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Investigation of the COPS CARE Program
and the New York State Department of Corrections
and Community Supervision

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EXECUTIVE SUMMARY

The New York State Division of Criminal Justice Services (DCJS) notified the Inspector General that its audit of two grants it awarded to the not-for-profit corporation Correction Officers and Police Supporting Children through Awareness and Reality-based Education, Inc. (COPS CARE) raised concerns of possible theft of grant funds by New York State Department of Corrections and Community Supervision (DOCCS) officers who also participated in COPS CARE programs. DCJS's audit was prompted by information from then-DOCCS Commissioner Brian Fischer that several correction officers not involved in COPS CARE had complained that COPS CARE officers were filing false time records and failing to conduct programs as reported. In addition, a correction officer who participated in COPS CARE alleged to DCJS that "it was common knowledge" that several COPS CARE officers claimed to use DCJS grant funds awarded to COPS CARE for purposes outside the scope of the grants.

The Inspector General's investigation found that COPS CARE failed to comply with the requirements of grants issued by DCJS in 2006 to 2008. As a result of this failure, COPS CARE did not adequately document program expenses and used grant funds for travel expenses not authorized under the terms of the grants.

The Inspector General also found that Fischer exceeded his authority and violated the State Constitution's ban on state gifts to private organizations when he unilaterally approved the use of 400 staff days – worth more than \$82,000 – by COPS CARE.

The Inspector General further found that DCJS's grant monitoring program did not identify problems in the COPS CARE program, which were only later detected as a result of a DCJS audit and the Inspector General's investigation. The Inspector General recommended that DCJS review its current grant monitoring and audit practices, and consider the potential benefits of enhancing the first-line monitoring of grants and increasing the number of audits.

In response to the Inspector General’s investigation, DOCCS advised that it has issued a directive advising that it has discontinued any affiliation with COPS CARE and advised that any DOCCS employee who wishes to continue participating in activity associated with COPS CARE would have to do so as a civilian and be required to obtain supervisory approval to charge leave credits for activity occurring during normal work hours. The directive also advised that employees participating in COPS CARE events cannot utilize any DOCCS logo or insignia, wear a uniform to such events, or represent DOCCS at such events in any official capacity. In addition, COPS CARE has reimbursed DOCCS in the amount of \$54,689.64 – the total of its remaining assets – for the hours correction officers were released from their duties to conduct COPS CARE programs.

Further, as a result of this investigation, DCJS advised that its Office of Program Development and Funding (OPDF) completely revised its grant monitoring procedures. The revisions include a detailed checklist for use at all site visits, and incorporating requirements to review time records and other documentation to demonstrate compliance. In addition, OPDF has significantly increased the number of site visits made by the grant representatives to ensure quality control and compliance. During the investigation, the Inspector General’s Office and DOCCS assisted DCJS in the recovery of equipment purchased with grant funds that was still in the possession of COPS CARE.

The Inspector General is providing a copy of this report to the New York State Attorney General.

THE INSPECTOR GENERAL FINDS THAT COPS CARE MISUSED GRANT MONIES; THE DOCCS COMMISSIONER IMPROPERLY APPROVED FUNDING FOR COPS CARE

The Establishment and Growth of COPS CARE

COPS CARE, Inc. was established in 1999 by the New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) as a private not-for-profit or charity arm of NYSCOPBA. COPS CARE, as originally created, sent

participating DOCCS correction officers into the community to assist organizations including the Special Olympics and the American Heart Association, and to work with populations that included missing and exploited children, cystic fibrosis patients, and seniors. Former COPS CARE Chairman Michael Murray, a sergeant at DOCCS's Auburn Correctional Facility, advised the Inspector General that the program was started to promote a positive image of correction officers in the community.

NYSCOPBA provided "seed money" for COPS CARE's initial expenses while seeking grant funds to support its neighborhood outreach programs. Many correction officers, while in the community on behalf of COPS CARE, conducted the programs on their own time. NYSCOPBA secured an agreement with DOCCS for correction officers to be released from their DOCCS duties to conduct COPS CARE programs on "union leave" time. Under NYSCOPBA contracts, "union leave" is granted by the employer and provides employees their full salary without charge to accrued leave credits when they are serving a union function. According to NYSCOPBA Treasurer John Telisky, because the use of these hours was "intermittent," DOCCS did not limit the use of "union leave."

