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INDEPENDENT STATE AUDITOR'S REPORT  
ON THE  
NORFOLK 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, except where specified, all functions, duties, and responsibilities of the Sheriff's Offices, including assets, liabilities, debt, and potential litigation 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 property of the Sheriff's Office. The OSA is required to file a report with the Secretary of Administration and Finance and Chairs of the House and Senate Committees for Ways and Means no later than April 30, 2010 that includes a summary of audit results for the Sheriff's Offices and the cost of each audit.

The Norfolk Sheriff's Office (NSO) ensures protection of the community by providing a safe and secure environment, as well as correctional and educational services at its facilities. The NSO received funding for fiscal year 2010 for the operation of a jail, house of correction, and any other statutorily authorized facilities and functions. The NSO has approximately 302 employees, including seven employees who work in the Civil Process Division. Its main facility, jail, and house of correction have an operational capacity of 502 inmates and during January 2010 had an average daily inmate census of 645 inmates, which is composed of 340 sentenced inmates, 261 inmates awaiting trial, and 44 federal inmates. The NSO can accommodate this number due to double, triple, and quadruple housing.

As presently structured, the NSO is responsible for running and overseeing all aspects of the facilities, and has an inmate support network consisting of multiple programs, including academic education, vocational education, and substance misuse and self-help programs. Additionally, the

NSO provides religious, recreational and library services for its inmates. In addition to inmate programs, the NSO provides community outreach programs such as community service, which provides nearly 30,000 work hours of free labor to cities, towns, and charitable organizations each year. Under the jail tour programs, which are part of the sheriff's Drug and Alcohol Awareness Program, tours are conducted of the Norfolk County Correctional Center for students of all ages. More than 3,200 people tour the facility each year. Also, there is the "Are You OK?" program, which is a partnership with Fallon Ambulance and is designed to allow seniors to feel confident and safe. Calls are made every day by sheriff's officers to check on the wellbeing of program participants. If a participant fails to answer the phone at his or her scheduled time, or if the officer detects that something is amiss during the call, emergency help can be sent to the home immediately. The "Cells for Safety" program provides domestic violence victims free cell phones with automatic 9-1-1 services. The cost of this program is provided by the local telephone provider.

The NSO also operates the Norfolk County Community Correctional Center (NCCC) located at 191 Parkingway in Quincy. The center provides the courts with an alternative to placing non-violent offenders in jail and places them in an electronically monitored house arrest program through the Electronic Incarceration Program. In addition, as part of the community corrections program, NCCC accepts, by order of a judge, offenders that are required to submit to drug and alcohol testing. It also provides counseling and educational programs for offenders on probation and recent parolees.

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

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

The serving of the civil process, in accordance with Chapter 262 of the General Laws, includes such activities as serving summonses, warrants, subpoenas, and other procedures requiring legal notification. The Civil Process Division, which is a separate division of the NSO located at 2015 Washington Street, Braintree, delivers legal notices and court papers from all Massachusetts courts, as well as from the various courts in other states or counties. The division is legally capable to serve

process in all 28 cities and towns within Norfolk County. The cases vary from small claims matters to multi-million dollar real estate attachments and major Superior Court matters.

The NSO's Civil Process Division, under a Chief Deputy, consists of approximately nine Deputy Sheriffs on call along with seven support and clerical staff. The division's operations, as controlled by the Massachusetts General Laws, are specialized. Attorneys or individual plaintiffs, under a statutory-fee structure, pay for civil processing services. The Civil Process Division is fully computerized, utilizing the software package Softcode, and handles approximately 30,600 cases per year.

### ***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 NSO 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 NSO 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 NSO 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 Norfolk County Sheriff, the Secretary of Administration and Finance, and the Chairs of the House and Senate Committees on Ways and Means.

