

*A REPORT BY THE NEW YORK STATE
OFFICE OF THE STATE COMPTROLLER*

**Alan G. Hevesi
COMPTROLLER**



**OFFICE OF CHILDREN AND FAMILY
SERVICES
DIVISION OF CRIMINAL JUSTICE SERVICES**

LAKE PLAINS YMCA

2002-S-20

DIVISION OF STATE SERVICES

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Report 2002-S-20

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Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144-2796

Mr. Chauncey G. Parker
Director
Division of Criminal Justice Services
4 Tower Place, 10th Floor
Albany, NY 12203-3764

Dear Messrs. Johnson and Parker:

The following is our audit report of selected financial practices at the Lake Plains Young Men's Christian Association in Medina, New York.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

Office of the State Comptroller
Division of State Services

April 21, 2003

EXECUTIVE SUMMARY

OFFICE OF CHILDREN AND FAMILY SERVICES DIVISION OF CRIMINAL JUSTICE SERVICES LAKE PLAINS YMCA

BACKGROUND

The Young Men's Christian Association (YMCA) is a community-based not-for-profit service organization. One of 2,400 local YMCAs nationwide, the Lake Plains YMCA (Lake Plains Y) serves Medina and the surrounding area of western New York State. Like other local YMCAs, it offers youth and community programs, including health and fitness, childcare and sports. The goals of the Lake Plains Y are to “nurture the healthy development of children, encourage positive behavior in teens, strengthen families and help our community become safer and healthier.” Management responsibility at the Lake Plains Y rests with a Board of Directors (Board) and an Executive Director (Director).

Major sources of funding for the Lake Plains Y include membership and program revenue, contributions and grants from the United Way, State agencies and some private foundations. From December 1998 through September 2002, the Lake Plains Y received a total of \$190,275 in State and Federal grants, comprising \$159,607 in State funds and \$30,668 in Federal funds. The Office of Children and Family Services (OCFS) provided \$152,793 of the above State funds, and the Department of Criminal Justice Services (DCJS) provided the Federal funds through a local government agency.

In March 2002, the New York State Police in Albion, New York requested the assistance of the Office of the State Comptroller (OSC) concerning an alleged theft of funds from the Lake Plains Y. The State Police, who are working in conjunction with the Attorney General's Office, asked OSC to assist their investigation by conducting this audit.

SCOPE OF AUDIT

Our financial audit addressed the following questions about selected aspects of cash receipts and disbursements at the Lake Plains Y for the period December 1, 1998 to September 30, 2002:

- Were funds misappropriated from the Lake Plains Y?

- What was the extent of any fraudulent activity and how was it perpetrated?
- What oversight or internal control weaknesses would allow a misappropriation to go undetected?

AUDIT OBSERVATIONS AND CONCLUSIONS

We determined that State and Federal funds that were supposed to support youth and community programs were instead diverted to unauthorized accounts or stolen before they were deposited. This fraudulent activity occurred because a corrupt official abused his position of trust and took advantage of the fact that the Lake Plains Y had virtually no system of internal control, and oversight entities did not effectively monitor the legitimacy of reported program expenses.

A good system of internal control comprises various components, including management's active support for controls, effective control activities and regular oversight and monitoring to make sure the organization is using resources properly to achieve its goals. However, at the Lake Plains Y, the Director undermined rather than supported controls, and control activities were either weak or nonexistent. Further, the Board and local government entities responsible for monitoring the Lake Plains Y did not fulfill their responsibilities and did not check the accuracy of claims submitted for reimbursement or verify that funded programs were delivered. As a result, significant State and Federal funds were stolen or misused and a community did not receive the services these funds were intended to support. To effectively safeguard its resources in the future, the Lake Plains Y needs to establish and maintain an effective system of internal control. (See pp. 7-10)

OCFS provided the Lake Plains Y with \$152,793 in State funds to provide services for school-age youth and make various capital improvements. We found that \$121,476 (almost 80 percent) of these funds were stolen or used for other than intended purposes. The Director was able to perpetrate this fraud by fabricating claims, altering and falsifying records and destroying documents. We recommend that OCFS recover this amount from responsible parties, and that it work with local government monitors to improve the oversight of entities that provide State-funded programs. (See pp. 11-14)

The Lake Plains Y also received \$30,668 in Federal grants from DCJS through a local government agency to provide services under the Youth Diversion Program. We found no documentation to support the expenditures for these services, and believe that some of these funds were diverted for the Director's personal use. We suspect this diversion of funds was enabled by a local government employee, who inappropriately received \$2,500 from the Lake Plains Y. We recommend that DCJS: recover \$28,468 from responsible parties; work with

local government to improve adherence to internal controls; and encourage investigation of the payment made to a local government employee. (See pp. 17-19)

COMMENTS OF AGENCY OFFICIALS

Both OCFS and DCJS officials concurred with our recommendations and indicated that steps will be taken to recoup the funds that were diverted or stolen.

