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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
OFFICE OF THE CHIEF MEDICAL EXAMINER**

**OFFICIAL AUDIT
REPORT
JULY 10, 2002**

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The Office of the Chief Medical Examiner (OCME), established under Chapter 38 of the Massachusetts General Laws, is a state agency within the Executive Office of Public Safety (EOPS). The primary mission of OCME is to investigate the cause and manner of death in cases that fall under its jurisdiction. The Governor appoints the Chief Medical Examiner for a term of five years. The Commission on Medicolegal Investigation, which oversees OCME's activities, is composed of the Attorney General, the Secretary of Public Safety, the Commissioner of Public Health, and 13 persons appointed by the Governor for a term of three years.

The purpose of our audit was to review and analyze OCME's controls over collecting, depositing, and accounting for fees paid in accordance with Chapter 38, Section 14, of the General Laws ("Bodies intended for cremation or burial at sea") and to determine whether fees were collected as required by law and fully and properly accounted for in accordance with applicable laws, rules, and regulations. We conducted our audit in accordance with applicable generally accepted government auditing standards.

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INADEQUATE CONTROLS OVER THE COLLECTION, DEPOSITING, REPORTING, ACCOUNTING FOR, AND RECORDING OF CREMATION VIEWING FEES TOTALING OVER \$3.7 MILLION

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OCME does not maintain and account for fees relating to the viewing of bodies and making inquiries into the cause of death for any person where the body is intended for cremation or burial at sea. We determined that, since 1996, over \$3.7 million should have been accounted for, recorded and reported as income to the Commonwealth in the Massachusetts Management Accounting and Reporting System (MMARS) and deposited in an account with the Office of the State Treasurer.

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INTRODUCTION

Background

The Office of the Chief Medical Examiner (OCME), established under Chapter 38 of the Massachusetts General Laws, is a state agency within the Executive Office of Public Safety (EOPS). The primary mission of OCME is to investigate the cause and manner of death in cases that fall under its jurisdiction. The Chief Medical Examiner is appointed by the Governor for a term of five years. The Commission on Medicolegal Investigation, which oversees OCME's activities, is composed of the Attorney General, the Secretary of Public Safety, the Commissioner of Public Health, and 13 persons appointed by the Governor for a term of three years.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of OCME's controls over cremation viewing fees. OCME's fee revenue activity and its compliance with applicable laws, rules, and regulations are the responsibility of OCME's management.

At the conclusion of the audit we met with the Chief Medical Examiner and an Assistant Secretary of the Executive Office of Public Safety to discuss the results of our audit. They were in agreement with our recommendation for OCME to establish a proper accounting system for the collection of cremation fees, including the establishment of a retained revenue account into which these fees could be deposited and disbursed to medical examiners.

The purpose of our audit was to review and analyze OCME's controls over collecting, depositing, and accounting for fees paid in accordance with Chapter 38, Section 14, of the General Laws ("Bodies intended for cremation or burial at sea"), and to determine whether such fees are collected as required by law and fully and properly accounted for in accordance with applicable laws, rules, and regulations. We conducted various audit tests regarding cremation fees, which included a study and evaluation of internal controls over the processing, recording,

reporting, depositing and collection of these fees. We conducted our audit in accordance with applicable generally accepted government auditing standards.

AUDIT RESULTS

INADEQUATE CONTROLS OVER THE COLLECTION, DEPOSITING, REPORTING, ACCOUNTING FOR, AND RECORDING OF CREMATION VIEWING FEES TOTALING OVER \$3.7 MILLION

Chapter 38, Section 14, of the Massachusetts General Laws requires the payment of a fifty dollar fee as the result of a medical examiner viewing the body and making inquiry into the cause of death “of any person whose body is intended for cremation or burial at sea.” Medical examiners, who work for the Office of the Chief Medical Examiner (OCME), conduct these viewings and are paid the fifty dollar fee, many times receiving a check from a crematory made out to “Cash Medical Examiner.” However, OCME does not maintain any records relating to these viewings. Based upon our analysis, over \$3.7 million in cremation viewing fees should have been collected by medical examiners since 1996.

