



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
September 23, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General determined that Manhattan Psychiatric Center Plant Superintendent Robert Billings falsely claimed to have worked over 300 hours, which, in fact, he did not. The Inspector General also found that Billings worked more overtime hours than necessary, and wrongly attributed overtime hours to capital projects even though he was not working on the projects in question. The Inspector General referred the matter to the New York County District Attorney and recommended that the New York State Office of Mental Health take disciplinary action against Billings and institute fiscal controls to ensure that overtime is performed only when necessary.

On September 15, 2009, Billings pleaded guilty to Petit Larceny and made restitution of \$8,079. OMH is in the process of instituting disciplinary action against Billings.

ALLEGATIONS

In March 2007, the Inspector General received an allegation that then-Plant Utilities Engineer 4 Robert Billings charged overtime to specific maintenance projects after the projects had been completed. The Inspector General also sought to determine whether Billings's high overtime accruals were legitimate.

SUMMARY OF INVESTIGATION

Background

The New York State Office of Mental Health (OMH) is responsible for planning and operating a unified system of mental health care services to assist adults who have mental illness and children who suffer from emotional disturbances. Manhattan Psychiatric Center is among the 28 OMH-operated facilities throughout the state that have in-patient, outpatient, and community support programs.

The maintenance department is responsible for the care and upkeep of the buildings and grounds of the Manhattan Psychiatric Center. In addition to regular maintenance duties, the maintenance staff also performs special capital projects designed to lower costs or improve energy efficiency. Manhattan Psychiatric Center receives

special funding from the OMH central office for these capital projects based on individual proposals for each project. The project funding is allocated largely to supplies and overtime for facility staff, as the projects are generally completed during overtime hours. Although some maintenance projects must be performed during evening hours so as not to disrupt employees during the workday, many projects could be performed during the day if sufficient staff were available.

In August 2007 Billings was promoted from Plant Utilities Engineer 4, responsible for the facility's power plant, to Plant Superintendent C, responsible for the maintenance of the entire Manhattan Psychiatric Center's complex. Billings now supervises a staff of approximately 45, including three maintenance supervisors. As plant superintendent, Billings develops and prepares proposals for special capital projects, including cost estimates for staff overtime and materials.

Billings and the three maintenance supervisors under his direction have been the highest earners of overtime at the facility over the past few years. All four men are nearing eligibility to retire under the state pension system. In 2007, on a base salary of \$58,011, Billings earned \$47,109 in overtime for total earnings of \$105,120. In 2008, Billings more than doubled his regular pay of \$59,500 with \$66,072 in overtime pay and allowances, bringing his year-to-date income to \$133,624. Maintenance supervisor Troy Cooper earned \$91,479 in overtime in 2006, nearly tripling his regular salary of \$46,814. Supervisors Charles Katona and Eric Simonson also more than doubled their salaries in 2006. In 2007 all three supervisors earned between \$50,000 and \$60,000 in overtime, and in 2008 Katona again more than doubled his salary, earning \$79,846 in overtime in addition to his salary of \$66,872. In 2008, overtime netted Cooper and Simonson \$39,364 and \$25,521, respectively, in addition to their regular salaries.

Billings stated that the large amounts that he and other maintenance staff earn in overtime are partly explained by reductions in the maintenance staff. According to Billings, over the years the size of OMH's maintenance staff has been severely reduced. He said that at one time the Manhattan Psychiatric Center had as many as 100 employees on the maintenance staff. With the smaller staff today, certain projects needed to maintain and improve the facility must be performed outside of regular work hours. According to Billings, at any given time there are multiple capital projects in progress, and overtime is available to any employee who signs up on a daily basis. Most of these overtime hours are paid with capital project funding, as Manhattan Psychiatric Center's management generally will not approve overtime unless there are capital project funds available to cover the costs.

Abuses by Robert Billings

The Inspector General determined that Billings was habitually late for work, but nonetheless recorded by hand on his time sheets that he arrived on time most days. In addition, Billings significantly overstated the number of overtime hours he worked during the evenings. Finally, the Inspector General determined that Billings's presence may not have been necessary during many of the overtime hours he did work, and that he reported

working on capital projects when he was actually performing paperwork or other activities not covered by the project funds.

