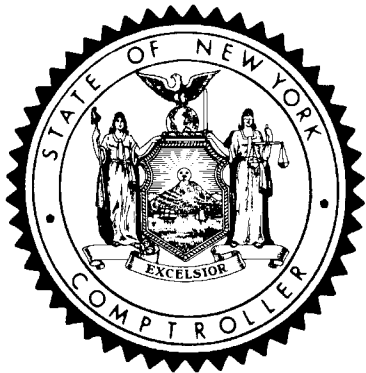


***State of New York  
Office of the State Comptroller  
Division of Management Audit  
and State Financial Services***

**DEPARTMENT OF CORRECTIONAL  
SERVICES**

**ADIRONDACK CORRECTIONAL  
FACILITY SWAPPING PRACTICES**

**REPORT 99-S-21**



***H. Carl McCall***  
*Comptroller*



# State of New York

## Office of the State Comptroller

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### **Division of Management Audit and State Financial Services**

### **Report 99-S-21**

Mr. Glenn S. Goord  
Commissioner  
Department of Correctional Services  
Building #2, State Campus  
1220 Washington Avenue  
Albany, New York 12226-2050

Dear Mr. Goord:

The following is our report on the Department of Correctional Services' oversight of swapping practices at Adirondack Correctional Facility.

This audit was performed pursuant 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.

*Office of the State Comptroller  
Division of Management Audit  
and State Financial Services*

April 7, 2000

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# Executive Summary

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## Department of Correctional Services

### Adirondack Correctional Facility Swapping Practices

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#### Scope of Audit

The New York State Department of Correctional Services (Department) employs nearly 19,000 correction officers in 70 prisons throughout the State. Adirondack Correctional Facility (Adirondack) is a medium security facility with an inmate capacity of 713. Adirondack has 192 correction officers and its security personal service costs for fiscal year 1998-99 totaled \$9.2 million.

The Department allows a practice known as mutual shift swapping (swapping) at its facilities whereby employees doing similar work agree to exchange work hours. The Civil Service Law requires that an employee who engages in swapping must pay back the time worked by another employee by working for that person on another date; it prohibits State employees from accepting extra salary or compensation for swapped time. Each facility is responsible for negotiating its own swapping policy with local union representatives. At Adirondack, a labor-management agreement permits swapping. According to Adirondack management, employee abuse of swapping can result in revocation of privileges for that employee or of the swapping agreement itself.

Prior to the start of this audit, the Office of the State Comptroller (OSC) received a complaint letter alleging that a correction officer at Adirondack used time swaps to cover most of his shifts in return for cash payments to officers who worked for him. A second complaint alleged that numerous officers routinely pay other officers to work their shifts so they can work outside the facility, and that officers who receive such compensation do not report this extra income to government tax agencies.

Our audit addressed the following question about swapping practices at Adirondack for the period April 1, 1995 through October 29, 1999:

- ! Did Management oversight of swapping practices at Adirondack ensure compliance with the Civil Service Law and deter swapping abuses by individual correction officers?

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#### Audit Observations and Conclusions

We found that neither the Department nor Adirondack management maintained oversight of swapping at the facility to ensure compliance with the Civil Service Law and to deter swapping abuses. We identified ten Adirondack officers that swapped time and actually worked little of their assigned time while earning salary and other benefits that accrue to full-time State employees. Our audit work led us to conclude that certain officers likely paid other officers to work their shifts in violation of the Civil Service Law and the facility's swap agreement. At our request, the New York State Inspector General has opened an investigation into this matter.

