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COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

July 7, 2010

Mr. Jerry Barber
Assistant Comptroller
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Barber:

In accordance with Section 170 of the Executive Law, this letter serves as the Department of Correctional Services' official ninety day response to your joint report dated April 13, 2010, on the audit and investigation of the time, attendance, and travel of the former Director of the Department's Food Production Center, Howard Dean.

The Department thanks the Offices of the State Comptroller and Inspector General for a comprehensive review of Mr. Dean's travel and time attendance irregularities. We took all the recommendations seriously and proactive steps have already been taken to assure that the highest level of internal controls policies are not only in place, but in practice. I also want to state emphatically that former agency staff interviewed by OSC do not speak for the Department of Correctional Services, nor do they represent the approximately 30,000 hard working staff members who abide by the policies and procedures of this Department and other control agencies, and carry out our core mission of public safety.

To reiterate from my response dated February 22, 2010, the original decisions to accord Mr. Dean travel status to Auburn and later Albany as his official duty stations when he actually worked at the Food Production Center in Oneida County for the entire period were made during the tenure a former Commissioner in 1992. After being appointed Acting Commissioner on January 1, 2007, and confirmed by the Senate March 12, 2007, I first became aware of potential irregularities involving Mr. Dean's arrangement in the summer of 2007.

At the time, the Deputy Commissioner for Administration, whom I appointed, brought those apparent irregularities to my attention after she had begun reviewing Mr. Dean's travel vouchers and questioned his listed official duty station as Albany. Following an internal review, I directed the Deputy Commissioner to revoke Mr. Dean's travel status and designate his official duty station as the Food Production Center. Mr. Dean's travel status was discontinued in November 2007.

As Commissioner, and before that as a Supervising Superintendent, I have delivered to all newly appointed superintendents and directors the stern message to conduct themselves ethically at all times. They are expected to set the example for all staff at their new facility. Accordingly, they are reminded that under no circumstances should they secure for themselves any unwarranted privileges; that they must scrupulously follow all rules pertaining to such matters as time and attendance, travel and use of state equipment, and that failure to do so could cost them their job.

Also, as I noted in my earlier response, I invited the Deputy Director for Training from the Office of the State Inspector General, Ed Meyer, to address Supervising Superintendents and executive staff at a December 2009 meeting. There, Mr. Meyer explained the responsibilities of his office and the types of investigations and the reporting of fraud and abuse his office initiates in connection with the State workforce.

Beyond the specific responses to the recommendations provided by the Office of the State Comptroller, this agency has moved forward on reviewing and updating policies that are meant to reinforce our commitment to good government and management oversight. For clarity, I have included my original response from February 22, 2010 and have added updated comments in italic bold print.

Recommendation Number 1:

Change the control environment at Correctional Services to one that actually enhances internal controls and respects compliance with the regulations and guidelines of the State Comptroller, Division of the Budget and Department of Correctional Services.

Original Response:

While I fully understand your frustration as a result of the cavalier responses you received from a prior supervisor regarding Mr. Dean's travel status and duty station, let me state unequivocally that this type of flawed thinking has no place in the Department under my leadership and has not, and will not, be tolerated by me nor any of my top managers. After we became aware of this irregularity in 2007 and completed an investigation, the practice was halted. Whatever the culture may have been in the past, I can assure you that since I became Commissioner in 2007, I have repeatedly reminded all managerial staff, both Central Office and in the facilities, that they will be held accountable for all of their actions and that they must adhere to the highest ethical standards.

Our Personnel Procedure Manual was updated to establish clear guidelines as to authorizing and/or changing the designation of an employee's official work station when it differs from their payroll site. This authorization will ultimately be approved by me, and addresses one of the more significant issues highlighted by the audit. We have amended and re-issued Directive #2260 "New York State Ethics," to include a new Section X: Duty to Report Corruption, Fraud and Other Abuses as provided in Executive Law §55. This version has been distributed throughout our system, and was signed by me to reinforce the notion that ethical conduct is accorded the highest priority. Additionally, Directive #6920 "Internal Controls" is reviewed annually and will be updated to emphasize employees are obliged to report allegations of, or possible acts of, corruption, criminal acts, conflict of interest or abuse by an employee to the appropriate supervisor.

Recommendation Number 2:

Correctional Services Central Administration managers should properly monitor the Food Production Center to ensure adequate controls are in place to prevent fraud, waste and abuse of State resources.

Original Response:

We have done so. As noted, I designated the Food Production Center as the official duty station of the current Director, who commutes to that location from his home in his personal vehicle and reports directly to the Superintendent of Oneida Correctional Facility, on whose grounds the Food Center is located, for operational matters. For policy matters, the new Director reports directly to the Deputy Commissioner of Administration. In addition, central office staff will make more field site visits to enhance our level of supervision.

In addition to the current Director reporting directly to the Superintendent of Oneida Correctional Facility, Central Office Executive Staff have made six visits to the Food Production Center since February 2010. The Director currently reports to the Assistant Commissioner of Administration in Central Office who makes regular site visits, preferably once a month if possible. The Assistant Commissioner and the Superintendent of Oneida Correctional Facility maintain regular contact with the Director and receive a weekly itinerary of the Director's activities. The Superintendent signs the Director's timesheet and a copy is forwarded to the Assistant Commissioner. The Food Production Center Regional Coordinators are assigned to a facility. They provide their weekly itineraries to the Director and the Deputy Superintendent of Administration (DSA) of the respective home facility where the regional office is located. Time off requests are approved by the Director by e-mail with a copy to the DSA at the facility. The DSA signs the time off request form. The DSA also signs the timesheet and sends it to the Director. With these new procedures, management is properly monitoring the Food Production Center personnel to ensure adequate time and attendance controls are in place.

