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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 23, 2013

John V. Tauriello
Acting Commissioner
Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Re: Sex Offender Management and
Treatment Act Program
Report 2013-S-21

Dear Commissioner Tauriello:

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, we recently audited selected aspects of the *Sexual Offender Management and Treatment Act Program* (SOMTA) at the Office of Mental Health (Office).

Background

In April 2007, the Legislature enacted the Sex Offender Management and Treatment Act (Act), which established the civil management process typically referred to as SOMTA. The SOMTA program is designed to closely supervise and treat sex offenders who are near release from prison or parole, and who, based on their mental abnormalities, pose a substantial risk to commit new sex crimes. The Act allows the Commissioner of the Office of Mental Health to designate multidisciplinary staff, case review teams, and psychiatric examiners to identify persons suffering from a mental abnormality that predisposes them to sexual recidivism and who may require civil management upon completion of their prison terms.

Since the Act's inception, the Office has reviewed over 10,500 sex offenders' cases, leading to 266 sex offenders currently being civilly confined. The Office uses three psychiatric centers, Central New York Psychiatric Center, St Lawrence Psychiatric Center and the Manhattan Psychiatric Center, to provide treatment and living quarters for these offenders.

For the two fiscal years ended March 31, 2014, OMH budgeted over \$110 million for

its SOMTA program expenses. The budget for the current 2013-2014 fiscal year is just over \$56 million, including direct payroll costs of over \$32 million. Once fringe benefits are included, personal service costs make up over 85 percent of the SOMTA budget. The remaining funds are for non-personnel services such as medication and hospital care, clothing, transportation, and service contracts, which are usually related to facility support functions.

Results of Audit

Our tests of expenditures found direct costs charged to SOMTA appropriations have been program-related and indirect expenses have been properly allocated to the program based upon a reasonable and consistent methodology established by management. Accordingly, there is no indication that SOMTA appropriations have been misapplied to fund other programs.

Our tests showed employees directly charged to SOMTA were working on the program, and we found no evidence of commingling of duties with other programs. For example, the three psychiatric centers used to house the civilly confined each have wards that are used exclusively for SOMTA patients. Employees must sign in and out of these wards. We matched a sample of employees' timesheet records to the various ward sign-in logs and found employees were working in the SOMTA wards and not assigned to other programs.

The Office also allocates other indirect and shared costs among programs based on the number of patients cared for in various parts of each facility. These costs include security, maintenance, supplies, food service and other service contracts. We verified that these costs were properly identified and consistently allocated in keeping with this methodology.

Audit Scope, Objectives and Methodology

We audited SOMTA expenses for the period April 1, 2011 to July 25, 2013. The objectives of our audit were to determine how civil confinement funds are being utilized and determine whether the funds are being misapplied to fund other activities.

To accomplish our objectives, we reviewed Office budget data and service contracts; conducted a site visit to a SOMTA psychiatric center; and interviewed Office budget and psychiatric center personnel and administrators to gain an understanding of how expenses are tracked. We reviewed a judgmental sample of SOMTA wards' sign-in logs and time records for employees at the three SOMTA psychiatric centers for three pay periods. We judgmentally selected staff titles to get a mix of positions at the three facilities and then randomly selected employees from within each title. We also reviewed SOMTA budgets and actual expenses to ensure expenses were correctly allocated to the program.

We conducted our 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 objectives.

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 States' 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.

Reporting Requirements

We discussed the results of our audit with Office officials who agreed with our conclusions and waived the opportunity to provide formal written comments to be included in this final report.

Major contributors to this report were Brian Reilly, Nadine Morrell, Richard Podagrosi, Joe Paduano and Mark Womeldorph.

Please convey our thanks to Office management and staff for the courtesies and cooperation they extended to our auditors during this review.

Sincerely,

John F. Buyce, CPA
Audit Director

cc: Kenneth Lawrence, OMH Audit Director
Thomas Lukacs, Division of the Budget