

NEW YORK STATE COMMISSION OF CORRECTION

ALBANY, NEW YORK



**IN THE MATTER OF A RESIDENT SOCIAL EVENT AT THE
GOSHEN SECURE CENTER**

JULY 2010

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PREFACE

Pursuant to Article 3, §45(2) and §45(3) of the New York State Correction Law, the New York State Commission of Correction conducted an investigation into the December 12, 2009 “Winter Social Dance” held at the Goshen Secure Center, located in Goshen, New York and operated by the New York State Office of Children and Family Services.

This report details the investigation conducted by Commission investigators William Benjamin and Todd D’Alessandro, under the direction of James E. Lawrence, Director of Operations. It discusses the incident, and then presents the Commission’s findings, recommendations and required actions.

SUMMARY

The Goshen Secure Center (GSC) is one of five maximum security confinement facilities operated by the New York State Office of Children and Family Services (OCFS)¹ to house adolescent males who have committed serious criminal acts. The facility's population consists of up to 85 male juvenile offenders² as defined by §10.00(18) of the New York State Penal Law, and certain juvenile delinquents³ placed in secure confinement pursuant to Article 3 of the Family Court Act and the New York State Executive Law.

On Saturday, December 12, 2009, the Goshen Secure Center held an agency-sponsored social event described by facility officials as a "Winter Social Dance" and designed to emulate a high school prom. An investigation by the New York State Commission of Correction revealed that events such as the "Winter Social Dance" at Goshen were directed by the OCFS. The program or policy affords violent juvenile offenders the opportunity to participate in mixed-gender social events at which they have direct physical contact with the guests. It requires the staff, through undocumented protocol, to facilitate these events.

According to a memorandum obtained as part of the Commission's investigation, the social events were conceived in May 2009 as an antidote to gang activity in two of the secure facilities, Goshen and Brookwood. It was hoped that the events would "motivate youth behavior"

¹ The five secure centers operated by OCFS are at: Brookwood (Columbia County), Goshen (Orange County), Industry (Monroe County), MacCormick (Tompkins County) and Tryon (Fulton County). Note: Only the girls section of Tryon is classified as "secure."

² Juvenile offenders are youth who, while under the age of 16, committed certain violent felonies for which they were sentenced in an adult court.

³ Juvenile delinquents are youth who are at least seven and under the age of 16 who commit an act that would constitute a crime if committed by an adult.

and “help stabilize some of the gang activity as well.” The initial events were held in July 2009 and then replicated in December 2009.

At the December 2009 event at Goshen, which became the focus of a Commission investigation after reports surfaced indicating that inappropriate sexual activity had occurred at the social, four residents ranging in age from 17 to 20, three of them serving potential life sentences for murder and one serving time for armed robbery, were each permitted to invite a female friend to the facility as his guest. None of the guests – ranging from a 16-year-old girl to a 27-year-old woman – was adequately vetted to ascertain her suitability for this event. One of them received a \$100 payment from one of the residents before attending. The guests were transported from New York City and the Capital District to the Goshen facility at state expense and in state vehicles, and then returned to New York City and the Capital District when the event ended. Sexual activity between residents and their guests was observed and, in some cases, recorded.

At the outset, the Commission of Correction acknowledges that the regulatory framework governing its oversight of OCFS secure facilities “recognizes the unique needs of young people who are still developing mentally, emotionally, and physically, and as such, have great potential for positively transforming their lives with proper rehabilitative support in a *safe and secure environment* (emphasis added).”⁴ That said, even assuming, *arguendo*, that there is an identifiable institutional or public benefit to holding such events in secure facilities of confinement, the Goshen “Winter Social Dance” was so mismanaged and mishandled from the start that the health and safety of the residents and guests, and the security of the facility, was

⁴ See 9 NYCRR 7401.1

severely compromised. In essence, the senior management of the Office of Children and Family Services and the line staff took what was a questionable practice and then poorly implemented and executed it.

This event was orchestrated without any clear policy or procedural direction as to how it was to be organized, supervised and chaperoned, and without any appreciable security precautions or safeguards that would be the expected norm for contact social events involving violent offenders in a high-security institution. In fact, there was far less planning, organization and precaution than one would expect at a conventional high school prom.

The Commission investigation concludes that:

- The method employed by OCFS executives and Goshen Secure Center officials to identify and qualify residents was fundamentally flawed and wholly unreliable. OCFS and Goshen officials indicated they qualified residents for participation in the “social” based on recent behavior, yet they ignored the fact that at least three of the four resident participants had accumulated two or more disciplinary reports in the six months leading up to the December 12, 2009 event, one of which was a threat against senior facility staff connected to the event itself. Yet, the recent disciplinary record of the individuals, even if it were consistently utilized, is not a reliable indicator of a resident’s suitability for a special privilege. The OCFS leadership exercised poor judgment when it required its facility directors to initiate a program without clear and precise guidance as to the parameters within which the facility staff should operate, which created a substantial risk to the residents, visitors and staff of the facility. The lack of preparatory orientation and training for supervisors and line staff ultimately provided two residents and their

guests the opportunity to engage in illicit sexual activity during the event, and otherwise jeopardized the health, safety and security of the residents, staff and guests of the facility.

- The Facility Director acted irresponsibly when he handed over complete responsibility for the planning of the December social event to the facility's Assistant Director without appreciable policy direction. Moreover, the Facility Director then failed to exercise any degree of oversight and supervision of the Assistant Director and other staff in preparation for the social event.
- The Assistant Director acted in a manner that was both irresponsible and unethical when he deliberately misrepresented to the Facility Director various actions, plans, precautions and safeguards he had ostensibly implemented in anticipation of the social event, when in fact there were none in evidence during the social event. Assignments to staff were unclear or silent as to duties, responsibilities and expected performance in what could only be viewed by staff as an unusual, nearly unprecedented situation with multiple personal and professional risks for negative outcomes.
- The Assistant Director filed inaccurate and misleading official intra-agency communications – including a document that was backdated – that concealed the facility's lack of preparedness for those staff assigned to supervise the social event.
- The staffing for the Goshen Secure Center December social event was improperly planned in advance and negligently implemented by the Assistant Director and supervisors on the day of the event. To staff the social event, facility officials

directed staff to abandon their normal posts in order to provide for the additional supervision occasioned by the social event. Facility officials failed to schedule or call-in additional staff to provide the coverage needed on the day of the social event. Facility supervisors on duty during the period the social event was taking place failed to recognize the need to implement an organized deployment of the staff assigned to the social event and, instead, further contributed to the overall poor control of the event by failing to properly establish communication with their line staff or with each another.

- First-line supervisors and staff were irresponsible when they failed to stop residents and guests from engaging in sexual activity. Although line staff was placed in a difficult situation, any reasonable person would have recognized that the activity taking place during the “Winter Social Dance” was unacceptable in any setting – let alone a maximum security facility inhabited by individuals who had committed extremely serious and violent crimes – and should have stepped in and stopped the event as a matter of common sense.

In sum, the lack of executive guidance and direction, adequate planning, a thorough and reliable resident eligibility assessment or vetting of guests and poor managerial performance by OCFS officials, coupled with inattention to duty and lack of good judgment at the local level, ultimately resulted in four individuals, all serving lengthy sentences for violent offenses, participating in a sanctioned agency social event with outside, virtually unknown guest participants under lax security/supervision. The December 12, 2009 incident at Goshen underscores the Commission’s continuing concerns about the security and safety of the five

secure facilities operated by the OCFS. Those concerns are a reflection of the extraordinary number of Unusual Incident Reports that are generated from OCFS secure facilities.⁵

⁵ For just the first 5 ½ months of 2010, the Commission has been apprised of at least 19 assaults on staff, 14 group disturbances, 11 assaults on residents with injuries, 11 physical restraint incidents with staff injuries and nine contraband incidents at the five secure centers operated by OCFS (Brookwood, Goshen, MacCormick, Industry and Tryon). At Goshen alone, between January and June 2010 OCFS has reported four assaults on staff, three group disturbances, seven assaults on residents with injuries, three physical restraint incidents with staff injuries, three contraband incidents and two cases of destruction of state property.

METHODOLOGY

The New York State Commission of Correction's preliminary investigation commenced on December 14, 2009 following receipt of Unusual Incident Report (UIR) #2202-09 from the Goshen Secure Center. UIR #2202-09 stated that on December 12, 2009, while assigned to the Goshen Secure Center's control room, Youth Division Aide Todd Montanya reported to Administrator-of-the-Day (AOD) Ronald Smith, that he observed sexual conduct between a resident and his female guest during the supervised facility social event. The UIR further stated that a second incident of sexual conduct between a resident and his female guest took place in an area outside the restricted area for visitation, but still in view of at least two staff members with direct responsibility for supervising the residents and their guests.

