

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued November 25, 2025

Berkshire County Sheriff's Office

For the period July 1, 2022 through June 30, 2024

(When designing the audit plan for employee settlement agreements entered into by the agency, we extended the audit period to July 1, 2019 through June 30, 2024)



OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

November 25, 2025

Thomas Bowler, Sheriff
Berkshire County Sheriff's Office
467 Cheshire Road
Pittsfield, MA 01201

Dear Sheriff Bowler:

I am pleased to provide to you the results of the enclosed performance audit of the Berkshire County Sheriff's Office. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2022 through June 30, 2024. When designing the audit plan for employee settlement agreements entered into by the Berkshire County Sheriff's Office, we extended the audit period to July 1, 2019 through June 30, 2024.

As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Berkshire County Sheriff's Office. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team has any questions.

Best regards,



Diana DiZoglio
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

BCJHOC	Berkshire County Jail and House of Correction
BCSO	Berkshire County Sheriff's Office
CMR	Code of Massachusetts Regulations
CTR	Office of the Comptroller of the Commonwealth
EOTSS	Executive Office of Technology Services and Security
QHP	qualified healthcare professional

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Berkshire County Sheriff's Office (BCSO) for the period July 1, 2022 through June 30, 2024. When designing the audit plan for employee settlement agreements entered into by BCSO, we extended the audit period to July 1, 2019 through June 30, 2024.

The purpose of our audit was to determine the following:

- Did BCSO have policies that complied with the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) regarding the death of inmates in its custody?
- Did BCSO hold internal quarterly meetings and review quarterly reports regarding healthcare services for inmates as required by its "BCSO-095R" policy in accordance with 103 CMR 932.01(3)?
- Did BCSO provide its inmates with medical screenings upon admission and physical examinations within 7 to 14 days after admission in accordance with 103 CMR 932.06 and 932.07, BCSO's "BCSO-100R" policy, and BCSO's "BCSO-101R" policy?
- Did BCSO ensure that inmates received medical care after the submission of sick call requests in accordance with BCSO's "BCSO-103R" policy and 103 CMR 932.09?
- Did BCSO provide initial mental health screenings and, if necessary, follow-up mental health assessments, to all within its custody in accordance with BCSO's "BCSO-107R" policy and 103 CMR 932.13?
- Did BCSO have internal policies and procedures in place for (a) the review and approval of employee settlement agreements, including the language used, and (b) the reporting of employee settlement agreements to the Office of the Comptroller of the Commonwealth (CTR)? For employee settlement agreements entered into from July 1, 2019 through June 30, 2024, did BCSO follow these policies, and did it refrain from using non-disclosure, non-disparagement, or similarly restrictive clauses as part of employee settlement agreement language?

Below is a summary of our findings, the effects of those findings, and our recommendations, with hyperlinks to each page listed.

Finding 1 Page 18	BCSO's internal policy for the death of an inmate in custody should contain certain guidelines regarding deaths of inmates in its custody.
Effect	By not establishing guidelines related to the disposition of the body of a deceased inmate, BCSO may take on a higher-than-acceptable risk of incorrectly handling the disposition of a deceased inmate's body. Without guidelines for investigating the cause of an inmate's in-custody death, BCSO may not be able to identify the circumstances that led to the inmate's death.

Recommendation Page <u>19</u>	BCSO should update its policy to establish guidelines related to the disposition of an inmate's body and the investigation of the cause of death.
Finding 2 Page <u>19</u>	BCSO should submit all required quarterly reports.
Effect	By not submitting quarterly reports regarding the healthcare environment during the audit period, BCSO may increase the risk of not identifying patterns in inmate illnesses or injuries and not receiving key information to make decisions regarding inmates' healthcare.
Recommendation Page <u>20</u>	BCSO should establish policies and procedures, including monitoring controls, to ensure that all quarterly reports are generated and submitted in a timely manner.
Finding 3 Page <u>21</u>	BCSO's Medical Intake Screening form should include fields regarding past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts.
Effect	Because BCSO's Medical Intake Screening form does not inquire about past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts, there is a higher-than-acceptable risk that inmates' mental health issues may not be identified and treated, potentially affecting the health and safety of the inmates in question, other inmates whom they interact with, BCSO employees, and BCSO vendors. While BCSO is providing mental health services to its inmates and reports that it closely monitors inmates who it suspects have mental health conditions, BCSO may not be identifying mental health concerns as early as it possibly could if it were to inquire about past or present mental health treatments in its Medical Intake Screening form.
Recommendation Page <u>21</u>	BCSO should update its Medical Intake Screening form to ensure that it includes the inquiry of past and present treatment or hospitalization for mental health concerns or risk of suicide.
Finding 4 Page <u>22</u>	BCSO should ensure that Inmate Request Slips for sick call requests were triaged on time.
Effect	If BCSO does not follow up on all sick call requests, then there is a higher-than-acceptable risk that inmates may not have their healthcare issues properly resolved, either within the required 24 hours or at all.
Recommendation Page <u>23</u>	BCSO should ensure that its QHPs follow up on all sick call requests, and that they do so within 24 hours of receipt of the request.
Finding 5 Page <u>24</u>	BCSO should have documented internal policies or procedures regarding state employee settlement agreements and supporting records, as would be best practice.
Effect	A documented, written process to handle employee settlement agreements, especially for those containing non-disclosure, non-disparagement, or similarly restrictive clauses, can help ensure that employee settlements are handled in an ethical, legal, and appropriate manner.
Recommendation Page <u>25</u>	BCSO should develop, document, and implement a written policy related to employee settlement agreements, including prohibiting the use of non-disclosure, non-disparagement, or similarly restrictive clauses in its agreements, as recommended in the Governor's "Executive Department Settlement Policy," issued January 27, 2025.

