909
Jail – Detainee (Escrow)	\$98,088	\$96,758	\$244,666	\$439,512

**SSO Detainee/Inmate Telephone and Commissary Receipts
July 1, 2009 through December 31, 2009**

Revenue Type	Commissary Funds	Telephone Funds	Total
HOC – Inmate Benefit	\$201,587	\$400,476	\$602,063
Jail – Detainee Benefit	\$88,483	\$253,479	\$341,962

Grant Funds

SSO receives grant funds that are used for various programs and activities. The following is a list provided by the SSO Director of Financial Services for all SSO fiscal year 2010 grants:

Contract Start Date	Contract End Date	Funding Source	Funding Type	Contract Amount	Balance as of January 1, 2010
July 1, 2009	June 30, 2010	OCC Operational Grant	State	\$ 236,588	\$ 54,343
July 1, 2009	June 30, 2010	DESE/Adult Basic Education (ABE)	State	103,163	68,127
July 1, 2009	June 30, 2010	HIV/AIDS Education Grant (DPH)	State	205,000	158,032
July 1, 2009	June 30, 2010	BSAS (Bureau of Substance Abuse Services) DPH	State	80,700	79,893
September 1, 2009	August 31, 2010	Perkins (EOPSS/DOC)	State	7,902	5,749
September 1, 2009	August 31, 2010	DESE/Title I ARRA (Literacy)	Federal	77,859	-
September 1, 2009	August 31, 2010	DESE/Title I (Literacy)	Federal	289,301	212,115
October 1, 2009	June 30, 2010	Shannon (Boston Police Dept./US Dept. of Justice)	Federal	18,000	-
February 1, 2010	December 31, 2010	MOVAVOCA ARRA (Victims of Crime Assistance)	Federal	47,497	-
TOTAL				<u>\$ 1,066,010</u>	<u>\$ 578,259</u>

NOTE:

OCC	Office of Community Corrections
DESE	Department of Elementary and Secondary Education
HIV	Human Immunodeficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
DPH	Department of Public Health
EOPSS	Executive Office of Public Safety and Security
DOC	Department of Correction
ARRA	American Reinvestment and Recovery Act
MOVA	Massachusetts Office for Victim Assistance

In addition to the grants listed above, the SSO 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. The total SCAAP funding received by SSO during July 1, 2009 through December 31, 2009 was \$770,099.

Civil Process Revenue

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. The Civil Process Division is currently running a deficit, which SSO is closely monitoring.

Federal Revenue

As of January 1, 2010, the Federal Revenue Accounts were still in the custody of the COB. (See Audit Result No. 2.)

Recommendation

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

Auditee's Response

See Auditee's Response to Audit Result No. 6 – Transition Status of Other Matters.

6. TRANSITION STATUS OF OTHER MATTERS***Employee Benefit Plans***

As of the transition date of January 1, 2010, approximately 50% of the SSO's medical plans were switched to the Group Insurance Commission (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 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 MMARS appropriation account 8910-0000.

Pharmacy Purchases

The SSO utilizes the statewide pharmaceutical prime vending contract (Cardinal Health) for its pharmaceutical purchases for the Suffolk County Jail at Nashua Street. The SSO health services provider, Prison Health Services (PHS), with which SSO has contracted, purchases the pharmaceuticals for the HOC and conducts a quarterly inventory of all medications located at the HOC, including narcotics/controlled substances, prescription medications, and over-the-counter medications. PHS maintains the inventory and sends a copy to the PHS corporate

offices. On a daily basis, PHS staff counts the narcotics/controlled substances during each shift. At the jail, the pharmacists maintain a perpetual inventory of certain medications and perform an inventory on other medications every 10 days.

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

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

Everyone in an organization has responsibility for internal control.

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

Because the department's policies and procedures provide the detail for the internal control plan, it is important that they be reviewed in conjunction with the plan. It is not uncommon for the detailed policies and procedures to be modified due to changes in

personnel, audit or quality assurance recommendations, etc. As these modifications occur, the department's documentation should be updated to reflect them.

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

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

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

The Office of the Comptroller defines a department-wide risk assessment as the identification and analysis of the risks that could prevent the department from attaining its goals and objectives. This identification and analysis form the basis for determining the risk management strategy. A precondition to risk assessment is the establishment of the organization's mission and goals. A risk assessment is an integral part of an internal control plan.

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

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

The SSO needs to develop and fully integrate a risk assessment throughout the entire SSO to determine how the SSO's greatest risks to its mission, goals, and objectives would be identified and mitigated. Once risks are identified, the ICP should be adequately developed and cross-

referenced to supporting lower-level detail (i.e., departmental policies and procedures) for most of its organizational areas to ensure that a reliable ICP is in place for the daily operation of the entire SSO. Updates and additions are needed because the SSO is such a large and complex operation with annual appropriations in excess of \$100 million, approximately 1,046 employees, HOC inmate capacity of up to 1,800, jail inmate capacity of 744, and 59 inmates located in halfway houses. Accordingly, the SSO needs to develop an effective internal control plan that addresses its entire financial and programmatic operations. Updating its ICP is important for the SSO to ensure the integrity and effectiveness of its internal control system and enhance its ability to respond to changes while maintaining the system's effectiveness.

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

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

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

Recommendation

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

Auditee's Response

Prior to the transition to the Commonwealth, and in anticipation of the creation of an ICP, the SSO appointed a staff member as the Internal Control Officer and sent senior staff to the "Risk Management Training Class" offered by the OSC. The SSO anticipates sending other managers to the training. In addition, the SSO has reviewed other state agencies' ICPs for guidance, including that of the Hampden County Sheriff's Department (a previously transferred sheriff). In the interim, as the SSO continues to draft and finalize its ICP, many of the issues covered by an ICP are already part of the SSO's existing comprehensive policies and procedures, as noted by the auditors.