



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

2007-1309-3S

May 12, 2009

Dr. Henry Niels, MD, PHD
Acting Chief Medical Examiner
Office of the Chief Medical Examiner
720 Albany Street
Boston, MA 02118-2518

Dear Dr. Niels:

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws and applicable generally accepted government auditing standards, the Office of the State Auditor conducted a preliminary review of certain activities and functions within the Office of the Chief Medical Examiner (OCME) during fiscal year 2007. The review was performed after the transition of the Chief Medical Examiner and during a time when the OCME was experiencing numerous challenges due to prior management practices. Our review also coincided with an Office of the State Comptroller (OSC) Quality Assurance review covering five areas of operations of the OCME: internal controls, security, employee and payroll status, encumbrances, and payments. According to the OSC's Quality Assurance team, fiscal practices at the OCME generally appeared to be compliant with OSC's policies and procedures. During the course of our review, we came across issues that relate to the maintenance of cremation records and the collection of cremation fees, a mass fatality preparedness response plan, and inadequate storage facilities for bodies.

Cremation Fees

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

Section 14. A medical examiner or forensic investigator designated by the chief medical examiner shall, on payment of a fee as determined from time to time by the secretary of public safety, which shall be not less than \$75, 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. Cremation fees collected by the office of the chief medical examiner shall be utilized to support the comprehensive system of medico-legal investigative services delivered by the agency. District medical examiners employed on a fee-for-service basis shall be compensated for performance of cremation views at a rate set by the secretary of public safety. Other medical examiners or forensic investigators performing cremation views will not receive additional compensation beyond their specified salaries.

We requested that OCME provide us with the total number of cremations and burials at sea performed or the amount of fee revenue that should have been collected; however, OCME management indicated that they could not provide us with this information. In addition, for those cremations that OCME could identify, they could not provide detail as to the amount of cremation fees that remained unpaid, a list of the funeral directors who had not paid the fees, and how long the fees have remained unpaid.

OCME management stated that there were two reasons why this problem existed. First, administrative assistants were not entering all the required information into the electronic case management system. The process required two steps: assigning a case number and indicating that the case was either a cremation or burial at sea. Without this data, OCME had no way of knowing if the case was a cremation or burial at sea. Secondly, management took responsibility by stating that they did not provide adequate oversight in enforcing policies and procedures governing the issuance of cremation numbers or the collection of cremation fees.

Our review further indicated that OCME did not bill for the cremation fee but rather allowed for funeral directors to submit payment at their convenience. In discussions with OCME, the system was referred to as the “honor system”.

Further, we noted that when a body that had been previously referred and processed through the OCME was later cremated or buried at sea, the cremation number assigned was the same as the OCME case number. In those cases, (OCME estimates about 500 per year), if staff did not indicate in the Case Management System that it represented a cremation, OCME could not specifically identify the case as a cremation.

OCME subsequently took steps to correct the problems identified. Specifically, OCME’s IT Division established a separate cremation page in their Case Management System. OCME staff can only issue a cremation number by entering the required information using the cremation data entry

screen. This procedure will help OCME ensure that accurate records of cremations and the amount of cremation fees it is required to collect are maintained.

To ensure payment of cremation fees, OCME worked with the OSC to establish a system for payments using its EPAY option. Additionally, OCME established new policies and procedures for payment of the fees, allowing individual funeral homes to:

- Access the web-based cremation payment site to make a payment,
- Print a receipt generated by the electronic system with a unique confirmation number, and
- Fax a copy of its respective receipt and death certificate to OCME.

OCME immediately receives a confirmation of payments made via email. Implementation of these changes will ensure that OCME receives cremation fees and cremation records are properly maintained. Prior to the end of our fieldwork, we obtained a report dated January 28, 2008, from OCME management, through the Secretary of Public Safety and Security, to the House and Senate Committees on Ways and Means. In this report, the OCME states that in calendar years 2006 and 2007, 14,161 and 16,375 bodies, respectively, were authorized for cremation or burial at sea. In the report, OCME states that the increase from 2006 to 2007 might be explained in part by improved data collection techniques.

OCME management must be vigilant in its internal oversight to ensure that the system for processing and recording cremations and burials at sea is functioning as intended and that the collection of said fees continues.

Mass Fatality Preparedness

During our initial review of OCME documents, we learned that the management of OCME was aware that they were not prepared to handle a mass fatality incident. We located a draft 2004 mass fatality response plan that had not been acted upon. Additionally, a September 27, 2006 memo from the Chief Medical Examiner and the Chief Administrative Officer to the Budget Director of the Office of Administration and Finance concerning Appropriation 8000-0105, OCME's Main Appropriation Account, stated that "mass fatality preparedness has not been addressed in the fiscal year 2008 Budget Development plan for this account. In the event of a mass fatality incident the Office of the Chief Medical Examiner is responsible for the recovery, identification, and disposition

of mass fatality incident victims. A mass fatality incident is any situation where there are more bodies than can be handled using local resources.” After stating that the current body storage capacity at OCME is not adequate to accommodate even a minor tragedy, OCME estimated that improvements for mass fatality preparedness would cost approximately \$2,500,000.