Under the supervision of Director of Operations James E. Lawrence, Commission investigators William Benjamin and Todd D'Alessandro commenced a comprehensive investigation into circumstances that culminated in two Goshen Secure Center residents obtaining access to a secluded, unauthorized room within the facility and engaging in sexual activity with invited female visitors under the auspices of an agency-sanctioned social event.

The findings of this report are based on Commission investigators' interviews with OCFS executive staff, Goshen Secure Center staff, review of written facility policies and procedures, written statements submitted by Goshen Secure Center staff and the viewing of surveillance videography as recorded by the facility's control room staff.

On January 12, 2010, the Commission of Correction requested copies of all of the security camera video footage recorded during the time of the December 12, 2009 social event. Commission investigators took personal custody of the video at the OCFS central administration

offices on January 22, 2010. Upon review, Commission investigators determined the video footage provided by the OCFS was incomplete.

Overall, there were five cameras that cover the visitation area, the adjoining hallway and the employee vending area from the outside. The start time of the social was at 4:25 p.m. and it concluded at about 7:00 p.m. According to Youth Division Aide Todd Montanya, because of the volume of the data, GSC control room staff was not able to download the full three hours of footage recorded by all five camera angles. Mr. Montanya informed Commission investigators that he, along with Assistant Commissioner Anthony Hough, pieced together the footage that they thought showed the resident activity and downloaded it to seven DVDs. These seven DVDs were proffered as the OCFS' official video record of the incident. But, there are multiple gaps in the time signature records from all cameras, including, but not limited to, the camera covering the view of the hallway fronting Assistant Director Gregory Joyner's office. The Commission was informed by OCFS officials that the remainder of the footage was recorded over on the facility's security system DVR sometime after the social event of December 12, 2009.

On December 17, 2009, Commission investigators commenced the field investigation with a site visit to the Goshen Secure Center. Commission investigators were informed by Facility Director Bobby Ray Smith that at this time the matter was under investigation by the Special Investigations Unit (SIU) of the Office of Children and Family Services. In view of the ongoing internal investigation, the Commission of Correction deferred interviews of Goshen Secure Center staff during the December 17, 2009 site visit. On February 9-10, 2010, Commission investigators conducted a second visit to the Goshen Secure Center and, at that time, conducted interviews with facility staff who were involved or who were present during the December 12, 2009 social event. On June 7-8, 2010, Commission investigators conducted a

series of interviews of facility staff members present during the social event. Additionally, the Commission conducted subsequent interviews with executive-level staff in Albany. The Commission also reviewed the report of the internal investigation by the Special Investigations Unit at the OCFS.

PERSONS INTERVIEWED

Gladys Carrión, Commissioner, Office of Children and Family Services (OCFS)

Gregory Joyner, Assistant Facility Director

Joyce Burrell, Deputy Commissioner, OCFS

Oscar Boria, Youth Division Aide IV

Anthony Hough, Associate Commissioner, OCFS Division of Juvenile Justice and Opportunities for Youth

Ronald Smith, Youth Counselor I

Antonio Collado, Youth Division Aide IV

Beverly Burns, Facility Coordinator, OCFS

Todd Montanya, Youth Division Aide II

Irving⁶ (Resident/Participant)

Bobby Ray Smith, Facility Director

Arthur⁷ (Resident/Participant)

Veronica Haynes, Youth Division Aide IV

Damien Diaz, Youth Division Aide IV

Lezley Taylor, Youth Counselor II

Patricia Hennessey, Social Worker I

⁶ pseudonym

⁷ pseudonym

BACKGROUND

The Goshen Secure Center (GSC) in Goshen, New York, is a New York State Office of Children and Family Services (OCFS) confinement institution for male “adolescents”⁸ from throughout New York State. It is one of five facilities rated as “secure centers” by the OCFS. The facility’s population consists of male juvenile offenders as defined by §10.00(18) of the New York State Penal Law and certain juvenile delinquents placed in secure confinement pursuant to Article 3 of the Family Court Act and the New York State Executive Law.

Goshen Secure Center is comprised of dormitory-style living areas and single resident rooms adjacently arrayed in linear wings with a maximum capacity of 100 beds. The “Winter Social Dance” giving rise to this report took place in the facility’s Visitation area, the adjacent hallway, and the restricted staff-only area across the hall from the Visitation area, hereinafter identified as the “vending machine area.”

The State Commission of Correction has been responsible for executive oversight of the OCFS (formerly “Division for Youth”) secure centers since 1996 (Laws of 1996, Chapter 309, §55) when the Legislature re-classified secure centers as correctional facilities.. This same legislative mandate called for the Commission, in consultation with the OCFS, to draft and promulgate rules and regulations establishing minimum standards for the management of secure centers. These standards are delineated in 9 NYCRR Part 7400, et seq. It is acknowledged, by the Commission, and expressed in the governing regulations, that “secure facilities differ from adult

⁸ Executive Law §508(5) provides that OCFS “may transfer an offender not less than 18 nor more than 21 years of age to the Department of Correctional Services if the [commissioner] of [OCFS] certifies to the commissioner of Correctional Services that there is no substantial likelihood that the youth will benefit from the programs offered by [OCFS] facilities.” Here, the Commission questions whether two 20-year-old offenders and a 19-year-old offender, all committed for murder and who could have been transferred to the Department of Correctional Services, belonged in a youth facility.

correctional facilities in several significant respects.” Still, recognizing and respecting that distinction, whether one subscribes to the “therapeutic” or “sanctuary” model of juvenile justice or a model that more closely mirrors the confinement/ rehabilitative model of the state prison system, there is no question that the Office of Children and Family Services must operate its facilities in a manner consistent with safety and security. That basic standard was not maintained at the Goshen Secure Center within the context of the “Winter Social Dance.”

INVESTIGATION

Social Event Planning

Although the December 12, 2009 social event at the Goshen Secure Center raised what the Commission considers obvious security and safety issues, it is clear from the investigation that no one in authority at the GSC viewed the event as anything other than a minimally modified visitation day, held at the direction of OCFS central administration officials, and not an occasion warranting special precautions. The failure to consider the unique possibilities of what might occur with non-family female guests entering a secure detention facility housing individuals who had committed violent acts, including murder, jeopardized the safety and security of the facility. This section of the report discusses how the event came to be, the planning and preparation that preceded it and the involvement of supervisory and executive staff.

Commissioner Gladys Carrión, in her interview with Commission investigators, described the socials as a “reward” for those secure facility residents who had accumulated a positive record. The Commissioner explained that secure residents, who ultimately will parole out of an OCFS secure facility, need more resources to aid them in their ultimate transition back into society, notwithstanding the fact the Goshen residents involved in the December 12, 2009 event were likely to be transferred to state prison and *not* paroled from the OCFS facility.

Deputy Commissioner Joyce Burrell, Associate Commissioner Anthony Hough and Facilities Manager Beverly Burns all indicated in separate interviews with Commission investigators that Commissioner Carrión had been seeking new incentive-based program ideas that could address the increased gang-related assaults occurring in the five secure facilities, and the social event idea grew out of staff’s efforts to meet the Commissioner’s challenge for such creative programming ideas. Neither Ms. Burrell nor Mr. Hough nor Ms. Burns could explain

how permitting residents to invite female guests into the facilities for a four-hour social would further the goal of diminishing gang activity.

The Commission's investigation indicated that the concept of holding social events with an atmosphere similar to a "typical high school prom" – in the words of Goshen Director Bobby Ray Smith – at secure detention centers arose initially during a discussion among the facility directors at a regularly scheduled meeting in central office in February 2009, the acknowledged idea of Facilities Coordinator Burns. Ultimately, events were held or planned for the Goshen and Brookwood secure detention facilities and anticipated to take place twice a year.

Ms. Burns stated that she raised the social event concept in conversation with Associate Commissioner Anthony Hough, who acknowledged that he approved it in principle. The concept was then reduced to a brief, one-page summary memo from Ms. Burns to Mr. Hough in May 2009. The memo simply notes that there would be dinner dances at Goshen and Brookwood for "Honors" and "Transition" residents in July and December 2009, in hopes of instilling socialization norms among the young men and reducing gang activity.

Commissioner Carrión stated in her interview with Commission investigators that she first heard about the social event idea from Deputy Commissioner Joyce Burrell. When asked whether she was aware that some of the residents participating in the social were in fact juvenile offenders who had committed violent acts and would be transferred to state prison, and *not* youth who would be paroled out of the OCFS facility, Commissioner Carrión said that she "wouldn't have been involved with that level of detail." Instead, she said that Deputy Commissioner Burrell would monitor such details. Deputy Commissioner Burrell, however, while acknowledging she was peripherally aware of and did not voice opposition to the social event concept, denied that she was or would have been further involved in the planning or details surrounding the events.