Post-audit Action

During our audit, we were informed that, and subsequently provided evidence regarding, new policies regarding the deaths of inmates in BCSO's custody and sick call requests. We acknowledge that changes have been made to these policies, but we cannot test the effectiveness of the changes because they occurred after the end of our testing and outside the audit period. Additionally, BCSO provided a new policy on settlement agreements to us. However, the policy that was put in place does not outline any internal processes other than that BCSO will follow CTR's policy for processing employee settlement payments. The policy does not include prohibiting the use of non-disclosure, non-disparagement, or similarly restrictive clauses in its agreements. Finally, BCSO provided meeting minutes that it believes serve as the required quarterly reports on the healthcare system. However, we do not believe that meeting minutes constitute the required reports.

OVERVIEW OF AUDITED ENTITY

The Berkshire County Sheriff's Office (BCSO) was established as an independent state agency on July 1, 2000, after Section 12 of Chapter 34B of the Massachusetts General Laws abolished Berkshire County as a form of government. This law was then amended by Chapter 61 of the Acts of 2009. According to Section 4 of Chapter 61 of the Acts of 2009,

All functions, duties and responsibilities of the office of a transferred sheriff pursuant to [the Acts of 2009] including, but not limited to, the operation and management of the county jail and house of correction and any other statutorily authorized functions of that office, are hereby transferred from the county to the commonwealth.

The transfer was completed on January 1, 2010. The Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over BCSO. Under the Sheriff's direction, superintendents administer BCSO operations at the BCSO's facilities.

According to its website,

The primary mission of the Berkshire County Sheriff's Office is to "Protect the public from criminal offenders by operating a safe, secure and progressive correctional facility while committing to crime prevention awareness in the community."

During the audit period, BCSO had 1,133 inmates in its custody.¹ As of June 30, 2024, BCSO had 313 employees. In fiscal years 2023 and 2024, BCSO's had a budget of \$21,336,934 and \$21,895,402, respectively.

BCSO serves two cities and 30 towns in Berkshire County. The Berkshire County Jail and House of Correction (BCJHOC) is located at 467 Cheshire Road in Pittsfield.

BCSO focuses on offering education and treatment programs, which include classroom education, vocational education, job training, and treatment and counseling for substance use disorder. BCSO's facilities also host the county's 911 dispatch center, which provides police, fire, and medical emergency communications for 26 communities in Berkshire, Hampden, and Hampshire counties.

1. For an inmate to be in BCSO's custody means that BCSO has the authorization from a court to incarcerate an inmate until the court orders their release.

Inmate Information System

BCSO uses an inmate information system to track and manage information regarding inmates in its custody. During the process of admitting an inmate, one of BCSO's booking officers enters information from a mittimus² into the inmate information system.

Medical Record Management System

BCSO uses a medical record management system to manage inmates' medical information. Medical staff members use electronic forms to collect each inmate's health information, such as their medical history, ongoing and past treatments, mental health conditions, medications, and scheduled appointments. Qualified healthcare professionals (QHP)³ also use this system to document and track inmates' sick call requests.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities, such as BCSO, to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or facility employees. According to BCSO's "BCSO-111R" policy,

- A. *Upon discovery of the body, the body and the immediate area [in which the body was found] shall be treated as a crime scene, and as such shall be cordoned off and no entry shall be allowed to unauthorized staff.*
- B. *The Sheriff/designee shall notify the following:*
 - 1) *Massachusetts State Police [Crime Prevention and Control Unit];*
 - 2) *The District Attorney's Office, and*
 - 3) *Next of kin/Emergency Contact.*
- C. *In the event of the death of an inmate, the Medical Examiner's Office . . . is to be contacted. . . .*
- D. *A report shall be filled out by the staff member specifying all information, including past medical history and previous encounters in the health services department.*

2. A mittimus is a written, court-issued document that follows an inmate through their time in the criminal justice system.

3. In an email BCSO send us on July 9, 2025, BCSO defined QHPs as "physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals and other who by virtue of their education, credentials and experience are permitted by law to evaluate and care for patients."

- E. [Criminal Offender Record Information] notification [sent to victim(s) of an inmate] as soon as practicable [when such notification is necessary];*
- F. A clinical mortality review is conducted within 30 days to include a Psychological Autopsy if the death is related to suicide. An Administrative review is conducted with custody staff.*

BCSO also maintains a log that includes each inmate's name or identification number and age, the date of death, the administrative and clinical mortality reviews, the cause and manner of death, the date of the psychological autopsy (if required), and the date that any findings were shared with BCSO staff members.

Healthcare Services

During the audit period, most healthcare and mental healthcare services were provided by BCSO's in-house healthcare employees. During the audit period, BCSO's assistant deputy superintendent of the medical department was designated as its responsible health authority, who is in charge of the medical department, including in-house healthcare providers and staff members. During the audit period, BCSO contracted with various external healthcare providers for dental and vision services.