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

- Reviewed Chapter 61 of the Acts of 2009, Chapter 102 of the Acts of 2009, and other applicable laws, rules, regulations, and policies relating to the transfer of the NSO;
- Met with the Norfolk County Sheriff, County Treasurer, County Commissioner, and other Sheriff's Office and county officials;

- Met with officials from the Executive Office for Administration and Finance, Office of the State Comptroller, Division of Capital Asset Management, Office of the State Treasurer, Public Employee Retirement Administration Commission, Group Insurance Commission, and other Commonwealth officials;
- Reviewed and tested payroll and personnel records transferred;
- Reviewed and verified terms and conditions of transferred employee benefits coverage for continuation and compliance as specified in Chapter 61 of the Acts of 2009;
- Obtained listings and reviewed applicable policies and procedures for the processing and authorization of expenses, accounts payable, liabilities, leases, contracts, and pending litigation;
- Obtained listing of all cash and investment accounts as of January 1, 2010 to determine the status of all accounts;
- Obtained listings of accounts receivable as of January 1, 2010 to determine their comprehensiveness and accuracy;
- Identified revenue streams and status of retained revenue accounts as of January 1, 2010;
- Obtained listing of property, equipment, and inventory as of January 1, 2010 to determine its comprehensiveness and accuracy;
- Reviewed and analyzed fiscal year 2010 spending plans and budget projections;
- Reviewed and analyzed fiscal year 2010 appropriation and other accounts established in the Massachusetts Management Accounting and Reporting System (MMARS) as of January 1, 2010;
- Determined the nature, extent, and status of civil processing functions and other programs and activities as of January 1, 2010;
- Determined the establishment and activity status of the mandated Deeds Excise Fund as of January 1, 2010.
- Reviewed functions and activities related to the transition of employees to the Group Insurance Commission and state retirement system.

Our audit of the NSO 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 NSO transition date of January 1, 2010 and the OSA reporting deadline of April 30, 2010, it was not reasonable or feasible to conduct an extensive audit of the County Sheriffs transfer. 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 data and information. Prior to the January 1, 2010 transition, the County Treasurer processed NSO payrolls and bills. After the transition, NSO staff was responsible for processing financial data and paying bills through MMARS and using the Commonwealth's Human Resource/Compensation Management System (HR/CMS) to prepare its payroll. This transition required NSO 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 NSO obligations. The effect on our transition audit was that current financial data was not available in a timely manner because it 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 data field were in the process of being populated. However, our review determined that the NSO's bi-weekly payroll was being accurately processed and that the outstanding bills were in the process of being paid. Therefore, our audit approach was to determine the status of the NSO transition to the Commonwealth, identify and report any issues preventing compliance with Chapter 61 of the Acts of 2009 and all other applicable legislation related to the transition, and make recommendations for improvements or corrective action.

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

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

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

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

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## AUDIT RESULTS

### 1. TRANSITION STATUS OF SHERIFF, PERSONNEL, AND PAYROLL

#### *Sheriff Compensation*

The elected Norfolk Sheriff's salary 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 December 19, 2009 of \$59,010 and received no other forms of additional compensation including any longevity pay, sick, vacation, or other leave accruals maintained or transferred for the Sheriff.

#### *Personnel and Payroll*

As part of our audit, we reviewed the total number of employees and total payroll cost of the Norfolk Sheriff's Office (NSO) prior to and following its transition to the state. There were 304 employees on the NSO payroll in December 2009 while under the county. These employees were paid a total of \$9,964,071 under the county payroll system for the period July 1, 2009 through December 19, 2009. After the transition on January 1, 2010, there were 302 employees, as one employee had passed away and another was placed on worker's compensation.

As part of our review of the transferred employees, we randomly selected a sample of 25 employees from the total of 302 NSO employees. We reviewed payroll information and leave balances transferred from the NSO county payroll for the period ended December 19, 2009 for comparison to the Commonwealth of Massachusetts Human Resource/Compensation Management System (HR/CMS) payroll for the period ended January 2, 2010.

We reviewed and analyzed our sample of employees by title, full-time or part-time status, pay rate, employee portion of Medicare, court-ordered deductions, retirement deductions, union dues deductions, collective bargaining agreements, and non-union, or other payroll-related information to determine whether all of the payroll information was transferred properly from the county to the HR/CMS. Our review of title, full-time or part-time status, pay rate, court-

ordered deductions, union dues, bargaining agreements, and non-union or other payroll elements tested correct as transferred.

