Thomas P. DiNapoli
COMPTROLLER

OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

OFFICE OF MENTAL HEALTH

HIGH OVERTIME PAYMENTS TO INDIVIDUALS AT HUDSON RIVER PSYCHIATRIC CENTER

Report 2006-S-81

AUDIT OBJECTIVES

Our objectives were to determine if the Hudson River Psychiatric Center's (Center) overtime hours were necessary, and if the Center made efforts to effectively distribute the hours among its employees. Additionally, we wanted to find out whether overtime hours paid to employees were actually worked.

AUDIT RESULTS - SUMMARY

We found that the Center's overtime hours were necessary and the overtime hours the Center paid for were actually worked by its employees. However, Center officials have not made enough effort to effectively distribute overtime hours among its employees. We found numerous instances of Center direct-care staff regularly working many hours, as well as long stretches of time where four staff worked without a day of rest.

During calendar year 2005 there were 13 employees who each worked about 1,000 hours or more of overtime; an average of 19 overtime hours per week, and typically working more than 14 hours per day. Further, four employees account for 15 percent of the overtime hours worked at the Center (These four employees are included in the 13 noted above). Three of these four employees each worked about 2,000 hours or more of overtime in 2005; an average of 38 overtime hours per week. The fourth employee worked just under 2,000 hours of overtime in 2005. All four of these employees also worked many weeks during the year without a day of rest. We also noted two instances where one of these employees worked three shifts (approximately 24 hours) in a row.

While Center officials were aware they have high overtime earners, officials do not proactively review individuals' hours for reasonableness and document their assessment, nor do they have a documented process for evaluating staff for conditions that may compromise quality of client care. Furthermore, since the Center has not assessed the risks of the long overtime hours or established methods of monitoring individual staff hours, we question whether it is doing enough to ensure that the many hours worked - and their potential effects on direct-care staff - are not compromising quality of client care.

We also conducted unannounced floor checks at the Center, and found we were able to confirm staff members' identities and observe that staff on-site was working. Additionally, we found the Center's documentation for overtime supported the hours paid for calendar year 2005, and overtime was allocated to staff in a manner consistent with both the Center's and relevant unions' prescribed procedures.

Our report contains four recommendations to improve the Center's efforts to effectively distribute overtime hours among its employees. Center officials agreed with our recommendations and have already taken steps to begin to implement them.

This report, dated June 26, 2007, is available on our website at: http://www.osc.state.ny.us. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

New York State has a large, multi-faceted mental health system that serves more than 500,000 individuals each year. The Office of Mental Health (Office) operates psychiatric centers across the State, and also regulates, certifies and oversees more than 2,500 programs, which are operated by local governments and nonprofit agencies. These programs include various inpatient and outpatient programs, emergency, community support, residential and family care programs.

The Center serves seriously and persistently mentally ill adults in New York's Putnam, Ulster and Dutchess counties through inpatient care for about 130 patients and a variety of community services for several hundred clients. The Center operates ten facilities in addition to its main inpatient psychiatric center in Poughkeepsie, New York, as well as an Assertive Community Treatment (ACT) team. The ten facilities include four community residences, one crisis residence, one transitional residence, two clinics, one day training program, and one office for outpatient services located in Jefferson Plaza in Poughkeepsie. Part of the Center's mission is to provide a safe and therapeutic, high quality, and cost effective continuum of treatment and services that embodies healing, respect, progress, and caring. The employees providing the bulk of the direct-care services for the Center's clients are Mental Health Therapy Aides (Aides), Secure Care Treatment Aides (Aides) and Licensed Practical Nurses (Nurses).

We toured the main inpatient psychiatric center in Poughkeepsie, New York. We observed that the Center's facility was clean, orderly, and appeared to be operating in an appropriate manner (i.e. consumers were active in programs in the program areas, kitchen staff was engaged in meal preparation and/or clean-up, aides were accompanying consumers as they moved through the building). We noted during our tour that the facility provides consumers access to craft areas, spiritual care, dental and podiatry clinics, various therapies, and a hair salon. The Center is currently renovating part of its main facility to increase its space available for program areas.

In the calendar year ended 2005, the Office had 242 employees with over 1,000 hours of overtime, and it paid approximately $10 million in overtime costs for these hours. The Center's total overtime hours in calendar year 2005 were about 58,000 totaling $1.7 million. During calendar year 2005 there were 13 employees who worked about 1,000 hours or more of overtime and in fact, three employees worked greater than 2,000 hours of overtime.