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INTRODUCTION

Background

The Young Men's Christian Association (YMCA) is one of the largest not-for-profit service organizations in the United States. The YMCA is a community-based organization that is made up of 2,400 nationwide local YMCAs. The Lake Plains YMCA (Lake Plains Y) serves Medina, New York and the surrounding area in western New York State. Like other local YMCAs, it offers programs in health and fitness, aquatics, childcare, community development, sports and a camp. The goals of the Lake Plains Y are to “nurture the healthy development of children, encourage positive behavior in teens, strengthen families and help our community become safer and healthier.”

Reflecting the size of the community it serves, the Lake Plains Y is a small organization. Its administrative structure consists of a Board of Directors (Board), an Executive Director (Director) and a bookkeeper. The Board, which is vested with full powers of management and administration, was comprised of between 8 and 11 members during our audit scope period. Board members represent the interests of the community and serve without compensation. The Director and bookkeeper did not have written job descriptions, but the Director either assumed or delegated the authority to manage all facility operations. The Lake Plains Y also employs program staff, such as an Aquatics Director and various sports and fitness instructors.

Major sources of funding for the Lake Plains Y include membership and program revenue, contributions and grants from the United Way, several State agencies and some private foundations. Total revenue, contributions and grants for the Lake Plains Y for the fiscal years that ended December 31, 2000 and 2001 were \$278,355 and \$526,927, respectively. (Funds from the 2001 fiscal year include the donation of a building valued at \$268,000. Excluding the building, funds from other sources totaled \$258,927.)

From December 1998 through September 2002, the Lake Plains Y received a total of \$190,275 in State and Federal grants, comprising \$159,607 in State funds and \$30,668 in Federal

funds. The Office of Children and Family Services (OCFS) accounted for \$152,793 of the above State funds; the Department of Health and the New York State Council on the Arts provided \$6,664 and \$150, respectively. OCFS funds were from three funding sources: the Special Delinquency Prevention Program (SDPP), the Safe Places Program and Legislative Grants. The Genesee/Orleans County Youth Bureau (Youth Bureau) oversees SDPP and Safe Places funds and the youth programs paid for by these funds. The Orleans County Treasurer pays disbursements for program expenses based on vouchers prepared by the Youth Bureau, and OCFS subsequently reimburses the county. By contrast, Legislative Grants are received directly by an agency (such as the Lake Plains Y) and are administered by OCFS' Legislative Grants Unit. The Lake Plains Y received the Federal funds through several Federal grants the Department of Criminal Justice Services (DCJS) provided to the Orleans County Probation Department (Probation). Probation subcontracted a portion of these services to the Lake Plains Y. The Youth Diversion Coordinator, a Probation employee, was the fiscal and administrative monitor for these funds.

In March 2002, the Office of the State Comptroller (OSC) received a call from the New York State Police in Albion, New York asking for our assistance regarding the alleged theft of funds from the Lake Plains Y. During routine monitoring of a Safe Places Grant, the Youth Bureau had found discrepancies between claims submitted by the Lake Plains Y and the supporting documentation for these claims. Approximately one year after the Youth Bureau discussed these discrepancies with Lake Plains Y officials, the Lake Plains Y authorized a citizen action committee to conduct an internal investigation. This investigation determined that criminal activity may have occurred. Consequently, the Lake Plains Y consulted the State Police who initiated an investigation and asked the Attorney General's office to intervene. The State Police then asked OSC to conduct a financial audit of the Lake Plains Y to assist them in the investigation. The Attorney General's inquiry into this matter is ongoing. The Board asked the Director to resign and on the advice of his attorney he refused; his employment was terminated in March 2002.

Audit Scope, Objectives and Methodology

We audited selected aspects of cash receipts and disbursements made by the Lake Plains Y during the period December 1, 1998 to September 30, 2002. The objective of our financial-related audit was to determine if funds were misappropriated from the Lake Plains Y. If funds were misappropriated, our other audit objectives were to determine the extent of any fraudulent activity and how it was perpetrated, and to identify those oversight or internal control weaknesses that allowed the misappropriation and fraud to go undetected.

To accomplish our objectives, we interviewed managers and staff at the Lake Plains Y, the Youth Bureau, Probation, OCFS and DCJS. We also tested the underlying consistency of accounting data at the Lake Plains Y. Due to the alteration, destruction or loss of documents and records at the Lake Plains Y, we had to reconstruct certain Lake Plains Y financial records using documentation from outside sources. We verified other records recalculating and reconciling related information; obtaining confirmation from donors to the Lake Plains Y; verifying the existence of physical assets; and corroborating information by inspecting documents maintained at the Youth Bureau, Probation, OCFS and DCJS. These documents included checks, invoices, contracts, Board meeting minutes and working papers of the CPA who audited the financial statements of the Lake Plains Y. We obtained additional evidence through inquiry, observation, inspection, or physical examination.