In 2003, COPS CARE separated from NYSCOPBA and organized as an independent, private not-for-profit charitable organization under section 501(c)(3) of the Internal Revenue Service code. Later, COPS CARE promulgated by-laws calling for it to be governed by a board of directors consisting of correction officers and union officers, and a director elected by the board. The board also elected officers of the corporation including president, vice president, secretary, and treasurer.

The purpose of COPS CARE also evolved, as reflected in a revised mission statement. COPS CARE's new primary focus was to facilitate the administration of educational and community outreach programs for children. The programs were designed to assist children in leading safe lives and enable them to make sound choices through real-world and situational training. This training consisted of three programs:

- (1) The SMART Program (Safety Means Abduction Registration and Training) assisting educators in teaching young people abduction awareness and resistance tactics;
- (2) Choose to Lose Delinquency Intervention Program instructing middle school and high school students about the realities of incarceration; and
- (3) Every Fifteen Minutes Program teaching high school students about the consequences of driving while intoxicated.

Over time, the number of correction officers involved in COPS CARE and the programs they provided increased, as did the need for additional funding. Consequently, COPS CARE applied for grant funds from DCJS.

DCJS Grants Funds to COPS CARE

In July 2006, DCJS awarded COPS CARE a one-year grant of \$300,000 for the period July 2006 to June 2007. A second one-year grant for the same amount was awarded by DCJS in July 2007 for July 2007 to June 2008. Of the 2006-2007 grant total, \$209,997 was designated for personnel; \$24,990 for equipment; \$34,250 for supplies; \$27,226 for travel; and \$3,536 for other expenses, including cell phones.¹ Adjustments were made for the 2007-2008 grant period, boosting personnel expenses by more than 30 percent to \$275,544, while reducing travel expenses to \$24,300 and supplies to \$156. In addition, DCJS issued a supplemental grant of \$2,500 in February 2008 for the purchase of equipment and supplies. COPS CARE used this supplemental grant to purchase five laptop computers. Additional support was provided to COPS CARE through donations from the New York State Employees Federated Appeal program (SEFA)² and other sources.

¹ A Grants Amendment request was approved for the 2006-2007 grants which reallocated money from equipment and supplies to travel. Thus, the total budget for travel was increased to \$33,393.25.

² SEFA is a charitable solicitation of state employees conducted under the authority of State Finance Law § 201(1). State employees may donate to any of the charitable organizations that participate in SEFA through payroll deductions. COPS CARE, INC. was a SEFA charitable organization.

The initial DCJS grant set forth three objectives. The first objective was to reach approximately 40,000 children across the state with the SMART Program and provide digital identification cards upon request. The second goal was to reach approximately 10,000 children with the Choose to Lose Delinquency Intervention Program. The third was to reach approximately 20,000 children with the Every Fifteen Minutes Program. The second DCJS grant modified these goals to 25,000, 15,000, and 20,000 children, respectively.

Because the number of COPS CARE programs increased as a result of the DCJS grants, DOCCS and COPS CARE reached an informal, oral agreement by which DOCCS permitted correction officers participating in COPS CARE to leave their duties without charging leave accruals, granting them what is referred to as “release time.” In return, COPS CARE, using the grant money, reimbursed DOCCS at an agreed upon discounted rate for the hours correction officers were released from their duties to conduct the programs. DOCCS employees serving as COPS CARE regional coordinators and administrative workers often were released from their DOCCS duties for months at a time; DOCCS employees involved in the actual delivery of COPS CARE programs were released on an as-needed basis. To document these employees’ release time, COPS CARE submitted to the DOCCS labor relations office schedules detailing the hours correctional staff were on leave for COPS CARE programs. DOCCS then billed COPS CARE for reimbursement on a quarterly basis.

Officers using release time to participate in a program or administrative meeting were responsible for submitting two documents to COPS CARE management: program or event forms containing details of the COPS CARE program or meetings; and travel logs of the destination traveled to, the total mileage traveled, and any related costs. COPS CARE participants were reimbursed for travel expenses incurred while performing such activities. As per DCJS grant requirements, program forms were to be filled out at the end of each event, signed by a representative receiving the program, and submitted to the COPS CARE president for review. Additionally, travel regulations and guidelines were to follow those issued by the Office of the State Comptroller (OSC), and travel logs

were to be submitted to the COPS CARE treasurer at the end of each month for reimbursement.

