

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK , ss.

SUPERIOR COURT
C.A. NO. 2384CV01076-B

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.,

Plaintiff,

v.

OFFICE OF THE STATE AUDITOR,

Defendant.

JOINT APPENDIX OF EXHIBITS

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Samuel Furgang, BBO No. 559062
Assistant Attorney General
Office of the Attorney General
Constitutional and Administrative Law Div.
One Ashburton Place
Boston, MA 02108
617-963-2678

Dated: December 11, 2023

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EXHIBIT A

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 15, 2023

**Plymouth County Sheriff's Department—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 15, 2023

Joseph McDonald, Jr., Sheriff
Plymouth County Sheriff's Department
24 Long Pond Road
Plymouth, MA 02360

Dear Sheriff McDonald:

I am pleased to provide this performance audit of the Plymouth County Sheriff's Department. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

A separate, limited version of this report will be released publicly that excludes one issue [REDACTED]

I would also like to express my appreciation to the Plymouth County Sheriff's Department for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System
PCSD	Plymouth County Sheriff's Department

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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 the Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether PCSD complied with the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the deaths of inmates in its custody¹
- whether PCSD held quarterly meetings with its healthcare vendor and reviewed the vendor's quarterly reports in accordance with 103 CMR 932.01(3) for inmates' healthcare services
- whether PCSD provided medical receiving screenings to its inmates upon arrival and intake physical examinations in accordance with Sections IV and VI of PCSD's Policy 630 (Medical Services)
- whether inmates at PCSD's correctional facility received medical care after submission of a sick call form in accordance with Section VIII of PCSD's Procedure 630 (Medical Services).

Our audit revealed no significant instances of noncompliance by PCSD that must be reported under generally accepted government auditing standards.

1. PCSD told us that if an inmate is in custody, it means that PCSD has the 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.

OVERVIEW OF AUDITED ENTITY

The Plymouth County Sheriff's Department (PCSD) was established as an independent state agency on January 1, 2010, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

All functions, duties and responsibilities of the office of a transferred sheriff pursuant to this act 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.

This act transferred to the Commonwealth all functions, duties, and responsibilities of PCSD, including assets, liabilities, debt, and potential litigation, except where specified. PCSD's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over PCSD.

According to PCSD's Internal Control Policy 301, its mission is to "protect the public from criminal offenders by operating a safe, secure and progressive correctional facility while committing to crime prevention awareness in the community."

As of June 30, 2021, PCSD had 602 active employees, which included 295 correctional officers. For fiscal years 2020 and 2021, PCSD's annual state appropriations were approximately \$58 million and \$65 million, respectively. PCSD also received the following funding to support its programs for these fiscal years.

Program	Fiscal Year 2020	Fiscal Year 2021	Total
Residential Substance Use Disorder	\$ 26,000	\$ 21,000	<u>\$ 47,000</u>
State Criminal Alien Assistance Program	196,642	196,642	<u>393,284</u>
Substance Use Disorder—Alcohol	56,000	0	<u>56,000</u>
High School Equivalency—Adult Basic Education	1,936	0	<u>1,936</u>
Total	<u>\$280,578</u>	<u>\$217,642</u>	<u>\$498,220</u>

PCSD is responsible for operating all aspects of its facilities, including the Plymouth County Sheriff's Administrative Building at 24 Long Pond Road in Plymouth. It also oversees the Plymouth County Correctional Facility at 26 Long Pond Road in Plymouth, which administers correctional and educational

services and programs for inmates. As of June 30, 2021, PCSD had 582 inmates, 204 of whom were pretrial detainees,² 106 of whom were sentenced, and 272 of whom were listed as other³ detainees.

According to PCSD's "Facility Narrative," a document describing the department and its programs, there are 11 different programs and services provided for inmates, which include the following:

- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- Enrichment, which includes acquired immunodeficiency syndrome education in inmates' housing units, human immunodeficiency virus classes during admission, and an incarcerated veteran transition program
- Vocational training in areas such as culinary arts, hospitality, and painting
- Religious services in Spanish, Portuguese, and English
- Re-entry services, which include providing counselors to inmates to assist them throughout their sentences; help them transition back into the community; and make referrals to community resources, such as housing assistance and job opportunities.

Offender Management System

PCSD uses a system called the Offender Management System (OMS) to track and manage information for inmates in its custody. The information maintained in this system includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁴ booking identification numbers,⁵ booking dates, release dates, release types,⁶ and in-custody housing assignments.⁷ During an inmate's admission process, PCSD's booking officer enters information from a mittimus⁸ into OMS.

2. A detainee is a person held in-custody before their trial.
3. Other detainees include United States Marshals Service and Immigration and Customs Enforcement detainees. PCSD has a contract with the federal government to hold detainees for these agencies.
4. A state identification number is a unique number assigned to each inmate in the criminal justice system.
5. A booking identification number is a unique number assigned by PCSD to an inmate upon their arrival to PCSD's facility.
6. The release type is the way in which an inmate is discharged from a facility, such as bail, death, parole, or completion of their sentence.
7. A housing assignment is an inmate's specific unit, cell, and bed within PCSD's facility.
8. A mittimus is a written court-issued document that follows an inmate through their time in the criminal justice system.

Correctional Electronic Medical Records System

The Correctional Electronic Medical Records (CorEMR) System is a Web-based application that is used to record all health-related inmate information such as medical history, treatments, mental health status, medications, and scheduled appointments.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as PCSD's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or facility employees. In the case of an inmate's serious illness or injury while in PCSD's custody, the officers on duty notify all available correctional officers, and medical officers,⁹ to the scene to perform emergency medical aid. The communications department¹⁰ notifies external emergency services and the Massachusetts State Police. Upon arrival to the facility, the Massachusetts State Police secure the scene and conduct an investigation to determine the causes and manner of death, when applicable. Emergency services transfer the inmate to Beth Israel Deaconess Hospital in Plymouth. The superintendent notifies the inmate's next of kin.

Inmates are pronounced deceased at the hospital and then transferred to the Massachusetts Office of the Chief Medical Examiner. The office retrieves the body, conducts a postmortem exam,¹¹ and releases the body to the next of kin.

All officers who witnessed or responded to a death (or serious illness/injury) must complete an incident report to document their findings and experience.

Once all officers document and submit their incident reports, mortality and clinical reviews are conducted within 30 days of an inmate's death. PCSD has a clinical review team, which includes the health services administrator and shift commander,¹³ performs a mortality review and/or in-depth clinical review. The clinical review, which is conducted for cases of suicide, is to determine whether changes in the inmate's

9. According PCSD Procedure 622, medical officers are "qualified health Care Professionals assigned to the Medical Unit who, under direct supervision of a licensed physician, provide health care services to inmates."

10. The communications department is staffed by employees of the facility. The communications department has radio communication devices and access to controls at PCSD's facility. All communication in and out of the facility goes through the communication department.

11. The postmortem exam is an examination of the deceased's body in order to determine the cause of death

12. The health services administrator is responsible for the organization and planning for the delivery of services in PCSD's Health Care Unit.

13. A shift commander is a correctional officer who has the duty for the security and care of inmates, as well as staff members.

clinical psychiatric management could have prevented the suicide. The superintendent also issues a summary of the incident and forwards it to the Sheriff. In addition, PCSD conducts a mortality review, in accordance with PCSD's Procedure 622 (Serious Illness, Injury & Death), to determine whether there was a pattern of symptoms that could have resulted in earlier intervention or diagnosis of mental illness. The superintendent creates a Final Death Packet with the summary of the incident and the clinical and mortality reviews, and then forwards it to the Sheriff.

Vendor Healthcare Services

During the audit period, PCSD contracted medical services from Correctional Psychiatric Services. This vendor works alongside PCSD-employed medical staff members to provide constant care to inmates. Correctional Psychiatric Services provides medications for inmates who are enrolled in PCSD's opioid use disorder program and provides dental services, vision services, and mental health services. All other healthcare services are provided by in-house medical officers, who are employed by PCSD.

Vendor Quarterly Meetings

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, the facility administrator, or a designee selected by PCSD at least quarterly and submit quarterly reports on the healthcare delivery system and the health environment, as well as annual statistical summaries.¹⁴ The healthcare vendor documents and maintains meeting minutes that document the quarterly meetings. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at PCSD.

Medical Receiving Screenings

According to Section 4 of PCSD Policy 630 (Medical Services), all PCSD inmates are required to have a medical receiving screening by a medical officer upon arrival. The purpose of the screening is to determine whether the inmate has any medical needs and whether any of those needs must be immediately addressed. The screening consists of questions about the inmate's medical history, medication history, mental health history, vaccine history, and more. It also includes a structured inquiry to identify potential

14. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

emergencies and to ensure that inmates with known illnesses, prescriptions, or other health needs are identified for further assessment and continued treatment while they are in custody.

A medical officer documents the medical receiving screening in the Medical Intake Screening Form, held in the inmate's medical record in CorEMR. The Medical Intake Screening Form is then approved by a qualified healthcare professional.

Intake Physical Examinations

According to PCSD's Policy 630, each inmate committed to the facility for 30 days or more is required to have a complete intake physical examination within 7 days of their arrival to the facility. This timeframe is extended to within 14 days of admission for cases in which the medical receiving screening was completed by a physician, physician's assistant, or registered nurse. No intake physical examination is needed if there is documented evidence of a medical examination within the previous 90 days or if an inmate leaves PCSD custody within 14 days.

A medical officer completes the intake physical examination, which includes, but is not limited to, reviewing the inmate's medical record, examining the inmate for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and scheduling any follow-up services with inmates who require further treatment. The medical officer collects inmates' medical information and records it in the inmate's medical record in CorEMR.

According to PCSD Policy 630, an inmate has the right to waive the intake physical examination by signing a Refusal of Medical Care Form. If an inmate is transferred from another correctional facility or returns to PCSD within three months of their last intake physical examination, their intake physical examination will be updated as needed.

Sick Calls

To request access to healthcare, an inmate fills out a Sick Call Request Form, which the medical officer scans and uploads as a Portable Document Format file into CorEMR. The Sick Call Request Form includes the type of service requested (medical, dental, or mental health), the date the form is completed, the nature of the problem or request, and their name. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a medical officer during a medication pass, which occurs at least twice a day.

Medical officers collect the Sick Call Request Form daily to evaluate and triage each request within 24 hours. Medical officers provide treatment and schedule follow-up appointments according to clinical priorities. According to PCSD Policy 630, "It is the policy of the Plymouth County Sheriff's Department that . . . sick call be conducted at least five (5) days each week by the licensed facility physician . . . in the Health Services Unit."

All Sick Call Request Form that are triaged as emergencies are responded to immediately, and problems beyond the medical officer's scope are referred to appropriate healthcare providers. The inmates' medical files are maintained in CorEMR.

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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 Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019, through June 30, 2021.

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 and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Did PCSD comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the death of inmates in its custody?	Yes
2. Did PCSD hold quarterly meetings with its health care vendor and review quarterly reports for inmates' healthcare services in accordance with 103 CMR 932.01(3)?	Yes
3. Did PCSD provide medical receiving screenings to its inmates upon admission, and intake physical examinations, in accordance with Sections IV and VII of PCSD's Policy 630 (Medical Services) and Sections IV and VII of PCSD's Procedure 630 (Medical Services)?	Yes; [REDACTED]
4. Did inmates at PCSD's facility receive medical care after submission of a Sick Call Request Form in accordance with Section XII of PCSD's Policy 630 and Section VII of PCSD's Procedure 630?	Yes

To accomplish our objectives, we gained an understanding of PCSD's internal control environment relevant to the objectives by reviewing PCSD's internal control plan and applicable policies and procedures, as well as conducting site visits and interviews with PCSD's management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the supervisory controls on initial intake health assessments. [REDACTED]

-
- We inspected emails from PCSD to the Town of Plymouth, found in the Final Death Packets, that documented what happened to the bodies after they were autopsied to determine the disposition of the body.
 - We inspected emails from PCSD's assistant superintendent to the superintendent, found in the Final Death Packets, that recorded the notification of each inmate's next of kin to determine whether the next of kin was notified.
 - We inspected the Final Death Packets, specifically the mortality review meeting minutes and incident reports, to determine whether there was an investigation of causes for the deaths of the two inmates.
 - We inspected the Final Death Packets to determine whether the officers completed the incident reports.
 - We inspected the Final Death Packets, specifically the mortality review meeting minutes of the clinical review team, the incident reports, and the emails sent by the assistant superintendent to the superintendent, to determine whether appropriate, designated staff members reviewed the incident reports and whether the superintendent submitted final reports to the Sheriff.
 - We verified that each inmate's death was recorded in the Offender Management System (OMS) and inspected the date of when the mortality review was held with the involved officers. The date of death and date of review were compared to determine whether the mortality review was conducted within 30 days of the inmate's death.

To determine whether quarterly meetings were held with the healthcare vendor, we inspected the minutes of all eight quarterly meetings held during the audit period. We then examined the list of people who attended each meeting to ensure that the meeting was held between PCSD and its healthcare vendor. In addition, we obtained the annual statistical summaries for 2020 and 2021 submitted by the healthcare vendor to determine whether PCSD complied with 103 CMR 932.

To determine whether PCSD provided the healthcare services in compliance with state regulations and its own policies, we examined the minutes of all eight quarterly meetings of PCSD and its healthcare vendor, as well as all the reports (such as risk management reports, infection control reports, continuous quality improvement monitoring reports, and annual reviews) that the vendor provided to PCSD during the audit period.

To determine whether PCSD provided its inmates with initial medical receiving screenings upon admission, and intake physical examinations within 14 days after admission, in accordance with Sections IV and VII of PCSD's Policy 630, we selected a statistical, random sample with a 95% confidence level, 5%

tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total of 6,434 admissions to PCSD during the audit period. We performed the following procedures:

- We examined each inmate's Medical Intake Screening Form to document the date and time the form was completed and signed by a medical officer. For inmates who refused to receive the initial intake health assessment, we examined the signed Refusal of Medical Care Forms.
- According to PCSD Policy 630, inmates committed for more than 30 days are required to have intake physical examinations. We examined the Initial Physical Health Assessment Form to document the date and time it was completed and signed by a qualified healthcare professional. We then calculated the number of days after admission to determine whether inmates received intake physical examinations within 14 days as required by the policy.

To determine whether inmates received medical care after the submission of Sick Call Request Forms, in accordance with PCSD Policy 630, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total of 8,835 Sick Call Request Forms submitted by inmates during our audit period. To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with PCSD policy, we performed the following procedures:

- We examined the Sick Call Request Forms to ensure that a medical officer reviewed them and that the inmates were seen and treated.
- We calculated the number of days between the submission of the Sick Call Request Forms by inmates and the dates they were signed by a medical officer to ensure that all sick calls were reviewed within 24 hours after submission.

Data Reliability Assessment

OMS

To assess the reliability of the inmate data obtained from OMS, we interviewed head of the PCSD Information Technology (IT) Department, who is responsible for oversight of the system. We tested the general IT controls, including user access and account management controls [REDACTED]

We selected a random sample of 20 inmates from the list of inmates in OMS and traced each full name and booking identification number to the original source document (the mittimus / United States Marshals Service Custody Form [USM 129 Individual Custody/Detention Report] / Immigration and Customs Enforcement Detainee Form [Order to Detain or Release Alien]). We also selected 20 random samples from hard copies of the mittimi and traced the same information from them to OMS.

In addition, we tested the inmate data for duplicate records and matched the death-in-custody list from OMS to the list that Office of the Chief Medical Examiner provided to us.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

Correctional Electronic Medical Records

To assess the reliability of the sick call data obtained from the Correctional Electronic Medical Records (CorEMR) System, we conducted interviews with PCSD personnel who had knowledge about the data. In addition, we matched the inmates' patient identification numbers¹⁶ from CorEMR to the state identification numbers of inmates who were admitted during our audit period in OMS. We also tested general IT controls, including user access and account management controls.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 sick calls from the sick call list in CorEMR and agreed each patient name and patient identification number to hard copies of Sick Call Request Forms submitted by inmates. We also selected a random sample of 20 hard copies of Sick Call Request Forms and traced patient name and patient identification number back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

Conclusion

Our audit revealed no significant instances of noncompliance that must be reported under generally accepted government auditing standards.

16. Each inmate is assigned a patient identification number in CorEMR, which is the same as each inmate's state identification number.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT B

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 16, 2023

**Barnstable County Sheriff’s Office—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 16, 2023

Donna Buckley, Sheriff
Barnstable County Sheriff's Office
6000 Sheriff's Place
Bourne, MA 02532

Dear Sheriff Buckley:

I am pleased to provide this performance audit of the Barnstable County Sheriff's Office. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with the management of Barnstable County Sheriff's Office, whose comments are reflected in this report.

A separate, limited version of this report will be released publicly that excludes one issue [REDACTED]

I would also like to express my appreciation to the Barnstable County Sheriff's Office for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings. 13



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LIST OF ABBREVIATIONS

BCSO	Barnstable County Sheriff's Office
BCCF	Barnstable County Correctional Facility
CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System

EE

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 the Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether BCSO complied with and implemented the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody¹
- whether BCSO held quarterly meetings with the healthcare vendor and reviewed quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services
- whether BCSO provided admission medical screenings² to its inmates upon intake and health appraisals within seven days of admission in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination)
- whether inmates at BCSO received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 600.02.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 13	BCSO did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.
Recommendations Page 14	<ol style="list-style-type: none">1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

-
1. BCSO told us that if an inmate is in custody, it means that BCSO 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. An admission medical screening is an assessment of an inmate's health needs, including mental health and/or medical conditions. It is conducted upon an inmate's arrival at the Barnstable County Correctional Facility.

OVERVIEW OF AUDITED ENTITY

The Barnstable County Sheriff's Office (BCSO) was established as an independent state agency on August 6, 2009, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

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

This transition was completed on January 1, 2010. BCSO's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over BCSO. Under the Sheriff's direction, the facility's superintendent administers BCSO operations at the Barnstable County Correctional Facility (BCCF).

According to BCSO's internal control plan,

The mission of the Sheriff's Office is to "Protect the public from criminal offenders by operating a safe, secure and rehabilitative correctional facility, assisting local agencies and promoting public safety through our associated specialized services and enforcing the Laws of the Commonwealth of Massachusetts and the Constitution of the United States of America."

As of June 30, 2021, BCSO had 257 employees, including 151 full-time correction officers, working at BCCF. In fiscal years 2020 and 2021, BCSO's state appropriations were approximately \$36.8 million and \$33.5 million, respectively. In addition to its state appropriations, BCSO received the following federal funding to support its programs for these fiscal years.

