



NEW YORK STATE SENATE

# TASK FORCE ON GOVERNMENT EFFICIENCY

“Protecting the People’s Money”

## Examining Spending At the Office of Mental Retardation and Developmental Disabilities

The New York State Senate Task Force of Government Efficiency  
Sen. Jeffrey D. Klein, Chair

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## **I. Introduction:**

The recession that began in December of 2007 has left hundreds of thousands of New Yorkers unemployed and has led to serious and recurring deficits in New York State's budget. The massive job losses from this recession have led to a massive drop in income and sales tax revenue for New York State, while at the same time increasing the burden on a variety of State services, especially Medicaid, which has seen a significant caseload increase. In addition, massive investment losses by the pension system has resulted in significant increases in pension costs. This combination of declining revenues and increasing costs have led to a current deficit for the fiscal year 2010-11 budget of \$9.2 billion according to estimates by the Division of Budget.

The New York State constitution requires that the State balance its budget every year. Last year's budget, with various revenue raisers and additional Federal aid from the American Recovery and Reinvestment Act (ARRA), was able to prevent a severe degradation of the services available to New Yorkers, but the length and depth of this recession, which is greater than any economic downturn since the Great Depression, has made any attempt to balance the budget without cuts to government services impossible. Due to our continued economic weakness, any further increases in taxes would imperil a recovery of the private sector and should be avoided as a means to cut the deficit. This means that the magnitude of the budget cuts necessary will need to be unprecedented in this state's history.

At this time, it is critical that the State government operate as efficiently as possible. The needs of New Yorkers will not decrease when government spending does. Under these conditions the negative consequences of wasteful spending are magnified, as State agencies misuse critically needed funds on operations and practices that do nothing to enhance their core missions. It is therefore critical that as we examine what must be cut to balance the budget for the upcoming fiscal year, we also seek out and eliminate wasteful and inefficient practices.

The Senate Task Force on Government Efficiency (the Task Force) has already issued reports on practices at the State University of New York, the Department of Correctional Services, and the Department of Transportation identifying how crucial State resources were being used in ways that did nothing to enhance those agencies core missions. This time, the Task Force examines practices at the Office of Mental Retardation and Developmental Disabilities (OMRDD) to see if there are ways that OMRDD can shift resources from underperforming or inefficient practices to their core program areas while saving the State much needed funding.

## **II. The Office of Mental Retardation and Developmental Disabilities:**

The Office of Mental Retardation and Developmental Disabilities (OMRDD) is responsible for helping individuals with various forms and levels of developmental disabilities. OMRDD is part of the Department of Mental Hygiene, which is split into three offices, OMRDD, the Office of Mental Health (OMH), and the Office of Alcohol and Substance Abuse (OASAS). OMRDD serves approximately 125,000 individuals with developmental disabilities, which vary in nature and severity<sup>1</sup>. OMRDD is made up of a central office, the Institute for Basic Research in Developmental Disabilities and 13 developmental disabilities service offices (DDSO's), which are their regional offices. According to data from the Comptroller's Office, OMRDD employed

over 23,000 individuals as of December 31, 2009<sup>ii</sup>. The overall budget for OMRDD in fiscal year 2009-10 was \$4.5 billion and the proposed budget for fiscal years 2010-11 is \$4.8 billion<sup>iii</sup>.

After the Willowbrook consent decree of 1975, which was issued after deplorable conditions were found at the Willowbrook state school in Staten Island, one of the institutions in which New York kept developmentally disabled individuals, the State has been trying to limit or totally eliminate the number of developmentally disabled individuals being treated in institutionalized settings. The State has aimed to shift their treatment to residential services, whether it be at home with their families or in group homes. This policy has been a core mission of OMRDD since its inception in 1978. According to OMRDD figures, currently under 500 individuals remain in the development centers<sup>iv</sup>, the new name given to the old state schools in 1974, down from over 16,000 at the time of OMRDD's inception and 27,000 in 1968. An additional 1,050 individuals with particularly challenging behaviors or problems are cared for in special units.

A key part of OMRDD's focus on ending institutionalized treatment has been the focus on creating individualized care programs for every individual it serves. Once an individual is diagnosed with any of the conditions that make them eligible for assistance by OMRDD, an individualized plan is created for them, and this plan guides the kind of assistance and services they will receive. The home and community based services (HCBS) waiver program, a Medicaid program created in the early 1980's that allows States to fund services provide outside of medical facilities, allows OMRDD to spend Medicaid funds to provide community and residential services to the individuals they serve.

The vast majority of individuals served by OMRDD receive residential services, attend day programs, or get support at home. Approximately 37,000 individuals live in what are colloquially termed "group homes", which are care facilities in a residential setting<sup>v</sup>. This includes approximately 6,100 individuals served in Intermediate Care Facilities, or ICF's<sup>vi</sup>. These homes serve those individuals who require the most intensive level of care and supervision. Approximately 27,500 individuals are served in Individual Residential Alternatives (IRA's), which average between 4 and 8 individuals (generally classified as consumers). These facilities provide varying levels of supervision, with some providing 24 hour supervision. An additional 3,000 individuals are served by family care homes (in which consumers are placed with a family) and community residences (which have a less individualized system of services than other group homes)<sup>vii</sup>.

Approximately 57,000 individuals receive day services, which include training with life skills, supported employment, rehabilitative services and treatments, and day habilitation. An additional 43,000 individuals received support services<sup>viii</sup>. These are services given to individuals who live at home with their families, and include, but are not limited to, respite for family members, recreation, crisis intervention, and case management. The population OMRDD serves closely resembles the overall population of the state, and is therefore quite diverse. According to OMRDD's own latest five year plan, they serve a population which is getting both older and younger, with more children being treated since autism spectrum disorders became part of OMRDD's mission and the existing population which traditionally received OMRDD services ages. As the population ages, OMRDD is confronted with more individuals who have not only developmental disabilities, but also medical conditions and/or mental health issues.

### III. Overtime Spending at OMRDD:

OMRDD was one of top spenders of overtime in New York State in calendar year 2009, ranking third in absolute terms after the Department of Correctional Services (DOCS) with \$93.2 million paid to 22,845 employees and the Office of Mental Health (OMH) with \$70.8 million paid to 10,303 employees. In the calendar year 2009, OMRDD spent a total of \$69.8 million in overtime<sup>ix</sup>.