This audit was initiated based on a request from the New York State Police in Albion, New York who, in conjunction with the Attorney General's Office in Buffalo, New York are conducting an investigation of the alleged misappropriation of funds at the Lake Plains Y. We coordinated our audit work with both agencies. Based on requests from the Attorney General's Office, we also reviewed a limited number of transactions from outside our scope period to aid their investigation. We include related findings in this audit report.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those Lake Plains Y, OCFS and DCJS operations that are included in our audit scope. Further, these standards require that we

understand the internal control structure at the Lake Plains Y OCFS and DCJS and their compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence-supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

Internal Control and Compliance Summary

Our consideration of internal control structure focused on controls over cash receipts and disbursements at the Lake Plains Y and on oversight provided both locally through the Youth Bureau and Probation, and centrally through OCFS and DCJS over Federal and State monies provided to the Lake Plains Y. We identified material weaknesses in Lake Plains Y controls over cash receipts and disbursements, as well as weaknesses in the oversight of Lake Plains Y operations and programs as provided by local entities that administer OCFS and DCJS programs. These matters are presented in throughout this report.

Response of Agency Officials

We provided draft copies of this report to OCFS and DCJS officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B. Both OCFS and DCJS officials concurred with our recommendations and indicated that steps will be taken to recoup the funds that were diverted or stolen. Based on OCFS' response, we clarified some of the report's text as well as Recommendations 2 and 5.

In addition to the matters discussed in this report, we have also reported separately to New York State Department of Tax and Finance (Tax) officials about potential tax violations that resulted from the misappropriation of funds that occurred at the Lake Plains Y.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services and the Director of the Division of Criminal Justice Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

INTERNAL CONTROLS AT THE LAKE PLAINS YMCA

We determined that State and Federal funds were improperly disbursed at the Lake Plains Y. These improper disbursements occurred because funds were either diverted to unauthorized accounts or stolen before they were deposited. As a result of these events, the reputation of the Lake Plains Y has been tarnished and the surrounding community has been short-changed. Resources intended to support youth programs and community services were used to enrich individuals responsible for providing the services. Overall, we found the following problems:

- *False Information on Claims.* Over 50 claims representing almost \$166,000 were submitted for reimbursement to either the County or the State. More than \$128,000 of these reimbursements were based on false information.
- *Altered Records.* Electronic records at the Lake Plains Y were altered. Other hard copy documentation was destroyed, lost or falsified.
- *Inappropriate Payments.* The Lake Plains Y received over \$35,000 in Federal funds from a county agency to implement a youth program. A county official charged with monitoring this program inappropriately received \$2,500 from the Lake Plains Y. The county official could provide no explanation of why she received this money. There was no documentation to support most program expenses. We found that more than \$28,000 of these expenses represented improper reimbursements.
- *Tax Violations.* State and Federal Tax Laws were violated.

In total, over \$123,000 of Lake Plains Y resources was improperly disbursed. Of this amount, about \$43,000 represents monies taken prior to deposit; almost \$45,000 represents

questionable disbursements from unauthorized accounts, and the remaining \$35,000 represents questionable disbursements from authorized accounts. Of these monies, approximately \$70,000 was disbursed for the Director's personal use.

These problems occurred and went undetected because there was virtually no functioning system of internal control in place at the Lake Plains Y, and no adequate oversight and monitoring of expenditures. As a result, Lake Plains Y assets were at risk and vulnerable to misappropriation.

A good system of internal control includes a coordinated set of policies, practices and procedures that helps make sure an organization uses its resources properly to achieve the organization's goals. Components of this system include control environment, or management's attitude toward and support for internal controls, and control activities designed to help reduce the risk that the organization will not achieve its goals. Another system component is regular monitoring to make sure the controls are working effectively so the organization will accomplish the goals it has set for itself.

However, at the Lake Plains Y, the control environment was poor. Management avoided and undermined, rather than supported internal controls. The Director, whose actions demonstrate a lack of integrity, set a "tone at the top" that indicated he had little regard for internal controls. The Director did not establish high ethical standards for himself or Lake Plains Y employees, and he was not committed to establishing and maintaining controls. The Board was vested with full management authority, but it was satisfied to delegate that authority to the Director. The Board did not question the Director's actions. One Board member who did challenge the Director was asked by the Board President to resign, and did so.

We also found that control activities at the Lake Plains Y were easily circumvented, in part because of an organizational structure that concentrated power and decision-making authority in the hands of the Director. Since the Director dominated all aspects of operations, he was able to ignore compliance with stated Lake Plains Y control policies and compromise existing control activities to manipulate cash receipts and disbursements. For example, Lake Plains Y policies require that all major financial transactions, such as opening an

organizational bank account, be authorized and approved by the Board, and that disbursements from such accounts be authorized by two signatures. However, as of the date of the Director's resignation, the Lake Plains Y had six unauthorized accounts, four of which were active during our audit period. One person could authorize disbursement from all four accounts: for two accounts, this person was the Director; for the other two, it was the Aquatics Director. Over \$96,000 was improperly diverted to these unauthorized accounts.