Program/Grant	Fiscal Year 2020	Fiscal Year 2021	Total
Cops Anti-Heroin Task Force Program*	\$ 0	\$ 10,688	<u>\$ 10,688</u>
Crime Victims Assistance Programs Grant†	76,004	77,233	<u>153,237</u>
Homeland Security II Grant‡	2,433	0	<u>2,433</u>
Vivitrol Increased Participation Services Grant§	301,956	279,646	<u>581,601</u>
Total	<u>\$380,393</u>	<u>\$ 367,567</u>	<u>\$747,959</u>

* Cops Anti-Heroin Task Force Program funds were for overtime-related payroll expenditures of BCSO's officers conducting investigations as part of Federal Organized Crime Drug Enforcement Task Force investigations related to heroin, fentanyl, and prescription opioid trafficking.

† The Crime Victims Assistance Programs Grant supports victims of crime in the Barnstable county community.

‡ The Homeland Security II Grant was awarded in fiscal year 2019 to the BCSO Community Emergency Response Team Program to address disaster preparedness for hazards that may occur in Barnstable County. The fiscal year 2020 expenditure was a carryforward of these funds.

§ The Vivitrol Increased Participation Services Grant was a three-year grant, which ended on September 29, 2021, for the administration of Vivitrol, a medication used to treat substance use disorders, upon an inmate's release from BCCF.

BCSO is located at Joint Base Cape Cod in Bourne, which opened in 2004 and is used for the care and custody of pretrial and sentenced inmates. As of June 30, 2021, there were 165 inmates in BCSO custody, including 98 pretrial inmates, of whom 89 were male and 9 were female, and 67 sentenced inmates, of whom 62 were male and 5 were female.

BCCF houses a maximum of 588 inmates, who serve sentences of no more than two and a half years, in 12 housing units. Offenders at BCCF are assigned to one of three houses. House 1 comprises 3 units and holds pretrial detainees.³ House 2 comprises 5 units to hold female inmates, high-risk inmates,⁴ and inmates who break BCSO rules. House 3 comprises the remaining 4 units to hold sentenced male inmates.

According to its website, BCSO inmates and detainees are offered the following programs and services:

- A rehabilitation program, called the Residential Substance Abuse Treatment Program, which includes a Community Reentry Council that meets to facilitate referrals and resources for each inmate six weeks after their release from custody
- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- A community relations program, which provides inmate labor for a wide variety of services in the community, including painting, landscaping, carpentry, roofing, siding, simple construction, and demolition.

The healthcare vendor provides healthcare, including mental health, services.

Offender Management System

BCSO uses a system called the Offender Management System (OMS) to track and manage information on inmates in its custody. The information includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁵ booking numbers,⁶ booking dates, release dates, and in-custody housing assignments.⁷ During an inmate's admission process, BCSO's booking officer enters information from a mittimus⁸ into OMS.

3. A detainee is a person held in custody before their trial.

4. BCSO determines the risk level of an inmate based on their current offense, the severity of any prior convictions, any history of escapes and/or escape attempts, or any prior violent behavior.

5. A state identification number is a unique number assigned to an inmate from a court system.

6. A booking number is a unique number assigned by BCSO to an inmate upon their arrival to BCCF.

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

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

Correctional Electronic Medical Records

BCSO uses the Correctional Electronic Medical Records (CorEMR) system to manage inmates' medical records, appointment scheduling, and offsite healthcare.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as BCSO's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or BCCF employees. According to its Policy 600.3 (Guidelines for Serious Illness, Injury or Death), in the event of an inmate's death, the employee who is first made aware of the incident notifies the Health Services Department, the shift supervisor, the contracted healthcare vendor, and healthcare staff members⁹ to report to the incident location. The notification order then follows the chain of command: The shift supervisor notifies the shift captain, who notifies the duty officer, and the duty officer notifies the superintendent. The superintendent then notifies the Sheriff, the Massachusetts Office of the Chief Medical Examiner, the District Attorney's office, and the Massachusetts State Police.

If there were no employees present at the time of the death, the superintendent conducts an internal investigation and submits a preliminary report to the Sheriff. The superintendent also submits a final report with a copy of the Office of the Chief Medical Examiner's report within five days of the incident to the Sheriff. In addition, the responding healthcare staff members complete incident reports and document the time they were notified, the time they arrived at the scene of the incident, the location of the incident, and the medical treatment / emergency medical aid provided (if any). Finally, the Cape and Islands Critical Incident Stress Team debriefs employees who responded to the death of an inmate.

Healthcare

During the audit period, healthcare at BCCF was contractually provided by two third-party vendors (Correctional Psychiatric Services from July 1, 2019 to November 2020 and Wellpath, LLC from November 2020 to June 30, 2021). At BCCF, these contractors accept overall responsibility of healthcare services, including medical, dental, and mental health services.

9. According to BCSO's healthcare vendor WellPath's Policy HCD-100_E-02 (Receiving Screening), healthcare staff members are "qualified health care professionals as well as administrative and supportive staff (e.g., health records administrators, laboratory technicians, nursing and medical assistants, and clerical workers)."

Attachment A of BCSO's Inmate Health Care Services Contract, dated October 28, 2020, outlines the following responsibilities of its healthcare vendor:

[The contractor] shall conduct an ongoing health and mental health education and training program for the BCSO staff in accordance with the needs mutually established by the BCSO and the contractor. . . .

[The contractor] will provide a healthcare delivery system that is specifically tailored to Barnstable County's needs and requirements. . . . [The contractor] will implement a managed care system that will promote efficiency and reduce cost by eliminating unnecessary services and encouraging preventive health measures in the patient population. . . . [The contractor's] staff will be responsible for identifying all patient healthcare needs and scheduling appropriate treatment, as well as coordinating all emergency and non-emergency on-site and off-site medical services.

According to the contract, BCSO's Medical Records Department monitors services provided by the healthcare vendor continuously. BCSO is also responsible for establishing effective policies and procedures, including policies and procedures about information technology security, for the healthcare vendor and its employees. The contract requires the healthcare vendor to meet quarterly with BCSO and submit quarterly healthcare reports about the overall operation of healthcare services to BCSO. Additionally, BCSO conducts background checks on healthcare vendor's proposed healthcare staff members providing services at BCCF to ensure that they do not constitute a security risk.

Administrative Oversight of Healthcare Services

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, facility administrator, or a designee selected by BCSO at least quarterly and submit quarterly reports on the healthcare delivery system and health environment, as well as annual statistical summaries¹⁰ to BCSO. The healthcare vendor documents and maintains meeting minutes which is reviewed by BCSO staff at the next quarterly meeting. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at BCSO.

Admission Medical Screening

Section A of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care) requires an admission medical screening, which is documented with the Medical Entrance Exam Report, by a healthcare staff member for each inmate upon intake at BCCF before placement in the

10. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

general population to ensure that their health needs are identified and addressed. The screening consists of a structured inquiry and observation to identify potential emergencies and to ensure that inmates with known illnesses, health needs, and medications are identified for further assessment and continued treatment while in custody. A healthcare staff member immediately records the findings of the screening upon completion in CorEMR. Upon arrival at BCCF, if an inmate is determined to be in an emergency condition, they are transported by either ambulance or BCSO transport vehicle to Falmouth Hospital's emergency department for evaluation and treatment. Any inmate who is determined to pose a serious risk of communicable or infectious disease is confined apart from the general population until they have medical clearance.¹¹

According to BCSO Policy 602.02, an inmate has the right to waive the admission medical screening by signing a Refusal of Medical Care Form.

Access to healthcare services is communicated both verbally and in writing to all inmates upon admission. Special procedures, including the use of a translation service,¹² ensure that inmates who may have difficulty communicating with employees understand how to access healthcare services.

Health Appraisal / Physical Examination

According to Section B of BCSO's Policy 602.02, each inmate committed to BCCF for 30 days or more is required to have a health appraisal, which is documented with the Physical Examination/Initial Chronic Disease Form, no later than 7 days after admission. This timeframe can be extended to 14 days if the admission medical screening was performed by a physician or registered nurse. If the inmate's medical file indicates that they received a health appraisal within the last 90 days at BCCF, the appraisal is not required. A healthcare staff member completes the health appraisal, which includes, but is not limited to, reviewing the inmate's medical record, examining the inmate for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and any follow-up services with inmates who require further treatment. The healthcare vendor collects and records inmates' health

11. According to WellPath's Policy HCD-100_E-02 (Receiving Screening), medical clearance is "a clinical assessment of physical and mental status before an individual is admitted into the facility. The medical clearance may come from the on-site health care staff or may require sending the individual to the hospital emergency room. The medical clearance is to be documented in writing."

12. The translation service provides support in 240 languages and is available 24 hours a day, 7 days a week, to BCSO correctional officers and medical staff members.

appraisal data in the inmate's medical record in CorEMR, which is approved by a qualified healthcare professional.¹³

Sick Call Requests

According to Section D of BCSO's Policy 602.02, "All inmates shall have the opportunity to request medical assistance by completing a Sick Call Request Form and submit it to the Health Services Department." During our audit period, BCSO's healthcare vendor administered the sick call process.

To request access to healthcare, an inmate completes a Sick Call Request Form that states the type of service requested (medical, dental, or mental health); the date the form is completed; and the nature of the problem or request. They also add their name, state identification number, date of birth, and signature. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a healthcare staff member during a medication pass, which occurs at least twice a day. Healthcare staff members pick up the Sick Call Request Forms daily to evaluate and triage the requests. Any request that requires the attention of the physician is attached to the inmate's medical record and given to the attending physician. Sick call are available to inmates five days a week and qualified healthcare professionals provide treatment according to clinical priorities and schedule follow-up appointments. All Sick Call Request Forms are filed in inmates' medical records in CorEMR.

13. According to Wellpath's Policy HCD-100_A-02, qualified healthcare professionals include "physicians, physician assistants, nurses, nurse practitioners, dentists, . . . mental health professionals, and others who by virtue of education, credentials, and experience are permitted by law to evaluate and care for patients."

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 Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021.

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

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

Objective	Conclusion
1. Did BCSO comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody?	Yes
2. Did BCSO hold quarterly meetings with the healthcare vendor and review quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services?	Yes
3. Did BCSO provide admission medical screenings to its inmates upon intake, and health appraisals within seven days after admission, in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care)?	No; see Finding <u>1</u>
4. Did inmates at BCSO receive medical care after submission of a Sick Call Request Form in accordance with Section D of BCSO's Policy 602.02?	Yes

To accomplish our objectives, we gained an understanding of BCSO's internal control environment related to the objectives by reviewing BCSO's internal control plan and applicable agency policies and procedures, as well as conducting interviews with BCSO management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the

supervisory controls on admission medical screenings. To obtain sufficient, appropriate audit evidence to address our audit objectives, we conducted the following audit procedures.

We inspected the list of inmate deaths from BCSO management for the audit period, which reflected one inmate who died in BCSO custody on January 25, 2020 and whose cause of death was reported as natural medical causes. To determine whether BCSO complied with 103 CMR 932.17(2) and its Policy 600.03 regarding the deaths of inmates in its custody, we performed the following procedures:

- We inspected BCSO's Policy 600.03 to determine whether BCSO has established guidelines that include the following, in accordance with the requirements of 103 CMR 932.17(2):
 - (a) internal notification to include medical and administrative staff;*
 - (b) procedures when discovering the body;*
 - (c) disposition of the body;*
 - (d) notification of next of kin;*
 - (e) notification of [Criminal Offender Record Information] certified individuals as soon as practicable;*
 - (f) investigation of causes;*
 - (g) reporting and documentation procedures;*
 - (h) procedure for review of the incident by appropriate designated staff with a final report submitted to all appropriate parties.*
- To determine whether BCSO complied with and implemented the requirements of 103 CMR 932.17(2) and its in-custody death guidelines in Policy 600.03, we performed the following:
 - We examined BCSO's internal notifications for the death in custody during our audit period to ensure that medical and administrative staff members were notified about the unresponsiveness of the inmate, resulting in immediate transportation to the hospital by ambulance.
 - We examined the incident report from BCSO's responding officer to ensure that correctional officers and medical staff members performed life-saving measures on the inmate, as appropriate. We also examined the incident report to ensure that BCSO was notified of the inmate's death and that the superintendent notified the inmate's next of kin.

-
- We asked BCSO management whether a Criminal Offender Record Information notification¹⁴ was needed.
 - We examined the Inmate Death Summary from Falmouth Hospital and the Correctional Electronic Medical Records (CorEMR) system report to determine whether the inmate's cause of death was listed as natural medical causes occurring under the direct care of medical staff and/or hospital care, in which case no further investigation of causes, mortality review, or clinical review were required.

To determine whether BCSO provided healthcare services in compliance with state regulations and its policies, we examined the minutes of all eight quarterly meetings of BCSO and its healthcare vendor that occurred during the audit period. We also examined the quarterly reports (such as risk management reports, infection control reports, and continuous quality improvement monitoring reports) and annual statistical summaries that the vendor provided to BCSO during the audit period.

To determine whether BCSO provided its inmates with admission medical screenings upon intake and health appraisals within seven days of admission, in accordance with Sections A and B of its Policy 602.02, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total population of 1,228 who were admitted to the Barnstable County Correctional Facility (BCCF) for more than seven days during the audit period. We performed the following tests:

- We examined the Medical Entrance Exam Report (for admission medical screenings) for each inmate in our sample to document the date and time it was completed and signed by a healthcare staff member. For inmates who refused the admission medical screening upon intake, we examined the signed inmate refusal form. We then calculated the number of hours after arrival at BCCF the inmate received the admission medical screening to determine whether inmates received the admission medical screening upon intake as required by Section A of BCSO's Policy 602.02.
- We examined each inmate's Physical Examination/Initial Chronic Disease Form (for health appraisals) to document the date and time it was completed and signed by a healthcare staff member. We then calculated the number of days after the inmate's arrival to BCCF the health appraisal was completed to determine whether inmates received the health appraisal within 7 days (or extended to 14 days in some cases) as required by Section B of BCSO's Policy 602.02 .

To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 602.02, we selected a statistical, random sample with a 95%

14. Criminal Offender Record Information notifications are made to victims of the inmate regarding a change of status, such as the inmate's release or death.

confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total population of 1,243 Sick Call Request Forms submitted by inmates during the audit period. We performed the following procedures:

- We examined each Sick Call Request Form submitted by an inmate and documented the date the form was completed by the inmate and the date it was signed by a healthcare staff member.
- We calculated the number of days between the submission date of the Sick Call Request Form and the date a healthcare staff member reviewed the Sick Call Request Form.
- We examined each Sick Call Request Form and the corresponding CorEMR sick call entry notes to determine whether the healthcare vendor (1) reviewed the Sick Call Request Form for the immediacy of need, (2) suggested treatment that was documented and attached to the inmate's medical record in CorEMR, and (3) referred problems beyond their scope to the appropriate provider.

Data Reliability Assessment

Offender Management System

To assess the reliability of the inmate data obtained from the Offender Management System (OMS), we interviewed BCSO information technology (IT) personnel who were responsible for oversight of the system. We tested the general IT controls, including access and account management controls [REDACTED]. We selected a random sample of 20 inmates from the list of inmates in OMS and agreed each full name, date of birth, booking date, gender, age, and race from the original source document (the mittimus). We also selected 20 random samples from hard copies of the mittimi and traced the inmates' same information (full name, date of birth, booking date, gender, age, and race) from them to OMS. In addition, we tested the inmate data for duplicate records and matched the death in custody list from OMS with the list the Office of the Chief Medical Examiner provided.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

CorEMR

We assessed the reliability of the sick call data obtained from CorEMR by conducting interviews with BCSO and Wellpath officials with knowledge about the data. We tested the general IT controls, including access and account management controls [REDACTED]. In addition, we tested the sick call data for duplicate records and for any errors to determine the data's integrity and confirm

the completeness and accuracy of it. Additionally, we matched the state identification numbers in CorEMR to the state identification numbers of inmates who were admitted during the audit period listed in OMS.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 Sick Call Request Forms from the sick call list in CorEMR and agreed the patient name, state identification number, date of request, and date of service by the healthcare vendor to the hardcopy Sick Call Request Forms filed by inmates. We also selected a random sample of 20 hardcopy Sick Call Request Forms and traced this information back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

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DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.

The Barnstable County Sheriff's Office (BCSO) did not ensure that all inmates' health appraisals were completed on time and that its health appraisals and admission medical screenings were documented. During the audit period, there were 1,228 inmates admitted to the Barnstable County Correctional Facility (BCCF) for 7 or more days, who were subject to an admission medical screening upon intake and a health appraisal between 7 and 14 days after admission. We found that 4 health appraisals in our statistical sample of 60 were not completed within 14 days of the inmates' admission to BCCF. Based on the results of our sample, we estimate, using statistical projection techniques, that the healthcare vendor did not complete between 24 and 196 health appraisals within the required timeframe.

In addition to the untimely completion of the health appraisals, BCSO did not ensure that its healthcare vendor documented Medical Entrance Exam Reports (for admission medical screenings) and Physical Examination/Initial Chronic Disease Forms (for health appraisals) in each inmate's medical file in the Correctional Electronic Medical Records (CorEMR) system. Specifically, we found that, out of a statistical sample of 94 inmates, 5 had no Medical Entrance Exam Reports in the system, and 3 of these 5 inmates had no Physical Examination/Initial Chronic Disease Forms in the system. Without these medical forms documented in CorEMR, there is no evidence that the admission medical screenings and health appraisals were completed.

Because BCSO does not ensure that its healthcare vendor completes the health appraisals within the required timeframe and documents each medical form in CorEMR, there is a higher-than-acceptable risk that inmates' medical issues are not identified and treated, ultimately affecting the health and safety of all BCSO inmates.

Authoritative Guidance

According to Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Healthcare),

A. ADMISSION MEDICAL SCREENING

1. *Every inmate, including transfers booked into the facility shall have an admission medical screening performed on arrival by a qualified health care professional. The findings of the screening shall be recorded in the electronic medical record by a member of the Health Services Department. . . .*

B. HEALTH APPRAISAL/PHYSICAL EXAMINATION . . .

- a. *Each inmate committed to the facility for 30 days or more shall receive a thorough physical examination and the examination shall take place no later than seven days after admission. This time frame may be extended to within 14 days of admission for cases in which the admission screening was completed by a physician, physician's assistant or a registered nurse.*

Reasons for Noncompliance

BCSO management stated that during the audit period, its healthcare vendor did not have enough staff members to complete the health appraisals.

BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings.

Recommendations

1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.
2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

Auditee's Response

The Barnstable County Sheriff's Office is actively seeking a solution to the problems we have encountered with our present medical vendor, Wellpath, which was contracted to provide medical care to our inmate population. Staffing is an on-going challenge not only for this vendor but for medical vendors and providers in general in Barnstable County. This leaves the BCSO with little option other than to reduce the payment owed to the vendor if the staffing matrix is not satisfied. The vendor's staffing is monitored daily by shift and evidence was provided during the audit. . . .