AUDIT FINDINGS AND RECOMMENDATIONS

Necessity for Overtime

The Division of Budget appropriates an overall dollar amount for personal service costs, which the Office then divides among the facilities. With the dollar amount determined for each facility's personal service costs, the Office then determines how many full-time equivalents (FTEs) can actually be funded given the funds available. The Office uses various staffing models to generate an estimated number of staff needed for each facility it oversees. However, the Office has to work with the funds provided through the Division of Budget, and Office officials stated this generally results in facilities getting approximately 80 percent of what their estimates initially called for. Given that facilities are funded at less than 100 percent of their estimated need, the Office acknowledged that overtime is expected and necessary. Moreover, because resident clients

require 24 hour care, direct-care shifts in a residential facility like the Center must always be staffed; this can necessitate the need for overtime. The need for one to one supervision of clients with acute behavioral conditions can occur at any time. These instances cannot always be anticipated and drives the use of overtime.

Distribution of Overtime Hours

We found that Center officials have not made enough effort to effectively distribute overtime hours among its employees. We found numerous instances of Center direct-care staff regularly working many hours, as well as long stretches of time where four staff worked without a day of rest.

We tested how overtime was distributed to employees during the period October 23, 2006 through October 29, 2006. We found that the Center followed its own procedures and those identified in employee union contracts regarding the awarding of overtime hours to staff. Approximately 95 percent of the Center's overtime during calendar year 2005 was voluntary, and about 50 percent of the overtime was used to provide coverage when clients required one to one supervision. The facility has established minimum staffing requirements that are based on safety, census and patient acuity. The Center maintains a list of Aides and Nurses who volunteer for overtime. The hours are offered first to the volunteer who worked overtime least recently, and the process continues in that fashion. If all staff on the volunteer list has been contacted, the Center then relies on using mandatory overtime.

During calendar year 2005 there were 13 employees who each worked about 1,000 hours or more of overtime; an average of 19 overtime hours per week. We found these 13 employees also typically worked more than 14 hours a day in calendar year 2005.

Number of Days Employees Worked 14 Hours per Day or Greater Calendar Year 2005

Employee	Number of Days
1	215
2	200
3	144
4	152
5	146
6	139
7	147
8	96
9	142
10	55
11	101
12	128
13	98

Further, four employees account for 15 percent of the overtime hours worked at the Center. Three of these employees each worked 2,000 hours or more of overtime; an average of 38 overtime hours per week. These three employees, (employees 1, 2, 3 above) also worked many weeks during the year without a day of rest (e.g. worked all seven days of the week without a day of rest). In addition, the fourth employee worked just under 2,000 hours (employee 4 above) and also worked many weeks without a day of rest. The chart below provides the total number of weeks each of these four employees worked during 2005 without a day of rest.

Number of Weeks Employees Worked Without Day of Rest Calendar Year 2005

Employee	Number of Weeks
1	26
2	19
3	20
4	22

Additionally, we found two instances where one of the four employees above worked nearly 24 consecutive hours. While both the union contract and the Fair Labor Standards Act allow these employees to volunteer to work more than 16 consecutive hours in a 24 hour period, excessive overtime has been linked to higher rates of accidents, absenteeism, presenteeism (being on site but not fully focused on the job), and turnover, as cited in the Journal of the American Medical Association, "Impact of Long Working Hours Explored", July, 7, 2004, Vol 292, No.1. The risk of injury on the job may also increase as the work period lengthens. Our observations and interviews did identify issues with presenteeism. For example, a night shift supervisor did note that there are some people who volunteer for a lot of overtime - these people work frequently, almost every day in some cases, double shifts every day (their normal shift and an overtime shift) and also two overtime shifts on their pass days (e.g. days off). The supervisor stated that in these instances the employee is "just there."

The Center does review client complaints and staff accident reports to assess possible effects of overtime in these specific areas. In addition, the Center does make efforts to monitor the effects of staff hours on medication error rates for Nurses. However, our findings indicate that it is the Aides that are incurring the excessive overtime noted above. Moreover, both the review of complaints and medication errors occur after the fact. We recommend that Center officials also perform a proactive review for fitness of duty that prevents those that are not fit from caring for clients.

