

OSA TODAY

Office of the
State Auditor



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From the Desk of

A. Joseph DeNucci

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As you know, my top priority in public life has been advocating for the needs of those who truly need services from government. Going back to my days as House Chairman of the Committee on Human Services and Elderly Affairs, and subsequently as State Auditor, I have fought to protect the interests of low-income and working families, the young, the old, the disabled. One of the biggest reasons I ran for State Auditor was to make sure that the programs I fought for as a state legislator were working as intended.

I am proud of what we have been able to accomplish toward that goal. A good example is the audit on public housing in the Commonwealth that we issued earlier this month. Our audit found that chronic shortfalls in state funding for housing authorities has led to serious deterioration in the physical condition of many public housing units across the Commonwealth. I am hopeful that this audit, by bringing the public's attention to the consequences of such neglect, will lead to more

realistic funding of state subsidies that meet the real needs of housing authorities, many of which have been forced to delay much-needed maintenance and repairs due to a lack of resources.

This is one of several areas where our office makes a valuable contribution to the health and well-being of the people of Massachusetts. This edition of OSA Today highlights some of this important work that we have been doing in recent months. For example, I recently appointed three members of the newly created Personal Care Attendant Workforce Council, which oversees the quality and availability of home services to the disabled citizens. We issued audits finding problems with the Commonwealth's Sex Offender Registry Board and the Child Support Enforcement program. I recently sent a letter to the Commonwealth's District Attorneys asking for their cooperation in our efforts to pursue prosecution of public assistance fraud.

I enjoy what I do as State Auditor. There is no other kind of work that I would want to do that would give me more satisfaction than helping people who need government, and to help make state government more responsible and accountable to the public. With your help, we will continue to fulfill that important responsibility to the people of Massachusetts.

A handwritten signature in black ink that reads "A. Joseph DeNucci".

Auditor DeNucci Makes Appointments to Personal Care Attendant Workforce Council



Under a recently enacted law intended to improve the quality and availability of PCA disability services, Auditor DeNucci appointed three members of the newly created PCA Quality Home Care Workforce Council. The new appointees, Paul Spooner of Taunton, Liz Casey of Roslindale, and Eileen Brewster of Mission Hill, are all consumers of PCA services who have long advocated for enhanced community-based services and opportunities for people with disabilities.

On September 6, at a ceremony in his office, the Auditor administered the oath of office to his appointees. As members of the Workforce Council, which is charged with improving the long-term, in-home care provided by PCAs to disabled individuals, they will focus on issues of recruitment, training, wages, and retention of PCA workers. Among other priority tasks defined in the law are the creation of a registry to assist consumers and the development of emergency back-up procedures for accessing PCA services on short notice.

In thanking his appointees for their willingness to serve in a role of unique importance for consumers of PCA services and for PCAs, the Auditor said that he would follow the progress of the Council with great interest and be helpful in any way he could.

Audit Update

Auditor DeNucci's emphasis on a fiscally fit state government took no holiday during the summer months, as the Auditor continued to point out the importance of agencies' and authorities' accountability, as well as the fulfillment of their missions, in several recent reports. The entities examined included the Board responsible for registering sex offenders, the Department of Revenue's Child Support Enforcement Division, the State Lottery Commission, a for-profit human services provider and the Massachusetts Water Resources Authority. Also included is another installment in the ongoing assessment of activities associated with the design and construction of the Central Artery/Tunnel Project. A brief review of these reports' findings follows.