We then reviewed the transferred employees benefit accruals to verify the accuracy of the transition from the county to the Commonwealth. We analyzed employee compensation time, personal time, sick time, and vacation time. This review disclosed that the accrued vacation time for all employees was transferred accurately into HR/CMS. However, we did note that 19 employees had vacation balances that were more than the maximum carry-over amount customarily allowed by state agencies, which is twice the annual accrual based on years of service. The Norfolk County policy, regarding vacation accrual carry-over states, "In no case can vacation leave be accumulated for more than one year, except on recommendation of the County Commissioner and approved by the County Personnel Board." According to the Norfolk County Administrator, "the purpose of the rule is to discourage multi-year accumulations of vacation time, but in practice operational realities have led to accumulations. The status of these accounts is reviewed annually. At the close of each fiscal year, staff prepare and submit schedules of recommended vacation carryovers to the County Commissioners for approval in the Commissioners' concurrent capacity as Commissioners and County Personnel Board. The most recent review with respect to Sheriff's personnel was for the carryover list effective July 1, 2009, which was the last annual review date prior to the transfer of the Sheriff's office to the state on January 1, 2010." Under the state's vacation accrual practices for these 19 employees, the potential liability for these accruals would be \$88,767 on January 1, 2010.

Finally, we reviewed the state rates for Group Insurance Commission (GIC) benefits and calculated percentages of health insurance costs that employees would pay depending on their bargaining unit or non-union status. We were able to verify that the union employees, whose collective bargaining agreement stipulated a 20% premium contribution for health care insurance and all non-union employees, had the proper rates transferred accurately to HR/CMS. (See Audit Result No. 6.)

All the employee records are being maintained in the Human Resource Department located at the NSO administrative office at 200 West St. Dedham, MA.

**Recommendation**

The NSO should review its accrued vacation time and consider adopting the customary practices of the Commonwealth of Massachusetts. Also, the NSO should work with state officials to address the issue of vacation carry-over accrual balances. The internal control policies and procedures for the payroll and personnel function established by Norfolk County allowed for a smooth transfer of these functions to the Commonwealth. Policies, procedures, and internal controls for these functions should be instituted and developed in compliance with Commonwealth of Massachusetts laws and regulations. These policies and procedures should be referenced in the NSO's Internal Control Plan (ICP) for the protection and accountability of the NSO's personnel and payroll functions against the threat of loss, waste, fraud, and misuse. (See Audit Result No. 6.)

**Auditee's Response**

*The Norfolk County Sheriff's Office, with the approval of the Norfolk County Commissioners, who also act as the County Personnel Board, has allowed employees to continue to carry over all earned vacation time subject to their annual review and approval. This has been an acceptable practice by the Sheriff's office while part of the county government system. The Sheriff's Office has notified the County Commissioners' Office on a yearly basis of the amount of vacation time each employee had earned and carried over.*

*Due to the operational needs of this office and the work schedules of its employees, the Sheriff's Office can not afford all of its employee's vacation time when requested. In addition, collective bargaining agreements do not specify that an employee must utilize all earned vacation time. Enforcing such a standard without bargaining, would be in violation of said collective bargaining agreements. The Norfolk County Sheriff's Office has notified the Commonwealth's Human Resources Division (HRD) of this issue throughout the transition process and continues to seek guidance on a resolution to this issue from HRD.*

**2. TRANSITION STATUS OF ASSETS TRANSFERRED**

As part of our review, we ascertained the status of assets such as cash, accounts receivable, property and equipment, and inventory at the NSO that were being transferred to the Commonwealth in accordance with Chapter 61 of the Acts of 2009, as follows:

**Cash**

Prior to the transition, the NSO had control and custody of inmate and commissary accounts, whereas the Civil Process Division's accounts were maintained by the Norfolk County Treasurer's Office. As part of the transition from the county to the state, the Norfolk County

Treasurer's Office transferred all civil process operations and related accounts to the NSO, which along with the existing inmate and commissary accounts will remain with the sheriff and not be transferred to the Commonwealth in accordance with Chapter 61, Section 12(a), which states, in part:

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

The chart below represents new and local accounts administered by the NSO.

