



**STATE OF NEW JERSEY
OFFICE OF THE STATE COMPTROLLER**

**DEPARTMENT OF CORRECTIONS
OFFICE OF COMMUNITY PROGRAMS**

RESIDENTIAL COMMUNITY RELEASE PROGRAM

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BACKGROUND

The Office of Community Programs (OCP) within the Department of Corrections (DOC) is responsible for preparing criminal offenders to reenter society as productive citizens and for reducing the likelihood that they will commit additional offenses. To this end, DOC contracts with private, non-profit agencies for the provision of Residential Community Release Program (RCRP) services to eligible inmates. The contracts are awarded to RCRP service providers through a competitive bid process and are monitored for contract compliance by OCP. RCRPs include 9 substance abuse programs, 3 programs aimed at those with special medical or other needs and 11 work release programs that allow inmates to work at paid employment in the community. DOC also contracts with two assessment centers that assess inmate needs and recommend placement in a particular type of RCRP.

Pursuant to *N.J.A.C.* 10A:20-4.4 to -4.7, inmates are eligible for placement in an RCRP once they have met prescribed criteria and have received the approval of DOC's Institutional Classification Committee. For example, all program participants must:

- be within 18-24 months of either parole eligibility or their "max date," which is the end date of the entire term to which the offender has been sentenced;
- have received a positive psychological evaluation within the past year;
- have been cleared by DOC medical staff within the past year; and
- not demonstrate an undue risk to public safety as determined by DOC.

Once accepted into the program, the inmate is assigned to an RCRP based upon the results of an assessment examination and an ensuing recommendation by one of the two assessment centers.

According to DOC's website, "Assignment to a community program provides the opportunity for eligible inmates to reintegrate to the community." Many of the RCRPs are located in residential neighborhoods.

In Fiscal Year (FY) 2010, the State appropriated \$61.5 million for contracted RCRP services, provided to an average daily population of 2,629 inmates referred to by the RCRPs as residents. The FY 2011 appropriation for the RCRPs is \$64.6 million, which represents a \$3.1 million increase from FY 2010 and reflects an increase in the average daily resident population to 2,720.

OCP employs 18 individuals who are responsible for the development and oversight of the RCRP contracts, monitoring the performance of the service providers, and tracking inmate movement within the program. The combined salaries for these employees in FY 2010 totaled more than \$1.2 million.

AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

The objective of our audit was to determine the effectiveness of DOC's oversight of the contracts it awards to RCRPs. Our audit covered the period July 1, 2008 through May 4, 2011. In some cases, relevant contracts we reviewed were executed prior to July 1, 2008; accordingly, our review included the respective contract documentation. Specifically, we evaluated:

1. DOC's monitoring of RCRP operations;
2. DOC's assessment and collection of damages in the event of contractual violations by RCRPs;
3. DOC's disciplinary process for RCRP residents accused of misconduct;
4. DOC's procedures for RCRP contract awards, extensions and modifications;
5. the appropriateness of the per diem rates being paid to RCRPs by DOC; and
6. DOC's measurement of program performance.

This audit was performed in accordance with the State Comptroller's authority set forth in *N.J.S.A. 52:15C-1 et seq.* We conducted our audit in accordance with generally accepted government auditing standards applicable to performance audits. 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As part of our audit procedures, we reviewed applicable statutes, RCRP contracts and related documents, and DOC policy statements. We also interviewed DOC personnel to obtain an understanding of their job responsibilities and operations and system of internal control.

Additionally, we examined six judgmentally selected RCRPs operated by five providers under contract with DOC for compliance with applicable regulations,

statutes and DOC policy statements. Those five providers were: Center for Urban Education; Education & Health Centers of America; New Jersey Association on Corrections; The Kintock Group; and Volunteers of America/Greater New York. As part of this review, we assessed the effectiveness of the Accountability, Counseling, Employment and Substance Abuse (ACES) evaluation form, which is a tool used by DOC to monitor these programs. We also reviewed documents concerning resident escapes at the above six RCRPs, as well as a seventh one operated by the Education & Health Centers of America.

SUMMARY OF AUDIT RESULTS

Our audit identified significant weaknesses in DOC's internal controls concerning monitoring and contracting in the Residential Community Release Program. Some of the significant issues we identified include:

- DOC does not adequately monitor RCRP providers. As a result, DOC lacks assurance that all requirements of the RCRP contracts are being met. For example, in practice, OCP's contract administrators are conducting far fewer site visits to RCRP providers than the number DOC policy requires. Further, OCP's principal monitoring tool, the ACES evaluation form, does not require the level of testing necessary to verify the extent and quality of services being performed. We identified 16 additional test items that should be added to ACES to enhance DOC's monitoring of service providers.
- DOC overpaid RCRP providers \$587,186 in per diem rates over the course of the contractual term we reviewed.
- Despite having the contractual right to do so, DOC has not required any RCRP providers to pay damages to DOC when those providers have violated the terms of their contracts. For example, we identified several escapes of residents in the custody of an RCRP that, if investigated properly, should have resulted in DOC assessing damages against the provider. Similarly, we identified a shortage of contractually agreed upon staff at one RCRP that could have resulted in the assessment of damages but did not.
- DOC's disciplinary process for RCRP residents who engage in misconduct is flawed. For example, many disciplinary charges are dismissed resulting from a lack of appropriate documentation or investigation on the part of the RCRP providers in support of the underlying disciplinary charge.

- DOC evaluates providers and grants them contract extensions based on inconsistent and incomplete information. These deficiencies increase the risk that contracts with underperforming providers will be extended.
- DOC has not developed or implemented performance indicators against which it can evaluate the performance of the RCRPs, thereby bringing into question exactly what the State is receiving in exchange for the more than \$60 million expended on this program annually.