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We reviewed the time and attendance records for ten correction officers over a 51-month period and found that they had “swapped out” (i.e., arranged for someone else to work for them) between 32 and 94 percent of their scheduled work time; one officer worked only 6 percent of his scheduled work days in this period. Eight of the ten officers owed other officers more than 200 work shifts; with one officer owing more than 800 shifts. These officers would have to work from one to four years of extra shifts - in addition to their regular shifts - to pay back the swapped shifts they owe. Two of these officers have resigned (one owing almost 600 shifts) and no payback is possible. On the other end of the swap, according to the records, six officers are owed over 100 shifts, and one is owed over 600 shifts. While no officer admitted receiving compensation, we conclude there is a strong likelihood that some Adirondack officers have paid and/or received compensation for swapped time. It is also likely that some of these officers have full-time employment elsewhere. Officers who paid others to work their shifts violated the Civil Service Law and earned State salary, pension and other benefits for what amounted to “no-show” jobs. Further, employees who pay others to work swapped time may jeopardize their own pension benefits; while employees who accept such compensation without declaring the income to tax authorities may be liable for related tax and penalties. We recommend the Department act to eliminate the swapping abuses we found and take appropriate disciplinary action against employees who are found to have abused swapping privileges. (See pp. 5-8)

We believe Adirondack officers were able to engage in abusive swapping practices because Department and Adirondack management did little to control how swapping worked. Management was not concerned as long as posts were covered. The Department’s central office does not oversee swapping practices or give facilities guidance in controlling them. Adirondack management kept inadequate records of swapping and maintained a lax control environment that permitted abuse to occur. In addition to the uncontrolled open-ended swap program, we also found evidence of forged time cards and abuse of leave accruals. To effectively control swapping practices at Department facilities statewide, we recommend the Department establish a comprehensive swapping policy which incorporates best practices from existing correctional facility swapping agreements. (See pp. 8-10)

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## **Comments of Department Officials**

We provided a draft copy of this report to Department officials for their review and comment. Department officials indicated that they either already have implemented, or will implement, the recommendations in this report. Further, Department and Adirondack management gave us assistance and full cooperation during this audit.

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# Introduction

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## Background

The New York State Department of Correctional Services (Department) operates 70 prisons throughout the State, and employs nearly 19,000 correction officers to provide security over the approximately 70,000 offenders in its custody. Personal service costs for Department correction officers totaled approximately \$906.8 million in fiscal year 1998-99. Adirondack Correctional Facility (Adirondack) is a medium security facility in Raybrook, New York with an inmate capacity of 713. Adirondack has 317 total staff, including 192 correction officers. In fiscal year 1998-99, Adirondack's security personal service costs totaled \$9.2 million.

For more than 25 years, the Department has allowed mutual shift swapping (swapping), a practice by which Department employees doing similar work agree to exchange work hours. Employers are specifically permitted by the provisions of Section 134 of the Civil Service Law and the Federal Fair Labor Standards Act to allow employees to exchange hours of work with other employees doing similar work in the same State institution. Department management allows the practice of swapping to improve employee morale, to reduce overtime and to reduce the use of leave by correction officers. While swapping was first used to provide time off for employees who had emergency needs, it is now used by correction officers for a variety of personal reasons. Section 135 of the Civil Service Law prohibits an employee from receiving extra salary or compensation for working swapped time.

The Department's central office does not formally recognize swapping as an official work practice and does not control its use. Rather, individual Department correctional facilities negotiate with their local union representatives to establish the terms of swapping policies (such as how much swap time can be accumulated and when swapped hours must be paid back) specific to their own facilities. Thus, there could be different policies in place at each of the 70 facilities statewide. Department officials indicate that the system for swapping at some facilities is "open-ended;" in other words, there is no set time frame during which swapped time must be repaid.

Until April 1999, Adirondack permitted such open-ended swapping based on the terms of its labor-management agreement. At the time of our audit, swaps at this facility were recorded in a number of documents: in a Swap Book, in which officers enter swaps on appropriately dated pages; on officers' time cards, where officers are required to note the swap and the hours it involves; and in the Daily Activity Charts (Charts), which show, on a daily basis, the name and location of employees at posts throughout the facility as of the beginning of each shift. Adirondack management states

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that it regards swapping as a privilege, and that an employee's abuse of the program can result in revocation of swapping privileges for that employee or revocation of the swapping agreement itself.

