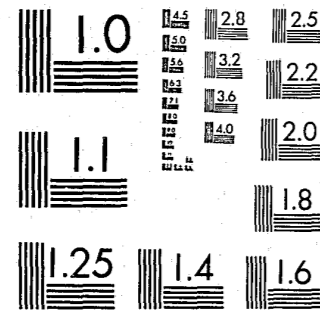


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STATE OF NEW YORK COMMISSION OF INVESTIGATION

THE NEW YORK STATE
OFFICE OF VOCATIONAL REHABILITATION

JULY 20, 1977

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THE NEW YORK STATE
OFFICE OF VOCATIONAL REHABILITATION

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INTRODUCTION

Throughout 1975, a scandal emerged in Niagara County as a Grand Jury handed down one indictment after another against individuals, corporations, and one counselor employed by the New York State Office of Vocational Rehabilitation ("OVR"). The charges included fraud and related to a scheme of kick-backs to the counselor from vendors of OVR. Thereafter, guilty pleas were entered in 23 cases, one against the OVR counselor. In March 1976, the Grand Jury filed its report which was later made public and which charged OVR as being "rife with inefficiency and poor administration."

Prior to the issuance of the Niagara Grand Jury report, the Commission was urged to conduct an investigation into the OVR program as administered in other parts of New York State.

The focal point of the Commission's eight-month investigation into OVR was to determine whether the procedures and controls of OVR adequately safeguard the program from abuse by its own employees as well as the vendors and clients of OVR.

At the same time that this Commission undertook its investigation, the New York State Organized Crime Task Force commenced an investigation of OVR in Erie County and their report was provided to this Commission in April 1977.

The Commission concentrated its inquiry on the OVR program in the New York City area, with particular reference to three OVR offices. In conducting its investigation, books and records were examined and many employees, clients and vendors were questioned, both informally and in private and public hearings.* Some employees of OVR who initially cooperated with this investigation later refused to testify and invoked their Constitutional rights against self-incrimination. Others refused to testify or cooperate from the outset. The failure of such State employees to respond to allegations or explain their conduct obviously did nothing to refute the Commission's general conclusions about the administration of the New York OVR program.

This report focuses on those specific instances of abuse, waste, fraud, neglect and laxity in the OVR program disclosed by the Commission's investigation and public hearings. In addition, this report will discuss the failure of OVR's Albany administrators to fulfill their responsibilities and obligations to the disabled population by permitting incompetent or unfit State

* The Commission held public hearings in New York City on May 3 and 4, 1977. Quotations followed by "P.H." refer to public hearing testimony. All other quotations are taken from private hearing transcripts.

employees to remain on the public payroll. The victims of the malfeasance and misconduct found by the Commission are, after all, the disabled citizens of this State.

OVR - BACKGROUND

The Office of Vocational Rehabilitation, part of the New York State Department of Education, was created more than fifty years ago to assist persons with vocational disabilities in acquiring training and vocational guidance so they might become members of the labor market.

To become eligible for OVR services, an individual must meet three interdependent criteria:*

1. There must be a disability which is;
2. A substantial handicap to employment; and
3. There must be a reasonable expectation that the individual will benefit from OVR services (i.e., become employable).

Upon a determination of eligibility, an individual is considered a "client," and a plan of service is drawn up which specifies the type of "service" to be provided. That service may be many things including, but not limited to, vocational training at a trade or business school, vocational training at a rehabilitation center, and college and graduate school training.

Currently, OVR spends approximately \$60 million

* See NY Ed. Law §1002(1); (McKinney 1969) and Vocational Rehabilitation Act 29U.S.C.A. §706(6) (Supp.1977).

annually of which 70-75% in recent years is funded by the federal government and 25-30% by the State. Federally, the program is administered by the Department of Health, Education and Welfare, but its actual operation, management and policy making is on the state level subject to federal guidelines.

This year's State Budget estimated that

"approximately 104,000 individuals are expected to receive OVR services during 1977-78. Rehabilitation services include vocational and adjustment counseling, college and post-secondary training, corrective medical aid and prosthetic devices, and maintenance assistance and are administered through the office's regular operations, cooperative agreement with the Department of Mental Hygiene, Correctional Services and Office of Drug Abuse Services, and through special projects which are 90% federally supported."

OVR is headed by the Associate Commissioner of Education, appointed by the Commissioner of Education. An Assistant Commissioner, also an appointee, is second in command at OVR. All other OVR positions are within the New York State Civil Service structure.

There are several separate OVR divisions under the direction of the Assistant Commissioner. The Operations Division has the responsibility for providing day to day services to OVR clients. The Director of Operations directly supervises four area supervisors,

who are geographically stationed throughout the State, and a director of the OVR/Mental Hygiene Program.

Area supervisors and the director of the OVR/Mental Hygiene Program are responsible for the activities of each local office within their jurisdiction directed, for the most part, by an associate counselor. In turn, the associate directs the activities of senior counselors, each of whom are responsible for several rehabilitation counselors.

The rehabilitation counselor is, with rare exception, the sole professional employee of OVR to have contact with clients. They make all determinations with respect to eligibility and plans of service, and although senior counselors approve the plans of service, they do so on the basis of written information contained in the client's case folder rather than through personal interviews with the client. The potential for abuse occasioned by such limited interaction between OVR and its clientele was cited by the Niagara County Grand Jury and will be discussed further in this Commission's report.

Except for counseling and guidance, all other services provided to OVR clients must be purchased from "vendors." "Vendors" are as diverse as suppliers of prosthetic devices, vocational schools or rehabilitation facilities. Although many vendors are used repeatedly

by OVR, no apparent effort is made to enter into long term contracts with vendors. Rather, each transaction is treated essentially as a first contract. Such dealings may be appropriate for training wherein every client's needs are unique. However, OVR also purchases supplies, uniforms and textbooks on behalf of its clientele. OVR makes no effort to effect savings through bulk purchases or pursuant to a bidding process.

Vocational and business schools are paid at standard rates which are on file with the State Education Department.

OVR relies upon the Department's Bureau of Occupational Education, which licenses trade and business schools, with regard to any school's qualifications. However, in regulating these schools, the Division of Occupational Education does not focus on their qualifications to serve what may be the distinctive needs of an OVR population which is, by definition, either emotionally or physically disabled.

OVR/DMH

In 1968, a joint venture was entered into by OVR and the Department of Mental Hygiene ("DMH") and reorganized pursuant to a new agreement in 1973. The goal of the cooperative agreement was to provide a continuum of service to patients of DMH facilities from the time of their exclusive relationship with DMH, through a rehabilitation relationship with OVR which would assume the major role in facilitating the client's return to the community. To effectuate the agreement, OVR counselors were stationed within DMH facilities, including Brooklyn State Hospital, Manhattan State Hospital, Creedmoor Psychiatric Center and Bronx Psychiatric Center.

It was contemplated that the counselors stationed at the DMH facilities would be serving persons who were residents of the institution, as opposed to individuals with no relationship to DMH. As DMH began to expand into the community with satellite clinics of the parent facility and community mental health centers, OVR began to service the patients of those facilities as well.

Joseph Palevsky, Director of the Downstate OVR/DMH program, testified regarding the appropriate sources of referral to his units:

"Q ...what clientele did you understand you were supposed to be serving?

A My understanding at that time was that we would be serving clients that were A, in the institution; B, out-patients, post institutionalized patients; C, those that were known to treatment centers that were operated by the Department of Mental Hygiene, but these individuals had never been in a mental institution; D, those individuals who are known to clinics and agencies that were wholly or in part staffed by DMH personnel.

* * *

Q Was it your understanding this was an exclusive arrangement whereby the counselors who were stationed in the Department of Mental Hygiene were supposed to be serving only persons known to the Department of Mental Hygiene, or could they also be serving the general community...?

A No. It was not my understanding that we were supposed to be serving the general community, not at all." (P.H.)

While Associate Commissioner Adrian Levy emphasized that this agreement was not a hidebound legal contract, he also testified that certainly the highest priority clients for these counselors were those with a past or current relationship to DMH. Mr. Palevsky and Marion Martin* have both stated that their staff had been advised

* Ms. Martin was Assistant Commissioner for Vocational Rehabilitation from November 1973 to January 1977. As a State employee, she retired in January 1977.

regarding appropriate referral sources and OVR's responsibility to DMH. However, no formal list was compiled of appropriate DMH referral sources for the downstate offices until the fall of 1976, more than three years after the joint program had been in operation.

Interviews with counselors and supervisors at Brooklyn State and Manhattan State Hospitals revealed that although they had a general understanding of the clientele which they were to be serving, during 1974 and 1975 the four counselors at Brooklyn State and one counselor at Manhattan State violated this mandate. In fact, some even concealed this violation by indicating on records maintained by OVR that clients had been referred by acceptable sources. In so doing, these counselors ultimately facilitated the provision of costly OVR services to many persons who, according to the Director of Operations, Howard Berger, were "marginally disabled" and whose disabilities stemmed mostly from "unemployment and financial strain rather than these later circumstances being brought about by a more long-standing underlying psychiatric condition as the cause."* This Commission further discovered that contrary to the goal of the cooperative agreement, the majority of these clients served by the counselors of the OVR/DMH program had no relationship at any time with DMH.

* OVR Report on Review of Cases at DTI.

OVR AND THE DRIVER TRAINING INSTITUTE

Overview

During the late summer of 1975, a computer printout alerted OVR's Albany administrators that of a total amount of \$4,549,224, remitted statewide during the preceding fiscal year to vocational school vendors of OVR, \$1,812,243 (40%) had gone to a driver's school in Brooklyn known as the Driver Training Institute ("DTI"). In fact, DTI had received more state and federal vocational rehabilitation funding via OVR during that year than any other vendor. The figure of \$1,812,243 becomes especially significant when notice is taken that it represents training 715 persons at an average cost of approximately \$2,500 for generally a five to six week course. It was later learned by Commission accountants that of those 715 clients, 365 had been referred by the four counselors from the OVR unit at Brooklyn State Hospital, accounting for nearly \$1,000,000 spent. (The balance of 350 persons had been referred by approximately 90 other counselors in the downstate area.)

In the following fiscal year, one counselor at the Manhattan State Hospital Unit referred 151 clients to DTI at a total cost of \$417,124 pursuant to a plan whereby he went to DTI on a regular basis, picked up

cases and had DTI type up many of the OVR forms. Moreover, almost all of those cases had been referred by a community center headed by a powerful Bronx politician who also headed two organizations which received contributions from DTI interests totaling \$6,800 in 1975.