Center officials have stated that Nurses and Aides are difficult to recruit and retain. Further, Center officials have stated that they have avoided mandating overtime because the requirement to participate in mandatory overtime has proven to be a disincentive to employment. Also, while Center officials are aware they have high overtime earners they do not proactively review individuals' hours for reasonableness and document its assessment. Center officials have stated supervisors perform visual checks of staff prior to start of duty. However, it does not have a formal documented process for evaluating staff for conditions that may compromise quality of client care. Based upon our observations and interviews with staff, we question whether supervisors carry out the visual checks and take appropriate action. As noted above, one of the supervisors we interviewed told us those that work long hours are "just there", yet these individuals continue to work long hours. Since the Center has not assessed the risks of the many hours worked or established strong methods of monitoring individual staff hours, we question whether it is doing enough to ensure that the many hours worked - and their potential effects on direct-care staff - are not compromising quality of client care.

We recommend that Center officials review current overtime practices and determine if other schedules or overtime distribution methods can be used that will alleviate/reduce instances of Center direct-care staff regularly working many consecutive hours, as well as long stretches of time without a day of rest. We also recommend Center officials develop a proactive method for monitoring individual overtime earners' hours and establish a

process to assess individuals for continuing fitness for duty at selected points in time. Such assessments should be documented. As a result of our audit, Center officials stated they have begun developing a process to evaluate individuals' fitness for duty.

Overtime Hours Paid For Were Worked by Staff

We found that the overtime hours paid for in 2005 were actually worked. We conducted three unannounced floor checks to determine if employees were present and working. We conducted two selected floors checks in which we checked the highest 13 overtime earners. We also conducted one random floor check of all employees working during that time. We tested underlying source documents that triggered overtime payments, and reviewed the Center's policies and procedures related to overtime, as well as guidance from the Office and applicable labor unions. We found the documentation for overtime supported that hours paid for were actually worked, and all employees were accounted for during our unannounced floor checks.

Other Matters

Risks that potentially threaten the success of an organization's mission and objectives should be identified and managed. An organization's management should seek to minimize risks or prevent them from occurring. For each risk that is identified, management should evaluate the likelihood of occurrence and magnitude, and decide whether to accept the risk, reduce the risk to an acceptable level, or avoid the risk. We found that Center officials have not completed a risk assessment related to overtime. We recommend that Center officials periodically perform and maintain written support for a risk assessment of overtime.

Recommendations

1. Review current overtime practices and determine if other schedules or overtime distribution methods can be used that will alleviate/reduce instances of Center direct-care staff regularly working many consecutive hours, as well as long stretches of time without a day of rest.

2. Develop a proactive method for monitoring individual overtime earners' hours.

3. Establish a process to assess individuals for continuing fitness for duty at selected points in time. Document such assessments.

4. Periodically perform and maintain written support for a risk assessment of overtime.

AUDIT SCOPE AND METHODOLOGY

We did our audit according to generally accepted government auditing standards. The objectives of our audit were to determine if the Hudson River Psychiatric Center's (Center) overtime hours were necessary, and if the Center made efforts to effectively distribute the hours among its employees. Additionally, we wanted to find out whether overtime hours the Center paid for were actually worked. Our scope was the period January 1, 2005 through November 2, 2006. To accomplish our objectives we interviewed Center officials, reviewed overtime authorization rosters and time records and performed appropriate analyses, conducted unannounced floor checks, examined both external and internal practices and guidance

regarding staffing ratios and assignment of overtime, and reviewed staff and client grievances and workers' compensation claims.

In addition to being the State Auditor, the Comptroller of New York State performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Comptroller's Office of Operations. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was done according to the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this report and are included as Appendix A. Officials agree with our recommendations and have already taken steps to begin to implement them. Appendix B contains State Comptroller comments which address certain matters included in the Department's response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department 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.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include David R. Hancox, Robert Mehrhoff, Melissa Little, Nadine Morrell, Jessica Turner, Heather Pratt, Theresa Podagrosi and Sharon Salembier.

APPENDIX A - AUDITEE RESPONSE

State of New York
Eliot Spitzer
Governor

Office of Mental Health
44 Holland Avenue
Albany, New York 12229
www.omh.state.ny.us

March 26, 2007

David R. Hancox
Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau, 21st Floor
123 William Street
New York, NY 10038

Dear Mr. Hancox:

The Office of Mental Health has reviewed the draft audit report entitled, High Overtime Payments to Individuals at Hudson River Psychiatric Center (2006-S-81). Our comments to the findings and recommendations contained in the report are enclosed.

