

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued December 19, 2025

Middlesex Sheriff's Office—A Review of Healthcare and Inmate Deaths

For the period July 1, 2021 through June 30, 2023



OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

December 19, 2025

Peter Koutoujian, Sheriff
Middlesex Sheriff's Office
12 Gill Street, Suite 4700
Woburn, MA 01801

Dear Sheriff Koutoujian:

I am pleased to provide to you the results of the enclosed performance audit of the Middlesex 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, 2021 through June 30, 2023. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I am, as always, 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

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| CMR | Code of Massachusetts Regulations |
| CTR | Office of the Comptroller of the Commonwealth |
| MJHOC | Middlesex Jail and House of Correction |
| MSO | Middlesex Sheriff's Office |

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 Middlesex Sheriff's Office (MSO) for the period July 1, 2021 through June 30, 2023. When designing the audit plan for examining employee settlement agreements entered into by MSO, we extended the audit period to July 1, 2018 through June 30, 2023.

The purpose of our audit was to determine the following:

- Did MSO comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) regarding the deaths of inmates in its custody?
- Did MSO hold quarterly meetings with its contracted healthcare provider and review quarterly reports regarding inmates' healthcare in accordance with 103 CMR 932.01(3)?
- Did MSO administer mental health services to inmates in accordance with 103 CMR 932.13(1) and Section .08 of MSO's "Policy and Procedure 613—Mental Health Services"?
- Did MSO 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, 2018 through June 30, 2023, did MSO follow these policies, and did it abstain 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.

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| Finding 1 Page 17 | MSO was unable to provide evidence of the approval of extensions for the completion of clinical mortality reviews. |
| Effect | Without properly documenting extension approvals for clinical mortality reviews, MSO cannot substantiate that extensions were granted for these reviews. While we recognize the need for extensions to complete some clinical mortality reviews, extension requests should be properly documented to ensure that MSO can demonstrate to others, including external auditors, that it complied with its own policies. |
| Recommendations Page 18 | <ol style="list-style-type: none">1. MSO should document, in writing, and maintain extension approvals for, clinical mortality reviews.2. MSO should update Section .09(7) of its "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" to include written documentation requirements for extension approvals for clinical mortality reviews. |

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| Finding 2 Page <u>19</u> | MSO did not have documented policies or procedures regarding employee settlement agreements and supporting records, as would be best practice. |
| Effect | A documented and 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>22</u> | MSO 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. |

OVERVIEW OF AUDITED ENTITY

The Middlesex Sheriff's Office (MSO) was established as an independent state agency on July 11, 1997, after Section 1 of Chapter 34B of the Massachusetts General Laws abolished Middlesex 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 Act 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 transition 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 MSO. Under the Sheriff's direction, superintendents administer MSO operations at MSO facilities.

According to MSO's website, its mission statement is as follows:

The Middlesex Sheriff's Office improves the quality of life by providing a safe and secure environment for staff, offenders and communities, working with our partners in law enforcement and criminal justice. We take pride in preparing offenders for re-entry by providing a comprehensive risk assessment and individualized treatment, educational, and vocational plans.

As of December 31, 2023, MSO had 641 employees. In fiscal year 2022, the annual state appropriation was approximately \$71,996,127. In fiscal year 2023, MSO's annual state appropriation was approximately \$75,997,810.

MSO's main administrative building is located at 12 Gill Street, Suite 4700, in Woburn. The Middlesex Jail and House of Correction (MJHOC) is located at 269 Treble Cove Road in Billerica. During the audit period, MJHOC had a total population of 7,385 inmates in its custody,¹ including 1,253 pretrial inmates, 4,678 sentenced inmates, 1,443 regionally arrested individuals,² and 11 individuals who were released before completing the booking process.³

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1. For an inmate to be in MSO's custody means that MSO has authorization from a court to incarcerate an inmate until the court orders their release. A death in custody is one that occurs during this period of incarceration.
 2. A regionally arrested individual is a person who has been arrested by a law enforcement department from a county other than MSO's. MSO's facility holds the individual temporarily before they appear in court.
 3. These 11 individuals were released on bail before the booking process could be completed.

Inmate Case Management System

MSO uses an inmate case management system to track and manage information on inmates in MSO's custody. The information maintained in the system includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁴ booking numbers,⁵ booking dates, release dates, release types,⁶ and in-custody housing assignments.⁷ During the process of admitting an inmate, one of MSO's booking officers enters information from a mittimus⁸ into the inmate case management system.