The receipt of the computer printout during the summer of 1975 and the fact that in one day, sixty authorizations for DTI training were received in Albany alarmed the Central Office administrators. Assistant Commissioner Martin ordered an inquiry into OVR's utilization of DTI, which was directed by Howard Berger, the Director of Operations. In turn, Berger delegated some of the responsibility to Joseph Palevsky, Director of the Downstate OVR/DMH program, from which most of the DTI clients had been referred.

Additionally, Ms. Martin instructed Mr. Palevsky to temporarily halt all pending authorizations for training at DTI.

The apparent emphasis of OVR's inquiry was to determine the validity of alleged job placements by DTI which, when reported to OVR, led to closing case files of those OVR clients originally sent to DTI. Some inquiry was also made into the source of client referrals and the appropriateness of truck driver training in general.

In an early memorandum to Assistant Commissioner Martin, Berger stated:

"Our activity with DTI has resulted in significant improvement in the employment situation of the successful cases and we have, to some extent, relieved the unemployment problem, if not serving the severely disabled in the process." (Memo 9/19/75)

Over the next months cases were reviewed, conclusions reached and memoranda issued regarding, most significantly, the propriety of commercial truck driver training. Allusions were made to improper referrals, the significance of disabilities, and the truthfulness of DTI's placement information. Little, if any, inquiry was made into the cost of DTI training and into the more important issue of whether the OVR counselors who processed these cases were fulfilling their responsibilities to their clients, to DMH, and to OVR. Subsequent to its review, OVR lifted its ban on utilizing DTI. This ban was not reinstated until May 16, 1977, twelve days after the conclusion of this Commission's public hearings.

Insofar as the rates were concerned, it was Berger's conclusion in early autumn 1975, that while DTI's rates seemed high, they appeared to be charging "what the traffic will bear." In fact, this Commission has determined that DTI charged what OVR would bear, prices sometimes more than 2 1/2 times what the general public

was paying. This mark-up was never discovered by OVR, nor were the following:

- prospective OVR-DTI clients were coached by school personnel as to how they could feign disabilities and thereby become eligible;
- DTI submitted fraudulent case service vouchers and training progress reports; and
- DTI received an undisclosed middle-man profit on uniforms purchased from an independent company, supplied to clients, and charged to OVR.

How DTI Used OVR

In the course of reviewing the books and records of DTI, Commission accountants discovered an entry for refunds paid to students. On the basis of OVR client records, it was apparent that many of the persons who received refunds from DTI had later become clients of OVR. At random, forty-four students who had received refunds were selected, and of those, twenty-eight were found to have been OVR clients. Commission interviews with clients revealed that in most cases, the students had completed part of their training and tuition payments when they were forced to drop out of DTI for lack of finances. These individuals who had been private paying students of DTI were then directed to OVR (primarily the unit at Brooklyn State). They were accepted as clients of OVR and after OVR paid for their training at rates far exceeding those they had contracted for privately, the clients were refunded the amounts they had previously remitted to DTI.

Charles Ohnmacht testified that during the fall of 1974, he entered into a contract for a tractor trailer driving course at DTI for approximately \$1,000. Mr. Ohnmacht attended school full time and progressed well, so that on November 14, 1974 he successfully took his Class I license road test. However, shortly before the

conclusion of his training he became aware that many of his classmates were having their tuitions paid by governmental agencies. Interested in taking advantage of any special programs, Mr. Ohnmacht sought the advice of Arnold Brite, then General Manager of DTI:

" ...I asked him is there any way that I could get into the same thing. He said yes, there was, and he would make an appointment for me.

Q At about the time that you had this discussion with Mr. Brite, how far along were you in your course of tractor trailer driving?

A Pretty well finished.

* * *

Q Did he indicate to you that if you were accepted by OVR...that you would get a refund of the tuition that you had paid?

A Yes, he did.

Q How much of the tuition had you paid by the time you had that conversation with Mr. Brite?

A I think the whole thing was paid at that time." (P.H.)

According to Mr. Ohnmacht's testimony, Brite arranged an appointment for him at the OVR unit at Brooklyn State Hospital and he did become an OVR client. OVR records indicate that Mr. Ohnmacht was in a four-week training program at DTI commencing on November 18, 1974,

four days after he had obtained his Class I license, and was in fact finished with his training. Subsequently, DTI submitted a voucher for services to OVR to cover the cost of a four-week program from 11/18/74 to 12/20/74 at a cost of \$2,145 and refunded \$1,000 to Mr. Ohnmacht. The voucher, signed by Arnold Brite, certifies that the bill is "just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing." The bill is clearly fraudulent. Similarly, the training progress report submitted to OVR by DTI which indicates Mr. Ohnmacht's attendance from 11/18/74-12/20/74 is also fraudulent.

Christopher Joseph testified that he had entered into an agreement with DTI sometime during 1973, but that after several months of part-time training he could no longer afford the tuition and dropped out. As he recalled, the cost to him was to have been approximately \$1,500. At the time he dropped the course, he had paid approximately \$700. Sometime after he left school, he was called by an individual at DTI who asked him why he was no longer attending classes, and when he explained his lack of resources he was asked to come to DTI so they could tell him about OVR. Subsequently, Mr. Joseph met with Arnold Brite at DTI.

"Q What did Mr. Brite tell you when you went back to talk to him?

A He told me that the people can help me, if you know, I had to see them and tell them I was, you know, couldn't sleep...having problems with my family because I had no job.

* * *

Q Did you understand that OVR was an agency which is set up to help people with disabilities?

A Yes, I understand that far.

Q Did Mr. Brite tell you that you should not tell OVR that you had already been a private-paying student?

A Yes, he did." (P.H.)

Other clients told similar stories. One who was directed to OVR after he could no longer pay the tuition was forced to borrow the balance due from his employer even after he was accepted as an OVR client, because DTI did not want to wait the several months it would have taken to receive state payments. Another prospective student was assured by the school's owner that he would qualify for OVR services. He thereby agreed to pay the lower tuition himself even before he was deemed eligible so he could immediately begin training, with the agreement that he would subsequently received a refund. All these individuals became OVR clients and OVR endorsed training programs on their behalf at DTI.

In all cases, the charges to OVR for the same program increased drastically. On the basis of its random sampling, Commission accountants have estimated that the charges to OVR were approximately 240% greater than the charges to private-paying students of DTI.*

* See Appendix I (Chart of Overbillings).

The Role of Private Physicians

Although OVR employs consulting physicians and psychiatrists, the examinations which form the basis of disability diagnoses are performed by private practitioners at state approved rates. During the years 1974 and 1975, the fee was \$24.00 for an examination or psychiatric interview, plus a written evaluation. The general and specialist evaluations must be "current," i.e., rendered not more than 90 days prior to the client's initial contact with OVR to establish eligibility.

In the vast majority of OVR/DMH cases, it can be assumed that the major disabling condition is one of a psychiatric origin. Hence, it would follow that for those clients OVR could obtain current psychiatric reports from DMH at no cost, thereby obviating the additional expense of paying private practitioners.

During the course of a private examination, Ms. Martin was questioned regarding referrals to private psychiatrists by OVR/DMH counselors for DTI trainees. She stated that "not very many" psychiatric reports had been provided by private practitioners. However, the Commission's review of cases processed by the counselors at Brooklyn State Hospital during 1974 and 1975 failed to disclose any psychiatric reports from DMH. In virtually every case, the psychiatric report had been

supplied by private psychiatrists at the state approved rate.

While OVR counselors and administrators have complained about a lack of cooperation on the part of DMH in supplying medical information, it was this Commission's finding that most of the clients who were sent to DTI by the counselors at Brooklyn State Hospital had never had any contact with DMH and consequently no such information existed.

As previously mentioned, these reports form the basis of a determination of eligibility by the counselor. The lack of a diagnosable medical or psychiatric problem would render the individual ineligible for OVR services. Conversely, the existence of an extreme disability might also result in ineligibility on the ground that the individual, while disabled, may be an unsuitable candidate for vocational rehabilitation. The counselor must always be guided by the requirement that there is a reasonable expectation of employment subsequent to the rehabilitation process.

Whereas physical disabilities generally are capable of being easily diagnosed, the presence of a vocationally disabling emotional problem is less discernible, and consequently diagnoses in the areas of neuroses and psychoses are more difficult. Counselors

have acknowledged that psychiatric diagnoses leading to determinations of eligibility are easily obtained. One counselor, when asked about anxiety neurosis as an acceptable disability responded:

"Q Was it very prevalent?

A I would say so.

* * *

Anyone who had ever been to a therapist was eligible for OVR, from what I observed. I don't think there is a person in New York City who couldn't get an anxiety neurosis from a therapist, in all honesty.

In fact, it's kind of a running joke at a point -- gee, if my mother had only knew, I could have had my Ph.D. by now."

In the course of this Commission's review of case files of former DTI clients, it became apparent that most of those clients whose cases were processed by the counselors at the Brooklyn State Hospital Unit had been referred to one Manhattan psychiatrist for evaluation. For the most part, the reports she submitted to OVR with diagnoses reiterated factual information previously ascertained by the counselor, with perfunctory references to clients' inability to sleep, loss of appetite, and/or anxiety about providing for their families. Former clients testified regarding the brevity of these interviews:

"Q What happened when you met with this woman psychiatrist?

A Well, really I was up there about three minutes in her office personally, but I was waiting outside because she had somebody inside at the time I was there. But at the time I went in I stayed about three minutes.

Q So your total interview with this woman psychiatrist lasted for three minutes?

A Something like that. It was very short, you know.

Q What did she discuss with you?

A She asked me if I was sleeping, you know, how am I doing, you know. Simple questions, you know. Nothing really too - that I would think a psychiatrist should, you know - I can't remember exactly, but I know for a fact it wasn't long." (P.H.)

Another client told us that this same psychiatrist asked his name, what he was doing with himself, was he happy, and were there any problems he wished to discuss. Without exception, those clients contacted by the Commission who had been diagnosed by this psychiatrist, and whose diagnoses formed the bases for psychiatric disabilities, stated that their interviews were extraordinarily short and non-probative.* Commission accountants have

* When questioned under oath, this psychiatrist denied that any interview was as brief as 5-10 minutes.

determined that for the fiscal year ending July 30, 1975, this psychiatrist received \$9,804 from OVR, and the following year \$9,417. Eighty-two out of a total of 180 referrals to her in 1974-1975 had come from Brooklyn State Hospital.