Addressing the statement of, "BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings", the Barnstable County Sheriff's Office has directly addressed [the

Office of the State Auditor's] concerns and we have been monitoring the health appraisals and admission medical screenings through the Audit and Compliance Department. We provided your office with evidence of this monitoring during the Audit. Over the course of the contract years with WellPath our own findings of non-compliance have been addressed directly with the multiple Health Service Administrators (HSAs) who were assigned to our facility as well as with the WellPath Administrators assigned to oversee the operations of the contracted medical care of our facility. We will continue to monitor the services provided by this vendor in order to ensure the contractual obligations are met and the vendor maintains an appropriate level of care for our inmate population.

Auditor's Reply

Based on its response, BCSO has taken measures after the audit period to address our concerns on this matter.

EE

[REDACTED]

[REDACTED]

[REDACTED]

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EE

EXHIBIT C

Barisano, Dena (AGO)

From: noreply@formstack.com
Sent: Wednesday, March 15, 2023 12:53 PM
To: OSA Public Records (SAO)
Subject: PRR form



Formstack Submission For: PRR form

Submitted at 03/15/23 12:53 PM

Name:	Daniel McFadden
Organization:	ACLU of Massachusetts
Email:	dmcfadden@aclum.org
Phone:	(617) 482-3170 ext. 171
Address:	American Civil Liberties Union of Massachusetts One Center Plaza, Suite 850 Boston, MA 02108

On behalf of the ACLU of Massachusetts, I request the complete report entitled "Plymouth County Sheriff's Department -- A Review of Healthcare and Inmate Deaths." A redacted version of this report was distributed by the Office of the State Auditor on March 15, 2023.

Please describe the records you are requesting and provide as many specific details as possible, including applicable date ranges.:

If you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and the complete factual basis for the assertion, and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic format to the maximum extent possible.

Please waive any fees and copying costs, including pursuant

to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality. As the Massachusetts affiliate of the national ACLU, a not-for-profit, non-partisan organization, ACLUM distributes information both within and outside of Massachusetts. Gathering and disseminating current information to the public is a critical and substantial component of ACLUM's mission and work. ACLUM publishes reports and other written materials that are disseminated to the public at no cost. ACLUM also disseminates information through its website and regular posts on social media sites. Accordingly, disclosure of the records serves the public interest, and not the commercial interest of ACLUM.

As you know, a custodian of public records shall comply with a request within ten days of receipt.

Thank you for your assistance. If you have any questions, please feel free to contact me at dmcfadden@aclum.org.

Sincerely,
Dan McFadden

I agree that I have read the directions and disclaimers on this form and that the information that I have provided is accurate to the best of my knowledge. I adopt the signature below as my electronic signature.:

Declaration

EXHIBIT D

Barisano, Dena (AGO)

From: noreply@formstack.com
Sent: Friday, March 17, 2023 9:26 AM
To: OSA Public Records (SAO)
Subject: PRR form



Formstack Submission For: PRR form
Submitted at 03/17/23 9:25 AM

Name:	Daniel McFadden
Organization:	ACLU of Massachusetts
Email:	dmcfadden@aclum.org
Phone:	(617) 483-3170 ext. 171
Address:	One Center Plaza, Suite 850 Boston, MA 02108

I request a complete copy of the Office of the State Auditor's report entitled "Barnstable County Sheriff's Office - A Review of Healthcare and Inmate Deaths." A redacted version of this report was released to the public on or about March 16, 2023.

Please describe the records you are requesting and provide as many specific details as possible, including applicable date ranges.:

If you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and the complete factual basis for the withholding, and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic format to the maximum extent possible.

To the extent you contend that any of the requested records are not public records, or are otherwise exempt

from disclosure in response to this request, you should take steps to ensure that such records are preserved, and are not modified, deleted, or destroyed, pending our review of your contention and the resolution of any resulting dispute.

Please waive any fees and copying costs, including pursuant to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality. As the Massachusetts affiliate of the national ACLU, a not-for-profit, non-partisan organization, ACLUM distributes information both within and outside of Massachusetts. Gathering and disseminating current information to the public is a critical and substantial component of ACLUM's mission and work. ACLUM publishes reports and other written materials that are disseminated to the public. These materials are widely available to everyone at no cost. ACLUM also disseminates information through its website and regular posts on social media sites. Accordingly, disclosure of the records serves the public interest, and not the commercial interest of ACLUM.

As you know, a custodian of public records shall comply with a request within ten days of receipt.

Thank you for your assistance. Please do not hesitate to contact me with any questions at dmcfadden@aclum.org.

Best regards,
Daniel McFadden

I agree that I have read the directions and disclaimers on this form and that the information that I have provided is accurate to the best of my knowledge. I adopt the signature below as my electronic signature.:

Declaration

EXHIBIT E

Barisano, Dena (AGO)

From: Cagle, Colon D. <Colon.Cagle@massauditor.gov>
Sent: Wednesday, March 29, 2023 12:24 PM
To: dmfadden@aclum.org
Cc: Leung-Tat, Michael K. (SAO); Bromley, Judith E.
Subject: Public Records Request Response
Attachments: PCSD Confidential Audit Report -- PRR Responsive Document.pdf

Dear Daniel McFadden:

I am the Records Access Officer for the Office of the State Auditor (OSA).

Our office is in receipt of your March 15, 2023 public records request, in which you wrote/requested:

"On behalf of the ACLU of Massachusetts, I request the complete report entitled "Plymouth County Sheriff's Department -- A Review of Healthcare and Inmate Deaths." A redacted version of this report was distributed by the Office of the State Auditor on March 15, 2023."

Please find attached the document responsive to your request. Please note that OSA has applied redactions in reliance on exemption (n) of the Commonwealth's Public Records Law, Section 7(26) of Chapter 4 of the General Laws, which allows for the withholding of certain records, such as confidential and sensitive information, if their disclosure is likely to jeopardize public safety.

Please be advised that this office has not assessed you a fee associated with this response but reserves the right to charge fees regarding any future request - if applicable.

If you object to the instant response to your request for public records, please be advised that you possess the right to pursue an administrative appeal with the Supervisor of Public Records, pursuant to M.G.L. c. 66, § 10A(a) and 950 C.M.R. 32.08(1), within ninety (90) calendar days from receipt of this response.

You may contact the Supervisor of Public Records at:

Supervisor of Records
Secretary of the Commonwealth
Public Records Division
McCormack Building, Room 1 719
One Ashburton Place
Boston, MA 02108
Phone (617) 727-2832
Fax (617) 727-5914
Email: pre@sec.state.ma.us

Please also be advised that, in accordance with G. L. c. 66, § 10A(c), you may seek judicial review of any unfavorable response through commencing a civil action in the Suffolk Superior Court.

Please do not hesitate to contact me if you have any questions or wish me to explain this response in greater detail. Thank you.

Sincerely,

Cole Cagle

Assistant General Counsel | BSI Legal Counsel
Office of the State Auditor Diana DiZoglio
One Ashburton Place, Room 1819
Boston, MA 02108
(m) 857-331-5395

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 15, 2023

**Plymouth County Sheriff's Department—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 15, 2023

Joseph McDonald, Jr., Sheriff
Plymouth County Sheriff's Department
24 Long Pond Road
Plymouth, MA 02360

Dear Sheriff McDonald:

I am pleased to provide this performance audit of the Plymouth County Sheriff's Department. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

A separate, limited version of this report will be released publicly that excludes one issue [REDACTED]

I would also like to express my appreciation to the Plymouth County Sheriff's Department for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System
PCSD	Plymouth County Sheriff's Department

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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 the Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether PCSD complied with the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the deaths of inmates in its custody¹
- whether PCSD held quarterly meetings with its healthcare vendor and reviewed the vendor's quarterly reports in accordance with 103 CMR 932.01(3) for inmates' healthcare services
- whether PCSD provided medical receiving screenings to its inmates upon arrival and intake physical examinations in accordance with Sections IV and VI of PCSD's Policy 630 (Medical Services)
- whether inmates at PCSD's correctional facility received medical care after submission of a sick call form in accordance with Section VIII of PCSD's Procedure 630 (Medical Services).

Our audit revealed no significant instances of noncompliance by PCSD that must be reported under generally accepted government auditing standards.

1. PCSD told us that if an inmate is in custody, it means that PCSD has the 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.

OVERVIEW OF AUDITED ENTITY

The Plymouth County Sheriff's Department (PCSD) was established as an independent state agency on January 1, 2010, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

All functions, duties and responsibilities of the office of a transferred sheriff pursuant to this act 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.

This act transferred to the Commonwealth all functions, duties, and responsibilities of PCSD, including assets, liabilities, debt, and potential litigation, except where specified. PCSD's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over PCSD.

According to PCSD's Internal Control Policy 301, its mission is to "protect the public from criminal offenders by operating a safe, secure and progressive correctional facility while committing to crime prevention awareness in the community."

As of June 30, 2021, PCSD had 602 active employees, which included 295 correctional officers. For fiscal years 2020 and 2021, PCSD's annual state appropriations were approximately \$58 million and \$65 million, respectively. PCSD also received the following funding to support its programs for these fiscal years.

Program	Fiscal Year 2020	Fiscal Year 2021	Total
Residential Substance Use Disorder	\$ 26,000	\$ 21,000	<u>\$ 47,000</u>
State Criminal Alien Assistance Program	196,642	196,642	<u>393,284</u>
Substance Use Disorder—Alcohol	56,000	0	<u>56,000</u>
High School Equivalency—Adult Basic Education	1,936	0	<u>1,936</u>
Total	<u>\$280,578</u>	<u>\$217,642</u>	<u>\$498,220</u>

PCSD is responsible for operating all aspects of its facilities, including the Plymouth County Sheriff's Administrative Building at 24 Long Pond Road in Plymouth. It also oversees the Plymouth County Correctional Facility at 26 Long Pond Road in Plymouth, which administers correctional and educational

services and programs for inmates. As of June 30, 2021, PCSD had 582 inmates, 204 of whom were pretrial detainees,² 106 of whom were sentenced, and 272 of whom were listed as other³ detainees.

According to PCSD's "Facility Narrative," a document describing the department and its programs, there are 11 different programs and services provided for inmates, which include the following:

- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- Enrichment, which includes acquired immunodeficiency syndrome education in inmates' housing units, human immunodeficiency virus classes during admission, and an incarcerated veteran transition program
- Vocational training in areas such as culinary arts, hospitality, and painting
- Religious services in Spanish, Portuguese, and English
- Re-entry services, which include providing counselors to inmates to assist them throughout their sentences; help them transition back into the community; and make referrals to community resources, such as housing assistance and job opportunities.

Offender Management System

PCSD uses a system called the Offender Management System (OMS) to track and manage information for inmates in its custody. The information maintained in this system includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁴ booking identification numbers,⁵ booking dates, release dates, release types,⁶ and in-custody housing assignments.⁷ During an inmate's admission process, PCSD's booking officer enters information from a mittimus⁸ into OMS.

2. A detainee is a person held in-custody before their trial.
3. Other detainees include United States Marshals Service and Immigration and Customs Enforcement detainees. PCSD has a contract with the federal government to hold detainees for these agencies.
4. A state identification number is a unique number assigned to each inmate in the criminal justice system.
5. A booking identification number is a unique number assigned by PCSD to an inmate upon their arrival to PCSD's facility.
6. The release type is the way in which an inmate is discharged from a facility, such as bail, death, parole, or completion of their sentence.
7. A housing assignment is an inmate's specific unit, cell, and bed within PCSD's facility.
8. A mittimus is a written court-issued document that follows an inmate through their time in the criminal justice system.

Correctional Electronic Medical Records System

The Correctional Electronic Medical Records (CorEMR) System is a Web-based application that is used to record all health-related inmate information such as medical history, treatments, mental health status, medications, and scheduled appointments.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as PCSD's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or facility employees. In the case of an inmate's serious illness or injury while in PCSD's custody, the officers on duty notify all available correctional officers, and medical officers,⁹ to the scene to perform emergency medical aid. The communications department¹⁰ notifies external emergency services and the Massachusetts State Police. Upon arrival to the facility, the Massachusetts State Police secure the scene and conduct an investigation to determine the causes and manner of death, when applicable. Emergency services transfer the inmate to Beth Israel Deaconess Hospital in Plymouth. The superintendent notifies the inmate's next of kin.

Inmates are pronounced deceased at the hospital and then transferred to the Massachusetts Office of the Chief Medical Examiner. The office retrieves the body, conducts a postmortem exam,¹¹ and releases the body to the next of kin.

All officers who witnessed or responded to a death (or serious illness/injury) must complete an incident report to document their findings and experience.

Once all officers document and submit their incident reports, mortality and clinical reviews are conducted within 30 days of an inmate's death. PCSD has a clinical review team, which includes the health services administrator and shift commander,¹³ performs a mortality review and/or in-depth clinical review. The clinical review, which is conducted for cases of suicide, is to determine whether changes in the inmate's

9. According PCSD Procedure 622, medical officers are "qualified health Care Professionals assigned to the Medical Unit who, under direct supervision of a licensed physician, provide health care services to inmates."

10. The communications department is staffed by employees of the facility. The communications department has radio communication devices and access to controls at PCSD's facility. All communication in and out of the facility goes through the communication department.

11. The postmortem exam is an examination of the deceased's body in order to determine the cause of death

12. The health services administrator is responsible for the organization and planning for the delivery of services in PCSD's Health Care Unit.

13. A shift commander is a correctional officer who has the duty for the security and care of inmates, as well as staff members.

clinical psychiatric management could have prevented the suicide. The superintendent also issues a summary of the incident and forwards it to the Sheriff. In addition, PCSD conducts a mortality review, in accordance with PCSD's Procedure 622 (Serious Illness, Injury & Death), to determine whether there was a pattern of symptoms that could have resulted in earlier intervention or diagnosis of mental illness. The superintendent creates a Final Death Packet with the summary of the incident and the clinical and mortality reviews, and then forwards it to the Sheriff.

Vendor Healthcare Services

During the audit period, PCSD contracted medical services from Correctional Psychiatric Services. This vendor works alongside PCSD-employed medical staff members to provide constant care to inmates. Correctional Psychiatric Services provides medications for inmates who are enrolled in PCSD's opioid use disorder program and provides dental services, vision services, and mental health services. All other healthcare services are provided by in-house medical officers, who are employed by PCSD.

Vendor Quarterly Meetings

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, the facility administrator, or a designee selected by PCSD at least quarterly and submit quarterly reports on the healthcare delivery system and the health environment, as well as annual statistical summaries.¹⁴ The healthcare vendor documents and maintains meeting minutes that document the quarterly meetings. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at PCSD.

Medical Receiving Screenings

According to Section 4 of PCSD Policy 630 (Medical Services), all PCSD inmates are required to have a medical receiving screening by a medical officer upon arrival. The purpose of the screening is to determine whether the inmate has any medical needs and whether any of those needs must be immediately addressed. The screening consists of questions about the inmate's medical history, medication history, mental health history, vaccine history, and more. It also includes a structured inquiry to identify potential

14. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

emergencies and to ensure that inmates with known illnesses, prescriptions, or other health needs are identified for further assessment and continued treatment while they are in custody.

A medical officer documents the medical receiving screening in the Medical Intake Screening Form, held in the inmate's medical record in CorEMR. The Medical Intake Screening Form is then approved by a qualified healthcare professional.

Intake Physical Examinations

According to PCSD's Policy 630, each inmate committed to the facility for 30 days or more is required to have a complete intake physical examination within 7 days of their arrival to the facility. This timeframe is extended to within 14 days of admission for cases in which the medical receiving screening was completed by a physician, physician's assistant, or registered nurse. No intake physical examination is needed if there is documented evidence of a medical examination within the previous 90 days or if an inmate leaves PCSD custody within 14 days.

A medical officer completes the intake physical examination, which includes, but is not limited to, reviewing the inmate's medical record, examining the inmate for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and scheduling any follow-up services with inmates who require further treatment. The medical officer collects inmates' medical information and records it in the inmate's medical record in CorEMR.

According to PCSD Policy 630, an inmate has the right to waive the intake physical examination by signing a Refusal of Medical Care Form. If an inmate is transferred from another correctional facility or returns to PCSD within three months of their last intake physical examination, their intake physical examination will be updated as needed.

Sick Calls

To request access to healthcare, an inmate fills out a Sick Call Request Form, which the medical officer scans and uploads as a Portable Document Format file into CorEMR. The Sick Call Request Form includes the type of service requested (medical, dental, or mental health), the date the form is completed, the nature of the problem or request, and their name. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a medical officer during a medication pass, which occurs at least twice a day.

Medical officers collect the Sick Call Request Form daily to evaluate and triage each request within 24 hours. Medical officers provide treatment and schedule follow-up appointments according to clinical priorities. According to PCSD Policy 630, "It is the policy of the Plymouth County Sheriff's Department that . . . sick call be conducted at least five (5) days each week by the licensed facility physician . . . in the Health Services Unit."

All Sick Call Request Form that are triaged as emergencies are responded to immediately, and problems beyond the medical officer's scope are referred to appropriate healthcare providers. The inmates' medical files are maintained in CorEMR.

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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 Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019, through June 30, 2021.

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 and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Did PCSD comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the death of inmates in its custody?	Yes
2. Did PCSD hold quarterly meetings with its health care vendor and review quarterly reports for inmates' healthcare services in accordance with 103 CMR 932.01(3)?	Yes
3. Did PCSD provide medical receiving screenings to its inmates upon admission, and intake physical examinations, in accordance with Sections IV and VII of PCSD's Policy 630 (Medical Services) and Sections IV and VII of PCSD's Procedure 630 (Medical Services)?	Yes; [REDACTED]
4. Did inmates at PCSD's facility receive medical care after submission of a Sick Call Request Form in accordance with Section XII of PCSD's Policy 630 and Section VII of PCSD's Procedure 630?	Yes

To accomplish our objectives, we gained an understanding of PCSD's internal control environment relevant to the objectives by reviewing PCSD's internal control plan and applicable policies and procedures, as well as conducting site visits and interviews with PCSD's management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the supervisory controls on initial intake health assessments. [REDACTED]

- We inspected emails from PCSD to the Town of Plymouth, found in the Final Death Packets, that documented what happened to the bodies after they were autopsied to determine the disposition of the body.
- We inspected emails from PCSD's assistant superintendent to the superintendent, found in the Final Death Packets, that recorded the notification of each inmate's next of kin to determine whether the next of kin was notified.
- We inspected the Final Death Packets, specifically the mortality review meeting minutes and incident reports, to determine whether there was an investigation of causes for the deaths of the two inmates.
- We inspected the Final Death Packets to determine whether the officers completed the incident reports.
- We inspected the Final Death Packets, specifically the mortality review meeting minutes of the clinical review team, the incident reports, and the emails sent by the assistant superintendent to the superintendent, to determine whether appropriate, designated staff members reviewed the incident reports and whether the superintendent submitted final reports to the Sheriff.
- We verified that each inmate's death was recorded in the Offender Management System (OMS) and inspected the date of when the mortality review was held with the involved officers. The date of death and date of review were compared to determine whether the mortality review was conducted within 30 days of the inmate's death.