Quarterly Meetings

According to 103 CMR 932.01(3),

The county correctional facility [in this case, BCSO] shall require that the health authority meet with the Sheriff/facility administrator or designee at least quarterly and submit the following:

- (a) quarterly reports on the health care delivery system and health environment; and*
- (b) annual statistical summaries.*

BCSO's Continuous Quality Improvement Committee consists of its superintendent (or their designee), a physician, the mental health director, the health authority, and any facility administrators responsible for healthcare at BCSO's facilities. This committee meets on a quarterly basis with the Sheriff (or their designee). These meetings cover topics such as inmate intake, chronic care, sick calls and follow-up care, grievances, orientation, training, and other areas concerning the delivery of healthcare at BCSO's facilities. BCSO's "BCSO-095R" policy requires that medical staff members submit reports on the healthcare system and that meeting minutes of the health administrator's meetings are recorded, distributed, and maintained by the assistant deputy superintendent of the medical department. Additionally, a monthly statistical form is compiled; this form tallies the number of inmates seen by health services staff members, the categories of diseases seen, and services either rendered or offered.

Admission Medical Screenings

According to 103 CMR 932.06 and BCSO's "BCSO-100R" policy, an admission medical screening, which is performed by a QHP, is provided to each inmate upon their arrival at BCJHOC. The admission medical screening consists of a questionnaire and observation to collect each inmate's medical history, including past and present treatments or hospitalizations for mental health concerns or risk of suicide or suicidal thoughts, and to ensure that each newly admitted inmate's illnesses, health needs, and medications are identified for further assessment and continued treatment while in custody. A QHP records all findings resulting from the admission medical screening in the electronic medical record management system; these entries are then approved by the health authority.

Physical Examinations

According to 103 CMR 932.07 and BCSO's "BCSO-101R" policy, each inmate committed to BCJHOC for 30 or more days receives a thorough physical examination within 7 days of admission, if a licensed practical nurse completes the admission medical screening. If a physician, physician assistant, or registered nurse performs the admission medical screening, the physical examination deadline is extended to 14 days. The physical examination is completed by a facility physician or clinician and includes reviewing the inmate's medical record, examining the inmate for any signs of trauma or disease, conducting laboratory and/or diagnostic tests, and reviewing findings and any necessary follow-up services with the inmate if they require further treatment. The QHP records the inmate's physical examination in the medical record management system.

Sick Call Requests

According to 103 CMR 932.09,

Written policy and procedure shall provide for continuous response to health care requests and that sick call, conducted by a physician or other qualified health personnel, is available to each inmate.

According to BCSO's "BCSO-103R" policy, QHPs must provide a face-to-face meeting within 24 hours of sick call requests and that sick calls are conducted by a nurse seven days a week and by a physician or QHP minimally once a week. Inmates can request access to healthcare by completing an Inmate Request Slip with certain information (e.g., a description of the type of service requested and the date the inmate completed and signed the form) then submitting the completed slip into a designated mailbox. An in-

house healthcare employee checks the medical request box daily to pick up the forms and then requests that the inmates in question be brought to the medical department to be seen. For instances that require immediate medical attention, the inmate can inform a correctional officer, who would then alert the medical department.

Initial Mental Health Screenings and Follow-Up Mental Health Assessments

According to BCSO's "BCSO-107R" policy, an initial mental health screening is performed during the booking and admission by a mental health clinician. The initial mental health screening is performed to obtain the history of the inmate's mental health condition. This initial screening may also result in a referral for a follow-up mental health assessment if the inmate is found to potentially have a serious mental illness or disability, or if they pose a risk to themselves or others. Follow-up mental health assessments include, but are not limited to, reviewing the inmate's current stressors, current treatment and/or prescriptions, risk for suicide or suicidal thoughts, substance use disorder history, and history of symptoms.

Employee Settlement Agreements

The Office of the Comptroller of the Commonwealth (CTR) has established policies and procedures for Commonwealth agencies regarding the processing of employee settlements and judgments. CTR's "Settlements and Judgments Policy," dated January 10, 2022 and in effect during the audit period, states,

A settlement or judgment results from a formal claim (grievance, complaint or lawsuit) against the Commonwealth that results in either a Settlement Agreement, or a court or administrative award, order or Judgment. . . .

A "claim" is considered any demand by any person for damages to compensate a wrong allegedly suffered, including but not limited to violation of civil rights, breach of contract, failure to comply with contract bidding laws, incorrect or improper personnel determinations regarding pay, promotion or discipline, failure to comply with statutory or constitutional provisions applicable to employment, an eminent domain taking, and attorney's fees, interest and litigation costs associated with these claims.

For the purposes of our audit, we focused on settlement agreements resulting from claims brought by current or former state employees against BCSO for the extended audit period, July 1, 2019 through June 30, 2024.

The procedures for agencies to determine availability of funds for the payment of settlements and judgments against the Commonwealth are described in 815 CMR 5.00, as are reporting requirements. This

regulation requires agencies to prepare and submit a report to CTR's general counsel before making the payment. When reporting employee settlement agreements to CTR, state agencies use a Non-Tort Settlement/Judgment Payment Authorization Form (referred to in this report as the SJ Authorization Form) to document the following:

- whether the claim will be paid by the agency or through the Settlement and Judgment Reserve Fund;
- the type of claim;
- the agency's information;
- the employee's information;
- the type and amount of damages detailed in the settlement agreement;
- the amount of any attorney's fees awarded; and
- the amount of any interest awarded or accrued.