DCJS program representatives in the agency's administration office are primarily responsible for monitoring grants while they are ongoing. This monitoring involves the review of reports submitted by grantees on a regular basis describing progress made in meeting program goals, and grantee requests for reallocation of funding as program needs change. The representatives also field questions from grantees that arise and are required to make at least one site visit per grant cycle to observe grant program activities. Additionally, the DCJS finance office reviews quarterly expenditure reports submitted by grantees to ensure that funds are being spent for intended purposes. When the assigned DCJS program representative and the DCJS finance office performed these required minimal monitoring functions in relation to the COPS CARE grants, COPS CARE was certified as a "responsible" grantee. In its review of COPS CARE's application for the 2007-2008 grant, DCJS noted there were "no issues known or found" regarding the previous year's grant.

Notably, neither the DCJS program representative nor the finance unit conducts traditional audit functions which, in the case of COPS CARE, almost certainly would have identified problems in how grant funds were being expended. In fact, and as discussed below, such problems subsequently were detected by DCJS's own internal audit unit and by the Inspector General's investigation. DCJS officials advised the Inspector General that its audit unit conducts audits of grants on a random basis or, as occurred with regard to COPS CARE, in response to specific allegations of misconduct. However, only a small fraction of grants are subject to such review in a given year. For instance, in 2010, according to DCJS, audits were conducted of 75, or 5 percent, of the 1,400 grants administered.

DCJS Audit of COPS CARE Finds Serious Deficiencies

In May 2008, DCJS commenced an audit of the two grants it had awarded COPS CARE to assess whether the program adhered to the financial requirements of the grants and if grant funds were spent in accordance with applicable federal and state laws, regulations, and guidelines. As noted, DCJS's audit was prompted by information from then-DOCCS Commissioner Brian Fischer that several non-COPS CARE correction officers had complained that COPS CARE officers were filing false time records and failing to conduct programs as reported. In addition, a correction officer who participated in COPS CARE alleged to DCJS that "it was common knowledge" that several COPS CARE officers claimed to have conducted programs that never took place; submitted for and received reimbursement for personal vehicle mileage that was not related to COPS CARE matters and/or not permitted under state travel guidelines; engaged in activities not related to the COPS CARE program, including State Employees Federated Appeal (SEFA) fundraising activities; and failed to return equipment purchased with COPS CARE funds.

These allegations were bolstered during the audit when DCJS obtained copies of resignation letters submitted by several COPS CARE members to the organization's board of directors in the spring and summer of 2008, in which the members alleged that release time granted by DOCCS for correction officers in the COPS CARE program was used for non-COPS CARE related activities; COPS CARE funds were misused and paperwork falsified; and the program demonstrated questionable and unethical business practices. In fact, and as discussed later in this report, COPS CARE was in a state of disarray at this time, beset by internal dissension and weak administration, resulting soon thereafter in the effective dismantling of its board.

Upon completion of its audit in March 2009, DCJS determined that COPS CARE spent grant funds contrary to applicable state laws, regulations and guidelines, resulting in a total over-reimbursement by DCJS to COPS CARE of \$379,353: \$227,308 for 2006-2007 and \$152,045 for 2007-2008. Further, DCJS's audit discovered that funding for

numerous services and activities was reimbursed to COPS CARE through the grants without sufficient documentation of activities performed, and that COPS CARE members used grant funding for activities outside the scope of the grants.³

Based on its audit findings and complaints received, DCJS determined reasonable evidence existed to suggest fraud, waste or abuse of state funds, and, as required by Executive Law Article 4-A, referred this matter to the Inspector General.

COPS CARE Officers Failed to Comply with State Comptroller Travel Guidelines

The Inspector General's investigation initially focused on two allegations of possible fraud in COPS CARE activities. Specifically, the Inspector General examined whether correction officers in COPS CARE improperly sought and received reimbursement for personal mileage unrelated to COPS CARE matters and/or not reimbursable under state guidelines; and whether COPS CARE officers claimed to have conducted programs in schools or other facilities that never took place.