To determine whether quarterly meetings were held with the healthcare vendor, we inspected the minutes of all eight quarterly meetings held during the audit period. We then examined the list of people who attended each meeting to ensure that the meeting was held between PCSD and its healthcare vendor. In addition, we obtained the annual statistical summaries for 2020 and 2021 submitted by the healthcare vendor to determine whether PCSD complied with 103 CMR 932.

To determine whether PCSD provided the healthcare services in compliance with state regulations and its own policies, we examined the minutes of all eight quarterly meetings of PCSD and its healthcare vendor, as well as all the reports (such as risk management reports, infection control reports, continuous quality improvement monitoring reports, and annual reviews) that the vendor provided to PCSD during the audit period.

To determine whether PCSD provided its inmates with initial medical receiving screenings upon admission, and intake physical examinations within 14 days after admission, in accordance with Sections IV and VII of PCSD's Policy 630, we selected a statistical, random sample with a 95% confidence level, 5%

tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total of 6,434 admissions to PCSD during the audit period. We performed the following procedures:

- We examined each inmate's Medical Intake Screening Form to document the date and time the form was completed and signed by a medical officer. For inmates who refused to receive the initial intake health assessment, we examined the signed Refusal of Medical Care Forms.
- According to PCSD Policy 630, inmates committed for more than 30 days are required to have intake physical examinations. We examined the Initial Physical Health Assessment Form to document the date and time it was completed and signed by a qualified healthcare professional. We then calculated the number of days after admission to determine whether inmates received intake physical examinations within 14 days as required by the policy.

To determine whether inmates received medical care after the submission of Sick Call Request Forms, in accordance with PCSD Policy 630, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total of 8,835 Sick Call Request Forms submitted by inmates during our audit period. To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with PCSD policy, we performed the following procedures:

- We examined the Sick Call Request Forms to ensure that a medical officer reviewed them and that the inmates were seen and treated.
- We calculated the number of days between the submission of the Sick Call Request Forms by inmates and the dates they were signed by a medical officer to ensure that all sick calls were reviewed within 24 hours after submission.

Data Reliability Assessment

OMS

To assess the reliability of the inmate data obtained from OMS, we interviewed head of the PCSD Information Technology (IT) Department, who is responsible for oversight of the system. We tested the general IT controls, including user access and account management controls [REDACTED]

We selected a random sample of 20 inmates from the list of inmates in OMS and traced each full name and booking identification number to the original source document (the mittimus / United States Marshals Service Custody Form [USM 129 Individual Custody/Detention Report] / Immigration and Customs Enforcement Detainee Form [Order to Detain or Release Alien]). We also selected 20 random samples from hard copies of the mittimi and traced the same information from them to OMS.

In addition, we tested the inmate data for duplicate records and matched the death-in-custody list from OMS to the list that Office of the Chief Medical Examiner provided to us.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

Correctional Electronic Medical Records

To assess the reliability of the sick call data obtained from the Correctional Electronic Medical Records (CorEMR) System, we conducted interviews with PCSD personnel who had knowledge about the data. In addition, we matched the inmates' patient identification numbers¹⁶ from CorEMR to the state identification numbers of inmates who were admitted during our audit period in OMS. We also tested general IT controls, including user access and account management controls.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 sick calls from the sick call list in CorEMR and agreed each patient name and patient identification number to hard copies of Sick Call Request Forms submitted by inmates. We also selected a random sample of 20 hard copies of Sick Call Request Forms and traced patient name and patient identification number back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

Conclusion

Our audit revealed no significant instances of noncompliance that must be reported under generally accepted government auditing standards.

16. Each inmate is assigned a patient identification number in CorEMR, which is the same as each inmate's state identification number.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT F

Barisano, Dena (AGO)

From: Cagle, Colon D. <Colon.Cagle@massauditor.gov>
Sent: Wednesday, March 29, 2023 3:21 PM
To: dmcfadden@aclum.org
Cc: Leung-Tat, Michael K. (SAO); Bromley, Judith E.
Subject: Public Records Request Response
Attachments: BCSD Confidential Audit Report -- PRR Responsive Document.pdf

Dear Daniel McFadden:

I am the Records Access Officer for the Office of the State Auditor (OSA).

Our office is in receipt of your March 17, 2023 public records request, in which you wrote/requested:

“I request a complete copy of the Office of the State Auditor's report entitled "Barnstable County Sheriff's Office - A Review of Healthcare and Inmate Deaths." A redacted version of this report was released to the public on or about March 16, 2023.”

Please find attached the document responsive to your request. Please note that OSA has applied redactions in reliance on exemption (n) of the Commonwealth's Public Records Law, Section 7(26) of Chapter 4 of the General Laws, which allows for the withholding of certain records, such as confidential and sensitive information, if their disclosure is likely to jeopardize public safety.

Please be advised that this office has not assessed you a fee associated with this response but reserves the right to charge fees regarding any future request - if applicable.

If you object to the instant response to your request for public records, please be advised that you possess the right to pursue an administrative appeal with the Supervisor of Public Records, pursuant to M.G.L. c. 66, § 10A(a) and 950 C.M.R. 32.08(1), within ninety (90) calendar days from receipt of this response.

You may contact the Supervisor of Public Records at:

Supervisor of Records
Secretary of the Commonwealth
Public Records Division
McCormack Building, Room 1 719
One Ashburton Place
Boston, MA 02108
Phone (617) 727-2832
Fax (617) 727-5914
Email: pre@sec.state.ma.us

Please also be advised that, in accordance with G. L. c. 66, § 10A(c), you may seek judicial review of any unfavorable response through commencing a civil action in the Suffolk Superior Court.

Please do not hesitate to contact me if you have any questions or wish me to explain this response in greater detail. Thank you.

Sincerely,

Cole Cagle

Assistant General Counsel | BSI Legal Counsel
Office of the State Auditor Diana DiZoglio
One Ashburton Place, Room 1819
Boston, MA 02108
(m) 857-331-5395

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 16, 2023

**Barnstable County Sheriff’s Office—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 16, 2023

Donna Buckley, Sheriff
Barnstable County Sheriff's Office
6000 Sheriff's Place
Bourne, MA 02532

Dear Sheriff Buckley:

I am pleased to provide this performance audit of the Barnstable County Sheriff's Office. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with the management of Barnstable County Sheriff's Office, whose comments are reflected in this report.

A separate, limited version of this report will be released publicly that excludes one issue [REDACTED]

I would also like to express my appreciation to the Barnstable County Sheriff's Office for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings. 13



EE

LIST OF ABBREVIATIONS

BCSO	Barnstable County Sheriff's Office
BCCF	Barnstable County Correctional Facility
CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System

EE

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 the Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether BCSO complied with and implemented the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody¹
- whether BCSO held quarterly meetings with the healthcare vendor and reviewed quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services
- whether BCSO provided admission medical screenings² to its inmates upon intake and health appraisals within seven days of admission in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination)
- whether inmates at BCSO received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 600.02.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 13	BCSO did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.
Recommendations Page 14	<ol style="list-style-type: none">1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

-
1. BCSO told us that if an inmate is in custody, it means that BCSO 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. An admission medical screening is an assessment of an inmate's health needs, including mental health and/or medical conditions. It is conducted upon an inmate's arrival at the Barnstable County Correctional Facility.

OVERVIEW OF AUDITED ENTITY

The Barnstable County Sheriff's Office (BCSO) was established as an independent state agency on August 6, 2009, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

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

This transition was completed on January 1, 2010. BCSO's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over BCSO. Under the Sheriff's direction, the facility's superintendent administers BCSO operations at the Barnstable County Correctional Facility (BCCF).

According to BCSO's internal control plan,

The mission of the Sheriff's Office is to "Protect the public from criminal offenders by operating a safe, secure and rehabilitative correctional facility, assisting local agencies and promoting public safety through our associated specialized services and enforcing the Laws of the Commonwealth of Massachusetts and the Constitution of the United States of America."

As of June 30, 2021, BCSO had 257 employees, including 151 full-time correction officers, working at BCCF. In fiscal years 2020 and 2021, BCSO's state appropriations were approximately \$36.8 million and \$33.5 million, respectively. In addition to its state appropriations, BCSO received the following federal funding to support its programs for these fiscal years.

Program/Grant	Fiscal Year 2020	Fiscal Year 2021	Total
Cops Anti-Heroin Task Force Program*	\$ 0	\$ 10,688	<u>\$ 10,688</u>
Crime Victims Assistance Programs Grant†	76,004	77,233	<u>153,237</u>
Homeland Security II Grant‡	2,433	0	<u>2,433</u>
Vivitrol Increased Participation Services Grant§	301,956	279,646	<u>581,601</u>
Total	<u>\$380,393</u>	<u>\$ 367,567</u>	<u>\$747,959</u>

* Cops Anti-Heroin Task Force Program funds were for overtime-related payroll expenditures of BCSO's officers conducting investigations as part of Federal Organized Crime Drug Enforcement Task Force investigations related to heroin, fentanyl, and prescription opioid trafficking.

† The Crime Victims Assistance Programs Grant supports victims of crime in the Barnstable county community.

‡ The Homeland Security II Grant was awarded in fiscal year 2019 to the BCSO Community Emergency Response Team Program to address disaster preparedness for hazards that may occur in Barnstable County. The fiscal year 2020 expenditure was a carryforward of these funds.

§ The Vivitrol Increased Participation Services Grant was a three-year grant, which ended on September 29, 2021, for the administration of Vivitrol, a medication used to treat substance use disorders, upon an inmate's release from BCCF.

BCSO is located at Joint Base Cape Cod in Bourne, which opened in 2004 and is used for the care and custody of pretrial and sentenced inmates. As of June 30, 2021, there were 165 inmates in BCSO custody, including 98 pretrial inmates, of whom 89 were male and 9 were female, and 67 sentenced inmates, of whom 62 were male and 5 were female.

BCCF houses a maximum of 588 inmates, who serve sentences of no more than two and a half years, in 12 housing units. Offenders at BCCF are assigned to one of three houses. House 1 comprises 3 units and holds pretrial detainees.³ House 2 comprises 5 units to hold female inmates, high-risk inmates,⁴ and inmates who break BCSO rules. House 3 comprises the remaining 4 units to hold sentenced male inmates.

According to its website, BCSO inmates and detainees are offered the following programs and services:

- A rehabilitation program, called the Residential Substance Abuse Treatment Program, which includes a Community Reentry Council that meets to facilitate referrals and resources for each inmate six weeks after their release from custody
- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- A community relations program, which provides inmate labor for a wide variety of services in the community, including painting, landscaping, carpentry, roofing, siding, simple construction, and demolition.

The healthcare vendor provides healthcare, including mental health, services.

Offender Management System

BCSO uses a system called the Offender Management System (OMS) to track and manage information on inmates in its custody. The information includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁵ booking numbers,⁶ booking dates, release dates, and in-custody housing assignments.⁷ During an inmate's admission process, BCSO's booking officer enters information from a mittimus⁸ into OMS.

3. A detainee is a person held in custody before their trial.

4. BCSO determines the risk level of an inmate based on their current offense, the severity of any prior convictions, any history of escapes and/or escape attempts, or any prior violent behavior.

5. A state identification number is a unique number assigned to an inmate from a court system.

6. A booking number is a unique number assigned by BCSO to an inmate upon their arrival to BCCF.

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

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

Correctional Electronic Medical Records

BCSO uses the Correctional Electronic Medical Records (CorEMR) system to manage inmates' medical records, appointment scheduling, and offsite healthcare.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as BCSO's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or BCCF employees. According to its Policy 600.3 (Guidelines for Serious Illness, Injury or Death), in the event of an inmate's death, the employee who is first made aware of the incident notifies the Health Services Department, the shift supervisor, the contracted healthcare vendor, and healthcare staff members⁹ to report to the incident location. The notification order then follows the chain of command: The shift supervisor notifies the shift captain, who notifies the duty officer, and the duty officer notifies the superintendent. The superintendent then notifies the Sheriff, the Massachusetts Office of the Chief Medical Examiner, the District Attorney's office, and the Massachusetts State Police.

If there were no employees present at the time of the death, the superintendent conducts an internal investigation and submits a preliminary report to the Sheriff. The superintendent also submits a final report with a copy of the Office of the Chief Medical Examiner's report within five days of the incident to the Sheriff. In addition, the responding healthcare staff members complete incident reports and document the time they were notified, the time they arrived at the scene of the incident, the location of the incident, and the medical treatment / emergency medical aid provided (if any). Finally, the Cape and Islands Critical Incident Stress Team debriefs employees who responded to the death of an inmate.

Healthcare

During the audit period, healthcare at BCCF was contractually provided by two third-party vendors (Correctional Psychiatric Services from July 1, 2019 to November 2020 and Wellpath, LLC from November 2020 to June 30, 2021). At BCCF, these contractors accept overall responsibility of healthcare services, including medical, dental, and mental health services.

9. According to BCSO's healthcare vendor WellPath's Policy HCD-100_E-02 (Receiving Screening), healthcare staff members are "qualified health care professionals as well as administrative and supportive staff (e.g., health records administrators, laboratory technicians, nursing and medical assistants, and clerical workers)."

Attachment A of BCSO's Inmate Health Care Services Contract, dated October 28, 2020, outlines the following responsibilities of its healthcare vendor:

[The contractor] shall conduct an ongoing health and mental health education and training program for the BCSO staff in accordance with the needs mutually established by the BCSO and the contractor. . . .

[The contractor] will provide a healthcare delivery system that is specifically tailored to Barnstable County's needs and requirements. . . . [The contractor] will implement a managed care system that will promote efficiency and reduce cost by eliminating unnecessary services and encouraging preventive health measures in the patient population. . . . [The contractor's] staff will be responsible for identifying all patient healthcare needs and scheduling appropriate treatment, as well as coordinating all emergency and non-emergency on-site and off-site medical services.

According to the contract, BCSO's Medical Records Department monitors services provided by the healthcare vendor continuously. BCSO is also responsible for establishing effective policies and procedures, including policies and procedures about information technology security, for the healthcare vendor and its employees. The contract requires the healthcare vendor to meet quarterly with BCSO and submit quarterly healthcare reports about the overall operation of healthcare services to BCSO. Additionally, BCSO conducts background checks on healthcare vendor's proposed healthcare staff members providing services at BCCF to ensure that they do not constitute a security risk.

Administrative Oversight of Healthcare Services

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, facility administrator, or a designee selected by BCSO at least quarterly and submit quarterly reports on the healthcare delivery system and health environment, as well as annual statistical summaries¹⁰ to BCSO. The healthcare vendor documents and maintains meeting minutes which is reviewed by BCSO staff at the next quarterly meeting. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at BCSO.

Admission Medical Screening

Section A of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care) requires an admission medical screening, which is documented with the Medical Entrance Exam Report, by a healthcare staff member for each inmate upon intake at BCCF before placement in the

10. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

general population to ensure that their health needs are identified and addressed. The screening consists of a structured inquiry and observation to identify potential emergencies and to ensure that inmates with known illnesses, health needs, and medications are identified for further assessment and continued treatment while in custody. A healthcare staff member immediately records the findings of the screening upon completion in CorEMR. Upon arrival at BCCF, if an inmate is determined to be in an emergency condition, they are transported by either ambulance or BCSO transport vehicle to Falmouth Hospital's emergency department for evaluation and treatment. Any inmate who is determined to pose a serious risk of communicable or infectious disease is confined apart from the general population until they have medical clearance.¹¹

According to BCSO Policy 602.02, an inmate has the right to waive the admission medical screening by signing a Refusal of Medical Care Form.

Access to healthcare services is communicated both verbally and in writing to all inmates upon admission. Special procedures, including the use of a translation service,¹² ensure that inmates who may have difficulty communicating with employees understand how to access healthcare services.

Health Appraisal / Physical Examination

According to Section B of BCSO's Policy 602.02, each inmate committed to BCCF for 30 days or more is required to have a health appraisal, which is documented with the Physical Examination/Initial Chronic Disease Form, no later than 7 days after admission. This timeframe can be extended to 14 days if the admission medical screening was performed by a physician or registered nurse. If the inmate's medical file indicates that they received a health appraisal within the last 90 days at BCCF, the appraisal is not required. A healthcare staff member completes the health appraisal, which includes, but is not limited to, reviewing the inmate's medical record, examining the inmate for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and any follow-up services with inmates who require further treatment. The healthcare vendor collects and records inmates' health

11. According to WellPath's Policy HCD-100_E-02 (Receiving Screening), medical clearance is "a clinical assessment of physical and mental status before an individual is admitted into the facility. The medical clearance may come from the on-site health care staff or may require sending the individual to the hospital emergency room. The medical clearance is to be documented in writing."

12. The translation service provides support in 240 languages and is available 24 hours a day, 7 days a week, to BCSO correctional officers and medical staff members.

appraisal data in the inmate's medical record in CorEMR, which is approved by a qualified healthcare professional.¹³

Sick Call Requests

According to Section D of BCSO's Policy 602.02, "All inmates shall have the opportunity to request medical assistance by completing a Sick Call Request Form and submit it to the Health Services Department." During our audit period, BCSO's healthcare vendor administered the sick call process.

To request access to healthcare, an inmate completes a Sick Call Request Form that states the type of service requested (medical, dental, or mental health); the date the form is completed; and the nature of the problem or request. They also add their name, state identification number, date of birth, and signature. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a healthcare staff member during a medication pass, which occurs at least twice a day. Healthcare staff members pick up the Sick Call Request Forms daily to evaluate and triage the requests. Any request that requires the attention of the physician is attached to the inmate's medical record and given to the attending physician. Sick call are available to inmates five days a week and qualified healthcare professionals provide treatment according to clinical priorities and schedule follow-up appointments. All Sick Call Request Forms are filed in inmates' medical records in CorEMR.

13. According to Wellpath's Policy HCD-100_A-02, qualified healthcare professionals include "physicians, physician assistants, nurses, nurse practitioners, dentists, . . . mental health professionals, and others who by virtue of education, credentials, and experience are permitted by law to evaluate and care for patients."

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 Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021.

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

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

Objective	Conclusion
1. Did BCSO comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody?	Yes
2. Did BCSO hold quarterly meetings with the healthcare vendor and review quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services?	Yes
3. Did BCSO provide admission medical screenings to its inmates upon intake, and health appraisals within seven days after admission, in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care)?	No; see Finding <u>1</u>
4. Did inmates at BCSO receive medical care after submission of a Sick Call Request Form in accordance with Section D of BCSO's Policy 602.02?	Yes

To accomplish our objectives, we gained an understanding of BCSO's internal control environment related to the objectives by reviewing BCSO's internal control plan and applicable agency policies and procedures, as well as conducting interviews with BCSO management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the

supervisory controls on admission medical screenings. To obtain sufficient, appropriate audit evidence to address our audit objectives, we conducted the following audit procedures.