When OVR counselors were questioned about the brevity of these interviews, they denied any knowledge. This is understandable in view of their having had no contact with the clients after referring them for psychiatric evaluations.

At public hearings, Joseph Palevsky testified that counselors have a responsibility to discuss the results of a psychiatric evaluation with the client, and that it should be done in all cases in which a psychiatric report is obtained.

The majority of psychiatric reports reviewed during the course of this investigation did not meet OVR's own standards. They merely reiterated the client's background information provided to the psychiatrist by the counselor for guidance, and were plainly uninformative even to the lay person in terms of psychiatric propensities. As Commissioner Brydges pointed out, the cost of such a report was far greater than \$24.00:

"COMMISSIONER BRYDGES: Mr. Ruskin, the state wasn't charged twenty-four dollars for that referral,

they were charged \$2,145 when he was accepted on the program as a result of that evaluation, isn't that right? That's the way it goes." (P.H.)

It should be finally noted that during the investigation, the Commission staff talked with a New York psychiatrist, Dr. L., who had been providing psychiatric evaluations for clients of OVR, all of whom had been referred by the Brooklyn State Hospital Unit of OVR. In approximately November 1974, he was called by Edward Yanishefsky, a counselor in that unit, who asked to come and talk to the doctor at his office. Dr. L. agreed, assuming Yanishefsky wished to discuss a specific client's case. Shortly after his arrival, Yanishefsky told the doctor how "we [meaning the counselors] like to be appreciated." Dr. L. responded that he did appreciate the good job the counselors were trying to do. After an awkward pause, however, Dr. L. sensed that moral appreciation was not what Mr. Yanishefsky was seeking, so he asked the latter if there was more to his meaning of "appreciation." As Dr. L. recalls, Yanishefsky responded, "Well, you know some doctors give holiday gifts or I have been taken out to dinner a few times." Dr. L. answered that such was not his practice, and at that point Yanishefsky left, making no protest and not forcing the issue. Over the next few months, however, the number of referrals to Dr. L. diminished until they finally ceased in approximately March 1975.

Rates and Training

Prior mention has been made of the very high cost to OVR of training clients at DTI. Commission accountants have estimated that for a course averaging five to six weeks in duration, the State paid an average of \$2,500. The public hearing testimony of former OVR clients and a Commission accountant revealed that DTI derived an additional profit of at least \$1,000 for training so-called disabled persons.

Whereas vocational and business schools licensed by the State Education Department are paid by OVR in accord with rates on file with the Bureau of Occupational Education, a division of the State Education Department, driving schools are under the jurisdiction of the Department of Motor Vehicles ("DMV"), and DMV does not regulate or approve the rates charged by these schools. However, licensed schools are required to file their rates with DMV, as well as any changes thereto.

The Commission has obtained copies of DTI's fee schedules and course description, filed with DMV's Brooklyn office for the period June 1972 - June 1976. According to those documents, from June 1972 until June 1975, DTI was holding itself out to the public as charging \$885 for 125 hours of instruction on a commercial vehicle

at which time DTI filed a revised fee schedule with courses broken down into modular programs. When the Commission sought the filed rates from OVR, we were provided with the modular rate schedule. Some confusion arose because while the cases processed by OVR in 1975-1976 provide for DTI training on a modular basis which are comparable to rates on file, the authorizations and vouchers for the preceding year were in terms of individual classes at hourly rates. This breakdown by classes, which was consistent for cases processed at Brooklyn State Hospital in 1974-1975, bears no relationship to the rates in the possession of DMV. How then did OVR know what to pay DTI during that year?

The rates charged by any school doing business with OVR are maintained centrally as well as in the local offices in training directory books. It is by access to the training directories that counselors and/or clerical staff who prepare the authorizations for training verify the validity of the rates charged. Not one of the counselors interviewed by this Commission who had been engaged in the extensive business with DTI had ever seen a rate schedule. Moreover, most indicated that they would not even know where to locate such a schedule. At least for 1974-1975, DTI submitted its proposed plan with charges to OVR and OVR did no more than transpose those charges

onto its own forms without any recourse to an approved rate schedule.

The issue of DTI's rates was barely addressed in OVR's review of DTI and prior to this Commission's public hearings, Messrs. Palevsky, Berger, Ms. Martin and Commissioner Levy maintained the position that OVR only pays schools according to published rates. Commissioner Levy stated that "Ms. Martin...used to ride herd on the rates." As late as April 19, 1977, Ms. Martin said of the rates paid to DTI, "...we didn't pay any higher than the public rate..." At public hearings, Mr. Berger informed us that he did not obtain the above-mentioned 1974 rates until the week of this Commission's hearing, despite his having stated that it is part of his job responsibilities to ensure that OVR is paying the same rate as the general public. Mr. Berger went on to testify:

"I don't know whether those were the ones that were supposedly in force in '74 or '75 or not because I don't know whether there were any other changes between then and 1975." (P.H.)

By affidavit of the Principal Motor Vehicle Inspector who provided DTI's rates to this Commission, there were no changes. Moreover, the rates were always readily available for OVR's inspection. It is clear that OVR relied upon representations made to it by DTI regarding the rates without any independent inquiry. In view of

OVR's discovery of the false placement information supplied by DTI, it is curious that any reliance was placed on further representations from the school or its personnel. Ms. Martin testified that:

"I had a statement from the director of that school stating they were charging the same rate. We challenged them on this. But I haven't got a definitive piece of paper." (P.H.)

That definitive piece of paper remained with DMV until May 1977 and no one at OVR made any effort to obtain it.

Who should have protected OVR from paying DTI inflated rates? Commissioner Levy testified that he could not answer that question:

" I can't say who is responsible because I think the responsibility goes up the line. I think the area supervisor has a responsibility because its [the rates] received down in the local area.

Q Do the counselors have any responsibility in the case of DTI?

A They have responsibility in the case of any school to check it against the existing rates." (P.H.)

It is this Commission's conclusion that the initial responsibility belonged to many persons but that OVR's failure to address this issue after being alerted to the DTI problems by September 1975 belongs exclusively to the senior administrators in Albany.

Clients interviewed by this Commission indicated that courses billed to OVR were either never given, or not given for the amount of time specified. Every voucher for case service reviewed by this Commission reflects a charge for training on a "Class Three Type Truck." The course was allegedly given in twenty-hour sessions, at \$300 per twenty-hour session. In most cases, the State was billed for two twenty-hour sessions. Mr. Ohnmacht, on whose behalf OVR paid \$600 for forty hours of Class Three Type Truck sessions was asked whether they were in fact given:

"Q Did you ever have any sessions on a Class Three type truck?

* * *

A None at all. Excuse me. There was one. Just to see if I could handle the clutch we drove once around the docking area, I believe it was.

Q How long did that last for?

A About two or three minutes." (P.H.)

Mr. Joseph also testified that he had had no such sessions despite the payment to DTI of \$600 on his behalf for that class. In addition, he testified that his only exposure to "double-clutching" was "the first time I was paying for myself they took me out one time..." (P.H.) OVR paid DTI \$600 for providing Mr. Joseph with "six ten hour basic shifting, clutching, double clutching, 3, 4, 5 speed transmissions."

Mr. Palevsky testified that the counselors can ascertain whether clients are receiving what the State pays for on the basis of monthly contact with clients and progress reports from the school. Later discussion will show evidence of the lack of contact between OVR counselors at Brooklyn State Hospital and DTI clients during 1974-1975. The progress reports submitted by DTI were wholly uninformative. When interviewed prior to the public hearings, Mr. Palevsky was shown one typical report and asked whether it would tell the counselor whether or not the client received the billed training. He responded:

"This progress report on the case that was referred to is inadequate, in that it does not refer to the profile of the client in his training program in the various things that he is undertaking or had undertaken at Driver Training. Nor does it indicate his level of achievement in these various categories."

The obvious inadequacy of these reports was of little concern to the counselors to whom they were sent. It is apparent that once the client's case had been processed for DTI training, the counselors did not follow up on client progress nor determine whether public funds were being spent properly. It is also apparent that the issue of value received was not addressed by OVR in its DTI review. Although former clients were questioned by OVR to verify placement, they were never asked questions which would have led OVR to the same findings made by this Commission.

Uniforms

In addition to training, DTI also charged OVR for uniforms purchased from W.H. Christian & Sons, Inc. ("Christian Inc.") in Brooklyn. Students were sent to Christian Inc. and outfitted. Thereafter, Christian Inc. would submit a bill to DTI for the uniform. DTI would in turn bill OVR generally \$100 for the uniform. In addition, DTI normally submitted an unnumbered Christian Inc. invoice to OVR for each student to support the charge. Without exception, the invoices submitted to OVR did not indicate any unit prices. The invoices were frequently accompanied by a signed paper from the client indicating that he had received, for instance, four pieces of Item #1, four pieces of Item #3A, etc. These receipts never showed what Item #1 or #3A actually were.

While examining DTI's books and records, Commission accountants discovered another set of invoices from Christian Inc. which reflected different charges than those on the invoices provided to OVR. They then obtained the official invoices directly from Christian Inc. The latter are numbered and reflect unit charges.

A comparison of the different invoices revealed a mark-up on the invoices supplied by DTI to OVR. In the appended invoices, the one for \$66.75 was submitted by Christian Inc. to DTI.* The inflated bill for \$100 was submitted to OVR by DTI.**A spokesperson for Christian Inc. advised Commission accountants that their customer was DTI and that they were unaware of OVR. It is not known who prepared the fraudulent invoice on a Christian Inc. letterhead. However, this Commission has determined that the amount received by Christian Inc. was the lower amount actually billed to DTI. It is estimated that there was \$22,000 in overcharges to OVR as a result of this inflated billing system. Moreover, clients advised the Commission staff that they did not always receive the quantities billed.

DTI's "middle-man" profit on uniforms using a double billing system went unnoticed by OVR in its more than two years of doing business with DTI and review of DTI training.

* See Appendix II.

** See Appendix III.

Job Placement

In addition to all the previously mentioned problems in the business relationship between OVR and DTI, DTI had a poor job placement program. Students soon learned that the training was considered inadequate by prospective employers. One former client summed up the problem:

"Well, in the trucking business no owner-manager is going to hire a guy just out of school on a tractor trailer...you start with a straight job...would you do it if you owned a rig, \$75,000 worth of tractor? Would you trust the guy just out of school on it...?"