Additionally, agencies must also include a copy of the employee settlement agreement signed by authorized representatives of both parties when they submit the SJ Authorization Form.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Berkshire County Sheriff's Office (BCSO) for the period July 1, 2022 through June 30, 2024. When designing the audit plan for employee settlement agreements entered into by BCSO, we extended the audit period to July 1, 2019 through June 30, 2024.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did BCSO have policies that complied with the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) regarding the death of inmates in its custody?	No; see Finding <u>1</u>
2. Did BCSO hold internal quarterly meetings and review quarterly reports regarding healthcare services for inmates as required by its "BCSO-095R" policy in accordance with 103 CMR 932.01(3)?	No; see Finding <u>2</u>
3. Did BCSO provide its inmates with medical screenings upon admission and physical examinations within 7 to 14 days after admission in accordance with 103 CMR 932.06 and 932.07, BCSO's "BCSO-100R" policy, and BCSO's "BCSO-101R" policy?	No; see Finding <u>3</u>
4. Did BCSO ensure that inmates received medical care after the submission of sick call requests in accordance with BCSO's "BCSO-103R" policy and 103 CMR 932.09?	No; see Finding <u>4</u>
5. Did BCSO provide initial mental health screenings and, if necessary, follow-up mental health assessments, to all within its custody in accordance with BCSO's "BCSO-107R" policy and 103 CMR 932.13?	Yes
6. Did BCSO have internal policies and procedures in place for (a) the review and approval of employee settlement agreements, including the language used, and (b) the reporting of employee settlement agreements to the Office of the Comptroller of the Commonwealth (CTR)? For employee settlement agreements entered into from July 1, 2019 through June 30, 2024, did BCSO follow these policies, and did it refrain from using non-disclosure, non-disparagement, or similarly restrictive clauses as part of employee settlement agreement language?	No; see Finding <u>5</u>

To accomplish our audit objectives, we gained an understanding of the BCSO internal control environment relevant to our objectives by reviewing applicable policies, procedures, and BCSO's internal control plan, as well as by interviewing BCSO officials. For quarterly meetings regarding the inmate healthcare system, we evaluated the design and implementation and tested the operating effectiveness of internal controls related to the generation of meeting minutes. In addition, to obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

Inmate Deaths

To determine whether BCSO had policies that complied with the requirements of 103 CMR 932.17(2) regarding the death of inmates in its custody, we inspected BCSO's "BCSO-111R(2)" policy to determine whether BCSO had guidelines that include the following requirements listed in 103 CMR 932.17(2):

- (a) internal notification to include medical and administrative staff;*
- (b) procedures when discovering body;*
- (c) disposition of the body;*
- (d) notification of next of kin;*
- (e) [Criminal Offender Record Information] notification [sent to victim(s) of an inmate] as soon as practicable [when such notification is necessary];*
- (f) investigation of causes;*
- (g) reporting and documentation procedures;*
- (h) procedure for review of incident by appropriate designated staff with a final report submitted to all appropriate parties.*

For this objective, we found certain issues during our testing; namely, that BCSO's "BCSO-111R(2)" policy did not comply with the requirements of 103 CMR 932.17(2). See [Finding 1](#) for more information.

Quarterly Healthcare Meetings and Reports

To determine whether BCSO held internal quarterly meetings and reviewed quarterly reports regarding healthcare services for inmates as required by its "BCSO-095R" policy, in accordance with 103 CMR 932.01(3), we took the following actions. We requested, and BCSO provided us with, the meeting minutes of the population of eight (100%) of the quarterly meetings that took place during the audit period. These meetings were attended by the facility administrators responsible for healthcare, the superintendent (or

their designee), a physician, the mental health director, the health authority, and the Sheriff (or their designee). We then reviewed the dates on which the meetings were held, who attended, and whether inmate healthcare services were discussed. We also requested all quarterly reports that were required to be submitted during the audit period. BCSO was unable to provide these documents.

For this objective, we found certain issues during our testing; namely, that BCSO did not submit any of the required quarterly reports as required by BCSO's "BCSO-095R(4)" policy or in accordance with 103 CMR 932.01(3). See [Finding 2](#) for more information.

Admission Medical Screenings and Physical Examinations

To determine whether BCSO provided its inmates with medical screenings upon admission in accordance with 103 CMR 932.06 and 932.07, BCSO's "BCSO-100R" policy, and BCSO's "BCSO-101R" policy, we took the following actions. We selected a random, statistical⁴ sample of 60 inmates out of the population of 1,263 inmates who were admitted to the Berkshire County Jail and House of Correction (BCJHOC) during the audit period. We made this selection using a 95% confidence level,⁵ a 0% expected error rate,⁶ and a 5% tolerable error rate.⁷ We then inspected the Medical Intake Screening forms associated with our sample to determine whether all of the policy requirements were incorporated into the form and whether each field was completed for each inmate.

To determine whether BCSO provided its inmates with physical examinations within 7 or 14 days after admission in accordance with 103 CMR 932.06 and 932.07, BCSO's "BCSO-100R" policy, and BCSO's "BCSO-101R" policy, we took the following actions. We selected a random, nonstatistical⁸ sample of 50 inmates out of the population of 744 inmates who were admitted to BCJHOC and were in custody for 30 days or more during the audit period. We then performed the following procedures:

-
4. Auditors use statistical sampling to select items for audit testing when a population is large (usually over 1,000) and contains similar items. Auditors generally use a statistics software program to choose a random sample when statistical sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.
 5. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.
 6. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.
 7. Tolerable error rate is the maximum error in the population that auditors would be willing to accept and still conclude that the result from the sample has achieved the audit objective.
 8. Auditors use nonstatistical sampling to select items for audit testing when a population is very small, the population items are not similar enough, or there are specific items in the population that the auditors want to review.