This audit was initiated in response to a complaint the Office of the State Comptroller (OSC) received, which alleged that a correction officer at Adirondack used time swaps to cover most of his shifts in return for cash payments to officers who worked for him, in violation of relevant sections of the Civil Service Law and the facility's swap agreement. A preliminary assessment of swapping practices at Adirondack indicated the complaint had merit and warranted an audit at the facility. We also received a complaint letter from another individual which further alleged that 10 to 15 officers at Adirondack routinely swap their shifts and pay other officers to work for them so they can work outside the facility. This second complaint letter alleged that some of these officers have not actually worked at the facility in the past three to five years except to attend a mandatory 40 hours of training each year. It was also alleged that officers who accept compensation for working swapped time do not report their extra income to the Internal Revenue Service or to the New York State Department of Taxation and Finance.

It should be noted that Department and Adirondack officials provided us with their full cooperation and assistance during this audit. They have already acted to address many of the control issues we raise in this report. We encourage the Department's continued diligence in establishing and maintaining effective direction and oversight of employee swapping practices at Adirondack and other facilities.

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## **Audit Scope, Objective and Methodology**

We audited the swapping practices of correction officers at Adirondack for the period April 1, 1995 through October 29, 1999. The objective of our financial related audit was to determine whether management oversight of swapping practices at Adirondack was effective in ensuring compliance with the Civil Service Law and in deterring swapping abuses by individual correction officers. To accomplish our objective, we interviewed Department and Adirondack management and staff, and contacted the Governor's Office of Employee Relations, OSC legal representatives and the parties who registered complaints about swapping practices. We reviewed applicable laws, rules, regulations, policies and procedures; examined time and attendance records and reports, including time cards, Daily Activity Charts and Swap Books; and visited Fishkill and Mohawk Correctional Facilities to review their swapping procedures.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations which are included in our audit

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scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations included in our audit 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.

We used a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on 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, little audit effort is devoted 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.

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## **Comments of Department Officials to Audit**

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. Department officials indicated they either already have implemented, or will implement, the recommendations in this report.

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

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# **Adirondack Correctional Facility Swapping Practices**

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Relevant sections of the Civil Service Law require that employees repay swapped time by working a shift (or shifts) for the officer with whom the swap was made. Adirondack management is responsible for establishing a system of internal controls to help ensure swapping practices conform to the Civil Service Law, and that officers do not abuse swapping privileges. During the course of our audit, our analysis of work records for ten officers showed these individuals have not worked many of their own shifts. Eight of the ten officers owed other officers more than 200 work shifts, with one officer owing more than 800 shifts. These officers would have to work from one to four years of extra shifts - in addition to their regular shifts - to pay back the swapped shifts they owe. Further, two of these officers have resigned (one owing almost 600 shifts) and no payback is possible. On the other end of the swap, we determined that six officers are owed more than 100 shifts, and one officer is owed more than 600 shifts. While no officer admitted receiving compensation, we conclude there is a strong likelihood that certain Adirondack officers have paid and/or received compensation for swapped time, as was alleged in the complaint letters we received. At our request, the New York State Inspector General's Office has opened an investigation into this matter.

It appears that Adirondack officers were able to engage in abusive swapping practices because Department and Adirondack management had done little to control how swapping worked. Swapping is not formally acknowledged by the Department; thus, central office does not oversee swapping practices or provide guidance to facilities on how to manage or control swapping. Further, we found that Adirondack's control environment, or management's attitude about controlling work practices, was lax. If security posts were covered, management did not question how its open-ended swapping system worked, and did not revoke the swapping privileges of officers who abused the program. In addition, we found evidence of forged time cards, and abuse of leave. As a result, some Adirondack officers accrued State employment benefits (e.g., leave, medical coverage and pension benefits) for what largely amounted to "no-show" jobs. It is likely that some of these people even have full-time jobs elsewhere. Any employee who paid and/or received compensation for swaps violated the Civil Service Law. Further, since it is illegal to receive such compensation, individuals who receive it are not likely to declare this extra income to Federal and State tax authorities. During and subsequent to our audit, Adirondack management has taken steps to improve the controls over swapping practices at the facility.