Inmate Healthcare Records Management System

MSO uses an inmate healthcare records management system, a web-based application, to record inmates' health information, such as medical history, ongoing and past treatments, mental health conditions, medications, and scheduled appointments. Personnel members from MSO's in-house healthcare unit also use the inmate healthcare records management system to document inmates' medical requests.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires agencies with county correctional facilities, such as MSO, to establish guidelines for notifications, investigations, reporting, and documentation regarding the deaths of inmates. According to Section .06 of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate," in the event of an inmate's serious illness, injury, or death while in MSO's custody, at least one of the officers on duty notifies the central control unit.⁹ This unit then notifies MSO's in-house healthcare unit to assist, administer medical care, and/or provide transportation to the hospital, if appropriate. The first responder provides lifesaving assistance until personnel members from MSO's in-house healthcare unit arrive.

In the event of an inmate's death, the central control unit notifies the following parties of the inmate's death: the Sheriff, the superintendent (or their designee) of the facility where the inmate was held in

4. A state identification number is a unique number assigned to each inmate in the criminal justice system.

5. A booking number is a unique number assigned by MSO to an inmate upon their admission to MJHOC. A new booking number is generated upon every unique admission to the facility.

6. The release type is the way in which an inmate is discharged from a facility, such as bail, parole, completion of their sentence, or death.

7. A housing assignment is an inmate's specific unit, cell, and bed within MJHOC.

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

9. The central control unit is a booth, operated by MSO employees, in the center of MJHOC. It is the central site of control for radio communication devices and physical access throughout all of MSO's facilities. All communication into and out of MSO's facilities goes through the central control unit.

custody, the Security Investigations Unit, and the health services administrator.¹⁰ The superintendent (or their designee) notifies the following parties of the inmate's death: the Massachusetts State Police, the Middlesex County District Attorney's Office, the Office of the Chief Medical Examiner, and the inmate's next of kin.

Once members from the Massachusetts State Police arrive at MJHOC, they, alongside the Security Investigations Unit, secure the scene of the incident and conduct an investigation to determine the cause and manner of death. The Office of the Chief Medical Examiner conducts a postmortem exam.¹¹ After this, the Office of the Chief Medical Examiner completes and signs the death certificate, then releases the body to the inmate's next of kin.

Following the death of an inmate, each involved staff member must submit an incident report to one of MSO's shift commanders (or their designee) by the end of their shift on the day of the incident. Personnel members from MSO's in-house healthcare unit also complete a separate incident report through the inmate case management system medical notes section.

MSO's assistant superintendent/director of security or its director of the Internal Investigations Unit (who reports to the special sheriff¹²) conducts an investigation of the death and secures the inmate's living quarters, which they treat as a crime scene at this point. While these living quarters are considered a crime scene, an officer monitors and records any entries or other events until the investigation is complete, which happens after MSO has consulted with the Massachusetts State Police. Any inmates still living in the unit are temporarily relocated until the investigation is complete.

At the direction of the special sheriff, the assistant superintendent/director of security or the director of the Internal Investigations Unit conducts an investigation that may include a review of recorded videos, photographic evidence, and/or interviews of staff members or inmates. MSO must coordinate with the Middlesex County District Attorney or the Massachusetts State Police if either conducts an independent investigation. The assistant superintendent/director of security or the director of the Internal Investigations Unit submits the final report to the special sheriff.

10. According to MSO's "Policy and Procedure 601—Health Services," the health services administrator is "that person, designated by the Sheriff, to oversee the management of the health care delivery system of the Middlesex Sheriff's Office."

11. A postmortem exam is an examination of the deceased person's body to determine the cause of death.

12. The special sheriff oversees MSO's Internal Investigations Unit and reports directly to the Sheriff.

After the death of an inmate, a contracted physician conducts a clinical mortality review,¹³ which must be completed within 30 days of the inmate's death; however, the special sheriff may approve additional time for the clinical mortality review, if necessary. After the contracted physician completes the clinical mortality review, they must submit a report documenting this review to the special sheriff or their designee and MSO's chief legal counsel.

Healthcare Services

During the audit period, the majority of healthcare services were provided by personnel members from MSO's in-house healthcare unit. MSO also contracted with vendors for certain healthcare services, such as podiatry or dental services. MSO's health services administrator was its health authority¹⁴ during the audit period, and was in charge of both (1) personnel members from MSO's in-house healthcare unit and (2) healthcare service delivery for inmates. MSO also had an in-house mental health services department led by MSO's director of behavioral health.

Quarterly Meetings

According to 103 CMR 932.01(3),

The county correctional facility [in this case, MSO] 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.*

Quarterly reports, as referenced in the above regulation, cover topics such as risk management, infection control, inmate grievances, critical clinical events (e.g., instances of death or physical assault while providing healthcare), and medications that contracted healthcare providers currently administer to inmates. Statistical summaries, also referenced in the above regulation, contain data related to inmate

13. Section .05 of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" defines a clinical mortality review as, "An unbiased assessment based on all the facts and circumstances of the appropriateness of the clinical care to ascertain whether changes in policies, procedures, or practices are warranted, and to identify issues that require further study. The review shall be completed within thirty (30) days by a physician or designee selected by the Special Sheriff or designee, in conjunction with the Assistant Superintendent/Director of Security or the Director of the Internal Investigations Unit as directed by the Special Sheriff. The thirty (30)-day time frame may be extended with approval by the Special Sheriff. The review shall be documented, and a copy shall be provided to the Special Sheriff or designee and the Chief Legal Counsel."