- We inspected the Physical Assessment forms associated with our sample to determine whether all of the policy requirements were incorporated into the form and whether each field was completed for each inmate.
- We used the date on each Physical Assessment form to calculate the number of days between each inmate's admission date and the date on which their physical examination was completed to determine whether BCSO completed each physical examination within the required timeframe.
 - We determined whether the physical examination was completed within 7 days of admission, if the admission medical screening was completed by a licensed practical nurse.
 - We determined whether each physical examination was completed within 14 days of admission, if the admission medical screening was completed by a physician, physician's assistant, or registered nurse.

For the aspect of our objective regarding providing inmates with a medical screening upon admission, we found certain issues during our testing; namely, that BCSO's Medical Intake Screening form did not include fields regarding past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts. See [Finding 3](#) for more information.

For the aspect of our objective regarding providing inmates with physical examinations within the required timeframe, we concluded that, based on our testing, BCSO met the relevant criteria.

Medical Care After Submission of Sick Call Requests

To determine whether BCSO ensured that inmates received medical care after the submission of sick call requests in accordance with BCSO's "BCSO-103R" policy and 103 CMR 932.09, we took the following actions. First, we selected a random, statistical sample of 60 sick call requests from the population of 7,482 sick call requests made during the audit period, using a 95% confidence level, a 0% expected error rate, and a 5% tolerable error rate. We reviewed the inmate medical files associated with our sample to determine whether these inmates received a face-to-face meeting with a qualified healthcare professional (QHP) within 24 hours of submitting a sick call request.

For this objective, we found certain issues during our testing; namely, that BCSO did not consistently provide inmates with face-to-face meetings with QHPs within 24 hours of the submission of sick call requests. See [Finding 4](#) for more information.

Initial Mental Health Screenings and Follow-Up Mental Health Assessments

To determine whether BCSO provided initial mental health screenings and, if necessary, follow-up mental health assessments, to all inmates within its custody in accordance with BCSO's "BCSO-107R" policy and 103 CMR 932.13, we took the following actions. We selected a random, statistical sample of 60 inmates out of the population 1,263 inmates who were admitted to BCJHOC during the audit period, using a 95% confidence level, a 0% expected error rate, and a 5% tolerable error rate. We then performed the following procedures:

- For each inmate in our sample, we inspected their Initial Mental Health Screening form to determine whether each field in the form was completed.
- We used the date on the Initial Mental Health screening form to calculate the number of days between each inmate's admission date and the date on which their initial mental health screening was completed to determine whether BCSO completed these screening upon each inmates' admissions to BCJHOC.
- For each inmate in our sample who was identified as potentially mentally ill, disabled, or posing a risk to themselves or others, we determined whether they were referred to qualified mental health professionals for further evaluation.
- For each inmate in our sample, we inspected their Mental Health Assessment form to determine whether each field in the form was completed, and whether the assessment was reviewed by a mental health administrator.
- For each inmate in our sample, we reviewed their Mental Health Assessment form to determine whether recommendations regarding housing monitoring, treatment, and transfer were made to shift commanders or unit managers if issues were identified during the assessment that required follow-up care.

For this objective, we found no significant issues during our testing. Therefore, we concluded that, based on our testing, BCSO met the relevant criteria regarding providing inmates with initial mental health screenings and, if necessary, follow-up mental health assessments.

Employee Settlement Agreements

To determine whether BCSO had internal policies and procedures in place for (a) the review and approval of employee settlement agreements, including the language used, and (b) the reporting of employee settlement agreements to CTR, we inquired with the BCSO superintendent regarding the process of entering into settlement agreements and the use of non-disclosure, non-disparagement, or similarly

restrictive clauses. According to the BCSO superintendent, every settlement agreement is managed on a case-by-case basis.

To determine whether BCSO refrained from using non-disclosure, non-disparagement, or similarly restrictive clauses as part of employee settlement agreements, we reviewed the language in the population of two (100%) employee settlement agreements that BCSO entered into during the extended audit period.

To determine whether BCSO properly reported monetary settlements to CTR, we requested and reviewed copies of the two settlement agreements.

For the aspect of our objective regarding non-disclosure, non-disparagement, or similarly restrictive clauses within state employee settlement agreements and the use and reporting of such settlement agreements to CTR, we concluded that, based on our testing, BCSO refrained from entering into employee settlement agreements that contained such language. We also concluded that BCSO was not required to report these settlement agreements to CTR because they were non-monetary. However, we found certain issues during our testing; namely, that BCSO did not have documented internal policies or procedures regarding state employee settlement agreements and supporting records. See [Finding 5](#) for more information.

We used a combination of statistical and nonstatistical sampling methods for testing. Where we used nonstatistical sampling methods, we did not project the results of our testing to the corresponding populations.

Data Reliability Assessment

Inmate Deaths

To assess the reliability of the list of inmate deaths that occurred during the audit period, we interviewed BCSO staff members who were knowledgeable about the process following an inmate's death. We requested a list of all in-custody deaths that occurred during the audit period, and the person who was the assistant deputy superintendent of the medical department at the time of our inquiry informed us that there were no inmate deaths that occurred during the audit period. We also requested a list of inmate deaths that were processed by the Office of the Chief Medical Examiner during the audit period to determine whether there were any deaths during the audit period. The Office of the Chief Medical Examiner confirmed that there were no deaths of inmates in BCSO's custody during the audit period.

Quarterly Healthcare Meetings and Reports

To assess the reliability of the list of quarterly healthcare meetings held during the audit period, we interviewed BCSO medical staff members who were involved in the quarterly meetings. We requested, and BCSO provided us with, copies of the meeting minutes for all eight of the quarterly meetings that were held during the audit period.