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## **Analysis of Swapped Time**

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To determine whether Adirondack correction officers abused swapping privileges during a 51-month period (April 1, 1995 through June 30, 1999),

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we first had to identify the officers who owed significant amounts of swap time. This proved to be time-consuming, since none of Adirondack's swap records provided complete or reliable information about swaps that occurred. For example, the Swap Book is not required to be used at all, and the Charts, which are required to be used, were missing some swaps. Time cards did indicate swaps that occurred, but did not always list the names of officers who worked the swapped time. By matching all three of these records, we were able to identify all the parties involved in swaps during eight judgmentally selected months during the above 51-month period. The ten officers we selected for our sample were either officers named in the complaints we received, officers our analysis of records identified as having "swapped out" (i.e., arranged for someone else to work) many shifts during this time or both. We then reviewed the time and attendance records of these ten officers for the entire 51-month period.

We found that each of the officers in our judgmental sample had swapped out a significant number of shifts, ranging from 32 percent to 94 percent of their total scheduled work days (i.e., their work time less regular days off and all leave taken). We found that one officer had worked only 52 (6 percent) of the 880 scheduled work days between April 1, 1995 and June 30, 1999. Since 19 of these 52 days were mandatory training days, the officer worked a facility post on only 33 days. We determined that four of the officers sampled each owed the equivalent of more than two years of time to other people who had worked shifts for them. One of these four officers would have to work almost four years of straight double shifts in order to repay the swaps he took during our audit period. According to Adirondack records, all the correction officers in our sample had significant numbers of outstanding swaps to repay, ranging from 41 percent to 100 percent of the total swapped time. *Table 1* on the next page shows the specifics for each of the ten officers in our sample.

TABLE 1: Analysis of Swapped Time for Ten Correction Officers April 1, 1995 - June 30, 1999								
Correction Officer	Total Days Scheduled to Work <sup>1</sup>	Total Days Swapped Out	Percent of Scheduled Days Swapped Out	Total Swaps Repaid	Percent of Swaps Repaid	Net Swaps Owed	Net Swaps Owed <sup>2</sup> (In Years)	Percent of Swaps Owed
1	880	828	94.09%	0	0.00%	828	3.94	100.00%
2	706	603	85.41%	5	0.83%	598	2.85	99.17%
3	920	691	75.11%	46	6.66%	645	3.07	93.34%
4	840	489	58.21%	52	10.63%	437	2.08	89.37%
5	876	452	51.60%	182	40.27%	270	1.29	59.73%
6	803	399	49.69%	125	31.33%	274	1.30	68.67%
7	872	410	47.02%	198	48.29%	212	1.00	51.71%
8	903	330	36.54%	178	53.94%	152	0.72	46.06%
9	810	279	34.44%	164	58.78%	115	0.55	41.22%
10	887	286	32.24%	82	28.67%	204	0.97	71.33%
<b>TOTAL</b>	<b>8,497</b>	<b>4,767</b>	<b>56.10%</b>	<b>1,032</b>	<b>21.65%</b>	<b>3,735</b>	<b>17.79</b>	<b>78.35%</b>

1 "Total Days Scheduled to Work" represents the number of days each officer was supposed to work during our 51-month scope period; all regular days off and absences due to annual leave, personal leave, sick leave, etc., were subtracted from this number.

2 We calculated this figure by dividing the "Total Days Swapped Out" by 210, which is the Department's standard for the average number of workdays per year per correction officer.

After we brought this analysis to the attention of Department and Adirondack officials, they interviewed the above officers about their swapping practices. Officials acknowledged that these officers, when questioned, admitted they did not know how much time was owed or to whom it was owed. We also found that two officers in our sample resigned owing numerous shifts to fellow officers. According to Adirondack records, one of these officers owed nearly 70 other officers a total of almost 600 shifts; one such officer was owed 70 shifts. The second officer who resigned owed approximately 275 shifts to his fellow employees.

We also interviewed five correction officers who worked numerous shifts for one of the officers in our sample. Four of these five officers claimed they did not know how many shifts they were owed. All five officers stated they had not received any money or any other form of compensation for the time owed to them.

We then gathered further information on how many days were owed to individual officers by all ten officers in our sample. We found that 20 individuals were owed 50 or more shifts by these ten officers; and six of the 20 people were owed more than 100 shifts. One such officer was owed 600 shifts, or nearly three full years of work according to Facility records.