Not one client interviewed during the Commission's investigation was placed by DTI, and they all commented that DTI's placement efforts were superficial and futile.

Any jobs which OVR clients obtained were exclusive of the efforts of DTI or OVR. In one case, a former OVR-DTI client who is currently driving a tractor trailer was able to find a job only after registering with an employment agency at a cost to him of approximately \$175.00. OVR had spent \$2,745 not only for his training, but also for placement efforts.

Although OVR discovered that many of the so-called placements by DTI were false, and counselors were cautioned about sending clients for truck driver training in view of a tight job market, little if any inquiry was

made by OVR into the practical value of DTI's training. Moreover, OVR presumably relied upon the salesmanship of DTI's owner and lifted its ban on doing business with DTI in December 1975. This was done despite OVR's knowing that DTI had supplied the State with patently false placement information during the preceding year.

The Role of OVR Counselors

The facts set forth thus far describe the activities of OVR clients, a private psychiatrist, and DTI in relation to OVR's unit at Brooklyn State Hospital during 1974 and 1975. Attention must now be focused on the role of OVR counselors and supervisors in advancing these activities.

During that time period, there were four rehabilitation counselors at Brooklyn State, and one senior counselor, Stanley Sherman, who was immediately subordinate to Joseph Palevsky, the program director.

OVR delegates to the rehabilitation counselor the responsibility for conferring with clients, making determinations of eligibility, drawing up plans of service, and following clients through to successful rehabilitation. While OVR's Albany administrators claim that rehabilitation counselors do not act alone in exercising discretion and dispensing OVR funds, the Commission found that with rare exception, the counselor is the only person in the OVR structure who has personal dealings with clients.

Prior to the enactment of a client's plan of service, the counselor is expected to interview the client and acquire some background information which might shed light on the nature of the disability and the appropriate course of action. If a client has been referred from a

DMH facility, clinic or community center, it becomes the counselor's responsibility to gather together pertinent client information from those sources. Based upon the client's background and information acquired by the counselor, an initial determination may be made to send the client for a general and specialty medical examinations. On the other hand, the counselor may determine from the outset that the individual is ineligible for OVR services.

The clients who were interviewed and who have testified before this Commission both publicly and privately told of the ease with which they became certified as eligible. With apparently little more disturbing them than an inability to sleep well and a concern for the welfare of their families, individuals with no history of psychiatric treatment at DMH facilities or otherwise were sent to private psychiatrists for what in many cases were 5-10 minute interviews. On the basis of these interviews, psychiatric disabilities were diagnosed, most in the categories of anxiety and depressive neurosis.

Mr. Joseph was questioned about his only meeting with any employee of OVR's Brooklyn State Hospital Unit:

"Q What did she ask you and what did you tell her...?"

A I told her I was having problems sleeping...I didn't have a job, and I would like to get help, assistance so I can continue my course.

* * *

Q Did she ask you any questions about your mental state?

A Not as far as I can remember.

* * *

Q Did she know that you had been referred by DTI?

A Yes, she did because, you know, she was expecting me." (P.H.)

Mr. Ohnmacht also found it easy to be deemed eligible for the receipt of OVR services. After he arrived at the Brooklyn State Hospital Unit with his letter of referral from DTI, he was called into the office by a woman:

"A ...I was called inside by a woman and she asked me questions. The exact content of the questions I can't remember word for word, but the outcome was she wanted to know what I was doing there. I explained to her that I was sent and I wanted to get my tuition paid by OVR.

* * *

Q What was her reaction?

A It was more, I guess, a reaction to say that I didn't belong there.

Q Why not?

A I think she said that there was nothing wrong with me so I didn't belong there. She wanted to know what kind of handicap I had and I really didn't know what was going on." (P.H.)

Mr. Ohnmacht was ready to leave. However, at that point a man entered the office and apparently engaged in conversation with the woman regarding Mr. Ohnmacht. This man then began to question Mr. Ohnmacht in a way which might have suggested the appropriate answers:

"A Again his exact words, exactly the way he said it I couldn't really recall, but it was something to the effect that: You're having trouble sleeping aren't you?

And I said yes.

He said, are you uptight about your work and your job?

I said, yes.

And he turned around and said, 'see,' and took care of that. He said a few words to the girl and he left.

Q Had you been having trouble sleeping at that time?

A Not really, sir. No." (P.H.)

Another client told us that he had been instructed by DTI to falsely tell the counselor at OVR that he could no longer paint houses because the fumes bothered him. Some concern was expressed by this client to the interviewing counselor trainee at OVR when she directed him to

a psychiatrist for evaluation. As the client recalled, the counselor trainee reassured him:

" She explained that there was a disability involved and that everybody's doing it, so no big sweat. That was my concern. I didn't want to be classified as mentally upset or anything like that.

Q Did she say to you everybody is doing this?

A Yes, don't worry about it, everybody is -- you don't worry about it, they'll take care of it."

Another client stated that when he met with the OVR counselor at Brooklyn State Hospital he was not told that it was an agency for disabled persons. He informed the counselor that he had been forced to drop out of DTI because he could no longer afford the tuition himself. After a brief interview at OVR, he was sent for a medical and psychiatric evaluation, diagnosed as having an anxiety neurosis and sent back to DTI at a rate of \$2,145, \$1,095 more than he had contracted for privately. He had no further contact with his counselor at OVR.

Mr. Palevsky and others testified that in most cases, monthly contact with the client is considered a minimum for keeping abreast of the client's progress and well-being. However, most former OVR clients interviewed during this investigation told the Commission staff that

after their initial interviews at OVR, they had no further contact with that agency. In the few cases where later contact was made, it appears to have been pursuant to OVR's review of the DTI clients for the purpose of determining employment status.

One important duty of the counselor is to assist clients in making the transition from any vocational program to employment. While schools are generally relied upon for job placement, the counselor is expected to counsel the client regarding that transition towards the conclusion of training. According to OVR personnel, contact with the client may be established over the phone, through the mails, or by visiting the client at the training facility. According to statements of OVR's DTI clients, none of these methods were utilized.

OVR counselors tried to excuse their failure to follow up with clients by claiming that the DTI training program was too brief. However, many students were training on a part-time basis which lasted several months, although the authorizations for training as prepared by counselors reflected full time, short-term training. The failure to maintain any contact with clients also meant that DTI could be paid for an allegedly completed course months before training actually was concluded or payments continued to DTI for clients who had dropped out of the training program.

Counselors were questioned regarding the meteoric build-up of DTI cases, and their acceptance of persons who were not known to DMH, despite the cooperative agreement between OVR and DMH. The counselors were unclear as to who had constructed the chain of referrals from DTI, but they processed cases for those persons because, as one counselor stated, "It was just less pressure to not buck it..."

Senior OVR administrators deny that there is any pressure to build up caseloads. Yet the counselors at Brooklyn State were keenly aware of such pressure:

"Q Was there pressure, either overt or covert, upon the counselors at Brooklyn State Hospital to build up a caseload?

A Yes, there was. I definitely felt it.

Q And where did it come from?

A It would come necessarily from Mr. Sherman who would, you know, comment that the pressure had come from Mr. Palevsky, or the pressure was coming from the hospital..."

They spoke of a competitive fever among the units to achieve a high number of rehabilitations, and as one counselor saw it, DTI was a chance to put persons into short training programs, achieve quick rehabilitations and enhance the statistics of the mental hygiene units.

Joseph Palevsky testified when he was promoted to the position of Director of the Downstate OVR/DMH program, he was told that he had a "mission" to develop a good working relationship with DMH, to do case finding, and to at least open a case file and provide an evaluation on every referral from DMH. This attitude was conveyed to his counselors, one of whom told of being instructed to accept referrals of persons whom she felt to have been wholly inappropriate for OVR services as being too infirmed or aged. "Some of the referrals I had were so bad and I was told by Mr. Palevsky to accept those cases; whether I felt they were appropriate or not I was to work with them because he wanted their caseload." In addition:

"Q ...Has there ever been...an instance in which you flatly did not want to send the person for training?

A Yes.

Q And you were instructed to?

A Yes. I have. Sherman has said that to me - I have gone in to discuss it...and he said...provide it. Give it to him. They will bomb out anyway, and this way they will be off our backs."

Another counselor indicated that when clients come to OVR with a preconceived idea as to training which the counselor believes is probably inappropriate, "in that case the client usually will be given the opportunity to

do what he thinks is best; if he fails, then he has a new sense of reality." After acquiring a "new sense of reality," the client may return to OVR, and then receive appropriate services. Of course, the State bears the cost of achieving that "new sense of reality" in an unproductive training program.

The counselors stated that clients who came to their unit seeking DTI training knew what they wanted "to the point of frustration." One remarked that the arrangement seemed "programmed," and that the clients were unreceptive to counseling -- all they wanted was DTI training and "they knew what to say" to acquire it.

As referrals from DTI grew, so did the counselors' concern as to the manner of reflecting referral information on OVR forms. In view of their responsibility to be working almost exclusively with persons known to DMH, they knew they could not indicate DTI as the referral.

According to counselors' statements, they were instructed by their Senior Counselor, Stanley Sherman, to list as the referral source community agencies which were located in the client's "catchment" or geographic area of residence.

"Q What referral sources did Mr. Sherman instruct you to put on the intake interview application as referral sources for those people?

A He said to put down the clinic in the catchment area in which they lived and I asked him: How can we do that, since we are not getting medicals from them? I don't know that they are from there and he said that he had -- I don't remember the sequence, but he had spoken to Mr. Ramsar and told him we were getting a lot of community people. He said to put them under the statistics for the clinic and their catchment area and I said -- as I said, I'm not sure which sequence -- I said: Does Mr. Palevsky know about this? -- and he says: Yes. I wouldn't ask you to do anything or tell you to do anything if Mr. Palevsky didn't have full knowledge of it."

Mr. Palevsky has testified that he had no knowledge of Sherman's instructions or the fraudulent referral information and, in fact, the counselors have stated that they never received Palevsky's approval first hand.

Prior to public hearings, Ms. Martin was questioned as to whether she had ever heard that Sherman had instructed the counselors in his unit to supply invalid referral information. Ms. Martin's response was instructive of the gap between the Albany OVR administrators and rehabilitation counselors:

"...I did not find any proof, and I don't know whether any counselor ever went on record that way...I see no reason for the necessity, or what would have been accomplished ...they wouldn't know the catchment areas, I can also tell you that."