She said it is settled OCFS policy to give broad latitude to facility directors and assistant directors for programmatic initiatives such as this. Hence, the planning and organization of the Goshen event was implicitly delegated to others, such as Facility Coordinator Beverly Burns and, ultimately local staff, with little if any guidance from the executive leadership.

Ms. Burns stated she initially requested that the various secure center Assistant Directors be assigned to “get together” and develop a plan. However, according to Goshen Facility Director Smith, such a planning session never took place. Although a report by the OCFS Special Investigations Unit notes that some plans for event dates, transportation, itineraries, eligibility and staff assignments were “worked out” by the Assistant Directors, there was no documentation of this activity in the record. Indeed, two of four Assistant Directors ostensibly originally tasked were never involved in social events, nor were their facility administrations.

Facility Director Smith stated to Commission investigators that at no time had he ever received any written policy or directive pertaining to the social event concept, purpose or implementation. Mr. Smith affirmed that other than a general conceptual explanation of the social event program, along with a date for it to be scheduled, central administration officials provided him with no directions, required precautions or safeguards pertinent to the actual planning and holding of the event. Director Smith stated that his understanding was that he should use his own discretion and judgment when planning and holding the resident social event. According to Director Smith, he delegated responsibility for the planning and administration of the December 12, 2009 social event to Gregory Joyner, Goshen’s Assistant Director.

Director Smith told Commission investigators that under the protocol, such that it was, of Ms. Burns, in order to be considered eligible for such an event, a resident must have first attained

the classification level of “Honors”– the highest possible at the Goshen Secure Center. Beyond that restriction, it appears the details were to be worked out locally.

Commission investigators reviewed two Youth Counselor Meeting agendas from Goshen Secure Center. The documents, dated November 10, 2009 and December 8, 2009, failed to indicate to whom they were sent or if they were received by anyone, but set forth a plan where:

- The social would be held in the ‘Visitor’s Room.’
- Assistant Director Joyner would meet with Frederick Degraff, the head cook, to coordinate refreshments.
- All Youth Counselors would be requested to assist in event preparation and supervision.
- Youth Counselor Ronald Smith would coordinate the event, chaperone and facilitate the cleaning of the visit area.
- A minimum of three YDA staff were required for supervision.
- YDA Veronica Haynes would supervise social.
- Assistant Director Joyner would provide music and coordinate transportation.
- Elizabeth Pierson, Secretary to the Director, would decorate the Visitor’s Room.

Notwithstanding the existence of these “agenda” documents, Youth Counselors Taylor and Smith, while admitting that they attended one such meeting, stated categorically to SIU investigators that only the barest mention of the upcoming December 12 social event was made, and that there was no discussion of assignments, coordination or orientation as set forth in these “agendas.”

Ultimately, five male residents were initially approved to participate in the Goshen social.⁹ Each was allowed to invite a female friend to attend as his guest and each resident subsequently submitted the name of his preferred guest to facility staff. Commission investigators were told that each named guest was sent a formal written invitation. Two of the female guests were listed as residing in the Capital District and two in metropolitan New York. To encourage attendance, GSC officials arranged to deploy two facility vehicles to transport the four invited female guests to the facility and return them home at the conclusion of the event.

In a December 11, 2009 memorandum from Assistant Director Joyner to Director Smith, Mr. Joyner stated that female guests would be required to produce valid photo identification at the time they were picked up by GSC staff. In addition, the one minor female invited to attend would be required to submit a signed parental consent form to the facility. The form accepted by GSC here was not notarized, in violation of the center's own policy, as outlined in *Visitation Procedures GSC3455*, and was submitted with only the parent's printed name and purported signature.

⁹ According to Youth Counselor Taylor, "Leon," a fifth resident, had an approved guest for the winter social, but the guest notified the facility that she could not attend because of a work conflict.

The four social event participants and their respective guests for the December 12, 2009 event were as follows:

<u>Name</u> ¹⁰	<u>Age</u>	<u>Conviction</u>	<u>Visitor</u> ¹¹	<u>Age</u>
Braden	20	Murder 2 (JO)	Michelle	18
Terrell	17	Robbery 2 (JO)	Alicia	16
Irving	19	Murder 2 (JO)	Melanie	27
Arthur	20	Murder 2 (JO) Att. Murder 2 (JO)	Yolanda	20

The Goshen residents were approved to participate in the social as a result of their having achieved the level of “Honors” or “Transition” within the agency’s hierarchical “stage” system. Director Smith told Commission investigators that no further eligibility criteria or screening tool was employed when determining which residents would be permitted to attend. Director Smith stated to Commission investigators that the “stage” system is currently utilized in all five OCFS secure centers.

When questioned by Commission investigators, other secure center directors confirmed that they had been directed by OCFS central administration to employ the stage system when assessing a resident’s conduct and the privileges associated with each stage level. Secure center directors described the stage system as a strictly institutional behavior-based scale that, according to a resident’s personal conduct, could result in increased responsibilities and privileges. Facility officials explained to Commission investigators that a resident’s criminal

¹⁰ pseudonyms

¹¹ pseudonyms

history, demonstrated propensity for violence or gang affiliation is not considered when determining a resident's stage level.

A review of the GSC disciplinary log and Unusual Incident Reports submitted to the Commission by the OCFS reveals numerous disciplinary issues that could have excluded the participants from any sort of "reward" – as the social was described by Commissioner Carrión and others – or special privilege.

For instance, resident "Irving" was charged with a Level III rule violation and found guilty of threatening staff on September 1, 2009, approximately two months after he was afforded the privilege of attending the inaugural Goshen social event; "Irving" received a disposition of "loss of work privileges" for this infraction, but obviously was not barred from the December 12, 2009 social. Resident "Terrell" was charged with a Level III rule violation for assaulting another resident and found guilty on September 2, 2009; "Terrell" was docked 14 days of good time and subjected to nine days of early lock-in, but still permitted to take part in the social event. "Terrell" was also found guilty of a Level II offense of failing to obey a direct order on December 7, 2009, which resulted in a loss of work privileges. Resident "Arthur" was charged with a Level II rule violation for threatening Youth Counselor Taylor because she would not clear him to attend the social event. That charge was subsequently dismissed, inexplicably without a written explanation in the log.

In addition, from January 2009 until August 2009, all four residents had numerous disciplinary charges and dispositions for Level II and III rule violations, including assault of staff, interference with staff, disobeying direct orders, violent conduct, destroying state property, fighting with other residents and possessing contraband. Yet they all apparently retained their status as "Honor" or "Transition" residents under the stage ranking system.

The screening of guests was equally careless and deficient. None of the female guests was sufficiently vetted and, as noted earlier, the permission waiver submitted on behalf of the 16-year-old girl was inadequate.

Further, the GSC's own records showed that guest "Michelle's" credibility was suspect, but apparently no one at GSC noticed what was readily evident in their own files.

According to documentation reviewed by Commission investigators, "Michelle" visited resident "Braden" on at least three occasions, even though she was not on the approved visitor list, and provided three different descriptions of her relationship with the resident. On November 7, 2009, "Michelle" was identified as "Braden's" "sister" when she visited him at Goshen. On December 7, 2009, "Michelle" identified herself as "Braden's" "step-sister" when she signed in for a visit. "Michelle" described herself as "Braden's" "girlfriend" on the list submitted to attend the December 12, 2009 social event. That these contradictions went undetected indicates that staff¹² failed to review and correlate visitor information prior to the event.

Even if the participants were adequately screened, the staffing "plan" was inadequate. In a December 11, 2009 intra-facility memorandum, Assistant Director Joyner proposed to Director Smith assigning three Youth Division Aides (YDA) to directly supervise the residents and their guests. Assistant Director Joyner's memorandum stated that two of the YDA staff would be "posted in the Visit Area, and one mobile for bathroom calls." In addition, Assistant Director Joyner identified Youth Counselor I Ron Smith and Recreation Supervisor Dion Ashman as staff members who would serve as event chaperones, without describing what that assignment entailed. Assistant Director Joyner assigned Social Worker Patricia Hennessey to

¹² Facility records indicate that Youth Counselor Theodore Hutchins was responsible for verifying "Michelle's" relationship to "Braden" and authorizing her visit.

serve as the “female chaperone,” tasked with taking photographs of the residents and their guests.