We make 28 recommendations to enhance DOC's oversight of RCRP services.

AUDIT FINDINGS AND RECOMMENDATIONS

Program Monitoring

DOC does not adequately monitor RCRP providers or assess liquidated damages when appropriate.

Pursuant to *N.J.A.C. 10A:20-4.2*, “the Division of Programs and Community Services, Office of Community Programs, shall be responsible for the administration, monitoring and oversight of RCRPs under contract with the DOC.” The RCRP contracts, along with related DOC policies, set forth the requirements that each RCRP service provider must follow. Contract compliance is verified through site visits conducted by four OCP contract administrators (Administrators).

Our review of six RCRPs found that DOC does not adequately monitor the service providers, including the programmatic aspects of these contracts. For the reasons set forth below, we conclude that DOC’s system of monitoring is not sufficient to ensure that all requirements of the RCRP contracts are being met.

ACES Evaluation Form

In accordance with *N.J.A.C. 10A:20-4.29(b)*, “the OCP shall be responsible for monitoring RCRPs for compliance with applicable laws and for on-site monitoring of the pre-release employment and education sites.” DOC written policy states that this includes but is not limited to “conduct[ing] routine contract compliance monitoring for immediate corrective action, culminating in an annual performance evaluation.”

OCP Administrators use ACES to assess contract compliance. ACES is a 40-item evaluation form requiring the Administrator to count occurrences of various resident activities (e.g., community program participation, employment

search efforts) and confirm the existence of required documents (e.g., community program participation approval form, approved employment site listing) to support those occurrences. Our review of ACES revealed that the checklist does not require sufficient testing to evaluate appropriately the level and quality of services provided by the RCRPs. For example, ACES requires Administrators to check the number of furlough days taken by a resident. (A furlough is a temporary, unescorted leave of absence granted to a resident of an RCRP.) However, it does not require the Administrator to verify that proper procedures were used in granting the furlough. Failure to verify such procedures could result in leave being granted to ineligible residents without DOC ever becoming aware.

We compared the ACES evaluation form to requirements set forth in DOC's 2004 Request for Proposals (RFP), applicable regulations and DOC policy documents and identified 16 additional items that should be added to the checklist. These items are set forth in Appendix A to this report.

Site Visits

DOC program guidelines state that the four Administrators are required to be "in the field" at least four days per week conducting RCRP site visits and investigating any incidents reported by the RCRPs. Additionally, as per DOC management, each time an Administrator visits an RCRP, he/she is required to complete a site visit report. The site visit report form contains signature lines for the Administrator, an OCP supervisor and a representative of the RCRP.

For FY 2009, the four Administrators documented that they spent 104 days in the field. Had the Administrators been in the field the required four days per week, there should have been more than 600 documented field days during FY 2009.

Further, our review of the 253 site visit reports provided by DOC for FY 2009 found:

- there were no documented site visits to the two assessment centers;
- one Administrator did not complete any site visit reports; and
- the Administrators' supervisor did not sign off on 114, or 45 percent, of the 253 site visit reports to indicate that they were reviewed as required by DOC policy.

During each site visit, Administrators are required to use the ACES checklist to evaluate one of four program areas: Accountability, Counseling, Employment or Substance Testing. Administrators are required to conduct both scheduled and unscheduled site visits. We accompanied each of the four Administrators on a site visit to observe the monitoring process. We observed:

- Three of the four Administrators do not use ACES or any other monitoring tool in conducting their monitoring visits.
- One Administrator allowed RCRP employees to select the files to be reviewed, rather than independently selecting his own sample.
- Despite the requirements of DOC's policy, none of the Administrators conduct truly unannounced site visits. For example, we found that one RCRP director had a copy on her office wall of the DOC Administrator's schedule listing both the scheduled and "unannounced" visits.
- Administrators are not recording all findings in the site visit reports as required. For example, one RCRP was performing urine screenings on scheduled days known to the residents in advance and thus were not random as required by the RFP. While the Administrator discussed this issue with the RCRP's director, the Administrator wrote on the report that "the staff is conducting urine tests on a monthly basis as required per the RFP," even though they were not random. When we asked another RCRP director how DOC communicated problems or concerns to the RCRP, he similarly stated that he receives phone calls from OCP

personnel regarding problems that need to be corrected and that usually such problems are not documented in a report.

In addition, between March 2010 and May 2010, we visited several RCRP sites unaccompanied by any DOC Administrator. We evaluated the sites using the four segments of ACES including the additional suggested testing areas referenced above. Our observations were as follows.

Accountability

The Accountability section of ACES requires the Administrator to review the program in areas such as quality assurance, escapes by residents, furloughs, staffing, licensing requirements, secured holding area requirements, facility maintenance and upkeep, and medical storage and inventory. Our site visits to six RCRPs revealed:

- RCRPs are not following contractually mandated security requirements. For example, upon arriving at one RCRP, no identification was requested from our auditors and we were granted immediate access into the facility.
- At one RCRP fire extinguishers were missing from designated locations, several smoke detectors had open covers and were missing batteries, one of the bathrooms had leaking pipes wrapped with towels and what appeared to be mold on the ceiling, and at the top of a staircase there were several pieces of sheet rock leaning against a wall posing a potential hazard for staff and residents. We found these issues after the responsible Administrator who was at the site had declined to tour the facility with our auditors. In declining to participate the Administrator told our auditors, “it’s unfair to [the RCRP] since they have so much going on right now, but make sure to advise me if you find anything of significance.”

