

State of New York
Office of the State Comptroller
Division of Management Audit

DIVISION FOR YOUTH

**HARLEM VALLEY SECURE CENTER
SELECTED SECURITY, SAFETY
AND PAYROLL MANAGEMENT
PRACTICES**

REPORT 95-S-132



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit

Report 95-S-132

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Dear Mr. Johnson:

The following is our report on selected security, safety and payroll management practices at the New York State Division for Youth's Harlem Valley Secure Center.

This audit was done according to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. We list major contributors to this report in Appendix A.

*Office of the State Comptroller
Division of Management Audit*

January 26, 1998

Executive Summary

Division For Youth Harlem Valley Secure Center Selected Security, Safety And Payroll Management Practices

Scope of Audit

The Harlem Valley Secure Center (Center), located in Dutchess County, is one of seven secure centers operated by the Division for Youth (Division). The Center provides intensive programming for male youths requiring long-term care under a highly controlled and restrictive environment. As of February 28, 1997, the Center housed 159 youths and employed 223 staff. The Center's expenditures for the year ended March 31, 1996 and the eleven months ended February 28, 1997 were \$14.1 million and \$8.7 million, respectively, of which personal service costs accounted for \$12.0 million and \$7.3 million, respectively.

Our audit, which covered the 30 months ended September 30, 1996, addressed the following questions about selected Center security, safety and payroll management practices:

- How effective were Division and Center management in providing a safe and secure environment for residents, staff and visitors?
- Did Division and Center management provide adequate assurance that personal service costs were appropriate?

Audit Observations and Conclusions

We identified several serious deficiencies in Center operating practices. Employees with criminal backgrounds were hired to work closely with the youths, required fire inspections and fire drills were not performed, and employees were paid for time not documented as worked. Center and Division management have not established an effective internal control system. Center management did establish control procedures, but did not effectively monitor operations to help ensure that controls were operating as intended and weaknesses were corrected. (See pp. 5-7)

The background of a person seeking employment at the Center is investigated to determine whether the person has ever been arrested. According to Division policy, the person may be hired before the background investigation is completed, if the person states that he or she has never been arrested. We identified 19 such people who were hired by the Center, but who, contrary to their assertions, had previously been arrested for crimes including possession of a controlled substance and reckless endangerment. Two of these employees were dismissed by the Center after their previous arrests became known. However, because the background investigation can take as long as two years, the dismissed employees had been working closely with youths, in each case as a youth division aide, for more than six

months. We recommend that employees who work closely with youths not be hired until their background investigations are completed. (See pp. 9-11)

Center management is required to conduct fire inspections and fire drills monthly in each area of the facility. However, we identified a number of months in which the required inspections and drills were not conducted. According to the fire safety officer, who serves part-time in this position, the required fire safety activities were not conducted because he was assigned to other duties. If fire inspections and fire drills are not performed as required, the safety of residents, staff and visitors may be jeopardized. (See pp. 13-15)

Center staff are required to maintain accurate time and attendance records, and Center supervisors are required to authorize payments only for time that is actually worked. However, when we compared the time sheets of selected employees to supporting documentation such as sign-in/sign-out logs and overtime authorization forms, we found that some employees claimed to work hours that were inconsistent with the hours they recorded in sign-in/sign-out logs, some employees claimed to work overtime that was not properly authorized, and some employees were incorrectly paid overtime instead of straight time. We believe some of the unsupported hours claimed on time sheets may represent abuse or other irregularities. The errors and inconsistencies were not detected because supervisors did not closely examine the employees' time and attendance records, as required. We further found that many Center employees received paid meal breaks, even though their responsibilities did not require them to remain on duty during their meals. (See pp. 17-25)

Many of the deficiencies identified during our audit were already known to Division and Center management through internal and external audit reports, but corrective action had not been taken. We recommend that Division and Center management become more involved in monitoring Center operations and ensuring that deficiencies are corrected. We also recommend that the Center's internal controls be strengthened and all payroll overpayments be recovered. (See pp. 5-7, 15, 20 and 23)

Response of Division Officials

Division officials expressed appreciation for many of our recommendations and stated they have already taken steps to address various issues identified in the report. However, they believe that some of our conclusions are unsupported, due to the sample size and the fact that some of our audit results are stated in terms that are misleading. However, we believe that Division officials have inaccurately portrayed our work, because the tests performed were adequate to support that the Center had deficiencies in the areas of payroll and fire safety. Their response along with our comments have been incorporated throughout the report.

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Introduction

Background

The Division for Youth (Division) was created by Chapter 881 of the Laws of 1960. Its primary mission is to help prevent delinquency through positive youth development. The Division operates the Harlem Valley Secure Center (Center), which is located in Wingdale, New York. The Center is one of seven secure centers operated by the Division.

The Center provides intensive programming for youths requiring long-term care under a highly controlled and restrictive environment. Its facilities consists of six buildings. Three buildings are used to house and provide academic instruction to the youths. The other three buildings are used in the following support capacities: one building is used for administration; another for stores; and the third as a kitchen, dining area, and gymnasium.

The Harlem Valley campus was constructed to accommodate 296 male youths who have either been adjudicated as juvenile offenders by adult courts or have been placed as juvenile delinquents by the family courts. However, due to the downsizing and potential closing of the facility, the capacity as of February 28, 1997 was 157 male youths. Many of these youths have serious emotional problems and have an extensive history of delinquent behavior and involvement with the justice system. As of February 28, 1997, the Center housed 159 youths.

The Center employed approximately 390 staff in 1995 and 223 staff as of February 28, 1997. The Center's expenditures for the year ended March 31, 1996 and the eleven months ended February 28, 1997 were \$14.1 million and \$8.7 million, respectively, of which personal service costs accounted for \$12.0 million and \$7.3 million, respectively.

Audit Scope, Objectives and Methodology

We audited selected Center security, safety and payroll management practices for the period April 1, 1994 through September 30, 1996. We also followed up on certain matters that were brought to our attention by Division and Center officials through December 31, 1996. The objectives of our audit were to assess the effectiveness of Center and Division management in providing a safe and secure environment for residents, staff and visitors, and to determine whether management ensures that personal service costs are appropriate.

To accomplish our objectives, we reviewed applicable policies, procedures, rules and regulations; interviewed Division and Center employees; observed employees performing their duties; and reviewed pertinent Division and Center records.

We did our audit according to generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess those operations which are included in our audit scope. Further, these standards require that we understand the Center's internal control system and its compliance with those laws, rules and regulations that are relevant to the operations which are included in our 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.

In response to the draft audit report, Division officials disagreed strongly with the legitimacy of our conclusions based on limited payroll sampling and information, and also maintain that such a limited payroll sample violate government auditing standards.

Contrary to Division assertions, we employed appropriate professional judgment in selecting the employees and transaction for testing and reaching appropriate conclusions from testing results. We were able to limit the size of testing primarily because we were not using the results to statistically project conditions or payroll overpayments. Moreover, only limited testing was necessary to identify significant payroll discrepancies because internal controls were not adequate, payroll oversight and supervisory monitoring was weak, and corrective action had not been taken by management to address specific known problems in this area.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, we devote little audit effort to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

Response of Division Officials

Draft copies of the matters presented in this report were provided to Division officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B.

Division officials expressed appreciation for many of our recommendations and stated they have already taken steps to address various issues identified in the report. However, they believe that some of our conclusions are general and unsupported, that the sample sizes were limited to draw conclusions

about areas such as payroll and fire safety at the Center. They added that some of the report terminology is inaccurate, misleading or unnecessarily contentious.

We believe this report is based on an objective and professional review of Division and facility records and our conclusions are properly supported and specific to those controls, records and activities we tested. Our findings, conclusions and recommendations are similar to those previously reported by the Division's own internal audit unit. Moreover, only limited audit testing was necessary to identify payroll discrepancies because management had not established an adequate internal control system or monitored its operations to help ensure that employees were working the hours for which they were paid. In addition, adequate corrective action was not being taken to address known and continuing deficiencies in areas such as fire safety and payroll.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Director of the Division for Youth 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.