Other fiscal year 2008 documents we ascertained identified the breakdown of the \$2,500,000 needed to ensure readiness in case of an incident, as follows:

Investigational Response Vehicles (4)	\$ 160,000
Ambulances (4)	320,000
Mobile Refrigeration Units (2)	320,000
Field and Autopsy Supplies	500,000
ID and Laboratory Testing	400,000
Temporary Staff	600,000
Temporary Office and Storage Space	<u>200,000</u>
	<u>\$2,500,000</u>

Our review also showed that the need for preparing a mass fatality incident was requested in fiscal year 2007 budget documents.

Before the end of our fieldwork, we performed a final review to determine the status of OCME’s mass fatality response plan. That review disclosed that the Executive Office of Public Safety and Security contracted with a local consulting firm in May of 2007 to review the general operations of OCME. The review was conducted and the report, dated July 24, 2007, was sent to the Secretary of Public Safety and Security from the Managing Director and Associate General Counsel for the consulting firm.

In that report, one of the findings was titled, “The OCME Should Immediately Implement A Mass Disaster/Fatality Response Plan And Conduct Preparatory Staff Training.” The consultant reported that OCME had a mostly outdated mass fatality response plan that was in draft form. The draft was probably written prior to 2004, and there was no indication that staff members were aware of its existence. In addition, the report stated that OCME would not have the ability to respond in a coordinated and effective fashion in the event of a mass disaster.

The report recommended that “Mass disaster/fatality planning must become a priority for the OCME and, in accordance with national best practices, a Mass Fatality Plan must be implemented.” The report also recommended that staff receive training.

Our review further disclosed that the OCME received a \$100,000 Federal Grant through the Department of Public Health (DPH) as part of a federal award to the DPH for a program targeting hospital bioterrorism preparedness. The Interdepartmental Service Agreement (ISA) between the DPH and the OCME “requires Massachusetts to engage relevant parties in planning and preparation of fatality planning.... This ISA will allow planning to occur to develop a comprehensive, integrated mass fatality management plan.” The estimated start date listed in the ISA was July 1, 2008 with a termination date of June 30, 2009.

OCME must continue to work with the Executive Office of Public Safety and Security to ensure that a working mass disaster/fatality response plan is developed and implemented. Said plan should identify all entities involved in an emergency, the detailed responsibilities of each participant, and the availability of resources necessary to respond to the emergency.

Storage Facilities

In conducting our walk through the OCME facility at Albany Street, it became apparent that OCME had inadequate storage space to handle the number of bodies in its charge. OCME’s Chief Administrative Officer spoke openly about the situation and stipulated that, if you looked through a particular set of doors leading to the autopsy area, you would see bodies lined up along the hallway. During our review, OCME had to rent refrigerated trucks to handle the number of bodies on site. The Chief Administrative Officer stated that storage was an ongoing problem at OCME due to a series of events. First, the OCME facility in Cape Cod was closed on March 31, 2003, and all cases were transferred to the Boston Office. A new facility located at the Massachusetts Military Reservation on Cape Cod was scheduled to open in mid 2005. However, despite the scheduled opening for mid 2005, budgetary and design problems caused a significant delay in the construction and opening of the facility. The facility has not yet opened and OCME indicated that it had no idea when it would become operational. Additionally, the Worcester facility was closed in the fall of 2004 and remained closed during the time of our initial review. OCME informed us that the Worcester facility reopened in April of 2007. These closings and subsequent delay in constructing the Cape Cod facility compounded the problem at the Boston Office.

A review of OCME budget documents indicated that a request for additional storage had been made by OCME for fiscal years 2006 and 2007. Unfortunately for OCME, fiscal support provided has been unrealistically low and detrimental to its operations, and necessary changes and modifications

have been slow. In a budget document dated November 17, 2006 entitled "Equipment and Improvement Request," the first item listed (requested) was a refrigeration unit and storage racks at an estimated cost of \$250,000. The document further stated that "the current body storage capacity at the OCME is not adequate to accommodate daily case intake or even a minor tragedy. It is not unusual for the OCME to delay the acceptance of a body due to lack of space in the refrigeration unit. There is adequate space outside the rear of the building to construct a unit for 70-100 additional bodies."

Funding for this project was provided by an Interdepartmental Service Agreement between the Executive Office of Public Safety and Security and the OCME for a "refrigeration unit build-out at OCME" totaling \$250,000, with an anticipated start date of January 22, 2007 and a termination date of December 31, 2007.

A separate site visit to OCME on June 4, 2008 noted that the new refrigeration unit was built and that two internal refrigeration units at OCME were being renovated. OCME and the Executive Office of Public Safety and Security must continue to keep open the lines of communication and work together to achieve optimum operating results at OCME.

We appreciate and would like to thank OCME for its cooperation and attention to these matters during the audit. If you need further assistance, please do not hesitate to contact my first Deputy Auditor, Kenneth Marchurs, or me.

Sincerely,

A handwritten signature in black ink, reading "A. Joseph DeNucci". The signature is written in a cursive, flowing style.

A. JOSEPH DeNUCCI
Auditor of the Commonwealth