With regard to alleged improper travel cost reimbursements, the Inspector General conducted interviews of COPS CARE officers and analyzed officers' travel logs, program forms, and time sheets. COPS CARE officers seeking expense reimbursement were required to submit two separate forms: (1) event forms, which provide details of COPS CARE programs and administrative meetings; and (2) travel logs detailing the COPS CARE program conducted as well as the total travel mileage and related costs for the use of personal vehicles. Officers were responsible for submitting travel logs to the COPS CARE treasurer at the end of each month and would receive a monthly reimbursement check.

The Inspector General's examination of the travel logs filed during the grant periods revealed that in many instances COPS CARE members sought and obtained

³ As discussed later in this report, DCJS reduced these disallowances by more than \$30,000 based on information provided as a result of the Inspector General's investigation.

reimbursement for travel in excess of that allowed by OSC travel guidelines. Of note, during the grant periods examined, COPS CARE officials were required to – but many did not – comply with OSC’s “lesser of mileage rule.” This rule provides as follows:

When travel is from an employee’s home to an alternate work location, or from an alternate work location to home, at a minimum, transportation expenses must be reimbursed using the lesser of (1) mileage between the employee’s home and the alternate work location, or (2) mileage between the employee’s official station and the alternate work location, times the Internal Revenue Service mileage reimbursement rate. This reimbursement method is called the “lesser of mileage rule.” Agency management has the discretion to establish a reimbursement policy that provides for reasonable reimbursement of transportation expenses in excess of the amount calculated under the “lesser of mileage rule.”

The Inspector General’s analysis of COPS CARE travel logs revealed a lack of uniformity in the travel reimbursement process and the extent to which the officers followed the “lesser of mileage rule.” The logs were examined for reported mileage, and departure and arrival locations, and a comparison was made of the mileage from an officer’s home to a program site with the mileage from an officer’s worksite to that same program site. The Inspector General found that no uniform travel policy was in effect; some officers traveled from their homes to a program site while others traveled from their designated office. Moreover, officers failed to accurately document specific locations to which they traveled and, in some instances, entered mileage figures on their travel vouchers that far exceeded the mileage determined by the Inspector General utilizing on-line resources. Lastly, the Inspector General found that the “lesser of mileage rule” was neglected.

Numerous correction officers conducting COPS CARE programs testified that they were not aware that they were required to comply with OSC travel guidelines, including the aforementioned mileage rule. COPS CARE board members and administrators also appear not to have fully understood that the DCJS grants imposed these requirements. Nonetheless, the COPS CARE management and officers had a duty to familiarize themselves with all applicable travel regulations.

Regarding the mileage-reimbursement policy, a former COPS CARE officer and retired DOCCS sergeant said he was told to “put down the mileage from my house to school and back. And that’s what I did until we found out [from the DCJS auditors] that it was wrong.” This officer, one of the longest-tenured participants of the COPS CARE program, stated that he always sought and received reimbursement for round-trip travel from his home to COPS CARE programs. The officer further explained that he either entered mileage figures on his travel logs according to his car’s odometer reading or would simply estimate the mileage he had traveled based on his knowledge of the area. He reported that he “did the most driving” of the officers participating in the COPS CARE program, yet he never saw a written COPS CARE travel policy.

When the Inspector General informed COPS CARE Treasurer Tyler Smith that there were questions regarding the veracity of mileage figures submitted on COPS CARE travel vouchers, he responded, “I imagine there is. If I’d had known from DCJS what the [travel] regulations were right off the bat . . . I just went with whatever had been done.” Smith claimed that he first learned about the “lesser of mileage rule” when he met with a DCJS auditor in January 2009. Smith explained that prior to that meeting he always reimbursed COPS CARE officers for travel from their home to various destinations, as he “never knew anything different.” According to Smith, “people would put in from their home and that had always been the way that they did it, and so that’s just the way that I did it.” Smith reported to the Inspector General that he never read the DCJS grants; his only guidance regarding administration of the contract came verbally from former COPS CARE Chairman David Martin.