- Another RCRP similarly did not maintain a safe environment for staff or residents. For example, the physical fitness area used by the residents was cluttered with excess building materials and debris, including glass mirrors that were broken.
- Eighteen of 31 resident medication logs reviewed at the RCRPs did not reconcile to the amount of medication actually on hand. Two medications listed on resident log sheets could not be located at all. RCRP staff informed us that all of the medication had been dispensed. However, the log sheets did not indicate that all of the medication had been dispensed.

Counseling

In accordance with ACES, RCRPs are required to have life-skills training “treatment plans” for each resident, records concerning the frequency of counseling services received, counseling notes indicating the resident’s progress, and a discharge plan in each resident’s file concerning post-release housing, employment and education plans. We reviewed 22 resident files at two RCRPs and found:

- 2 files did not contain treatment plans;
- 3 treatment plans did not contain the resident’s signature as required; and
- 1 file did not contain a discharge plan.

Employment

In accordance with ACES, each resident is required to have any employment approved by and the work site visited by RCRP staff. Additionally, pursuant to *N.J.A.C. 10A:20-4.28*, the RCRP is required to notify local law enforcement authorities, in writing, immediately following a resident’s commencement of

employment in the community. We reviewed 22 employed resident files at two RCRPs and found:

- 10 files did not contain the required notification to law enforcement;
- 4 files did not have any employment approval documentation; and
- 2 files did not contain documentation of any visit to the employment site by RCRP staff.

Substance Testing

The Substance Testing section of ACES requires the Administrator to review if residents are being tested for illegal substance use, the frequency of random tests performed, the location of the testing, the collection and storage of positive urine results, the log of urine tests performed and the storage of testing and other medical-related supplies. We tested 40 resident files at three RCRPs and noted:

- 27 of the substance test forms were missing required signatures from either the resident or staff member;
- 2 residents were not tested at the frequency required by the RCRP's contract; and
- 1 RCRP's records were incomplete in that one month of substance test logs were missing and the RCRP could not locate other testing forms we requested.

Assessment of Liquidated Damages

According to the RCRP contracts, DOC “may assess liquidated damages against the Contractor if the Contractor fails to perform program and service requirements, fails to maintain staffing levels as indicated in its RFP response, or fails to comply in any other way with contract requirements.” Liquidated

damages are predetermined fees that may be assessed when a party to a contract is not complying with the terms of the contractual agreement.

We found that despite the terms of the contracts, DOC is not assessing liquidated damages where appropriate. Our review in this regard focused on resident escapes and RCRP staffing.

Escapes

Pursuant to *N.J.S.A.* 30:4-91.2, the DOC Commissioner is required to certify annually that each RCRP is “a secure and appropriately supervised place of confinement.” According to the bill sponsor’s statement accompanying this legislation, this provision was included “because of frequent expressions of concern about escapes from work-release-type programs.” In addition, the Legislature considered this provision “a useful statement of [its] concern for security when entrusting inmate rehabilitative programs to private nonprofit groups.” We confirmed DOC had made all of the required certifications.

State regulations provide that an “inmate residing at a residential community program shall be deemed an escapee under the following conditions: 1. The inmate leaves the residential community program without the authorization of the Director or designee; or 2. The inmate fails to arrive at the temporary leave site or fails to return to the Residential Community Release Program unless the designated time has been extended for a legitimate reason by the Director or designee.” *N.J.A.C.* 10A:20-4.37. Pursuant to the RCRP contracts, liquidated damages in the amount of \$5,000 per escape “may immediately be assessed by NJDOC . . . due to an act or omission of the Contractor.”

We reviewed documents concerning 201 escapes from seven RCRPs that occurred during the period January 1, 2008 through March 9, 2009. For example, 31 residents escaped through back, side or emergency doors of RCRPs or through smoking areas, and seven residents escaped after placing dummies in their beds as decoys. We identified six residents who escaped while waiting to be transported by DOC correctional officers back to prison after having engaged

in misconduct. These six escapes were able to occur because the residents were not placed in a secured holding area within the RCRP facility as required by contract. In at least three of these instances, the RCRP did not even have such a secured area on the premises. DOC could have assessed \$30,000 in liquidated damages for these six escapes, but did not. When we requested the documentation from DOC concerning any investigations conducted to determine if liquidated damages should be assessed, in either these instances or the others referenced above, we were informed that none existed.

Staffing Requirements

According to the RCRP contracts, when there is a job vacancy within an RCRP, the contractor has 30 days to try and fill the vacant position. “In the event that the Contractor does not fill a vacancy within 30 days, the NJDOC may request a written plan for filling the position, along with copies of any advertisements, employment agency contacts, job fair participation, schedule of interviews, etc.” The contracts further provide: “Prior to the assessment of liquidated damages for these contractual deficiencies, the Contractor will be provided with written notice of the deficiency and accorded fifteen (15) days (or such longer period of time as may be deemed appropriate by NJDOC) to cure the deficiency. If the Contractor fails to cure the deficiency within the allotted time, the NJDOC may assess liquidated damages in the amount of \$200.00 for each day the deficiency remains uncured.”

Our review found that at one of the RCRPs the Vocational Specialist position was vacant from November 6, 2009 to June 14, 2010, at which time the position was filled on an interim basis. This position is responsible for, among other duties, maintaining work release program relationships with local businesses as well as notifying local law enforcement officials when residents are working or attending school in the community. Staff at this RCRP stated that because the position was vacant, no outreach had been made to local law enforcement since November 2009. Nonetheless, we observed no evidence of compliance with contract requirements regarding the assessment of liquidated damages for

vacant job positions or evidence of any attempt by DOC to collect damages from the RCRP. DOC could have assessed at least \$23,600 in liquidated damages as a result of the RCRP not meeting this particular staffing requirement.