14. According to 103 CMR 932.01, "The health authority may be a physician, health administrator, or health agency whose responsibility is pursuant to a written agreement, contract, or job description."

health records and provide a comprehensive overview of medical services delivered to inmates during the year.

Initial Medical Screening

According to 103 CMR 932.06 and Section .10 of MSO's "Policy and Procedure 601—Health Services," personnel members from MSO's in-house healthcare unit are required to perform an initial medical screening for each inmate upon admission to MJHOC. This occurs before an inmate is placed in MSO's general population to ensure that each inmate's health needs are identified and addressed. The initial medical screening consists of a questionnaire and observation to identify potential emergencies and to ensure that newly admitted inmates' illnesses, health needs, and medications are identified for further assessment and continued treatment while in custody. A qualified healthcare professional records all findings resulting from the initial medical screening in the inmate healthcare records management system, which is then approved by the health authority.

Upon each inmate's admission to MJHOC, personnel members from MSO's in-house healthcare unit communicate (both verbally and in writing) to the inmate how they can access healthcare services. This communication may include special accommodations, such as the use of a translation service, to ensure that any inmate who may have difficulty communicating with employees understands how to access healthcare services.

Initial Mental Health Assessments

According to Section .07 of MSO's "Policy and Procedure 613—Mental Health Services," all mental health services are available for all MJHOC inmates if needed. A qualified healthcare professional performs an assessment of the inmate during the initial medical screening. If the qualified healthcare professional deems it necessary for the inmate to have their mental health evaluated based on the assessment, then the healthcare professional refers the inmate for further evaluation to a qualified mental healthcare professional. Initial mental health assessments must be completed within 14 days after an inmate's admission to MJHOC. The initial mental health assessment consists of a questionnaire on suicidal ideation and acts of self-harm. If needed, a qualified mental healthcare professional observes the inmate to identify any potential mental health emergencies the inmate presents with when they arrive at the facility to ensure that the inmate's mental health needs are identified for further assessment and continued treatment while in custody.

During the initial mental health assessment, if the qualified mental healthcare professional realizes that an inmate has a potential mental health risk, then this qualified mental healthcare professional discusses the case with the director of the Mental Health Services Department and may refer the inmate to a higher-level psychiatric facility, if necessary.

A qualified mental healthcare professional records the inmate's evaluation data in the inmate's electronic medical record in the inmate healthcare records management system.

State Employee Settlement Agreements

The Office of the Comptroller of the Commonwealth (CTR) has established policies and procedures for Commonwealth agencies processing settlements and judgments.

CTR's "Settlements and Judgments" policy 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 MSO.

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 to ensure proper tax reporting. 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 whether the claim will be paid by the agency or through CTR's Settlement and Judgment Reserve Fund. This form also documents the type of claim (e.g., employment action, civil rights/discrimination, or awarded attorneys' fees), agency information, the employee's information, the type (e.g., lump sum, back pay, and/or interest) and amount of damages detailed in the

settlement agreement, and the amount of any interest accrued. In addition to the SJ Authorization Form, agencies must also submit to CTR a copy of the employee settlement agreement signed by authorized representatives of both parties.

We found that MSO entered into 32 employee settlement agreements, totaling \$2,182,451, during the extended audit period, July 1, 2018 through June 30, 2023.

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 Middlesex Sheriff's Office (MSO) for the period July 1, 2021 through June 30, 2023. When designing the audit plan for examining employee settlement agreements entered into by MSO, we extended the audit period to July 1, 2018 through June 30, 2023.

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 MSO comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) regarding the deaths of inmates in its custody? | Yes |
| 2. Did MSO hold quarterly meetings with its contracted healthcare provider and review quarterly reports regarding inmates' healthcare in accordance with 103 CMR 932.01(3)? | Yes |
| 3. Did MSO administer mental health services to inmates in accordance with 103 CMR 932.13(1) and Section .08 of MSO's "Policy and Procedure 613—Mental Health Services"? | Yes |
| 4. Did MSO 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, 2018 through June 30, 2023, did MSO follow these policies, and did it abstain from using non-disclosure, non-disparagement, or similarly restrictive clauses as part of employee settlement agreement language? | No; see Finding 2 |

To accomplish our audit objectives, we gained an understanding of the MSO internal control environment relevant to our objectives by reviewing MSO's internal control plan and applicable policies and

procedures, as well as by interviewing MSO's management. We evaluated the design and tested the operating effectiveness of internal controls related to quarterly reports and inmate healthcare services. Specifically, we verified that quarterly reports were signed off by management upon review. We reviewed the initial medical screening records to determine whether all fields and sections of these records were filled out, whether there was a signed inmate consent and acknowledgement form, and whether there was a timestamped signature from the contracted healthcare provider who completed the initial medical screening records.