No proof was found, because no proof was sought.

The processing of DTI cases became even more easily facilitated by placing Brooklyn State counselors at the office of DTI. According to one counselor, Sherman directed the counselors to go to DTI to "pick up" cases. The day would be spent interviewing clients and processing cases at the school. DTI's clerical staff assisted by typing up the OVR forms. While claiming that the occasional processing of cases at a vendor's place of business may be acceptable, Mr. Palevsky conceded that to do so as a regular practice would be undesirable, particularly where the vendor is a private trade school such as DTI. However, he stated that although he may have subsequently learned of this practice, he was unaware of it during the period of DTI utilization.

As the counselors became increasingly overwhelmed with the DTI cases, they did express concern as to the utilization of DTI and the propriety of referrals, but apparently were easily appeased by Sherman who reminded them that OVR's Albany administrators were pleased with their work. One counselor was asked:

"Q Did you ever, you or the group of counselors, ever make these facts known to Mr. Palevsky?

* * *

A No.

* * *

A It's kind of an unwritten law to not go over somebody's head and, I mean, that's like death in an agency when you do that."

Ms. Martin testified that she questioned Sherman regarding DTI in the course of the agency's review of DTI cases. Despite the fact that 365 clients were referred to DTI and Sherman was expected to approve each one, she claimed that he was unaware of the volume because "he was not approving them all on the one day." She went on to state that Sherman indicated to her that he "thought the training was working out." Inasmuch as the counselors were neither verifying training or job placement paid for by the State, one must question the basis for Sherman's belief and OVR's apparent acceptance of his explanations. Ms. Martin was further asked whether in retrospect she felt that Sherman had fulfilled his responsibilities as a senior counselor:

"Well, my opinion...when I interviewed Mr. Sherman at this time we knew by then that some placements...did not take place, and I would say that Mr. Sherman was victimized..."

* * *

When I say 'victimized,' I mean that there was a situation whereby he thought -- and this was for a relatively short period of time -- he thought things were all right." (P.H.)

In fact, the "period of time" was for at least one year. Rather than Sherman being the victim, the Commission

considers that Sherman's performance victimized the State which paid for such costly and useless training.

While OVR prides itself on being a "service-oriented" agency, both counselors and supervisors have commented that the rendering of service is at the client's behest. A senior counselor was asked why clients who apparently had skills in a particular area were placed in training programs in unrelated fields at state expense rather than OVR doing straight job placement:

"Q Why doesn't the counselor get on the phone and call the Employment Service or personnel agencies or XYZ Construction Company down the street and see whether they can get him a job as a bricklayer?

A A job immediately as a bricklayer?

Q It never happens...I would like to know when it came about that clients...walked in and they wanted training and that was what they got.

A I can't answer.

Q It is true, though, isn't it?

A It's been that way since I've been a counselor."

On this point one counselor's experiences in dealing with some clients are revealing:

"The policy has been pretty much, from what I observed, to go along with him rather than deal with the

harassment and the phone calls and everything else that often follows, especially if someone is verbal and they can express themselves and the letter writing starts and everything else."

Ms. Martin echoed this sentiment when she stated that "clients have rights, and I think counselors working today are very heavily under this. If a client insists on something, the burden of proof is upon the counselor that they can't have it."

Perhaps the entire situation pertaining to DTI and its utilization by the OVR counselors at Brooklyn State can best be summed up by one counselor's reaction to a meeting with the counselors, Palevsky, Berger and Martin in January 1976 to discuss DTI:

"I felt terrible -- I mean, I felt in a sense -- that I had been had and I had allowed it to happen.

The only excuse that I felt that I had was that I felt so overwhelmed by the numbers that I just lost interest in really taking a stand on it...

* * *

I just -- it was easier to go along with it.

Everybody in your unit was going along with that. I can't speak for the others, but that's what it was for me."

Hunts Point Multi-Service Center

In the course of the Commission's review of the DTI cases, it became apparent that many of the cases processed by the Brooklyn State Unit had been referred by the Hunts Point Multi-Service Center in the Bronx. The geographic location of that center itself would lead one to conclude that it was an inappropriate referral source for the Brooklyn State Unit, but additionally, some of the clients had Bronx addresses.

Further investigation revealed that there had been a luncheon meeting with the Brooklyn State counselors; Herb Gruen, the owner and director of DTI; Arnold Brite, General Manager of DTI; and a representative of the Multi-Service Center. The counselors who were questioned about this meeting had no recollection of what occurred, and both Gruen and Brite have invoked their Constitutional rights against self-incrimination and declined to answer questions. The counselors have conceded that shortly after that meeting, they began receiving referrals from the Center. One counselor stated that the number of those referrals became quite high.

In addition, there was a problem with the clients falsely giving Brooklyn addresses, which later became known to the OVR unit:

" These were referrals that were called in and giving Brooklyn addresses, and of course eventually we did find out about it and we continued to take them, but they were contacted and going to DTI and then funneled into our office,

Q Why did you continue to take them even after you discovered that they were giving phony addresses?

A Well, this is again something that we were told to continue accepting.

Q By whom?

A By our supervisor [Stanley Sherman]."

After the OVR unit at Brooklyn State Hospital did \$981,497 worth of business with DTI in fiscal year '74-75, a single OVR counselor at the Manhattan State Hospital Unit, Michael Sacco, referred 151 clients to DTI at a total cost of \$417,124 in fiscal year '75-76. Nearly all of those persons had been referred to OVR, via DTI, by the Hunts Point Multi-Service Center. If Mr. Sacco's estimate of his average caseload is correct, fully one-half of his clients that year were sent to DTI or had their DTI courses paid for during that period. Although Mr. Sacco invoked his Constitutional rights against self-incrimination and refused to answer any questions at public hearings, he had testified previously and informed Commission staff of the unusual way in which this business developed.

"As to what led up to me using DTI on a big -- large basis...I was directed to by my supervisor [Herbert Magram], or who, in turn, I was told was directed by his supervisor [Joseph Palvesky].

* * *

To go down to DTI because they had some clients there who were referred from Multi-Service Center, who weren't being picked up by other agencies and that we were authorized to go down there and pick them up and send them up for training and make them part of my caseload."

Mr. Sacco stated that he went to DTI on a regular basis to interview prospective clients and process their cases. The psychiatric reports for these persons, as prepared by the Multi-Service Center, were made available to Sacco at DTI. DTI generously assisted by typing up many of the OVR forms relating to the clients, thereby expediting the process. Mr. Sacco has stated that in some cases he authorized training instantaneously, without having received the requisite approval of the plan of service from his supervisor. After about six months, Sacco realized that he was falling behind in his paper work and that his caseload was beyond handling. He complained to his supervisor, Herbert Magram, who, according to Sacco agreed to call Palevsky.

"He called Mr. Palevsky and Mr. Palevsky says that it's his job, send him back down there. He has got to see those people because

we are doing a good thing. We are helping a lot of people find employment, we are contributing to the new sector of the population that is going to be the future of our agency and that you have done a tremendous job in the past, and as far as seeing people and talking to them -- and that they could see no reason why that I couldn't do it now and the paper work was my problem..."

Mr. Magram's version differs only slightly. He stated that during the spring of 1975 he learned from Stanley Sherman, his counterpart at Brooklyn State, that the latter's office was achieving many rehabilitations, whereas the rehabilitation rate at Manhattan State was "fairly low." Interested in increasing his rehabilitation rate, he spoke with Sherman who told him of the referrals from DTI.

"Q But there did come a time when you discussed this with Mr. Palevsky?

A I believe I called him and asked him about picking up cases.

Q What did you indicate to Mr. Palevsky was your desire?

A Well that there were cases to be picked up in the community that we could work with such as from DTI.

* * *

Q And Mr. Palevsky said what to you?

A Go ahead."

After a period of time, Magram claimed that he noticed that Mr. Sacco's cases were backing up. Although his instinct was to discontinue the referrals, he did not speak to Mr. Palevsky about the buildup, but rather, instructed Sacco to stop taking the referrals. However, the referrals did not stop until some time later when, Magram claims, he ordered Sacco to remain in the office and put his cases in order. According to Magram, in June 1975, he received a call from Palevsky who asked what had happened with Sacco, and then told Magram to release Sacco as soon as possible so he could resume picking up the cases.

Palevsky could not recall these discussions and denied knowledge that Sacco was physically situated at DTI picking up cases. He also testified that he was not aware that the Bronx Multi-Service Center was making referrals to DTI and then to OVR, although he did participate in the review of DTI with Howard Berger.

In their review of DTI's books and records, Commission accountants came across three unusual cancelled checks totaling \$7,300 in disbursements in a two month period. The earliest, dated April 18, 1975, and drawn on DTI's account is payable to the Honorable Ramon S. Velez Testimonial Dinner in the amount of \$500. An \$1,800 check was made payable to the Puerto Rican Day

Parade Journal on May 2, 1975 and was drawn on the account of Ran Lynn Rental & Service Corp. (wholly owned by the owner of DTI). The last check for \$5,000 was made payable to Casa Puerto Rico on June 18, 1975, and was from DTI's account.

In seeking a link, if any, between Casa Puerto Rico, the Puerto Rican Day Parade, Inc. and the Hunts Point Multi-Service Center, testimony was elicited from Roberto Napoleon, a former treasurer of the Puerto Rican Day Parade, Inc.

Napoleon testified that for the time period in question, Puerto Rican Day Parade, Inc. was an umbrella organization; Ramon S. Velez was its Chairman of the Board and/or President; Velez sat as a member and appointed the other members of Casa Puerto Rico and the Puerto Rican Day Parade Journal, two of several sub-committees of Parade, Inc.; and that Velez also founded the Hunts Point Multi-Service Center.

According to Mr. Napoleon, who endorsed the \$5,000 check made payable to Casa Puerto Rico, he was called by Velez to the latter's office for the purpose of endorsing it. Napoleon stated that he endorsed the check and left it with Velez for deposit. The check was deposited in Casa Puerto Rico's account, which account according to documents provided to the Commission, is listed in an

annual Bank Accounts Report for the Puerto Rican Day Parade, Inc.