<u>ACCOUNT NAME</u>	<u>PURPOSE</u>	<u>Amount Transferred after 12/31/2009</u>
<b>Local Accounts</b>		
Inmate Account	Inmate deposit account maintained by the NSO	\$138,230
Commissary Account	Telephone and Canteen commissions held by the NSO for the benefit of all inmates	16,034
<b>State Accounts</b>		
NSO Sweep Account*	Funds deposited from retained revenue, trust, federal grant accounts, and General Fund.	4,284,471
State Dynacash**	Funds utilized for employee-related emergencies such as cash advances or payroll issues.	5,000
<b>Civil Process Accounts</b>		
Civil Process Revenue Account	General operations account for the Civil Process Division to process revenue and expenses	250,688
Civil Process Victim Witness Account	Civil Process Division witness fees account included deposits from vendors for payments to witness for court appearances and testimony	10,000
Civil Process Escrow Account	For deposits held by civil process for pending cases awaiting resolution	100,600
Civil Process Escrow Variance Account	Amount determined by county auditors to be unreconciled in previous years audits, which is being held until determination of disposition of funds is made	75,000
Civil Process Detail Account	Funds received and disbursed for detail work performed by Norfolk County	<u>94,621</u>

	Correctional officers	
Total		<u>\$4,974,644</u>
<p>*Initial Sweep Account amount transferred from Norfolk County Treasurer's Office that was deposited into a Temporary Trust, set up by the Commonwealth in the Massachusetts Management Accounting and Reporting System (MMARS), to pay for the operations of the jail and house of correction</p> <p>**\$5,000 not transferred but established by the Commonwealth for the purpose described</p>		

The Norfolk County Treasurer's Office currently has approximately \$15,000 in civil process escrow funds for any outstanding checks remaining in the county's civil processing account.

### ***Accounts Receivable***

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

### ***Property***

Our audit concluded that the NSO did not have any real property under county control that would be transferred to the Commonwealth. The Norfolk County Correctional Facility was built by the state in 1992 on 12 acres of state-owned land, which is assessed by the Town of Dedham at \$8.1 million. Dedham's assessment does not include any buildings located on the property.

### ***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 NSO's inventory and concluded that the NSO has an inventory list of approximately 1,100 items with a value over \$500 totaling \$2,682,108, which includes firearms, vehicles, radios, etc. As of February 18, 2010 the inventory had not been entered into the Division of Capital Asset Management (DCAM) system because the individual responsible is on medical leave. However, we were informed that the inventory would be entered by the deadline of March 31, 2010. For security and safety purposes, the NSO also maintains other inventory lists such as tools, food, and pharmaceutical items. Also, because of a lack of storage space, the NSO only maintains a two-week supply of food and perishable products. The NSO keeps a small inventory of over-the-counter pharmaceutical supplies on hand in the infirmary.

***Recommendation***

The NSO needs to update and implement policies, procedures, and internal controls to safeguard the transferred assets and inventory in compliance with Massachusetts's laws, rules, and regulations. These policies, procedures, and internal controls should include provisions for processing and monitoring cash control activities; establishing accounts receivable practices, including oversight activities; processing and monitoring of inventories or property and equipment, including conducting 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 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 account payable, potential litigation, and contracts and leases that were being transferred to the Commonwealth as part of Chapter 61 of the Acts of 2009, as follows:

***Accounts Payable***

Prior to the transfer, the NSO sent its bills to the County Treasurer, who would then process the invoices for payment. We determined that as of January 1, 2010 the NSO had \$223,279 in unpaid obligations that were incurred prior to the transition. Included in this total is

approximately \$50,000 in medical bills from fiscal year 2009, however, the county has transferred funds to pay these bills. The NSO is in the process of loading vendor information into the Massachusetts Management Accounting and Reporting System (MMARS) to encumber and pay invoices. As of April 6, 2010, the NSO had paid 466 invoices totaling \$1.7 million through MMARS.