Results of Audit

Division and Center management are responsible for establishing, maintaining and monitoring appropriate systems of internal control. Properly functioning systems are necessary to provide reasonable assurance that operations are efficient and effective. For example, it is essential that management helps provide a safe and secure environment for residents, employees and visitors.

Effective internal control has five interrelated components: the control environment, risk assessments, control activities, information and communication, and monitoring. The control environment is management's attitude, philosophy and operational commitment to internal control systems. Through risk assessment, managers identify and analyze the risks that can jeopardize the achievement of objectives and determine how best to manage these risks. To contain risks that operations may deviate from expectations, management develops control activities, policies and procedures for employees to follow. Management needs to establish monitoring systems as well as information and communication systems to properly inform employees about internal controls, provide useful reports about operations, and routinely monitor the control system's performance.

We found that Center management has not established an adequate internal control system. Center practices relating to employee background screenings need improvement to ensure that prospective or current employees are suitable for working with youths. In addition, required fire drills and fire inspections need to be held regularly. We also found that employees were paid for time not worked. These problems result in an environment which is not conducive to providing adequate safety and security for residents, staff and visitors, as well as helping ensure that payroll payments are appropriate.

We found that Center management had control procedures, but did not effectively monitor operations to help ensure that controls were operating as intended. Further, Division managers were aware of deficiencies in areas such as fire safety and payroll; however, corrective action was not taken. We believe Division and Center management intended to have a positive attitude toward internal controls. For example, during this audit, Division and Center officials were very responsive to our concerns, and put forth considerable effort in following up on the problems we identified. In addition, Center management did establish an Internal Control Committee; however, the Committee was abandoned in September 1995 before its first meeting.

Division and Center management have not conducted a risk assessment to identify any potential problems. Center management performed a self-assessment during 1995; however, they did not perform one during the first

nine months of 1996. While the self-assessment may identify limited risks, it is not comprehensive enough to provide an overall evaluation of Center operations. The 1995 self-assessment claimed that facility operations generally complied with Division requirements, however, there was no evidence that management reviewed or tested the validity of the assessment. In addition, where noncompliance was noted, there was no evidence of follow-up to ensure compliance.

In response to the draft audit report, Division officials stated that the facility completed a self-assessment in the Fall of 1996 after our audit fieldwork ended and Division officials did not make us aware of this fact. They stated that the results included 60 action plans identifying areas of noncompliance and steps needed to address the problems.

Division and Center management have a monthly reporting system to address operating problems. However, this process does not appear useful because corrective action was not taken. For example, no action has been taken even though the Center has identified its own fire safety deficiencies. Division management also has an internal audit unit which monitors operations, and Center management has mechanisms for monitoring its own operations. However, neither has a mechanism in place to ensure that steps are taken to eliminate instances of noncompliance with Division policies and procedures.

Recommendation

1. Ensure compliance with the systems of internal control over employee background screening, fire safety practices, as well as time and attendance and payroll practices. Activities should include, but not be limited to:

- greater management involvement in establishing, evaluating and monitoring Center controls;
- communicating information so that Center staff properly understand, interpret and implement internal controls; and

- assessing and identifying existing risks, determining what corrective action is needed and when it will be implemented.

However, our review showed that there was no evidence of adequate follow-up to ensure facility compliance in the areas of fire safety and payroll. Facility managers were clearly aware of significant deficiencies in these areas. (Division officials stated they have established systems of internal control over these areas. They added that these systems are reviewed annually to assess risks and to develop action plans to address areas of vulnerability.)

During our audit, we found that while internal controls generally existed, facility operations were not effectively monitored by facility or Division managers to help ensure that controls were operating as intended. In addition, adequate corrective action was not being taken to address known and continuing deficiencies in areas such as fire safety and payroll.

Throughout its response to this report, Division officials noted that significant and specific steps have been initiated since our audit fieldwork to improve facility procedures, controls and operations, as well as to enhance central office and facility monitoring and information systems. We commend Division officials for recognizing the need to take timely corrective action in such a constructive and positive way to help identify, and correct facility operating deficiencies.)



Security Procedures and Practices

We identified weaknesses in security procedures and practices, as the Center hired several employees who had previously been arrested and due to the delays in the background screening process, Division officials were not always aware of the convictions of their employees until after they were hired. As a result of these weaknesses, the youths at the Center may be placed at risk.

Employee Background Screenings

Center management obtains fingerprint impressions from employment candidates, and the impressions are sent to the Division's central office for criminal history screening by the Division of Criminal Justice Services (DCJS). Division officials told us three to eight weeks are needed to obtain the candidates' criminal histories from DCJS. Upon receipt of the criminal histories, Division officials, through their Criminal Records Review Committee, are to obtain other relevant information, such as any data from courts and the Center Director relating to outstanding warrants or arrests without reported adjudications, and convictions involving felonies and misdemeanors.

The Center Director and the Committee review the available information and recommend whether or not to hire candidates based on nine evaluation criteria. Drug convictions and violent felony convictions are to be intensively scrutinized. The Division's Executive Office has ultimate authority to hire and can override Committee recommendations. In addition, the Division has a policy that grants background "waivers" so that employees may be hired before their background screening is complete. Division officials told us waivers are only to be used for candidates who state they were never convicted of a crime.

We examined records relating to employees hired by the Center during our audit period and found the Division regularly waived criminal history screening prior to hiring candidates. These waivers were granted according to Division policy. However, according to DCJS records, 19 of the employees who were hired had previously been arrested (for crimes such as possession of controlled substances, reckless endangerment, driving while intoxicated, and petty larceny). All 19 employees had jobs involving direct contact with youths, as they were either youth aides, counselors or teachers. We tried to determine what actions were taken by the Committee with respect to these 19 individuals once their prior arrests became known, but we were told by Division officials that, in accordance with Division policy, much of the documentation regarding these actions had been disposed of.

We also determined that for the sampled employees where information was available, the entire review process, from fingerprinting to Committee action, took between 8 weeks and 115 weeks. (This processing time could be

determined for only 7 of the 19 employees, because information relating to the other 12 employees was not available.) Two of the 19 individuals were allowed to work with youths for over six months, and were then terminated after the Committee completed its review. The Division had waived the initial criminal history screening requirement for these two candidates because they stated on their application that they had no prior criminal convictions.

We conclude that the process used by the Center to hire employees does not adequately protect the interests of the youths in custody, as the youths may be exposed for extended periods to staff with criminal backgrounds. We therefore recommend that criminal history screening waivers no longer be granted for employees who work closely with youths, and that such employees be hired only after the screening process is completed. In addition, to provide assurance that the criminal histories of employment candidates are taken into proper consideration, we recommend that the Committee's decision-making process be thoroughly documented and that this documentation be retained.

Employee Arrests

If the Division is to adequately oversee facility operations and ensure that the youths at the facilities are protected against staff with inappropriate criminal backgrounds, the Division needs to be informed about any arrests involving facility employees. According to Division policy, if a facility employee is arrested, the employee must report the arrest to the facility or Division within 24 hours. The Division may also receive reports from police agencies and DCJS when employees are arrested.

At the time of our audit, Center records and DCJS records indicated that Center employees had been arrested a total of 23 times. However, when we examined Division central office records, we found that only 11 of the 23 arrests had been recorded. Division officials told us they were aware of the other 12 arrests, but their records did not readily make this information available and did not indicate that appropriate action had been taken to follow up on the arrests. Division officials acknowledged that their recordkeeping, information and communication systems need improvement. They told us they are making these improvements, and as part of these improvements, they have instituted a process to log all information received.

Recommendations

2. Do not hire employees for jobs involving regular contact with youths until the criminal history screening process is completed.

(Officials objected strongly to the auditor's reliance on arrest data rather than the conviction result which is more crucial to evaluate an applicant's fitness for employment.