Herb Gruen, President and owner of DTI, invoked his Constitutional privileges and declined to answer this Commission when questioned regarding these payments and meetings with representatives of the Hunts Point Multi-Service Center.

The 1975 Review by OVR's Senior Administrators

Mention has been made throughout this section of the 1975 review of DTI by OVR's senior administrators in Albany. In addition, specific examples have been raised of OVR's failure to address the underlying issues.

OVR simply refused to acknowledge the possibility of actual wrongdoing. Throughout the Commission's investigation, Commission staff was frequently told of the integrity of employees and vendors who do business with OVR.

Despite DTI's having submitted fraudulent placement information to OVR, OVR lifted its ban on doing business with DTI. Not one employee was dismissed for actions arising out of the DTI situation. No audit of the books and records of DTI was conducted by OVR nor did OVR request the assistance of the New York State Department of Audit and Control.

After the DTI ban was lifted, OVR paid DTI almost \$800,000 in the first six months of 1976 for training fees previously incurred.

CASELOADS

Most of the counselors interviewed during this investigation indicated that their average caseload was between 200 and 300. These same counselors stated that the size of the caseload precludes careful attention to many clients. As one said:

"It's impossible to have a really close counseling relationship with every client and so some fall by the wayside and you more or less pick who you feel you can really work with, which ends up being a relatively small number because you can only work closely with a small number..."

Ms. Martin recognized this fact of clients falling by the wayside, and agreed that the caseloads are too large.

" I think it depends on a great many other factors, but when you get beyond the 150 mark, you're in trouble.

Q And, in fact OVR is beyond that mark, isn't it?

A Yes."

She also estimated that counselors have only about eight hours per year to spend on any one case.

Obviously every client's needs are different, but it cannot be gainsaid that eight hours per year is wholly inadequate to provide the "counseling" which OVR claims to expect of its counselors. Either caseloads should be

diminished or counseling should not be stated as a primary task of OVR, thereby obviating the need for well trained professional employees.

Counselors often feel frustrated and demeaned by their inability to provide counseling and the demands put upon them with respect to completing paper work. Requirements for maintaining statistics has imposed a burden on counselors for providing these statistics on complex forms. One counselor who has been with the agency for approximately six years estimated that when he was first employed, 60-70% of his time was spent on counseling, whereas he now spends only about 1 1/2 days each week counseling, with the balance taken up by paper work.

The agency concedes that the caseloads are too high, but claims that resources have not kept in line with the demand for service as the program became better known to the public. On the other hand, OVR makes a continual effort of "case finding," an effort which Palevsky sees as one of his major roles -- i.e., seeking out eligible persons and making OVR's existence known to the public.

At public hearings, Mr. Berger insisted that there is no administrative premium on building caseloads, and testified that there is no conflict between building up caseloads through case finding, and the agency's

concession that caseloads are too high for proper service to be given to every client of OVR. He stated:

"There is no conflict between appropriate case finding and trying to develop manageable caseloads and the kinds of caseloads which represent real live active, interested clientele with whom productive results can be obtained. There is no conflict between the two." (P.H.)

Perhaps there is no conflict in theory, but the testimony and facts adduced in this investigation indicate a serious conflict in practice.

The second most glaring problem in OVR is that, with rare exception, the rehabilitation counselor is the only professional employee to personally relate to clients. Agency policy precludes senior counselors from carrying their own caseloads or from becoming involved in the counseling process. It is clear that the absence of such personal interaction by anyone other than the counselor enhances the potential for abuse. One counselor commenting on that fact remarked that it would be a simple matter to open a case file and provide service for a friend or relative, or even himself under an alias, since the senior counselor in approving case plans merely refers to the paper contained in the file, which, if adequate, forms the basis of approval.

OVR AND THE MIDTOWN SCHOOL OF BUSINESS

During the course of its investigation, the Commission received a complaint alleging, among other things, that Jack Schuyler, a senior counselor in the New York City OVR office, "insisted for years that his counselors send nearly all clients to a specific business school in the mid-town area irrespective of vocational goals... His actions in these matters have never been questioned by administration." Additionally, Schuyler was accused of regularly leaving the office at mid-day.

Because of other allegations concerning Mr. Schuyler, the Commission began exploring these charges in an attempt to substantiate or refute their validity.

Schuyler, who had been with OVR since 1945, was promoted from rehabilitation counselor to senior counselor in approximately 1969. He remained in that position until his retirement in early January 1977. Pursuant to agency policy, he did not carry a caseload, and dealt with clients only when there were specific problems. Mr. Schuyler did not engage in any regularly scheduled meetings with his counselors although he stated that he did have discussions with them as problems arose. His own testimony would seem to indicate that his job commitment was marginal and that he dispensed his duties in the most

perfunctory fashion. Counselors who had worked under Schuyler's supervision indicated he was inaccessible, impatient, explosive and that he did not exercise sufficient discretion over the screening of clients. The most disturbing charge, however, pertained to Mr. Schuyler's having pressured his counselors to send clients to the Midtown School of Business, Inc. ("Midtown") in Manhattan to the near exclusion of any other training facilities.*

Midtown, a private business school, provides training in basic business and secretarial skills and, in addition, has a remediation program designed to upgrade English and mathematics for OVR clients. According to its owner Murraray Wolkind, Midtown (or its predecessor) has been doing business with OVR since 1938. By reference to the books and records of Midtown, Commission accountants determined that between 80-90% of Midtown's annual income is derived from OVR.** In addition to Midtown, Wolkind has established the Midtown Educational Institute, Inc. ("Institute"), 100% of whose

* For a fourteen month period in 1974-75 Midtown received approximately \$1.3 million from OVR and for a ten month period in 1975-76, Midtown received in excess of one-half million dollars from OVR.

** According to the testimony of Mr. Wolkind, "OVR needs me a lot more than I need OVR." Mr. Wolkind later amplified that statement mentioning that many business schools are reluctant to do business with OVR or deal with their clients. He also stated that he has implemented practices and policies which facilitate the training experience of OVR clients. However, as is clear from the books and records of Midtown and Institute and the testimony of Mr. Wolkind (who shares ownership of Midtown with his wife, and who wholly owns Institute), his substantial personal income is almost totally derived from OVR.

income is derived from OVR. Institute was created exclusively to provide training to OVR clients situated in the State's psychiatric hospitals. Currently, Institute has programs in Brooklyn and Manhattan State Hospitals, and Pilgrim State Hospital.

Because the allegation pertaining to Schuyler's pressuring counselors to use Midtown was, to some extent borne out by counselors, the Commission reviewed data supplied by OVR to determine the extent of business done with that school by Schuyler's unit. First, an analysis was made of business done with Midtown by the entire New York City local office for two fiscal years:

	<u>Total Number of Clients</u>	<u>Amount</u>	<u>Average Cost</u>
7/1/74-6/30/75	590	\$607,769	\$1,030
7/1/75-6/30/76	472	\$571,503	\$1,211

Those figures were further broken down to reveal the apportionment of those amounts among the units in the New York City local office:

<u>Unit</u>	<u>Fiscal Year Ending 6/30/75</u>		<u>Fiscal Year Ending 6/30/76</u>	
	<u>Clients</u>	<u>Amount</u>	<u>Clients</u>	<u>Amount</u>
Mental Hygiene	195	\$193,567	126	\$144,610
Schuyler's Unit	128	149,343	117	157,676
All Others	<u>267</u>	<u>264,859</u>	<u>229</u>	<u>269,217</u>
Total	<u>590</u>	<u>\$607,769</u>	<u>472</u>	<u>\$571,503</u>

Schuyler's unit, therefore, provided 22% of Midtown's OVR clients and accounted for 25% of Midtown's gross income from OVR in 1975; and in 1976, the unit provided 25% of Midtown's OVR clients and 28% of Midtown's gross income from OVR.

Because the number of clients and dollars derived from Schuyler's unit seemed high, and because of the allegations of his applying pressure on subordinate counselors, the Commission was interested in ascertaining Schuyler's motives for using Midtown. An additional concern was whether Schuyler was working the half-days alleged.

Consequently, over a period of several weeks in the fall of 1976, Commission agents observed the activities of Mr. Schuyler on twelve occasions when he would have been expected to have been at work at OVR. On nine of those occasions, Mr. Schuyler was seen generally leaving his office at between 11:00 a.m. and 11:30 a.m. and spending the balance of the day in personal pursuits. On one occasion, Schuyler was observed going to the Midtown School of Business in Manhattan and then having lunch with Mr. Wolkind.

Thereafter, the Commission subpoenaed the records of Schuyler's bank accounts, and in the course of its examination, Commission accountants were able to account

for disbursements and withdrawals in all but one account. That account was maintained by Schuyler in his own name, in a bank located within blocks of his office. A review of that account for the period September 1973 to November 1976, revealed monthly cash deposits of approximately \$300. Commission accountants also reviewed Schuyler's field visit itineraries for January 1976 - December 1976 (records submitted on a weekly basis of a counselor's plans for the upcoming week to visit schools and facilities). During that period of time, there appeared to have been some correlation between Schuyler's visits to Midtown and his \$300 deposits.

Mr. Schuyler was questioned under oath, with his attorney present, about his relationship to Midtown and its owner, Murrary Wolkind;

"Q Mr. Schuyler, did there come a time when you entered into an arrangement with Mr. Wolkind whereby in return for your referring clients to him he would pay you a regular amount of money on a regular basis?

A I refuse to answer that question on the basis that it may incriminate me.

* * *

Q Mr. Schuyler, did Mr. Wolkind ever treat you or any member of your family to a vacation?

A No.

Q Did Mr. Wolkind ever give you any stocks, bonds or other forms of security either in your name or in the name of any family member?

A No.

Q Mr. Schuyler, is it true that you used pressure and influence to have your counselors send their clients to the Midtown School of Business?

A It's true that I was prejudiced in favor of the Midtown School of Business because of my long association with Mr. Wolkind.

* * *

Q Did Mr. Wolkind in any way show his thankfulness for receiving these clients?

(The witness and his counsel confer off the record.)

A I take my privilege against self-incrimination.

COMMISSIONER RUSKIN: Were there other schools that offered the same kinds of services as Mr. Wolkind's school over the past four or five years, let us say, to which the students could have been sent and could have gotten the same sort of training that they got at Mr. Wolkind's school? Were there other options available?

THE WITNESS: Yes. There are a large number of clerical training schools in New York City."

Mr. Wolkind denied under oath that he made any payments to Mr. Schuyler in return for having clients sent to Midtown.