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Despite the claims of these officers, it seems likely that some officers are paying and receiving compensation for swapped time, as alleged in the complaints. It is difficult to understand how officers would work such extensive numbers of extra days without reimbursement. This practice is contrary to both the Civil Service Law and the Adirondack swap agreement, which require that officers repay swaps with work time. We base our conclusion on our analysis of records, our observation of controls at Adirondack and our discussions with facility personnel.

- ! Our analysis shows that a large number of swaps occurred in an open-ended swap system (until April 1, 1999) which provided ample opportunity for abuse; neither Department nor Adirondack management monitored swapping practices.
- ! Two of the ten officers in our sample resigned supposedly owing hundreds of swapped days to fellow employees; many of the remaining eight officers supposedly still owe significant amounts of work time that will be extremely difficult to repay.
- ! Officers state that Adirondack is a small facility, and that officers do not “burn” (fail to repay) each other for swaps because that would end swapping for such officers. If this is the case, we question how two officers could resign owing fellow officers hundreds of shifts.
- ! Despite a reported pattern of slow payback - or no payback - of swapped time, officers continue to swap with other officers, and maintain outstanding balances of time owed. It is unlikely that correction officers work for free as a gracious gesture toward coworkers.

Department and Adirondack officials agree that it is unreasonable to conclude that officers would continue to work swaps without being compensated in some way. According to the persons who made the complaints to our auditors, the going rate for working a security shift at Adirondack is \$100. Any officers who accept compensation for swap time worked do so in violation of the Civil Service Law, which prohibits State employees from receiving extra salary or compensation for performing their jobs. In addition, any payments made privately by one officer to another as compensation would constitute income under both Federal and State tax laws. Correction officers who receive such payments would be required to report them on their tax returns. If such payments were not reported, the officers could be liable for the unpaid taxes, as well as any associated interest and penalties.

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In addition, officers who swap out work time without repaying the shifts they owe other officers are earning salary and other benefits that accrue to full-time State employees, including leave and pension benefits, without actually working full-time jobs. We have been informed by officials of the New York State Retirement System that State employees who pay others to work swapped time may be violating rules and regulations governing pension eligibility. Thus, officers who pay others to work for them could be jeopardizing their State pensions.

Questions about swapping practices at Adirondack have arisen before. At the end of 1997, the Department's Office of Inspector General (OIG) began an investigation of the same complaint received by OSC. This complaint alleged that a correction officer at Adirondack was collecting State benefits without going to work by using swaps to cover most of his shifts in return for cash payments to officers who worked for him. Since Adirondack's policy at that time allowed for unlimited swaps and unlimited payback time, and no officer admitted to an exchange of payment, the OIG concluded there was no evidence of any misconduct by the officer. We question why the OIG investigation did not detect the pattern of swapping abuse we found at the facility. Our audit analyzed work records of the same individual investigated by the OIG and found he owed almost 600 work shifts to other officers, a liability that would take nearly three years of double shifts to repay. The OIG investigation did not recommend, or result in, a change in Adirondack's swapping practices.

Department officials responded that the purpose of the OIG investigation was to determine if the correction officer in question paid other officers to work swaps for him. They further stated that it is not the function of OIG to investigate labor relations issues or to recommend changes to those policies or practices. We believe that if OIG had performed a thorough investigation of the swaps pertaining to the officer in question, it would have detected the widespread nature of the problem, thereby enabling Department management to take corrective action two years earlier.

A lax control environment made swapping abuse more likely. As noted earlier in this report, Adirondack officers were able to engage in abusive practices because management did not monitor how the swapping program worked as long as all security shifts were covered. For example, Department policy requires that each officer sign his or her own time card to indicate time worked and that a supervisor verify the accuracy of time card, including its signature, to authorize payment. However, when the State Police Forensic Investigation Center examined, at our request, a sample of time cards from two of the ten officers in our sample, it found that only 14 percent and 41 percent, respectively, of the signatures on these two officers' time cards were authentic. We also found that, while one of

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the objectives of swapping is supposed to be a reduction in the amount of leave time used by participating officers, the ten officers in our sample had used 97 percent of their collective leave time (annual, sick, personal, etc.) earned during the 51-month period that we tested. Further, according to the complaint letters we received, 6 of the 10 officers in our sample allegedly engaged in outside employment. Had Adirondack managers established an effective system of internal controls that included ensuring officers sign their own time cards, and examining leave usage among its officers on a regular basis, they might have detected signs of swapping abuses.