#### Breakdown of Overtime Earnings at OMRDD

# of employees	Amount of OT earned	Total OT earnings	% of OMRDD OT Earners	% of OT Earnings at OMRDD
20	Over \$50,000	\$ 1,158,165.21	0%	2%
50	Over \$40,000	\$ 2,480,608.72	0%	4%
148	Over \$30,000	\$ 5,795,344.01	1%	8%
478	Over \$20,000	\$ 13,642,147.68	3%	20%
903	Over \$15,000	\$ 21,020,945.79	5%	30%
1803	Over \$10,000	\$ 31,945,797.81	10%	46%
4257	Over \$5,000	\$ 49,174,919.80	25%	70%
17216	More than \$0	\$ 69,830,994.52	100%	100%

All three of these agencies have many employees serve their respective population twenty-four hours a day. The around the clock schedules of these occupations lend themselves to high amounts of overtime. Of course, even in setting where there is work to be done at all hours of the day, good management practices and controls can lower the need for overtime spending.

As the chart above shows, overtime earnings are concentrated amongst a small portion of OMRDD employees. The top twenty highest overtime earners in 2009 earned over a million dollars, and accounted for 2% of all the total overtime paid to OMRDD employees, even though they accounted for a mere fraction of a percent of all the employees who earned overtime. In the end, just 25% of OMRDD employees who get paid overtime earned 70% of the overtime paid out. This pattern of overtime earnings being concentrated amongst a relatively small portion of employees has been seen at other State agencies like DOCS.

#### Top 20 Overtime earners at OMRDD in 2009<sup>x</sup>

Agency Name	Title	2009 OT Earnings Sum	Salary	Total Earnings	Percent of Total earnings from OT	Ratio of OT earnings to Salary
L. I. DEVELOPMENTAL CENTER	DEV AIDE	\$ 68,996.09	\$ 39,776.00	\$ 115,627.48	60%	173%
L. I. DEVELOPMENTAL CENTER	DEV AIDE	\$ 67,084.59	\$ 40,903.00	\$ 112,329.09	60%	164%
L. I. DEVELOPMENTAL CENTER	DEV ASSNT 2	\$ 66,983.06	\$ 46,739.00	\$ 121,578.19	55%	143%
WESTERN NEW YORK DDSO	DEV AIDE	\$ 65,732.91	\$ 38,593.00	\$ 108,263.16	61%	170%
FINGER LAKES DDSO	DEV ASSNT 2	\$ 63,120.28	\$ 49,030.00	\$ 113,668.41	56%	129%
HUDSON VALLEY DDSO	DEV AIDE	\$ 62,124.26	\$ 39,828.00	\$ 104,996.24	59%	156%

<b>SUNMOUNT DEVELOPMENTAL CENTER</b>	DEV AIDE	\$ 59,715.77	\$ 41,393.00	\$ 106,746.06	56%	144%
<b>HUDSON VALLEY DDSO</b>	DEV AIDE	\$ 58,070.97	\$ 41,007.00	\$ 96,557.08	60%	142%
<b>L. I. DEVELOPMENTAL CENTER</b>	DEV AIDE	\$ 57,823.59	\$ 39,776.00	\$ 102,866.37	56%	145%
<b>CENTRAL NY DDSO</b>	DEV AIDE	\$ 57,407.13	\$ 39,718.00	\$ 94,203.47	61%	145%
<b>BROOME DEVELOPMENTAL CENTER</b>	DEV ASSNT 1	\$ 56,257.93	\$ 45,324.00	\$ 101,676.80	55%	124%
<b>FINGER LAKES DDSO</b>	DEV AIDE	\$ 55,146.04	\$ 39,828.00	\$ 97,972.13	56%	138%
<b>BROOME DEVELOPMENTAL CENTER</b>	DEV AIDE	\$ 54,461.09	\$ 38,593.00	\$ 93,521.53	58%	141%
<b>FINGER LAKES DDSO</b>	DEV AIDE	\$ 54,273.93	\$ 38,593.00	\$ 94,424.07	57%	141%
<b>L. I. DEVELOPMENTAL CENTER</b>	DEV ASSNT 1	\$ 53,867.07	\$ 44,389.00	\$ 99,372.41	54%	121%
<b>HUDSON VALLEY DDSO</b>	DEV AIDE	\$ 53,820.18	\$ 41,393.00	\$ 92,590.24	58%	130%
<b>L. I. DEVELOPMENTAL CENTER</b>	DEV ASSNT 1	\$ 51,675.73	\$ 42,945.00	\$ 98,924.54	52%	120%
<b>WESTERN NEW YORK DDSO</b>	DEV AIDE	\$ 50,906.79	\$ 39,776.00	\$ 92,436.51	55%	128%
<b>CAPITAL DISTRICT DDSO</b>	DEV AIDE	\$ 50,526.36	\$ 41,393.00	\$ 93,366.15	54%	122%
<b>HUDSON VALLEY DDSO</b>	DEV AIDE	\$ 50,171.44	\$ 41,534.00	\$ 94,680.85	53%	121%

An examination of top individual overtime earners above shows that a significant percent of them work at the Long Island DDSO. The top three overtime earners worked at the Long Island DDSO, and that center employed 6 of the top 20 overtime earners in 2009, or 30%. The Finger Lakes DDSO came in second, with three individuals in the top twenty overtime earners.

As shown above, the top overtime earners in OMRDD have the titles of Developmental Aide or Developmental Assistant. Developmental Aides and Assistants, and equivalent titles earned the bulk of the overtime paid out by OMRDD. Developmental Aides earned \$46.3 million of the \$68.8 million in total overtime earned, and Developmental Assistants earned \$10.4 million. In total, these job titles accounted for 74% of the employees who earned overtime in 2009 and for 81% of the total amount earned. With regards to total employee spending, these two classes of employees accounted for 49% of the total wages and salaries earned by OMRDD employees in 2009 and 54% of the workforce as of December 31, 2009.

