



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Dual Employment

Department of Corrections and Community Supervision



Report 2012-S-129

December 2013

Executive Summary

Purpose

To determine whether Department of Corrections and Community Supervision (DOCCS) employees who are dually employed at multiple correctional facilities or other State agencies are working their required hours at each job. The audit covered the period April 1, 2010 through February 6, 2013.

Background

DOCCS is responsible for the confinement and habilitation of approximately 56,000 offenders at 60 facilities across the State. As of September 1, 2012, DOCCS had 29,796 employees. To ensure adequate staffing at its facilities, DOCCS sometimes allows employees to work full-time at one facility and then work additional time at another facility (referred to as extra service), or may allow them to work various percentages of their full-time or part-time employment among multiple facilities. Employees may also work for other government agencies subject to certain restrictions and approval requirements established in law and civil service regulation.

Key Findings

- Between April 2010 and March 2012, State payroll records show 90 DOCCS employees were concurrently employed by either more than one DOCCS facility or a DOCCS facility and another government agency, earning over \$20,000 from each job. We identified 12 of these employees as high risk because they reportedly worked more than 40 additional hours of extra service per pay period. Follow-up and additional testing identified three staff who violated time and attendance rules resulting in improper payments for time not worked.
- These three cases showed a pattern of routine, improper activity such as claiming to be working in two places at the same time, not allowing sufficient commute time between the end of one shift and the beginning of the next, and simply working significantly fewer hours than reported. DOCCS' failure to enforce time and attendance requirements allowed these individuals to circumvent controls, sometimes with management's knowledge.
- We estimate the cost of these abuses to be at least \$10,972. Since some of these employees may have held more than one job for many years, it is possible that costs associated with these abuses may be significantly higher.

Key Recommendations

- Take appropriate actions as warranted in the cases we identified, including recovery of salary payments, adjustment of pension credits and assisting in any further investigation.
- Establish communication channels between facilities that utilize dually employed or extra service staff, as well as with other agencies that also employ DOCCS staff, to identify and prevent conflicts in scheduled work hours at different work locations.
- Ensure that dually employed staff are working the time for which they are being paid.
- Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure that required policies and procedures are followed.

Other Related Audit/Report of Interest

[Metropolitan Transportation Authority/Metro-North Railroad: Forensic Audit of Select Payroll and Overtime Practices and Related Transactions \(2010-S-60\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 19, 2013

Anthony J. Annucci
Acting Commissioner
Department of Corrections and Community Supervision
Building 2
1220 Washington Avenue
Albany, NY 12226-2050

Dear Acting Commissioner Annucci:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government funded services and operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Dual Employment*. This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

The Department of Corrections and Community Supervision (DOCCS) is responsible for the confinement and habilitation of approximately 56,000 offenders at 60 facilities across the State. In addition, DOCCS supervises 38,000 parolees through nine regional offices. As of September 1, 2012, DOCCS had 29,796 employees, some of whom worked at more than one facility or were also employed by another State agency. Because DOCCS operates multiple facilities that each process their own payrolls through the State's central system, there are several ways in which employees could be involved in dual employment or otherwise working at more than one State job. For example, DOCCS sometimes allows staff to work full-time at one facility and then work additional hours at another facility where it needs to maintain adequate staffing. Internally, DOCCS refers to this type of arrangement as "extra service," for which the agency budgeted about \$8 million during the 2012-13 fiscal year. Employees can also be on the regular payroll of more than one DOCCS facility, where they split various percentages of their normal full-time or part-time employment among those facilities. Finally, as with other State agencies, DOCCS staff can also work additional jobs at other State agencies subject to appropriate approval. These dual employment and extra service situations can be financially advantageous for employees, but also pose additional risk for management ranging from conflicts of interest to opportunities for payroll fraud or abuse.

State Department of Civil Service regulations prohibit employees of a State agency from accepting an additional paid State position without first obtaining approval from the head of their agency or department. In addition, the State's Public Officers' Law addresses other activities (including any outside employment or serving on the board for a not-for-profit corporation) and requires employees to first obtain permission from their State agency and, in certain cases, the Joint Commission on Public Ethics if certain compensation amounts are reached. These limitations are designed to ensure that secondary employment does not create a conflict of interest with the employees' primary duties and responsibilities.

At the operational level, when individuals work for more than one State agency, they receive separate payroll checks generated through the State's central payroll system, which is operated by the Office of the State Comptroller's (OSC) Bureau of State Payroll Services. To receive payroll checks for both State positions, employees are required to complete a Dual Employment/Extra Service Approval Form describing the work to be performed and, optionally, the work schedule of both positions. Employees must state that the second State position will not interfere with their regular duties and the form must be approved by their home agency. Original approved forms must then be filed with OSC before additional salary payments can be processed.