The staffing assignments as outlined in Assistant Joyner’s December 11, 2009 were as follows:

- Two (2) Youth Division Aide IV staff positioned inside the Visiting Room
- One (1) Youth Division Aide IV staff to remain mobile (floater) to provide bathroom escorts
- Two (2) Staff Transport to Albany and back
- Two (2) Staff Transport to NYC and back
- Two (2) Male Chaperones
- One (1) Female Chaperone

Assistant Director Joyner’s December 11, 2009 memorandum to Director Smith stated that each of the two transport teams would be comprised of one male and one female GSC staff. The teams would be assigned the responsibility of driving to a pre-arranged location to pick up the female guests and drive them to Goshen.

Mr. Joyner explained that one team of GSC staff would be assigned to travel to New York City to pick up “Michelle” (age 18) of Queens, New York and “Alicia” (age 16) of Brooklyn, New York. Both females were to be picked up outside the Harlem State Office Building, 163 West 125th Street, New York City. The second GSC team would pick up “Melanie” (age 27) and “Yolanda” (age 20) both of Troy, New York. The Troy residents would be picked up outside the Alfred E. Smith State Office Building, located at 80 South Swan Street and Washington Avenue, Albany, New York.

Assistant Director Joyner advised Director Smith that “normal Goshen visitor screening procedures” would be in place for the four guests. Mr. Joyner included in his memorandum that only staff already scheduled to work on December 12, 2009 would be considered for assignment to transport the four female guests to the facility and back, in order to avoid any need to pay overtime.¹³

Assistant Director Joyner’s December 11, 2009 planning memo stated that the four female guests would be required to have photo identification with them and that the one minor female “must have a signed parental consent form.” Mr. Joyner did not indicate in his planning memo whether the facility had already secured the parental consent form or otherwise verified that the parents of the minor female had consented to their minor daughter attending the social event. It is noteworthy that under 9 NYCRR 7422.4 a “prospective visitor who is under 18 years of age may be restricted from visiting a resident if they are not *accompanied* (emphasis added) by an approved adult visitor.”

It is of particular concern that this memorandum contained no mention of any security safeguards, other than the evacuation route that would be followed in case of an emergency, such as a fire. There is no indication that OCFS central administration was to be consulted or expected to approve any aspect of the social event plans.

Commission investigators were also provided with a second, significantly more detailed Joyner memorandum to Director Smith dated December 12, 2009, the day of the event. Mr. Joyner’s December 12 memo begins with the statement: “The following was completed as part of the preparation for the Winter Social.” It then proceeds to list the specific Youth Division Aide staffing assignments for the social event, including a detailed accounting of the training and

¹³ Regardless, overtime proved necessary.

orientation provided to each assigned staff member. When questioned by Commission investigators, Assistant Director Joyner could not explain why his more detailed memorandum of December 12, 2009 contained so much more staffing information, and why this information was not included in the December 11, 2009 memo. Significantly, the SIU investigation concluded that Assistant Director Joyner actually wrote the memo dated December 12 on December 14, post-dating it after the problematic nature of the social event became known.

In any case, neither the December 11, 2009 memorandum from Assistant Director Joyner to Director Smith, nor his backdated December 12 memorandum, made accurate representations to Director Smith as to the preparations and precautions in place for the resident social event. In the actual event, less than half the staff represented to Director Smith as assigned to supervise at the event was actually deployed for that purpose. Staff was not oriented to enforce Goshen directives on resident supervision and visitation as Director Smith was led to believe, nor was “inappropriate contact” between residents and guests proscribed as Director Smith was told.

The foregoing are the only written social event planning documents provided to the Commission during this investigation. There is no indication that any other communication took place between Director Smith, Assistant Director Joyner, Facility Coordinator Burns or anyone else in authority at OCFS central administration pertinent to the planning and hosting of the December 12, 2009 resident social event. Deputy Commissioner Burrell stated that no such interaction took place at her monthly statewide conference call agenda meetings because such calls involve the executives of many more facilities than the secure centers. Interaction among the secure center assistant directors as ostensibly assigned after the originating meeting by Facility Coordinator Burns is wholly undocumented and, in any event, would not have involved two of the four assistant directors tapped for social events, those two having essentially been

opted out.

In lieu of written instructions specific to the December 12, 2009 event, Director Smith stated that, to his understanding, *GSC Policy # 3247.03, Supervision of Youth* and *GSC Policy #3455.00, Visiting Procedures*, were to be enforced by staff assigned to supervise the resident social event. These two directives articulate the standard policy and procedures for all facility visits, which, in any case, were not followed.

In sum then, at both the OCFS central administration and secure center levels, the social events at the secure centers were not the subject of any appreciable planning, were held without advance notice to, orientation of, or substantive direction to facility staff, and were held without any guidelines or precautions from facility executive staff. Assignments to staff were unclear or silent as to duties, responsibilities and expected performance in what could only be viewed by staff as an unusual, nearly unprecedented situation, with myriad personal and professional risks. Statements made by facility executives during the Commission investigation to the effect that inappropriate contact between residents and guests was proscribed were self-serving, made *ex post facto*, and are not supported by any contemporaneous written documentation.

Events of December 12, 2009

On December 12, 2009, two teams of Goshen Secure Center staff, each consisting of one male and one female staff member, were assigned by the facility Assistant Director to drive to either New York City or Albany. Each team would be responsible for picking up two female guests and transporting them to the GSC. GSC records show that GSC Social Worker Jessica Thorn and Youth Division Aide Collado were assigned to drive to the Albany area and Social Worker Hennessey and YDA Newton were to drive to New York City. Both teams departed

from the Goshen Secure Center in facility vans at approximately 1:00 p.m. to retrieve guests for an event scheduled to begin at 4:00 p.m.

Social Worker Hennessey stated that the trip to and from New York City was uneventful, with the exception of a brief restroom stop for one of the female guests. In her written Unusual Incident Report (UIR), Ms. Hennessey stated that she verified the identities of the two female guest passengers through photo identification. The two females were picked up outside of the Adam Clayton Powell State Office Building, located at 163 West 125th Street, New York, N.Y. and transported to the facility.

A second team consisting of Youth Division Aide Collado and Social Worker Thorn picked up two female guests from the Capital District area at the Alfred E. Smith State Office Building, located at 80 South Swan Street and Washington Avenue, Albany, N. Y. The identities of the two female guest passengers were verified through photo identification and the trip from Albany to Goshen was completed without incident.

Both transport teams arrived at the Goshen Secure Center ahead of the 4:00 p.m. event start time. As previously noted, Director Smith told Commission investigators that no formal background checks of the four invited females, whose names had been submitted by the residents to be their guests, had taken place prior to the event. According to staff accounts and the GSC visitation log, Director Joyner oversaw the processing of female guests at the time they were brought into the facility. Upon arrival at the Goshen Secure Center, all four guests were instructed to remain in the waiting areas until the 4:00 p.m. start of the resident social event. Shortly after 4:00 p.m., the four male residents were brought to the Visiting Room to join their female guests.

Each of the three Youth Division Aide staff assigned to the social event independently confirmed that they did not learn of their assignment until the day of the event. In addition, Social Worker Hennessey and Youth Counselor Smith stated during their interviews with Commission investigators that they were not advised by Assistant Director Joyner that their names had been submitted as supervising the social event either before or during the event itself. In his written statement, Recreation Supervisor Ashman indicated he was assigned to recreational duties on December 12, 2009 and only ventured to the location of the social event to “. . . check it out.”

Resident “Leon” was not mentioned as a participant in any of the memos by Assistant Director Joyner with regard to the social. On the day of the social, Youth Counselor Taylor selected “Leon” to assist her to bring the food cart to the Visitation Room. She claims to have personally escorted him down for this purpose. Ms. Taylor did not recall when “Leon” was returned to his wing. According to Youth Division Aide Montanya, Resident “Leon” was observed “hanging around” the hallway outside of the Visitation Room and vending area from about 4:25 p.m. until 4:50 p.m., apparently unsupervised. YDA Montanya stated he believes in retrospect that the resident was acting as a “lookout” for resident “Braden,” who was in the vending area with “Michelle” during that time. Resident “Leon” can be seen briefly on one of the videos, but the remainder of the video footage for that time period was not saved.

The resident social event began at approximately 4:25 p.m. in the GSC Visitation Room. Youth Division Aides Veronica Haynes and Oscar Boria were initially posted inside the visiting room to supervise residents and their guests. As evidenced by the GSC security video, the interaction and sexual activity between residents and their guests began almost immediately.