While Developmental Aides and Assistants earned the majority of the overtime, there were employees in other job titles that also earned significant amounts which brings up questions of how specific centers may be handling their overtime expenditures. One example of this are three maintenance assistants at the Long Island DDSO, who earned over \$225,000 in salaries, overtime and additional salary enhancements in 2009.

<b>TITLE</b>	<b>OT EARNINGS</b>	<b>SALARY</b>	<b>TOTAL EARNINGS</b>
MAINTCE ASSNT	\$35,623.42	\$41,108.00	\$79,249.87
MAINTCE ASSNT	\$33,336.00	\$41,149.00	\$77,002.99
MAINTCE ASSNT	\$27,177.02	\$41,149.00	\$70,844.01
<b>TOTAL:</b>	<b>\$96,136.44</b>	<b>\$123,406.00</b>	<b>\$227,096.87</b>

It was noted that these individuals earned significantly more overtime than maintenance assistants at the other DDSO's. Another significant discrepancy between the amounts of overtime being earned at the various DDSO's for a particular job class involves the food service workers at the Brooklyn DDSO. For example, one cook in the Brooklyn DDSO was paid \$17,940.96 in overtime in 2009, which was 34% of the total overtime paid to all thirty cooks at OMRDD who earned overtime in 2009. In general food service workers at the Brooklyn DDSO earned significantly more overtime than food service workers at any other DDSO. In fact, 15 of the top 20 top overtime earners for food service workers level 1 were at the Brooklyn DDSO, and the top overtime earner at Brooklyn was paid five times more in overtime than the highest food service overtime earner at any other facility.

<b>FACILITY</b>	<b>TITLE</b>	<b>OT EARNINGS</b>
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 20,483.62
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 18,583.53
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 17,405.52
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 12,555.47
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 11,989.03
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 9,585.29
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 8,287.12
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 7,521.72
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 7,333.89
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 5,787.80
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 5,360.30
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 4,882.93
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 4,690.74
FINGER LAKES DDSO	FOOD SERVICE WKR 1	\$ 4,050.97
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 3,910.71
FINGER LAKES DDSO	FOOD SERVICE WKR 1	\$ 3,686.09
FINGER LAKES DDSO	FOOD SERVICE WKR 1	\$ 3,469.13
FINGER LAKES DDSO	FOOD SERVICE WKR 1	\$ 3,334.06
BROOKLYN DDSO	FOOD SERVICE WKR 1	\$ 3,138.38
FINGER LAKES DDSO	FOOD SERVICE WKR 1	\$ 3,046.97
	<b>TOTAL:</b>	<b>\$ 159,103.27</b>

The Brooklyn DDSO paid five food service workers over \$10,000 in overtime while the most any other DDSO paid in overtime to this category of workers was \$4,051. In fact, while the Brooklyn DDSO accounted for 25% of the employees in food service worker titles that earned overtime in 2009, they earned 67% of the total overtime paid to these employees. OMRDD needs to examine the significant discrepancy between the amount of overtime being paid out in the Brooklyn DDSO versus by food service employees at other locations. There was no indication on any of the OMRDD reports that the Task Force reviewed that the Brooklyn DDSO houses any sort of specialized food processing or preparation facility that may help to explain this discrepancy.

### Overtime Earnings per DDSO

OMRDD Facility	Total OT paid in 2009	No. OT earners in 2009	Average OT earnings	Highest OT earnings	Clients Served by DDSO <sup>1</sup>	Ratio of Client to Employee	Average OT per client
<b>BERNARD FINESON DEV. CENTER</b>	\$ 1,795,916.77	695	\$ 2,584.05	\$32,184.26	624	0.90	\$ 2,878.07
<b>BROOKLYN DDSO</b>	\$ 4,654,279.40	949	\$ 4,888.95	\$45,402.69	841	0.89	\$ 5,534.22
<b>BROOME DEVELOPMENTAL CENTER</b>	\$ 4,599,624.75	1482	\$ 3,099.48	\$56,257.93	1,368	0.92	\$ 3,362.30
<b>CAPITAL DISTRICT DDSO</b>	\$ 3,551,993.46	1202	\$ 2,945.27	\$50,526.36	879	0.73	\$ 4,040.95
<b>CENTRAL NY DDSO</b>	\$ 8,435,115.62	1963	\$ 4,292.68	\$57,407.13	2,880	1.47	\$ 2,928.86
<b>FINGER LAKES DDSO</b>	\$ 7,912,182.54	2439	\$ 3,242.70	\$63,120.28	2,353	0.96	\$ 3,362.59
<b>HUDSON VALLEY DDSO</b>	\$ 6,436,440.61	1473	\$ 4,369.61	\$62,124.26	1,661	1.13	\$ 3,875.04
<b>L. I. DEVELOPMENTAL CENTER</b>	\$ 7,293,245.83	1209	\$ 6,032.46	\$68,996.09	1,266	1.05	\$ 5,760.86
<b>METRO NEW YORK DDSO</b>	\$ 4,533,072.95	655	\$ 6,920.72	\$38,283.93	895	1.37	\$ 5,064.89
<b>STATEN ISLAND DDSO</b>	\$ 4,312,589.75	566	\$ 7,592.59	\$44,634.46	1,040	1.84	\$ 4,146.72
<b>SUNMOUNT DEVELOPMENTAL CENTER</b>	\$ 6,175,585.46	1340	\$ 4,608.65	\$59,715.77	1,065	0.79	\$ 5,798.67
<b>TACONIC DDSO</b>	\$ 2,446,716.51	1200	\$ 2,033.85	\$41,023.90	770	0.64	\$ 3,177.55
<b>WESTERN NEW YORK DDSO</b>	\$ 6,875,733.91	1770	\$ 3,880.21	\$65,732.91	1,201	0.68	\$ 5,725.01
<b>TOTAL:</b>	<b>\$ 69,022,497.56</b>	<b>16943</b>	<b>\$ 4,073.81</b>	<b>\$68,996.09</b>	<b>16,843</b>	<b>0.99</b>	<b>\$ 4,097.99</b>