In contrast to Billings, the three maintenance supervisors regularly arrived prior to their scheduled start times at 7 a.m., and accurately reported beginning work at 7 a.m. Although the three maintenance supervisors reporting to Billings are also high earners of overtime payments, the Inspector General's examination did not find any over-reporting of hours worked or other improprieties by any of the maintenance supervisors. All parties, including Billings, testified that the maintenance supervisors performed most of the actual labor for the maintenance projects. The maintenance supervisors all stated that they nearly always sign up for overtime, but non-supervisory maintenance employees do so less regularly. Each of the three maintenance supervisors believed his presence was needed, not only to perform the work, but also to ensure that the maintenance employees who did stay to work on capital projects remained productive. Billings reported that he remained past his scheduled work hours to ensure that the work was completed, even though the maintenance supervisors regularly were present to do so.

Billings falsified his time records

The Inspector General reviewed Billings's daily time records from June 2006 to July 2007, and January 2008 through December 2008. The Inspector General compared Billings's time records to records obtained from EZ Pass. Billings commuted between his home on Staten Island and the Manhattan Psychiatric Center on Ward's Island. While Billings self-reported his working hours on his time sheets, his EZ Pass records indicate the actual time he crossed the Triborough Bridge to Ward's Island in the morning, and the time he crossed the Verrazano-Narrows Bridge to Staten Island in the evening. Billings used a state-issued EZ Pass for the Triborough Bridge toll, and his own EZ Pass for the Verrazano-Narrows Bridge toll.

Billings's time records, which he completes by hand, indicate that he arrives at work at 7 a.m. every day. However, the Inspector General determined that Billings is habitually late for work. Since Billings works overtime nearly every day, he improperly is receiving supplements to his salary for hours he works beginning at the end of his scheduled shift at 3:30 p.m., when his overtime calculation should actually begin closer to 4 p.m. or 4:30 p.m.

The Inspector General initially reviewed Billings's EZ Pass records from June 2006 through July 2007, during which he was responsible for the facility's power plant. As the Triborough Bridge is the only vehicle route to Ward's Island, Billings, who commutes by car, passes through the bridge's toll plaza on his way to work in the morning. EZ Pass records the time Billings's vehicle passes through the Triborough Bridge Manhattan toll plaza en route to the Manhattan Psychiatric Center on Ward's Island. It is a short drive, approximately five minutes, to the Manhattan Psychiatric Center from the bridge. The EZ Pass does not record vehicles leaving the island, as there is no toll upon departure.

Although during the period reviewed Billings frequently passed through the toll plaza after his scheduled start time at 7 a.m., the Inspector General only included days in which Billings passed through the toll plaza after 7:15 a.m. in calculating the number of instances and cumulative hours Billings was late for work. Using this standard, the Inspector General calculated Billings's lateness cost the state more than \$5,500 in wages.

Between June 2006 and July 2007, when Billings worked as a plant utilities engineer 4, Billings arrived more than 15 minutes late for work 73 times, cumulatively totaling over 42 hours. For example, on five occasions between Friday, October 13, 2006, and Wednesday, October 25, 2006, Billings passed over the Triborough Bridge between 7:29 a.m. and 7:35 a.m. For each of these dates, and every other date that Billings arrived late, his Daily Attendance Record, which he signed, inaccurately reflected that Billings arrived at 7:00 a.m.

To determine whether Billings continued his regular lateness after his promotion to plant superintendent, the Inspector General reviewed his EZ Pass records from January 2008 through December 2008. The analysis showed that he continued to be often late for work. During this five-month period, Billings was more than 15 minutes late for work on 122 days, for a total of more than 95 hours. On one occasion, Billings was three hours late. During this time period, Billings continued to report falsely that he arrived at 7 a.m. most days.

Notably, Billings reports his hours worked on pre-printed logs showing a start time of 8 a.m. for each day. However, when Billings filled out the reports, he crossed out 8 a.m. and wrote 7 a.m. for each day, even when he arrived close to or after 8 a.m. When asked about why he was late on so many occasions, and why he reported arriving at 7 a.m. despite his lateness, Billings had no justification. He stated, "There was no good reason. It was not malicious or intentional."