Control activities also include functions and procedures that protect assets. Cash is readily subject to misuse and misappropriation, so it is particularly important to have strong controls over cash receipts and disbursements. For example, no employee should handle a transaction from beginning to end. Duties should be segregated so that cash handling is separated from record keeping. People who do not handle cash or issue checks should reconcile records of receipts with bank statements on a monthly basis, and should investigate differences between expected receipts and disbursements.

However, at the Lake Plains Y, none of these basic guidelines were implemented. For example, cash handling duties were not separated. The Director and the front desk staff all received cash and checks and also recorded receipts in the cash journal. When large donation checks or grants were involved, the Director personally received, recorded and deposited these funds in the bank. For several programs, there were no reconciliations of receipts to deposits because there was no proper record of receipts. In these cases, sports and fitness instructors had simply refused to comply with a Lake Plains Y policy that required them to record all receipts.

Finally, various entities at different levels – the Board, Orleans County officials, including the Youth Bureau – had the responsibility of monitoring the cost and performance of programs at the Lake Plains Y. Effective monitoring would have detected the problems we found. However, none of these entities adequately verified the accuracy of the claims submitted by the Lake Plains Y, or verified that the facility was really producing the programs it was paid to deliver, in part because they trusted in the integrity of Lake Plains Y management. The Youth Bureau did take steps to investigate discrepancies in claims it reviewed. Unfortunately, this action occurred too late to prevent the theft or misuse of significant funds, damage to the

reputation of the Lake Plains Y, and disservice to a community that viewed the Y as a resource.

The Lake Plains Y received revenues from various sources, all of which were subject to misappropriation during and before our audit scope period. The remainder of this report discusses the specifics of the misappropriation and improper disbursement of funds according to the source of funds: State, Federal and private donations.

Recommendations

To OCFS and DCJS:

1. Instruct the Genesee/Orleans Youth Bureau and the Orleans County Department of Probation to require that the Lake Plains Y management establish an effective system of internal control that includes, but is not limited to, the following features: a strong control environment that communicates management's commitment to and support for controls; effective control policies and procedures that safeguard assets and protect the integrity of financial information; and methods of regularly monitoring whether controls are working effectively.
2. Obtain independent assurance that an effective system of internal control is in place. This assurance can be based on either a formal internal control evaluation by the Youth Bureau or County Department of Probation at those entities receiving funding through OCFS/DCJS, or an independent audit of the entity by a certified public accounting firm.

STATE FUNDS RECEIVED FROM THE OFFICE OF CHILDREN AND FAMILY SERVICES

OCFS provided the Lake Plains Y with \$152,793 in funding from December of 1998 to September 2002. Of this total amount, \$102,793 was provided to the Youth Bureau through the Safe Places Program (\$93,546) and the Special Delinquency Prevention Program (SDPP) (\$9,247). The Youth Bureau in turn provided these funds to the Lake Plains Y. An additional \$50,000 was provided directly to the Lake Plains Y through Legislative Grants. The State should recover \$121,476 (almost 80 percent) of these funds from Orleans County and the Lake Plains Y because they were either stolen or used for other than intended purposes. *Exhibit A* at the end of this report shows a Proposed Cost Recovery for State and Federal Funds.

Safe Places Program and SDPP Funds

Safe Places, the largest source of funds, is an OCFS program that funds new or expanded services for school-age youth during non-school hours. Its goal is to increase the number of safe and accessible places for children and youth to learn and play after school. In 1999, the Youth Bureau, which was empowered by Orleans County to provide fiscal and administrative oversight for OCFS-funded youth programs, contracted with the Lake Plains Y to provide an after school program funded by Safe Places money. This program was an extension of a 1998 SDPP-funded pilot program.

At a minimum, funded Safe Places Programs are required to be available every day after school between the hours of 3 p.m. and 7 p.m. According to the application and budget submitted by the Youth Bureau, the program at the Lake Plains Y was to enroll 60 children and offer enhancements, such as a special hands-on curriculum and a summer component. However, the Safe Places program at the Lake Plains Y ran only 2 of the required 4 hours, enrolled only 36 children in its first full year of operation, and offered none of the enhancements budgeted. The Lake Plains Y did not have the funds to pay for the 4-hour expanded after-school program for community youth because

the Director had diverted about \$53,000 of Safe Places Program and SDPP funds.

The Youth Bureau did an on-site review of the Lake Plains Y program in May 2001 and found discrepancies. Lake Plains Y management acknowledged that all the claims submitted for this program “were essentially fabricated.” At this point, the County Treasurer had already paid the Lake Plains Y a total of \$115,753 based on 29 false claims; the County had been reimbursed by OCFS for \$102,793 of this amount, but had not yet submitted the balance of the claims (\$12,960) to OCFS. According to Lake Plains Y management, the fabrications were simply errors that occurred because their accounting was not sophisticated and they were short of staff. After consultation with OCFS, the Youth Bureau decided to give the Lake Plains Y the benefit of the doubt, and allowed the Y to resubmit the claims.