To determine whether swapping practices are effectively managed at other facilities, we asked Department managers to provide us with a list of facilities where they believe swapping programs are working properly. The Department conducted a review of the policies in place at its facilities and recommended we make site visits to the Fishkill and Mohawk Correctional Facilities. We tested the swapping practices at both facilities and determined that their programs, which include features such as complete documentation, regular repayment of swaps and management monitoring, are effective. We noted no material exceptions in our review.

In our examination of Fishkill's and Mohawk's practices, we determined that neither facility allows open-ended swaps. Rather, all swaps must have a repay date entered at the time a swap is recorded. Swaps must be repaid within one year at Mohawk, and within 30 days at Fishkill. Managers at Fishkill told us that they limit the pay back period because they are a transition facility. (Newly trained officers often work at Fishkill for a short period until they are permanently assigned.) At Mohawk, only supervisors can change or cancel a swap; at Fishkill, the chart sergeant has this responsibility. Monitoring is handled by the chart sergeant at Mohawk and by the timekeeper at Fishkill. We determined that the timekeeper and chart sergeant at these facilities have been trained to use Department computer applications to monitor the status of swaps. These applications are available to all correctional facilities.

In April 1999, the Department appointed a new Superintendent at Adirondack. During our audit, this Superintendent and Adirondack managers stated they would act to improve the controls over swapping practices at the facility. The changes already in place include the elimination of open-ended swapping and the establishment of a new policy which limits the time frame for repayment of swaps to one year. Further, officers involved in a swap must now use a new swap form which states the date the swap will occur and the date the swap will be repaid. The form must be submitted for approval and filing before swaps occur. However, Adirondack managers state they have not yet determined how they will monitor the program to ensure all swaps are paid back within the

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one-year period. In response to our audit findings, Adirondack management has suspended the swapping privileges of the eight officers in our sample who are still employed at the facility. Management is requiring these officers to come up with a plan for repayment of the outstanding swap time identified through our audit tests.

Since swapping is a Department-wide practice, we believe the Department should work to establish Department-wide policies to guide facilities in monitoring swapping use and in preventing the kinds of abuses we found at Adirondack. The Department should consider incorporating in these policies some of the effective control practices currently in use at Mohawk and Fishkill.

### **Recommendations**

1. Act to eliminate the swapping abuses we identified at Adirondack and take appropriate disciplinary action against those individuals who were found to have abused swapping privileges.
2. Establish a comprehensive swapping policy which incorporates best practices from existing correctional facility swapping agreements.
3. Institute controls to ensure that facility employees sign their own time cards.
4. Establish a policy that requires a regular review of employees' leave accruals to detect unusual or inappropriate leave usage.



GLENN S. GOORD  
COMMISSIONER

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

March 10, 2000

Mr. William Challice  
Audit Director  
Office of the State Comptroller  
Division of Management Audit  
& State Financial Services  
270 Broadway, 19th Floor  
New York, New York 10007

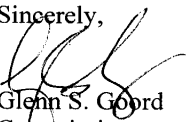
Re: Audit Report 99-S-21  
Oversight of Swapping Practices  
Adirondack C. F.

Dear Mr. Challice:

In accordance with Section 170 of the Executive Law and in response to your correspondence of February 1, 2000, attached is the Department's reply to the Draft Audit of Oversight of Swapping Practices at Adirondack C.F.

We have complied with the provisions of the Budget Policy and Reporting Manual, item B-410 by forwarding two copies of this response to the Division of the Budget on February 24, 2000.

