

# OFFICE OF THE CHIEF MEDICAL EXAMINER

JANUARY 1, 2003 THROUGH  
JANUARY 1, 2008

# SPECIAL AUDIT



Jeff A. McMahan

Oklahoma State Auditor  
& Inspector

**OFFICE OF THE CHIEF MEDICAL EXAMINER**  
**SPECIAL AUDIT REPORT**  
**JANUARY 1, 2003 THROUGH JANUARY 1, 2008**

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STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

April 28, 2008

Honorable Drew Edmondson  
Attorney General  
State of Oklahoma  
313 NE 21<sup>st</sup> Street  
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the Office of the Chief Medical Examiner. We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 18f.**

A report of this type tends to be critical in nature; however, failure to report commendable features in the present accounting and operating procedures of the entity should not be interpreted to mean they do not exist.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.  
Deputy State Auditor and Inspector

**TABLE OF CONTENTS**

	<b>PAGE</b>
BOARD OF MEDICOLEGAL INVESTIGATIONS .....	4
STATE AUDITOR AND INSPECTOR'S REPORT .....	5
INTRODUCTION .....	6
CONCERNS, FINDINGS, AND RECOMMENDATIONS .....	8

**INDEX OF SPECIFIC CONCERNS**

I. Relationship between LifeShare and the Medical Examiner's Office .....	8
II. Medical Examiner employees working for Life Share on State time .....	10
III. Medical Examiner employees removing pituitary glands without authorization .....	12

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Chief Medical Examiner  
Dr. Jeffery J. Gofton, MD



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

Dr. Jeffery J. Gofton, MD  
Office of the Chief Medical Examiner  
901 N. Stonewall  
Oklahoma City, Oklahoma 73117-1218

Dear Dr. Gofton:

Pursuant to the Attorney General request and in accordance with the requirements of **74 O.S. 2001, § 18f**, we performed a special audit with respect to the Office of the Chief Medical Examiner, for the period January 1, 2003 through January 1, 2008.

The objectives of our special audit primarily included, but were not limited to the concerns expressed by the Attorney General. Our findings and concerns related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Office of the Chief Medical Examiner. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Office of the Chief Medical Examiner.

This report is intended solely for the information and use of the Attorney General, the Board of Medicolegal Investigations, and the Office of the Chief Medical Examiner and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**; and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.  
Deputy State Auditor and Inspector

March 12, 2008



## INTRODUCTION

The Office of the Chief Medical Examiner (OCME) was established and operates under the authority of **63 O.S. § 933**, which states:

The Office of the Chief Medical Examiner of the State of Oklahoma is hereby established to be operated under the control and supervision of the Board. The Office shall be directed by the Chief Medical Examiner, and the Chief Medical Examiner may employ such other staff members as the Board shall specify.

OCME has the sole responsibility for investigating sudden, violent, unexpected and suspicious deaths. Information gained from these medicolegal investigations is frequently required in the form of evidence and expert testimony in both criminal and civil legal proceedings.

OCME includes two division offices, Oklahoma City (Central Office) and Tulsa (Eastern Division).

The Office of the State Auditor and Inspector (OSAI) conducted a special audit of the records of OCME, primarily those records relating to concerns expressed by the Attorney General in his request. The results of the special audit are in the following report.

## BACKGROUND

An Investigator for the Oklahoma Attorney General interviewed a former employee of the Tulsa Division of the Office of the Chief Medical Examiner. The former employee made certain allegations against both former and present OCME employees.

Although the bulk of the allegations and concerns levied by the former employee appear to be personnel issues, and outside the scope of an investigative audit, OSAI did pursue three allegations:

- What is the relationship between OCME and the organ donation organization LifeShare?
- Are state employees working for LifeShare while on state time?
- Are OCME employees removing pituitary glands without permission?

The former employee making the allegations had left the OCME in 2005. OSAI contacted the former employee to obtain additional information concerning her allegations.

When OSAI contacted the former employee, she requested OSAI call later in the evening. When OSAI called that evening, she stated she had telephone problems and could not talk. OSAI provided her with a telephone number and asked that she call when she was available to talk.

The following morning a friend of the former employee called the number OSAI provided to the former employee and stated the former employee had called him and told him that she "has no firsthand knowledge" of the allegations she had made to the Attorney General's Office.

The former employee has not returned our calls.