Division officials also noted that no waivers for this facility have been requested since the audit was conducted. However, officials stated that under certain circumstances a facility must be able to request a waiver. For example, to staff critical services, to fill vacancies, to start training classes, summer school or a reduction-in-force. Officials added that employees hired under such waivers are not permitted to work alone with residents until screening is completed.

Division officials provided no evidence to show that the 19 employees who received waivers, but had an arrest record, worked with other staff until the screening process was completed. DCJS records indicated that 9 of 19 had recorded convictions, while dispositions for 10 employees arrested were still pending, for six months to five years. Six of the nine employees with convictions were subsequently terminated or resigned. However, the Division retained two employees as youth division aides (YDAs) although they had been convicted of driving while intoxicated. We question the appropriateness of these decisions in light of the fact that YDAs are responsible for transporting youth.

With respect to the 10 pending dispositions, alleged charges include drug possession, reckless endangerment, harassment, assault, and public lewdness. While an arrest does not equate to a conviction, officials should be aware of these actions to monitor outcomes.)

Recommendations continued

3. Document and maintain all evidence relating to the criminal history screening process.

(Division officials stated that their process to document the criminal history screening process does not include maintaining all related evidence because such records must be periodically purged by both DCJS and the Division in accordance with Division policy. Officials added that once the agency has reviewed and evaluated applicant backgrounds, there is no reason to maintain criminal history screening records.)

While it is appropriate that certain screening records should be periodically purged, we believe that the Committee's decision-making process be thoroughly documented and some evidence should be maintained to provide adequate assurance that employment decisions based on criminal histories have been properly considered and made. For 11 of 19 cases where employees had arrests, there was no evidence to support the Committee's decision to retain the employee.)

4. Ensure that employee arrests, and any related follow-up actions, are clearly indicated in Division central office records.

(Division officials agreed and stated they have reviewed and modified the employee arrest tracking system to improve timely notification of arrests by/to the facility, central office, and DCJS. In addition, unusual incidents are reviewed daily by central office, and arrests are also tracked through a central office log.)

Fire Safety Procedures and Practices

A fundamental Division responsibility is to provide a safe environment for residents, employees and visitors. To help accomplish this goal, the Division has issued a comprehensive fire safety manual as well as several supplementary directives. The Center Director has overall responsibility for the Center's Fire Safety Program. He has appointed a youth division aide as a part-time Facility Fire Safety Officer (FFSO) to ensure that the Center complies with all Federal, State and local fire codes. In addition, the FFSSO must abide by Division policies and any facility-specific procedures developed by the Center.

We identified several fire safety deficiencies that may jeopardize the safety of residents, employees and visitors. We found that fire safety inspections and fire drills were not performed as required. We also found that quarterly fire safety committee meetings were not held as required. These deficiencies resulted from Division officials and Center management not placing a strong emphasis on fire safety. Although Division officials and Center management were aware of these deficiencies, they did not commit additional resources to help resolve the problems.

Established procedures require that fire safety inspections be held monthly at each facility area. The procedures also require that fire drills be held monthly at each facility area, including each shift on a quarterly basis. These inspections, drills and other required activities must be recorded in the fire safety log. We reviewed the log for the period January 6, 1993 through June 26, 1995 and found instances where no entries were made for several months in a row (e.g., March 30, 1994 through July 22, 1994). We also found that required fire safety duties were not performed. For example:

- On March 29, 1994, the FFSSO stated he was not performing monthly inspections or fire drills because he had other duties as a youth division aide.
- In November and December 1994, the FFSSO stated he had not performed his FFSSO duties and he was months behind in these duties.

We also reviewed the Center's monthly reports to the Division and determined that Division officials and Center management were also aware of fire safety deficiencies. The reports indicated among other things that, in May and August 1994, the Center did not complete all fire drills and fire safety inspections because the part-time FFSSO was assigned to other duties and was not available to perform his fire safety duties. The reports also indicated that, in July 1995, the Center conducted only mock fire drills (in which the

residents did not evacuate the buildings), and in August 1995, fire drills and inspections were not conducted at all.

The FFSO stated he did not have enough time to perform required fire drills and inspections because he was assigned to other facility duties. He told us he informed Center management of the problem; however, they did not commit any additional resources to resolve the problem. Moreover, the FFSO noted in the fire safety log that, “the only time something is done to help me, it is because something big is going to happen or Central Office is coming down.”

Center procedures require that assistant fire safety officers be appointed to assist in ensuring that the Center meets all fire safety requirements. Further, the assistant fire safety officers are required to meet with the FFSO, as the fire safety committee, on a quarterly basis. We interviewed the FFSO and found the fire safety committee had not met in more than seven months. Entries in the log for March 1994, July 1994 and February 1995 indicate the meetings were canceled or informally held because members were not showing up or members were not being relieved from other duties to attend the meetings.

This lack of communication between the FFSO and the assistant fire safety officers could lead to significant noncompliance with mandated procedures and create an unsafe environment. Center management did not commit additional resources to help resolve the problems; because of management’s lack of attention in the fire safety area, the safety of residents, employees and visitors may be jeopardized.

These deficiencies are not new to the Center, as our prior report (92-F-17) issued on May 2, 1992 reported the same problems, but these problems have yet to be corrected.

Recommendation

5. Management must take appropriate action to ensure that the safety of residents, employees and visitors is a high priority, and that fire safety requirements are complied with.

(Division officials agreed that the safety of residents, employees and visitors is of the utmost importance. They added that new and/or revised policies and procedures, including training and monthly meetings, have been established since the audit to ensure compliance with fire safety requirements.)

Payroll Procedures and Practices

Center as well as Division management are responsible for establishing and implementing proper payroll controls and procedures to ensure that payroll expenditures are necessary and bonafide. Staff are required to accurately maintain their time records, and supervisors are required to authorize payments only for time actually worked by employees.

In February 1995, Division internal auditors identified significant control weaknesses related to Center management's time and attendance practices, including:

- inadequate checks and balances to ensure the accuracy of time reported as worked;
- incomplete employee sign-in and sign-out records; and
- inadequate certification and verification by supervising employees of time reported as worked.

We found that Division managers, however, have not taken adequate steps to improve the Center's payroll procedures and practices. Instead, Division and Center managers allowed the continuation of certain improper practices that result in payroll errors. For example, the Division's personnel director overrode existing controls by approving overtime hours despite documentation indicating that Center management did not authorize the claimed overtime. Instead of investigating variances between overtime authorizations and time sheets, this official instructed Division staff to make the overtime authorization forms agree with the time sheets. As a result, employees were paid at overtime rates for hours that may not have been worked. In addition, even though we reviewed a limited sample of payroll transactions, we believe that the payroll abuses and irregularities we identified are not isolated because established controls and procedures are being circumvented, management oversight is weak or non-existent, and there is no on-going monitoring to ensure the validity of employee time records.

Employees Paid for Hours Not Worked

To determine whether the time reported as worked was adequately documented, we reviewed all payroll transactions for a judgmental sample of ten Center employees for the period June 29, 1995 through January 10, 1996.

The sample included 5 employees known to have time and attendance problems, 2 employees assigned to problem supervisors and 3 employees selected at random. We found that employees who were certified as working either had not worked or were overpaid for the hours they did work. Also, supervisors frequently did not use Center records designed to record employee

time and attendance (tracking forms, leave requests, tardy slips, overtime slips, and sign-in and out logs) to verify the accuracy of time sheet entries. As a result, errors on time sheets were often not detected. In addition, contrary to State regulations, employees were allowed to claim, supervisors approved, and the Division central office processed, overtime payments for hours worked that were not in excess of 40 hours within a pay week.