The Inspector General’s interview of Smith also revealed inadequate monitoring and insufficient controls over the mileage submitted by COPS CARE officers when seeking reimbursement. Smith, who received the reimbursement submissions from officers and issued the reimbursement checks, told the Inspector General that he would only spot check travel logs “every once in a while.” “I would MapQuest them,” he stated. When asked specifically how often he checked the accuracy of the logs, Smith stated that he checked “probably every couple of vouchers that they sent in. . . .” While

Smith reported that he never found any glaring discrepancies, he conceded that officers could have taken advantage of the lack of controls in the system. “Could somebody have padded their mileage . . . Could have things like that happened? Absolutely. Without me catching it? Yeah.”

With regard to the allegation that COPS CARE officers charged travel costs to the DCJS grants for travel not related to COPS CARE, former COPS CARE Chairman Michael Murray admitted in his testimony to the Inspector General that COPS CARE used grant funds to cover travel costs related to SEFA activities, which are non-reimbursable under the grants.

The Inspector General also attempted to verify if COPS CARE officers did, in fact, travel to the destinations listed on their travel forms. To do so, the Inspector General cross-referenced information provided on COPS CARE travel logs with that on the correction officers’ time sheets and COPS CARE program forms. The veracity of the travel claims was largely confirmed through interviews with officials and review of records at program sites.

In conclusion, while the Inspector General did not substantiate fraud in COPS CARE travel, the investigation did reveal a total lack of travel policies and inadequate documentation required on travel forms. These deficiencies rendered the program vulnerable to abuse and difficult to properly monitor.

Claimed COPS CARE Programs in Schools Were Verified

The Inspector General issued subpoenas to approximately 40 schools and other facilities where COPS CARE programs reportedly had been presented. The subpoenas requested documentation verifying that a program or programs took place at the site on the dates claimed. The records were examined by the Inspector General and follow-up interviews were held with school or facility representatives as necessary. The Inspector General also examined pertinent records such as daily calendars, meeting minutes, and e-

mails. The Inspector General further secured statements and testimony from both current and former school teachers and administrators in 30 of the 40 schools and facilities where additional clarification was needed to confirm that a COPS CARE event took place.

As a result of these efforts, the Inspector General verified that all of the 40 schools and facilities identified had been visited by COPS CARE representatives and that a COPS CARE program had been presented. Therefore, the evidence did not support the allegation that COPS CARE officers had falsely claimed that school programs occurred in order to misappropriate grant funds.

The Inspector General found, however, that time attributed by COPS CARE members to reimbursable administrative duties such as outreach, program preparation, paperwork, and general administrative functions was often difficult to verify as scant evidence existed confirming the performance of these duties.

During the course of the investigation, the Inspector General provided DCJS with its investigative findings relating to both travel reimbursements and program presentations. As a result of the Inspector General's findings, DCJS reduced its disallowance of COPS CARE travel reimbursements for both grant years by \$5,475 and its disallowance for personal services by \$25,193. Subtracting these amounts from DCJS's original total disallowance of \$379,353, COPS CARE still owed DCJS approximately \$348,000 for disallowed expenses identified in the audit.

DOCCS Improperly Made Gift of 400 Staff Days to COPS CARE

During the course of the investigation, the Inspector General discovered that DOCCS improperly provided substantial financial support to COPS CARE. As noted, DOCCS and COPS CARE had entered into an informal agreement by which DOCCS allowed officers to use "release time" to participate in COPS CARE, and COPS CARE reimbursed DOCCS for the officers' time. However, contrary to that arrangement, in August 2007 then-DOCCS Commissioner Brian Fischer unilaterally decided to give 400

staff days to COPS CARE. Fischer's action permitted COPS CARE officers to be released from their job duties at correctional facilities to conduct COPS CARE activities without COPS CARE reimbursing DOCCS for that time. Based on the reimbursement rates previously established between COPS CARE and DOCCS, the Inspector General estimated the value of the 400 staff days, or 3,200 hours, at \$82,232.

The New York State Constitution, Article VII, Section 8(1), however, provides: "The money of the state shall not be given or loaned to or in aid of any private corporation or association, or private undertaking." The New York State Court of Appeals has described the history and purposes underlying the adoption of this article.⁴ The prohibition against gifts or loans to private enterprises was first incorporated into the State Constitution in 1846, in reaction to the prior practices of subsidizing private railroad and canal companies through long-term state debt obligations, which the state ultimately was forced to pay when many of those private enterprises failed. Therefore, subsidization by gifts of public funds to private undertakings, or by pledging public credit on their behalf, was banned, irrespective of how beneficial or desirable to the public the subsidized activity might seem to be.