State time and attendance policies require agencies like DOCCS to maintain adequate and accurate records of employee attendance. Unless specifically exempted, State employees must maintain a detailed record of actual hours worked, which should indicate the times the employee arrived, took lunch or breaks, and departed. Certain exempted employees are not required to maintain detailed arrival and departure times, but they must still maintain a record of daily presence and absences sufficient to serve as a basis for salary payments. To adhere to these policies, DOCCS

requires employees to sign in and out of the log books at the facilities where they work extra service. In addition, it is critical that supervisors diligently monitor and enforce appropriate time and attendance requirements.

Audit Findings and Recommendations

Because of weaknesses in DOCCS policies and practices, managers and supervisors do not always know when staff members are involved in dual employment situations. Even when these arrangements are known and sanctioned, our review shows supervisors do not always take necessary steps to verify work schedules and attendance, or otherwise ensure that employees do not engage in payroll abuse. For example, a lack of communication between DOCCS facilities, or between facilities and other State agencies, regarding when employees actually work can be a major cause of erroneous payments. We found that within DOCCS once an employee is approved to work extra service at another facility, there is no mechanism to share information about the hours and times worked at each location with the person's primary and extra service supervisors. This information is necessary to ensure that scheduling properly considers any necessary travel time between locations.

We identified 90 employees who earned more than \$20,000 at more than one DOCCS facility, or at a DOCCS facility and another State agency, during the two-year period from April 2010 through March 2012. Of these, we further identified 12 people who posed a particularly high risk for payroll abuse because they reportedly worked more than 40 additional hours per pay period. Our review of time and attendance records submitted by these 12 staff identified two individuals who engaged in abusive payroll activity that resulted in payments for time not worked. Expanded tests of facility log books also identified fraudulent activity by a third individual who was not included in our original sample. In each case, the records showed a pattern of routine, improper activity such as claiming to be working two places at the same time, not allowing sufficient commute time between the end of one shift and the beginning of the next, and working significantly fewer hours than reported to DOCCS. Specific examples of these situations are detailed in subsequent sections of this report.

Supervisors are responsible for monitoring their employees and ensuring that they accurately report their time and attendance in accordance with both Civil Service and DOCCS requirements. Employees and supervisors both must certify that the time records correctly report time worked, leave accruals used and overtime to be paid. Certifications on these time records hold employees and supervisors responsible for any misrepresentations. In addition, employees who bill for extra service must certify that these services were rendered and were outside their regular employment hours, and that these claims are true and correct. We determined that failure to enforce time and attendance requirements resulted in an increased risk that individuals who are dually employed or work extra service are being paid for time they do not work. We found these individuals were able to circumvent controls in place due to management's lack of supervision.

For the period April 1, 2010 to March 31, 2012, the three employees we identified received pay for time not worked totaling at least \$10,972. Two of these employees worked for more than one DOCCS facility, while the other worked for DOCCS and another State agency. Under State payroll rules, DOCCS should have had at least eight dual employment forms on file for these three employees; however, it only had two. Furthermore, at several facilities we found time sheets that contained supervisory approval even though they were missing required information. In one

case, the employee failed to record his ending time on his time sheet 31 times during the audit period, yet the time sheets showed supervisory approval.

As a result of our audit, DOCCS provided guidance to its correctional facilities to ensure that log book entries are made by all necessary employees, and to ensure that all employees working extra service receive proper approval before beginning the secondary employment.

Overlapping Schedules and Time Entries

One of the basic risks posed by dual employment situations is the possibility of a person claiming to be in two places at the same time and being paid for the same hours by both employers. Our analysis revealed two DOCCS employees who engaged in this practice. On 71 occasions between April 1, 2010 and March 31, 2012, one Nurse claimed to have worked at two adjacent facilities (Groveland and Livingston) simultaneously. On one occasion, the employee reported working from 5:30 a.m. to 3:30 p.m. at Groveland, even though he had also reported working at Livingston until 7:45 a.m. that same morning, an overlap of two and one-quarter hours. In total, these 71 claims resulted in \$3,367 paid to the employee for 74.5 hours of work that was not performed.

The other employee, a Nurse Practitioner, would leave work at an Office of Mental Health (OMH) unit at the Elmira Correctional Facility at the same time or before he reportedly started a separate shift for DOCCS in the same facility. For example, on one day the employee reported working in the OMH unit until 4:00 p.m., but recorded starting his shift for DOCCS an hour earlier at 3:00 p.m. This happened six times during our review period, resulting in an overpayment of \$275 for 6.5 hours of work that was not performed.