Recommendations

1. Update the ACES evaluation form to include the 16 additional test items identified in Appendix A.
2. Enforce DOC requirements concerning the number of days each Administrator should spend in the field.
3. Conduct and document both scheduled and unscheduled site visits as required at all RCRPs, including the assessment centers.
4. Enforce the requirement that Administrators use the ACES evaluation form every time a site visit is conducted.
5. Do not provide RCRPs with advance schedules of supposedly unannounced site visits.
6. Document all incidents noted during site visits on a site visit report and require that on the next visit the Administrator verify that such issues have been addressed.
7. Enforce the requirement that OCP supervisory staff sign off on and date all site visit reports.
8. Tour the RCRPs during each site visit and document any exceptions requiring attention.
9. Ensure enforcement of security requirements regarding entrance into RCRP facilities.
10. Ensure enforcement of requirements concerning RCRPs using proper safety measures and maintaining a safe environment.

11. Verify that RCRPs are adhering to requirements concerning notification of local authorities when residents are working or attending school in the community.
12. Verify that RCRP staff perform and record resident employment and education site visits.
13. Require Administrators to select their own sample of files to be tested.
14. Enforce DOC requirements concerning substance abuse testing at RCRPs.
15. Ensure that RCRPs maintain accurate medication inventory records regarding intake and dispensing of medication to residents.
16. Verify that each resident's file contains a counseling, treatment and discharge plan and that all forms have the required signatures.
17. Assess liquidated damages where appropriate.
18. Conduct and document required investigations regarding escapes and other circumstances that would support an assessment of liquidated damages.
19. Enforce the contract requirement that all RCRPs have a secured holding area in close proximity to the central control room to monitor residents.
20. Require that the RCRPs develop and implement processes to deter and avoid resident escapes, including consideration of the training and use of appropriate security personnel.
21. Ensure that RCRPs take appropriate steps regarding vacant employment positions as required by contract.

Disciplinary Process for RCRP Residents

DOC's disciplinary process for RCRP residents is deficient.

An RCRP resident accused of misconduct must appear before a DOC disciplinary hearing officer who then determines if the resident is guilty of the disciplinary charge, not guilty, or if a “No Cause For Action” determination is warranted. A “No Cause for Action” (NCFA) determination refers to a determination that there was not enough evidence to support a finding of guilt or that the charges were improperly prepared. After the hearing officer makes his or her decision, the resident appears before DOC’s Community Corrections Classifications Committee (C-4). In accordance with *N.J.A.C. 10A:9-9.1*, the C-4 is responsible for determining post-hearing placement of the resident, specifically, whether the resident is to be re-incarcerated or returned to an RCRP.

We reviewed 29 hearing officer reports for FYs 2009 and 2010 in which either NCFA or not guilty determinations were made for residents who appeared before the C-4. Of the 29 reports reviewed, 12 residents received NCFA rulings due to the improper completion of either a disciplinary or seizure of contraband report by RCRP staff. Specifically, RCRP staff did not sign off on either the disciplinary report or seizure of contraband report as required in 11 cases, and in 1 case the RCRP did not reply to multiple requests from the hearing officer for additional information. This conduct by RCRP staff may enable at-fault residents to remain in the RCRP, with potential security implications, instead of being re-incarcerated.

Recommendations

22. Provide additional training to RCRP personnel to reduce the number of improperly written disciplinary reports and to ensure appropriate evidence and documentation is submitted to hearing officers.

23. Consider assessing liquidated damages for repetitive NCFA rulings due to improperly completed reports by RCRP employees.

Contract Payments and Performance

DOC does not appropriately enforce and apply provisions in its contracts with the RCRPs.

OCP's Contract Administration Unit is responsible for developing RFPs to seek bids from qualified service providers. For legal purposes, the RFP becomes a statement of work controlling the performance of the contract.

DOC advertised an RFP for RCRP services in March 2004. Winning bidders received a three-year contract with the possibility of ultimately receiving as many as three one-year extensions of the contract. Pursuant to the terms of the RFP, extension of the contract would depend upon the adequate performance of the vendor.

Per Diem Rates

The March 2004 RFP provided that RCRPs were to charge DOC a per diem rate for each resident, based on the RCRP's actual program expenditures. We found that DOC overpaid \$587,186 in per diem rates over the three-year contract period and the extension periods due to a variety of mathematical errors by RCRPs that were undetected by DOC. At the audit exit conference, DOC asked for the details of the overpayments for their review and consideration of any necessary actions. We provided DOC with the requested information.

In response to our questions, the current OCP Director informed us that he was not employed at DOC during the time of the 2004 RFP responses and subsequent contract extensions. As a result, he was not able to provide any explanation as to the errors in the per diem rate calculations.

In March 2010, during the course of our audit, DOC issued a new RFP for RCRP services. Per diem rate calculations made pursuant to that RFP initially contained mathematical errors, but they were detected and corrected by DOC.

Facility Accreditation

Pursuant to the terms of the March 2004 RFP, to be awarded a contract with DOC an RCRP had to be accredited by the American Correctional Association (ACA) and maintain this accreditation throughout the life of the contract. ACA accreditation addresses standards concerning services, programs and operations in a correctional environment. According to ACA's Agency Manual, ACA standards function as a management tool for over 1,500 correctional agencies in the United States.