The Youth Bureau states that it forwarded the resubmitted claims to OCFS in good faith. However, when we examined these claims, we found the majority of them did not relate to the Safe Places Program goal (\$46,698), were not supported (\$7,682), or were supported with altered or falsified documentation (\$17,846). To illustrate:

- A climbing wall was constructed at the Y. However, the wall was not open during the hours of the program’s operation, and therefore did not benefit its participants.
- Invoices were submitted in what appears to be the former Director’s handwriting for items (a new desk and new racquetball racquets) that could not be located at the Lake Plains Y.
- Electronic financial records for these “program related expenses” were altered. Hardcopy original reports that detailed such expenses were either misplaced or destroyed.

Of the \$102,793 that OCFS paid for SDPP and Safe Places Program services, only \$30,567 was spent for legitimate program expenses. The State should recover the remaining \$72,226. Further, the State should pay the County for only \$5,205 of the additional \$12,052 in resubmitted claims (the original claims were for \$12,960) not yet submitted to OCFS at

the time of the Youth Bureau review. The remaining claims for \$6,847 are not legitimate and not reimbursable.

The Director was able to perpetrate this fraud because the system of internal controls at the Lake Plains Y was weak. Further, external monitoring was not effective. The Youth Bureau, the primary monitor for SDPP and Safe Places Programs, had a well-developed monitoring system, but it did not identify weaknesses in internal controls at the Lake Plains, or question claims, until the third year of the program's operation. This is due, in part, to Youth Bureau officials' heavy reliance on program and fiscal reports submitted by the Director without independent confirmation. Once reviewers discovered discrepancies, the Youth Bureau was too ready to accept that "sloppy book keeping" was responsible for fabricated information. However, to its credit, the Youth Bureau did ask the County Legislature to audit this program on two occasions. Both requests were denied.

In the wake of this incident, the Youth Bureau has instituted new monitoring procedures that require all new programs to submit supporting documentation with their claims for reimbursement to demonstrate their fiscal compliance. The Youth Bureau agreed to further test for compliance by performing surprise visits at program locations. Monitoring actions would decrease as programs establish a track record of reliability.

Legislative Grants

From December 1998 to September 2002, the Lake Plains Y received four legislative grants totaling \$50,000. These grants were administered by OCFS and were supposed to be used for capital improvements, including repair of the roof, renovation of the locker room and restoration of the gym and racquetball floors. Legislative grants are restricted to the purpose for which they are granted. Further, only actual paid expenses can be reimbursed, and such reimbursement cannot duplicate reimbursement from other sources. The State should recover \$49,250, or almost 99 percent of these funds, because the expenses claimed were not actual paid expenses, represented duplicate reimbursement, or were based on inaccurate documentation. To illustrate:

- \$29,250 of the expenses submitted to support three claims totaling \$30,000 were not actual paid expenses;

- another \$20,000 in claims was based on expenses, which duplicate reimbursement from other sources; and
- the documentation provided by the Lake Plains Y for these grants also included falsified bids, falsified invoices and inaccurate information.

As a result, Lake Plains Y members and community youth did not benefit from the new roof and facility improvements the grant funds should have produced. Instead, the grants were used to pay for operating expenses. We believe the Director's diversion of significant State funds intended for SDPP and Safe Places Programs left him short of funds to pay for daily operations and ongoing programs. Therefore, it appears he raided restricted funds from the Legislative grants to cover operating shortfalls and hide the diversions. To receive reimbursement and to document the use of grant funds, the Director fabricated claims, altered and falsified records and misplaced or destroyed documents. In fact, demonstrating the fraud committed at the Lake Plains Y required auditors to reconstruct Lake Plains Y records and corroborate information from numerous sources.

Recommendations

To OCFS:

3. Take the following actions regarding State funds:
 - Recover \$72,226 for unsupported SDPP and Safe Places expenses.
 - Recover \$49,250 for false claims paid from legislative grant monies from the Lake Plains Y.
 - Do not reimburse Orleans County for \$6,847 in invalid Safe Places expenses submitted to the County but not yet submitted to OCFS.

Recommendations (Cont'd)

4. Work with local representatives and Genesee/Orleans Youth Bureau personnel to establish a list of “red flags” that monitors can look for to identify serious potential abuses or misuses of funds early on.

Examples of such red flags include:

- checks with a signature stamp for a second endorser; and
 - uncanceled checks submitted as supporting documentation for expenditures.
5. Work with the Genesee/Orleans Youth Bureau to facilitate appropriate fiscal monitoring of new programs by the Youth Bureau in the first year of operation to determine whether the programs are in programmatic and fiscal compliance.

FEDERAL FUNDS RECEIVED FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES

From January 2000 to June 2002, DCJS provided Orleans County with \$35,044 in Federal funds to be disbursed to the Lake Plains Y. Of these total funds, \$30,668 was to be expended by the Lake Plains Y for the Orleans County Department of Probation's (Probation) Youth Diversion Program. The remaining \$4,376 in funds were to be used to rent facilities for this program. The State should recover \$28,468 (81 percent) of these Federal funds from the County because the majority of the money may not have been used by the Lake Plains Y to deliver youth programs, and, instead, may have been diverted for personal use. *Exhibit A* at the end of this report shows a Proposed Cost Recovery for State and Federal Funds.