The chart above shows a wide disparity amongst DDSO's in terms of the average overtime earned by employees, what the top overtime payouts were, the ratio of staff to clients, and the average of overtime spent per client. It should be noted that each DDSO offers some different services, for example, the B. Fineson, Brooklyn, Broome, Taconic, and Western New York DDSO's house developmental centers, the old fashioned institutional settings that OMRDD has been working to close down. B. Fineson and the Capital District DDSO both offer specialized

<sup>1</sup> Clients as of 1/31/2010. Information provided by OMRDD

autism programs, while the Taconic, B. Fineson, Broome, Brooklyn, Staten Island, and Taconic DDSO's provide multiple disabilities units. Yet looking at the data, these specialized units do not display any significant differences in overtime data or employee per client numbers. Interestingly, the B. Fineson DDSO provides many of these specialized programs serving more challenging populations, yet paid out the lowest rates of overtime per DDSO. The Broome DDSO also offers a large number of these specialized services, including the largest Local Intensive Unit (LIT) in the OMRDD system, which transitions individuals from more intensive treatment facilities to less intensive facilities, and yet its average per employee overtime spending was below the system-wide average. Based on this, it does not appear that the type of services provided by each DDSO was a major determinant in the amount of overtime earned by its employees.

While the average overtime spending per employee was generally higher downstate compared to upstate, the average amount of overtime spent per client did not display a clear pattern. For example, while the Long Island DDSO had the highest average overtime spending per client, the Western NY DDSO was second, with an average that was only \$35 less. It can be noted that the ratio of employees to clients was generally lower in upstate DDSO's versus downstate. The upstate Taconic and Western DDSO's had ratios of 0.64 and 0.68 clients to employee respectively, compared to the 1.84 client to employee ratio at the downstate Staten Island DDSO. This was the highest ratio in the system, which might explain why Staten Island employees earned the most overtime per employee, at a rate of \$600 per employee higher than the next highest center. However, the Staten Island DDSO falls towards the middle of the rankings when looking at its overtime spending to client ratio. OMRDD should ensure that existing rules on adequate staffing ratios per patient are being followed, and look for ways to better manage its workforce to ensure that the necessary care continues to be provided and employees are not forced to work excessive overtime hours.

There was no discernable downstate-upstate difference either with regards to top overtime earnings by employees at each of the DDSO's. For example, the Bernard Fineson and Metro DDSO's, both of which are located in New York City, had the lowest top overtime earnings for a single employee in the list, the Long Island DDSO had the single highest earner of overtime in 2009 at \$68,996.09, and the Western NY DDSO paid one employee \$65,732.91 in 2009.

As was noted earlier, the agencies that make up the Department of Mental Hygiene, particularly OMRDD and OMH, are some of the biggest spenders in overtime. In 2008 a joint workgroup was created between OMRDD, OMH, and OASAS, to investigate the work hours for direct care workers. As has been noted, these workers earn the most overtime at OMRDD and this is true at the other mental hygiene agencies as well. The workgroup also wanted to address the issue of whether long work hours for direct care staff lowered their productivity and led to inferior service. This report<sup>xi</sup> found that many direct care workers rely on overtime earnings to pay their routine financial obligations and costs, and many hold second jobs. They could not find any empirical evidence that longer working hours led to inferior service, even with all the anecdotal evidence they received. The report also stated that the State and voluntary agencies were limited by existing collective bargaining agreements when it came to changing overtime rules unilaterally.

Unfortunately, this report failed to lay out the scope of the overtime spending problem, and the fact that many employees expect to use overtime as a way to supplement their income should not be a reason not to address the problem. Regularly and scheduled overtime should not be used as a band aid to correct any problems with whether current rates of compensation for these positions are sufficient.

OMRDD needs to examine the ways each of its own DDSO's spend overtime and implement whatever successful workforce management strategies they are using at some facilities system wide. Had every DDSO spent the same average overtime per client as the Bernard Fineson DDSO, the system would have spent \$12.4 million less in overtime. While it might not be feasible for some of DDSO's that tend to larger populations to spend at the same rate as Bernard Fineson, if every DDSO had spent the same average per client overtime as the Hudson Valley DDSO did, the State would have spent \$3.8 million less in overtime in 2009. This would have resulted in an overall savings of 5% in overtime spending. We urge OMRDD to review their overtime use in every facility and take every step necessary to lower overtime costs by at least **\$3.8 million** in fiscal year 2010-11.

#### **IV. Procurement of new group homes**

As part of the de-institutionalization programs that were enacted after the controversy surrounding the Willowbrook facility in Staten Island, OMRDD has sought to place as many individuals as possible in a variety of non-institutionalized settings. These facilities are colloquially called group homes, though in fact this term covers a variety of facilities that provide care and assistance to individuals with the differing levels of disability and designations. The main classes of group homes are Family residences, community residences (CR) and Individualized Residential Alternatives (IRA), as well as Intermediate Care Facilities (ICF), which serve individuals who need greater assistance than those in IRA's and CR's.

When a site is chosen as the possible location of a group home, whether by OMRDD or by a voluntary agency, the local municipality must be given notice that a property is being considered as a possible site for the group home. The municipality is then given forty days to respond. The municipality can approve the location, suggest alternative locations, or object to the location because the municipality feels that the neighborhood is already saturated with group homes. If an objection occurs, or the community's suggested alternative location is rejected, a hearing is held by the Commissioner. The Commissioner's findings can be appealed using an article 78 proceeding, which then sends the case for a court hearing.

As noted above, the rationale a local community is allowed to use to object to a group home is saturation – the overburdening of a locality with group homes. Group homes, whether they are operated by a voluntary agency or directly by the State, are removed from the property tax rolls, and this increases the burden on other tax payers. Many localities also fear that the presence of too many group homes significantly alters the composition of the neighborhood and negatively affects home values.

A good example of this process occurred in the town of Yorktown, in Westchester County. In early 2008, OMRDD provided approval for the development of two groups homes in the town of Yorktown by Opengate , Inc., a non-for profit agency that provides assistance to individuals with

developmental disabilities. Opengate, Inc. chose two properties in Yorktown, 3793 Marcy Street, and 2799 Evergreen Street, as possible sites for group homes. Municipal officials in Yorktown objected to these sites because according to town officials, Yorktown already housed a disproportionate percentage of the groups homes in Westchester County<sup>xii</sup>. Eventually OMRDD sided with Opengate, Inc. and ruled against the town, and further legal action by the town failed to prevent the establishment of these group homes. While local residents did argue against the establishment of these group homes on the basis of oversaturation, many residents also made the case that these two properties were excessive and too expensive for the State to be using as group homes.