We reviewed accreditation certificates for each RCRP and found that only 14 of the 25 RCRP programs possessed the required ACA accreditation. Although the remaining 11 were accredited through another accrediting body, namely, the Commission on Accreditation of Rehabilitation Facilities (CARF), this accreditation did not meet the RFP's requirements.

The RFP required all modifications to the RFP's specifications or the resulting contract to be in writing and signed by both parties. While DOC sent a memorandum to RCRPs in 2006 expressing its willingness to accept the CARF accreditation, it did not use the process necessary to render any such modification legally binding.

In addition, as noted previously, per diem rates charged by the RCRPs are based on RCRP program expenditures. Of the 25 RCRPs, 7 included expenses related to ACA accreditation in their per diem budgets. However, none of these 7 actually received ACA accreditation, having instead obtained the less expensive CARF accreditation. DOC paid these RCRPs for the cost of ACA accreditation even though it was never obtained.

Contract Extensions

The RFP allows the RCRP contracts to be extended, contingent upon positive annual evaluations performed by OCP's Contract Administration Unit and the availability of funding. Once the results of the annual evaluations are received, the OCP Director can recommend a term extension. The final decision

concerning term extensions is made by the DOC Commissioner. In the event that the annual evaluation score is “good” or “excellent” during year two, three or four of the contract, the RCRP may be granted extensions for subsequent years at one-year increments. However, in year five, the provider must earn a score of “excellent” in order for the contract to be extended for the sixth and final year.

The OCP Director informed us that DOC uses ACES, employment reports and other status reports for RCRP residents, and self evaluations prepared by the RCRPs to determine contract extensions. However, as previously noted, the ACES evaluation process is flawed. In addition, the two assessment centers did not receive any documented site visits during the time period at issue. Nevertheless, these two assessment centers continued to receive positive year-end evaluations from DOC that resulted in the extension of their contracts. These deficiencies can lead to the extension of contracts in cases of underperforming programs.

Measuring Program Performance

To help ensure that RCRP services are meeting their intended goals, DOC should develop measurable and meaningful performance indicators against which it can evaluate program outcomes. DOC could, for example, compare performance of individual RCRPs and identify best practices of those achieving more favorable results. The current absence of such performance indicators places the more than \$60 million expended annually on this program at risk.

According to OCP’s Director, DOC measures RCRP performance through three general factors: the ACES evaluation form; various status reports; and RCRP self evaluations. OCP’s Assistant Superintendent told us that although OCP collects data from the above-mentioned sources, it does not analyze the data to determine if performance goals are being met in each facility. He further stated that OCP does not currently have the personnel capable of quantifying the data to measure program performance. However, we note that DOC does have a Research and Evaluation Unit (REU) that should be capable of performing such

an analysis. The REU's Director told us REU has never conducted, nor has it been asked to conduct, a performance review of the RCRPs.

Despite this, DOC states on its website that it "utilizes a performance-based evaluation process that objectively assesses and evaluates community programs and operations, including outcome based studies that provide quantifiable data on program effectiveness." The website further states that "the most recent study conducted by the Department of Corrections reveals that the overall re-arrest rate for adult offenders previously incarcerated in a New Jersey state correctional facility is 55%, the reconviction rate is 43% and the re-incarceration rate is 31%." These numbers pertain, however, to the overall DOC inmate population and not RCRP residents specifically. In addition, the numbers currently reflected on the website are from a study conducted ten years ago, in 2001.

According to the OCP Director, DOC now intends to initiate a study focusing on recidivism rates for RCRP participants. DOC is currently collecting data from the RCRPs. The Director anticipates the study will take approximately three to four years to complete.

Recommendations

24. Verify the RCRPs' computations of their per diem budgets and per diem rates submitted.
25. Obtain the required signatures when making any modifications to RFPs or resulting contracts.
26. Conduct and document site visits of the assessment centers.
27. Adhere to accreditation requirements for RCRPs as set forth in the RFP.
28. Perform an outcome-based evaluation to measure the performance of the RCRPs.

REPORTING REQUIREMENTS

We provided a draft copy of this report to DOC officials for their review and comment. Their comments were considered in preparing the final report and are attached as Appendix B. We address DOC's response to two areas of our report in Notes set forth in Appendix C.

DOC's response acknowledged that areas in the oversight of the RCRPs can be strengthened. As to many of our recommendations, DOC set forth the progress that has already been made in implementing them. With regard to a few of the recommendations, DOC did not specifically state its anticipated corrective action. As indicated below, we will continue to follow up with DOC on these matters.

The Office of the State Comptroller is required by statute to monitor the implementation of our recommendations. To meet this requirement, DOC shall report to the Office of the State Comptroller, within 90 days of the date of this report, the corrective action taken or underway to implement the recommendations contained in this report and, where not implemented, the reason therefore. *N.J.A.C. 17:44-2.8(a)*.