Former COPS CARE Chairman Murray testified to the Inspector General that he met with Fischer in August 2007 because COPS CARE anticipated that grant funds for leave time reimbursement might run short as the demand for programs had increased. At the meeting, Fischer agreed that COPS CARE could expend 400 staff days without reimbursement to DOCCS. Fischer testified to the Inspector General that he was supportive of COPS CARE because he believed COPS CARE programs were good public relations for DOCCS.

An e-mail exchange on August 27 and 28, 2007, between then-DOCCS Deputy Commissioner Israel Rivera, who also attended the meeting, and Murray memorialized the expectations that resulted from the meeting. The e-mail read in part,

⁴ *Wein v. State*, 39 N.Y.2d 136, 142-144 (1976); *Schulz v. State*, 86 N.Y.2d 225, 233-234 (1995).

Rivera: Mike I want to be clear. What do you think was the agreement?

Murray: I think the agreement was that the Commissioner agreed to match our 400 man days for use in Cops Care Programs, which include but not limited to – Choosing to Lose and SMART, and any other DOCCS image enhancing event. Which could include Special Olympics/Law Enforcement Torch Run, SEFA, and recruitment fairs as needed to enhance our image as Correction Officers/Sgtrs. And the Department as a whole, out in the public eye.

Rivera: Correct. We'll use your time first.

With that, COPS CARE officers devoted time to SEFA-related activities for approximately two months during the fall 2007.

A subsequent e-mail, dated October 24, 2007, from Murray to Rivera described the potential financial distress the program was facing as a result of mismanagement and miscommunication among COPS CARE administrators resulting in the delay of the 2007-2008 grant approval. Murray wrote, in part, the following:

Once our time, (grant money) was up, we were to start using the state time that Commissioner Fischer extended to us. Because of miscommunication from the previous Chairman, the new grant process was not started on time and is now in the approval process. It could be a couple of months before we get any money from this grant, so I am requesting approval to [sic] start using the 400 days allotted us by the Commissioner, for our next billing.

Rivera replied: "Go for it." In other words, COPS CARE in late October 2007 could begin tapping into the "free" 400 staff days without first performing 400 days of work for which DOCCS would be recompensed for the correction officers' release time.

The Inspector General asked Fischer to explain his reasoning behind his decision to give 400 staff days to the COPS CARE program. He testified as follows:

[COPS CARE] came to me in '07 indicating that they needed 400 extra [days] to meet these special demands. And they really were doing a hell of a job – going to schools and what not. So, I'm new, I want to make nice friends with the union. They could've used their own time and I'd still have to pay the overtime if they were gone, so . . . this time around I'll give you the 400 [days].

In this testimony, Fischer referred to the fact that when a correction officer is on leave, for COPS CARE or any purpose, his or her post in a correctional facility will be filled by another officer likely earning overtime. However, under the existing agreement, COPS CARE reimbursed DOCCS for officers' time, whereas Fischer's action in August 2007 gave away the time without reimbursement. When the Inspector General asked Fischer if he has the authority to donate DOCCS's staff time valued at over \$82,000 to a private organization, he conceded: "I don't." He explained:

I felt it was the right thing to do at that time because they were really projecting an image for us in the community for corrections. And they were also doing recruitment because when they went to schools they talked about careers. They were also doing pictures for the children and fingerprints. . . .

Fischer acknowledged, however, that there was no money allocated in DOCCS's budget for COPS CARE. The Inspector General raised the idea of DOCCS absorbing the mission of the COPS CARE program within its purview and budget. Fischer responded that he was in favor of the idea, but that, "Right now the atmosphere is a little more complicated. We're closing – we want to close facilities. The vehicles are on everybody's mind. This is not the time to come up with another great idea."