Inquiry was made of Schuyler's supervisor, area supervisor and Ms. Martin regarding what action, if any, had been taken on the allegations concerning Schuyler's non-attendance in the office and funneling clients to Midtown.

Robert Steinberg, who was Schuyler's supervisor for about two years until September 1976, had written a memorandum to Schuyler in December 1975 in which he commented on the latter's lack of supervision and many absences. In the memorandum, he refers to Schuyler's frequent field visits noted in his itineraries and states:

"Along these lines I asked you questions about the three separate visits that you had made for the current week. I must admit that I was very surprised by your statements. You said that you could not remember where you had gone on any of the three days. Furthermore, you stated that you could not remember who you had seen at the various places...The net result has been that you have been away from the office most afternoons in each week. This has resulted in your being available for only about half the work week."

Steinberg asked Schuyler to reduce his field activities. Steinberg advised Commission staff that after he issued that memorandum, he was satisfied that Schuyler had reduced his field time. However, when Mr. Steinberg was shown Schuyler's itineraries for 1976 which indicate numerous field visits, his response was

that the itineraries are only a plan for the upcoming week which are subject to change. It was clear, however, from the observations made by Commission agents that Schuyler had resumed his earlier practice of leaving the job by mid-day.

Steinberg was also questioned regarding Schuyler's utilization of Midtown. Steinberg stated that in April 1976, Howard Berger phoned him about the anonymous letter and asked him for a report of his knowledge of the facts. He was not asked to conduct a case review of Midtown cases and apparently his response to Berger that he had no knowledge of overutilization of Midtown was deemed sufficient.

Louis Salzman, the area supervisor, stated that he had received a copy of Steinberg's memorandum to Schuyler, but that he took no action on it:

"Q What is your response to it...?"

A Well, our entire feeling about the Schuyler pattern was one of frustration..."

Salzman denied prior knowledge of Schuyler's excessive use of field time. After receipt of the memorandum, he did not review Schuyler's field itineraries:

"Q Did you instruct Mr. Steinberg about any action you wished him to take pertaining to this issue?"

A Well, I knew Mr. Steinberg was exercising supervision over him, he was trying to get him to observe regulations and procedures and schedules.

Q Did you ask Mr. Steinberg to submit any kind of reports to you after that pertaining to Schuyler's use of field time?

A No."

Ms. Martin stated that Schuyler had long been considered a problem in OVR as exhibited by his eccentric and irrational behavior. She remarked that "the staff were at his mercy" and that his work represented "mediocrity to the extreme." However, when asked why he was tolerated for so many years, she responded that there was insufficient proof to document his incompetence.

OVR FUNDS FOR RELATIVES OF OVR EMPLOYEES

In the fall of 1975, OVR administrators learned that the son of Eugene Levine, an associate rehabilitation counselor, had been sponsored for undergraduate training at New York University and had concluded his first year at Columbia College of Physicians and Surgeons at a total cost to OVR of \$20,369. The son's disability was asthma.

Ms. Martin personally reviewed the case folder and economic need information provided by Levine, and found there to be a lack of proof relating to allowances claimed by him, which would diminish available income and make him eligible under the economic need criterion. Ms. Martin stated that Levine was given ample opportunity to support his claims, but that he failed to sustain the burden. Consequently, a determination was made that payments applicable to tuition, room and board, books and fees totaling \$14,666 should not have been made by OVR. Levine did not challenge this determination, and remitted a check for the full amount to OVR.

Levine's daughter also had been an OVR college and graduate student at a total cost of \$14,613. However, in a letter to the Division of the Budget, dated June 11, 1976, answering the Division's request for information pertaining to an anonymous letter mentioning

that Levine illegally made his children eligible for OVR services, then Deputy Commissioner Gordon Ambach stated that "Mr. Levine never made his own children eligible for rehabilitation services. One of his children was referred for and did receive services..." When questioned about the reference to only one child, Ms. Martin stated that at the time of Ambach's letter, OVR was not aware of the daughter, and that after that case was reviewed, Budget was not notified because "that case was perfectly clean." In that same letter to Budget, Mr. Ambach stated, "There is no reason to believe that any of the staff who worked on Mr. Levine's son's case were aware of any inaccuracy in the financial information presented by Mr. Levine."

Although Ms. Martin stated that she "threw the book at him," Mr. Levine remained an employee of OVR. Ms. Martin, when questioned as to how Levine, as an associate counselor, could have failed to understand the economic need guidelines, replied that he was incapable of understanding the guidelines.

In reviewing the case folder of Levine's son, this Commission found other serious failings. Although college and graduate training cases require approval of the area supervisor, there was no such approval in Levine's case. Furthermore, the determination of

disability was based upon two medical reports, dated February 1969 and July 1970. No medical examination reconfirming Levine's asthmatic condition was made despite his having remained an OVR client continuously from September 1970 until September 1975.

Commission accountants reviewed the case folders of eleven other college training clients who were relatives of OVR employees. Of those eleven, three clients were diagnosed as being passive-aggressive, one had a hearing problem in his right ear, one had fully recovered from a broken neck, one had a knee injury, one was troubled by adjustment reaction to adolescence and one was asthmatic. The client who was fully recovered from his neck injury in December 1972 did not even become an OVR client until 1974. Approximately \$2,400 was spent on training him at an out-of-state college. Another client who received training from 1962-1967 at Bard College had her case reopened in February 1970 for graduate training at Bank Street College of Education. Thereafter, she transferred to the New School for Social Research, and then to N.Y.U. The total cost to OVR of her training was \$4,397. The client who had hearing problems in his right ear received tuition for four years of training at the University of Vermont. In addition, he was reimbursed for airplane transportation,

library fees, athletic fees and laboratory fees at a total cost of approximately \$10,000. Of these eight clients, three were the children of senior counselors, one of a counselor, and the balance were related to clerical employees of OVR.

OTHER INVESTIGATIONS

Niagara County Grand Jury Report

The writers of the Grand Jury report issued in Niagara on June 30, 1976, cited as the "single most glaring deficiency" the maximum amount of authority vested in the rehabilitation counselor.

"He has the sole responsibility for determining eligibility of an applicant based on a required physical examination and his interpretation of the threefold criteria hereinbefore enumerated...Beyond the rehabilitation counselor, the higher echelon is involved only with the flow of paper...The effectiveness of a counselor's performance is generally based on the number of cases he is handling without regard to the quality of service provided to the client...The opportunity for a corrupt counselor to turn the system to his advantage is apparent."

Citing a "disheartening aura of fraternalism" among OVR employees and a desire to "maintain the status quo despite suspicions of wrongdoing," the panel recommended, among other things, the establishment of an independent inspection unit to review counselor activity.

The report concluded that while corrupt conduct by an OVR employee was discovered, "the procedure that permitted it is also to blame."

Investigation of OVR in Erie County by the Statewide Organized Crime Task Force

At the request of the District Attorney of Erie County, as a follow-up to its involvement in the Niagara County investigation, the Statewide Organized Crime Task Force (OCTF) conducted an investigation of the OVR program in Erie, with emphasis on OVR's on-the-job training program. While no evidence was found of criminal activity, observations were made regarding procedural and administrative deficiencies which created the potential for corrupt and fraudulent practices.

Many of the observations made by OCTF parallel those of the Commission and the Niagara Grand Jury. Excessive caseloads precluded counselors from giving proper time and attention to clients and to evaluating on-the-job training. OCTF found that the rate of retention by employers of on-the-job trainees after the period of training, was very low. In addition, the lack of structure within OVR was scored as providing counselors with the opportunity to engage in unethical or corrupt practices.

Inquiry was also made into OVR's practice of purchasing equipment and tools for clients who are seeking self-employment. Title to such equipment passes to the client after he is deemed rehabilitated, usually after 90 days of the successful operation of the business. OCTF discovered instances of clients abandoning the business

endeavor shortly after case closure, and thereafter selling or disposing of the equipment. OVR was criticized for its failure to follow up on these clients and the disposition of equipment after case closure. There was also an absence of procedures governing purchasing practices. Counselors usually relied upon the client's judgment as to what equipment was needed. The absence of procedures governing purchases and competitive bidding made the program vulnerable to improper activity by OVR counselors.

Report of the U.S. General Accounting Office

In a 1977 report to the Congress of an inquiry made by the General Accounting Office (GAO), of vocational rehabilitation programs nationally, the Comptroller General states:

"Although many beneficial training services to help the handicapped obtain employment have been provided under the vocational rehabilitation program, a lack of adequate controls over the expenditure of funds has resulted in questionable program expenditures and instances where clients do not fully benefit from the training."

The GAO investigation focused on the expenditure of vocational rehabilitation funds, as distributed by the Federal Rehabilitation Services Administration to state vocational rehabilitation agencies. The report cites numerous examples of maladministration leading to wasted funds in each of the five states, including New York, whose programs were reviewed.

GAO cited instances in which clients had little or no contact with rehabilitation counselors; payments to providers of on-the-job training on behalf of persons who were already employees of the trainers; provision of training to persons who had prior training in the same field; failure to rigorously apply eligibility criteria; training at excessive costs; and the purchase of equipment and tools at inflated costs.

The report concludes by recommending that internal review sections be created within state agencies, and that economic need standards be given greater consideration in providing college, business, and vocational school training. Not incidentally, the GAO observed:

"Also, vocational rehabilitation counselors have been given too much freedom in arranging, paying, and accounting for training services."

* * *

At the time of this Commission's public hearings, the reports of OCTF and GAO were not known to OVR. However, the report of the Niagara Grand Jury had been provided to Associate Commissioner Levy upon its release. At those hearings, Mr. Levy was questioned regarding their findings and conclusions:

"THE CHAIRMAN: ...In the Niagara County Grand Jury report, and in our investigation, it would appear that, in the words of the Niagara County Grand Jury report, a maximum amount of authority is vested in the lowest employee in the lowest chain of command, rehabilitation counselors and the opportunity for a corrupt counselor or even, shall we say, someone who is gullible as to, as I say, the exploitation by the clients or vendors, to turn the system to his own advantage or permitted to be the easy prey to others, is apparent.

Do you agree with the general thrust of that statement, that the program is so structured that the rehabilitation counselor at the lowest level is really out there on his own and you, therefore, have to cross your fingers as to what may happen?