We inspected the list of inmate deaths from BCSO management for the audit period, which reflected one inmate who died in BCSO custody on January 25, 2020 and whose cause of death was reported as natural medical causes. To determine whether BCSO complied with 103 CMR 932.17(2) and its Policy 600.03 regarding the deaths of inmates in its custody, we performed the following procedures:

- We inspected BCSO's Policy 600.03 to determine whether BCSO has established guidelines that include the following, in accordance with the requirements of 103 CMR 932.17(2):
 - (a) internal notification to include medical and administrative staff;*
 - (b) procedures when discovering the body;*
 - (c) disposition of the body;*
 - (d) notification of next of kin;*
 - (e) notification of [Criminal Offender Record Information] certified individuals as soon as practicable;*
 - (f) investigation of causes;*
 - (g) reporting and documentation procedures;*
 - (h) procedure for review of the incident by appropriate designated staff with a final report submitted to all appropriate parties.*
- To determine whether BCSO complied with and implemented the requirements of 103 CMR 932.17(2) and its in-custody death guidelines in Policy 600.03, we performed the following:
 - We examined BCSO's internal notifications for the death in custody during our audit period to ensure that medical and administrative staff members were notified about the unresponsiveness of the inmate, resulting in immediate transportation to the hospital by ambulance.
 - We examined the incident report from BCSO's responding officer to ensure that correctional officers and medical staff members performed life-saving measures on the inmate, as appropriate. We also examined the incident report to ensure that BCSO was notified of the inmate's death and that the superintendent notified the inmate's next of kin.

-
- We asked BCSO management whether a Criminal Offender Record Information notification¹⁴ was needed.
 - We examined the Inmate Death Summary from Falmouth Hospital and the Correctional Electronic Medical Records (CorEMR) system report to determine whether the inmate's cause of death was listed as natural medical causes occurring under the direct care of medical staff and/or hospital care, in which case no further investigation of causes, mortality review, or clinical review were required.

To determine whether BCSO provided healthcare services in compliance with state regulations and its policies, we examined the minutes of all eight quarterly meetings of BCSO and its healthcare vendor that occurred during the audit period. We also examined the quarterly reports (such as risk management reports, infection control reports, and continuous quality improvement monitoring reports) and annual statistical summaries that the vendor provided to BCSO during the audit period.

To determine whether BCSO provided its inmates with admission medical screenings upon intake and health appraisals within seven days of admission, in accordance with Sections A and B of its Policy 602.02, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total population of 1,228 who were admitted to the Barnstable County Correctional Facility (BCCF) for more than seven days during the audit period. We performed the following tests:

- We examined the Medical Entrance Exam Report (for admission medical screenings) for each inmate in our sample to document the date and time it was completed and signed by a healthcare staff member. For inmates who refused the admission medical screening upon intake, we examined the signed inmate refusal form. We then calculated the number of hours after arrival at BCCF the inmate received the admission medical screening to determine whether inmates received the admission medical screening upon intake as required by Section A of BCSO's Policy 602.02.
- We examined each inmate's Physical Examination/Initial Chronic Disease Form (for health appraisals) to document the date and time it was completed and signed by a healthcare staff member. We then calculated the number of days after the inmate's arrival to BCCF the health appraisal was completed to determine whether inmates received the health appraisal within 7 days (or extended to 14 days in some cases) as required by Section B of BCSO's Policy 602.02 .

To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 602.02, we selected a statistical, random sample with a 95%

14. Criminal Offender Record Information notifications are made to victims of the inmate regarding a change of status, such as the inmate's release or death.

confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total population of 1,243 Sick Call Request Forms submitted by inmates during the audit period. We performed the following procedures:

- We examined each Sick Call Request Form submitted by an inmate and documented the date the form was completed by the inmate and the date it was signed by a healthcare staff member.
- We calculated the number of days between the submission date of the Sick Call Request Form and the date a healthcare staff member reviewed the Sick Call Request Form.
- We examined each Sick Call Request Form and the corresponding CorEMR sick call entry notes to determine whether the healthcare vendor (1) reviewed the Sick Call Request Form for the immediacy of need, (2) suggested treatment that was documented and attached to the inmate's medical record in CorEMR, and (3) referred problems beyond their scope to the appropriate provider.

Data Reliability Assessment

Offender Management System

To assess the reliability of the inmate data obtained from the Offender Management System (OMS), we interviewed BCSO information technology (IT) personnel who were responsible for oversight of the system. We tested the general IT controls, including access and account management controls [REDACTED]. We selected a random sample of 20 inmates from the list of inmates in OMS and agreed each full name, date of birth, booking date, gender, age, and race from the original source document (the mittimus). We also selected 20 random samples from hard copies of the mittimi and traced the inmates' same information (full name, date of birth, booking date, gender, age, and race) from them to OMS. In addition, we tested the inmate data for duplicate records and matched the death in custody list from OMS with the list the Office of the Chief Medical Examiner provided.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

CorEMR

We assessed the reliability of the sick call data obtained from CorEMR by conducting interviews with BCSO and Wellpath officials with knowledge about the data. We tested the general IT controls, including access and account management controls [REDACTED]. In addition, we tested the sick call data for duplicate records and for any errors to determine the data's integrity and confirm

the completeness and accuracy of it. Additionally, we matched the state identification numbers in CorEMR to the state identification numbers of inmates who were admitted during the audit period listed in OMS.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 Sick Call Request Forms from the sick call list in CorEMR and agreed the patient name, state identification number, date of request, and date of service by the healthcare vendor to the hardcopy Sick Call Request Forms filed by inmates. We also selected a random sample of 20 hardcopy Sick Call Request Forms and traced this information back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

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DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.

The Barnstable County Sheriff's Office (BCSO) did not ensure that all inmates' health appraisals were completed on time and that its health appraisals and admission medical screenings were documented. During the audit period, there were 1,228 inmates admitted to the Barnstable County Correctional Facility (BCCF) for 7 or more days, who were subject to an admission medical screening upon intake and a health appraisal between 7 and 14 days after admission. We found that 4 health appraisals in our statistical sample of 60 were not completed within 14 days of the inmates' admission to BCCF. Based on the results of our sample, we estimate, using statistical projection techniques, that the healthcare vendor did not complete between 24 and 196 health appraisals within the required timeframe.

In addition to the untimely completion of the health appraisals, BCSO did not ensure that its healthcare vendor documented Medical Entrance Exam Reports (for admission medical screenings) and Physical Examination/Initial Chronic Disease Forms (for health appraisals) in each inmate's medical file in the Correctional Electronic Medical Records (CorEMR) system. Specifically, we found that, out of a statistical sample of 94 inmates, 5 had no Medical Entrance Exam Reports in the system, and 3 of these 5 inmates had no Physical Examination/Initial Chronic Disease Forms in the system. Without these medical forms documented in CorEMR, there is no evidence that the admission medical screenings and health appraisals were completed.

Because BCSO does not ensure that its healthcare vendor completes the health appraisals within the required timeframe and documents each medical form in CorEMR, there is a higher-than-acceptable risk that inmates' medical issues are not identified and treated, ultimately affecting the health and safety of all BCSO inmates.

Authoritative Guidance

According to Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Healthcare),

A. ADMISSION MEDICAL SCREENING

1. *Every inmate, including transfers booked into the facility shall have an admission medical screening performed on arrival by a qualified health care professional. The findings of the screening shall be recorded in the electronic medical record by a member of the Health Services Department. . . .*

B. HEALTH APPRAISAL/PHYSICAL EXAMINATION . . .

- a. *Each inmate committed to the facility for 30 days or more shall receive a thorough physical examination and the examination shall take place no later than seven days after admission. This time frame may be extended to within 14 days of admission for cases in which the admission screening was completed by a physician, physician's assistant or a registered nurse.*

Reasons for Noncompliance

BCSO management stated that during the audit period, its healthcare vendor did not have enough staff members to complete the health appraisals.

BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings.

Recommendations

1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.
2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

Auditee's Response

The Barnstable County Sheriff's Office is actively seeking a solution to the problems we have encountered with our present medical vendor, Wellpath, which was contracted to provide medical care to our inmate population. Staffing is an on-going challenge not only for this vendor but for medical vendors and providers in general in Barnstable County. This leaves the BCSO with little option other than to reduce the payment owed to the vendor if the staffing matrix is not satisfied. The vendor's staffing is monitored daily by shift and evidence was provided during the audit. . . .

Addressing the statement of, "BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings", the Barnstable County Sheriff's Office has directly addressed [the

Office of the State Auditor's] concerns and we have been monitoring the health appraisals and admission medical screenings through the Audit and Compliance Department. We provided your office with evidence of this monitoring during the Audit. Over the course of the contract years with WellPath our own findings of non-compliance have been addressed directly with the multiple Health Service Administrators (HSAs) who were assigned to our facility as well as with the WellPath Administrators assigned to oversee the operations of the contracted medical care of our facility. We will continue to monitor the services provided by this vendor in order to ensure the contractual obligations are met and the vendor maintains an appropriate level of care for our inmate population.

Auditor's Reply

Based on its response, BCSO has taken measures after the audit period to address our concerns on this matter.

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[REDACTED]

[REDACTED]

[REDACTED]

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EXHIBIT G

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
C.A. No. 2384CV01076

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.,

Plaintiff,

v.

OFFICE OF THE STATE AUDITOR,

Defendant.

AFFIDAVIT OF JOSEPH C. ARGUIJO

I, Joseph C. Arguijo, being duly sworn, state as follows:

1. I am the Director of Judiciary and Law Enforcement Audit at the Office of the State Auditor (“OSA”).
2. In March 2023, in response to public record requests from the American Civil Liberties Union of Massachusetts, the OSA released redacted reports entitled “Plymouth County Sherriff’s Department – A Review of Healthcare and Inmate Deaths for the period July 11, 2019, through June 30, 2021” and “Bristol County Sherriff’s Office – A Review of Healthcare and Inmate Deaths for the period July 11, 2019, through June 30, 2021”.
3. Both reports had one section completely redacted, as well as redactions of references to that section in other parts of the report.
4. The redactions were made in order to protect information about cyber security whose disclosure, in the reasonable judgment of the records access officer, would jeopardize public safety and cyber security.

Signed under the pains and penalties of perjury this 13th day of October, 2023.

/s/ Joseph C. Arguijo
Joseph C. Arguijo

EXHIBIT H



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

May 19, 2023
SPR23/0745

Cole Cagle, Esq.
Assistant General Counsel
Office of the State Auditor
One Ashburton Place, Room 1819
Boston, MA 02108

Dear Attorney Cagle:

I have received the petition of Colman Herman appealing the response of the Office of the State Auditor (Office) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On March 25, 2023, Mr. Herman requested “the separate complete report” of the audit of the “Plymouth County Sheriff’s Department dated March 15, 2023.”

Previous Appeals

This request was the subject of previous appeals. See SPR23/0600 Determination of the Supervisor of Records (April 13, 2023, April 28, 2023) and SPR23/0745 Determination of the Supervisor of Records (April 28, 2023). In my April 28th determination, I ordered the Office to provide this office with an un-redacted copy of the responsive records for *in camera* inspection. The Office provided the records and I would like to thank the Office for its cooperation.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also *Dist. Att’y for the Norfolk Dist. v. Flatley*, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian

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must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

The Office's Responses

In its April 14, 2023 response, the Office cites Exemption (n) of the Public Records Law for redacting the responsive records. See G. L. c. 4, § 7(26)(n). The Office reiterates its claims under Exemption (n) in an email to Mr. Herman and this office on April 19, 2023.

Exemption (n)

Exemption (n) applies to:

records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (c) of section 10 of chapter 66, is likely to jeopardize public safety or cyber security.

G. L. c. 4, § 7(26)(n).

Exemption (n) allows for the withholding of certain records which if released would jeopardize public safety. The first prong of Exemption (n) examines “whether, and to what degree, the record sought resembles the records listed as examples in the statute;” specifically, the “inquiry is whether, and to what degree, the record is one a terrorist ‘would find useful to maximize damage.’” People for the Ethical Treatment of Animals (PETA) v. Dep’t of Agric. Res., 477 Mass. 280, 289-90 (2017).

The second prong of Exemption (n) examines “the factual and contextual support for the proposition that disclosure of the record is ‘likely to jeopardize public safety.’” Id. at 289-90. The PETA decision further provides that “[b]ecause the records custodian must exercise ‘reasonable judgment’ in making that determination, the primary focus on review is whether the custodian has provided sufficient factual heft for the supervisor of public records or the reviewing court to conclude that a reasonable person would agree with the custodian’s determination given the context of the particular case.” Id.

PETA also provides that “[t]hese two prongs of exemption (n) must be analyzed together, because there is an inverse correlation between them. That is, the more the record sought resembles the records enumerated in exemption (n), the lower the custodian’s burden in demonstrating ‘reasonable judgment’ and vice versa.” PETA, at 290.

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In its April 14th response, under Exemption (n), the Office argues that “the redactions include discussion of ‘records, including ... policies [and] procedures ... which relate to security measures, emergency preparedness [and] threat or vulnerability assessments.’” The Office further argues that “the audit report in question is of the Plymouth County Sheriff’s Department, a law enforcement agency, and there is a high likelihood that the redacted record ‘is one a terrorist would find useful to maximize damage.’” Additionally, the Office argues that “threat assessments are one of the specified types of records that were envisioned as protected by exemption (n).”

In its April 19, 2023 email to Mr. Herman and this office, the Office further argues the following:

First, the OSA affirms that the redacted information is among the types of information not only contemplated by the statute but specifically listed (threat or vulnerability assessments) in the statute.

...

Moreover, it is wholly reasonable to infer that that mere disclosure of this highly sensitive and confidential information that identifies “vulnerabilities and threats” is “likely to jeopardize public safety or cyber security” as required by Exemption (n).

In Camera Review

Following *in camera* inspection, and in conjunction with the Office’s response, I find that the Office has met its burden to redact the responsive records pursuant to Exemption (n) of the Public Records Law. See G. L. c. 4, § 7(26)(n).

Conclusion

Accordingly, I will consider this administrative appeal closed. If Mr. Herman is not satisfied with the resolution of this administrative appeal, please be advised that this office shares jurisdiction with the Superior Court of the Commonwealth. See G. L. c. 66, §§ 10(b)(ix), 10A(c) (pursuing administrative appeal does not limit availability of judicial remedies).

Sincerely,



Manza Arthur
Supervisor of Records

cc: Colman Herman

EXHIBIT I

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 15, 2023

**Plymouth County Sheriff’s Department—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 15, 2023

Joseph McDonald, Jr., Sheriff
Plymouth County Sheriff's Department
24 Long Pond Road
Plymouth, MA 02360

Dear Sheriff McDonald:

I am pleased to provide this performance audit of the Plymouth County Sheriff's Department. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

This version of the report is the limited version that we are issuing publicly; it excludes an issue that includes confidential information. As you are aware, we have given the agency a copy of the complete report.

I would also like to express my appreciation to the Plymouth County Sheriff's Department for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System
PCSD	Plymouth County Sheriff's Department

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 the Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether PCSD complied with the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the deaths of inmates in its custody¹
- whether PCSD held quarterly meetings with its healthcare vendor and reviewed the vendor's quarterly reports in accordance with 103 CMR 932.01(3) for inmates' healthcare services
- whether PCSD provided medical receiving screenings to its inmates upon arrival and intake physical examinations in accordance with Sections IV and VI of PCSD's Policy 630 (Medical Services)
- whether inmates at PCSD's correctional facility received medical care after submission of a sick call form in accordance with Section VIII of PCSD's Procedure 630 (Medical Services).

Our audit revealed no significant instances of noncompliance by PCSD that must be reported under generally accepted government auditing standards.

Our audit of PCSD identified one other issue, which has been omitted from this report in accordance with Exemption (n) of the Commonwealth's public records law, Section 7(26)(n) of Chapter 4 of the General Laws, which allows for the withholding of certain records, such as confidential and sensitive information, if their disclosure is likely to jeopardize public safety.

In accordance with Paragraphs 7.61–7.62 of the Government Accountability Office's Government Auditing Standards, as well as the policies of the Office of the State Auditor, for reporting confidential and sensitive information, we have given a separate, complete report to PCSD, which will be responsible for acting on our recommendations.

1. PCSD told us that if an inmate is in custody, it means that PCSD has the 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.

OVERVIEW OF AUDITED ENTITY

The Plymouth County Sheriff's Department (PCSD) was established as an independent state agency on January 1, 2010, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

All functions, duties and responsibilities of the office of a transferred sheriff pursuant to this act 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.

This act transferred to the Commonwealth all functions, duties, and responsibilities of PCSD, including assets, liabilities, debt, and potential litigation, except where specified. PCSD's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over PCSD.

According to PCSD's Internal Control Policy 301, its mission is to "protect the public from criminal offenders by operating a safe, secure and progressive correctional facility while committing to crime prevention awareness in the community."

As of June 30, 2021, PCSD had 602 active employees, which included 295 correctional officers. For fiscal years 2020 and 2021, PCSD's annual state appropriations were approximately \$58 million and \$65 million, respectively. PCSD also received the following funding to support its programs for these fiscal years.

Program	Fiscal Year 2020	Fiscal Year 2021	Total
Residential Substance Use Disorder	\$ 26,000	\$ 21,000	<u>\$ 47,000</u>
State Criminal Alien Assistance Program	196,642	196,642	<u>393,284</u>
Substance Use Disorder—Alcohol	56,000	0	<u>56,000</u>
High School Equivalency—Adult Basic Education	1,936	0	<u>1,936</u>
Total	<u>\$ 280,578</u>	<u>\$ 217,642</u>	<u>\$ 498,220</u>

PCSD is responsible for operating all aspects of its facilities, including the Plymouth County Sheriff's Administrative Building at 24 Long Pond Road in Plymouth. It also oversees the Plymouth County Correctional Facility at 26 Long Pond Road in Plymouth, which administers correctional and educational

services and programs for inmates. As of June 30, 2021, PCSD had 582 inmates, 204 of whom were pretrial detainees,² 106 of whom were sentenced, and 272 of whom were listed as other³ detainees.

According to PCSD's "Facility Narrative," a document describing the department and its programs, there are 11 different programs and services provided for inmates, which include the following:

- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- Enrichment, which includes acquired immunodeficiency syndrome education in inmates' housing units, human immunodeficiency virus classes during admission, and an incarcerated veteran transition program
- Vocational training in areas such as culinary arts, hospitality, and painting
- Religious services in Spanish, Portuguese, and English
- Re-entry services, which include providing counselors to inmates to assist them throughout their sentences; help them transition back into the community; and make referrals to community resources, such as housing assistance and job opportunities.