**2799 Evergreen Street, Yorktown, New York, prior to renovations<sup>xiii</sup>**



These pictures, taken before the property at 2799 Evergreen Street was acquired as a group home, shows off the backyard pool and hot tub of this 2,886 square foot 4 bedroom home. Opengate Inc. acquired the property for \$845,000 in August of 2008. This was the highest

amount paid for any house in the neighborhood in calendar year 2008<sup>xiv</sup> and was 63% higher than the average sale price during the same period. According to OMRDD, the home was appraised for \$840,000, which meant that Opengate, Inc. paid \$5,000 more than its appraised value. Properties being converted to group home must be renovated and retrofitted so that they conform with the needs of the residents. According to residents in Yorktown, and confirmed by OMRDD, an additional \$197,000 dollars more was spent to fill in a pool and hot tub in the back yard. Renovations to a home are distinct from environmental modifications. Renovations would include general modifications to make the home conform with its use as a group home capable of serving clients. This might include changes such as turning a space into a nursing station or adding or converting bedrooms. An environmental modification is a change necessary to accommodate the specific special needs of a resident. An example would be adding a chair lift to accommodate residents unable to navigate stairs.

According to OMRDD, the total cost of this new group home was \$1,220,591. According to Opengate, Inc's Fall/Winter 2009-10 newsletter, this home will house seven male residents who are being moved from an older group home that will be converted to a 24 hour nursing care facility. The aforementioned Marcy Street property in Yorktown is slated to house six female residents also being moved from this older group home run by Opengate, Inc. Opengate, Inc. acquired the Marcy Street property for \$725,000 in April of 2008. That price made it one of the most expensive home sales in the neighborhood for 2008<sup>xv</sup>, 83% above the average. According to OMRDD, the final cost for this group home was \$1,074,704. This included \$25,000 that Opengate, Inc. paid above the appraised fair market value of \$700,000 and \$14,402 in environmental modifications. In total, these two group homes in Yorktown cost \$2.3 million to house 13 individuals.

At this point, it is critical to explain what OMRDD's financial obligations are with regards to these two sales. The only money that OMRDD paid up front was \$14,402 for environmental modifications at the Marcy Street property. OMRDD does not plan on paying back the agencies for all of its costs. While Opengate Inc. got \$1.2 million to finance the creation of this group home, OMRDD will reimburse Opengate, Inc. for the \$845,000 paid for the home and \$197,000 for the renovations. From this amount, OMRDD subtracts the difference between the amount paid for the home and the appraised value. In the case of the Evergreen property, this amount was \$5,000. OMRDD stated that the per bed cost to them for the Evergreen property will be \$148,285, which means that OMRDD will reimburse Opengate, Inc. for \$1,037,995 (a minor discrepancy exists since \$840,000+\$197,000 is \$1,037,000). The per bed cost of the Marcy Street property comes out to \$146,185, or a total of \$877,110. In total OMRDD would reimburse Opengate, Inc. for \$1.92 million of the total \$2.3 million cost. This reimbursement happens over the fifteen year term of Opengate's loans, and is included in the rates that OMRDD agrees to pay Opengate for the care of these clients, money mainly financed through Medicaid thanks to the HCBS waiver program.

When contacted, OMRDD pointed out that homes in Westchester are expensive and with median home prices of approximately \$625,000, meaning that any group homes in county are going to be expensive. While OMRDD is correct that Westchester is a high cost county, it is important to note that OMRDD and Opengate, Inc. paid above the appraised market value for both these properties during a time of declining home values. And while Westchester is an expensive

county, it should be noted that the final total cost of the Evergreen Street group home was close to twice the median home price in Westchester County.

OMRDD prides itself on the close relationship between the agency and its volunteer providers and the population that OMRDD serves. The success it has had in improving and increasing the care given to individuals with developmental disabilities in New York State demonstrates the benefits of that close relationship. At the same time, OMRDD and its leadership need to keep in mind that they are a taxpayer funded organization, and while the citizens of New York support their mission, they need to conduct themselves in the most cost-effective manner possible. For this reason spending large amounts on buying luxurious homes for community residences is highly questionable. Given the state’s policy to move individuals into residential programs and away from institutional settings, OMRDD should be trying to use its money to maximize the number of residential opportunities available. The more the state pays for each individual residence, the less funds that are available for any additional facilities.

**V. The cost of public and private group homes.**

As noted before, OMRDD provides services for 125,000 individuals in New York, including 37,000 who are served in residential programs. Again, providing these services is a task divided between OMRDD and the voluntary organizations that run the community residences. Below is a 2008 breakdown of the residents in state operated community residences versus those operated by voluntary organizations.

**Percent of residents in State run residences:**

Type of Residential Service <sup>2</sup>	Clients in State Operated	Clients in Voluntary Operated	Total	% in State Operated
Family Care	2,243	473	2,716	83%
Community Residences	-	415	415	0%
Individualized Residential Alternatives	7,154	19,781	26,935	27%
Intermediate Care Facilities	617	5,554	6,171	10%
<b>Total:</b>	<b>10,014</b>	<b>26,223</b>	<b>36,237</b>	<b>28%</b>

The only class of residential programs in which the state operates more homes than voluntary organizations is the Family Care program, which is the oldest of the residential programs, established in the 1930’s. This is a program that places individuals within a family structure responsible for taking care of the individual. This program has been declining in size over time as fewer families have come forward to participate as host families.

Overall, around 28% of individuals are served by State operated facilities, with 27% of them being in the most common form of residential service, IRA’s, operated by the State. If we look at the number of residences operated by each DDSO, we see that State operated community residences are concentrated in the upstate regions, with the Central NY and Western NY DDSO’s the largest managers of such state operated residences. In the New York City region there are few state operated community residences. In fact, the four DDSO’s that operate in New

<sup>2</sup> Data from OMRDD, as of 2008 from CORE Budgeting report.