Since these fees are statutorily required and are generated as a result of an OCME mandated responsibility, they should be properly accounted for, recorded, reported on the Massachusetts Management Accounting and Reporting System (MMARS), and deposited in an account with the Office of the State Treasurer (OST).

Chapter 38, Section 14, of the General Laws states, in part:

A medical examiner shall, on payment of a fee of fifty dollars, view the body and make personal inquiry concerning the cause and manner of death of any person whose body is intended for cremation or burial at sea and shall authorize such cremation or burial at sea only when no further examination or judicial inquiry concerning such death is necessary. Said fee shall be paid by the person to whom such authorization for cremation or burial at sea is given.

OCME is the state agency responsible for meeting this requirement, and therefore should be responsible for collecting these fees and maintaining proper controls over them. In this regard, Chapter 29, Section 2, of the General Laws specifically states that “all revenue payable to the commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund...”

Currently, MEs working for or contracting with OCME to conduct these viewings collect these fees as payments for their services. In response to our inquiry concerning the

treatment of this income, an OCME official informed us that OCME has no control over the cremation fee or how the various medical examiners (MEs) are paid the viewing fee.

Further, OCME stated that it does not have the authority to establish policies and procedures over the collection of these viewing fees because MEs conduct these viewings on their own time, independent of OCME. However, based on two memorandums provided to us by an OCME official, OCME does set policies on when MEs can conduct these viewings and schedules which MEs are responsible for covering various cremations on each day of the week. These policies have been in place since July 1995. These memorandums state that these viewings must be done before or after work hours or during lunch breaks and performed at crematories, not at funeral homes. A July 11, 2000 memorandum from the Chief Medical Examiner to Headquarter Pathologists regarding cremation views states, in part:

This memorandum restates the agency's long standing policy on cremation views and modifies the schedule for each of the Metro Boston Crematories (Newton, Forest Hills, and Mt. Auburn).

Each doctor is assigned one day to perform cremation views. Cremation views are to be performed at crematories and not at funeral homes.

In the event that a funeral home requests a priority view, the funeral home is directed to contact the Director of Administration at the OCME

If a doctor is on a scheduled day off, the assignment will default to the doctor covering the next day. Thank you for your anticipated cooperation.

During our audit we visited three crematories and four funeral homes throughout the Commonwealth. We spoke with crematory managers and funeral directors concerning the payment of the cremation viewing fee, and each of them expressed displeasure with the present method of payment. Specifically, we found that MEs are paid by check for the viewing. Moreover, in most instances, these checks are made out to "Cash Medical Examiner" because the checks for the viewing fee are made out by funeral directors or relatives of the deceased prior to the viewing and without knowledge of which medical examiner will be doing the viewing. Once the checks are made out to "Cash Medical Examiner" they are given to the crematory, which then passes it on to the ME after the

viewing. According to crematory managers, most viewings are cursory in nature and are completed in a matter of minutes.

Since OCME maintains no records on cremation viewings, it could not provide us with any data concerning the number of viewings or the amount of money collected directly by MEs. In order to determine the amount of money involved in cremation fees, we contacted the Department of Public Health (DPH), which is sent a death certificate for each death in the Commonwealth that includes information on whether the body was cremated. Neither OCME nor DPH maintains records on burials at sea. Based on the following data, we have determined that approximately \$3.7 million should have been collected by MEs for viewing fees since 1996.