Offender Management System

PCSD uses a system called the Offender Management System (OMS) to track and manage information for inmates in its custody. The information maintained in this system includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁴ booking identification numbers,⁵ booking dates, release dates, release types,⁶ and in-custody housing assignments.⁷ During an inmate's admission process, PCSD's booking officer enters information from a mittimus⁸ into OMS.

2. A detainee is a person held in-custody before their trial.

3. Other detainees include United States Marshals Service and Immigration and Customs Enforcement detainees. PCSD has a contract with the federal government to hold detainees for these agencies.

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

5. A booking identification number is a unique number assigned by PCSD to an inmate upon their arrival to PCSD's facility.

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

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

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

Correctional Electronic Medical Records System

The Correctional Electronic Medical Records (CorEMR) System is a Web-based application that is used to record all health-related inmate information such as medical history, treatments, mental health status, medications, and scheduled appointments.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as PCSD's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or facility employees. In the case of an inmate's serious illness or injury while in PCSD's custody, the officers on duty notify all available correctional officers, and medical officers,⁹ to the scene to perform emergency medical aid. The communications department¹⁰ notifies external emergency services and the Massachusetts State Police. Upon arrival to the facility, the Massachusetts State Police secure the scene and conduct an investigation to determine the causes and manner of death, when applicable. Emergency services transfer the inmate to Beth Israel Deaconess Hospital in Plymouth. The superintendent notifies the inmate's next of kin.

Inmates are pronounced deceased at the hospital and then transferred to the Massachusetts Office of the Chief Medical Examiner. The office retrieves the body, conducts a postmortem exam,¹¹ and releases the body to the next of kin.

All officers who witnessed or responded to a death (or serious illness/injury) must complete an incident report to document their findings and experience.

Once all officers document and submit their incident reports, mortality and clinical reviews are conducted within 30 days of an inmate's death. PCSD has a clinical review team, which includes the health services administrator¹² and shift commander,¹³ performs a mortality review and/or in-depth clinical review. The clinical review, which is conducted for cases of suicide, is to determine whether changes in the inmate's

9. According PCSD Procedure 622, medical officers are "qualified health Care Professionals assigned to the Medical Unit who, under direct supervision of a licensed physician, provide health care services to inmates."

10. The communications department is staffed by employees of the facility. The communications department has radio communication devices and access to controls at PCSD's facility. All communication in and out of the facility goes through the communication department.

11. The postmortem exam is an examination of the deceased's body in order to determine the cause of death

12. The health services administrator is responsible for the organization and planning for the delivery of services in PCSD's Health Care Unit.

13. A shift commander is a correctional officer who has the duty for the security and care of inmates, as well as staff members.

clinical psychiatric management could have prevented the suicide. The superintendent also issues a summary of the incident and forwards it to the Sheriff. In addition, PCSD conducts a mortality review, in accordance with PCSD's Procedure 622 (Serious Illness, Injury & Death), to determine whether there was a pattern of symptoms that could have resulted in earlier intervention or diagnosis of mental illness. The superintendent creates a Final Death Packet with the summary of the incident and the clinical and mortality reviews, and then forwards it to the Sheriff.

Vendor Healthcare Services

During the audit period, PCSD contracted medical services from Correctional Psychiatric Services. This vendor works alongside PCSD-employed medical staff members to provide constant care to inmates. Correctional Psychiatric Services provides medications for inmates who are enrolled in PCSD's opioid use disorder program and provides dental services, vision services, and mental health services. All other healthcare services are provided by in-house medical officers, who are employed by PCSD.

Vendor Quarterly Meetings

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, the facility administrator, or a designee selected by PCSD at least quarterly and submit quarterly reports on the healthcare delivery system and the health environment, as well as annual statistical summaries.¹⁴ The healthcare vendor documents and maintains meeting minutes that document the quarterly meetings. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at PCSD.

Medical Receiving Screenings

According to Section 4 of PCSD Policy 630 (Medical Services), all PCSD inmates are required to have a medical receiving screening by a medical officer upon arrival. The purpose of the screening is to determine whether the inmate has any medical needs and whether any of those needs must be immediately addressed. The screening consists of questions about the inmate's medical history, medication history, mental health history, vaccine history, and more. It also includes a structured inquiry to identify potential

14. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

emergencies and to ensure that inmates with known illnesses, prescriptions, or other health needs are identified for further assessment and continued treatment while they are in custody.

A medical officer documents the medical receiving screening in the Medical Intake Screening Form, held in the inmate's medical record in CorEMR. The Medical Intake Screening Form is then approved by a qualified healthcare professional.

Intake Physical Examinations

According to PCSD's Policy 630, each inmate committed to the facility for 30 days or more is required to have a complete intake physical examination within 7 days of their arrival to the facility. This timeframe is extended to within 14 days of admission for cases in which the medical receiving screening was completed by a physician, physician's assistant, or registered nurse. No intake physical examination is needed if there is documented evidence of a medical examination within the previous 90 days or if an inmate leaves PCSD custody within 14 days.

A medical officer completes the intake physical examination, which includes, but is not limited to, reviewing the inmate's medical record, examining the inmate for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and scheduling any follow-up services with inmates who require further treatment. The medical officer collects inmates' medical information and records it in the inmate's medical record in CorEMR.

According to PCSD Policy 630, an inmate has the right to waive the intake physical examination by signing a Refusal of Medical Care Form. If an inmate is transferred from another correctional facility or returns to PCSD within three months of their last intake physical examination, their intake physical examination will be updated as needed.

Sick Calls

To request access to healthcare, an inmate fills out a Sick Call Request Form, which the medical officer scans and uploads as a Portable Document Format file into CorEMR. The Sick Call Request Form includes the type of service requested (medical, dental, or mental health), the date the form is completed, the nature of the problem or request, and their name. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a medical officer during a medication pass, which occurs at least twice a day.

Medical officers collect the Sick Call Request Form daily to evaluate and triage each request within 24 hours. Medical officers provide treatment and schedule follow-up appointments according to clinical priorities. According to PCSD Policy 630, "It is the policy of the Plymouth County Sheriff's Department that . . . sick call be conducted at least five (5) days each week by the licensed facility physician . . . in the Health Services Unit."

All Sick Call Request Form that are triaged as emergencies are responded to immediately, and problems beyond the medical officer's scope are referred to appropriate healthcare providers. The inmates' medical files are maintained in CorEMR.

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 Plymouth County Sheriff's Department (PCSD) for the period July 1, 2019, through June 30, 2021.

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 and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Did PCSD comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and PCSD's Policy 622 (Serious Illness, Injury & Death) regarding the deaths of inmates in its custody?	Yes
2. Did PCSD hold quarterly meetings with its healthcare vendor and review quarterly reports for inmates' healthcare services in accordance with 103 CMR 932.01(3)?	Yes
3. Did PCSD provide medical receiving screenings to its inmates upon admission, and intake physical examinations, in accordance with Sections IV and VII of PCSD's Policy 630 (Medical Services) and Sections IV and VII of PCSD's Procedure 630 (Medical Services)?	Yes
4. Did inmates at PCSD's facility receive medical care after submission of a Sick Call Request Form in accordance with Section XII of PCSD's Policy 630 and Section VII of PCSD's Procedure 630?	Yes

To accomplish our objectives, we gained an understanding of PCSD's internal control environment relevant to the objectives by reviewing PCSD's internal control plan and applicable policies and procedures, as well as conducting site visits and interviews with PCSD's management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the supervisory controls on initial intake health assessments. To obtain

sufficient, appropriate audit evidence to address our audit objectives, we conducted the following audit procedures.

We inspected the list of inmate deaths from PCSD management for the audit period, which reflected two inmates who died in PCSD custody on December 28, 2019 and March 16, 2021 and whose causes of death were reported as suicide and natural causes, respectively. To determine whether PCSD complied with 103 CMR 932.17(2) and PCSD's Policy 622 regarding the deaths of inmates in its custody, we performed the following procedures.

- We inspected PCSD's Policy 622 to determine whether PCSD has established guidelines that include the following, in accordance with the requirements of 103 CMR 932.17(2):
 - (a) internal notification to include medical and administrative staff;*
 - (b) procedures when discovering the body;*
 - (c) disposition of the body;*
 - (d) notification of next of kin;*
 - (e) notification of [Criminal Offender Record Information] certified individuals as soon as practicable;*
 - (f) investigation of causes;*
 - (g) reporting and documentation procedures;*
 - (h) procedure for review of the incident by appropriate designated staff with a final report submitted to all appropriate parties*
- To determine whether PCSD complied with and implemented the requirements of 103 CMR 932.17(2) and its in-custody death guidelines in Policy 622, we performed the following:
 - We inspected the Final Death Packets, which include an interoffice memorandum,¹⁵ mortality review meeting minutes, and emails, to determine whether medical and administrative staff members were notified.
 - We inspected the Final Death Packets, including the sections of incident reports by all PCSD officers who witnessed the inmate's death, to ensure that the appropriate parties were notified when officers discovered the body.

15. The interoffice memorandum includes a written summary of events to the superintendent and the Sheriff about an inmate's death.

-
- We inspected emails from PCSD to the Town of Plymouth, found in the Final Death Packets, that documented what happened to the bodies after they were autopsied to determine the disposition of the body.
 - We inspected emails from PCSD's assistant superintendent to the superintendent, found in the Final Death Packets, that recorded the notification of each inmate's next of kin to determine whether the next of kin was notified.
 - We inspected the Final Death Packets, specifically the mortality review meeting minutes and incident reports, to determine whether there was an investigation of causes for the deaths of the two inmates.
 - We inspected the Final Death Packets to determine whether the officers completed the incident reports.
 - We inspected the Final Death Packets, specifically the mortality review meeting minutes of the clinical review team, the incident reports, and the emails sent by the assistant superintendent to the superintendent, to determine whether appropriate, designated staff members reviewed the incident reports and whether the superintendent submitted final reports to the Sheriff.
 - We verified that each inmate's death was recorded in the Offender Management System (OMS) and inspected the date of when the mortality review was held with the involved officers. The date of death and date of review were compared to determine whether the mortality review was conducted within 30 days of the inmate's death.

To determine whether quarterly meetings were held with the healthcare vendor, we inspected the minutes of all eight quarterly meetings held during the audit period. We then examined the list of people who attended each meeting to ensure that the meeting was held between PCSD and its healthcare vendor. In addition, we obtained the annual statistical summaries for 2020 and 2021 submitted by the healthcare vendor to determine whether PCSD complied with 103 CMR 932.

To determine whether PCSD provided the healthcare services in compliance with state regulations and its own policies, we examined the minutes of all eight quarterly meetings of PCSD and its healthcare vendor, as well as all the reports (such as risk management reports, infection control reports, continuous quality improvement monitoring reports, and annual reviews) that the vendor provided to PCSD during the audit period.

To determine whether PCSD provided its inmates with initial medical receiving screenings upon admission, and intake physical examinations within 14 days after admission, in accordance with Sections IV and VII of PCSD's Policy 630, we selected a statistical, random sample with a 95% confidence level, 5%

tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total of 6,434 admissions to PCSD during the audit period. We performed the following procedures:

- We examined each inmate's Medical Intake Screening Form to document the date and time the form was completed and signed by a medical officer. For inmates who refused to receive the initial intake health assessment, we examined the signed Refusal of Medical Care Forms.
- According to PCSD Policy 630, inmates committed for more than 30 days are required to have intake physical examinations. We examined the Initial Physical Health Assessment Form to document the date and time it was completed and signed by a qualified healthcare professional. We then calculated the number of days after admission to determine whether inmates received intake physical examinations within 14 days as required by the policy.

To determine whether inmates received medical care after the submission of Sick Call Request Forms, in accordance with PCSD Policy 630, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total of 8,835 Sick Call Request Forms submitted by inmates during our audit period. To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with PCSD policy, we performed the following procedures:

- We examined the Sick Call Request Forms to ensure that a medical officer reviewed them and that the inmates were seen and treated.
- We calculated the number of days between the submission of the Sick Call Request Forms by inmates and the dates they were signed by a medical officer to ensure that all sick calls were reviewed within 24 hours after submission.

Data Reliability Assessment

OMS

To assess the reliability of the inmate data obtained from OMS, we interviewed head of the PCSD Information Technology (IT) Department, who is responsible for oversight of the system. We tested the general IT controls, including user access and account management controls. We selected a random sample of 20 inmates from the list of inmates in OMS and traced each full name and booking identification number to the original source document (the mittimus / United States Marshals Service Custody Form [USM 129 Individual Custody/Detention Report] / Immigration and Customs Enforcement Detainee Form [Order to Detain or Release Alien]). We also selected 20 random samples from hard copies of the mittimi and traced the same information from them to OMS. In addition, we

tested the inmate data for duplicate records and matched the death-in-custody list from OMS to the list that Office of the Chief Medical Examiner provided to us.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

Correctional Electronic Medical Records

To assess the reliability of the sick call data obtained from the Correctional Electronic Medical Records (CorEMR) System, we conducted interviews with PCSD personnel who had knowledge about the data. In addition, we matched the inmates' patient identification numbers¹⁶ from CorEMR to the state identification numbers of inmates who were admitted during our audit period in OMS. We also tested general IT controls, including user access and account management controls.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 sick calls from the sick call list in CorEMR and agreed each patient name and patient identification number to hard copies of Sick Call Request Forms submitted by inmates. We also selected a random sample of 20 hard copies of Sick Call Request Forms and traced patient name and patient identification number back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

Conclusion

Our audit revealed no significant instances of noncompliance that must be reported under generally accepted government auditing standards.

16. Each inmate is assigned a patient identification number in CorEMR, which is the same as each inmate's state identification number.

EXHIBIT J

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued March 16, 2023

**Barnstable County Sheriff’s Office—A Review of
Healthcare and Inmate Deaths**
For the period July 1, 2019, through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

March 16, 2023

Donna Buckley, Sheriff
Barnstable County Sheriff's Office
6000 Sheriff's Place
Bourne, MA 02532

Dear Sheriff Buckley:

I am pleased to provide this performance audit of the Barnstable County Sheriff's Office. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2019 through June 30, 2021. My audit staff discussed the contents of this report with the management of Barnstable County Sheriff's Office, whose comments are reflected in this report.

This version of the report is the limited version that we are issuing publicly; it excludes an issue that includes confidential information. As you are aware, we have given the agency a copy of the complete report.

I would also like to express my appreciation to the Barnstable County Sheriff's Office for the cooperation and assistance provided to my staff during the audit. This audit was conducted under the oversight of former State Auditor Suzanne M. Bump. However, I am available to discuss the audit if there are any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

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1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.	14

LIST OF ABBREVIATIONS

BCSO	Barnstable County Sheriff's Office
BCCF	Barnstable County Correctional Facility
CMR	Code of Massachusetts Regulations
CorEMR	Correctional Electronic Medical Records
IT	information technology
OMS	Offender Management System

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 the Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021. The objectives of this audit were to determine the following:

- whether BCSO complied with and implemented the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody¹
- whether BCSO held quarterly meetings with the healthcare vendor and reviewed quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services
- whether BCSO provided admission medical screenings² to its inmates upon intake and health appraisals within seven days of admission in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination)
- whether inmates at BCSO received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 602.02.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 14	BCSO did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.
Recommendations Page 15	<ol style="list-style-type: none">1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

Our audit of BCSO identified one other issue, which has been omitted from this report in accordance with Exemption (n) of the Commonwealth's public records law, Section 7(26)(n) of Chapter 4 of the General

-
1. BCSO told us that if an inmate is in custody, it means that BCSO 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. An admission medical screening is an assessment of an inmate's health needs, including mental health and/or medical conditions. It is conducted upon an inmate's arrival at the Barnstable County Correctional Facility.

Audit No. 2022-1443-3J
Executive Summary

Barnstable County Sheriff's Office

Laws, which allows for the withholding of certain records, such as confidential and sensitive information, if their disclosure is likely to jeopardize public safety.

In accordance with Paragraphs 7.61–7.62 of the Government Accountability Office's Government Auditing Standards, as well as the policies of the Office of the State Auditor, for reporting confidential and sensitive information, we have given a separate, complete report to BCSO, which will be responsible for acting on our recommendations.

OVERVIEW OF AUDITED ENTITY

The Barnstable County Sheriff's Office (BCSO) was established as an independent state agency on August 6, 2009, pursuant to Chapter 61 of the Acts of 2009. According to Section 4 of this chapter,

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

This transition was completed on January 1, 2010. BCSO's Sheriff became an employee of the Commonwealth but remained an elected official and retained administrative and operational control over BCSO. Under the Sheriff's direction, the facility's superintendent administers BCSO operations at the Barnstable County Correctional Facility (BCCF).

According to BCSO's internal control plan,

The mission of the Sheriff's Office is to "Protect the public from criminal offenders by operating a safe, secure and rehabilitative correctional facility, assisting local agencies and promoting public safety through our associated specialized services and enforcing the Laws of the Commonwealth of Massachusetts and the Constitution of the United States of America."

As of June 30, 2021, BCSO had 257 employees, including 151 full-time correction officers, working at BCCF. In fiscal years 2020 and 2021, BCSO's state appropriations were approximately \$36.8 million and \$33.5 million, respectively. In addition to its state appropriations, BCSO received the following federal funding to support its programs for these fiscal years.

Program/Grant	Fiscal Year 2020	Fiscal Year 2021	Total
Cops Anti-Heroin Task Force Program*	\$ 0	\$ 10,688	\$ 10,688
Crime Victims Assistance Programs Grant†	76,004	77,233	153,237
Homeland Security II Grant‡	2,433	0	2,433
Vivitrol Increased Participation Services Grant§	301,956	279,646	581,601
Total	\$380,393	\$ 367,567	\$747,959

* Cops Anti-Heroin Task Force Program funds were for overtime-related payroll expenditures of BCSO's officers conducting investigations as part of Federal Organized Crime Drug Enforcement Task Force investigations related to heroin, fentanyl, and prescription opioid trafficking.

† The Crime Victims Assistance Programs Grant supports victims of crime in the Barnstable county community.

‡ The Homeland Security II Grant was awarded in fiscal year 2019 to the BCSO Community Emergency Response Team Program to address disaster preparedness for hazards that may occur in Barnstable County. The fiscal year 2020 expenditure was a carryforward of these funds.

§ The Vivitrol Increased Participation Services Grant was a three-year grant, which ended on September 29, 2021, for the administration of Vivitrol, a medication used to treat substance use disorders, upon an inmate's release from BCCF.