York City (Bernard Fineson, Brooklyn, Metro, and Staten Island DDSO) operate fewer community residences (128) than the Finger Lakes DDSO or the Hudson Valley DDSO, even though the total population of New York City is far greater than the population of these two other regions combined.

### State operated Community residences per DDSO

DDSO	State operated Community Residences <sup>3</sup>
BERNARD FINESON DEV. CENTER	24
BROOKLYN DDSO	20
BROOME DEVELOPMENTAL CENTER	49
CAPITAL DISTRICT DDSO	80
CENTRAL NY DDSO	200
FINGER LAKES DDSO	143
HUDSON VALLEY DDSO	131
L. I. DEVELOPMENTAL CENTER	63
METRO NEW YORK DDSO	47
STATEN ISLAND DDSO	37
SUNMOUNT DEVELOPMENTAL CENTER	36
TACONIC DDSO	76
WESTERN NEW YORK DDSO	151
<b>TOTALS:</b>	<b>1057</b>

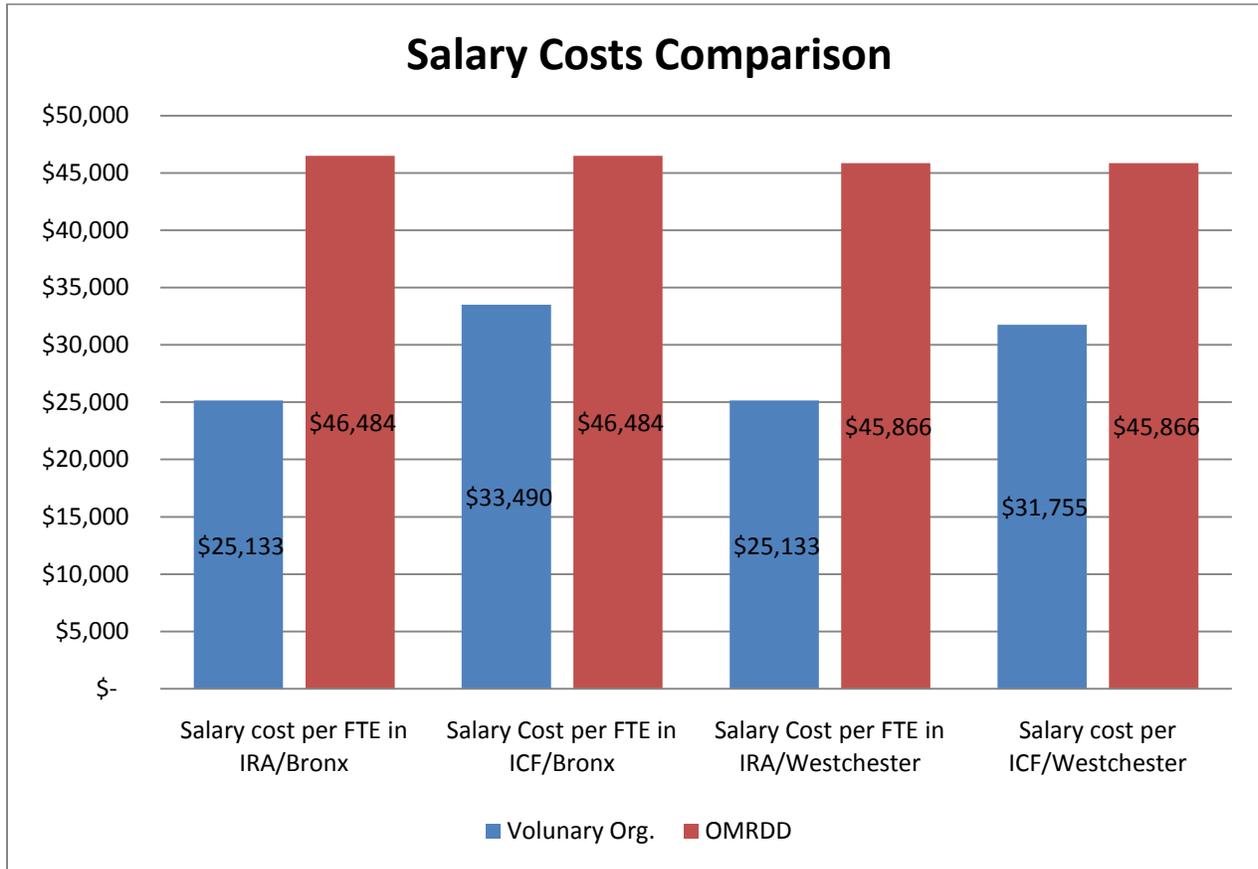
Most residential programs, particularly the IRA's and ICF's, are currently funded through the HCBS waiver program, meaning that they are paid through Medicaid funds. Medicaid is a program whose cost is split between the State and the Federal government. The split between the Federal government and New York for Medicaid has generally been 50%, though under the American Recovery and Reinvestment Act (ARRA), the Federal government has been picking up 60% of the costs for the past two years. In the end, New York taxpayers end up picking up the costs of both state operated and voluntarily operated community residences. In terms of looking for ways to save money, the State should be trying to maximize the effectiveness of our Medicaid dollars.

The vast majority of the operating costs of a residential program come from the staffing costs for the direct care and support staff at any community residence. The exact level of staffing at any one residence is based on the specific needs of the clients being served in the group home. This ratio of staff per bed will vary depending then on the needs of the clients. Two homes with four beds could therefore have a significantly different cost, if one population happens to have individuals with greater needs than another. As noted before, ICF's tend to serve populations with higher needs than IRA's, so their staffing cost can be higher. ICF's also have a greater likelihood of needing medical personnel on staff than IRA's which adds to staffing costs.