OCME Cremation Inspection Fees 1996 – 2001			
Calendar Year	Total Cremations Based on DPH Statistics	Fee	Total
1996	11,034	\$50	\$551,700
1997	11,279	\$50	\$563,950
1998	11,980	\$50	\$599,000
1999	12,530	\$50	\$626,500
2000	13,629	\$50	\$681,450
2001*	<u>14,087*</u>	\$50	<u>\$704,350</u>
Totals	<u>74,539</u>		<u>\$3,726,950</u>

* As of April 25, 2002 DPH had not released the data for cremations in calendar year 2001. Therefore, the 2001 figure is on an average 6% increase in cremations from the prior years.

Recommendation

OCME should establish policies and procedures to adequately control the collection, depositing, reporting, and recording of cremation viewing fees. These policies and procedures must comply with Chapter 29, Section 2, of the General Laws regarding revenue payable to the Commonwealth being deposited into the general fund. In addition, OCME

must establish a proper accounting system for these fees in accordance with state accounting policies and sound business practices. Since OCME requires that all cremation viewings be done during nonworking hours, a system should be established that would reimburse the MEs for their work and require payment of the fee by check to the “Commonwealth of Massachusetts.” MEs in turn should submit a voucher to OCME each week or month listing the cremation viewings they conducted along with the necessary documentation. These MEs could then be paid a set fee per viewing by OCME. Such a system would satisfy state laws, ensure that MEs receive payment for these outside duties, and would allow for the proper reporting of income information to the Internal Revenue Service and the Massachusetts Department of Revenue.

Further, OCME should work with the Office of the State Comptroller (OSC) to ensure that the cremation fees are properly accounted for in MMARS, deposited with the State Treasurer and collected in accordance with all applicable state laws, rules and regulations. If it is the OCME’s desire to establish a retained revenue account whereby fees could be deposited in the account and the ME’s could be paid from the fund, the OCME would need to discuss implementation of this option with the OSC and the Fiscal Affairs Division.

APPENDIX I

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

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Chapter 647

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

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

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

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

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

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

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

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

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

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

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

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

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

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

House of Representatives, December 21, 1989.

Passed to be enacted, *George J. Livanos*, Speaker.

In Senate, December 22, 1989.

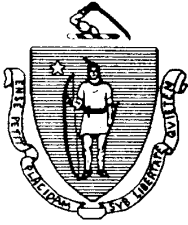
Passed to be enacted, *William W. Burgin*, President.

January 3, 1990.

Approved, *Richard D. Kean* Governor.

APPENDIX II

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



The Commonwealth of Massachusetts

Office of the State Auditor
State House
Boston, MA 02133

Office of the Comptroller
One Ashburton Place
Boston, MA 02108

September 19, 2000

Legislative Leadership
Judicial Branch Administrators
Elected Officials
Secretariats
Department Heads

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

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

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

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

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

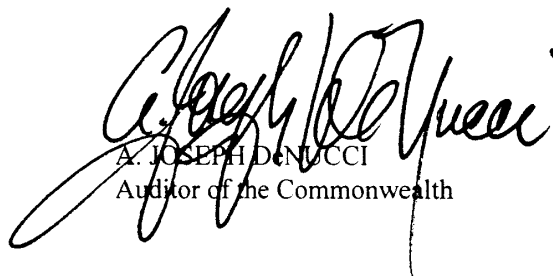
- ◆ The Office of the Comptroller offers departments free monthly training on internal controls. These classes are listed in the *OSC Training Bulletin*.
- ◆ The Office of the Comptroller provided a new document entitled the *Internal Control Guide for Managers* on the Office of the Comptroller's Web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

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

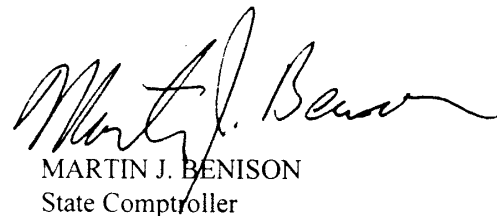
<http://www.magnet.state.ma.us/sao/>.

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

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



A. JOSEPH D. NUCCI
Auditor of the Commonwealth



MARTIN J. BENISON
State Comptroller