BCSO is located at Joint Base Cape Cod in Bourne, which opened in 2004 and is used for the care and custody of pretrial and sentenced inmates. As of June 30, 2021, there were 165 inmates in BCSO custody, including 98 pretrial inmates, of whom 89 were male and 9 were female, and 67 sentenced inmates, of whom 62 were male and 5 were female.

BCCF houses a maximum of 588 inmates, who serve sentences of no more than two and a half years, in 12 housing units. Offenders at BCCF are assigned to one of three houses. House 1 comprises 3 units and holds pretrial detainees.³ House 2 comprises 5 units to hold female inmates, high-risk inmates,⁴ and inmates who break BCSO rules. House 3 comprises the remaining 4 units to hold sentenced male inmates.

According to its website, BCSO inmates and detainees are offered the following programs and services:

- A rehabilitation program, called the Residential Substance Abuse Treatment Program, which includes a Community Reentry Council that meets to facilitate referrals and resources for each inmate six weeks after their release from custody
- Education, which includes career counseling, literacy courses, and English courses (for English-language learners)
- A community relations program, which provides inmate labor for a wide variety of services in the community, including painting, landscaping, carpentry, roofing, siding, simple construction, and demolition.

The healthcare vendor provides healthcare, including mental health, services.

Offender Management System

BCSO uses a system called the Offender Management System (OMS) to track and manage information on inmates in its custody. The information includes inmates' names, genders, ethnicities, dates of birth, Social Security numbers, state identification numbers,⁵ booking numbers,⁶ booking dates, release dates, and in-custody housing assignments.⁷ During an inmate's admission process, BCSO's booking officer enters information from a mittimus⁸ into OMS.

3. A detainee is a person held in custody before their trial.

4. BCSO determines the risk level of an inmate based on their current offense, the severity of any prior convictions, any history of escapes and/or escape attempts, or any prior violent behavior.

5. A state identification number is a unique number assigned to an inmate from a court system.

6. A booking number is a unique number assigned by BCSO to an inmate upon their arrival to BCCF.

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

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

Correctional Electronic Medical Records

BCSO uses the Correctional Electronic Medical Records (CorEMR) system to manage inmates' medical records, appointment scheduling, and offsite healthcare.

Inmate Deaths

Section 932.17 of Title 103 of the Code of Massachusetts Regulations (CMR) requires county correctional facilities such as BCSO's to establish guidelines for notifications, investigations, reports, and documentation regarding the deaths of inmates or BCCF employees. According to its Policy 600.3 (Guidelines for Serious Illness, Injury or Death), in the event of an inmate's death, the employee who is first made aware of the incident notifies the Health Services Department, the shift supervisor, the contracted healthcare vendor, and healthcare staff members⁹ to report to the incident location. The notification order then follows the chain of command: The shift supervisor notifies the shift captain, who notifies the duty officer, and the duty officer notifies the superintendent. The superintendent then notifies the Sheriff, the Massachusetts Office of the Chief Medical Examiner, the District Attorney's office, and the Massachusetts State Police.

If there were no employees present at the time of the death, the superintendent conducts an internal investigation and submits a preliminary report to the Sheriff. The superintendent also submits a final report with a copy of the Office of the Chief Medical Examiner's report within five days of the incident to the Sheriff. In addition, the responding healthcare staff members complete incident reports and document the time they were notified, the time they arrived at the scene of the incident, the location of the incident, and the medical treatment / emergency medical aid provided (if any). Finally, the Cape and Islands Critical Incident Stress Team debriefs employees who responded to the death of an inmate.

Healthcare

During the audit period, healthcare at BCCF was contractually provided by two third-party vendors (Correctional Psychiatric Services from July 1, 2019 to November 2020 and Wellpath, LLC from November 2020 to June 30, 2021). At BCCF, these contractors accept overall responsibility of healthcare services, including medical, dental, and mental health services.

9. According to BCSO's healthcare vendor WellPath's Policy HCD-100_E-02 (Receiving Screening), healthcare staff members are "qualified health care professionals as well as administrative and supportive staff (e.g., health records administrators, laboratory technicians, nursing and medical assistants, and clerical workers)."

Attachment A of BCSO's Inmate Health Care Services Contract, dated October 28, 2020, outlines the following responsibilities of its healthcare vendor:

[The contractor] shall conduct an ongoing health and mental health education and training program for the BCSO staff in accordance with the needs mutually established by the BCSO and the contractor. . . .

[The contractor] will provide a healthcare delivery system that is specifically tailored to Barnstable County's needs and requirements. . . . [The contractor] will implement a managed care system that will promote efficiency and reduce cost by eliminating unnecessary services and encouraging preventive health measures in the patient population. . . . [The contractor's] staff will be responsible for identifying all patient healthcare needs and scheduling appropriate treatment, as well as coordinating all emergency and non-emergency on-site and off-site medical services.

According to the contract, BCSO's Medical Records Department monitors services provided by the healthcare vendor continuously. BCSO is also responsible for establishing effective policies and procedures, including policies and procedures about information technology security, for the healthcare vendor and its employees. The contract requires the healthcare vendor to meet quarterly with BCSO and submit quarterly healthcare reports about the overall operation of healthcare services to BCSO. Additionally, BCSO conducts background checks on healthcare vendor's proposed healthcare staff members providing services at BCCF to ensure that they do not constitute a security risk.

Administrative Oversight of Healthcare Services

According to 103 CMR 932.01(3), county correctional healthcare vendors must meet with the Sheriff, facility administrator, or a designee selected by BCSO at least quarterly and submit quarterly reports on the healthcare delivery system and health environment, as well as annual statistical summaries¹⁰ to BCSO. The healthcare vendor documents and maintains meeting minutes which is reviewed by BCSO staff at the next quarterly meeting. The meetings cover quality improvement, emergency drills, mortality review findings, and other statistical reports used to monitor trends in the delivery of healthcare at BCSO.

Admission Medical Screening

Section A of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care) requires an admission medical screening, which is documented with the Medical Entrance Exam Report, by a healthcare staff member for each inmate upon intake at BCCF before placement in the

10. The statistical summary contains data related to inmate health records and provides a comprehensive overview of medical services delivered to inmates during the year.

general population to ensure that their health needs are identified and addressed. The screening consists of a structured inquiry and observation to identify potential emergencies and to ensure that inmates with known illnesses, health needs, and medications are identified for further assessment and continued treatment while in custody. A healthcare staff member immediately records the findings of the screening upon completion in CorEMR. Upon arrival at BCCF, if an inmate is determined to be in an emergency condition, they are transported by either ambulance or BCSO transport vehicle to **Falmouth Hospital's** emergency department for evaluation and treatment. Any inmate who is determined to pose a serious risk of communicable or infectious disease is confined apart from the general population until they have medical clearance.¹¹

According to BCSO Policy 602.02, an inmate has the right to waive the admission medical screening by signing a Refusal of Medical Care Form.

Access to healthcare services is communicated both verbally and in writing to all inmates upon admission. Special procedures, including the use of a translation service,¹² ensure that inmates who may have difficulty communicating with employees understand how to access healthcare services.

Health Appraisal / Physical Examination

According to Section B of BCSO's Policy 602.02, each inmate committed to BCCF for 30 days or more is required to have a health appraisal, which is documented with the Physical Examination/Initial Chronic Disease Form, no later than 7 days after admission. This timeframe can be extended to 14 days if the admission medical screening was performed by a physician or registered nurse. If the inmate's medical file indicates that they received a health appraisal within the last 90 days at BCCF, the appraisal is not required. A healthcare staff member completes the health appraisal, which includes, but is not limited to, **reviewing the inmate's medical record, examining the inmate** for any signs of trauma (mental or physical) or disease, conducting medically indicated tests, and reviewing findings and any follow-up services with inmates who require further treatment. The healthcare vendor collects and records inmates' health

11. According to WellPath's Policy HCD-100_E-02 (Receiving Screening), medical clearance is "a clinical assessment of physical and mental status before an individual is admitted into the facility. The medical clearance may come from the on-site health care staff or may require sending the individual to the hospital emergency room. The medical clearance is to be documented **in writing.**"

12. The translation service provides support in 240 languages and is available 24 hours a day, 7 days a week, to BCSO correctional officers and medical staff members.

appraisal data in the inmate's medical record in CorEMR, which is approved by a qualified healthcare professional.¹³

Sick Call Requests

According to Section D of BCSO's Policy 602.02, "All inmates shall have the opportunity to request medical assistance by completing a Sick Call Request Form and submit it to the Health Services Department." During our audit period, BCSO's healthcare vendor administered the sick call process.

To request access to healthcare, an inmate completes a Sick Call Request Form that states the type of service requested (medical, dental, or mental health); the date the form is completed; and the nature of the problem or request. They also add their name, state identification number, date of birth, and signature. They submit the Sick Call Request Form by putting it in a secure lockbox in their housing unit or handing it directly to a healthcare staff member during a medication pass, which occurs at least twice a day. Healthcare staff members pick up the Sick Call Request Forms daily to evaluate and triage the requests. Any request that requires the attention of the physician is **attached to the inmate's medical record** and given to the attending physician. Sick calls are available to inmates five days a week and qualified healthcare professionals provide treatment according to clinical priorities and schedule follow-up appointments. All Sick Call Request Forms are **filed in inmates' medical records in CorEMR**.

13. According to Wellpath's Policy HCD-100_A-02, qualified healthcare professionals include "physicians, physician assistants, nurses, nurse practitioners, dentists, . . . mental health professionals, and others who by virtue of education, credentials, and experience are permitted by law to evaluate and care for patients."

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 Barnstable County Sheriff's Office (BCSO) for the period July 1, 2019 through June 30, 2021.

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

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

Objective	Conclusion
1. Did BCSO comply with and implement the requirements of Section 932.17(2) of Title 103 of the Code of Massachusetts Regulations (CMR) and Section B of BCSO's Policy 600.03 (Guidelines for Serious Injury, Illness or Death) regarding the deaths of inmates in its custody?	Yes
2. Did BCSO hold quarterly meetings with the healthcare vendor and review quarterly reports in accordance with 103 CMR 932.01(3) and Section A of BCSO's Policy 600.01 (Health Care/Health Services/Health Services Personnel/Emergency Health Care) for inmates' healthcare services?	Yes
3. Did BCSO provide admission medical screenings to its inmates upon intake, and health appraisals within seven days after admission, in accordance with Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Health Care)?	No; see Finding 1
4. Did inmates at BCSO receive medical care after submission of a Sick Call Request Form in accordance with Section D of BCSO's Policy 602.02?	Yes

To accomplish our objectives, we gained an understanding of BCSO's internal control environment related to the objectives by reviewing BCSO's internal control plan and applicable agency policies and procedures, as well as conducting interviews with BCSO management. We evaluated the design and implementation of the internal controls related to our audit objectives. We also tested the operating effectiveness of the

supervisory controls on admission medical screenings. To obtain sufficient, appropriate audit evidence to address our audit objectives, we conducted the following audit procedures.

We inspected the list of inmate deaths from BCSO management for the audit period, which reflected one inmate who died in BCSO custody on January 25, 2020 and whose cause of death was reported as natural medical causes. To determine whether BCSO complied with 103 CMR 932.17(2) and its Policy 600.03 regarding the deaths of inmates in its custody, we performed the following procedures:

- We inspected BCSO's Policy 600.03 to determine whether BCSO has established guidelines that include the following, in accordance with the requirements of 103 CMR 932.17(2):
 - (a) internal notification to include medical and administrative staff;*
 - (b) procedures when discovering the body;*
 - (c) disposition of the body;*
 - (d) notification of next of kin;*
 - (e) notification of [Criminal Offender Record Information] certified individuals as soon as practicable;*
 - (f) investigation of causes;*
 - (g) reporting and documentation procedures;*
 - (h) procedure for review of the incident by appropriate designated staff with a final report submitted to all appropriate parties.*
- To determine whether BCSO complied with and implemented the requirements of 103 CMR 932.17(2) and its in-custody death guidelines in Policy 600.03, we performed the following:
 - We examined BCSO's internal notifications for the death in custody during our audit period to ensure that medical and administrative staff members were notified about the unresponsiveness of the inmate, resulting in immediate transportation to the hospital by ambulance.
 - We examined the incident report from BCSO's responding officer to ensure that correctional officers and medical staff members performed life-saving measures on the inmate, as appropriate. We also examined the incident report to ensure that BCSO was notified of the inmate's death and that the superintendent notified the inmate's next of kin.

-
- We asked BCSO management whether a Criminal Offender Record Information notification¹⁴ was needed.
 - We examined the Inmate Death Summary from Falmouth Hospital and the Correctional Electronic Medical Records (CorEMR) system report to determine whether the inmate's cause of death was listed as natural medical causes occurring under the direct care of medical staff and/or hospital care, in which case no further investigation of causes, mortality review, or clinical review were required.

To determine whether BCSO provided healthcare services in compliance with state regulations and its policies, we examined the minutes of all eight quarterly meetings of BCSO and its healthcare vendor that occurred during the audit period. We also examined the quarterly reports (such as risk management reports, infection control reports, and continuous quality improvement monitoring reports) and annual statistical summaries that the vendor provided to BCSO during the audit period.

To determine whether BCSO provided its inmates with admission medical screenings upon intake and health appraisals within seven days of admission, in accordance with Sections A and B of its Policy 602.02, we selected a statistical, random sample with a 95% confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 inmates out of a total population of 1,228 who were admitted to the Barnstable County Correctional Facility (BCCF) for more than seven days during the audit period. We performed the following tests:

- We examined the Medical Entrance Exam Report (for admission medical screenings) for each inmate in our sample to document the date and time it was completed and signed by a healthcare staff member. For inmates who refused the admission medical screening upon intake, we examined the signed inmate refusal form. We then calculated the number of hours after arrival at BCCF the inmate received the admission medical screening to determine whether inmates received the admission medical screening upon intake as required by Section A of BCSO's Policy 602.02.
- We examined each inmate's Physical Examination/Initial Chronic Disease Form (for health appraisals) to document the date and time it was completed and signed by a healthcare staff member. We then calculated the number of days after the inmate's arrival to BCCF the health appraisal was completed to determine whether inmates received the health appraisal within 7 days (or extended to 14 days in some cases) as required by Section B of BCSO's Policy 602.02 .

To determine whether inmates received medical care after submission of Sick Call Request Forms in accordance with Section D of BCSO's Policy 602.02, we selected a statistical, random sample with a 95%

14. Criminal Offender Record Information notifications are made to victims of the inmate regarding a change of status, such as the inmate's release or death.

confidence level, 5% tolerable rate, and 0% expected error rate. Our sample consisted of 60 Sick Call Request Forms out of a total population of 1,243 Sick Call Request Forms submitted by inmates during the audit period. We performed the following procedures:

- We examined each Sick Call Request Form submitted by an inmate and documented the date the form was completed by the inmate and the date it was signed by a healthcare staff member.
- We calculated the number of days between the submission date of the Sick Call Request Form and the date a healthcare staff member reviewed the Sick Call Request Form.
- We examined each Sick Call Request Form and the corresponding CorEMR sick call entry notes to determine whether the healthcare vendor (1) reviewed the Sick Call Request Form for the immediacy of need, (2) suggested treatment that was documented and attached to the inmate's medical record in CorEMR, and (3) referred problems beyond their scope to the appropriate provider.

Data Reliability Assessment

Offender Management System

To assess the reliability of the inmate data obtained from the Offender Management System (OMS), we interviewed BCSO information technology (IT) personnel who were responsible for oversight of the system. We tested the general IT controls, including access and account management controls. We selected a random sample of 20 inmates from the list of inmates in OMS and agreed each full name, date of birth, booking date, gender, age, and race from the original source document (the mittimus). We also selected 20 random samples from hard copies of the mittimi and traced the inmates' same information (full name, date of birth, booking date, gender, age, and race) from them to OMS. In addition, we tested the inmate data for duplicate records and matched the death in custody list from OMS with the list the Office of the Chief Medical Examiner provided.

Based on the results of these data reliability procedures, we determined that the OMS data were sufficiently reliable for the purposes of our audit.

CorEMR

We assessed the reliability of the sick call data obtained from CorEMR by conducting interviews with BCSO and Wellpath officials with knowledge about the data. We tested the general IT controls, including access and account management controls. In addition, we tested the sick call data for duplicate records and for any errors to determine the data's integrity and confirm the completeness

and accuracy of it. Additionally, we matched the state identification numbers in CorEMR to the state identification numbers of inmates who were admitted during the audit period listed in OMS.

To confirm the completeness and accuracy of the sick call data in CorEMR, we selected a random sample of 20 Sick Call Request Forms from the sick call list in CorEMR and agreed the patient name, state identification number, date of request, and date of service by the healthcare vendor to the hardcopy Sick Call Request Forms filed by inmates. We also selected a random sample of 20 hardcopy Sick Call Request Forms and traced this information back to the sick call list in CorEMR.

Based on the results of these data reliability procedures, we determined that the CorEMR data were sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Barnstable County Sheriff's Office did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings.

The Barnstable County Sheriff's Office (BCSO) did not ensure that all inmates' health appraisals were completed on time and that its health appraisals and admission medical screenings were documented. During the audit period, there were 1,228 inmates admitted to the Barnstable County Correctional Facility (BCCF) for 7 or more days, who were subject to an admission medical screening upon intake and a health appraisal between 7 and 14 days after admission. We found that 4 health appraisals in our statistical sample of 60 were not completed within 14 days of the inmates' admission to BCCF. Based on the results of our sample, we estimate, using statistical projection techniques, that the healthcare vendor did not complete between 24 and 196 health appraisals within the required timeframe.

In addition to the untimely completion of the health appraisals, BCSO did not ensure that its healthcare vendor documented Medical Entrance Exam Reports (for admission medical screenings) and Physical Examination/Initial Chronic Disease Forms (for health appraisals) in each inmate's medical file in the Correctional Electronic Medical Records (CorEMR) system. Specifically, we found that, out of a statistical sample of 94 inmates, 5 had no Medical Entrance Exam Reports in the system, and 3 of these 5 inmates had no Physical Examination/Initial Chronic Disease Forms in the system. Without these medical forms documented in CorEMR, there is no evidence that the admission medical screenings and health appraisals were completed.

Because BCSO does not ensure that its healthcare vendor completes the health appraisals within the required timeframe and documents each medical form in CorEMR, there is a higher-than-acceptable risk that inmates' medical issues are not identified and treated, ultimately affecting the health and safety of all BCSO inmates.