Note that we found an issue during our testing with Section .09(7) of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate." Namely, that MSO was unable to provide evidence of the approval of extensions for the completion of clinical mortality reviews. We noted that the policy does not contain requirements to document the approvals for extensions for the clinical mortality reviews. See [Finding 1](#) for more information.

In addition, to obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

Inmate Deaths

To determine whether MSO complied with and implemented the requirements of 103 CMR 932.17(2) regarding the deaths of inmates in its custody, we took the following actions:

- We requested, and MSO provided us with, a list of any inmate deaths that occurred during the audit period while they were in MSO's custody. This list included three inmates who died in custody.
- We interviewed MSO management regarding the deaths of inmates in its custody during the audit period and obtained MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate."
- We inspected MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" to determine whether it included 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] notifications [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.

- We examined the documentation related to the three in-custody deaths to determine whether in-house healthcare and administrative employees, as well as each inmate's next of kin, were notified about each inmate's death.
- We obtained and examined each inmate's death certificate from the Office of the Chief Medical Examiner to determine whether MSO notified the Office of the Chief Medical Examiner about each inmate's death.
- We examined each incident report to determine whether the disposition (or possession) of the body was moved to the appropriate authority (e.g., hospital morgue) and whether MSO notified the deceased inmates' associated victims (if any) of the corresponding inmate's death as soon as was practicable.
- We examined each investigative report, which included all corresponding incident reports, to ensure that the Internal Investigations Unit performed an investigation of the causes of the deaths.
- We examined the clinical mortality review document related to each inmate's death to determine whether appropriate staff members, such as the healthcare unit administrator, superintendent, and special sheriff, reviewed the circumstances surrounding each inmate's death and whether final reports were submitted to the special sheriff and chief legal counsel.

For this objective, we found that MSO complied with 103 CMR 932.17(2).

Quarterly Meetings

To determine whether MSO held quarterly meetings with its contracted healthcare provider and reviewed quarterly reports regarding inmates' healthcare in accordance with 103 CMR 932.01(3), we examined the minutes and attendance sheets (which were signed by meeting attendees) of all eight (100%) of the quarterly meetings that took place during the audit period between MSO and its contracted healthcare providers. In addition, we inspected all eight (100%) of the quarterly reports discussed in each of the quarterly meetings and all three (100%) annual statistical summaries that the contracted healthcare providers submitted to MSO during the audit period.

For this objective, we found no significant issues during our testing. Therefore, we concluded that, based on our testing, MSO met the relevant criteria regarding holding quarterly meetings with its contracted healthcare providers and reviewing quarterly reports regarding healthcare services for inmates.

Initial Mental Health Assessments

To determine whether MSO administered mental health services to inmates in accordance with 103 CMR 932.13(1) and Section .08 of MSO's "Policy and Procedure 613—Mental Health Services," we took the following actions. We interviewed personnel members from MSO's in-house healthcare unit regarding the process of initial medical screening and mental health assessments. In addition, we selected a random, statistical¹⁵ sample of 72 inmates out of the population of 1,666 inmates at the Middlesex Jail and House of Correction (MJHOC) who were referred for further mental health assessments after their initial mental health assessment, using a 90% confidence level,¹⁶ a 50% expected error rate,¹⁷ and a 20% desired precision range.¹⁸ For our sample, we examined records from the inmate healthcare records management system for the dates of mental health referrals, dates of completed mental health assessments, whether the inmates needed further mental health assessments, and the names of the qualified mental healthcare professionals who conducted the assessments.

For this objective, we found no significant issues during our testing. Therefore, we concluded that, based on our testing, MSO met the relevant criteria regarding administering mental health services to inmates.

Employee Settlement Agreements

To determine whether MSO 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 interviewed MSO's chief legal counsel.

15. 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.

16. 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.

17. 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.

18. Desired precision range is the range of likely values within which the true population value should lie; also called confidence interval. For example, if the interval is 90%, the auditor will set an upper confidence limit and a lower confidence limit where 90% of transactions fall within those limits.

To determine whether MSO abstained from using non-disclosure, non-disparagement, or similarly restrictive clauses in employee settlement agreements entered into from July 1, 2018 through June 30, 2023, we obtained a list of all 32 employee settlement agreements (8 monetary and 24 nonmonetary) executed during the extended audit period. We also requested and reviewed the language in the associated employee settlement agreements, documenting any instances of restrictive language.