Adjoining Work Schedules

Adjoining work schedules involve situations where an employee works two jobs, one of which ends at the same time, or very near the time, that the other begins. The problem with these situations is that they frequently do not account for the time it takes for the employee to travel between jobs. Our analysis of time records highlighted one such employee, the same Nurse Practitioner who worked in the OMH unit at Elmira, who also worked at two other DOCCS facilities: Groveland and Livingston. These facilities are located about 75 miles from Elmira with an estimated travel time of at least an hour and 15 minutes based on Internet mapping applications. On 78 occasions between April 1, 2010 and March 31, 2012, time records showed this employee had insufficient time between when he reported leaving his first job and arriving to begin the second. For example, on March 6, 2012, the employee reported both leaving work at Elmira and starting a shift at Livingston at 3:00 p.m. with no time in between for commuting. In total, these 78 discrepancies amounted to at least 71 hours of work that was not performed, resulting in overpayments of at least \$3,000.

Other Inappropriate Payments

Extra service employees at DOCCS are paid based upon a signed voucher they submit to the

payroll unit reporting the hours they worked. However, there is no supervisory approval of these vouchers, nor any reconciliation to other relevant records, such as the attendance record for the employee's primary job, to help ensure amounts paid reflect hours actually worked. In some cases, the lack of this type of control is exacerbated when extra service employees are not directly supervised because their supervisors actually work different schedules.

DOCCS requires employees who work extra service outside their normal facility to sign in and out using the main log book at the facility. One purpose of these log books is to enable management to account for everyone in the facility at any time, which is essential for security purposes. If a crisis occurs inside a facility and the log book does not accurately reflect who is present, the response could be negatively affected. However, we found that this policy is not routinely enforced.

We selected and found only about half a sample of 110 extra service vouchers submitted at 11 facilities - 10 vouchers from each facility. These vouchers covered 307 reported instances of work and included information about the date worked, the times in and out, and the number of hours worked. We compared this information to the log books at each facility and found only about half (154) matched. For the other 153, two-thirds (101) had no corresponding entry whatsoever in the log book and 52 showed information that did not match, including one Physician's Assistant working at the Wyoming Correctional Facility who consistently reported more hours than she actually worked.

We expanded our tests to compare all of the log book entries and vouchers related to this employee between April 27, 2010 and February 6, 2013. Although the log book occasionally showed the employee was in the facility for more hours than shown on the voucher, the records showed she overbilled the facility at least 230 times for a total of 113 hours not worked. For example, on November 17, 2010, this employee signed into the facility at 3:36 p.m. and signed back out two hours and 39 minutes later at 6:15 p.m. The corresponding voucher she submitted reported four hours of work. In total, the discrepancies we identified resulted in net overpayments to this employee of about \$4,330.

Recommendations

1. Take appropriate actions as warranted in the cases we identified, including but not limited to:
 - recovering inappropriate salary payments;
 - identifying inappropriate salary and service and submitting resulting adjustments to the New York State and Local Retirement System for the appropriate periods; and
 - assisting in any further investigation.
2. Establish communication channels between facilities that utilize dually employed or extra service staff, as well as with other agencies that also employ DOCCS staff, to identify and prevent conflicts in scheduled work hours at different work locations.
3. Ensure that dually employed and extra service staff are working the time for which they are being paid.

4. Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure that required policies and procedures are followed.

Audit Scope and Methodology

The objective of our audit was to determine if DOCCS employees who are dually employed at multiple correctional facilities or other State agencies are working their required hours. Our audit period was April 1, 2010 through February 6, 2013.

To accomplish our objective, we reviewed DOCCS policies and procedures, along with relevant regulations and employee labor agreements. We also interviewed DOCCS employees and their supervisors and other State agency officials, and made site observations to determine whether internal controls related to our objective were adequate and functioning as intended. We used computer-assisted audit techniques to match payrolls from DOCCS to other State agencies for the period May 1, 2010 through March 31, 2012. This analysis identified 90 employees who were concurrently employed by either more than one DOCCS facility or a DOCCS facility and another government agency, earning over \$20,000 from each job. We judgmentally sampled 12 of these employees for testing, based on their claims of working more than 40 additional hours per pay period. We reviewed payroll records, time sheets and other supporting documentation, such as facilities' log books, to uncover conflicts in the work schedules and time records submitted for each employee.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. 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 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 functions do not affect our ability to conduct independent audits of program performance.

Authority

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

Reporting Requirements

We provided a draft copy of this report to DOCCS officials for their review and comment. Their comments were considered in preparing this final report and we have included them in their entirety at the end of this report. Department officials agreed with our findings and have taken action to address them, including issuing additional guidance to facilities and referring the cases we identified to its Labor Relations unit for follow-up.