Youth Division Aides Haynes and Boria did not convey any rules of conduct to the couples at the beginning of the social event. They had, of course, been given no guidance from either the Goshen or OCFS management on this subject. The couples situated themselves in close proximity to one another. Assistant Director Joyner entered the Visiting Room briefly, but did not address the residents. Nor did he appear to have any in-depth discussions with staff. As the social event unfolds, there is no indication that facility supervisors were planning any structured or supervised activities during the social.¹⁴

Resident Commissary Activity and Policy

Commission investigators confirmed that GSC resident “Braden,” a participant in the December 12, 2009 social event, had authorized GSC officials to issue a \$100 check from his commissary account on October 18, 2009. The check was written to “Michelle,” who later attended the December 12, 2009 social event as “Braden’s” guest and, as previously noted, has alternately described herself as “Braden’s” sister, step-sister and girlfriend. Commission investigators confirmed that this check was posted on December 21, 2009, but were unable to confirm who approved the check, or for what purpose the check was issued.¹⁵

Upon questioning of Director Smith, Commission investigators learned that residents are allowed to receive and deposit money from any source into a facility-managed checking account. The intended purpose of this account is to allow residents to purchase items from the facility-run

¹⁴ Despite references by Assistant Director Joyner of the work of various event committees in planning and preparing for the social event, there was not much of an “event.” There were four tables set up, with simple decorations, pizza, finger food, cake and soda for the eight participants. There was no event program and no actual structured activities planned or held as part of the social event.

¹⁵ According to the report of the OCFS Special Investigations Unit, “Braden” indicated he “owed her the money,” although it is unclear why he was in Michelle’s debt.

commissary (e.g., snack food, hygiene, etc). However, the residents receive permission to send money to other individuals on the outside, or for unstated reasons. The OCFS currently has no agency policy on the limits of these money accounts and their usage.

Commission investigators learned from interviews with other OCFS secure facility officials that the receipt and transfer of resident money vary substantially from facility to facility. In some cases, a resident may be permitted to maintain as much as several thousand dollars in such an account. When a resident wants to send money to someone on the outside, they are instructed to contact their counselor and provide the name, address and dollar amount they wish to send. According to Director Smith, facility staff would merely confirm the aforementioned information with the resident and approve the release of funds. The facility would then issue a check.

It is well-established that juvenile offenders in OCFS secure custody are permitted to maintain large cash accounts and dispose of their funds without limitations as to amount, destination of funds or controls on the activities associated with them. This represents a negligent breach of security because it presents an opportunity for illicit conduct, ranging from bribery to money laundering.

Review of Staff Interviews and Unusual Incident Reports

When interviewed, line staff – in general contrast to local executive staff – was cooperative and forthcoming, and generally provided consistent testimony, each attesting to their knowledge of the facility policy and procedures as well as of their job duties and responsibilities. When questioned regarding the information outlined in two memoranda dated the day before and the day of the event authored by the Assistant Director Joyner and submitted to Director Smith,

staff vehemently denied Mr. Joyner's statements regarding his affirmation of the policy to the staff in person prior to the event. Indeed, staff stated they were not even aware they were working the event until informed of such at the end of their regular shift at 2:30 p.m. on the day of the event.

Youth Division Aide Oscar Boria stated to Commission investigators that he was assigned to work the social event by Youth Counselor Ronald Smith on the day of the event. Mr. Boria further stated that his only instruction from Mr. Smith was to "work inside the Visitation Room." Mr. Boria claims he never spoke to Assistant Director Joyner about his being assigned to work the social event prior to December 12, 2009. Mr. Boria disputed written statements by Assistant Director Joyner that he (Mr. Joyner) had spoken to him prior to the day of the event, and advised him that he would be assigned to work the social event and that he would be expected to follow the GSC's normal visit procedures. Mr. Boria further contradicted Mr. Joyner's statement that he had instructed Mr. Boria that residents were to have no inappropriate contact during the social event.

Youth Division Aide Damien Diaz stated in his UIR that he first learned he was assigned to work the social on the day of the event. He confirmed that Youth Counselor Smith assigned him to the duty and that the only instructions he was provided was to provide "... coverage as needed." Mr. Diaz further disputed Assistant Director Joyner's claim that he (Mr. Diaz) received instructions in advance of the social event from Mr. Joyner that during the social event he would be expected to follow Goshen's normal visitation procedures and that residents were to have no inappropriate contact. Mr. Diaz, in his statement, said: "I, YDA Diaz was never told that the residents were not allowed to kiss their girlfriends." Mr. Diaz continues: "I do know that I am to supervise according to the policy which one objective states that resident's must follow

acceptable norms of behavior within facility norms.” Mr. Diaz defended his supervision of the social event by explaining that he eventually did confront “the resident when he thought the resident and his female guest were positioned too close together.”

In his UIR statement, Youth Counselor Ronald Smith stated that on December 12, 2009 he was responsible for assigning Youth Division Aide Oscar Boria and YDA Damian Diaz to work the social event. He further reported that he was assigned to the duty of Administrator of the Day (AOD) by Senior Youth Counselor Taylor at the beginning of the December 12, 2009, 2:30 p.m. - 10:30 p.m. shift. Mr. Smith reported that as a Youth Counselor, his duties on December 12, 2009 were primarily focused on the residence area rather than the social event. He stated that Assistant Director Joyner was the individual with overall responsibility for overseeing the social and that he (Mr. Smith) merely “stopped by” the area to see how the social was proceeding. Mr. Smith gave no indication in his written statement that he had been advised by Assistant Director Joyner that he was responsible to act as a chaperone at the social event.

Youth Division Aide Veronica Haynes stated she was assigned to work the social event by Assistant Director Joyner earlier during her December 12, 2009, 6:30 a.m. to 2:30 p.m. shift. She denied she was given any prior instructions by Mr. Joyner or any other supervisory staff, explaining what the rules were for the social event.

Recreation Supervisor Dion Ashman wrote in his UIR statement that his only purpose for coming to the Visiting Room was to “. . . see how the social event was going.” Mr. Ashman described his responsibilities for that day as “. . . coordinating game room activities.”

Mr. Ashman’s written statement gave no indication that he had been assigned by Assistant Director Joyner to serve as a chaperone at the December 12, 2009 social event. When interviewed by SIU investigators however, Mr. Ashman stated that he thought nothing much of

the physical encounters between the residents and their guests because he had seen similar activity between residents and guests during the July 2009 social event occurring in full view of both Director Smith and Assistant Director Joyner without intervention or remark.¹⁶To his credit, Mr. Ashman apparently did try to intervene to separate “Arthur” and his guest when he observed them attempting to initiate oral sex.

GSC Social Worker Patricia Hennessey, who had earlier teamed with a fellow staff member to pick up the two female guests in New York City, explained in her UIR statement that beyond the initial transporting of the guests to the facility, her only other assigned duty that day was to take photographs of the residents and their guests. Despite the fact her name was listed by Assistant Director Joyner as one of the “female chaperones,” Ms. Hennessey stated during her interview with Commission investigators that she had not been assigned to duties other than transporting the female guests from New York City and taking photographs at the beginning of the event.

Following her arrival back at Goshen, Ms. Hennessey stated that by 5:00 p.m. she had fulfilled her assignment to photograph the residents and their guests. At that point, she concluded her shift and left the facility at approximately 5:24 p.m., over an hour before the event concluded.

Once the social event convened, the staffing deployment proved not to be in accordance with the pre-event staffing plan outlined by Assistant Director Joyner in his December 11, 2009 memorandum to Director Smith. Initially, only two staff (Mr. Boria and Ms. Haynes) assumed responsibility for the direct supervision of the four residents and their guests inside the Visiting

¹⁶ There is no video record of the July 2009 social event at the Goshen Secure Center. According to officials at the GSC, the videotaping system was inoperative that day.

Room. From the outset, then, there was insufficient staff deployment for supervision of the residents and their guests.

In her interview with Commission staff, Senior Youth Counselor Lezley Taylor stated that Ron Smith was the Administrator-on-Duty (AOD) during the 2:30 p.m. – 10:30 p.m. shift of December 12, 2009. This statement conflicts with that of Mr. Smith, who stated during his interview with Commission investigators that Ms. Taylor assigned him to be the “AOD trainee” for the shift under Ms. Taylor’s supervision. A review of the GSC log book identified entries where both Ms. Taylor and Mr. Smith identified themselves as the facility AOD (GSC Administration-on-Duty logbook, December 12, 2009).

At Goshen and other secure centers, OCFS policy and procedure calls for the designation of an “Administrator-on-Duty,” a post analogous to “watch” or “shift” commander in a correctional facility. The individual serving in this capacity is charged with overall responsibility for facility control and decision-making during each of the three daily segments or shifts of facility operations.