Initially, we identified 705.75 hours, for which employees were paid \$11,437, that were not adequately documented. Some employees claimed to work hours that were inconsistent with the hours they recorded in the sign-in/sign-out logs; some employees claimed to work overtime that had not been formally authorized; some employees were paid at overtime rates when the regular rate was appropriate; and the tardiness time of some employees was not appropriately deducted from their pay. We informed Division and Center management of these discrepancies and requested them to investigate. Center officials were subsequently able to provide us with full or partial documentation for 361.25 of these hours, based on specific entries in unit logs. However, 344.5 hours remain undocumented. Center management agree that 77.25 of these hours represent overpayments, and they plan to recover these overpayments. However, the remaining 267.25 hours have yet to be explained. For most of these hours, the employees did not sign in or out in the Center's required log, and Center and Division officials cannot explain how an employee can enter or leave a secure facility without signing in or out.

We believe that many of these instances are indications of potential fraud and abuse. For example:

- One employee was certified as working 104.5 hours valued at \$1,492; however, the employee did not sign in or out for many of these hours. This employee also reportedly claimed he worked for 16 of these hours, but was absent. Division officials agreed that the employee did not work these hours and the employee has subsequently charged appropriate leave credits for those absences.
- Another employee was certified as working eight hours on June 29, 1995; however, the employee did not sign in or out for these hours. In fact, another employee was paid overtime for working these hours.
- Another employee was certified as working eight-hour shifts on both July 2 and 9, 1995, even though the Center's schedule log indicated this employee was off on both days. Center management also paid this employee for 16 hours of unauthorized overtime on July 4 and 11, 1995, as Division employees changed overtime authorization sheets to agree with time sheet entries.

These examples illustrate the ineffectiveness of the Center’s internal controls and raise questions about the validity of Center payroll records in general.

The Center’s Assistant Director told us that managers are apprehensive about the accuracy of employee time sheets. However, we found indications that employee time and attendance practices are considered a low priority. For example, one supervisor, who told us it regularly takes six hours for him to approve employee time sheets, observes other supervisors taking only twenty minutes to do this. While six hours may be an excessive amount of time to spend, we believe employee time sheets are more likely to be accurate if they are scrutinized closely by supervisors.

We were also told by Center management that center time and attendance policies were frequently violated. For example:

- time sheets were not completed daily by employees;
- administrators on duty rarely identified employees arriving late by red-lining sign-in logs after the shift started; and
- administrators on duty did not require supervisors to verify sign-in and out times.

We also note that Center management have encouraged an informal, unauthorized, and inadequately documented practice of “work adjustments” authorizing immediate supervisors to allow employees to change work schedules to meet employee needs. We believe this practice is not providing Center management with the appropriate levels of information needed to ensure staffing is sufficient or deployed properly. Division officials replied to our draft report that the Center has stopped the practice of permitting unauthorized and undocumented work adjustments, and has initiated formal written instructions for implementing work adjustments.

Recommendations

6. Investigate the 267.25 hours that may have been inappropriately paid and, where appropriate, initiate payroll recovery actions and/or disciplinary action against the employees.

(Division officials agreed and stated that they have investigated the hours questioned in the report. Officials added that 81.25 hours worked by 10 employees could not be documented and are considered overpayments. Eight employees have satisfied their overpayments and action has been initiated to recoup overpayments from two former employees. Officials stated that some of the remaining hours in question can be documented through unit logs, assignment sheets or trip sheets. Although this does not document all of the hours in question, there is no way to disprove that the employees actually worked. Officials stated that, consequently, recoupment action cannot be taken for these hours.

Based on the above response, there are 263.25 hours paid to these same 10 employees have yet to be adequately supported or explained. For most of these hours, the employees did not sign in or out in the facility's official required log, and officials cannot explain how an employee can enter or leave a secure facility without signing in or out. While officials maintain that the time sheet is the official record for time and attendance purposes, we believe that more compelling evidence exists in the form of facility logs, key logs, unit logs and other evidence of employee activities. Moreover, the Division's own internal audit of overtime at Harlem Valley in early 1995 concluded that it was not possible to verify whether overtime paid accurately reflected overtime worked, or whether employees had worked at least 40 hours during certain weeks. Our audit confirmed that the same significant deficiencies and discrepancies found by the internal audit existed at the time of our audit.)

7. Develop and implement internal control procedures to ensure that the time reported as worked is accurate, employees sign in and out as required, and supervisors certify time records only after properly verifying time worked.
8. Ensure that employees record time and attendance entries daily.

Recommendations continued

9. Ensure that supervisors identify late-arriving employees by red lining sign-in/out logs, do not authorize overtime when employees work less than 40 hours a week, and verify sign- in and out times.

(Division officials agreed and stated the facility has revised its time and attendance procedures to improve controls over verifying time records. Officials added that since the audit, training sessions have been held, and supervisors have reviewed all procedures with staff to clarify critical expectations and requirements. These include daily entries, proper red-lining of late employees, daily supervisory monitoring of records, bi-weekly reconciliation of time sheets to sign-in logs and overtime forms, and appropriate counseling and discipline if necessary.)

10. Develop monitoring procedures for ensuring that employee work adjustments meet the needs of the Center.

(Division officials agreed and stated that unauthorized and undocumented work adjustments have been stopped, and that all staff must follow the new formal procedures for work adjustments which facility management will monitor.)

Overtime Authorization and Documentation

Management should ensure that all overtime is necessary, authorized and documented. Overtime expenditures for the year ended March 31, 1995 totaled \$1,152,769, while overtime expenditures for the year ended March 31, 1996 totaled \$785,045. State regulations require all overtime payments to have prior authorization. Unscheduled overtime must be authorized in advance by the appointing officer or a designated official who is ineligible to earn overtime pay. Each instance of overtime must be approved individually and blanket approvals are not permitted.

Center overtime must be approved by the Administrator on Duty during the shift on which the employee incurs the overtime, as well as the Director. Approved overtime authorizations are sent bi-weekly to the employee's immediate supervisor, the employee and the personnel office. The Center's personnel office summarizes all individual authorizations on a blanket authorization. This blanket authorization is then sent to the Division's personnel office, where it is compared to the individual time sheets and then processed and authorized for payment.

We reviewed the individual and blanket overtime authorizations which were used to support 1,274.5 hours of overtime (valued at almost \$30,000) paid to five judgmentally selected employees (based on a high amount of overtime earned) during the period July 27, 1995 through October 18, 1995. We found that 144.5 hours of overtime valued at about \$3,560 had not been properly authorized or approved, as follows:

- 120 hours were not approved, as required, representing another situation where the proper procedures were not followed.
- 24.5 hours were approved for payment by the Division's personnel office even though they were not included in the blanket overtime authorizations or supported by individual overtime authorizations. For these hours, the Division's Personnel Director instructed his staff to change the blanket overtime authorizations so that overtime hours authorized agreed with overtime hours worked on time sheets.

However, we found that time sheets may have been falsified and employees may have been paid for overtime not worked.

Recommendations

11. Ensure that all overtime is authorized by the administrator on duty and Center Director, is verified by the employee's immediate supervisor, and is documented by entries in the sign-in/sign-out log records. If all is accurate, the supervisor then certifies the employee time sheet. If discrepancies exist, the supervisor can refer to the sign-in/sign-out log to document employee attendance. The sign-in/sign-out log is an official document which can be used to verify employee start and end times, as every nonprofessional employee entering and leaving the Center is required to record the time of entry and departure in this log.

12. Review all the overtime paid during our audit period, determine whether overpayments were made, and recover the overpayments where appropriate. Discipline employees where appropriate. For our sample of 1,274.5 overtime hours, we compared the overtime hours, as well as the related regular hours, that were worked and paid to the sign-in/sign-out log. We found that the Center's sign-in/sign-out log did not fully document that 66.5 overtime hours and 48 regular hours valued at \$2,264 were worked.

Officials added that some overpayments have been identified and recovered, and action will be initiated to recoup overpayments from two former employees. Concerning certain other facility records, officials stated that they consider other overtime discrepancies, officials stated that they consider other facility source material and determined that some of these hours were paid correctly. However, as detailed on Pages 21 and 22 of the report, as well as after Recommendation 6, many other hours not be documented as being worked, and the employees therefore appear to have received payment for hours not worked.