### ***Potential Litigation***

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

### ***Leases***

We obtained and reviewed lease agreements that were originally with the county and now will become the responsibility of the Commonwealth, as shown below:

Name	Purpose of Lease	Annual Amount	Lease Date
Pitney Bowes Inc.	Lease mailing system	\$1,836	06/10/06 – 06/09/11
Atlantic Management	Lease office space	\$107,599	12/31/09 – 12/30/10
New England Office	Lease warehouse space	\$47,888	09/01/07 – 08/31/10
OCE Imagistics	Lease office machine	\$28,284	11/01/08 – 10/31/11
OCE Imagistics	Lease one color copier	\$3,948	09/30/09 – 09/29/12
Ikon Office Solutions	Lease of Canon copier	\$4,768	07/1/07 – 06/30/10
National City Commercial Capital	Lease of communication vehicle	\$46,905	07/1/08 – 06/13/13

These leases are in the process of being entered into MMARS to encumber the funds and make payment on the invoices.

***Recommendation***

The NSO needs to develop and institute policies, procedures, and internal controls to properly process the accounts payable and pending litigation in compliance with Massachusetts laws and regulations. These policies, procedures, and internal controls should be developed so that exposure to the Commonwealth against any undue financial loss is minimized and to ensure transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to ensure that the NSO is in compliance with the closing instructions of the Office of the State Comptroller (OSC) for proper Commonwealth financial reporting purposes at year-end. These policies and procedures should be referenced in the 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 Accounts on the Massachusetts Management Accounting And Reporting System (MMARS)***

The NSO's accounts for maintenance appropriation, retained revenue, grants, and trusts established and set up in MMARS are summarized in the chart below:

Account Name	Appropriation Number
Norfolk Sheriff's Department	8910-8600
Norfolk Sheriff's Department Federal Inmate Reimbursement	8910-8610
FY2010 Norfolk Sheriff Temporary Expendable Trust	8910-8699

Initially, the NSO encountered difficulties in establishing and processing transactions into MMARS for these accounts. However, the NSO has been able to begin entering substantial expenditure transactions into MMARS. As of April 6, 2010 a total of 466 expenditure

transactions, excluding payroll expenditures, in the amount of \$1.7 million have been entered and processed through MMARS.

Also, the NSO had not yet established on MMARS two separate retained revenue accounts--the Social Security Expendable Trust and the Communication Expendable Trust--that have been approved by the Executive Office for Administration and Finance (EOAF). Until these accounts are established, amounts collected are being deposited into the Office of the State Treasurer (OST) sweep account and accounted for through the Temporary Expendable Trust account in MMARS. As required by Chapter 61 of the Acts of 2009, NSO accounts, including the inmate, canteen, and civil process accounts, are to remain with the NSO and are not maintained in MMARS

Our audit disclosed that the establishment, functioning, and daily transaction processing needed for effective MMARS reporting was a difficult task for NSO personnel. However, the NSO has been consistently improving. Prior to the transfer, the County Treasurer's Office and other county departments handled most of the fiscal transactions related to the NSO. Therefore, NSO 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 NSO received and are continuing to receive OSC MMARS training and daily assistance for transitioning NSO operations. In addition, mentoring personnel from other Sheriffs' Offices previously transitioned from county government to the Commonwealth are also assisting the NSO, as needed. NSO officials anticipated that the use of this system would be fully operational in the coming months.

#### ***Budgetary Status and Spending Plans***

We obtained the budgets and spending plans for the NSO for fiscal years 2010 and 2011 that were submitted to EOAF and in place as of January 1, 2010. The projected spending totaled \$27,807,994, as detailed in the following chart:

Projected Spending for Fiscal Year 2010		
Code	Description	Amount
AA	State Employee Compensation	\$18,543,265
BB	Employee Related Expenses	277,532
CC	Special Employee Contracted Employees and Services	225,000
DD	Pension and Insurance Related Expenditures	1,743,240
EE	Administrative Expenses	120,000
FF	Facility Operational Supplies and Related Expenses	1,797,783
GG	Energy Costs and Space Rental	1,796,999
HH	Consultant Service Contracts	250,000
JJ	Operational Services	40,000
KK	Equipment Purchase	80,000
LL	Equipment Tax Exempt Lease Purchase, Lease and Rental Maintenance and Repair	278,000
MM	Purchased Client Human and Social Services and Non Human Services Programs	0
NN	Construction and Improvements of Buildings and Maintenance of Infrastructure and Land Acquisition	258,000
PP	Grants and Subsidies	0
RR	Entitlement Programs	1,862,000
SS	Debt Payment	0
TT	Loan and Special Payments	0
UU	Information Technology Expenses	<u>536,175</u>
Total		<u>\$27,807,994</u>

We contacted NSO officials about the current state of the budget and whether they expect to have sufficient funding to cover expenses for the remainder of fiscal year 2010. They indicated that for the period of January 1, 2010 through June 30, 2010 the NSO is projecting a deficit of approximately \$500,000. The Director of Finance is reviewing NSO accounts to determine

whether non-personnel reductions can be made to address this anticipated deficit. Also, the NSO anticipates that it may receive an additional \$200,000 in federal inmate funding.

The NSO has also completed and submitted its fiscal year 2011 spending plan totaling \$29,082,669 and anticipates a deficit of approximately \$4.5 million. Included in the spending plan is the hiring of 20 new correctional officers. If no new officers are hired, the anticipated deficit will be reduced to approximately \$3 million. Currently, the NSO is working with state officials to address this anticipated deficit.

### ***Sheriff's Office Locally Held Funds***

The NSO controls and maintains a significant amount of diverse funds that are by statute not being transferred to the Commonwealth and into MMARS but are to remain with the NSO. These funds include Inmate Canteen, Inmate Accounts and Civil Process funds. A staff Accounting Clerk is currently responsible for reconciling Inmate Canteen, Inmate Account, and Civil Process accounts on a monthly basis. Authorization for the Inmate Canteen and Inmate Account is the shared responsibility of the Superintendent of Administration and Finance, the Director of Finance, the Assistant Director of Finance, the Accounting Clerk and the Purchasing Assistant.

The same Accounting Clerk is currently responsible for reconciling the Civil Process General Account, two Civil Process Escrow Accounts, and the Civil Process Witness Fee Account on a monthly basis. Authorization for the Civil Process General Account is the responsibility of the Director of Finance, the Assistant Director of Finance, the Accounting Clerk, and the Purchasing Assistant. Authorization for the Civil Process Escrow Accounts and the Witness Fee Account is the responsibility of the Assistant Superintendent of Civil Process, the Assistant Director of Civil Processing, the Director of Finance, and the Levy and Attachment Clerk. Authorization for Civil Process Detail Account is the responsibility of the Director of Finance and the Assistant Director of Finance.

### ***Recommendation***

Policies, procedures, and internal controls for these transferred assets should be instituted and developed in compliance with Massachusetts's laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of 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 to ensure transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to ensure that the NSO 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 NSO's Internal Control Plan ICP. (See Audit Results No. 6.) Additionally, the Accounting Clerk responsible for the reconciliation of the locally held bank accounts should not have signatory responsibilities on these local accounts.

### ***Auditee's Response***

*Regarding the locally held bank accounts, it is no longer the practice for the Accounting Clerk who reconciles such accounts to act as signatory. Such accounting modification complies with the standards set by the Commonwealth as part of this transition.*

## **5. TRANSITION STATUS OF REVENUES TRANSFERRED**

### ***Deeds Excise Fund***

Chapter 61, Section 2, of the Acts of 2009 states the following in regard to the Deeds Excise Fund:

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

We verified with the Norfolk County Register of Deeds that the correct percentage of deeds excise was remitted to the Commonwealth and to the Deeds Excise Fund after the transfer. As part of the operation of county government, a conveyance tax known as a Deeds Excise Tax is assessed on the sale of a property within that county. Prior to the NSO transferring to the

Commonwealth, the Deeds Excise Tax was allocated with 50% paid to the State General Fund, 7.5% to the State County Correction Fund, and 42.5% retained by the county, 75% of which went to the operation of the NSO.