**CONCERN:**

- **Relationship between LifeShare and OCME.**
- 

**FINDINGS:**

- **None**
- 

The OCME is a state agency employing sixty-six (66) full-time and three (3) part-time employees. The OCME staff includes pathologists, pathology assistants, chemists, investigators, security guards and administrative staff.

The OCME is required, by **63 O.S. § 938**, to investigate:

- A. All human deaths of the types listed herein shall be investigated as provided by law:
1. Violent deaths, whether apparently homicidal, suicidal, or accidental, including but not limited to, deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not;
  2. Deaths under suspicious, unusual or unnatural circumstances;
  3. Deaths related to disease which might constitute a threat to public health;
  4. Deaths unattended by a licensed medical or osteopathic physician for a fatal or potentially-fatal illness;
  5. Deaths of persons after unexplained coma;
  6. Deaths that are medically unexpected and that occur in the course of a therapeutic procedure;
  7. Deaths of any inmates occurring in any place of penal incarceration; and
  8. Deaths of persons whose bodies are to be cremated, buried at sea, transported out of the state, or otherwise made ultimately unavailable for pathological study.

LifeShare Transplant Donor Services of Oklahoma, Inc. ("LifeShare") is a 501(c)3 not-for-profit organization designated by the U.S. Department of Health and Human Services as the organization dedicated to recovering organs for transplantation in Oklahoma.

LifeShare includes both an organ donation and a tissue recovery aspect to its operations. The focus of this report centers on the tissue recovery aspect of LifeShare and its involvement with OCME.

LifeShare operates its own tissue recovery facility in Oklahoma City and does not perform tissue recovery at the OCME facility. Officials from LifeShare readily stated they

utilize employees from the OCME on a part-time basis. OCME employees readily stated they do perform work, on a part-time basis, for LifeShare.

OCME conducts morning meetings to discuss cases and issues concerning the workload and goals of the office. In the past LifeShare employees attended these meetings for the purpose of determining if the OCME had received potential donors that LifeShare had not been made aware of.

LifeShare stopped attending these meetings three (3) or four (4) years ago. According to the Chief Medical Examiner the primary reason this practice stopped was due to improvements in the hospital death reporting procedures.

**63 O.S. § 2212**, states:

In any death that the Office of the Chief Medical Examiner of the State of Oklahoma is required by law to investigate, a medical examiner may authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title. It is the intent of the Oklahoma Legislature that, if the removal of an organ or organs for transplant will not interfere with the subsequent course of an investigation or autopsy, and if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title, the Chief Medical Examiner, county medical examiner or any person authorized by law to conduct an autopsy shall authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act. In such cases where the deceased has an organ donor card, the consent from next of kin shall not be required.

The former OCME employee expressed a concern that LifeShare employees were attending morning meetings held at the OCME Oklahoma City facility.

Both the Medical Examiner and the CEO of LifeShare stated LifeShare did attend meetings at the Medical Examiners Office three (3) or four (4) years ago. They both stated the purpose of those meetings was to determine if potential tissue donors had been received by the Medical Examiner.

**63 O.S. § 2213**, states:

Law enforcement and medical personnel involved with the investigation of accidental deaths, homicides, and suicides shall make reasonable efforts to ascertain if the victims are organ donors and, if so, to pass that information on to the proper officials. Said law enforcement and medical personnel shall not be subject to criminal or civil liability for complying with the provisions of this section.

LifeShare operates a donor registry. LifeShare's Internet-based donor registry states:

If you indicated your consent to be a donor on your state driver's license, or ID card, (a red heart will be on the front of your license or state ID) you are already in the LifeShare Donor Registry.

It appears **63 O.S. § 2213** may require Medical Examiner personnel to make "reasonable efforts to ascertain if the victims are organ donors" and "to pass that information on to the proper officials."

OCME and LifeShare have a commonality because of their respective duties concerning the bodies of deceased persons in Oklahoma. Clearly, OCME and LifeShare will have some relationship in the course of their respective duties and missions. Moreover, the parties both stated that LifeShare no longer attends the meetings at OCME.

**RECOMMENDATION:**

No recommendation necessary.

---

**CONCERN:**

- **Medical Examiner Employees Working For LifeShare on State time.**
- 

**FINDINGS:**

- **None**
- 

Five (5) OCME employees also work on a part-time basis for LifeShare. OSAI asked LifeShare to provide records of work performed by the five (5) employees for the 2007 calendar year. LifeShare provided records reflecting the following:

- A donor number.
- Date, day of week and time the work was performed.
- Names of the employee or employees performing the work.

