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OFFICE OF THE STATE COMPTROLLER

February 2, 2005

Mr. John A. Johnson
Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144

Re: Report 2004-F-40

Dear Mr. Johnson:

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 have followed up on the actions taken by officials of the Office of Children and Family Services (OCFS) to implement the recommendations contained in our audit report, *Goshen Residential Center Shift Exchange Practices (Report 2002-S-17)*.

Background, Scope and Objective

OCFS operates secure, limited-secure and non-secure facilities for the care, custody, treatment, housing, education, rehabilitation and guidance of youth who are referred to its care by family and criminal courts. OCFS operates over 40 residential centers, including Goshen Residential Center (Goshen), which is a 100-bed limited-secure facility located in Orange County.

Section 134 of the New York State Civil Service Law allows employees in the same title to mutually agree to exchange shifts. Shift exchange occurs when two employees temporarily alter their work schedules by agreeing to work each other's shift. In return for working each other's shift, they each receive a shift off with no charge to leave accrual balances. Section 135 of the Civil Service Law prohibits an employee from receiving extra salary or compensation for working swapped time.

Section 207(p)(3) of the Federal Fair Labor Standards Act stipulates that an employee working a shift exchange receive only an exchanged shift in return and is not eligible for overtime for the exchanged shift worked. All hours worked in a shift exchange belong to the employee initiating the exchange, not the employee who actually works the shift.

OCFS Residential Centers allow Youth Division Aides at residential centers to exchange shifts with one another. About 60 of Goshen's approximately 110 employees are Youth Division Aides. According to OCFS Residential Center officials, shift exchange is offered by management to allow employees to have desirable shifts off as needed, primarily weekends and evenings. By allowing employees to trade days worked, they expect to keep overtime and sick leave abuse down,

and maintain a minimum staffing level.

All shift exchanges at Goshen must receive prior approval. This approval is to be documented on a prescribed shift exchange agreement form, which contains the names of the two employees participating in the exchange, the time and dates of the shifts to be exchanged, and a description of who will work which shift. Each form is to be signed by employees, both employees' supervisors, and the facility director or designee. In addition, the hours actually worked by each employee during the exchange are to be fully disclosed on each employee's time sheet. During the period covered by our initial audit (April 1, 2001 through September 30, 2002), Goshen used OCFS Bulletin 91-03 *Guidelines for Voluntary Shift Exchange* as its official policy and procedures for shift exchanges. OCFS advised us that these guidelines were subsequently withdrawn pursuant to a union agreement, and shift exchange guidelines are now handled as local agreements between each facility and the union.

Our initial audit report, which was issued on April 14, 2003, determined whether shift exchanges at Goshen were: (1) properly recorded on time sheets and approved; (2) performed as recorded and in accordance with policy; and (3) adequately monitored. Our report found that shift exchanges at Goshen often were not properly recorded on employee time sheets. We also found that exchanges were not always properly approved, and were not always performed as approved. We further found that some exchanges did not comply with other requirements. Because the forms that were supposed to document swaps could not be relied upon, we could not establish the extent of swapping that occurred during our audit period.

We concluded that shift exchanges were not closely monitored, and as a result, there was a significant risk that the exchanges could be abused. In our review of selected transactions, we identified instances of such abuse, including an employee who repeatedly failed to follow through and reciprocate an exchange. We recommended that certain improvements be made in Goshen's shift exchange practices, and that the practices themselves be monitored more closely. The objective of our follow-up, which was conducted in accordance with Generally Accepted Auditing Standards, was to assess the extent of implementation, as of December 13, 2004, of the five recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that OCFS has corrected the problems we identified in our initial audit. All five audit recommendations have been implemented.

Follow-up Observations

Recommendation 1

Periodically re-issue memos to supervisors, reminding them of their responsibility to review time sheet entries for shift exchanges, and to obtain corrections, as necessary.

Status – Implemented

Agency Action - We reviewed the memorandum, which is issued twice a year by the Facility

Director, reminding supervisors of their responsibility to complete an audit of at least one shift exchange that their subordinate staff has completed in the 60 days prior to the memorandum issuance.

Recommendation 2

Periodically review submitted time sheets, shift exchange documents, and AOD [Administrator on Duty] logs to determine if policies and procedures are being followed.

Status - Implemented

Agency Action - Senior Youth Division Counselors are required to review their staff's time sheet at the end of each payroll period. Two forms are used to document the request and completion of a shift exchange. The exchanging parties must have a Request For Shift Exchange form signed by their supervisor approving the request. The request must then be approved by the Facility Director. The AOD must sign a Shift Exchange Verification form at the completion of the exchange and the form must be attached to the employee's time sheet. The Director and/or Assistant Director review the time sheet once the Senior Youth Division Counselors have completed their review.

We randomly sampled 10 shift exchanges from the period April 1, 2003 through September 31, 2004 and found that, for each shift exchange requested, the employee's supervisor and the Facility Director approved the Request For Shift Exchange form. For 9 of the 10 shift exchanges, once the exchange was worked, the AOD signed the Shift Exchange Verification form certifying that the shift exchange was performed. The approved documentation was submitted with the employee's time sheets and is maintained in the employee's attendance records. In one instance, although the shift exchange was approved, documentation showed it never occurred.

Recommendation 3

Review the apparent abuses we identified and if warranted, take appropriate disciplinary action.

Status - Implemented

Agency Action - Goshen officials reviewed the apparent abuses and suspended shift exchange privileges for employees who violated shift exchange procedures.

To confirm that disciplinary action was taken, we reviewed the attendance records for the four employees we identified in our initial audit as apparent shift exchange abusers. We found that, for the period in which their shift exchange privileges were suspended, that three of the four employees did not work any shift exchanges. We noted that one employee worked an approved shift exchange two days before the suspension was to be lifted.

Recommendation 4

Develop an automated tracking system for determining whether approved exchanges comply with policy and are executed as approved.

Status - Implemented

Agency Action - Although Goshen officials did not develop an automated tracking system, they implemented alternative procedures as described in Recommendation 2. As a result, the objective of this recommendation has been achieved.

Recommendation 5

Specify in policy what constitutes the abuse of shift exchange privileges, and specify how employees who abuse the privileges will be disciplined. Communicate and enforce the sanctions that are developed.

Status - Implemented

Agency Action - The Facility Director issued a shift exchange policy memo on September 12, 2002, to all Youth Division Aide staff, delineating the procedure for addressing abuse of shift exchanges privileges.

To demonstrate enforcement of the policy, officials provided us with three memorandums they issued to staff, regarding their findings of non-compliance with the shift exchange policy. Each memo also conveyed required corrective actions and, if deemed necessary, the discipline imposed. We found the actions conveyed in the memos to be consistent with the policy distributed to staff.

Major contributors to this report were Richard Sturm, Donald D. Geary, ShaDina Currie and Chrystean Keil.

We thank the management and staff of OCFS for the courtesies and cooperation extended to our auditors during this process.

Yours truly,

William P. Challice
Audit Director

cc: Robert Barnes, Division of the Budget
Lynn Dobriko, OCFS Audit Liaison