We were able to gather some data from OMRDD and a voluntary organization that operates community residences in Bronx and Westchester counties. The Bronx is part of the Metro NY DDSO's area of operations and Westchester is part of the Hudson Valley DDSO. We inquired

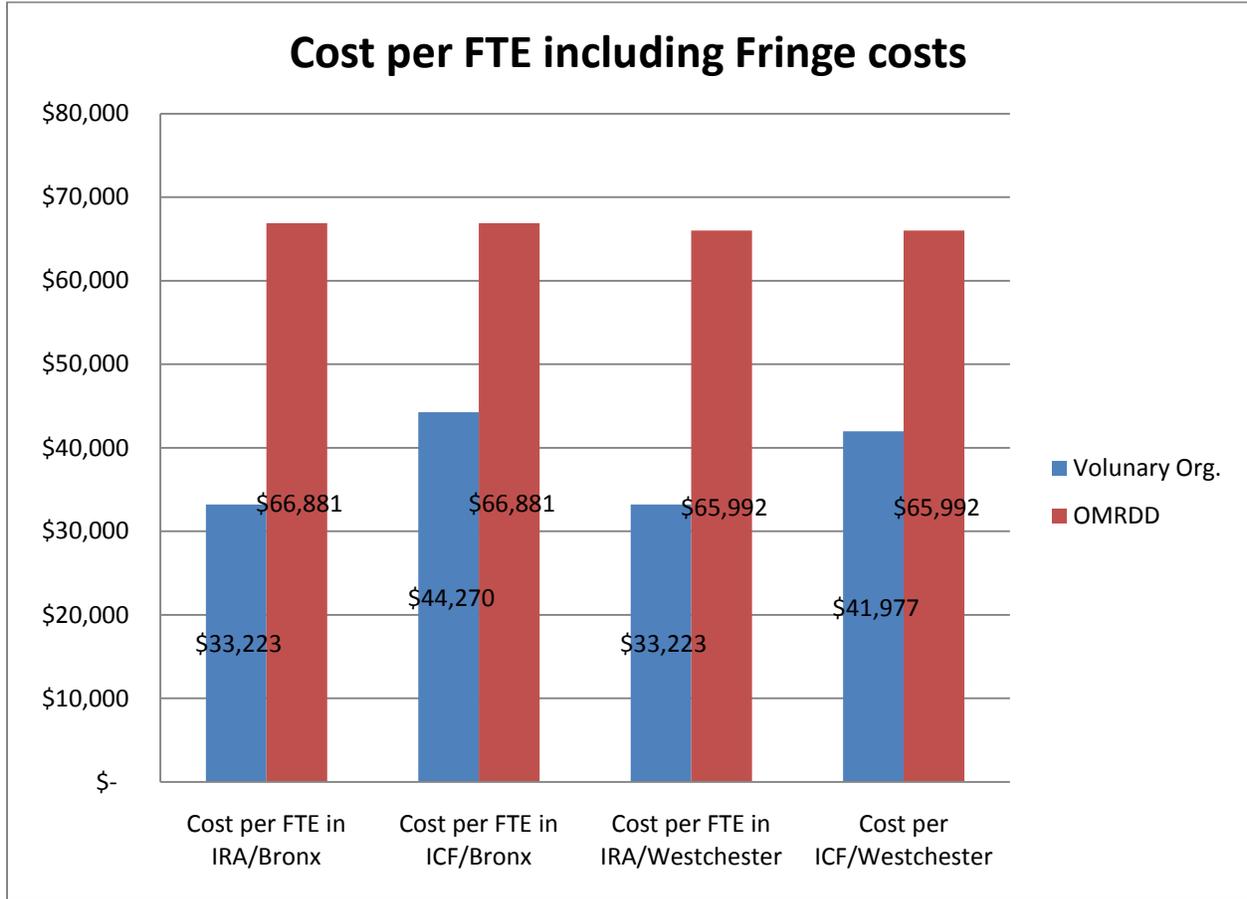
<sup>3</sup> Data provided by OMRDD, as of 2/19/2010

about the staffing costs of both an IRA and a ICF in these regions. The voluntary organization<sup>xvi</sup> provided detailed information on their staffing cost at one IRA and one ICF in both counties<sup>4</sup>. OMRDD provided a more generalized breakdown of staffing costs at their Hudson Valley and Metro NY DDSO community residences, and explained that their relative staffing costs were very similar for both IRA's and ICF's. There is a clear distinction in cost between the two.



It is possible that the average salary cost per FTE (full time employee) given by OMRDD takes into account the salaries of supervisors and other higher paid individuals than the data from the volunteer organization, so the differences might not be as large as the graph would make it seem. It is clear, however, that the staffing costs at the State operated homes are higher than the costs at a voluntary organization. These are the salary costs only and do not take into effect the costs of fringe benefits. If fringe benefits were included, the disparity would widen because the fringe rate for the voluntary organization is calculated at 32.2% while the fringe cost at OMRDD is estimated to be 43.88%. This difference in fringe rates widens the difference in staffing costs, particularly at the IRA's, since according to OMRDD, their basic staffing costs between the two types of program do not vary significantly. It should be noted that the volunteer organization sampled is unionized, as are all OMRDD facilities.