COPS CARE Effectively Dismantled Due to Dissension and Fiscal Mismanagement

The Inspector General's examination of COPS CARE records of the organization's early days, including board meeting minutes and testimony from former and current board members, revealed nearly immediate erosion of support for the board. Infighting ensued among the officers on how to proceed with the programs that were being developed. Following its inception in 1999, Correction Officers Dennis Fitzpatrick

and David Martin were instrumental in developing the COPS CARE program; Martin became chairman and treasurer, and later, Correction Officer Timothy Collins was nominated as vice chairman. Collins advised the Inspector General that he “felt that there were practices that certainly were not conducive to the mission of the program.” According to Collins, he sought to have Martin removed as chairman, and when that occurred, Fitzpatrick resigned. Correction Officer Michael Murray was then appointed by the board as chairman and Collins was appointed vice chairman.

Collins cited poor documentation of hours members devoted to COPS CARE projects as an issue. According to Collins, some full-time COPS CARE members failed to justify their program hours with COPS CARE-related work and many hours were vaguely documented as “administrative duties.” As COPS CARE was required to reimburse DOCCS for officers’ release time, Collins sought to return some of the correction officers assigned to COPS CARE full-time to their facilities. Collins testified: “I tried to send individuals back [to their assigned DOCCS facility] that didn’t have programs, or [had] programs I could not account for; and when I was unsuccessful to do that, that’s when I chose to walk away.” Collins said he was also concerned that non-COPS CARE efforts were being promoted by members. “There was also a lot of time and effort of the program that was being utilized to assist other not-for-profit organizations.”

To address his concerns, Collins said he attempted to promulgate policy barring COPS CARE members from participating in these activities while purporting to be engaged in COPS CARE program work. Of this effort he said, “It was a big argument with the board . . . so we compromised to say that specifically Mike Murray . . . could not conduct any more than 10 hours a month for Special Olympics and a Law Enforcement run.” By the time Collins resigned from COPS CARE in April 2008, the organization was in complete disarray.

The Inspector General discovered that members of COPS CARE were, for the most part, unqualified to manage the organization. Former DOCCS Deputy

Commissioner Rivera testified that correction officers affiliated with COPS CARE lacked administrative skills, noting, “They probably forgot to do a lot of things they were supposed to do to take care of the grant.” Rivera further observed that COPS CARE officers focused on going to schools, helping children, and promoting DOCCS’s image, and “as long as they did that, they felt they were doing what the grant told them to do . . . We’re not administrators.”

One COPS CARE member interviewed by the Inspector General echoed Rivera’s views. The officer stated, “What I find hard to believe is if I’m giving you money and I’m governing how you spend it, I’m going to check on you. Why did it take from ’06 to . . . when it went under, for [DCJS] to tell us we were doing things wrong. I mean, we were only a bunch of corrections officers that came out to do the right thing for tough kids. We weren’t professionals that knew really how to run something . . . We were a bunch of [correction officers] that worked in the back. We didn’t really know what we were getting into. We thought we were just helping kids and building an image for our union.” He added, “I don’t think there was ever any intent to rob money and to pocket money or anything. I don’t think anybody did.”

The COPS CARE Board of Directors was effectively dismantled in the fall of 2008 following DCJS’s withdrawal of support and the resignation of a number of its members. However, Kim Hessel, a COPS CARE member and then-correction officer at Collins Correctional Facility, was one of a few officers who remained involved in hopes of revitalizing COPS CARE. Hessel became the point of contact for the program and, by default, its acting chairperson.

At this time, NYSCOPBA offered to enter into an agreement with COPS CARE by which it would provide financial assistance to the program if board members resigned and surrendered COPS CARE property in their possession to NYSCOPBA. However, because not all members agreed to these terms, NYSCOPBA withdrew its offer.

Despite NYSCOPBA's action, some COPS CARE members did turn in equipment and other property to Hessel, who placed the items in a storage room at Collins Correctional Facility. The Inspector General met with Hessel, reviewed all items in storage, and compared the items with COPS CARE inventory records. This examination determined that a number of known COPS CARE members still had possession of equipment and materials, including laptop computers, DVD players, and cameras, obtained with DCJS grant funds. By the terms of the grants, DCJS is entitled to "recover any assets purchased with the proceeds" of the grants. During the investigation, staff of the Inspector General's Office and DOCCS identified and located the equipment in question, and assisted DCJS in its recovery.