Sex Offender Registry Board

In June, Auditor DeNucci disclosed that legal obstacles have delayed the registration of sex offenders and hampered the effectiveness of the Commonwealth's Sex Offender Registry Board. According to the audit 2,928 of the 15,825 offenders in the registry's database were not listed as of November 2005. Of these, 2,372 offenders have never been located because many of their offenses were committed during the 1960s and 1970s, before the registry law was enacted. As a result, many offenders had died, moved out of state, were incarcerated or had been deported. The Auditor also attributed part of the problem to delays of several years in the registry's start-up, resulting from legal challenges and legislative changes. Another problem, according to the audit, has been the court's failure to enforce penalties for offenders who do not register. The audit found that even when convictions were obtained, the courts did not impose the penalties that are called for by the law and usually only required offenders to register. Auditor DeNucci also noted that delays in the hearing

process have become a hindrance, as about 40 percent of offenders request hearings on their classifications in an attempt to have them reduced to a lower risk status or to stall the process of public notification, which is prohibited until classifications are completed. These hearings can delay final classifications for as long as a year, prompting Auditor DeNucci to call for serious consideration of pending legislation requiring that sex offenders be classified before they are released from prison. The Auditor further pointed out that because definitions of a sex offender can vary among states, an offender could enter Massachusetts without notifying state or local authorities. Also, the audit praised the board for its efforts to increase compliance with the law by winning passage of legislation requiring the Registry of Motor Vehicles to suspend the driver's licenses of offenders and its establishment of a voluntary program for local police departments to conduct random audits of addresses listed in the registry.

Moreover, in response to an audit finding, the board, which had stopped collecting the mandated \$75 sex offender registry fee, has mailed nearly 3,500 letters to inform offenders that they must pay this charge.

"The OSA staff continues to display the professionalism and persistence that are essential to improving financial operations and program performance at state agencies and authorities and to establishing the oversight and accountability that help make the Commonwealth more fiscally efficient."

-Auditor DeNucci

Child Support Enforcement Division

In a July report, Auditor DeNucci urged the Commonwealth's Child Support Enforcement Division, which is part of the Department of Revenue, to make greater use of its enforcement tools, particularly the provision that allows it to seek the suspension of driver's licenses of non-custodial parents who are seriously delinquent in their payment obligations. At the time of the audit,

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approximately \$1.5 billion in child support payments was in arrears. The Auditor noted that the division sent warning letters to only three percent of the nearly 27,000 parents who were eligible for license suspensions during the two-month period that was reviewed. State law authorizes suspension of the licenses of parents who are at least 56 days delinquent in their payments or who owe more than \$500 in back child support. Auditor DeNucci acknowledged that license suspension should only be used as a last resort because it can impose severe hardship by preventing parents from getting to work, but he said that a warning often gets their attention and encourages them to work out a payment schedule. Division officials agreed with the Auditor's recommendation and said that the division has increased the number of license suspension warnings by automating the letters in its software system, resulting in past due collections reaching an all-time monthly high of \$2.5 million in March 2006. In other areas, Auditor DeNucci criticized the division for reimbursing information technology contractors almost \$171,700 in rental car and related costs when the division's own policies call for cabs and public transit to be used as a less costly method of transportation. The audit also uncovered several instances of state-funded rental cars being used for personal purposes by contract employees residing at a hotel only 4.5 miles from their work site. Although their accommodations were in close proximity to their jobs, typical monthly rental car receipts for one of the employees indicated travel of 2,000 miles, while another worker's monthly receipts showed 1,964 miles logged.



State Lottery Commission

In a follow-up audit released in late July, Auditor DeNucci disclosed that the State Lottery, acting on recommendations that he had made in previous reports, had introduced several of his earlier recommendations, particularly those involving sales agents. For example, the Lottery has improved its controls over the collections of revenues from sales agents and significantly reduced the scanning of unsold tickets by agents. In addition, the Lottery now automatically investigates all instances where an agent has scanned eight or more losing tickets in a single day, an indication that the agent might have been looking for winning tickets. Steps have also been taken to strengthen the agent licensing process and an Agent Code of Conduct has been implemented, its purpose being to discourage agents and their