13. Ensure that supervisors perform their responsibility to ensure that employee overtime is reported accurately. Take the necessary disciplinary action for those supervisors not carrying out their responsibility.

(Division officials agreed and stated that supervisory responsibility for reviewing, verifying and certifying employee time sheets as well as overtime payments are critical tasks for all supervisors and are part of their annual performance evaluation.)



Recommendations continued

14. Re-evaluate the practice of altering facility blanket overtime authorizations so that they agree with time sheet entries.
15. Adhere to the requirement that all overtime paid be supported by individual authorizations to pay.

(Division officials agreed and stated that time and attendance records and overtime documents will be reconciled through an enhanced process which will more closely monitor, identify and correct discrepancies at the facility and central office level. Changes will be made to overtime authorizations only upon receipt of appropriate facility documentation and the central office personnel unit will follow up with the facility to ensure all discrepancies are resolved and that payroll adjustments are made as necessary.)

Paid Meal Breaks

The basic work day for State employees working a 40-hour work week is eight hours per day plus meal time. An agency may require employees to remain on duty during their meal period if the employees' responsibilities make it necessary. Employees who remain on duty during their meal period are paid for that time.

At the Center, many employees remain on duty during their meal periods. These include kitchen, nursing and counseling staff, as well as youth division aides and other personnel. We understand the rationale for paying youth division aides to work during their meal break. They supervise the residents 24 hours a day and cannot leave the residents unattended to take a meal break. However, the other employees do not provide 24-hour physical coverage, and there does not appear to be a need for them to remain on duty and be paid for their meal breaks. It costs the Center about \$145,000 annually to pay for meal breaks for employees who are not youth division aides.

Division management needs to establish written criteria justifying and defining the specific employees who must remain on duty during meals. We have previously reported the need for such written criteria in prior audit reports. Division officials agreed to clarify this issue and have informed us that this policy is being redrafted.

Recommendation

16. Examine the Center's paid meal policy and eliminate paid meals where appropriate.

(Division officials agreed and stated that a revised policy has been drafted to address this issue, subject to approval by the Governor's Office of Employee Relations and the employees' collective bargaining unions.)

Major Contributors to This Report

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EDWARD J. BARTLEY
EXECUTIVE DEPUTY DIRECTOR

June 17, 1997

Honorable H. Carl McCall
Comptroller, State of New York
Alfred E. Smith State Office Building
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OFFICE OF THE STATE COMPTROLLER

JUN 20 1997

**ROBERT H. ATTMORE
DEPUTY COMPTROLLER**

Dear Mr. McCall:

I have reviewed the Draft Audit Report #95-S-132 regarding "Selected Security, Safety and Payroll Management Practices" at the Harlem Valley Secure Center. We at the Division for Youth are committed to and engaged in continuous improvement in all areas of facility operations and wish to thank you and your staff for your efforts to assist us in enhancing these operations.

I must, however, express my concern about the overly broad generalizations and unsupported conclusions drawn from information derived from an unrepresentative sample that appear in the Audit Observations and Conclusions section of the Draft Report. I do not agree that the findings support the contentions that Center and Division management are not fully committed to the establishment and oversight of effective internal control systems, or that some unsupported hours claimed on timesheets represent acts of fraud on the part of agency employees. I feel that these statements, as demonstrated in the attached response, are unwarranted extrapolations of the findings.

Nevertheless, I appreciate the many useful recommendations and suggestions in areas where the Division can improve its operations. I have already begun to implement many of the constructive recommendations identified in the audit.

Please feel free to contact me if you have any questions or wish to discuss this further.

Sincerely,


John A. Johnson

cc: J. Natoli
P. Woodworth

 printed on recycled paper

Response to the Draft Report on Selected Security, Safety and Payroll Management Practices at Harlem Valley Secure Center

The Division has reviewed the draft audit report (#95-S-132) regarding selected security, safety and payroll management practices at the Harlem Valley Secure Center. The agency and facility management agree with many of the auditors' recommendations and have already taken steps to address various issues identified in the report. However, as specified below, we strongly disagree with the broad generalizations and unsupported conclusions drawn by the auditors based on information derived from an unrepresentative sample. Additionally, the Division finds some terminology used in the report to be inaccurate, misleading and unnecessarily contentious.

Audit Observations and Conclusions

The report states that deficiencies in the facility's operating practices "existed because Center and Division Management were not fully committed to establishing an effective internal control system...and did not effectively monitor operations to help ensure that controls were operating as intended." To the contrary, the Division has maintained a longstanding commitment to effective internal controls, as evidenced by the following:

- DFY Policy #1010 "Internal Control", articulates the Division's implementation of the Internal Control Act of 1987, stipulating the requisite system of internal control over major aspects of agency operations and the responsibilities of the agency's Internal Control Officer, Deputy Directors, facility directors and office managers to ensure achievement of objectives and protect against risk.
- Bureau of Internal Audit (BIA) Operations Manual contains all procedures concerning the agency's Internal Control Program, including the completion of routine operational Self-Assessment Instruments and Internal Control Reviews. The internal control procedures are reviewed at least once per year and revised as necessary.
- DFY Policy #1030 "Facility Self-Assessment" (FSA) articulates the Division's implementation of the requirement for annual facility internal control reviews to identify strengths and weaknesses in facility operations, to prioritize problem areas for resolution and to enunciate resource/technical assistance needs. Compliance with FSA mandates is overseen by the agency's FSA Administrator; procedures concerning the oversight of Facility Self Assessment are contained in the BIA Operations Manual and are reviewed at least once per year and revised as necessary.

-
- On an annual basis, each Division employee receives a clear and concise statement from the Director explaining the purpose and meaning of the agency's internal control program.
 - Agency staff training programs contain appropriate information on internal control operations.

All of the above exemplify the Division's commitment to the establishment and monitoring of internal controls relative to all major aspects of agency operations.

The report states "We believe some of the unsupported hours claimed on time sheets may represent fraud or other irregularities." The Division strongly objects to the use of the term "fraud" since the auditors present no viable evidence to support this conclusion and do not assert that a crime (e.g. fraud) has been committed. The agency has thoroughly reviewed each time sheet discrepancy cited by the auditors and, although some staff were found in violation of agency policy regarding sign-in/sign-out requirements to document time worked, there was no finding that fraud (i.e. intentional deception) had been committed.

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See Note

Audit Scope, Objectives and Methodology

According to the report, the audit was conducted in accordance with generally accepted government auditing standards and "provides a reasonable basis for [the] findings, conclusions and recommendations." The Division disagrees strongly regarding both the adequacy of adherence to the auditing standards and the legitimacy of the auditors' conclusions and extrapolations based on limited information.

For example, in conducting the Payroll Procedures and Practices audit, the auditors "reviewed all payroll transactions for ten Center employees." This sample represents a mere 2.5 percent of the total staff working at the facility during the audit period. Additionally, the auditors acknowledge that the ten-staff cohort represents a "judgmentally selected sample" of employees who were believed to have time and attendance problems and/or whose supervisors were not using available records to verify time worked.

The auditors explained that the sample was derived from selecting five (5) employees known to have time and attendance problems (as identified to OSC by facility staff), two (2) employees assigned to supervisors with known problems (again, as identified by facility staff) and three (3) employees selected at random.

The agency therefore takes strong exception to any broad-based conclusions regarding payroll practices. Drawing global conclusions based upon review of such a limited and prejudiced sample

¹We have modified the report to indicate "abuse" rather than fraud."

violates the Government Auditing Standards - 1994 Revision, which states the following:

- "The audit report should be fair,presenting the audit results impartially and guarding against the tendency to exaggerate or overemphasize deficient performance."
- "Sufficientevidence is to be obtained to afford a reasonable basis for the auditors' conclusions."
- "In reportinginstances of non-compliance, auditors should place their findings in perspective" as to their extent and significance.
- An audit should be "an objectiveexamination of evidence".

