



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
June 14, 2010

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that Tracy L. Buelow, a Calculations Clerk employed by the New York State Office of Children and Family Services (OCFS) assigned to the Tryon Girls Secure Center in Johnstown, New York, sold at least 12 tablets of Lortab, a controlled substance, to a co-worker, James Gardner.

Buelow was arrested by the Inspector General and State Police and charged with two counts of Criminal Sale of a Controlled Substance, both felonies; her criminal case is pending. Facing discipline by OCSF, Buelow resigned from state service. OCFS will initiate disciplinary action against Gardner upon his return from workers' compensation leave.

ALLEGATION

The Inspector General received an allegation from OCFS's Special Investigations Unit that OCFS employee Tracy Buelow had sold prescription drugs to James Gardner, a co-worker, in a parking lot at the OCFS Tryon Girls' Secure Center.

SUMMARY OF INVESTIGATION

The Tryon Girls Secure Center in Johnstown is a secure youth detention center operated by OCFS. Tryon houses females between 13 and 17 years of age who have been adjudicated juvenile delinquents or juvenile offenders by a court and ordered to reside there for a designated period of time. Once there, residents receive schooling, counseling and, if necessary, substance abuse treatment, among other available programs.

Tracy Buelow was employed by OCFS as Calculations Clerk for approximately two years. She worked at the commissary at Tryon, where her primary duties included distributing clothing to the residents and sorting mail. James Gardner has been employed by the state for approximately 20 years, most recently serving as a maintenance worker at Tryon. His primary duties consist of grounds maintenance, snow plowing and painting. However, Gardner has been on workers' compensation leave due to a work-related injury.

The Inspector General interviewed Tryon staff to whom Gardner had confided that he had received pain pills from Buelow in order to ease his back pain. The Inspector General then conducted an interview of Gardner under oath. Gardner reported to the Inspector General that he has been prescribed various pain medications since his previous injury in 2001. Although when first questioned by the Inspector General about purchasing painkillers from a co-worker, Gardner initially denied any such actions, after moments of contemplation, Gardner admitted that in late August or early September 2009, he purchased 40 Lortab (a mixture of acetaminophen and hydrocodone) pills from Buelow for \$80 in cash. He added that the drug transaction occurred in the maintenance parking lot at Tryon.

The Inspector General next interviewed Buelow under oath. Buelow informed the Inspector General that she had been prescribed Lortab by her doctor for pain. Buelow said that she had become addicted to Lortab, which resulted in her physician recommending over-the-counter pain medicine in lieu of further prescriptions for Lortab. When asked by the Inspector General about selling drugs to Gardner, Buelow admitted to selling Lortab to him. Buelow explained that while still out on workers' compensation leave, she went to Tryon in late August or early September 2009 to ask a co-worker about repairing her roof. While there she spoke with Gardner about her surgeries and the associated pain. Buelow said she initially gave Gardner one Lortab tablet to try because he told her that he was in pain and could not get to his doctor to renew his prescription. She claimed Gardner later told her that the Lortab helped, so she gave him another 10 to 12 tablets. Buelow said that Gardner then offered her, and she accepted, \$60 for the Lortab pills.

New York State Penal Law proscribes the unlawful sale of any controlled substances, which includes the giving or exchanging for money controlled substances by anyone who is not a licensed practitioner. Buelow was arrested by the Inspector General and State Police and charged with criminal sale of a controlled substance in the fourth and fifth degrees.

OCFS's Employee Manual also contains multiple sections requiring employees to behave in an appropriate and lawful manner. In particular, section 2.10 states, "Whether on or off duty, you must not use, possess, distribute or sell illegal drugs. If you are required to possess prescription drugs, you must have a proper prescription from a licensed medical person...." And section 16.1 further states that "drug and alcohol use will likewise be the basis for disciplinary action. Whether on or off duty, employees must not use, possess, distribute or sell illegal drugs."

Buelow agreed to resign from employment with OCFS in February 2010 in lieu of disciplinary action. Buelow's criminal case is pending in the Town of Perth Court. OCFS has advised the Inspector General that it will initiate disciplinary action against Gardner upon his return from workers' compensation leave.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that former OCFS employee Tracy Buelow unlawfully sold a co-worker, James Gardner, at least 12 tablets of Lortab, while at Tryon Girls Secure Center in Johnstown. Buelow was arrested by the Inspector General and State Police and charged with criminal sale of a controlled substance in the fourth and fifth degrees in the Town of Perth Court. Buelow resigned from state service, and her criminal case is pending. OCFS will initiate disciplinary action against Gardner when he returns to work.