Authoritative Guidance

According to Sections A and B of BCSO's Policy 602.02 (Admission Medical Screening/Health Appraisal and Examination/Access to Healthcare),

A. ADMISSION MEDICAL SCREENING

1. *Every inmate, including transfers booked into the facility shall have an admission medical screening performed on arrival by a qualified health care professional. The findings of the screening shall be recorded in the electronic medical record by a member of the Health Services Department. . . .*

B. HEALTH APPRAISAL/PHYSICAL EXAMINATION . . .

- a. *Each inmate committed to the facility for 30 days or more shall receive a thorough physical examination and the examination shall take place no later than seven days after admission. This time frame may be extended to within 14 days of admission for cases in which the admission screening was completed by a physician, physician's assistant or a registered nurse.*

Reasons for Noncompliance

BCSO management stated that during the audit period, its healthcare vendor did not have enough staff members to complete the health appraisals.

BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings.

Recommendations

1. BCSO should establish monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings. Specifically, BCSO should designate an employee to monitor the healthcare vendor's completion of health appraisals and documentation of health appraisals and admission medical screenings.
2. BCSO should ensure that its healthcare vendor has enough staff members to complete the health appraisals.

Auditee's Response

The Barnstable County Sheriff's Office is actively seeking a solution to the problems we have encountered with our present medical vendor, Wellpath, which was contracted to provide medical care to our inmate population. Staffing is an on-going challenge not only for this vendor but for medical vendors and providers in general in Barnstable County. This leaves the BCSO with little option other than to reduce the payment owed to the vendor if the staffing matrix is not satisfied. The vendor's staffing is monitored daily by shift and evidence was provided during the audit. . . .

Addressing the statement of, "BCSO has not established any monitoring controls to ensure that its healthcare vendor completes health appraisals on time and documents the health appraisals and admission medical screenings", the Barnstable County Sheriff's Office has directly addressed [the

Office of the State Auditor's] concerns and we have been monitoring the health appraisals and admission medical screenings through the Audit and Compliance Department. We provided your office with evidence of this monitoring during the Audit. Over the course of the contract years with WellPath our own findings of non-compliance have been addressed directly with the multiple Health Service Administrators (HSAs) who were assigned to our facility as well as with the WellPath Administrators assigned to oversee the operations of the contracted medical care of our facility. We will continue to monitor the services provided by this vendor in order to ensure the contractual obligations are met and the vendor maintains an appropriate level of care for our inmate population.

Auditor's Reply

Based on its response, BCSO has taken measures after the audit period to address our concerns on this matter.

EXHIBIT K

Senate Committee on Ways and Means
Senator Karen E. Spilka, Chair

HOUSE 3858: **AN ACT IMPROVING THE ADMINISTRATION AND ENFORCEMENT OF THE PUBLIC RECORDS LAW**
(summary reflects text as redrafted)

LEGISLATIVE HISTORY: 11/18/15 Reported from the Committee on House Ways and Means as a new draft of H.3665; ordered to a third reading, rules suspended, read third; several amendments adopted; passed to be engrossed (157 Yeas to 0 Nays); and referred to the Committee on Senate Ways and Means

EXISTING LAWS

AFFECTED: M.G.L. c.4 §7 and c.66 §§ 3 and 10

PROPOSED

- LEGISLATION:**
- Clarifies that records relating to the cyber-security of systems in the commonwealth may be exempted from classification as public records.
 - Provides technical updates to cross-references.
 - Requires the supervisor of public records to publish educational materials or guides to foster awareness and compliance with the public records law.
 - Updates the definition of a record to reflect that a public record may be made by electronic means.
 - Requires state government entities and municipalities to designate a record access officer.
 - Requires record access officers to coordinate the response and timely and thorough production of public records requests.
 - Requires records access officers to prepare guidelines or reference materials that enable requestors to make informed public records requests.
 - Requires government entities to conspicuously post business contact information for records access officers.
 - Requires public records be provided by electronic means unless otherwise requested or unless the public record is not available in

Senate Committee on Ways and Means
Senator Karen E. Spilka, Chair

electronic form.

- Requires public records be provided, to the extent feasible, in a requestor's preferred format and in a searchable, machine readable format.
- Clarifies that a government entity is not required to create a new public record in order to comply with a public records request.
- Specifies that government entities may furnish public records by posting the public records on a searchable, appropriately indexed public website and providing reasonable assistance in locating the record on the website.
- Requires state entities to document and track public record requests.
- Requires the supervisor of records to document and track all public records requests appealed to the supervisor of records.
- Eliminates certain outdated references to fees that apply to public record requests submitted to the State Police, the Massachusetts Bay Transportation Authority Police, or any municipal police or fire department.
- Increases the time, from 10 to 15 days, in which a government entity must comply with requests for public records absent a showing that the request unduly burdens the responsibilities of the government entity such that compliance in 15 days is not feasible.
- Requires government entities unable to comply in 15 days with the request to issue a written response to the requestor within 10 days of receipt of the request.
- Requires the written response to include several provisions, including a detailed statement why the request could not be complied with in 15 days, an itemized estimate of any fees that may be charged, and an offer to assist the requestor to modify the scope of the request to enable the records to be produced more efficiently and affordably.
- Further requires the response to include a reasonable time in which the records will be produced, but that time cannot exceed 30 days

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from when the government entity received the request unless the requestor and the government entity agree in writing to establish a time beyond 30 days.

- Authorizes a government entity to petition the supervisor of records for an extension beyond 30 days of receipt of the request if the magnitude or difficulty of the request unduly burdens the other responsibilities of the entity such that compliance is not feasible.
- Authorizes the supervisor of public records to grant a single 30 day extension beyond 30 days of the receipt of the request by the government entity if the government entity has proven it has good cause for the extension, unless the request is part of a series of requests designed to intimidate or harass the government entity and not intended for the dissemination of actual or alleged government activity, in which case the supervisor or records could grant an extension beyond 30 days.
- Requires the supervisor of records, when considering if the government entity has proven good cause for an extension, to consider certain factors, including the need to search for and examine records, the capacity of the government entity to produce the record without an extension, and the public interest served by expeditious disclosure.
- Requires government entities provide public records upon payment of a reasonable fee not to exceed the actual cost of reproducing the record.
- Limits charges for standard black and white paper copies or printouts to 5 cents per page.
- Specifies that state entities shall not charge for the first 4 hours of employee time spent working on each public records request.
- Specifies that state entities may charge, after the first 4 hours, an hourly rate equal to or less than the rate of the lowest paid employee capable of producing the record, but not to exceed \$25 per hour.
- Specifies that municipalities shall not charge for the first 2 hours of employee time spent working on each public records request.

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- Specifies that municipalities may charge, after the first 2 hours, an hourly rate equal to or less than the rate of the lowest paid employee capable of producing the record, but not to exceed \$25 per hour unless the rate is approved by the supervisor of records.
- Specifies that government entities may not charge for time spent segregating or redacting records unless the segregation or redaction is required by law or approved by the supervisor of records.
- Authorizes the supervisor of records to approve redaction charges or a rate from a municipality in excess of \$25 per hour if the charge is made in good faith, is necessary for the prudent completion of the request, and is not designed to deter access to public records.
- Authorizes government entities to waive or reduce any fees charged to a requestor if the request is in the public interest or the requestor lacks the financial ability to pay the reasonable fee.
- Prohibits a government entity from charging any fee for a public record unless it furnished the public record in 15 days or responded to the request in 10 days.
- Authorizes a public records requestor to petition the supervisor of records for timely and appropriate relief if the requestor believes a government entity violated the requirements of the public records law and requires the supervisor of records to issue a determination on the matter in 15 days.
- Requires the supervisor of records to notify the Attorney General if a government entity fails to comply with an order from the supervisor of records and gives the Attorney General authority to take necessary measures to ensure compliance with the public records law.
- Authorizes a requestor to initiate a civil action against a government entity in superior court to enforce the requirements of the public records law.
- Requires the superior court to expedite public record proceedings when feasible.

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Senator Karen E. Spilka, Chair

- States that a superior court shall award reasonable attorney fees when a requestor obtains relief through a judicial order or consent decree unless the government entity reasonably relied on an opinion of the supervisor of records, the Attorney General, or an appellate court, or unless the request was designed to harass or made for a private or commercial purpose unrelated to disseminating information about government activity.
- Authorizes the superior court to award reasonable attorney fees if the requestor obtains relief through a voluntary or unilateral change in position by the government entity.
- Requires the superior court to issue written findings specifying the basis for not awarding reasonable attorney fees.
- Requires the superior court to order a government entity to waive any fee assessed for producing a public record if the requestor receives reasonable attorney fees from the court, and authorizes the court to order the waiver of any fee assessed if the requestor obtains relief but does not receive attorney fees.
- Requires the superior court to issue written findings specifying the basis for not ordering the waiver of fees assessed if the requestor obtains relief.
- Requires a government entity that did not act in good faith to pay punitive damages between \$1,000 and \$5,000 if a requestor has obtained judgment in superior court.
- Directs any punitive damages paid to be expended to support municipal improvements to the information technology capabilities of a municipality to foster best practices and compliance with the public records law.
- Directs government entities, when designing or acquiring electronic recordkeeping systems or databases, to ensure to the extent feasible that the system or database is capable of providing data in an electronic machine readable format and to allow for storage and retrieval methods that provide maximum public access.
- Requires state entities to provide on a searchable website certain public records and other public record information of significant

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Senator Karen E. Spilka, Chair

interest.

- Directs the State Comptroller to issue guidance on state entities accessing the centralized accounting or payroll systems or associated data warehouses to ensure that data prohibited from disclosure is not wrongfully disclosed.
- Requires municipalities, to the extent feasible, to post certain commonly available public record documents on a website maintained by the municipality.

ESTIMATED

COST:

The cost of this bill shall be borne through existing appropriation.

EXHIBIT L

Audio File Transmitted via Email

EXHIBIT M

Senators outline bill overhauling public records law (with audio)

By Andy Metzger State House News Service Jan 28, 2016



BOSTON — Legislation that strengthens access to state and municipal public records unanimously cleared a key Senate committee ahead of a Senate floor debate next week.

"This is a very strong bill. We are very pleased with what the Senate has done," Common Cause of Massachusetts Executive Director Pam Wilmot told reporters after a presentation on the legislation in the Senate Reading Room on Thursday. She said, "It will put teeth in the law and restrict costs" of obtaining government records.

Senators said the legislation (S 2120) would modernize a law that was essentially unchanged since its passage roughly four decades ago.

Other controversial items, such as subjecting the Legislature or the governor's office to the public records law, were not included in the Senate bill.

"We recognize that there needs to be a lot of information and discussion as to how something like that might be implemented, so we are reserving that for discussion and debate among us and we will see what happens," Spilka said of the notion that lawmakers would be subject to demands for their records.

"The scope of this bill from day one is to get current the public records law to work," said Sen. Jason Lewis, a Winchester Democrat.

[LISTEN: Senators outline public records bill](#)

The bill cleared the Ways and Means Committee with all 17 members voting in favor of it. Senators will have until Monday at 5 p.m. to file amendments ahead of next Thursday's floor debate.

The House in November passed a bill (H 3858) that follows many of the same contours as the Senate version unveiled Thursday, though Wilmot said the Senate bill is stronger and groups backing strong records reforms would need to "put pressure" on lawmakers to "take as much as the Senate version as possible" for inclusion in the final version.

The House bill included a provision to study the "constitutionality and practicality of subjecting the general court, the executive office of the governor and the judicial branch to the public records law."

"That was never the purpose of the bill," Wilmot said, saying she hoped the final version includes a commission to study the idea of applying the records law to lawmakers. She said, "The other states that subject the legislatures to the public records law have a billion exemptions."

The Massachusetts Municipal Association objected to an earlier version of the bill on the grounds that it would burden localities but did not oppose the bill that cleared the House. John Robertson, legislative director for the association, said Thursday he had not yet had a chance to review the text.

Wilmot said the House version established a 30-day statute of limitations to challenge a denial of a records request in court, which the Senate version does not include. Both House and Senate bills would allow for attorney fees for someone who successfully sues for access, and the Senate bill would make the award of fees mandatory except under certain circumstances.

EXHIBIT N

ACLU sues state auditor for access to redacted information in prisoner health reports

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Body

ABSTRACT

Two months after state Auditor Diana DiZoglio stirred controversy on Beacon Hill by announcing plans for a wide-ranging review of the Legislature, the ACLU is demanding greater transparency from DiZoglio's office, alleging in a lawsuit that her staff won't release complete reports on deaths and health care access at two state prisons.

FULL TEXT

The ACLU of Massachusetts is demanding greater transparency from state Auditor Diana DiZoglio's office, alleging in a lawsuit that her staff won't release complete reports on deaths and health care access at two state prisons.

But DiZoglio insists that the information that was withheld had nothing to do with prisoner health care and says she could have explained that if the ACLU had just asked.

In March, DiZoglio released a pair of incomplete reports on people incarcerated by the Plymouth and Barnstable sheriffs' departments and later withheld the full reports after the ACLU filed a public records request seeking the missing information, according to the suit filed Tuesday in Suffolk Superior Court.

One issue DiZoglio's office identified was omitted in both public reports, with her staff citing "confidential information." In the full reports released to the ACLU, that issue is "completely redacted," including in the table of contents, so that it is impossible to know what it is, according to Daniel McFadden, a staff attorney at the American Civil Liberties Union of Massachusetts.

"We are concerned because prisoners are in a vulnerable situation where they are dependent on the state to provide them with all necessary services, including health care," McFadden said in an interview. "It is certainly very concerning that the auditor appears to have identified some type of issue with the way that prisoners are able to access or take advantage of health care,

ACLU sues state auditor for access to redacted information in prisoner health reports

and that the public is not being informed as to what that issue is or whether or not it's been corrected."

DiZoglio's office justified withholding the missing information by citing an exemption to the state's public records law that "shields records that a terrorist would find useful to maximize damage," according to the complaint filed in the case.

"It does not shield information concerning the administration of healthcare services in the houses of correction," the lawsuit says.

The suit asks a judge to order DiZoglio's office to provide a reason for not releasing the information, to order the records released, and to require the auditor's office to pay the ACLU's attorney fees and costs.

DiZoglio said Wednesday that the information was withheld because it relates to cybersecurity, and the law was properly applied.

"Had ACLU leaders simply called to meet up with me for a coffee or have a conversation regarding their concerns before taking to Twitter, filing in court, and calling the press - I would've had the opportunity to potentially help alleviate some of their concerns and provide the additional clarity they seek," she said in a statement.

With cybercrime on the rise and government agencies frequently targeted, DiZoglio's office "has a new IT audit unit dedicated to auditing information technology with a focus on cybersecurity in state agencies," she said.

"Carelessly publicizing identified cybersecurity challenges found within state systems puts those systems at risk," DiZoglio said. "If current ACLU leaders disagree with the law in this regard and believe we should instead publicize specific cybersecurity risks - they are, of course, welcome to make that case in court. In the meantime, I remain available for conversations regarding this matter."

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EXHIBIT O

CAPE COD TIMES

NEWS

Safety of Barnstable inmates in question as ACLU sues the state. Here's what we know.



Rachael Devaney

Cape Cod Times

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EDITOR'S NOTE: On May 17, 2023, a date in the photo caption was corrected.

In a lawsuit filed May 9, the American Civil Liberties Union Massachusetts accused the Office of the State Auditor of illegally withholding audit reports regarding prisoner deaths and health care at the Barnstable County Sheriff's Office and the Plymouth County Sheriff's Department, according to court documents.

The state auditor's office issued two reports, according to the Massachusetts office of the ACLU, "Barnstable County Sheriff's Office - a Review of Healthcare and Inmate Deaths," on March 16 and "Plymouth County Sheriff's Department - a Review of Healthcare and Inmate Deaths," on March 15, covering July 1, 2019 through June 30, 2021.

What did the audit say about the Barnstable County Sheriff's Office?

For the Barnstable County Sheriff's Office report specifically, the 20-page performance audit report delineated only one finding: that the sheriff's office "did not ensure that its inmates received health appraisals on time and that it documented the health appraisals and admission medical screenings." For that finding, the audit recommended that the sheriff's office ensure that the healthcare vendor completes health appraisals on time, documents the health appraisals and admission medical screenings, and has enough staff to do the job.

The audit of the Barnstable office identified one other issue, which was omitted from the report by citing an exemption in the state's public records law. The full report, with no omissions, was provided to the sheriff's office, the audit report stated.

The audit report was sent to Barnstable County Sheriff Donna Buckley on March 16, according to the report. Buckley took office on Jan. 4, replacing former Barnstable County Sheriff James Cummings, who held the job for 24 years.

The statewide ACLU characterized the Barnstable and Plymouth reports as incomplete. Within those reports, the auditor's office made reference to an issue that could impact the health and safety of inmates. The issue referenced was redacted, according to court documents.

Health concerns heightened at the Barnstable County Correctional Facility in Bourne.

From 2017 to September 2022, there were four suicides and 63 attempted suicides at the Barnstable County Correctional Facility, according to Cummings in 2022. Three deaths by suicide occurred in 2022, in June and mid-August.

Response to ACLU public records request was heavily redacted.

The ACLU responded with a public records request for the complete reports, and the Office of the State Auditor then produced heavily redacted versions of the report, which didn't describe the redacted issue, according to Daniel McFadden, staff attorney at the ACLU.

McFadden was not available to speak directly to the Times on Friday.

“Even if there is underlying confidential information that informed the audits, the audit results should not be confidential,” said McFadden in a press release. “Our government should always strive for transparency and openness — especially when it relates to the life and death of people in its custody.”

The lawsuit, filed in Suffolk County Superior Court, demands complete audit reports.

Because the Barnstable County Sheriff's Office isn't a party in the lawsuit, Buckley, the current Barnstable County sheriff, said in an email that all questions must be sent to state auditors and the ACLU.

Is the redaction related to the health and safety of inmates?

State Auditor Diana DiZoglio said the redacted information included in both reports has nothing to do with inmate healthcare, and instead pertains to cybersecurity.

"Cybercrimes are on the rise, and we continue to see governments at all levels subjected to cyber attacks due to the evolving sophistication of attackers," said DiZoglio in an emailed statement. "That's why our office has a new IT audit unit dedicated to auditing information technology with a focus on cybersecurity in state agencies."

Auditor says the lawsuit was unnecessary. Her office learned about it from ACLU's Twitter feed.

DiZoglio said the Office of the State Auditor learned of the lawsuit pending against them through the Massachusetts ACLU's Twitter feed. She called the lawsuit unnecessary and said her office wasn't given the opportunity to alleviate the ACLU's concerns and provide clarity, before the lawsuit was filed.

Exclusive in 2022: Three people die in 8 weeks at Barnstable County jail. Here's what we know

"Carelessly publicizing identified cybersecurity challenges found within state systems puts those systems at risk," she said. "If current ACLU leaders disagree with the law in this regard and believe we should instead publicize specific cybersecurity risks — they are, of course, welcome to make that case in court."

ACLU officials said the Office of the State Auditor justified its redactions with a reference to a public records law exemption and have not explained how this exemption would apply to information concerning the health care for incarcerated people.

DiZoglio said she remains available to speak directly with ACLU officials.

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