The agency does not believe that a basic requisite criterion of objectivity was satisfied in connection with selecting the payroll practices audit sample.

Results of Audit

The report inaccurately states that "Center management performed a self-assessment during 1995; however, they did not perform one during 1996." The auditors failed to acknowledge that the facility conducted a self-assessment during the Fall of 1996, the results of which were submitted to the Bureau of Internal Audit on October 21, 1996 accompanied by 60 Facility Action Plans identifying areas of non-compliance and steps to be taken to address the problems.

The report further erroneously indicates that the Bureau of Internal Audit has "[no] mechanism in place to ensure that steps are taken to eliminate instances of non-compliance with Division policies and procedures." In fact, BIA has the following mechanisms in place which have been successful in ensuring follow-up on non-compliance issues:

- The Division's Policy #1630 "Internal Audit" mandates that an internal audit cycle include "a follow-up report indicating the implementation status of corrective action plans".
- Per the BIA Operations Manual, "Approximately ninety (90) days after the [audit] finalizationthe Program Audit Unit conducts a follow-up audit at the facility/program to determine the implementation status of each corrective action contained in the final report. A follow-up report clearly identifying all corrective actions not fully implemented is prepared and distributed to the facility director/program manager, the Director, Executive Deputy Director, responsible Deputy Director and their designated staff."

The Program Audit Unit conducted an operations audit at the facility in October 1992, issuing a final report in March 1993. A follow-up audit was performed in June 1993 and a follow-up report was issued in August 1993 which identified the implementation status of sixty (60) Action Plans contained in the final report.

Similarly, the Fiscal Audit Unit of the BIA conducted a fiscal audit at the facility in June 1994, issuing a final report in November 1994. A follow-up audit was performed in March 1995 which identified the implementation status of twenty-one (21) Action Plans contained in the final report.

- Per PPM #1030 "Facility Self-Assessment": "the facility must update its FSA Action Plans to reflect the implementation status of each plan and to identify whether the non-compliance problem has been resolved. The follow-up status of the prior year's Action Plans should be reported to the Bureau of Internal Audit at the time of the current year's FSA submission."

The facility's 1995 FSA contained seventy-five (75) corrective action plans. As of the October 21, 1996 submission of the 1996 FSA, the facility had implemented fifty-five (55) Action Plans to resolve previously-identified problems.

- On a quarterly basis the FSA Administrator submits to Division Deputy Directors a report showing, for each facility conducting a self-assessment during the quarter, the FSA issues self-reported out of compliance and the technical assistance requested to address problem areas.

Response to Recommendations:

1. Establish and maintain appropriate systems of internal control over employee background screening, fire safety practices, as well as time and attendance and payroll practices. Activities should include, but not be limited to:
 - greater management involvement in establishing, evaluating and monitoring Center controls;
 - communicating information so that Center staff properly understand, interpret and implement internal controls; and
 - assessing and identifying existing risks, determining what corrective action is needed and when it will be implemented.

The Division has established systems of internal control over employee background screening, fire safety practices, time/attendance and payroll practices. These systems are reviewed annually to assess risks and to develop action plans to address areas of vulnerability. Specific internal controls over employee screening, fire safety and payroll practices will be discussed in detail in subsequent sections of this response.

Security Procedures and Practices

The Division acknowledges that for the employees cited in the audit sample, the employment screening process "took between 8 weeks and 115 weeks." However, we must point out that the **single** instance of the screening process taking 115 weeks, represents an anomaly which obviously and significantly inflates the average completion time for employee screening. Additionally, the length of time required to complete the screening process is affected by factors beyond the Division's control, such as reliance on fingerprint information from the Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI).

The report notes that the facility hired several employees who had previously been arrested and states "We conclude that the process used by the Center to hire employees does not adequately protect the interests of the youths in custody, as the youths may be exposed...to staff with criminal backgrounds." The Division objects strongly to the auditors' reliance on the **arrest** of a potential employment candidate rather than the reason for the individual's **conviction** (if convicted) as the basis for concluding that youth are at risk.

Per Division policy #2026.03 "Criminal History Screening of Employment Candidates and Employees", the agency is required to review and evaluate the background of all candidates for employment. This review and evaluation includes the criminal history (if any) of the applicant. While arrest data provide a reason to inquire further, it is the **result** of the arrest that is crucial to a proper evaluation of the applicant's fitness for employment.

The Division's Criminal Record Review Committee evaluates the applicant's conviction record against the nature of the job to determine the applicant's suitability to perform the duties of a particular position. The auditors' use of an applicant's arrest record as the sole basis to conclude that his/her hiring by the facility may have placed youth at risk, is inappropriate, since it disregards the important factor of the disposition of the arrest. Policy #2026.03 further stipulates that "Employment will not be denied [solely] by reason of prior criminal convictions...unless there is a direct relationship between one or more of the previous criminal convictions and the specific employment sought."

Response to Recommendations:

2. Do not hire employees for jobs involving regular contact with youths until the criminal history screening process is completed.

Division policy #2026.03 states, in part, "Before any candidate for DFY employment may be hired, all necessary screening forms, fingerprint cards for the Division of Criminal Justice Service (DCJS) and the Federal Bureau of Investigation must be completed and processed." There are circumstances, however, which necessitate exceptions to this rule. A formal procedure to hire an employee pending receipt of screening information from DCJS is utilized in such cases.

To obtain a waiver to this hiring provision, a waiver request form is submitted by the facility director to the Deputy's office for review. If approved by the Deputy, a memo is transmitted to the Personnel Unit documenting this action. These employees are not permitted to work alone with residents until the screening process is completed. If the screening information received from DCJS indicates a serious conviction, the employee may be removed from the payroll pending review by the agency's Criminal Record Review Committee. The committee reviews the criminal history of the candidate and makes a recommendation to the Deputy Director for Residential Services regarding the individual's suitability for employment with the Division.

The most frequent circumstances which cause a facility to request a waiver from the above-referenced hiring provision are:

■ Critical Services

Division facilities operate on a 24 hour/7 day-a-week basis. Critical services such as supervision, security, medical and food service must be filled as vacancies occur to ensure the orderly operation of the facilities and the well-being of the residents in our care.

■ Civil Service 'Window of Opportunity' Procedure

When filling a vacancy, Civil Service provides a clearance to hire, with a lifespan of a pay period, plus a day. This 15-day list is position and facility specific, with no guarantee the items on the list will be repeated on subsequent lists. If the facility does not fill the designated position(s) during this "window", the approval to fill the position may be forfeited, requiring the agency to seek Civil Service clearance once again.

- Start of a Training Academy Class

The Division operates a five-week training academy for Youth Division Aide (YDA) candidates. The training academy consists of four weeks at the academy and a one-week on-the-job curriculum, which takes place at the staff's assigned facility during week three. By design, the trainees are not factored into the coverage at the facility during their mentoring week, nor are they to be in contact with any resident without another staff being present. The five week duration for the training academy provides adequate time to obtain the results of the fingerprint screening.

- Summer School

Agency teachers work a 10-month (September-June) calendar, necessitating the hiring of teachers for the summer session. Inherent delays in obtaining approval to hire summer teachers has not allowed the fingerprint screening to be processed and returned prior to the start of the summer session.

- Reduction-In-Force

Given the current statewide, multi-agency protocols for Reduction-in-Force (RIF) and management placement, immediate hiring needs to be a viable option available to any State agency, including the Division.

Based on these aforementioned needs, the Division will continue to process hiring waivers as necessary. In such instances, it will adhere to the formal waiver procedure approved by agency management. Staff hired prior to completion of background screening will not work alone with residents until the screening process has been concluded.

It is also important to note, however, that the Division has **not** requested a YDA waiver for Harlem Valley Secure Center since the audit was conducted.

3. Document and maintain all evidence relating to the criminal history screening process.

The Division has in place a system to document the criminal history screening process. Prior to hiring, each potential employee is subjected to a criminal record check initiated through the Division's Office of Counsel to determine whether the individual is on file with the DCJS and/or FBI. Any prospective employee with an outstanding criminal charge or a criminal history must be reviewed by the Division's Criminal Record Review Committee prior to being hired.