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

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



STATE OF NEW YORK
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ANDREW M. CUOMO
GOVERNOR

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

September 5, 2013

Mr. John Buyce
Assistant Director
Office of the State Comptroller
110 State Street – 11th Floor
Albany, New York 12236-001

Re: 2012-S-129 Dual Employment

Dear Mr. Buyce:

The Department of Corrections and Community Supervision (DOCCS) has reviewed the Office of the State Comptroller's *Dual Employment, Report 2012-S-129* which was conducted in accordance with Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Financial Law.

As requested, we are responding to your audit finding in Report 2012-S-129 issued on August 14, 2013. Attached is DOCCS' reply as signed by Deputy Commissioner for Administrative Services Daniel F. Martuscello III.

DOCCS would like to acknowledge the time and effort of all employees that were involved with this audit and their desire to improve the Department's operation.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony J. Annucci".

Anthony J. Annucci
Acting Commissioner

Attachment



STATE OF NEW YORK
**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**
THE HARRIMAN STATE CAMPUS – BUILDING 2
1220 WASHINGTON AVENUE
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ANTHONY J. ANNUCCI
ACTING COMMISSIONER

DANIEL F. MARTUSCELLO III
DEPUTY COMMISSIONER
ADMINISTRATIVE SERVICES

September 3, 2013

Mr. John Buyce
Audit Director
Office of the State Comptroller
110 State Street-11th Floor
Albany, New York 12236-0001

Re: 2012-S-129 Dual Employment

Dear Mr. Buyce:

This is in response to your draft report concerning the *Dual Employment, Report 2012-S-129*. The Department of Corrections and Community Supervision (DOCCS) is responding to the four recommendations:

Recommendation #1: Take appropriate actions as warranted in the cases we identified, including but not limited to:

- recovering inappropriate salary payments;
- identifying inappropriate salary and service and submitting resulting adjustments to the New York State and Local Retirement System for appropriate periods; and
- assisting in any further investigation.

DOCCS Response: DOCCS agrees and has referred this matter and OSC's audit findings to the DOCCS Labor Relations who will work with the Inspector General's Office. DOCCS will seek to recover any inappropriate salary payments and make appropriate adjustments based upon the findings of Labor Relations.

Recommendation #2: Establish communication channels between facilities that utilize dually employed or extra service staff, as well as with other agencies that also employ DOCCS staff, to identify and prevent conflicts in scheduled work hours at different locations.

Mr. John Buyce
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DOCCS Response: DOCCS agrees. Departmental Directive #2205, "Record of Attendance," Section V, E, states, in part:

Employment at more than one facility must be included and combined for attendance and leave purposes. Time records are to be maintained and monitored by the facility where the employee works the majority of the time. When the percentage of work at each facility is equal, the facility where the employee was first employed should maintain time records.

An all Superintendents memorandum was issued on June 6, 2013 directing them to have all Personnel/Timekeeping staff and all appropriate supervisors review Directive #2205 to ensure compliance with DOCCS policy. Additionally, the Deputy Commissioner for Correctional Facilities issued an all Superintendents' memorandum, dated January 24, 2013, which advised staff that non-employees or non-departmental personnel visiting the facilities were incomplete or non-existent and they must sign in. The memorandum specifically identified extra service staff as an example of who should sign the logbooks.

Recommendation #3: Ensure that dually employed and extra service staff are working the time for which they are being paid.

DOCCS Response: DOCCS agrees. As noted in response #2, Superintendents were reminded of the facilities responsibility to be in compliance with Directive #2205 and that extra service and dual employment employees are required to sign the facility logbooks which accounts for the employees' activities. Additionally, DOCCS is developing a process to randomly identify employees who have worked extra service hours at a particular facility, confirm that the employee has received approval to work extra service at the particular facility and review the facility logbook to ensure that the employee was not overpaid or underpaid for the extra service worked. This process will become a routine part of the Central Office Time and Attendance audit.

Recommendation #4: Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure that required policies and procedures are followed.

DOCCS Response: DOCCS agrees. The Director of Personnel issued a memorandum on June 6, 2013 with direction to all appropriate Personnel and Payroll staff to review Personnel Procedure #134, Dual Employment/Extra Service, and to ensure compliance with the procedure including the approval of a "Dual Employment/Extra Service" form prior to any such service being worked. As noted above, memorandums were also sent reminding the facilities that extra service employees are to sign in and out of the entrance logbooks, direct staff to

Mr. John Buyce
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Page Three

be in compliance with Directive #2205, and audits will be conducted on these extra service employees during Central Office Time and Attendance audits.

The Department would like to thank the OSC auditors for their professionalism and goal to improve the Department's operations.

Sincerely,



Daniel F. Martuscello III
Deputy Commissioner

cc: Darren Ayotte, Director of Personnel
Peter Berezny, Director of Internal Controls
Jeffery Nesich, Director of Internal Audit