These Federal funds were available through three DCJS programs: Title V, PINS (Persons in Need of Supervision) Wraparound, and the Juvenile Accountability Incentive Block Grant. These programs are intended to fight juvenile crime and delinquency and improve the operations of the juvenile justice system across New York State. The goal of Probation's Youth Diversion Program is to adjust the behavior of Juvenile Delinquents and other youth in need in order to prevent young people from ending up in court and in trouble. The programmatic and fiscal monitor for these funds was the Youth Diversion Coordinator (Coordinator), a Probation employee. However, despite the Federal funds provided for this program and the reported need for these services among youth released from juvenile facilities, there was inadequate documentation to support most Youth Diversion expenditures provided by the Lake Plains Y.

We came to this conclusion after having examined the \$30,668 in reimbursed grant expenses related to the Youth Diversion Program. We found that \$28,468 of this amount was improperly reimbursed for the following reasons:

- funds were paid for services not provided;
- expenses were reimbursed for items expressly not allowed or not budgeted under contracts;
- expenses were paid out of funds that were lapsed (no longer available);
- there was either inadequate or no documentation of program expenses at Probation or at the Lake Plains Y, despite Probation policies requiring such documentation for reimbursement; and
- some expenses were also being billed to, and funded by, another State agency.

As noted earlier in this report, the Director of the Lake Plains Y engaged in inappropriate behavior, including using Lake Plains Y funds to enrich himself and otherwise using program and grant funds incorrectly. However, based on our interviews and records review, we conclude that Probation's Coordinator also acted inappropriately and enabled the misuse of Federal funds at the Lake Plains Y. For example, the Coordinator did not require supporting documentation for program expenses and knew about the duplicate billing of some program expenses.

A specific incident involves receipt by the Lake Plains Y of a payment of \$20,600 from DCJS for provision of youth services under a contract with Probation. The specific program was designed and budgeted by the Youth Diversion Coordinator and subcontracted to the Lake Plains Y. A voucher was subsequently submitted for reimbursement by Orleans County and paid by DCJS based on misleading information provided by the Coordinator. On the same day the voucher was submitted, the Coordinator received a check for \$2,500 from the Lake Plains Y. The Coordinator could not remember or explain this check, but acknowledged that receiving such funds would seem improper. Probation policies indicate that no Probation employees should receive any direct payments from a contractor for Department-funded programs. We believe this incident should be investigated to determine whether criminal acts were committed or whether disciplinary actions should be taken.

Regardless of whether the above incident constitutes criminal behavior, the fact that the Coordinator appears to have been complicit in a fraud on the community undermines public confidence in the Youth Diversion Program and in Probation, whose mission includes supervising and guiding persons who have broken the law.

Recommendations

To DCJS:

6. Recover \$28,468 of Federal monies improperly reimbursed.
7. Require that the Orleans County Department of Probation:
 - Monitor compliance of Probation employees with both established internal controls and relevant laws and regulations.
 - Require its program supervisors to monitor subcontractors' compliance with programmatic and fiscal requirements, such as documentation of expenses.
 - Investigate the circumstances pertaining to the payment of \$2,500 by the Lake Plains Y to a county employee and, if warranted, take appropriate disciplinary action.

PRIVATE FUNDS

In addition to State and Federal grants, the Lake Plains Y also receives private funding, including revenue from special events, memberships, program services, contributions from members and grants from the United Way and private foundations. We estimate that at least \$52,200 in private funds from these sources was stolen or used inappropriately (The recovery of misappropriated private funds, and the feasibility of such recovery, is not within the scope of this report. However, the relevant information was made available to the Attorney General's Office during the course of our audit.) Specifically, we found that:

- contributions amounting to \$12,200 were either diverted into an unauthorized bank account or are missing and cannot be accounted for;
- of the three Lake Plains Y sports programs of ten we examined, we estimate that approximately \$6,000 in cash was taken prior to deposit; and
- \$34,000 in revenue from sports programs was diverted to unauthorized accounts.

Because the Lake Plains Y received so much of its private funding in cash and controls over cash receipts were so poor, it is difficult to determine the true extent of these misappropriations. For instance, over the past few years, the Lake Plains Y held a series of annual special events, each of which generated cash receipts. However, while records indicate the events were held, there is no record of any income being received. Records of such receipts were either not kept or could not be located. Therefore, while misappropriation of these monies is likely to have occurred, the extent of misappropriation cannot be established. It is also difficult to identify which party is responsible for such misappropriations, since multiple individuals had access to these monies.

By establishing an effective system of internal controls at the Lake Plains Y, as we recommended earlier in this report, management will take a positive step to restore donor

confidence in its ability to properly account for these private funds and use them appropriately to achieve program goals.