Recommendation Number 3:

Improve the communication channels in the prison system to encourage reporting of fraud, waste, abuse and mismanagement to executive staff.

Original Response:

The Department employs about 30,000 people in nearly 75 separate work locations. I am considering incorporating a component on this specific issue in our annual training, which is mandatory for every Department employee.

While the OSC/OSIG audit did not make this recommendation, we have developed a proposal to establish an internal audit function which will work in tandem with our Accreditation Program, Bureau of Internal Controls and Facility Self-Assessment Audit processes. This proposal is consistent with the provisions of Budget Policy and Reporting Manual item B-350, which requires agencies and authorities to periodically evaluate the need to establish, maintain or modify an internal audit function utilizing the Internal Audit Evaluation Criteria. Discussions have been held with the Division of the Budget and the Governor's Office of Tax Payer Accountability to discuss how to establish and fund positions needed to implement the

program. I also need to emphasize that the "tone from the top" is critically important. Since my being appointed a Commissioner, I have ensured that executive level management set an example for all employees, to conduct themselves ethically and to comply with all rules as required by the Department and other agencies. The Executive Team is using this audit report and its findings as a lesson for all employees as to what is unacceptable behavior by management. The message is being fostered to disallow this kind of abuse by management and for staff to report it if observed.

Recommendation Number 4:

Remind all Correctional Services employees including executive staff of their obligation under the State Executive Law to report corruption, fraud, criminal activity, conflicts of interest or abuse by Correctional Services employees to the State Inspector General and their obligation under State Comptroller guidelines to report any suspected theft, loss, misuse or inappropriate action involving State funds, equipment, supplies and other assets in the State Comptroller's Office.

Original Response:

In addition to the training component described in the response to #3 above, the Department is considering a potential update to Directive 2260, New York State Ethics. I believe Mr. Dean's abuse of his situation went uncorrected for as long as it did because his supervisors were located far from where he actually worked. Like Mr. Dean's successor, the overwhelming majority of Department employees report to supervisors who are also physically stationed at the same work location. Thus, any potential time and attendance or similar abuses should become readily apparent to the supervisor. To be proactive and guard against a situation like Mr. Dean's, I have had the Department's Personnel Office draft a new internal policy entitled "Designation of Office Work Station." The policy and accompanying form requires a review that ends in the Commissioner's Office. In addition, any approval is then provided to the employee's payroll and fiscal offices to ensure proper compliance with all appropriate OSC regulations.

The NYS Department of Correctional Services Personnel Procedure Manual, #445 Assignment of Official Work Station, was revised on June 8, 2010. In addition to OSIG training previously provided to our Supervising Superintendents and Executive Team in December 2009 regarding our obligation to report fraud and abuse, we will provide such training to all Superintendents this fall when there is an All Superintendents Conference held, as well as develop a Commissioner's Initiative Training which would be rolled out to all employees. Furthermore, as was previously described under Recommendation No. 1, the Department's Ethics Directive has been amended and re-issued. Moving forward, Section 2: Conduct and Activities of Employees, the Department's Employees' Manual will be updated to reference ethical conduct and the duty to report corruption, fraud and other abuses as provided in the Executive and Public Officer's Law. The Department's Employees' Manual is updated as needed and is signed and acknowledged by receipt by each employee.

Recommendation Number 5:

Ensure all Correctional Services staff properly adheres to State regulations regarding travel, vehicle assignments and the agency's policy regarding staff housing.

Original Response:

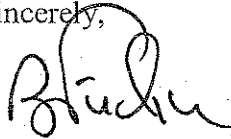
As mentioned above, directives that govern time and attendance and work site policies are being updated to remove current shortfalls and ambiguities. Lastly, the agency's directives regarding state vehicles assignments and staff housing are in the process of being updated in order to address specific areas of concern.

Directive #2932, "Use of State Owned Vehicles," has been updated, as has Directive #4005, "Department Owned Staff Housing." Both directives were reviewed in light of criticisms noted in the reports from OSC. A revision to our vehicle assignment policy has also been completed and also addresses a key concern raised by the auditors relative to who authorizes the use of a state vehicle and under what circumstances. In addition, Directive #2205, "Record of Attendance," is being revised to emphasize to employees and supervisors that they are attesting to the contents of that record when they sign the timesheets or time cards, and they will be held accountable for any misrepresentations of that record.

The Department of Correctional Services continues to be receptive to opportunities to strengthen our internal controls procedures, and review current and new policies in light of the need to ensure fiscal and operational accountability.

Thank you for the opportunity to provide a ninety day response to this report.

Sincerely,



Brian Fischer
Commissioner

cc: Governor David Paterson
Lieutenant Governor Richard Ravitch
Senator Dean G. Skelos
Senator Carl Kruger
Senator Malcolm A. Smith
Senator John A. DeFrancisco
Senator Ruth Hassell-Thompson
Assemblyman Sheldon Silver
Assemblyman Ron Canestrari
Assemblyman Herman D. Farrell
Assemblyman Brian M. Kolb
Assemblyman Jim Hayes
Division of the Budget (2)