In addition to the frequent lateness documented above, records for Billings's personal EZ Pass indicate that Billings sometimes left work prior to the time he recorded on his timesheets. Billings's EZ Pass records show that he crossed the Verrazano-Narrows Bridge to Staten Island at or before the time he recorded leaving the Manhattan Psychiatric Center on 76 separate dates between June 2006 and July 2007. The Inspector General cannot determine Billings's actual departure time from Ward's Island because vehicle traffic leaving the island is not recorded by EZ Pass. Although the distance between Ward's Island and Staten Island is approximately 19 miles, the Inspector General used the time that Billings crossed the bridge to Staten Island to make a conservative estimate of his actual departure time from the Manhattan Psychiatric Center. Assuming the time he crossed to Staten Island as his actual departure time, Billings overstated his time by approximately 53 hours, costing the state over \$2,200 in unearned overtime wages.

For example, on Friday, October 13, 2006, a day he arrived 29 minutes late, his EZ Pass record reports that he arrived on Staten Island at 8:07 p.m. On this day, Billings claimed to have worked from 7 a.m. to 8:30 p.m., and claimed to have worked five hours

of overtime. He should have claimed only four hours, given his late arrival and his departure closer to 8 p.m.

Billings typically was the last employee to leave at night, so no other employees observed the time that he left the facility. The former plant superintendent who signed Billings's daily time record during this period told the Inspector General that he did not verify Billings's work hours. He stated that he rarely worked overtime and relied on Billings to honestly report the hours he worked.

When the Inspector General questioned Billings about leaving work earlier than reported, Billings initially stated that he never did so. After reviewing evidence of his earlier-than-reported departures, Billings stated, "It was a mistake. There was no good reason. I can't believe it was like that." Billings offered to repay the salary he improperly earned on days he arrived late or left earlier than he reported.

Billings falsely charged overtime to capital projects

The Inspector General found that some of Billings's overtime was incorrectly charged to projects on which he did not work. The Inspector General found that Billings reported working overtime on several maintenance projects that were completed without his participation. If a project was completed early or under budget, Billings would spend the remainder of the project funds on overtime for himself, rather than returning the funds to the OMH central office or requesting permission to reallocate the funds to another necessary capital project. At times, Billings reported working overtime on a project several weeks after the project was completed, and reported working on activities not directly related to the project, such as paperwork.

Billings's supervisor, the Manhattan Psychiatric Center Director of Facility Administrative Services Rosemary Revoir, admitted to the Inspector General that she knew of Billings's practice of "using up" excess capital project funds by charging his own overtime to the projects. It is apparently the practice of Revoir and other senior staff at the Manhattan Psychiatric Center not to question the necessity for overtime, or the tasks performed on overtime, as long as the overtime can be paid with excess funds allocated by OMH's central office, and not the Manhattan Psychiatric Center's own budget.

Officials at OMH's central office, which provides the capital project funds, informed the Inspector General that they do not examine project expenditures when the project is completed at or under budget. An Assistant Director of Capital Operations stated that he was unaware that some capital projects at the Manhattan Psychiatric Center had been completed under budget, but that Billings had spent the remainder of the funds on other tasks.

Finally, the Inspector General found that Billings has assumed complete control over reporting how much of his employees' overtime should be allocated to individual projects. The maintenance supervisors stated that, in the past, they had completed their

own time sheets and the time sheets for the employees they supervised, indicating which projects they had worked on during their overtime hours. However, Billings instructed his supervisors to discontinue this practice so that he could allocate the overtime hours to the specific projects himself. As noted above, neither Manhattan Psychiatric Center's management nor OMH central office reviews Billings's allocation of overtime.

Billings abused his state-issued EZ Pass

New York State issues EZ Passes to state employees assigned to Ward's Island, as the Triborough Bridge, a toll bridge, is the only vehicle route to the island. The EZ Pass is to be used only once per day to allow the employee to access Ward's Island, or for official state business.

The Inspector General's review of Billings's EZ Pass records showed that Billings used his EZ Pass multiple times during work days. Billings used his state assigned EZ Pass for personal purposes, when he left Ward's Island during the day to buy lunch or get gas for his personal car. The Inspector General's analysis of Billings's EZ Pass records from June 2006 through July 2007 showed that of the approximately 300 days worked, Billings used his state issued EZ Pass more than once per day on 81 separate days. Billings claimed that when he first began working at the Manhattan Psychiatric Center, he was told that employees were permitted to use their state-issued EZ Passes twice per day. He claimed that he learned that he was only permitted to use the EZ Pass on his way to work in 2007, after the onset of the Inspector General's investigation, when an OMH internal investigator informed him of such.