In total, the five OCME employees performed work for LifeShare on two hundred and seven (207) days. The five OCME employees normally work Monday through Friday. Three normally work from 8:00am to 4:30pm; two normally work from 7:30am to 4:00pm.

From the two hundred seven (207) occurrences, we excluded 94.7% for the following reasons:

- 92 instances (44.4%) occurred during non-working hours.
- 73 instances (35.3%) occurred on Saturdays and Sundays.
- 14 instances (6.8%) occurred on days the employee was off.
- 11 instances (5.3%) occurred on official state holidays.
- 6 (2.9%) occurred on days in which sufficient leave was recorded.

OCME employees are typically allowed one hour for breaks and lunch during the workday. Seven (7) occurrences involving conflicts of less than one (1) hour were excluded. These exclusions included:

- 3 instances with 20 minutes or less in conflict.
- 1 instance with 30 minutes or less in conflict.
- 2 instances with 45 minutes in conflict.
- 1 instance with 55 minutes in conflict.

OSAI tested the remaining four (4) instances, comprising 1.9% of the occurrences, and found sufficient documentation to exclude these instances as well. The reasons for exclusion included:

- On one occurrence one employee was off work, the other recorded sufficient leave.
- One time record had previously been corrected to reflect leave taken.
- One occurrence included a day when an employee arrived early to work and worked through the lunch hour.
- One occurrence involved an employee who was on-call and worked additional hours during the on-call period.

Based on the records provided, it appears 85% of the services performed for LifeShare by the OCME employees occurred on weekends, holidays and afterhours. Of the remaining 15% of the services provided, the employees appear to be accurately reflecting their leave from state duties.

One of the allegations made by the former OCME employee specifically concerned services being performed by the OCME Executive Secretary for LifeShare. The former OCME employee stated the OCME Executive Secretary was typing reports for LifeShare.

OSAI interviewed the Executive Secretary who stated she does not work for LifeShare and does not type reports for LifeShare.

OSAI contacted the LifeShare CEO who stated the only reports LifeShare would obtain from the OCME are reports the OCME is required to create such as toxicology reports. He also confirmed the Executive Secretary does not and has not worked for LifeShare.

We are unclear if the reports being referred to by the former OCME employee are reports that would ordinarily be created by the OCME or if she is alleging some other type of report created solely for use by LifeShare. As the former OCME employee making the allegations has not returned our calls, we cannot determine what reports she believes were created for LifeShare.

We found no notable exceptions to indicate the OCME employees are performing work for LifeShare while on state time.

**RECOMMENDATION:**

No recommendation necessary.

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**CONCERN:**

- **Medical Examiner Employees Removing Pituitary Glands without Authorization.**
- 

**FINDINGS:**

- **None**
- 

The former OCME employee stated the OCME was taking pituitary glands from descendants without the families' permission.

**63 O.S. § 944.1**, states:

- A. Any physician licensed in this state, when performing an autopsy, whether by statutory authority or permission of the next of kin, may remove or cause to have removed by a qualified person the pituitary gland from the body of the decedent if a cranial examination is performed. The physician or other qualified person or hospital is further authorized to donate the pituitary gland to the National Hormone and Pituitary Program as established by the National Institute of Health for the preparation of human growth hormone. Said persons and hospital shall not be subject to either criminal or civil liability for such removal or donation.
- B. The pituitary gland shall not be donated pursuant to the provisions of this section if the next of kin of the decedent notifies the physician performing the autopsy prior to said autopsy that he objects to such donation.
- C. This section is not subject to the provisions of the Uniform Anatomical Gift Act.

The Chief Medical Examiner stated that although the removal of pituitary glands is authorized by statute, the OCME has not done so for years.

**RECOMMENDATION:**

No recommendation necessary.

\* \* \*

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the Attorney General and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that the OCME or any of the individuals named in this report or acting on behalf of the OCME have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the OCME's policies, procedures or practices should be modified or discontinued, and to independently evaluate where or not the recommendations made by this Office should be implemented.



**OFFICE OF THE STATE AUDITOR AND INSPECTOR  
2300 N. LINCOLN BOULEVARD, ROOM 100  
OKLAHOMA CITY, OK 73105-4896**

**[WWW.SAI.STATE.OK.US](http://WWW.SAI.STATE.OK.US)**