THE WITNESS: No, I don't. I don't think he is out there on his own. I think he has a responsibility for the determination of eligibility. And I think that that responsibility is based upon his professional qualifications as a counselor..." (P.H.)

Mr. Levy was also asked whether he agreed with the Grand Jury's conclusion that OVR may have been more concerned with protecting the status quo of the program than revealing any wrongdoing by its employees.

"...that is definitely not the feeling of the administration of this program."

This Commission was interested in learning what, if any, steps had been taken by OVR to prevent a recurrence of the Niagara or DTI situation.

OVR's stated response to these problems was the creation of an internal auditing unit and plans to produce, on a quarterly basis, computer print-outs containing vendor information by counselor and location.

Associate Commissioner Levy testified that the internal auditing unit, which was not yet in full operation, will be verifying clients' attendance and monitoring payments to facilities to prevent overbilling and duplication of payments. Quite clearly, the unit will

not be looking into counselor performance or operating as an inspector general. In addition, the use of computer print-outs as a method of detecting possible abuse can only review services already provided. As such, it cannot be utilized as an adequate procedural mechanism for preventing employee and vendor misconduct.

With particular reference to Niagara, Howard Berger stated that a system of multiple levels of approval for on-the-job training programs has been implemented in that county. Curiously, no similar system was installed in the Brooklyn and Manhattan State Hospital Units of OVR after discovery of the DTI situation, but Mr. Berger remarked that authorizations for training at DTI cannot be processed without his and Mr. Palevsky's approval. Insofar as the implementation of new procedures in training programs other than on-the-job and self-employment, Mr. Berger stated that he saw no need for change.

* * *

In 1976, an OVR counselor was convicted in Niagara County for fraudulent actions arising out of his employment. In that same year, it was discovered that a counselor in OVR's Poughkeepsie office had been converting to his own use clients' maintenance and Basic Education Opportunity Grant stipends. That counselor was fired by OVR for his actions. On April 6, 1977, he entered a plea

of guilty to Grand Larceny in the third degree.

After the conclusion of this Commission's public hearings on OVR in May 1977, Associate Commissioner Levy submitted a letter to be included as part of his closing statements and made the ludicrous assertion that:

"In more than 50 years no instance of fraudulent or criminal behavior on the part of vocational rehabilitation staff members has occurred."

CONCLUSIONS

As previously stated, the focal point of the Commission's investigation was to determine whether the procedures and controls of OVR adequately safeguard the program from abuse by its own employees as well as the vendors and clients of OVR. The instances of abuse, misconduct and malfeasance set forth in this report show that the procedures and controls of OVR are woefully inadequate. The Commission concludes that the senior administrators of OVR tolerated such misconduct and abuse by refusing to acknowledge the possibility of wrongdoing, and failing to follow through with any sort of responsible inquiry which would have uncovered those instances. OVR senior administrators had no apparent interest in disciplining or firing State employees who by their indifference or malfeasance undermined the stated purpose of the program.

Among the more alarming examples of employee and vendor misconduct, and administrative nonfeasance are the following:

-- During 1974 and 1975, DTI charged OVR 2 1/2 times what the general public paid for the same program. Because no audit of DTI's books was deemed necessary by OVR, OVR did not learn of these excessive charges until the Commission's hearing in May 1977.

-- Although many persons were responsible for permitting DTI to "rip-off" OVR, the failure to deal with that abuse after September 1975 belongs exclusively to OVR's Albany administrators and the director of the OVR/DMH Downstate program.

-- For two years (1974-1975), OVR counselors from Brooklyn State Hospital processed 365 DTI cases at a cost of nearly \$1,000,000 and frequently did nothing more than book the client's medical examinations and training at DTI. Contrary to agency policy, counselors often had no contact with the client after the first interview and provided no follow-up counseling. The senior counselor in charge appears to have merely rubber stamped the training referrals made by subordinate counselors.

-- The Commission discovered that clients who had been sent to DTI frequently did not receive training in courses for which OVR paid. Courses billed to OVR were either never given, or not given for the amount of time charged to the State. The failure of counselors to review training progress reports supplied by DTI and to maintain contact with clients throughout training resulted in considerable fiscal waste.

-- Through the use of an inflated duplicate billing system, DTI made an undisclosed "middle-man" profit on uniforms charged to OVR and supplied to OVR

clients. This "profit" went unnoticed by OVR in its more than two years of doing business with DTI and its review of DTI training.

-- At the direction of Senior Counselor Stanley Sherman, the OVR counselors at Brooklyn State Hospital knowingly supplied false information about the sources of client referrals. No serious effort was made by OVR senior administrators to investigate this practice after it was brought to their attention.

-- Although OVR learned in the course of its DTI review that the school had supplied the agency with false information pertaining to client employment, OVR lifted a four month ban on doing business with DTI in December 1975. When DTI supplied OVR with false placement information, OVR was put on notice of DTI's Unscrupulous business practices. To reinstate a business relationship with DTI was negligent and egregious.

-- Despite complaints and allegations of wrongdoing, OVR failed to question the extensive utilization of one business school traceable to one senior counselor in the New York City office. Moreover, the area supervisor indirectly responsible for this senior counselor's activities, neglected to follow through on evidence that he was a flagrant example of a "no-show" employee.

RECOMMENDATIONS

1) The present leadership of OVR has failed to meet its clear responsibilities. It has been indifferent to problems and neglectful of duties. Its inadequate and evasive responses to this Commission's disclosures offer the public little confidence that it will now move effectively to institute and implement essential reforms. This Commission, therefore, recommends that the newly appointed Commissioner of Education, Gordon Ambach, appoint new and more responsive leadership for OVR.

2) It is essential that the Commissioner of Education undertake a sweeping and thorough review of the present policies and organizational structure of OVR. Incompetent employees must be removed. Ineffective procedures must be eliminated. New procedures must be designed to prevent as well as detect the types of abuses set forth in this report. Counselor activity must be more closely monitored.

3) The Department of Education should take immediate steps to remove from the public payroll those employees who refuse to account for the performance of their official duties.

4) Where training of clients extends beyond one year, there should be mandatory annual re-evaluation of any non-stabilized physical or mental disability. This

re-evaluation should be made by a different physician or specialist from the one who made the original evaluation.

5) Extensive utilization of any single vendor by OVR, especially when the vendor is used by only a small number of OVR employees, requires periodic review and monitoring of that utilization to prevent wrongdoing and to assure the quality of services being received.

6) Wasteful "middle-man" profits by vendors should be ended. Contracts for supplies and equipment should be negotiated at competitive prices.

Respectfully submitted,

DAVID W. BROWN, Chairman
EARL W. BRYDGES, JR.
ROBERT K. RUSKIN

DRIVER TRAINING INSTITUTE (DTI) SAMPLING OF CHARGES

<u>STUDENTS</u>	<u>CHARGES WHILE IN NON-OVR STATUS</u>	<u>DTI CHARGES TO OVR FOR SAME STUDENTS</u>	<u>DTI EXCESS CHARGES</u>
J.HI.	1,000	2,745	1,745
S.L.	1,000	1,545	545
C.O.	1,000	2,145	1,145
R.C.	975	2,145	1,170
D.N.	1,050	2,145	1,095
J.HU.	1,000	2,445	1,445
E.N.	1,250	2,145	895
A.J.	1,150	2,750	1,600
M.N.	1,245	3,445	2,200
J.L.	1,000	3,628	2,628
L.S.	1,000	2,908	1,908
	<u>\$ 11,670</u>	<u>\$ 28,046*</u>	<u>\$ 16,376</u>

OVR=OFFICE OF VOCATIONAL REHABILITATION

(*) 240% IN EXCESS OF DTI CHARGES TO SAME STUDENTS

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APPENDIX I

PORTERS
AND
MECHANICS
UNIFORMS
DROP CLOTHS

APPENDIX II
UNIFORMS, NYLON CARPETS SUPPLIED, RENTED AND SERVICED

W. H. CHRISTIAN & SONS, INC.

ESTABLISHED 1924
22-28 FRANKLIN STREET BROOKLYN, N. Y. 11222
TEL. 389-7000

FLAGS
DRAPERIES
SMOCKS

SOLD TO **Driver Training Institute** **July 1, 1974** OUR ORDER No. **D 040359**
1000 Blair Road
Carteret, New Jersey
YOUR ORDER No.

TERMS: NET CASH
LATE PENALTY: 1 1/2% PER
MONTH AFTER 60 DAYS.

FOR ACC'T OF **50 Grpt. Avenue**

DATE	QUANTITY	ITEM	SERVICE	UNIT PRICE	CHARGES
7 1	4	Navy blue 65/35 trousers	New	5 75	23 00
	4	Lt. blue 1/2 sl. shirts	"	2 00	8 00
	1	Uniform belt	"	1 75	1 75
	1	Navy blue Ike jacket	"	8 50	8 50
	1	Lg. sl. liner	"	4 00	4 00
	1	Rain suit	"	7 00	7 00
	6	Prs. blue socks	"	75	4 50
	1	Navy blue cap	"	2 00	2 00
The above is for: Christopher Joseph					66 75

OFFICE COPY

PORTERS
AND
MECHANICS
UNIFORMS
DROP CLOTHS

UNIFORMS, NYLON CARPETS SUPPLIED, RENTED AND SERVICED

W. H. CHRISTIAN & SONS, INC.

ESTABLISHED 1924
22-28 FRANKLIN STREET BROOKLYN, N. Y. 11222
TEL 389-7000

FLAGS
DRAPERIES
SMOCKS

July 5, 1974

SOLD TO **Driver Training Institute** OUR ORDER No **D**
1000 Blair Road
Carteret N.J. YOUR ORDER No

APPENDIX III

50 Greenpoint ave.

TERMS: NET CASH
LATE PENALTY 1 1/2% PER
MONTH AFTER 60 DAYS.

FOR ACC'T OF

DATE	QUANTITY	ITEM	SERVICE	UNIT PRICE	CHARGES
7 5	4	Navy blue 65/35 trousers	New		
	4	Lt. blue 1/2 sl. shirts	"		
	1	Uniform belt	"		
	1	Navy blue Ike jacket	"		
	1	Lg. sl. liner	"		
	1	Rain suit	"		
	6	Prs. blue socks	"		
	1	Navy blue cap	"		
The above is for: Christopher Joseph					
ALTERATIONS:					\$ 95. 00
					5. 00
					\$100. 00

FINANCE FOLDER COPY

ORIGINAL INVOICE

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END