The Office of Mental Health appreciates the Office of the State Comptroller's efforts to recommend improvements in our operations.

Many thanks for your continued help and cooperation.

Sincerely yours,

Michael F. Hogan, Ph.D.
Commissioner

Enclosure

HUDSON RIVER PSYCHIATRIC CENTER
RESPONSE TO OFFICE OF THE STATE COMPTROLLER
DRAFT REPORT 2006-S-81
HIGH OVERTIME PAYMENTS TO INDIVIDUALS
AT HUDSON RIVER PSYCHIATRIC CENTER

Overall OMH Comments

The Office of Mental Health (OMH) has reviewed the findings and recommendations in OSC's draft audit report entitled, High Overtime Payments to Individuals at Hudson River Psychiatric Center (Center). OMH is appreciative of OSC's efforts to identify areas where improvements can be made to overtime practices. We are also pleased that OSC determined:

- the Center's overtime hours were necessary and were actually worked by its employees;
- the Center followed its own procedures and the requirements set forth in employee union contracts regarding the assignment of overtime hours to staff;
- all staff were accounted for during unannounced floor checks and staff were engaged in work activities;
- documentation for overtime supported the hours paid in 2005; and
- the Center was clean, orderly and appeared to be operating in an appropriate manner.

OMH agrees with OSC's four recommendations. In the following section, we have also provided comments and clarification to several statements for consideration by OSC in amending the report.

OMH Comments to Specific OSC Report Sections

Distribution of Overtime Hours - Accident Rates

OSC stated, "excessive overtime has been linked to higher rates of accidents." While national statistics may prove this to be true, audit results did not substantiate a correlation between overtime and higher accidents or patient complaints at the Center.

* **Comment 1**

Distribution of Overtime Hours - Visual Checks of Employees

OSC stated, "Based upon our observations and interviews with staff, we question whether supervisors carry out the visual checks and take appropriate action." During the two months OSC was at the Center, Center officials were never made aware of OSC's concerns regarding this issue. It was first addressed in OSC's preliminary report and appears to have been based on one single conversation with a Center supervisor. OMH

* **Comment 2**

*See State Comptroller's Comments, page 13

agrees that the Center did not have a formal documented process; however, with some exceptions there is a visual check of staff prior to the start of duty.

Distribution of Overtime Hours – Supervisor Interview

Twice in this section of the report, OSC quoted a single supervisor at the Center that there were instances when employees were "just there". This comment should be deleted from the report as it is misleading and implies that there are employees working at the Center who are not performing their duties. When the supervisor was subsequently spoken with, he stated that some employees under his direction, while somewhat tired, were performing their required duties. These duties included laundry, assisting with patient showers and other ADL skills, monitoring the sleeping area every 15 minutes and assisting with breakfast. It is a supervisor's responsibility to ensure that these duties are carried out, and the supervisor indicated that the required tasks were performed.

* Comment 2

Necessity for Overtime

A general comment regarding the necessity for overtime should be added to acknowledge the complexity of the overtime issue by recognizing factors such as number of funded items, salary levels, recruitment difficulties, hiring rules, turnover and numbers of vacancies, as drivers for the use of overtime. These factors require a systemic review and response in order to bring the use of overtime to appropriate levels within the OMH operated system.

Specific comments on the first five sentences of the report's Necessity for Overtime section are provided below.

* Comment 3

A) OSC's first two sentences in the section state: "The Division of Budget appropriates an overall dollar amount for personal service costs, which the Office then divides among the facilities. With the dollar amount determined for each facility's personal service costs the Office then determines how many full-time equivalents (FTE's) can actually be funded given the funds available."

   OMH Comments: The determination of how many FTE's can be supported with available Personal Service funds is an integral element of the State's annual budget process. Each year, the Executive Budget Recommendation explicitly identifies the number of FTE's funded in OMH's various State Operations Programs. These levels are then modified to reflect any changes reflected in the final enacted budget. State agencies do not independently determine the level of authorized positions supported by available personal service funds.

B) OSC's third and fourth sentences in the section state: "The Office uses various staffing models to generate an estimated number of staff needed for each facility it oversees. However, the Office has to work with the funds provided through the Division of Budget, and Office officials stated this generally results in facilities getting approximately 80 percent of what their estimates initially called for."