Inmate Information System

To assess the reliability of the inmate data we obtained from BCSO's inmate information system, we interviewed the information technology staff members who were knowledgeable about the system. We tested general information technology controls (i.e., access and security management controls). We selected a random sample of 20 inmates from the list of inmates in the inmate information system and compared the inmates' information from the list to the information in the original source documentation (i.e., the mittimuses or booking records) for agreement. We also selected 20 random hard copies of the mittimuses or booking records and compared the inmates' information from that documentation to the information on the list of inmates from the inmate information system for agreement. In addition, we tested all 1,792 lines of inmate data to ensure that it did not contain certain dataset issues (i.e., duplicate records, missing values in necessary data fields, and data corresponding to dates outside the audit period).

Medical Record Management System

To assess the reliability of the list of sick call requests that originated from BCSO's medical record management system, we interviewed the assistant deputy superintendent of the medical department, who was knowledgeable about the system. We tested general information technology controls (e.g., access and security management controls). We ensured that the total number of lines of data related to sick call requests in the list that BCSO sent to us matched the total number of lines of data that BCSO's real-time query of sick call requests within the medical record management system produced.

In addition, we tested the list to ensure that it did not contain certain dataset issues (i.e., duplicate records, missing values in necessary data fields, improper formatting for columns containing dates, and data corresponding to dates outside the audit period). The sick call request data that originated from the medical records management system was the only data used for this aspect of our data reliability assessment since it was the only source of data available.

Employee Settlement Agreements

BCSO's superintendent provided us with the population of two (100%) employee settlement agreements that BCSO entered into during the extended audit period of July 1, 2019 through June 30, 2024.

To ensure the accuracy of the list, we requested all legal expenses that BCSO incurred during the extended audit period and reviewed the invoices associated with each legal expense to determine whether they were related to employee settlements. We reviewed CTR's settlements and judgments data to determine whether there were any additional employee settlements entered into by BCSO during the extended audit period. Further, we queried the Commonwealth Information Warehouse⁹ for any settlements paid out to BCSO employees.

Based on the results of the data reliability assessment procedures described above, we determined that the information we obtained during the course of our audit was sufficiently reliable for the purposes of our audit.

9. The Commonwealth Information Warehouse contains historical budget, human resources, and payroll information, as well as financial transaction data from the Massachusetts Management Accounting and Reporting System, which is the state's official accounting system.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Berkshire County Sheriff's Office's internal policy for the death of an inmate in custody should contain certain guidelines regarding deaths of inmates in its custody.

The Berkshire County Sheriff's Office's (BCSO's) "BCSO-111R(2)" policy should contain guidelines that, in the event of the death of an inmate in custody, cover the disposition of the body or the investigation of the cause of death. These are required by Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR).

By not establishing guidelines related to the disposition of the body of a deceased inmate, BCSO may take on a higher-than-acceptable risk of incorrectly handling the disposition of a deceased inmate's body. Without guidelines for investigating the cause of an inmate's in-custody death, BCSO may not be able to identify the circumstances that led to the inmate's death.

Authoritative Guidance

According to 103 CMR 932.17(2),

Written policy and procedure shall establish guidelines in the event of death of an inmate or employee of the facility to include, but not be limited to the following:

- (a) internal notification to include medical and administrative staff;*
- (b) procedures when discovering body;*
- (c) disposition of the body;*
- (d) notification of next of kin;*
- (e) [Criminal Offender Record Information] notification [sent to victim(s) of an inmate] as soon as practicable [when such notification is necessary];*
- (f) investigation of causes;*
- (g) reporting and documentation procedures;*
- (h) procedure for review of incident by appropriate designated staff with a final report submitted to all appropriate parties.*

Reasons for Issue

When we inquired with BCSO officials regarding the cause or causes of this finding, they stated that it was an oversight. Because BCSO had guidelines regarding any deaths of its employees, BCSO officials thought they were in compliance with the requirement to have guidelines regarding any deaths of its inmates.

Recommendation

BCSO should update its policy to establish guidelines related to the disposition of an inmate's body and the investigation of the cause of death.

Auditee's Response

Upon being notified of the finding, the BCSO immediately updated [its policy] to include language for the disposition of the body for an inmate in-custody death. This was then sent to the audit team, but has no mention in the audit findings or recommendations.

Auditor's Reply

BCSO did send us its updated policy before the creation of our draft report. However, the policy was developed after the audit period (July 1, 2022 through June 30, 2024), which is why it was necessary to include the finding in this report. We acknowledge that a change has been made to the policy, but we were unable to test it because it was adopted after our audit period. Based on its response, BCSO is taking measures to address our concerns regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

2. The Berkshire County Sheriff's Office should submit all required quarterly reports.

During the audit period, BCSO should submit all of the eight required quarterly reports on its healthcare delivery system and health environment.

By not submitting quarterly reports regarding the healthcare environment during the audit period, BCSO may increase the risk of not identifying patterns in inmate illnesses or injuries and not receiving key information to make decisions regarding inmates' healthcare.

Authoritative Guidance

According to 103 CMR 932.01(3)(a), Sheriff's offices are required to submit "quarterly reports on the health care delivery system and health environment."