Appendix A - Additional ACES testing areas identified by the Office of the State Comptroller

	ACES Section	Corresponding ACES Step	Suggested Step Based on Law/Contract
1	Accountability - Furloughs	"Furloughs- the number of furloughs taken by residents."	Review the criteria for allowing furlough leave and verify compliance.
2	Accountability - Program Approved Community Time (PACT)	"Program Approved Community Time (PACTs)- the number of PACTs taken by residents."	Review the criteria for allowing PACT and verify compliance.
3	Accountability - Escapes	"Escapes- the number of escapes reported."	Review escape reports and ensuing investigations to verify appropriate liquidated damages have been assessed and paid.
4	Accountability - Special Incidents	"Special Incidents- the number of special incidents reported."	Review special incident reports and ensuing investigations to verify appropriate liquidated damages have been assessed and paid.
5	Accountability - Special Incidents	"Special Incidents- the number of special incidents reported."	Review special incident reports and verify that prohibited acts listed in <i>N.J.A.C. 10A:4-4.1</i> have been reported to DOC.
6	Accountability - Licensure	"Licensure- possession of all required licenses (RCRPs) must be licensed by the Department of Community Affairs (DCA) or the New Jersey Department of Health and Senior Services (DHHS)."	Review whether the RCRP has submitted renewed licenses within 30 days of expiration as per the contract.
7	Accountability - Physical Plant	None noted.	Tour the RCRP during all site visits regardless of the ACES component being reviewed.
8	Accountability - Medication	None noted.	Verify that the RCRPs are following <i>N.J.A.C. 10A:16-15.2</i> regarding the distribution and instruction for resident use of "keep on person" medication.
9	Accountability - Medication	"Medical Logbook- (medication)- the number of entries made on the medical logbook (all staff will document with accuracy all dispensed medication to residents, in accordance to policy and procedures)."	Compare the medical logbook to the physical medication count and note any discrepancies.
10	Counseling - Discharge plans	"Discharge Plans- number of offenders' file with discharge plans (all residents will have discharge plans in files)."	Verify that residents' discharge plans are made no less than 14 days prior to the resident's release.
11	Employment - Employment/Education Type and Site	"Employment/Education Type and Site- number of offenders employed on approved jobs at appropriate sites (all employment types and sites must meet the NJDOC Guidelines)."	Verify that each resident's assigned employment or educational site is approved and appropriate.
12	Employment - Resident Maintenance Fees	"Resident Maintenance Fees- number of residents with maintenance fee deductions (RCRPs will outline on residents budget sheets maintenance fees paid with copies of money orders attached)."	Verify that the maintenance fees deducted are 30% of net weekly wages.
13	Employment - Payments of Fines, Penalties, and Restitution	"Payment of Fines, Penalties, and Restitution- number of offenders with payments made (RCRP) will outline on the residents budget sheets all fines, penalties, and restitution fees paid with copies of money orders attached."	Verify that the RCRPs have reconciled the resident's budget sheets with their savings accounts.
14	Employment - Employment Notification to Local Law Enforcement	"Employment Notification to Local Law Enforcement- number of notifications (RCRP) will notify the local law enforcement and the New Jersey Department of Corrections (NJDOC) in writing upon the resident obtaining employment."	Verify notification to local law enforcement regarding all residents employed within the community.
15	Substance Testing - Frequency of Random Substance Testing	"Frequency of Random Prohibited Substance Tests- number of offenders tested with the frequency established."	Verify through review of resident files that all residents are tested at their individually needed frequency (residents with higher Addiction Severity Indexes need additional testing).
16	Substance Testing - Forms	None noted.	Review and verify that RCRPs are filling out Form 162II in accordance with <i>N.J.A.C. 10A:4-4.20</i> .



State of New Jersey

DEPARTMENT OF CORRECTIONS
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June 1, 2011

Honorable A. Matthew Boxer
New Jersey State Comptroller
Office of the State Comptroller
PO Box 024
Trenton, New Jersey 08625

Re: Residential Community Release Program Audit

Dear Mr. Boxer:

Thank you for the opportunity to review and respond to the Office of the State Comptroller's (OSC) audit regarding the New Jersey Department of Corrections (NJDOC) Residential Community Release Programs (RCRP). The Department has carefully reviewed the audit and is pleased to note that some of the recommended changes have already been made and that other recommended changes are currently being initiated.

The Residential Community Release Programs are an integral component of the NJDOC and provide an effective avenue for successful reintegration for inmates preparing to reenter society. The Department is committed to the safe and effective reentry of eligible and appropriate inmates through the provision of structured RCRPs that utilize evidence-based practice in collaboration with community and criminal justice partners. Although offered services differ among the RCRPs, inmates are provided with a myriad of services that generally include comprehensive assessment, treatment, individual and group counseling, life skills, parenting and relationship skills, anger management, work place skills, and for those inmates in a Work Release Program or the Work Release Phase of an RCRP, an opportunity to obtain employment or education in the community.

Public safety is the top priority for the NJDOC and we believe that by better preparing inmates for reentry into the community, we reduce the likelihood for inmates to return to crime and subsequently prison providing a safer community for everyone.

We acknowledge that there are specific areas in the oversight of the RCRPs that can be strengthened and feel confident that we can quickly improve our performance in these areas through measures that have already been implemented or are now in progress. Please see the following responses to the specific recommendations outlined in the audit:

RECOMMENDATION:

Monitoring

1. "Update the ACES evaluation form to include the 16 additional test items identified in appendix A.
2. "Enforce the ACES requirement concerning the number of days each Administrator should spend in the field."
3. "Conduct and document both scheduled and unscheduled site visits as required at all RCRPs including the assessment centers."
4. "Enforce the requirement that Administrators use the ACES evaluation form every time a site visit is conducted."
5. "Do not provide RCRPs with advance schedules of unannounced site visits."
6. "Document all incidents noted during site visits on a site visit report and require that on the next visit the Administrator verify that such issues have been addressed."
7. "Enforce the requirement that OCP supervisory staff sign off on and date all site visit reports."
8. "Tour the RCRPs during site visits and document any exceptions requiring attention."
9. "Ensure enforcement of security requirements regarding entrance into RCRP facilities."
10. "Ensure enforcement of requirements concerning RCRPs using proper safety measures and maintaining a safe environment."
11. "Verify that RCRPs are adhering to requirements concerning notification of local authorities when residents are working or attending school in the community."
12. "Verify that RCRP staff perform and record resident employment and education site visits."
13. "Require Administrators to select their own sample of files to be tested."
14. "Enforce the requirements that RCRPs must follow concerning substance abuse testing."
15. "Ensure that the RCRPs maintain accurate medication inventory records regarding the intake and dispensing of medication to residents."
16. "Verify that each resident's file contains a counseling, treatment and discharge plan and that all forms have the required signatures."
21. "Ensure that RCRPs take appropriate steps regarding vacant employment positions as required by their contract."
26. "Conduct and document site visits of the assessment centers."