employees from playing lottery games at their own locales. The audit noted that the Lottery has also been doing a much better job of collecting sums owed by delinquent agents, writing off \$1.8 million in fiscal 2003 and just \$700,000 in fiscal 2004, after being forced to abandon attempts to collect the staggering sum of \$13 million in bad debt from fiscal years 1999-2002. The total number of receivables plunged from \$1.4 million in fiscal 2003 to just \$400,000 in the first six months of fiscal 2005. However, Auditor DeNucci noted the need for more improvements at the agency, such as reviews evaluating overall internal controls and risk identification in the Lottery's financial and program operations. The Lottery indicated that it is working on a plan to identify and test risks. The agency also said that it agrees with the Auditor's advice regarding the oversight of contracts with the three manufacturers of instant game tickets to ensure the integrity of the process, as well as the continued flow of production if a disaster were to occur at the manufacturers' facilities. In one particularly troublesome area, the practice of professional ticket cashing, which is done to avoid tax obligations, appears to have become even more widespread. In calendar year 2004, 88 persons cashed 5,332 tickets totaling more than \$10 million, an increase from 71 individuals who cashed 4,527 tickets worth \$8.2 million in the preceding year. Furthermore, an investigation by the OSA's Bureau of Special Investigations identified seven persons who inappropriately received \$174,000 in Medicaid assistance, while collecting more than \$1.75 million in Lottery prizes. Noting that Massachusetts law now requires the withholding of state income tax on all winnings over \$600, Auditor DeNucci recommended that the Lottery become more aggressive in its identification and reporting of suspicious ticket cashers. The agency said that it now provides monthly reports on suspected professional cashers to the Internal Revenue Service, the Department of Revenue and the Attorney General's Office.

Integrated Clinical Solutions, Inc.

Auditor DeNucci's review of this for-profit, Worcester-area provider that contracts with the Department of Mental Retardation (DMR) determined that lax internal controls resulted in almost \$122,300 in unallowable expenses being charged to the Commonwealth. The audit ascertained that the provider's business practices were inadequate in areas such as purchasing, contracting, payroll and

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recordkeeping. Furthermore the vendor was unable to provide documentation for important financial transactions, failed to maintain personnel records in accordance with state regulations, did not always secure written agreements with consultants and lacked a governing or advisory board. As a result of the provider's failure to require its staff and consultants to use timesheets or other records to document their hours worked, it could not be determined if the \$707,000 in state reimbursements for payroll expenses were appropriate. Moreover, an OSA review of the provider's automated work and leave records between April and June 2004 indicated that the provider over billed DMR for \$25,342 in payroll expenses. The audit also found that the provider received more than \$53,404 in excessive reimbursements for the services of psychologists and other direct care professionals who did not meet the established qualifications for these professionals. Other irregularities uncovered by Auditor DeNucci's report included a total of more than \$23,700 in non-reimbursable charges for research costs associated with the development of software for a related party, an expense that offered no direct benefit to the provider's disabled clients, and duplicative billings. Finally, the audit disclosed that DMR violated state law by paying the provider almost \$20,000 in administrative fees to process rental payments for properties in which DMR clients were housed. Auditor DeNucci noted that DMR should have used its own staff to handle these payments, rather than use the provider as a fiscal conduit and incur this needless expense.

Central Artery /Tunnel Project

This is the 21st installment of Auditor DeNucci's ongoing examination of various aspects of the controversial and costly project, the 20 previous reports identifying \$592 million in excessive, unnecessary and avoidable costs, as well as available savings opportunities. This latest audit reveals that the project, which had agreements to share insurance expenses with construction partners, is still owed at least \$3 million in insurance payments by the Massachusetts Bay Transportation Authority, a sum that represents the T's share of these costs. According to the audit, the T had agreed to pay its part of these expenses within 30 days of a project's start, as well as consenting to make additional payments if its portion of the construction costs increased. The audit, after examining four interagency agreements governing the insurance-

sharing arrangement, attributed the T's tardiness in making payments to the project's inadequate billing and collection procedures and poor recordkeeping. The OSA revealed that the T paid its initial insurance obligations, but the project's billing shortcomings, combined with the T not paying for increases in insurance expenses related to higher construction costs, resulted in the underpayments. In addition, an analysis of all interagency contracts between the project and the T identified an additional \$730,000 in insurance debt. Project officials said they were acting on Auditor's DeNucci's recommendation and beginning attempts to identify all delinquent insurance debt.