To determine whether MSO properly reported monetary settlements to CTR, we requested and reviewed copies of the employee settlement agreements. We determined whether the employee settlement agreements were signed by authorized representatives of both the employee and MSO. For the eight monetary settlements executed during the extended audit period, we determined whether the SJ Authorization Form detailed the terms of the settlement payment and was signed by MSO's chief financial officer and MSO's legal counsel. We also determined whether emails from CTR documented the review and approval of the settlement payment. These emails served as evidence that the required documentation was reported to CTR.

For the aspect of our objective regarding properly reporting monetary settlements to CTR, we concluded that, based on our testing, MSO met the relevant criteria. However, for other aspects of our objective—namely, MSO's use of employee settlement agreements—we found certain issues during our testing. See [Finding 2](#) for more information.

Data Reliability Assessment

Inmate Case Management System

To assess the reliability of the inmate data obtained from the inmate case management system, we interviewed the MSO information technology employees who oversaw the system. We tested the general information technology controls (i.e., access, configuration management, segregation of duties, contingency planning, and security management controls). In addition, we selected a random sample of 20 inmates from the list of 7,385 inmates who were in MSO's custody during the audit period (which was extracted from the inmate case management system) and compared inmates' information from this list (i.e., their full name, date of birth, and booking date) to the information in the original source documents (e.g., a mittimus or inmate property receipt) for agreement.

We selected a random sample of 20 hard copies of the mittimuses and compared inmates' information from these mittimuses (i.e., full name, date of birth, and date of admission to MJHOC) to

the information in the list of inmates from the inmate case management system for agreement. In addition, we tested the data for duplicate records. We reconciled the list of MSO's in-custody deaths from the inmate case management system with the list provided to us by the Office of the Chief Medical Examiner.

Inmate Healthcare Records Management System

To assess the reliability of the inmate healthcare records obtained from the inmate healthcare records management system, we interviewed the MSO information technology employees who oversaw the system. We tested the general information technology controls (i.e., access, configuration management, segregation of duties, contingency planning, and security management controls). In addition, we selected a random sample of 20 records from the list of 6,733 inmate healthcare records from the inmate healthcare records management system and traced inmates' information (i.e., inmate identification numbers and commitment dates) to the information on the list of inmates from the inmate case management system.

We selected a random sample of 20 inmates from the list of inmates from the inmate case management system and traced the inmates' information (i.e., state identification number and commitment date) to that on the list of inmates' healthcare records from the inmate healthcare records management system.

We were unable to identify a list of inmates who were referred to MSO's in-house mental healthcare unit using the list of 6,733 inmate healthcare records. However, MSO was able to rerun the query of the inmate healthcare records management system to identify and extract a list of 1,666 mental health records during the audit period. To ensure the reliability of this list, we observed the extraction of the list and reviewed the query language to determine whether it included the data fields we requested. In addition, we selected a random sample of 20 inmate mental health records from the list of 1,666 inmate mental health records from the inmate healthcare records management system and traced the inmates' information (i.e., state identification number and commitment date) to the information on the original list of 6,733 inmates' healthcare records.

Employee Settlement Agreements

MSO provided us with a list of 32 employee settlement agreements executed during the extended audit period, July 1, 2018 through June 30, 2023. To ensure the accuracy of this list, we traced each

employee's name, settlement date, amount, and type of confidentiality language (e.g., non-disclosure or non-disparagement) included in the list to source documents (i.e., copies of the settlement agreement and the SJ Authorization Form). To ensure the completeness of the list of all eight monetary agreements executed during the extended audit period, we traced each employee's name, date, amount, and funding source from CTR's Settlements and Judgments Microsoft Access data to MSO's employee settlement agreements list.

In addition, we obtained a list of the total population of 590 MSO legal expenses that MSO incurred during the extended audit period from CTR's Commonwealth Information Warehouse.¹⁹ Using this list, we judgmentally selected a sample of 20 legal expenses, with the sample weighted to include 10 expenses from 2021²⁰ and 10 from the other four years from the extended audit period. We traced the legal expense information from this list (i.e., invoice date and amount) to hard copies of the legal invoices for agreement. In addition, we reviewed the legal invoices to determine whether they were related to employee settlement agreements.

We selected a random sample of 20 hardcopy legal invoices stored in MSO's filing cabinets and traced the information on these invoices (i.e., vendor name, invoice date, amount, invoice number, and description of services) to the list of 590 legal expenses for agreement. In addition, we reviewed the legal invoices to determine whether they were related to employee settlement agreements.

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.

19. The Commonwealth Information Warehouse contains budget, human resources, and payroll information, as well as financial transaction data from the Massachusetts Management Accounting and Reporting System.