According to the Manhattan Psychiatric Center's employee agreement for state-issued EZ Pass, OMH will audit the employee's proper use of the EZ Pass and may remove the EZ Pass if it finds improper use. However the Manhattan Psychiatric Center informed the Inspector General that this audit had not been completed.

The Inspector General referred these findings to the New York County District Attorney's Office. On September 15, 2009, Billings pleaded guilty in New York City Criminal Court to Petit Larceny, a class A misdemeanor. He paid restitution of \$8,079 and a fine of \$750.

FINDINGS AND RECOMMENDATIONS

Robert Billings

The Inspector General conservatively estimates that between June 2006 and July 2007, and between January 2008 and December 2008, Billings has missed over 153 hours of work due to lateness. Regardless of his lateness, Billings consistently reported arriving at work on time. Further, between June 2006 and July 2007 Billings left work prior to the time recorded on his attendance records on 76 occasions, over-reporting his overtime by more than 53 hours. In total, Billings was paid at least \$8,000 for work he

did not perform. The Inspector General referred this matter to OMH and the New York State Comptroller for a complete accounting and recovery of overpayments to Billings.

Billings also abused his state-issued EZ Pass by using it to return to Ward's Island after leaving during the day to run errands or eat lunch. The Inspector General recommended that Manhattan Psychiatric Center periodically review employees' EZ Pass usage to ensure appropriate usage.

The Inspector General further determined that Manhattan Psychiatric Center failed to institute proper controls for overtime charged to central office projects. There existed no procedure to ensure that overtime hours worked were properly reported and charged to the appropriate projects. Billings was granted nearly complete authority in allocating overtime to special capital projects. As a result, Billings was able to falsely report that he worked on projects in which he did not participate. Manhattan Psychiatric Center should take steps to ensure that capital project funds are spent appropriately, and that employees do not work overtime unless necessary.

The Inspector General recommended that OMH take disciplinary action against Billings as deemed appropriate and review the conduct of Director of Facility Administrative Services Rosemary Revoir, who knowingly permitted Billings to abuse capital funding by using it to fund his overtime working on unrelated tasks.

Overtime Policies at Manhattan Psychiatric Center

Apart from the abuses by Billings detailed in this report, the Inspector General found that OMH's and Manhattan Psychiatric Center's exclusive reliance on overtime to complete all of the maintenance improvement projects at the center to be wasteful of state resources. Manhattan Psychiatric Center's highest paid maintenance workers have been doubling their salaries with overtime work, and in one case a supervisor's salary was nearly tripled. Not only must OMH pay the supervisors at least 150 percent of their normal hourly wage during overtime, even the most dedicated employee cannot be as efficient after working 12 hours as he was during the first eight hours.

Further, OMH's practice of permitting certain employees to greatly inflate their pay within only a few years of retirement has generated additional liabilities for the New York State Pension Fund. The Inspector General learned that two of the maintenance supervisors with high overtime earnings for the past several years have set retirement dates for this year, while the third is nearing eligibility. A retired state employee's monthly pension payment is calculated based on his earnings during the five years before retirement and the employee's years of service to the state. Due to the excessive overtime, OMH's three maintenance supervisors may now be eligible for pension payments of approximately twice what they would have otherwise received.

By limiting its reliance on overtime, OMH could secure cost savings both in its own budget and for the New York State pension fund. The Inspector General recommended that OMH review its overtime spending to identify instances in which

hiring additional full-time staff would create costs savings for OMH, and to limit abuse of the pension fund by allowing employees close to retirement to grossly inflate their salaries during their final years of state employment.

Billings Pleads Guilty to Larceny

Billings was criminally prosecuted by the New York County District Attorney's Office. On September 15, 2009, he pleaded guilty to Petit Larceny and paid restitution of \$8,079 and a \$750 fine. OMH is in the process of instituting disciplinary action against Billings.

Response of the Office of Mental Health

OMH advised the Inspector General that it is reviewing the actions of the Manhattan Psychiatric Center's Deputy Director in regard to the approval of overtime and the use of capital funds. OMH also stated that the center's management will be instructed to more closely monitor and periodically audit overtime use and state-issued EZ Pass records, and that OMH's audit unit will periodically review overtime usage at the center and other facilities. Further, OMH advised it will "continue to review its overtime spending patterns to identify instances in which hiring additional staff within existing budgetary constraints would create cost savings for OHM, and limit pension costs."