Documentation of the screening process is maintained in the Central Office Personnel Unit. The following information is on file:

- Name
- Position applied for/facility
- Application date
- Social Security Number
- DCJS - date sent; date returned; result
- FBI - date sent; date returned; result
- NYSID #
- Review Committee - date referred; date returned; recommendation

The Division's documentation of the criminal history screening process does **not** include "maintaining all evidence relating to the...screening process." As indicated above, the information in the log is of a general nature and documents the progress of the screening process from inception to completion. Division policy #2026.03 mandates that "[periodically] a listing of non-hires and employees separated from DFY service must be sent to DCJS for purging and destruction of DCJS...records on these employees/candidates and records remaining in DFY on these cases must also be destroyed when the lists are sent to DCJS."

The Division's practice of destroying criminal screening records is based on a sound exercise of management discretion. Once the agency has satisfied the objective of Executive Law section 501(12) to review and evaluate background and information supplied by employment applicants, there is no reason to maintain criminal history screening records.

4. Ensure that employee arrests, and any related follow-up actions, are clearly indicated in Division central office records.

Within the past year, the Division has reviewed and modified its tracking system for employee arrests. Arrests may be reported to Central Office variously:

- Division policy #2099 requires that "Any Division employee...charged with the commission of a felony or misdemeanor crime, or the equivalent, must immediately notify the facility director, office head or designee...within 24 hours of the charge".
- Division policy #3249 "Unusual Incidents" stipulates that "Unusual incidents require...immediate reporting by facilities/offices to Central Office. Examples of such incidents include...the commission of a crime by a DFY...staff either while in facility or in the community."

Each Unusual Incident Report (UIR) is reviewed daily by the Office of Residential Services and the Division's Labor Discipline Unit.

- Police agencies are required to report criminal arrests to DCJS. The DCJS system will "flag" the arrest of any Division employee and will notify the Division's Labor Discipline Unit of the employee's arrest. The arrest is then tracked by the Labor Discipline Unit through disposition of the New Arrest of Current Employees (NACE) log. UIRs concerning staff arrests are used as a back-up system to ensure that the NACE log is accurate and up-to-date.

Fire Safety Procedures and Practices

Response to Recommendations:

5. **Management must take appropriate action to ensure that the safety of residents, employees and visitors is a high priority, and that fire safety requirements are complied with.**

The Division agrees that the safety of residents, employees and visitors is of the utmost importance, and has taken the following steps to ensure compliance with fire safety requirements:

- Policy #3245 "DFY Fire Safety Program" has been revised and was reissued on May 8, 1997. It states, in part, that "the purpose of this policy is to ensure optimum safety of residents, staff and visitors at all times and afford [them] the highest practicable level of protection...."
- The Division's Fire Safety Officer in Central Office is responsible for development and implementation of the agency's fire safety program, including provision of technical assistance based upon the requirements of the NYS Fire Prevention and Building Code. Hundreds of hours of specialized training have been provided to Fire Safety Officers at all Division facilities.
- The facility's Fire Safety Officer and three (3) Assistant Fire Safety Officers comprise the facility's Fire Safety Committee, which meets monthly to monitor fire safety activities and compliance with all fire safety policy requirements.
- Facility Fire Safety Officers must document monthly meetings of the Fire Safety Committee through completion of the DFY-2750 "Monthly Facility Fire Safety Report", which

is submitted to the facility director and the Division's Fire Safety Officer for review.

- The Facility Self-Assessment (FSA) Instrument, revised and re-issued April 30, 1997 contains fifty-seven (57) questions pertaining to fire safety, general safety and security procedures to be followed by facilities in order to maintain compliance with appropriate policy and regulations.

Payroll Procedures and Practices

The report inaccurately states that "the Division's payroll director overrode existing [payroll] controls." The individual to whom the auditors are referring is the Division's Personnel Director, **not** the "payroll director". Additionally, the auditors' statement that "this official instructed Division staff to make overtime authorization forms agree with timesheets" thus allowing "the continuation of ...practices that are conducive to payroll abuse" is misleading and unfairly sensational.

In a meeting with auditors and Personnel Unit staff, the Director of Personnel indicated that adjustments were based on information on timesheets, since timesheets are considered the official record for time and attendance purposes. Future payments are adjusted up or down depending on timesheet information. The auditors must recognize the necessity and propriety of the reconciliation process for various time/attendance documents that ultimately clarifies and validates payments made for overtime work.

The report also indicates that "employees were allowed to claim...overtime payments for hours worked that were not in excess of 40 hours within a pay week." The Division objects to the term "employees" since the audit sample included only one (1) instance of payment for overtime not exceeding the full pay week. According to the Government Auditing Standards: 1994 Revision section 7.53, "In most cases a single example of a deficiency is not sufficient to support a broad conclusion." The auditors' use of this instance to conclude that "payroll abuses and irregularities...are not isolated" represents another example of the auditors' unfair and invalid extrapolations from a limited, judgemental sample.

Response to Recommendations:

6. Investigate the 267.25 hours that may have been inappropriately paid and, where appropriate, initiate payroll recovery actions and/or disciplinary action against the employees.

The report accurately states that of 705.75 hours initially identified as inadequately documented, the Division provided sufficient information to document 361.25 hours. The agency has investigated the remaining 344.50 hours questioned by the auditors and has determined the following:

- 81.25 hours worked by the ten (10) employees in the audit sample could not be documented through existing facility shift reports, logs and other source material, and are thus considered overpayments. Eight (8) employees have satisfied their overpayments by agreeing to deductions from accruals or future overtime payments. The remaining two (2) individuals are no longer employed by the Division; we have therefore initiated action to recoup these overpayments.
- For the remaining 263.25 hours worked by the employees in the audit sample, **some** of the hours can be documented through existing facility source material (e.g. unit logs, assignment sheets, trip sheets, etc.). Although no documentation has been provided to support the balances of hours, there is no way to disprove that the employees actually worked. Therefore, the Division cannot authorize restitution of monies paid for the hours in question.

As a result of the above-cited investigation into the controverted hours, the Division acknowledges that staff occasionally failed to comply with policy regarding time and attendance procedures. However, no disciplinary action was found to be necessary. The agency has taken steps to address future violations of time and attendance procedures that will be described in a subsequent section of this response.

7. **Develop and implement internal control procedures to ensure that the time reported as worked is accurate, employees sign in and out as required, and supervisors certify time records only after properly verifying time worked.**
and
8. **Ensure that employees record time and attendance entries daily.**
and
9. **Ensure that supervisors identify late-arriving employees by red lining sign-in/out logs, do not authorize overtime when employees work less than 40 hours a week, and verify sign-in and out times.**

The facility has revised its existing time and attendance procedures to improve internal controls over the verification of time records. Since the conclusion of the audit, the facility administration has conducted two (2) mandatory training sessions for supervisors and department heads on all facets of facility time

and attendance procedures. Supervisors have reviewed all time and attendance procedures with their subordinates to articulate clearly the critical expectations and requirements, including:

- staff must make daily entries on timesheets and in logs.
- supervisors must monitor subordinates timesheet entries and sign-in/sign-out on a daily basis.
- supervisors must reconcile timesheets to sign-in logs and overtime authorizations, as appropriate, on a bi-weekly basis and must certify the accuracy of overtime records before they are sent to Central Office for processing. A form DFY-2 "Personnel Action" for an employee who has been placed on Leave Without Pay status during the two-week payroll period must accompany any Overtime Authorization form for that employee covering the same period. This is done to ensure that the employee is overtime-eligible before payments are processed.
- any employee found in violation of policy by not signing in or off duty will immediately receive a memorandum from his/her supervisor.
- continued negligence regarding time and attendance requirements will result in verbal and written counseling and/or discipline, as appropriate.