RESPONSE:

1, 15, & 16.

The Office of Community Programs developed the ACES monitoring tools as a pilot tool for the monitoring of the RCRPs with the intention of expanding it over time. We recognize the need to expand the tool and have nearly completed the design of an expanded monitoring tool, the *Contract Compliance Evaluation System (CCES)* that among other items, will include the 16 items recommended by the Office of the State Comptroller. The CCES is a comprehensive evaluation system that mirrors all performance indicators in the 2010 Request for Proposal (RFP). This document, along with relevant sections in the New Jersey Administrative Code 10A, guides the Office of Community Programs.

The CCES monitoring system will be piloted starting June 1, 2011 and fully implemented with any necessary revisions in the second half of FY 2012. In response to recommendations 15 and 16, please be advised that the expanded monitoring tool includes sections that require the periodic review of inmate files to ensure that the inmates have a treatment plan, notes regarding counseling sessions, and a discharge plan. There is also a section that requires review of the medication procedures to include review to ensure that a medication log is being used for documenting the intake and distribution of medications.

2. The Office of Community Programs has determined that a more effective use of limited contract monitoring staff will require the contract monitors to spend approximately two days weekly in the office in order to review reports from the RCRPs, prepare site visit reports, meet with their unit, and perform office functions as needed. The contract monitors will be required to be in the field for two to three days weekly and as needed for follow-up on escapes and/or special incidents. This will be noted on the CCES.
4. The contract monitors will be trained in the utilization of the *Contract Compliance Evaluation System* and required to utilize the monitoring tools as instructed on each site visit.
6. The contract monitors will be instructed to note all incidents or issues that require follow-up on the *Site Visit Report* and note the follow-up time-frame. Prior to site visits the contract monitors will be required to review the previous *Site Visit Report* and note the progress or completion of issues mandated for follow-up.
7. The OCP will ensure that all *Site Visit Reports* are signed off on by the Supervisor of that unit.
21. The OCP will ensure that the RCRPs take appropriate steps regarding vacant employment positions in compliance with the contract.

The two paragraphs below provide response to recommendations 3, 5, 8-14 and 26:

The Office of Community Programs will ensure that the monitors engage in both scheduled and unscheduled site visits to all of the Residential Community Release Programs, including the Assessment and Treatment Centers and that the Vendors will NOT be advised of unannounced site visits. The contract monitors have been instructed to perform a tour of the facility as possible when performing site visits and to document any concerns or issues noting a date for follow-up.

Security requirements for facility entrance, safety measures and the maintenance of a safe environment are addressed on the new monitoring system and will be reviewed on a regular basis to ensure Vendor compliance. The CCES will also address the Vendors compliance in sending notification to local authorities for inmates working or attending school in the community. The Weekly Employment Spreadsheet required from each Vendor with inmates in the community will be reviewed by the contract monitors to ensure that the RCRP staff have performed and recorded all employment and education site visits. This review will be documented in the monitors' reports. The CCES also includes a section that will monitor the requirements of the substance use testing.

RECOMMENDATION:

Liquidated Damages

17. "Assess liquidated damages where appropriate."
18. Conduct and document required investigations regarding escapes and other circumstances that would support an assessment of liquidated damages.
22. "Provide additional training to RCRP personnel to reduce the number of improperly written disciplinary reports and to ensure appropriate evidence and documentation is submitted."
23. "Assess liquidated damages for repetitive "No Cause for Action" rulings due to improperly completed disciplinary reports and other forms by RCRP employees."

RESPONSE:

The paragraphs below provide response to recommendations 17, 18, 22 & 23.

The Department will review current procedures regarding liquidated damages, however please note that the addition of the Liquidated Damages clause in the RFP was only intended to strengthen the Department's ability to recover costs incurred by the negligence of the Vendor. The OCP will prepare an action plan to ensure liquidated damages will be assessed if and when appropriate and will carefully review the Liquidated Damages clause prior to inclusion in future Requests for Proposals. It is the goal of the OCP to work collaboratively with the Vendors to ensure that the contracted Vendors are providing effective evidence based programs, so our focus will continue to be the immediate correction of any areas of noncompliance.

All escape investigations are performed by the Special Investigations Division. The OCP contract monitors are responsible for ensuring that the Vendor has complied with all contractual requirements and met the prescribed protocols when there is an escape and/or special incident. Failure to adhere to contractual requirements and/or protocols when there is an escape or special incident will be documented by the contract monitors. Systemic and repeated failure to meet contractual requirements or follow established protocols may be met with the assessment of liquidated damages or other avenues of recourse pursuant to the contract.

The Office of Community Programs agrees that there is a need for increased training to ensure that the Vendors staff are providing clear and accurate documentation of the disciplinary incidents based on a firm understanding of the issues and process. This has been an ongoing concern for the OCP that has been consistently addressed through ongoing training.