Youth Counselor Theodore Hutchins Jr. briefed and turned over the duty to Administrator-on-Duty Taylor and Youth Counselor Smith at 2:30 p.m. Youth Counselor Smith made log book entries from 2:30 p.m. until 2:51 p.m. and Youth Counselor Taylor made entries from 5:07 p.m. until 5:43 p.m.; they continue to alternate until the end of their shift at 10:30 p.m. Ms. Taylor made entries in the log referring to Youth Counselor Smith as the AOD. Youth Counselor Smith noted that “Ms. Taylor debriefed” the resident identified as “Arthur” at 7:40 p.m. for an unstated reason after the social. Otherwise, Ms. Taylor claims to have been doing a special assignment for Assistant Director Joyner during her shift on December 12, 2009.

Ms. Taylor told Commission investigators that she communicated her concerns to Assistant Director Joyner weeks before the December 12 scheduled date. She stated she was particularly uncomfortable with the disciplinary reports that had been documented involving at least two of the residents who ultimately participated in the December 12, 2009 social event. Ms. Taylor informed Commission investigators that her concerns were subsequently dismissed by Mr. Joyner.

During his interview with Commission investigators, Assistant Director Joyner characterized the supervision of the residents and their female guests as a failure by Youth Division Aide staff to fulfill their duties and responsibilities. Mr. Joyner stated to Commission investigators that: "If I had better staff it would never [have] happened." Mr. Joyner further defended his memorandums of December 11 and December 12 as accurately reflecting the planning that had taken place in anticipation of the December 12 social event. He initially told Commission investigators that Senior Youth Counselor Lezley Taylor and Youth Counselor Ronald Smith, being the designated facility Administrators of the Day, were also expected to share oversight of the social event. Later in his interview with Commission investigators, Mr. Joyner recanted this statement, as well as the portion of his December 12 memorandum in which he indicated he had counseled *all* staff assigned to supervise the social event prior to the day it was held. At the conclusion of his interview, Mr. Joyner acknowledged to Commission investigators that, "If I had it to do over, I would have done things differently."

Review of Videography

What follows is a description of the most salient events as recorded by facility security videography equipment in the Goshen Secure Center Control Room:

At 4:31 p.m. (Camera 58), “Braden’s” guest “Michelle” is sitting on his lap with her legs straddling him. They are kissing. Youth Division Aide Todd Montanya was assigned to the facility control room. He wrote in his UIR report that he phoned Youth Division Aide Haynes inside the Visitation Room and informed her that this form of physical contact violated the OCFS visitation policy. Mr. Montanya also reported that he contacted Youth Counselor Ronald Smith, who on this day was also designated as the Administrator-of-the-Day, (AOD-in-training). Mr. Montanya stated in his UIR that at this time he advised Mr. Smith of the physical contact between “Braden” and “Michelle” inside the Visitation Room. Shortly afterward, Mr. Montanya reported he called Mr. Smith again to advise him that the sexual conduct between “Braden” and “Michelle” had discontinued. There is no video or written record that AOD-in-training Smith took any action at this time to address the matter with “Braden” and “Michelle.”

At 4:44 p.m. (Camera 30), resident “Braden” and “Michelle” enter the vending area. Supervisory staff assigned to the Visitation Room take no action to prevent the couple from leaving the Visitation Room. Staff appears unaware of what restrictions they were expected to impose on residents as it pertains to their movement outside of the Visitation Room. “Braden” and his guest “Michelle” move to the vending area normally used by staff. Alone and outside of the direct view of staff, the couple embraces and kisses. In a short time, “Braden” becomes more aggressive and, at one point, attempts to push “Michelle” backward behind a soda machine in a narrow space between the machine and a glass wall. As “Braden” attempts to push “Michelle” into this space, she defensively pulls away.

At 4:47 p.m. (Camera 30), Youth Division Aide Veronica Haynes leaves her post in the Visitation Room and enters the vending area. Ms. Haynes speaks directly to “Michelle” and, within a minute, returns to the Visiting Room, allowing “Braden” and “Michelle” to remain

unsupervised in the vending area. Ms. Haynes makes no effort at this point to return the couple to the Visitation Room. “Braden” again engages “Michelle” physically, attempting to position her alongside the vending machine, but she again appears unwilling. The couple continue to converse and at this point “Michelle” turns her back to “Braden,” loosening her jeans and lowering them in the back enough to partially expose her buttocks to “Braden.” Within a few seconds, “Michelle” pulled her jeans up again and the couple continues to embrace and kiss.

At 4:52 p.m. (Camera 30), Youth Division Aide Haynes again enters the vending area to speak to “Braden” and “Michelle,” and again leaves the couple in the room alone. Ms. Haynes does not appear to confer with any supervisor regarding the couple’s behavior at that time, but control room staff member Todd Montanya states in his UIR it was at this time that he notified Assistant Director Joyner of the couple’s conduct.

At 4:53 p.m. (Camera 30), “Braden” is again seen acting in a more aggressive manner toward “Michelle” and appears to be trying to pin her against the glass wall. “Michelle” responds forcefully by pushing “Braden” back and then moving away from him.

At 5:02 p.m. (Camera 55), “Braden” and “Michelle” leave the vending area and go out into the hallway. “Braden” sits in one of the chairs and “Michelle” positions herself on his lap. There is no staff present in the hallway to supervise “Braden” and “Michelle.” Youth Division Aides Boria and Haynes remain in the Visitation Room supervising the participants still located there.

At 5:06 p.m. (Camera 55), Youth Division Aide Boria is permanently relieved by YDA Diaz. At this point, the only direct supervision of three of the couples is provided by YDA Diaz and Haynes. In her UIR statement, Social Worker Hennessey, listed by Assistant Director Joyner as a chaperone for the event, has gone off duty. Neither Youth Counselor Smith nor Recreation

Supervisor Dion Ashman are present at the social event to provide the “chaperone” supervision Assistant Director Joyner described in his planning memos. At the point, Mr. Boria is seen leaving the Visitation Room. Mr. Boria appears to look at “Braden,” with “Michelle” on his lap, but takes no action to have the couple separate. Mr. Boria turns and appears to exit the vicinity of the Visiting Room. There is no indication that Mr. Boria advises Ms. Haynes and Mr. Diaz of the couple’s presence in the unsupervised hallway,

At 5:08 p.m. (Camera 55), “Michelle” turns her back to “Braden” and, while seated on his lap, leans forward to look down the hallway. “Braden” appears to place his hand beneath the back of Michelle’s shirt but quickly pulls it out when Youth Division Aide Diaz appears in the hallway. Diaz is standing in the doorway with his back to “Braden” and paying little attention to the couple.

At 5:10 p.m. (Camera 55), Youth Division Aide Diaz places a chair just outside the Visitation Room doorway and takes a position in the hallway, apparently to better supervise “Braden” and “Michelle.” “Braden” and “Michelle” go into the Visitation Room, but soon return to the hallway. Senior Youth Counselor Taylor enters the hallway and, upon seeing “Michelle,” approaches her. Ms. Taylor greets “Michelle” with a kiss and the two engage in a brief conversation. At 5:11 p.m., YDA Haynes hands Senior Youth Counselor Taylor the Visitation Room phone. “Michelle” enters the Visitation Room and “Braden” follows her.

At 5:26 p.m. (Camera 55), “Michelle” and “Braden” are again seated in the hallway. “Michelle” is on “Braden’s” lap with her back to him. She leans forward and “Braden” appears to kiss “Michelle’s” buttocks. “Michelle” stands and makes a variety of suggestive poses in front

of “Braden.” “Michelle” then seats herself on his lap, moving in a sexually provocative manner that could be described as a “lap dance.”

At 5:27 p.m. (Camera 55), Youth Division Aide Diaz is seated on a chair just outside the visiting room, within a few feet of “Braden” and “Michelle.” He makes no effort to have them sit separately in chairs. Recreation Supervisor Ashman enters the area after getting a piece of cake sits in a hallway chair close by “Braden” and “Michelle.” “Michelle” continues to sit on “Braden’s” lap with her back to him and again begins to move in a sexually suggestive manner, as if attempting to sexually stimulate “Braden.” Mr. Ashman describes his presence in the hallway as only wanting to “check out” the social event, but does not indicate he was aware that Assistant Director Joyner listed him as a chaperone for the event.

At 5:27 p.m. (Camera 30), resident “Arthur” and his guest “Yolanda,” age 20, enter the vending area. Almost immediately, “Arthur” positions “Yolanda” alongside the vending machine, similar to the way “Braden” had previously attempted to position “Michelle.” Once back alongside the vending machine, “Yolanda” is no longer visible from the hallway. However, the security camera across the courtyard has a direct view of both “Yolanda” and “Arthur.” Once “Yolanda” moves alongside the vending machine, Arthur positions himself close to her. “Yolanda” bends forward toward “Arthur.” The couple appears to be engaging in oral sex. Within a matter of seconds, “Arthur” backs away and appears to see someone possibly coming toward the vending area. “Arthur” adjusts his trousers and backs further away from “Yolanda.”