*See State Comptroller's Comments, page 13

OMH Comments: Various staffing models have been developed to facilitate an equitable distribution of available resources among the facilities operated by the Office of Mental Health. These models are allocation tools, not standards. Depicting these models as generating staffing needs significantly overstates the nature and purpose of the models. The models provide a relative measurement across the facilities, not an absolute measurement of need.

C) OSC's fifth sentence reads: "Given that facilities are funded at less than 100 percent of their estimated need, the Office acknowledged that overtime is expected and necessary."

OMH Comments: There is an expectation that overtime will be used to help meet operating requirements at OMH facilities. However, as discussed above, the staffing models are allocation tools, employed to assist in the distribution of available staffing resources among the facilities. As such, the staffing models are not designed, and do not serve, as a basis for projecting facility overtime requirements.

OMH Responses to OSC Recommendations

OSC Recommendation No. 1
Review current overtime practices and determine if other schedules or overtime distribution methods can be used that will alleviate/reduce instances of Center direct-care staff regularly working many consecutive hours, as well as long stretches of time without a day of rest.

OMH Response
The Center agrees on the need to review current overtime practices. This review process has already begun and changes to Center overtime policy are planned. Our responses to OSC recommendations two through four describe some of the changes. Additionally, the Center will work towards expanding the overtime volunteer pool by seeking additional persons willing to work overtime, and will continue close review of schedules. With regard to overtime hours for mental health therapy aides, the Center will intensify its outreach to appropriate employees in other titles, with a goal of attracting those persons to in-house training leading to their eligibility to work overtime as therapy aides.

As discussed with the OSC auditors, the Center's flexibility to schedule overtime is constrained largely by labor contracts. The Center will continue, however, to minimize overtime whenever possible, and to spread required overtime hours among a larger number of employees.

OSC Recommendation No. 2
Develop a proactive method for monitoring individual overtime earners hours.

OMH Response
The Center has developed a draft Overtime Observation Checklist to augment supervisors' daily monitoring of employees. The checklist is designed to help assess employees' fitness for duty based on various physical criteria and an assessment of mental acuity. The checklist would be required when certain thresholds were met (e.g., an employee worked two full consecutive shifts of overtime in a week) and it would be used anytime at the discretion of a supervisor when an employee's ability to properly perform work duties is at question. The checklist is currently under discussion between Center management and the labor unions.

OSC Recommendation No. 3
Establish a process to assess individuals for continuing fitness for duty at selected points in time. Document such assessments.

OMH Response
The Overtime Observation Checklist referenced above includes physical criteria and mental acuity parameters to assess employees' fitness for duty. Procedures will be developed and supervisors trained on the use of the checklist and appropriate response to the information recorded. These forms will be completed and kept on file any time an employee exceeds the established thresholds.

OSC Recommendation No. 4
Periodically perform and maintain written support for a risk assessment of overtime.

OMH Response
Center officials will formalize a risk assessment document that will enable management to assign a level of risk to each potential problem area along with efforts needed to mitigate, eliminate or accept those areas identified. As mentioned in the audit report, the Center does review areas of potential risk to overtime use. The risk assessment document will allow for a comprehensive review and action plan.

APPENDIX B - STATE COMPTROLLER COMMENTS ON AUDITEE RESPONSE

1. We state that "…excessive overtime has been linked to higher rates of accidents, absenteeism, presenteeism (being on site but not fully focused on the job), and turnover, as cited in the Journal of the American Medical Association…" Our findings related to presenteeism. We have edited the report to make that more clear.

2. During our unannounced floor checks one of the supervisors told us that the Aides that volunteer to work many hours of overtime are "just there." This statement was made in response to auditor questions related to the impact of Aides working so many hours. It was especially important to include in the report because it was said by a supervisor. According to Center officials, supervisors are responsible for performing visual checks of staff prior to start of duty to determine their fitness. However, this requirement of the supervisors is not documented and Center officials have not developed a formal documented process for evaluating staff for conditions that may compromise quality of client care. Supervisors should be clear on what they should do if they determine an Aide is "just there."

   The Office's response states that Aide duties include laundry, assisting with patient showers and other ADL skills, monitoring the sleeping area every 15 minutes and assisting with breakfast. What the Office does not include is the fact that Aides are also required to perform one-on-one supervision to the more needy patients and Aides also have to be alert to handle patients who become violent. This same supervisor we interviewed brought up these Aide duties to us.

3. Our point was to show that there is a need for overtime and why it exists at the Center.