After the transfer, 89.375% of the Deeds Excise is now transferred to the Commonwealth, and the county retains 10.625%. Beginning in fiscal year 2011, based on actuarial estimates, an additional 3% may be retained in the Deeds Excise Fund to fund the unfunded pension liability until 2029 or until the unfunded pension liability is fully funded.

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

#### ***Civil Process Revenue***

The serving of the civil process in accordance with Chapter 262 of the General Laws includes such things as serving summonses, warrants, subpoenas, and other procedures requiring legal notification. As of January 1, 2010, the NSO's civil process operations collected revenue of \$596,505 and had expenses of \$690,739.

#### ***Grant and Other Income***

The NSO will receive approximately \$470,000 in fiscal year 2010 from federal and state grants. These grants will help support inmate programs, substance abuse programs, victim programs, and the purchase of equipment such as bulletproof vests. Additionally, in fiscal year 2010 the NSO received \$25,000 in American Recovery and Reinvestment Act of 2009 (ARRA) funds to support an inmate educational program.

The United States Marshals Service will pay the NSO \$2,500,000 per year for the housing, safekeeping, and subsistence of federal prisoners. Also, the NSO will continue to receive revenues of over \$100,000 a month from the U.S. Immigration and Customs Enforcement to house and maintain illegal alien inmates.

Additional revenue sources include, commissions paid by the Social Security Administration for information on inmates who are inappropriately collecting Social Security payments while

incarcerated and rental revenues from private communication companies for use of the communications tower located on NSO property.

The NSO has stated that it will confer with the House and Senate Committees on Ways and Means to maximize these revenues in accordance with Chapter 61 of the Acts 2009 Section 12.

***Recommendation***

Policies, procedures, and internal controls for these transferred revenues should be developed and instituted in compliance with Massachusetts's laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of all revenues, including Commonwealth revenue, retained revenue, grant revenue, and trust revenue, against the threat of loss, waste, fraud, and misuse. These policies and procedures should be developed so that exposure to the Commonwealth against any financial loss is minimized and to ensure transparency in the processing of and accountability for revenue transactions. These policies and procedures should be referenced in the NSO'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**

***Civil Processing***

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

***Employee Benefits***

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

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

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

***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 NSO's operations from the county to the Commonwealth, the NSO did not have sufficient 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 NSO does not have an ICP, we found that the NSO 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 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 NSO needs to create an ICP to be in compliance with Chapter 647 and OSC guidelines. The NSO 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 NSO needs to develop and fully integrate a risk assessment throughout the entire NSO to determine how the NSO'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 NSO. Updates and additions are needed because the NSO is such a large and complex operation with appropriations in excess of \$27 million, 302 employees, and an inmate capacity of 502. Accordingly, the NSO needs to develop an effective internal control plan that addresses its entire financial and programmatic operations.

### ***Recommendation***

In order to adequately safeguard assets, promote operational efficiency, and comply with Chapter 647 of the Acts of 1989, the NSO should initiate plans to work with the OSC and with other Sheriff's Offices already transferred to the Commonwealth to develop an ICP in accordance with Chapter 647 and OSC guidelines. Development of the ICP is important in order for the NSO to achieve its mission and objectives efficiently, effectively, and in compliance with applicable state laws, rules, and regulations. The ICP will also provide support and guidance in the event of employee turnover and safeguard its assets against loss, theft, or misuse. Furthermore, once the ICP is implemented, the NSO 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. Updating its ICP is important for the NSO 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.

### ***Auditee's Response***

*Prior to the transition (Chapter 61 of the Acts of 2009) the Norfolk County Sheriff's Office strictly adhered to its internal control policies based on CSD 300, Budget and Fiscal Management. In accordance with such policy the Norfolk County Sheriff's Office has designated individuals as points of internal control to monitor the following functional activities, including but not limited to, fiscal appropriations, expenditures, inventory, purchasing and security.*

*As part of the transition the Norfolk County Sheriff's Office will modify its policies to comply with the Commonwealth's ICP standards as set in Chapter 647 of the Acts of 1989 and OSC guidelines.*