At 5:41 p.m. (Camera 30), having been notified by the control room of the conduct of “Arthur” and “Yolanda,” Youth Division Aide Diaz enters the room and speaks to the couple. Mr. Diaz is seen pointing to the location of the security camera (camera 30), but fails to take any action to return “Arthur” and “Yolanda” back to the Visitation Room.

At 5:47 p.m. (Camera 55), “Braden” and “Michelle” remain in the hallway along with staff members Ashman and Diaz present. Youth Division Aide Haynes is seen leaning out of the Visitation Room and whispering to Mr. Diaz. At this point, “Braden” physically picks “Michelle” up and, with her buttocks exposed, carries her directly past Mr. Ashman and Mr. Diaz in the hallway and back into the Visitation Room.

From 5:46 p.m. to 5:52 p.m. (Camera 30), “Arthur” and “Yolanda” continue to physically engage one another in the vending area. Having been told by Youth Division Aide Diaz where the security camera (camera 30) is located, “Arthur” appears to purposely position himself with his back to the security camera and then positions “Yolanda” in front of him, blocking “Yolanda” from the camera’s view. After a few seconds of obscured movement, “Arthur” and “Yolanda” remain in a close embrace and appear to be engaged in some sexual activity for several minutes. However, with the blocked view of the camera, Commission investigators were unable to determine the manner of sexual activity with any degree of certainty.

At 5:53 p.m. (Camera 30), Youth Division Aide Diaz again enters the vending area and speaks to “Arthur” and “Yolanda.” He leaves without taking any action to direct the couple back to the Visitation Room. YDA Haynes states in her UIR report that it was at this time, after being informed of the ongoing activity of “Arthur” and “Yolanda,” that Assistant Director Joyner confronted the couple in the vending area and directed them to leave the area. Assistant Director Joyner then reportedly advised staff to close off this area and no longer permit the residents to access it for the duration of the social event.

At 6:05 p.m. (Camera 58), Youth Division Aides Haynes and Diaz position themselves between “Michelle” and “Yolanda.” At 6:08 p.m., “Michelle” leaves the Visitation Room with

what appears to be a cell phone in her hand and returns to the hallway. “Braden” follows “Michelle.” YDA Diaz follows “Braden” and “Michelle” and appears to monitor the couple’s activity.

At 6:11 p.m. (Camera 55), “Michelle” and “Braden” are in the hallway. “Michelle” appears upset and both Assistant Director Joyner and AOD-in-Training Smith enter the hallway.

At 6:12 p.m. (Camera 55), Assistant Director Joyner appears to engage “Braden” and “Michelle” in conversation.

At 6:12 p.m., Assistant Director Joyner escorts both “Michelle” and “Braden” into the outer hallway where GSC administrative offices are located. The video timer skips to **6:19 p.m.**

At 6:19 p.m. (Cameras 55 and 56), “Braden” is in the hallway adjacent to the Visitation Room seated by himself. “Michelle” emerges from the outer administrative hallway, back into the hallway adjacent to the Visitation Room and sits down with “Braden.”

At 6:20 p.m. (Camera 55), Assistant Director Joyner escorts “Arthur” out of the Visitation Room through that room’s back door that leads directly into the outer administrative hallway. Mr. Joyner and “Arthur” walk down the administrative hallway and are followed by Youth Counselor Smith. Youth Division Aide Collado is seen on camera entering the hallway adjacent to the Visitation Room.

At 6:20 p.m. (Cameras 55 and 56), “Arthur” is seen walking with Assistant Director Joyner from the administrative hallway into the hallway adjacent to the Visitation Room, where “Braden” and “Michelle” are seated. “Arthur” speaks to “Braden” for a few minutes.

At 6:21 p.m. (Camera 55), Assistant Director Joyner engages “Braden” and “Michelle” in conversation. “Braden” is handed the Visitation Room phone by Haynes.

At 6:22 p.m. (Camera 55), “Braden” enters the Visitation Room and “Michelle” stands up and walks toward Assistant Director Joyner, who is standing in the doorway that connects the administrative hallway and the hallway adjacent to the Visitation Room. The video from Cameras 55 and 56 skips to **6:26 p.m.**

At 6:26 p.m. (Cameras 55 and 56), “Braden” and “Michelle” are standing in a doorway that connects the administrative hallway and the hallway adjacent to the Visitation Room. The couple is hugging. Mr. Joyner is no longer in view as he was at 6:22 when the cameras skips to 6:26 p.m. “Braden” and “Michelle” enter the hallway adjacent to the Visitation Room.

At 6:50 p.m. (Camera 55), Assistant Director Joyner exits the Visitation Room and engages “Michelle” and “Braden” in conversation.

At 6:53 p.m. (Camera 55), Youth Division Aide Haynes exits the Visitation Room and walks down the administrative hallway with “Yolanda” and “Melanie.”

At 6:56 p.m. (Camera 55), “Arthur” and “Irving” leave the area escorted by Youth Counselor Smith.

At 7:00 p.m. (Camera 55), “Braden” and “Michelle” are still in the hallway embracing.

At 7:04 p.m. (Camera 55), Assistant Director Joyner walks by “Braden” and “Michelle,” who are embracing, and kisses “Michelle” on the cheek as he moves toward the administrative hallway.¹⁷

At 7:05 p.m. (Camera 55), “Braden” stands in hallway adjacent to Visitation Room while “Michelle” enters the administrative hallway. No staff can be seen in the immediate area.

¹⁷ According to the OCFS SIU report, Mr. Joyner “explained that the girl was upset that the social was over so he kissed her to make her feel better.” Also according to the SIU report, “due to the inappropriateness of the kiss and other supervisory issues,” Mr. Joyner was placed on administrative leave.

Return Transport of Female Guests

During his interview with Commission investigators, Youth Division Aide Antonio Collado explained that he drove the two female guests from the Capital District back to the same location (Alfred E. Smith State Office Building in Albany, N.Y.) where he originally picked them up. Mr. Collado stated to Commission investigators that upon reaching the Alfred E. Smith State Office Building, it was dark and he was uncomfortable dropping the two females, ages 20 and 27, at that location. He indicated to Commission investigators that he discussed his concerns with the two female passengers. At the request of his female passengers Mr. Collado dropped them off at a corner on Washington Avenue. Mr. Collado and Youth Division Aide Haynes then returned directly back to Goshen. Mr. Collado stated to Commission investigators that he could not remember precisely where on Washington Avenue he dropped-off his passengers. He acknowledged that he was aware that both of the females he and YDA Haynes transported back to Albany actually resided in Troy, N.Y.

FINDINGS

1. The Goshen Secure Center's December 2009 resident social was an ill-conceived, poorly planned and uncontrolled event that seriously undermined the safety, security and good order of the Goshen Secure Center.

2. The OCFS central administration implemented this program without provision of any policy or procedural direction as to how these events were to be organized, supervised and chaperoned, and without any appreciable security precautions or safeguards that would be the expected norm for contact social events involving violent felons in a high-security institution.

3. The method employed by OCFS executives and Goshen Secure Center officials to identify and qualify residents for participation in the scheduled facility social events does not include an objective assessment that considers both the risk associated with resident criminal history and the current adjustment to incarceration in a manner that is both balanced and responsible. The current "stage system" used for this purpose is both insufficient and fundamentally flawed as a method for assessing a resident's appropriateness to participate in relaxed-security/supervision settings and activities as it is solely recent-behavior based, and therefore of questionable reliability in reclassifying residents with histories of extreme violence, including murder and armed robbery as "honor" level residents.

4. In the case of the December 2009 resident social event at Goshen Secure Center, the lack of a thorough and reliable eligibility assessment by OCFS officials ultimately resulted in three violent felons, all serving lengthy sentences, participating in a sanctioned agency social event with outside un-vetted guest participants under relaxed security/supervision conditions.
5. The Facility Director acted irresponsibly when he handed over complete responsibility for the planning and holding of the December social event to the facility's Assistant Director without appreciable policy direction. The Facility Director then failed to exercise any degree of oversight and supervision of the Assistant Director and other staff as in preparation for or the social event.
6. The Assistant Director acted in a manner that was irresponsible and dishonest when he deliberately misrepresented to the Facility Director, various actions, plans precautions and safeguards he had implemented in anticipation of the social event. Assignments to staff were unclear or silent as to duties, responsibilities and expected performance in what could only be viewed by staff as an unusual, nearly unprecedented situation with multiple personal and professional risks for negative outcomes. The Assistant Director then filed inaccurate and misleading official intra-agency communications, which concealed the facility's lack of preparedness for the social event.
7. The lack of preparatory orientation and training for mid-level supervisors and facility line staff in preparation for the social event ultimately provided two residents and their guests the opportunity to engage in illicit sexual activity during the social event. Facility line staff and

mid-level supervisors acted in an irresponsible manner by failing to take reasonable steps to intercede and prevent facility residents and their guests from engaging in sexual activity both within and outside resident-authorized areas of the facility.