Massachusetts Water Resources Authority

In September, Auditor DeNucci disclosed that various regulatory and environmental requirements have combined to more than double the cost and delay by seven years the completion of the MWRA's Combined Sewer Overflow project, which was mandated by a federal court order in 1985 as part of the Boston Harbor cleanup program. According to the audit, the project is intended to direct excess storm water from the MWRA's sewage treatment facilities and was expected to cost \$395 million and be completed by 2008. However, due to a series of regulatory and environmental reviews, required local approvals, court renegotiations, project revisions and inflation, the total cost is now expected to soar to \$856 million. Furthermore, the work, most likely, will not be finished until 2015. The Auditor explained that the problem stems from the older, combined sewer systems that are still in use in Boston, Cambridge, Chelsea and Somerville. These combined systems, which carry both storm water and sewage from homes and businesses, become overloaded during heavy rains and the overflow must be discharged into the nearest body of water. During normal weather, the combined flows are sent to the MWRA's treatment plant on Deer Island for processing. Auditor DeNucci noted that 14 of the 25 projects that comprise the overflow program have been completed, while work has begun on nine of the 11 remaining projects. The Auditor advised MWRA to devote adequate resources to monitoring all remaining phases of the project in order to contain further cost increases and delays.



BSI Update

The Bureau of Special Investigations has formed a Prosecution Team, which consists of four or more examiners designated by Director Bruce Carmichael to evaluate all investigations for prosecution and/or final disposition of cases. The goal of this team is to standardize BSI's approach to its work in the courts and to work closely with prosecutors to enhance the success of its cases in the courts.

Under this new process, all cases bound for court action undergo an intensive review to determine the viability of prosecuting the case. This is done by reviewing the level of criminal activity and developing a prosecution plan and report for submission to the prosecutor. Cases assigned to the prosecution team have already gone through the investigative process, and a determination of fraud has been made. The team reviews the facts of the case with the assigned prosecutor, develops a witness list, performs follow-up interviews and is available for consultation with the prosecutor, the defense attorney and witnesses. The team also coordinates court appearances of the investigating examiner and witnesses, including those from other state agencies.

The Prosecution Team is already handling a number of prosecutions, including several cases that are being brought jointly with the Attorney General's Office.

In a separate but related effort, Auditor DeNucci has contacted each of the Commonwealth's District Attorneys to inform them of the establishment of BSI's new Prosecution Team and to request their assistance in improving the success of our work in the courts. A number of DA's have already responded to the Auditor's request and have begun meeting with members of the Prosecution Team to discuss the handling of certain types of cases and to clarify their prosecution needs. The Auditor believes that we must have success in the courts, not only to assure the recoupment of fraudulently obtained public funds, but also as a deterrent to those considering criminal activity in our public assistance programs.

During the first quarter of FY 2007, BSI has completed 224 investigations, identifying over \$519,000 in public assistance fraud.

Chicopee Office Opens

The long anticipated move of the Springfield OSA office has finally happened! The new space, located at 521 East Street in Chicopee, was completely gutted and built out to OSA specifications. The office houses Western Massachusetts staff assigned to Audit Operations, DLM and BSI. The office includes a conference room, a smaller meeting/interview room and a kitchen as well as cubicles and "bull-pens" for field staff.

The OSA relocation team worked diligently to assure that this office provides a professional, pleasant and cost-effective work environment. Months of planning, contracting, purchasing, oversight, coordination and inventory control resulted in our

smoothest office move day yet. While the Chicopee office move was more straightforward than the Winter St. move, many of the same issues had to be addressed. Architects, electricians, furniture system designers and installers, and IT contractors were coordinated by the OSA relocation team to resolve all matters that arose. In addition, cooperation and support from the Springfield staff contributed to the ease of the move.

The OSA relocation team included Dottie Richard, Yoko McCarthy, Mary Smith-Hammond, George Cordima, Walton Chan, Brian Gee, John Wilkes, Richard Wrona and Rita Taddeo.