20. We selected 50% (10) of our sample from 2021 because the total dollar amount of legal expenses for that year was significantly higher than the other years in the extended audit period.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Middlesex Sheriff's Office was unable to provide evidence of the approval of extensions for the completion of clinical mortality reviews.

Three inmate deaths occurred during the audit period and the clinical mortality reviews for these deaths had completion dates ranging from 112 days to 184 days after the death of the inmate. While clinical mortality reviews can be granted extensions beyond the 30 days permitted in MSO policy, MSO was unable to provide written evidence that the special sheriff approved these extensions.

Without properly documenting extension approvals for clinical mortality reviews, MSO cannot substantiate that extensions were granted for these reviews. While we recognize the need for extensions to complete some clinical mortality reviews, extension requests should be properly documented to ensure that MSO can demonstrate to others, including external auditors, that it complied with its own policies.

Authoritative Guidance

Section .09(7) of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" states,

A Clinical Mortality Review shall be conducted and completed within thirty-(30) days by the responsible physician or designee. The review shall be documented, and a copy of the report shall be provided to the Special Sheriff or designee and the Chief Legal Counsel. The Special Sheriff may approve additional time as needed.

As a best practice, written evidence of the special sheriff's approval of the extension request of the clinical mortality review should be maintained.

Reasons for Issue

MSO stated that the special sheriff gave their approval for the extension, but that there was no documentation for this approval because it was likely communicated in person or through a telephone call. MSO further stated that it adhered to its policy and that additional time was provided for the extended clinical mortality review.

Also, during our audit, we noted that MSO does not have documentation requirements for the extension of approvals for clinical mortality reviews.

Recommendations

1. MSO should document, in writing, and maintain extension approvals for, clinical mortality reviews.
2. MSO should update Section .09(7) of its "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" to include written documentation requirements for extension approvals for clinical mortality reviews.

Auditee's Response

The MSO objects to the [Office of the State Auditor's (OSA'S)] Finding 1 being categorized as a "finding." Per the OSA's own language in the [draft audit report], the MSO clearly meets the criteria set forth in the first audit objective. The recommendation of the OSA, while appreciated, should be listed as a recommendation to further the MSO's already extensive efforts in this area. The OSA acknowledges that the MSO has fully complied with and implemented all provisions set forth in [Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR)] Guidelines for Serious Illness, Injury, or Death ("CMRs") through the implementation of MSO Policy and Procedure 617 – Procedures in the Event of Death or Serious Illness of an Inmate ("MSO PP 617"). The MSO voluntarily holds itself to a higher standard than what is required by the CMRs by adhering to the more rigorous standards promulgated by the National Commission on Correctional Health Care ("NCCHC") which are reflected in MSO PP 617. Among the NCCHC's recommended compliance indicators is, "a clinical mortality review is conducted within 30 days." However, this thirty (30) day window is only a guideline, not a binding requirement. This is a recommended guideline from a voluntary accreditation for which the MSO has been deemed in full compliance; it should not be categorized into a finding of non-compliance with this audit objective as the OSA admittedly has no documented standard to make this finding. Despite the MSO's voluntary adherence to the higher standards set by the NCCHC, it is important to note that neither 103 CMR 932.17(2) nor any applicable regulation or accrediting body requires documentation as described in the finding.

For the aforementioned reasons, Finding 1 does not rise to the level of a finding and should be revised to a recommendation in the final audit report.

Auditor's Reply

We acknowledge that MSO implemented the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) by maintaining written policies and procedures that include all of the CMR's listed requirements. However, during our testing of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" (listed in MSO's response as MSO PP 617), we found that MSO did not maintain documentation to support Section .09(7) of said policy. As cited in the "Authoritative Guidance" section of this finding, Section .09(7) of MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" states,

*A Clinical Mortality Review shall be conducted and **completed** [emphasis added] within thirty-(30) days by the responsible physician or designee. The review shall be documented, and a copy of the*

report shall be provided to the Special Sheriff or designee and the Chief Legal Counsel. The Special Sheriff may approve additional time as needed.

In its response, MSO describes how the 30-day requirement for the clinical mortality reviews in MSO's "Policy and Procedure 617—Procedures in the Event of Death or Serious Illness of an Inmate" is a recommended guideline, not a binding requirement, from the National Commission of Correctional Health Care, and that MSO voluntarily adheres to these standards. However, once MSO chose to adopt these standards and add them to its policy, these standards became MSO's official requirements.

This policy does allow the special sheriff to approve additional time as needed, but MSO was unable to demonstrate that the approval for these extensions was granted. Without requiring evidence of the special sheriff's approval, MSO cannot prove that it is in compliance with its own policy when clinical mortality reviews are not completed within 30 days.