Proposed Cost Recovery for State and Federal Funds

	<i>Total Funding Provided</i>	<i>Amount of Cost Recovery</i>	
State Funds:			
OCFS			
Safe Places 1999	\$48,070	\$34,856	
Safe Places 2000	\$45,476	\$30,056	
SDDP	\$9,247	\$7,314	
Total Safe Places and SDDP	\$102,793	\$72,226	
Roof Repairs	\$10,000	\$10,000	
Locker Room Renovation	\$10,000	\$9,250	
Gym Floor Restoration	\$20,000	\$20,000	
Gym and Racquetball Floor	\$10,000	\$10,000	
Total Legislative Grants	\$50,000	\$49,250	
DOH	\$6,664	\$0	
NYS Council of the Arts	\$150	\$0	
Total State Funds	\$159,607	\$121,476	(Note 1)
Federal Funds (Note 2)			
Title V	\$12,600	\$12,600	
PINS Wraparound	\$9,194	\$9,100	
Juvenile Accountability Incentive Block Grant	\$8,874	\$6,768	
Total Federal Funds	\$30,668	\$28,468	

Note 1: An additional \$6,847 in expenses reimbursed by the County (but not yet submitted to OCFS at the time of the Youth Bureau review) was also determined to be invalid.

Note 2: Additional Federal funds were provided for rent and other valid expenses. Total Federal funds provided were \$35,044. (\$30,668 in Grants and \$4,376 in Rent and Other Expenses)

MAJOR CONTRIBUTORS TO THIS REPORT

William Challice

Ron Skantze

H. Tina Kim

Jeffrey Dormond

Nancy Varley



New York State
Office of
Children & Family
Services

January 9, 2003

George E. Pataki
Governor

John A. Johnson
Commissioner

Mr. William P. Challice, Audit Director
Office of the State Comptroller
Division of Management Audit
and State Financial Services
123 William Street – 21st Floor
New York, New York 10038

Subject: Draft Audit #2000-S-20

Dear Mr. Challice:

Capital View Office Park

52 Washington Street
Rensselaer, NY 12144-2796

The Office of Children and Family Services has reviewed the Draft Audit, Selected Financial Practices-Lake Plains YMCA, issued November 27, 2002. Enclosed is our response for your consideration.

Sincerely,

Susan A. Costello
Acting Deputy Commissioner
for Administration

Enclosure

cc: L. Dobriko



An Equal Opportunity Employer

**Office of Children and Family Services
Response to Office of the State Comptroller (OSC)
Draft Report 2000-S-20
Selected Financial Practices – Lake Plains YMCA**

The Office of Children and Family Services (OCFS) has reviewed the Draft Report 2000-S-20—Selected Financial Practices-Lake Plains YMCA and offers the following response:

General Comments:

1. In the Executive Summary, in the first paragraph under “Audit Observations and Conclusions” (second page of the Executive Summary), the second sentence states that one reason the “fraudulent activity occurred” was because the “oversight entities did not verify the legitimacy of reported program expenses”. This is not accurate. The fraudulent activity took place because an official at the Lake Plains YMCA apparently engaged in fraud. The fraud was able to continue without having been detected, in part, due to the oversight agencies not having monitored the activities of the Lake Plains YMCA in a timely manner (although when the Youth Bureau did review the activities, the fact that there was some problem was detected). The present wording almost suggests that the oversight agencies were complicit in the fraud, and that is not the case. The report should be revised to clarify that the error of the oversight agencies was to not more closely monitor the contract activities of the Lake Plains YMCA.
2. On page 10 of the report, the first paragraph states that OCFS provided the Lake Plains YMCA with \$152,793 in funding. In fact, as noted both earlier and later in the report, over two-thirds of those funds were actually provided to the Lake Plains YMCA by the local Youth Bureau. OCFS provided \$102,793 to the Youth Bureau through the Safe Places and SDPP programs, and the Youth Bureau in turn provided those funds to the Lake Plains YMCA. The funds provided by OCFS directly to the Lake Plains YMCA were \$50,000 in legislative grants. The paragraph should be revised to clarify this.
3. On page 14, the fifth recommendation states that OCFS should work with the Youth Bureau on monitoring that would “provide assurance” that programs are in programmatic and fiscal compliance. This is unrealistic, as no amount of monitoring can “assure” that programs are in compliance. We suggest that “provide assurance” be changed to “determine whether” the programs are in compliance. We can legitimately expect the Youth Bureau to determine whether there is compliance, but to require that the Youth Bureau somehow provide “assurance” of compliance would place them in an impossible position.
4. On page 15, in the first paragraph the fourth sentence states that the State should recover \$28,468, which is noted as being 81% of “these Federal funds”. This is somewhat unclear, because earlier in the paragraph there are references

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* See State Comptroller's Note, Appendix B-4

to \$35,000 in federal funds and then to \$30,668 in federal funds. Because of the reference to 81%, it appears that "these Federal funds" is meant to refer to the total federal funds of \$35,000. If so, we suggest that this be clarified.

5. On page 16, in the next to last paragraph, the third sentence as written ("The Lake Plains Y received the \$20,600 payment ... by the Coordinator") does not make sense. It appears something was left out.