Administrators on Duty (AODs) are expected to ensure that red-lining is completed routinely for each shift. This task has been complicated somewhat due to the facility's expansion to the use of two (2) buildings since the audit was conducted. AODs generally red-line the log for the building to which they initially report, and simultaneously notify the Central Services Unit staff at the other building to red-line their entrance log. Facility administration is routinely monitoring compliance with red-lining requirements.

10. Develop monitoring procedures for ensuring that employee work adjustments meet the needs of the Center.

The use of work adjustments is a valuable asset to the facility management and staff and is primarily granted in order to meet the facility's needs. However, the facility has stopped the practice of permitting unauthorized and undocumented work adjustments and has initiated formal written instructions for implementing work adjustments, including the following:

- requests for any adjustment to an employee's shift or pass day must be made in writing on a "Shift Exchange" form and approved in advance by the supervisor.

-
- approved adjustments must be submitted for inclusion in the weekly schedule.
 - adjustments that are approved after the schedule is prepared must immediately be entered in the schedule log.
 - timesheets must reflect actual hours of work rather than regular shift assignment to ensure the accuracy of attendance records.
 - all work adjustment paperwork must be submitted with timesheet materials.

Facility management is responsible for monitoring the work adjustment process. The facility director has notified all staff that failure to follow the above procedure will lead to formal counseling and potential discipline.

Overtime Authorization and Documentation

The report states that "120 hours were not approved by the Center Director, as required. Consequently, there is less assurance that these hours were necessary and bonafide."

These statements are both inaccurate and misleading:

- Overtime does **not** require the approval of the facility director. Overtime must be approved by the Administrator on Call, which may be the facility director **or** one of the assistant directors.
- There is **no** basis to conclude that overtime approved by an assistant director has a lesser assurance of being "necessary and bonafide".

The Administrator on Duty (AOD) is responsible for determining the need for overtime. Since most of the overtime authorizations in question did contain the AOD's signature, this constitutes a basis to conclude that the overtime was, in fact, "necessary". The authorizations that were signed by the AOD, but did not indicate approval of the Administrator on Call, do not denote non-bonafide overtime; such authorizations merely represent a shortfall in the AOD's documentation that the overtime had been approved verbally by the Administrator on Call. Confirmation that the overtime in question is "bonafide" may be made through review of various logs, work schedules and other facility records.

The agency also takes exception to the auditors' statement that "the Division's Personnel Director instructed his staff to change the blanket overtime authorizations so that overtime hours

authorized agreed with overtime hours worked on timesheets. However, timesheets may have been falsified..."

The Division asserts that the former statement is misleading and the latter statement is unsubstantiated:

- In a meeting with the auditors and Personnel Unit staff, the Personnel Director explained that adjustments were made based on information recorded on timesheets, since timesheets are considered the official record for time and attendance purposes. Future payments are adjusted up or down depending on timesheet information. The auditors must recognize the necessity and propriety of the reconciliation process for various time/attendance documents that clarifies and validates payments made for overtime worked.
- The agency has investigated the instances of discrepancy between overtime authorizations and timesheets cited by the auditors and has found no basis to conclude that timesheets were falsified. Although some staff were found in violation of agency policy regarding sign-in/sign-out requirements to document time worked, there was no finding that timesheet falsification had occurred.

Response to Recommendations:

11. **Ensure that all overtime is authorized by the administrator on duty and Center Director, is verified by the employee's immediate supervisor, and is documented by entries in the sign-in/sign-out log.**

and

13. **Ensure that supervisors perform their responsibility to ensure that employee overtime is reported accurately. Take the necessary disciplinary action for those supervisors not carrying out their responsibility.**

The agency agrees that all overtime should be properly authorized by appropriate facility managers (although, as stated previously, the facility director is not required to authorize overtime unless he/she is also the Administrator on Call during the period the overtime is to be worked.) Specific procedures have been instituted at the facility to ensure that all overtime is properly authorized and approved by management, verified by supervisors and documented in facility logs:

- The Administrator on Duty (AOD) evaluates the need for overtime on the next shift. This constitutes the "authorization" for overtime.

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- The AOD contacts the Administrator on Call to secure "approval" for the overtime.
 - Upon completion of the overtime work, the AOD indicates on form DFY-2015 "Overtime, Holiday Pay and Extra Time Authorization Form" the employee's name, the date and the total number of hours worked.
 - The AOD signs the DFY-2015 and prints the name of the Administrator on Call that authorized that particular overtime. Copies of the form are distributed to the employee and his/her supervisor.
 - The AOD compiles and signs a cover sheet listing all staff working overtime during the shift. The cover sheet is attached to the individual DFY-2015 forms and sent to the facility Business Office daily.
 - On a bi-weekly basis, the facility Business Office makes a composite listing of each employee's overtime worked during the period, based on the DFY-2015 authorizations. Copies of the composite listing are given to the employee and his/her supervisor.
 - Employees are required to make daily entries on time sheets and in logs. Repeated negligence regarding time and attendance and overtime reporting requirements will result in counseling and/or discipline, as appropriate.
 - Supervisors are responsible for the timely and thorough review of subordinates' time sheets, sign-in/sign-out logs, unit logs and other source documentation, as necessary. Supervisors check staff attendance and hours worked daily. They sign the two-week time sheet copy which accompanies the composite overtime listing for the two-week period, verifying that the information on each form is internally consistent. This process is repeated at the end of the four-week time sheet period.
 - Supervisors coordinate the review and approval of time and attendance documents to ensure that only staff who have worked 40 hours during the week, receive payment at the overtime rate for additional hours worked. Reconciliation of subordinates' time sheets and overtime authorizations is emphasized as a critical task for all supervisors. Adherence to this task is included in each supervisor's annual performance evaluation.
 - The Facility Director or Assistant Director reviews and signs the total overtime authorization summary sheet at the two-week and four-week submission periods.

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12. **Review all overtime paid during our audit period, determine whether overpayments were made, and recover the overpayments where appropriate. Discipline employees where appropriate.**

The agency has reviewed the hours of paid overtime cited in the report to determine the extent, if any, of overpayments. Based upon this review, some of the overtime was documented through existing facility source material and is considered to have been paid correctly. Of the balance, we have identified and recovered some overpayments and will initiate action to complete the recoupment process for the two (2) individuals no longer employed by the Division.

14. **Re-evaluate the practice of altering facility blanket overtime authorizations so that they agree with time sheet entries.**

and

15. **Adhere to the requirement that all overtime paid be supported by individual authorizations to pay.**

The Division maintains that reconciliation of overtime authorizations to time sheets (which are the official time records) is a vital step in ensuring the accuracy of overtime payments. We will continue to reconcile time/attendance and overtime documents to establish the accuracy of payroll transactions. The enhanced reconciliation process as described previously will more closely monitor, identify and correct discrepancies at the facility level and in Central Office. The facility and the Central Office Personnel Unit will work cooperatively to achieve this end.

The Central Office Personnel Unit will be responsible for reviewing documents submitted in support of payments for time worked, identifying discrepancies, and advising facility management of specific steps to be taken to ensure that appropriate corrections/adjustments are made when the discrepancy has been resolved and the amount has been documented by the facility. Changes will be made on overtime authorizations **only** upon receipt of appropriate documentation from the facility.

The Central Office Personnel Unit will follow-up with the facility to ensure that all discrepancies are resolved and payroll transaction adjustments are made, as necessary.

Paid Meal Breaks

Response to Recommendations:

16. **Examine the Center's paid meal policy and eliminate paid meals where appropriate.**

The Division has drafted a revised policy #2046.01 "Meal Periods" to address this issue. The revisions indicate that YDA title series staff will be the only employees routinely approved for paid meal breaks; other staff as needed may be approved if deemed necessary by management. This revised draft has been reviewed and tentatively approved by the Division's Executive staff, subject to approval by the Governor's Office of Employee Relations, the Civil Service Employees Association and the Public Employees Federation. Negotiations are in process with these entities; the revised policy will be signed by the Director and issued once all requisite approvals have been secured.