In summary, we appreciate MSO's response but note that it refers to standards to which we did not audit. Instead, we audited MSO's own policies and performance standards, those of which that are referenced in this finding MSO did not meet. This constitutes a valid and appropriate audit finding, consistent with generally accepted government auditing standards.

2. The Middlesex Sheriff's Office did not have documented policies or procedures regarding employee settlement agreements and supporting records, as would be best practice.

We found that MSO properly reported all instances of employee settlement agreements to the Office of the Comptroller of the Commonwealth (CTR). However, during the audit, MSO told us that it had an undocumented process to handle employee settlement agreements. 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.

The table below summarizes the dates, amounts, and payment methods (through CTR's Settlement and Judgment Reserve Fund or through MSO's operational budget), where applicable, of the 32 employee settlement agreements that MSO entered into during the extended audit period, July 1, 2018 through June 30, 2023.

| Were Allegations Specified in the Agreement? | Settlement Date | Amount | Method of Payment | Did the Agreement Include Non-disclosure, Non-disparagement, or Similarly Restrictive Clauses? |
|--|--------------------|-------------|-------------------|--|
| Yes* | July 27, 2018 | Nonmonetary | N/A | No |
| Yes* | August 6, 2018 | Nonmonetary | N/A | No |
| Yes** | September 11, 2018 | \$25,000 | CTR | No |
| Yes* | September 26, 2018 | Nonmonetary | N/A | No |
| Yes* | November 23, 2018 | Nonmonetary | N/A | No |
| Yes* | December 19, 2018 | Nonmonetary | N/A | No |
| Yes* | April 9, 2019 | Nonmonetary | N/A | No |
| Yes* | April 12, 2019 | Nonmonetary | N/A | No |
| Yes* | August 27, 2019 | Nonmonetary | N/A | No |
| Yes* | September 3, 2019 | Nonmonetary | N/A | No |
| Yes** | September 12, 2019 | \$5,000 | MSO | No |
| Yes* | October 10, 2019 | Nonmonetary | N/A | No |
| Yes* | November 14, 2019 | Nonmonetary | N/A | No |
| Yes* | November 27, 2019 | Nonmonetary | N/A | No |
| Yes* | December 10, 2019 | Nonmonetary | N/A | No |
| Yes* | February 25, 2020 | Nonmonetary | N/A | No |
| Yes* | February 27, 2020 | Nonmonetary | N/A | No |
| Yes* | June 26, 2020 | Nonmonetary | N/A | No |
| Yes* | July 2, 2020 | Nonmonetary | N/A | No |
| Yes* | July 6, 2020 | Nonmonetary | N/A | No |
| Yes** | February 22, 2021 | Nonmonetary | N/A | No |
| Yes* | March 25, 2021 | Nonmonetary | N/A | No |
| Yes** | May 14, 2021 | \$30,000 | MSO | No |
| Yes* | July 19, 2021 | Nonmonetary | N/A | No |
| Yes** | September 24, 2021 | \$2,077,325 | CTR | Yes |
| Yes** | November 30, 2021 | \$464 | MSO | No |
| Yes* | February 9, 2022 | Nonmonetary | N/A | No |
| Yes** | March 31, 2022 | \$2,500 | CTR | No |
| Yes** | July 19, 2022 | \$2,162 | MSO | No |
| Yes* | August 16, 2022 | Nonmonetary | N/A | No |
| Yes** | December 22, 2022 | \$40,000 | CTR | No |

| Were Allegations Specified in the Agreement? | Settlement Date | Amount | Method of Payment | Did the Agreement Include Non-disclosure, Non-disparagement, or Similarly Restrictive Clauses? |
|--|-----------------|-------------|-------------------|--|
| Yes* | March 21, 2023 | Nonmonetary | N/A | No |

* The settlement was related to a general human resources issue (e.g., written warnings issued to the employee because of alleged performance issues).

** The settlement was related to an employment action (e.g., an employee grievance regarding labor-related matters).

A documented and 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 [regulations] 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 [CTR] within the time frames set forth in [Section 5.09(2) of Title 815 of the Code of Massachusetts Regulations]. . . .

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

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

(b) if based on a judgment against the Commonwealth or any agency, within fifteen days of the Commonwealth's decision not to appeal; or

(c) if based on a judgment against the Commonwealth or an agency, where the Commonwealth decides to take an appeal from the judgment, within fifteen days of any final order on appeal or in remand proceedings, if such remand proceedings are ordered.

The US Government Accountability Office's *Standards for Internal Control in the Federal Government*, known as the Green Book, sets internal control standards for federal entities. The Green Book defines internal controls and recommends that government entities design and implement them in the following excerpt:

Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. Internal control serves as the first line of defense in safeguarding assets. In short, internal control helps managers achieve desired results through effective stewardship of public resources. . . . Management should design control activities to achieve objectives and respond to risks. . . . Management should implement control activities through policies.