COPS CARE administrators failed to accurately monitor program expenses. As a result, as of November 2008, COPS CARE was delinquent in its release time payments to DOCCS in the amount of \$298,979. At that time, DOCCS suspended the use of release time for certain officers for COPS CARE purposes, as documented in a November 20, 2008 e-mail from then-DOCCS Deputy Commissioner Rivera to Murray advising:

This is to notify you that as of this date, 11/20/08, I am suspending the use of release time for [School Resource Officers] for COPS CARE purposes. I have been notified by John Telisky, Treasurer for NYSCOPBA, that at this time they have no involvement with Cops Care and do not plan to financially assist Cops Care.

While COPS CARE subsequently made payments to DOCCS, according to an August 13, 2010, memorandum from DOCCS's labor relations office to Hessel, it still owed DOCCS a total of \$155,403 as of that date.⁵ Further, after the draft findings of the DCJS audit were presented to COPS CARE in December 2008, DCJS denied additional funding to the program. In total, COPS CARE still owes DCJS approximately \$335,000 in disallowed travel and personal expenses pursuant to the terms of the two grants. In addition, DCJS disallowed approximately \$13,000 in equipment, supplies and other

⁵ As described below, COPS CARE subsequently made reimbursement of \$54,689.64 to DOCCS.

items.⁶ NYSCOPBA also withdrew its financial support for the COPS CARE program. A small number of correction officers continued to provide COPS CARE programs in their communities, largely on their own time or through the support of donations.

FINDINGS AND RECOMMENDATIONS

The Inspector General determined that COPS CARE failed to adhere to the requirements and guidelines outlined in two DCJS grants awarded to COPS CARE for the period 2006 to 2008. As a result of these failures, COPS CARE personnel did not adequately document program costs and travel costs; travel reimbursement was obtained contrary to State Comptroller guidelines; and officers were reimbursed for travel costs that were not allowed under the terms of the grants contracts. The Inspector General did not find evidence to substantiate the allegation that COPS CARE officers falsified records or committed fraudulent activities by reporting to have conducted COPS CARE-related programs when such programs had never taken place.

The Inspector General found that then-DOCCS Commissioner Brian Fischer exceeded his authority and violated the State Constitution's ban on giving money to a private organization when, in August 2007, he unilaterally approved the use of 400 staff days – valued at more than \$82,000 – by COPS CARE, a private not-for-profit corporation.

The Inspector General also found that DCJS's grant monitoring did not identify problems in the COPS CARE program, which were only later detected as a result of a DCJS audit and the Inspector General's investigation. The Inspector General recommended that DCJS review its current grant monitoring and audit practices, and consider the potential benefits of enhancing the first-line monitoring of grants and increasing the number of audits. Given that COPS CARE currently is nearly defunct

⁶ As noted, DCJS has recovered equipment from COPS CARE. As a result, it may adjust the total monies owed.

with minimal assets, the Inspector General recognizes that its ability to meet its financial obligations is severely impaired.

In response to the Inspector General's investigation, DOCCS advised that it has issued a directive advising that it has discontinued any affiliation with COPS CARE and advised that any DOCCS employee who wishes to continue participating in activity associated with COPS CARE would have to do so as a civilian and be required to obtain supervisory approval to charge leave credits for activity occurring during normal work hours. The directive also advised that employees participating in COPS CARE events cannot utilize any DOCCS logo or insignia, wear a uniform to such events, or represent DOCCS at such events in any official capacity. In addition, COPS CARE has reimbursed DOCCS in the amount of \$54,689.64 – the total of its remaining assets – for the hours correction officers were released from their duties to conduct COPS CARE programs.

Further, as a result of the investigation, DCJS advised that its Office of Program Development and Funding (OPDF) revised its grant monitoring procedures to address the concerns raised in this report. The revisions include a detailed checklist for use at all site visits, and incorporating requirements to review time records and other documentation to demonstrate compliance. In addition, OPDF has significantly increased the number of site visits made by the grant representatives to ensure quality control and compliance. During the investigation, the Inspector General's Office and DOCCS assisted DCJS in the recovery of equipment purchased with grant funds that was still in the possession of COPS CARE.

The Inspector General is providing a copy of this report to the New York State Attorney General.