8. The Goshen Secure Center staff failed to ensure the four female guests were subject to an effective screening and verification of their relationship to the residents. The Goshen Secure Center issued a check from resident “Braden’s” commissary account prior to the social event, payable to this resident’s guest “Michelle.” According to GSC records, his check was subsequently cashed.
9. The current policy that addresses resident commissary activity at OCFS secure facilities is fragmented and inconsistent. Youthful offenders remanded to OCFS secure custody are permitted to maintain large cash accounts and dispose of their funds without limitation as to amount, destination or controls on the activities associated with them. This represents a breach of ordinary security precautions where convicted felons in custody are concerned.
10. The OCFS’ central administration instituted no requirement that prior to holding the social event facility officials conduct a substantive facility assessment and plan of basic security procedures related to the proper control and movement of the four facility residents and their guests during the December 12, 2009 social event.
11. The staffing for the Goshen Secure Center December social event was improperly planned in advance and poorly implemented by the Assistant Director and supervisors on the day of the

event. In order to staff the social event, facility officials assigned staff to leave their normal posts in order to provide for the additional supervision occasioned by the social event.

Facility officials failed to schedule or call in additional staff to provide the additional coverage needed on the day of the social event. Facility supervisors on duty during the period the social event was taking place failed to recognize the need to implement an organized deployment of the staffing assigned to the social event and instead further contributed to the overall poor control of the event by failing to properly communicate with their line staff or with each another.

12. Despite being informed of the sexual activity between residents and their guests, neither the Assistant Director, nor any of the other managerial staff working the day of the December social event, took action to end the social event. A review of the OCFS central administration and Goshen Secure Center visitation policy revealed that neither has established clear and coherent standards for what constitutes unacceptable conduct during visits by residents or their visitors.

13. The manner in which non-family members were approved to attend the December 12, 2009 social at the Goshen Secure Center was in direct violation of the agency and facility visitation policy

RECOMMENDATIONS

1. The Commission recommends that senior executive leadership of the OCFS conduct a comprehensive policy review of its conceptual approach to organized social activities at its secure centers with particular focus on those incorporating invitees from the outside community. Staff/resident and public security and safety should be preeminent considerations and full compliance with 9 NYCRR Part 7400 et seq. should be ensured.

2. The executive leadership of the OCFS, if it continues to permit mixed-gender social events at secure facilities, should include only outside guests whose relationship to the resident comports with Goshen Secure Center’s visitor policy (GSC33455) and with 9 NYCRR Part 7422 Visitation.

3. The Commission recommends that senior executive leadership of the OCFS, if it continues to permit mixed-gender social events at maximum security facilities, immediately implement a screening method, other than the fundamentally flawed, recent behavior-based “stage system,” to identify and qualify residents for participation in planned facility social events. Such a method should employ an objective assessment that considers both the risk associated with resident criminal history and the current adjustment to incarceration in a manner that is both thorough and reliable.

4. The Commission recommends that senior executive leadership of the OCFS immediately discontinue the practice of including violent juvenile offenders serving adult sentences for murder, robbery and other serious violent crimes in facility social events beyond the entitled resident visitation hours and the scope of visitation set forth in 9 NYCRR Part 7422 Visitation.¹⁸ If the OCFS and the Goshen Secure Center executive leadership are persuaded that social events such as the December 12, 2009 event at Goshen serve a beneficial purpose and wish to continue to permit residents to receive visits from individuals from outside the authorized cohort of visitors, the OCFS should apply to the Commission of Correction for a variance under §7422.4.

5. The Commission recommends that the OCFS, in a professional responsibility review capacity, inquire into the professional conduct of the Director of the Goshen Secure Center and take administrative action as warranted as a result of his conduct in connection with the December 2009 resident social event at the Goshen Secure Center. The OCFS should immediately institute policy that mandates the planning and carrying-out of any facility social event, that includes community participation, be done under the direct supervision of the Facility Director.

6. The Commission recommends that the OCFS, in a professional responsibility review capacity, inquire into the professional conduct of the Assistant Director of the Goshen Secure Center and take administrative action as warranted as a result of his conduct related to the December 2009 resident social event at the Goshen Secure Center. Particular attention should be focused

¹⁸ 9 NYCRR Part 7422 entitles residents to visits from “immediate family, foster parent(s), legal counsel and representatives of the Ombudsman's office. For the purpose of this Part, immediate family shall include parents or legal guardians, grandparents, siblings, aunts, uncles, children, and spouse.”

upon failure to make assignments to staff that were clear as to duties, responsibilities and expected performance and the filing of inaccurate and misleading official intra-agency communications which concealed the facility's lack of preparedness for the social event.

7. The OCFS should provide an in-service colloquium for secure center executives on requirements and expectations for preparatory orientation. Training of mid-level supervisors and facility line staff in preparation for special events at secure centers should also be implemented.
8. The OCFS and the Goshen Secure Center executive leadership should limit visitation at Goshen Secure Center to the scope set forth in 9 NYCRR Part 7422 Visitation and should ensure that visitation guests are subject to an effective screening and verification of their relationship to residents.
9. The OCFS central administration should undertake a comprehensive review of resident commissary money account maintenance and procedures at secure centers which includes comprehensive limits, checks, controls and intelligence-gathering on resident disposition of commissary account funds. This should include a request to the Office of the State Comptroller for an audit of all secure center resident commissary account activity for a retrospective two-year period.

10. The OCFS central administration should require, preparatory to any organized secure center event involving invitees from the community, its secure center management to conduct a comprehensive facility safety and security review, including but not limited to, plant, equipment and procedures to assure readiness from the security, staff/resident, invitee and public safety viewpoints for any such event.
11. The OCFS central administration should take immediate steps to remediate staffing planning and deployment deficiencies for any future secure center social event involving invitees from the community. Secure center management should be trained and indoctrinated to plan staffing so as never to allow established security post abandonment, and to assume or delegate authority to call in additional staff to properly supervise residents and guests and to properly deploy them in order to maintain adequate communication and coordination between them and otherwise maintain the security integrity of the facility.
12. The OCFS central administration should establish and orient and indoctrinate facility management as to acceptable standards of resident and visitor interpersonal conduct during visitation or any other social activity. Flagrant and/or persistent violations of such standards should result in immediate intervention and termination of activities giving rise to such violations.
13. The OCFS central administration should enforce its visitation policy at secure centers with respect to non-family visitors and shall insure it complies with 9 NYCRR Part 7422 Visitation.

VIOLATIONS OF 9 NYCRR PARTS 7401 – 7442

PART 7404 SECURITY AND SUPERVISION

Part 7404.5, Supervision of residents outside facility living areas

Throughout the three-hour social event facility staff failed to enforce active supervision and failed to properly control the movement of residents while they participated in an activity outside of their housing area.

ACTION REQUIRED

Facility officials shall ensure that when residents participate in activities outside of their housing areas, staff shall enforce the requirements of active supervision as defined under §7404.2.

PART 7406 REPORTABLE INCIDENTS

Part 7406.3(2) Reporting incidents other than resident deaths

The incidents that occurred during the December 12, 2009 social were not reported to the Commission of Correction until December 14, 2009, in violation of Part 7406. Pursuant to §7406.3, the Goshen Secure Center failed to properly report within 24 hours, a facility disturbance that resulted from the illicit sexual activity of residents and their invited guests during a sanctioned agency social event.

ACTION REQUIRED

In accordance with this section, the facility shall adhere to

the requirements of this part when reporting all applicable reportable incidents to the Commission.

PART 7422 VISITATION

§ 7422.4(a) Visitor identification and registration

As part of the December 12, 2009 facility social, the Goshen Secure Center permitted individuals other than the immediate family, foster parents, legal counsel and representatives of the Ombudsman's office to enter the facility for the purpose of visiting residents.

ACTION REQUIRED

Facility officials shall ensure that only visitors who meet the definition of acceptable visitors as defined by this subsection, including what immediate family.

§7422 .5 Contact Visits

By permitting residents and their guests to engage in sexually provocative behavior during the course of the December 12, 2009 social, facility staff failed to enforce conduct that was deemed appropriate and consistent with reasonable standards of public decency.

ACTION REQUIRED

Facility officials shall ensure that both residents and their visitors are required to act in a manner that reflects appropriate behavior and is consistent with reasonable standards of public decency.