While MSO is not required to follow this policy, since it is not a federal entity, we consider it a best practice.

Reasons for Issue

According to a hardcopy document MSO management gave to us on February 20, 2025,

[Case-by-case determinations are made] based upon a number of factors including, but not limited to applicable law, collective bargaining agreement provisions, relevant [MSO] policy and procedure, the factual basis of the claim, the nature of the claim, the type of claim, whether it is monetary or non-monetary, the amount of money settled upon, the impact to the individual and/or union as a whole.

However, we believe that adopting standardized written guidance can reduce the future risk of inconsistency, inefficiency, and noncompliance.

Recommendation

MSO 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

The MSO also objects to Finding 2 being categorized as a finding, as the MSO meets the relevant criteria for employee settlement agreements. [In the "Employee Settlement Agreements" section in Audit Objectives, Scope, and Methodology and the introduction of Finding 2], the OSA clearly states in its finding that the MSO has met the relevant criteria for this audit objective. The OSA has acknowledged that MSO follows the relevant authoritative guidance established by the Office of the Comptroller of the Commonwealth Settlements and Judgments policy and 815 CMR 5.00. Further, the MSO's long existing Internal Control Plan, which was submitted to the OSA at the start of the audit, already provides the additional guidance that the OSA recommends to ". . . ensure that employee settlements are handled in an ethical, legal, or appropriate manner."

To highlight the MSO's ethical, legal and appropriate approach to settlement agreements during the time of the audit period, five (5) unions represented approximately 533, or 86%, of the MSO's total approximate 620 employees. Of the thirty-two (32) settlement agreements, twenty-nine (29) involved grievances covered by the collective bargaining agreements. The resolution of these agreements was negotiated directly with the employees' Union representatives and Union counsel. These agreements were entered into with both the Union and the employees as parties. The remaining three (3) settlement agreements were negotiated with private counsel on behalf of union-represented employees. Of the thirty-two (32) settlement agreements, only one (1) included confidentiality language with the requisite legal caveats addressing necessary disclosure, which was the result of extensive negotiations with the employee's counsel.

The MSO does not request, advocate for or demand the inclusion of non-disclosure, non-disparagement or similarly restrictive language in employee settlement agreements. Given that personnel claims involve information of a highly personal and confidential nature, it is employees and former employees, through their counsel, who sought non-disclosure/confidentiality provisions, not the MSO. When determining appropriate language for inclusion in a settlement agreement, the MSO's policy and practice is guided by applicable law.

The OSA recommends that the MSO develop 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 by Governor Healey in her "Executive Department Settlement Policy." It should be noted this policy was solely directed to Executive Office agencies. It should be further noted that this policy was issued by the Governor on January 27, 2025. The MSO's audit period for employee settlements was from July 1, 2018, through June 30, 2023. Therefore, it is impossible for the Governor's policy to have served as guidance for this audit objective since it was released well over a year after the audit period.

For the aforementioned reasons, Finding 2 does not rise to the level of a finding and should be revised to a recommendation in the final audit report.

Auditor's Reply

We acknowledge that MSO properly reported all instances of employee settlement agreements to CTR. However, MSO did not have documented policies or procedures regarding employee settlement

agreements. We consider it a best practice to keep written policies, and that is the essence of this finding. MSO's response states that "the MSO's long existing *Internal Control Plan*, which was submitted to the OSA at the start of the audit, already provides the additional guidance that the OSA recommends to '... ensure that employee settlements are handled in an ethical, legal, or appropriate manner.'" MSO's internal control plan does contain sections called "Code of Ethics" and "Legal Authority and Funding"; however, the internal control plan does not include guidance specifically related to employee settlement agreements, so MSO did not address the essence of this finding when it referenced the aforementioned sections of its internal control plan.

MSO stated in its response that it "does not request, advocate for or demand the inclusion of non-disclosure, non-disparagement or similarly restrictive language in employee settlement agreements." We are encouraged by this and hope that MSO will consider formalizing this approach by drafting a documented policy or procedure specifically regarding employee settlement agreements.

In its response, MSO questioned the part of our recommendation regarding the Governor's "Executive Department Settlement Policy." MSO's response further states that "it is impossible for the Governor's policy to have served as guidance for this audit objective since it was released well over a year after the audit period." We acknowledge that the Governor's policy was issued after the audit period; however, we did not use this policy as criteria for this audit objective. Instead, this policy was included in the recommendation to be used as guidance for MSO to develop its own written policy or procedure regarding employee settlement agreements going forward.

We encourage MSO to adopt our recommendation to 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 part of our post-audit review process, we will follow up on this matter in approximately six months.