BCSO's "BCSO-095R" policy states,

4. Quarterly Reports and Meetings

- A. The facility administrators responsible for healthcare, the Superintendent/designee, the responsible physician, the designated mental health director and Responsible Health Authority meet at least quarterly at which time the medical staff submits reports on the health care system for review, assessment and resolution. Minutes of the health administrator's meeting are recorded, distributed and maintained. . . . A member of the staff summarizes the minutes of the meeting and retains a copy for future reference in the appropriate file.*
- B. A monthly statistical form is compiled which tallies the number of inmates seen by Health Services staff, categories of disease and services rendered or referred.*

Reasons for Issue

When asked to provide the quarterly reports submitted by medical staff members for the audit period, BCSO officials stated that the meeting minutes they provided us were the reports being referenced in the policy and that no further reports could be found. In further correspondence, BCSOs officials stated that the previously provided monthly statistical forms serve as the reports. However, within BCSO's policy, both the meeting minutes and statistical reports are separate and distinct requirements from each other and from the quarterly reports.

Recommendation

BCSO should establish policies and procedures, including monitoring controls, to ensure that all quarterly reports are generated and submitted in a timely manner.

Auditee's Response

On Monday May 13, 2025, BCSO supplied the audit team with copies of reports on the health care system for the audit period of July 1, 2022 through June 30, 2024. These reports were sent via email and were regarding inmate injuries in the facility, and a detailed grievance review report, including a breakdown of type of grievance, intervention, analysis and recommendations.

Auditor's Reply

We acknowledge that BCSO provided reports on inmate grievances and inmate injury reports for the audit period during our audit process. However, these do not constitute reports on the healthcare system as required by 103 CMR 932.01(3) and BCSO's "BCSO-095R" policy.

We encourage BCSO to consider our recommendations to ensure that the issues identified in this finding do not reoccur. As part of our post-audit review process, we will follow up on this matter in approximately six months.

3. The Berkshire County Sheriff's Office's Medical Intake Screening form should include fields regarding past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts.

BCSO's Medical Intake Screening form should include fields regarding past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts.

Because BCSO's Medical Intake Screening form does not inquire about past and present treatment or hospitalization for mental health concerns or risk of suicide or suicidal thoughts, there is a higher-than-acceptable risk that inmates' mental health issues may not be identified and treated, potentially affecting the health and safety of the inmates in question, other inmates whom they interact with, BCSO employees, and BCSO vendors. While BCSO is providing mental health services to its inmates and reports that it closely monitors inmates who it suspects have mental health conditions, BCSO may not be identifying mental health concerns as early as it possibly could if it were to inquire about past or present mental health treatments in its Medical Intake Screening form.

Authoritative Guidance

BCSO's "BCSO-100R" policy states,

The findings of the screening shall be recorded in the electronic health record and the form is approved by the Responsible Health Authority. The screening form includes the following items:

A. Inquiry into. . .

4) Past and present treatment or hospitalization for mental disturbance or suicide.

Reasons for Issue

BCSO was unable to provide an explanation for this issue.

Recommendation

BCSO should update its Medical Intake Screening form to ensure that it includes the inquiry of past and present treatment or hospitalization for mental health concerns or risk of suicide.

Auditee's Response

The BCSO Medical intake screening form includes the fields "have you ever attempted suicide" and "do you have any suicidal ideations currently" "if yes, please notify the mental health team and shift commander immediately". The form states, "past or current mental illness, including hospitalization will be included in the mental health screening (SSG). This will include history of or current suicidal ideation". The medical screening does inquire about suicidal thoughts. BCSO performs an SSG screening on all new arrivals, which may occur prior to the patient being seen by medical staff. Regardless, all patients are screened for their past or present treatment or hospitalizations for mental health concerns, suicide risk and suicidal thoughts.

Auditor's Reply

While BCSO's medical intake form does inquire whether an inmate has ever attempted suicide or has suicidal ideation at the time of booking, the form does not inquire whether the inmate has ever received or was receiving treatment or hospitalization for mental illness or suicide, as required by BCSO's "BCSO-100R" policy. Those discussions may occur, but BCSO's systems do not require them or document that they have occurred. Because BCSO policy requires these inquiries, we believe it is advisable to document them to protect inmates and BCSO.

We encourage BCSO to consider our recommendations to ensure that the issues identified in this finding do not reoccur. As part of our post-audit review process, we will follow up on this matter in approximately six months.

4. The Berkshire County Sheriff's Office should ensure that Inmate Request Slips for sick call requests were triaged on time.

BCSO should ensure that Inmate Request Slips for sick call requests were triaged on time. During the audit period, there were 7,482 sick call requests submitted by inmates in BCSO's facility. In our testing, we selected a random, statistical sample of 60 requests and found that 7 (12%) out of 60 sick call requests received were not triaged with a face-to-face meeting with a qualified healthcare professional (QHP) within 24 hours of receipt. For 29 (48%) out 60 sick call requests received, either BCSO did not provide the inmate with a face-to-face meeting at all, or there was no documentation to confirm that BCSO provided the inmate with a face-to-face meeting.

We projected the test results from our sample of 60 sick call requests to the total population of 7,482 sick call requests submitted during the audit period. Based on this calculation, we can project with a 95% confidence level that BCSO did not follow up on at least 363 sick call requests with face-to-face meetings

with QHPs within 24 hours of receipt. Additionally, we can project with a 95% confidence level that BCSO did not follow up on at least 2,640 sick call requests with face-to-face meetings with QHPs at all.

If BCSO does not follow up on all sick call requests, then there is a higher-than-acceptable risk that inmates may not have their healthcare issues properly resolved, either within the required 24 hours or at all.