Earlier this year, the OCP began working with the Regional Institutions to ensure that annual training is provided to each RCRP at their Regional Institution. Each Vendor will be responsible for ensuring that new staff are provided with in-house training by staff who have received the formal NJDOC training. The OCP will carefully monitor the impact of this change in the training process and make additional changes if necessary. If a persistent pattern of improperly completed disciplinary reports or other forms is documented by the OCP, liquidated damages may be assessed.

RECOMMENDATION:

Contracts

24. "Verify the RCRPs' computations of their per diem budgets and per diem rates submitted."
25. "Make any modifications to RFPs or resulting contracts in writing"
27. "Adhere to accreditation requirements for RCRPs as set forth in the RFP. "

RESPONSE:

24. The DOC acknowledges that mathematical errors went undetected on the 2004 RCRP RFP per diem rate calculation budget sheets.

As indicated in the audit report, per diem rate calculations for the 2010 RCRP RFP were analyzed, with mathematical errors detected and corrected prior to awarding the contracts.

25 & 27 response below:

The audit report indicates that the Department required ACA accreditation in the 2004 RFP and subsequently changed this requirement without re-bidding.

Please note that in the 2004 Request for Proposals, **5.0 Performance Based Contracts**, it states:

“The Contractor shall maintain, throughout the life of the contract, continual compliance in accordance with the American Correctional Association (ACA) Performance-Based Standards for Adult Community Residential Services (fourth edition and any future revisions and supplements) **unless otherwise specified by the NJDOC** or the applicable licensing authority”. The Department believes that based on the above statement, it was clear that there was the potential for NJDOC to “otherwise specify” accreditation requirements.

The audit report indicates that “no written modifications were made to allow for Commission on the Accreditation for Rehabilitation Facilities (CARF) accreditation” and that an amendment to the contracts was required to allow the RCRPs to obtain the CARF in place of ACA. Please note that the NJDOC determination to allow CARF accreditation was memorialized in a memorandum that was sent to all of the contacted programs. Based on the language of the RFP, as noted above, the Department does not believe that this constituted a change to the contract.

The Department makes, and will continue to make, all modifications to contracts through signed amendments.

The report states that “By requiring ACA accreditation in the RFP and subsequently changing this requirement without re-bidding, potentially viable vendors may have concluded that they were not eligible to bid on the contract”. As stated above, the NJDOC feels that it was clear in the RFP that there was the potential for the DOC to specify alternatives to ACA. Please be advised that even though it was clearly noted in the 2010 RFP (p. 1), “Additionally, the Contractor shall obtain certification from a recognized and NJDOC-approved accreditation body, such as the American Correctional Association’s Performance-Based Standards for Adult Community Residential Services (Fourth Edition and any future revisions and supplements), *or The Commission on Accreditation for Rehabilitation Facilities*”, the changes to the RFP did not precipitate responses from additional Vendors.

Comptroller
Note
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RECOMMENDATION:

Evaluation

28. “Perform an outcome-based evaluation to measure the performance of the RCRPs.”

RESPONSE:

The OCP began gathering outcome data for escapes, returns and program completions in October 2010. The OCP has had discussions with the Office of Policy and Planning about the outcome measures and will work with the Office of Policy and Planning to define the numerous variables that may impact the outcomes and analyze the data. Additionally, the Department has recently begun to work with numerous State Departments to create a “Release/Recidivism Data Mart” with the goal of producing reports that will provide recidivism statistics to include inmates who participated in or completed the RCRPs.

RECOMMENDATION:

Inmate Restraints

19. "Enforce the contract requirement that all RCRPs have a secured holding area to prevent inmate escapes."
20. "Staff RCRP locations with security staff specifically trained to handle residents so that walk away escapes do not occur."

RESPONSE:

19 & 20

The RFP does state that the RCRPs must have a "Secured Holding Area", however this was never intended to indicate a "barred cell"; it was intended only to reasonably provide a supervised area for an inmate without the use of mechanical restraints or physical contact by the RCRP staff. Staff at the RCRPs are not permitted to physically restrain an inmate or utilize any mechanical restraints per the contract (RFP 2010, Section II, 8.6, Use of Physical Force and Restraints, ".....Contractor's staff shall not use deadly or non-deadly force to restrain inmates nor shall they be permitted to use mechanical restraints."). There are strict eligibility requirements that inmates must meet prior to receiving approval for a community release program and those inmates who are allowed to participate in a community program have the lowest level custody status offered by the Department. All of the inmates in the community are within 24 months of their parole or completion of sentence at which time they they will be returning to the community. Participation in a community program provides them with the opportunity to slowly reacclimate to society oftentimes with the opportunity to find viable employment to prepare them for reentry.

Comptroller Note 2

The Department of Corrections looks forward to maintaining the positive relationship that it has established with the Office of the State Comptroller so that we can continue to improve our operations and programming throughout the State of New Jersey. Please do not hesitate to contact me in all areas of mutual concern.

Sincerely,



Gary M. Lanigan, Commissioner

GML:MOH:EPM

cc: Mark Farsi, Deputy Commissioner
Carmella Elmer, Assistant Commissioner
Melinda Haley, Special Legal Advisor
Marcus Hicks, Director

APPENDIX C

COMPTROLLER NOTES ON AUDITEE RESPONSE

- 1) We have revised our report and Recommendation 25 based on information provided on page 5 of the response. We note that the operative provision requiring ACA accreditation is set forth at section 1.2 of the RFP, entitled “ACA Accreditation.”
- 2) The report does not indicate that a secured holding area is intended to be a “barred cell.” However, according to the contract a “secured holding area” is to be “in close proximity to the central control room so that contract staff is able to monitor the resident.” Concerning the six escapes cited in our report, the RCRP providers did not adhere to this provision.