Sincerely,

  
Glenn S. Goord  
Commissioner

Attachment



STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES  
ADIRONDACK CORRECTIONAL FACILITY

Box 110  
RAY BROOK, NEW YORK 12977-0110  
(518) 891-1343

An Equal Opportunity Employer

Glenn S. Goord  
Commissioner

Gale McGuane  
Superintendent

February 14, 2000

Mr. William Challice  
Audit Director  
Office of the State Comptroller  
A. E. Smith State Office Building  
Albany, NY 12236

Dear Mr. Challice:

This is to advise that I have received the Draft of the Audit Report of Adirondack Correctional Facility Swapping Practices. A formal response will be submitted per the indicated time line in your cover letter.

Sincerely,

A handwritten signature in cursive script that reads "Gale McGuane".

Gale McGuane  
Superintendent

GM/bf

### **DOCS COMMENTS CONCERNING THE DRAFT REPORT**

The Department disagrees with comments made on page 8 of the draft audit concerning the Department's Office of the Inspector General (OIG). In part, the report states "we question why the OIG investigation did not detect the pattern of swapping abuse we found at the Facility" and "The OIG investigation did not recommend, or result in, a change in Adirondack's swapping practices."

The purpose of this investigation was to determine if the Correction Officer in question paid other officers to work swaps for him. It is not the function of that office to investigate labor relations issues nor to recommend changes to those policies or practices.

### **ADIRONDACK CORRECTIONAL FACILITY REPLY TO THE O.S.C. AUDIT OF OVERSIGHT OF SWAPPING PRACTICES**

**Recommendation #1:** Act to eliminate the swapping abuses we identified at Adirondack Correctional Facility and take appropriate disciplinary action against those individuals who were found to have abused swapping privileges.

**Response #1:** Adirondack Management has taken the following corrective action:

- A. Signed a new swapping agreement that limits swaps to a one-year period.
- B. Created a new swapping form to be used with the Swap Book, to control the swaps to one year. The new form requires the names of both Officers involved in the swap and requires two dates for when the exchange will take place.
- C. The swapping privileges of the eight Officers still working at Adirondack and reviewed in the audit, have been suspended as of October 12, 1999. They cannot commit to any new swaps at this time.
- D. Each of the eight Officers has provided the Superintendent with a written proposal as to how they will pay back all swaps owed.
- E. Each Officer is providing the Superintendent with a written report the first of each month indicating swaps repaid in the previous month.

**Recommendation #2:** Establish a comprehensive swapping policy which incorporates best practices from existing correctional facility swapping agreements.

**Response #2:** Adirondack Management signed a revised Swapping Agreement with the Union on 3/24/99. This agreement described in response one, was in place during the audit and is still

governing swapping practices at Adirondack. In addition, Adirondack Management has opened discussion with the NYSCOPBA Local about the need to incorporate at Adirondack the best practices from existing facility swapping agreements. The handbook developed at Mohawk Correctional Facility was provided to the local at a Labor/Management meeting to show how swapping is limited and controlled. This will be used as a model for further negotiations at Adirondack to better control swapping activities.

**Recommendation #3:** Institute controls to ensure that facility employees sign their own time cards.

**Response #3:** The Department's Employee manual, Section 26, addresses Attendance Rules. Section 26.2 of the manual states, in part, "Employees who are required to punch a time card or to record their time electronically shall punch their own cards; they may not punch the card of any other employees." It further states "Employees and their supervisors must sign each card to certify attendance and eligibility for salary." In addition, Department Directive 2205 requires that Supervisors review time cards for accuracy, including that it is signed by the employee. The Timekeeper posts the time in the computerized timekeeping system using the time card as the document to verify time worked. The Timekeeper receives a copy of all swapping forms which allows cross checking to ensure that appropriate staff are paid for time worked. Security Supervisors, i.e. Chart Sergeants, must sign the swapping forms to authorize swaps and swaps are recorded on the charts by the Chart Sergeants, again to provide cross documentation of who has worked which job on any given date, further verifying correct payroll transactions. All staff and supervisors will be reminded, in writing, of these specific time management requirements.

**Recommendation #4:** Establish a policy that requires a regular review of employees' leave accruals to detect unusual or inappropriate leave usage.

**Response #4:** In conjunction with regular review of time use per Department Directive 2202, staff will be required to check for unusual and improper leave usage. Adirondack Management will ensure that all Supervisors enforce this policy.