*
Note

Response to Recommendations

Recommendation 1: Instruct the Genesee/Orleans Youth Bureau and the Orleans County Department of Probation to require that the Lake Plains Y management establish an effective system of internal control that includes, but is not limited to, the following features: a strong control environment that communicates management's commitment to and support for controls; effective control policies and procedures that safeguard assets and protect the integrity of financial information; and methods of regularly monitoring whether the controls are working effectively.

OCFS Response: The Genesee/Orleans County Youth Bureau no longer funds the Lake Plains Y. However, the Youth Bureau has met with and encouraged the new management staff of the Y to establish a system of internal controls that: safeguard assets; protect the integrity of financial information; and develop methods to determine whether controls are working effectively.

Recommendation 2: Obtain independent assurance that an effective system of internal control is in place.

OCFS Response: We agree that obtaining independent assurance that an effective system of internal controls is in place would assist in the oversight of the program. However, the report gives no guidance on how to obtain independent assurance in a cost effective, efficient manner. We would like further guidance on what OSC believes would be necessary to implement this recommendation.

*
Note

Recommendation 3: Take the following actions regarding State funds: Recover \$72,226 for unsupported SDPP and Safe Places expenses; Recover \$49,250 for false claims paid from legislative grant monies from the Lake Plains Y; Do not reimburse Orleans County for \$6,847 in invalid Safe Places expenses submitted to the County but not yet submitted to OCFS.

OCFS Response: Upon receipt of the final audit report, the Bureau of Financial Operations (BFO) and the Bureau of Contract Management (BCM) will initiate steps to recover the funds from Orleans County and the Lake Plains YMCA. With regard to the \$72,226 in SDPP and Safe Places funds, BFO will recoup the funds from future claims from the County for Local Assistance funds. BFO has received a claim in the amount of \$5,204.88 from Orleans County for expenditures identified by OSC as reimbursable.

* See State Comptroller's Note, Appendix B-4

We will apply the claim against the balance due. Additionally, OCFS will not reimburse the County for the \$6,847 in invalid Safe Places expenses.

The BCM will initiate a Demand letter to be sent to the Lake Plains YMCA's Board Chairman for repayment of \$49,250 received from Legislative Grants. If repayment is not made within 30 days, BCM will follow the steps in OCFS' Fiscal Sanction Policy up to, and including, referral to the Attorney General's Office for collection.

Recommendation 4: Work with local representatives and Genesee/Orleans Youth Bureau personnel to establish a list of "red flags" that monitors can look for to identify serious potential abuses or misuses of funds early on.

OCFS Response: The BFO has developed a reference aide listing and defining the "red flags" which will be used by OCFS and County Youth Bureaus staff for monitoring the program.

Recommendation 5: Work with the Genesee/Orleans Youth Bureau to facilitate appropriate fiscal monitoring of new programs by the Youth Bureau in the first year of operation to provide assurance that programs are in programmatic and fiscal compliance.

OCFS Response: A system and schedule for unannounced program visits has been developed. A minimum of two (2) visits will be conducted annually, with more as determined necessary by Youth Bureau staff and the funding level of the program. The Youth Bureau will continue these visits throughout the duration of funding. These visits will be documented in the Youth Bureau's contact record, and may include participant interviews, and staff interviews. Observations and recommendations will be shared with the agency.

The Youth Bureau will conduct intensive fiscal monitoring of new programs within the first year. It will commence after the first claim is submitted. The self-monitoring instrument will be sent for completion and an on-site visit conducted. All back up documentation will be required with the claim. Subsequent reviews may be required to follow-up with bank statements and cancelled checks that may lag behind the claiming process. Copies of fronts and backs of checks will be required. The results of this initial monitoring will prompt next steps. If complete compliance is noted, then monitoring will proceed as identified in the plan. Drop-in visits will continue. If there are issues with compliance, fiscal review will be conducted every six months. All back-up documentation will continue to be required.

State Comptroller's Note

Certain text in the draft report was revised in the final report to address comments made by OCFS in its response.



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
Four Tower Place
Albany, New York 12203-3764
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January 6, 2003

Mr. William P. Challice
Audit Director
NYS Office of the State Comptroller
Division of Management Audit & State Financial Services
123 William Street - 21st Floor
New York, NY 10038

Dear Mr. Challice:

This is in response to your letter and draft report on selected financial practices at the Lake Plains Young Men's Christian Association dated November 27, 2002. We have reviewed the report, and based on it and the additional information presented to us by your auditors, are in general agreement with the recommendations directed to the Division.

In light of the ongoing criminal investigation to which you refer and your request, we will not forward a copy of this report to our grantee, Orleans County, at this time. Once the County has been made aware of the contents of the report and has been given the opportunity to respond, we will pursue your recommendations as appropriate.

We appreciate the courtesies provided by your staff, and are happy to cooperate with this initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Foster", with a long horizontal flourish extending to the right.

James A. Foster
Director of Internal Audit

JAF:pd

cc: Gary Schreivogl
Bill Betjemann
Kim Szady
Ken Connolly