Authoritative Guidance

BCSO's "BCSO-103R" policy states,

- 3. A face-to-face encounter is conducted by a qualified health care professional within 24 hours of receipt of a health care request by health staff.*

Reasons for Issue

BCSO stated that 3 of the 29 inmates we noted as not having received a face-to-face meeting with a QHP within 24 hours of receipt of a sick call request were seen previously on the day that the Inmate Request Slip was submitted. These inmates were seen previously on the same day for different sick call requests that were not included in our sample or for scheduled medical appointments. While BCSO did provide evidence of these previous sick calls or scheduled medical appointments, BCSO is required to conduct a face-to-face meeting with the inmate for all sick call requests. Additionally, BCSO believes that the remaining 26 submitted slips were for requests that did not require a face-to-face meeting.

Recommendation

BCSO should ensure that its QHPs follow up on all sick call requests, and that they do so within 24 hours of receipt of the request.

Auditee's Response

BCSO responded to this finding with an edit to policy BCSO-103R. Procedure has been updated to reflect that a face to face encounter is conducted by a qualified health care professional within 24 hours of a health request by health staff if deemed clinically necessary. This response was sent to the audit team on August 26, 2025. The audit report fails to mention the updated policy.

Auditor's Reply

BCSO did send us its updated policy before the creation of our draft report. This policy was updated after the audit period ended, however, which is why it was necessary to include the finding in this report. We acknowledge that a change has been made to the policy, but we were not able to test the effectiveness

of that change because it occurred after the audit period. Based on its response, BCSO is taking measures to address our concerns regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

5. The Berkshire County Sheriff's Office should have documented internal policies or procedures regarding state employee settlement agreements and supporting records, as would be best practice.

BCSO should have a documented process for handling employee settlement agreements during the extended audit period of July 1, 2019 through June 30, 2024. We consider written policies to be best practice. We believe such policies and procedures should apply to the review, approval, processing, and reporting of employee settlement agreements, including the use of any non-disclosure, non-disparagement, or similarly restrictive clauses.

A documented, written process to handle employee settlement agreements, especially for those containing non-disclosure, non-disparagement, or similarly restrictive clauses, can help ensure that employee settlements are handled in an ethical, legal, and appropriate manner.

Authoritative Guidance

According to 815 CMR 5.09,

(1) Responsibility of assigned attorney or staff person: Preparation of Reports. When litigation involving a monetary claim against the Commonwealth covered by these regulation terminates in a final Settlement or judgment with regard to such a claim, the agency attorney or staff person assigned to handle or monitor the claim shall do the following:

(a) Prepare a report indicating:

- 1. the principal amount of the settlement or judgment;*
- 2. the amount of any attorney's fee award;*
- 3. the amount of any interest award or accrued, and whether the interest continues to accrue post-judgment;*
- 4. a request for payment of the amount;*
- 5. a description of the basis for the request, (e.g., Court order or settlement agreement); and*
- 6. whether the assigned attorney desires to award the payment check to the claimant;*

(b) Forward the report with a copy of the settlement or judgment just described to the General Counsel of the [Office of the Comptroller of the Commonwealth] within the time frames set forth in 815 CMR 5.09(2). . . .

(2) Time for preparation of reports. The report . . . shall be sent by the agency attorney to the General Counsel of the [Office of the Comptroller of the Commonwealth]:

(a) if based on a settlement agreement, within 15 days of signing of the final settlement papers.

Reasons for Issue

During one of our interviews, BCSO's Sheriff stated that BCSO does not have a policy over the process of entering into settlement agreements or the use of non-disclosure, non-disparagement, or similarly restrictive clauses because it is BCSO's practice to not include such clauses in employee settlement agreements.

For settlements that result in monetary payments, BCSO uses the Office of the Comptroller of the Commonwealth's (CTR's) "Settlements and Judgments Policy" as the default for handling such settlement agreements.

Recommendation

BCSO should develop, document, and implement a written policy related to employee settlement agreements, including prohibiting the use of non-disclosure, non-disparagement, or similarly restrictive clauses in its agreements, as recommended in the Governor's "Executive Department Settlement Policy," issued January 27, 2025.

Auditee's Response

*During the audit period, **July 1, 2022 through June 30, 2024**, the BCSO executed no settlement agreements. During the "**extended audit period [July] 1, 2019 through June 30, 2024**", the BCSO had two settlement agreements with employees during the extended time period. The first settlement agreement was executed in February, 2021. The second settlement agreement was executed in **December, 2021**. Neither settlement involved the expenditure of state funds as acknowledged by the draft report.*

The auditor's draft report faults the BCSO for not having formal policy on settlement agreements containing prohibitions on non-disclosure and non-disparagement agreements. However, the only guidance the auditor's report points to are:

*Auditor's draft report p. 8 - Comptroller's "Settlements and Judgments Policy" dated **January 10, 2022***

*Auditor's draft report p. 2 - Governor's **executive department** settlement policy issued **January 27, 2025***

The practice shows the BCSO did not use NDA's (non-disclosure agreements) or non-disparagement agreements. It has since formalized this in policy. The draft audit report fails to acknowledge this.

Auditor's Reply

We acknowledge that BCSO implemented an employee settlement policy in response to our finding. This policy does not outline internal processes to be followed other than stating that BCSO will follow CTR's policy for processing employee settlement payments. BCSO's policy does not include prohibiting the use of non-disclosure, non-disparagement, or similarly restrictive clauses in its agreements.

Based on its response, BCSO has taken some measures to implement an employee settlement policy as recommended. However, we encourage BCSO to consider our recommendation to develop, document, and implement a written policy related to employee settlement agreements that includes prohibiting the use of non-disclosure, non-disparagement, or similarly restrictive clauses in its agreements. As part of our post-audit review process, we will follow up on this matter in approximately six months.