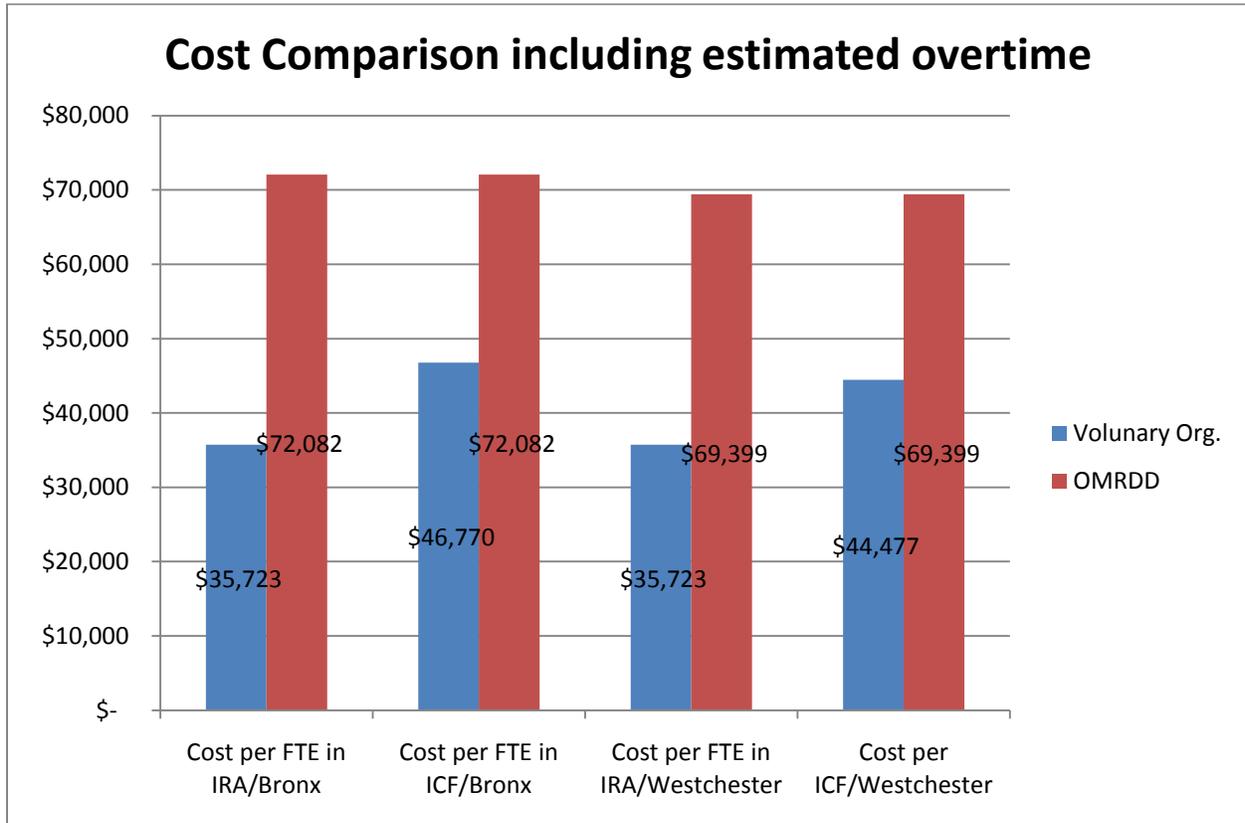
<sup>4</sup> The information was provided after requests from Task Force staff for personnel expenses data for comparisons.



The previous calculations did not include possible overtime expenditures. As has been noted previously, staff at the facilities being discussed earn the bulk of overtime earnings at OMRDD. OMRDD has estimated that the average overtime expenditures in their Bronx facilities is \$5,201 per staff member. OMRDD estimates that the average overtime cost per staff member in Westchester is \$3,407. At the volunteer agency surveyed, the average estimated overtime cost per employee is \$2,500 a year. There are several reasons for the difference in the amounts spent on overtime between OMRDD and the voluntary agencies. OMRDD pays a higher salary base, and thus each hour of overtime will cost more in an OMRDD managed facility. Some voluntary agencies have greater flexibility than OMRDD in terms of bringing in temporary workers to fill shifts that become vacant. The contract between the voluntary agency surveyed and its employee's union allows for the hiring of per diem workers. There exist temporary employment agencies that hire out individuals who have been trained to work as direct care workers at these facilities, though the voluntary agency surveyed relies on a pool of individuals trained by their organization for their per diem employees.

According to OMRDD's state-wide comprehensive plan for 2009-2013, the size of group homes has been decreasing over the last few years. The department hopes to continue this trend by increasing the number of homes with four residents or less, which currently comprise about 40% of community residences. If we were to imagine an IRA with five residents in the Bronx, with an average FTE per resident ratio of 1.73 (meaning that you would need around 1.73 full time

employees to take care of an individual according to their individualized care plan), then the cost for a volunteer organization providing the staffing for that theoretical home if they paid the same as the selected volunteer organization is \$287,381.65 while the cost for OMRDD to staff that home (again, only including salary and fringe benefits) would be \$578,522.20. That would make the cost of the OMRDD home twice as great as that of a volunteer organizations, and that is without taking into consideration overtime expenditures.



Now, it is quite possible that there are volunteer organizations that pay more than the one sampled (and there are likely others that pay less), and it should be noted that staff costs at OMRDD facilities are set by a state-wide bargaining agreement between the Executive and the various bargaining units which covers employees at various state agencies. Cost of living adjustments for employees working downstate are significantly higher than those for employees living upstate, and as we have seen, the bulk of state operated community residences are located upstate, where the disparity between State operated and volunteer operated costs might be lower. Yet even if we assume a lower difference in salaries in the upstate regions, the difference in overtime spending, the lower labor flexibility, and the higher cost of fringe benefits at OMRDD will make costs at these OMRDD managed facilities greater than at residences managed by voluntary agencies.

OMRDD should seek to maximize the number of community residential opportunities that can be provided by voluntary organizations. By being able to serve more individuals while spending significantly less on staffing costs, the agency can spread out its resources and ensure that more individuals have access to residential opportunities.

## VI. Conclusion

OMRDD has successfully transformed what was once a dysfunctional system that warehoused individuals with developmental disabilities and provided them with little outside contact or opportunities into one that gives individuals a chance to live fulfilling and productive lives. In doing so, the amount and types of services provided to individuals have increased dramatically, and so have the costs. As noted before, the budget for OMRDD during the 2009-10 fiscal year was \$4.5 billion. The state needs to continue its commitment to providing individuals with developmental disabilities opportunities for growth and personal enrichment, but during these lean times, needs to make the system as efficient and cost effective as possible.

One of the ways that OMRDD can better manage its resources is by providing more scrutiny over how the money is spent on acquiring properties for the creation of residential services. We highlighted one example of how OMRDD and a voluntary organization spent significant amounts of money to set establishing two residences, spending as much as \$2.3 million to provide new residential opportunities to 13 individuals, with the State share of these costs \$1.92 million. While this home was acquired in Westchester, one of the high cost area in the State, the homes in question proved to be some of most expensive or close to the most expensive in those neighborhoods that year, and were purchased for prices significantly higher than the average.

OMRDD can also attempt to maximize the number of voluntary organizations providing residential alternatives to clients. It is clear that staffing costs at OMRDD are significantly higher than those of voluntary organizations. This is not merely a result of one group of workers being unionized or not, since many workers at the voluntary organizations are unionized. The State pays higher wages in general and offers more generous benefits. High labor costs divert money away from direct services. This need to increase voluntary organization participation appears to be especially true Upstate, where the number of State run residential programs is higher than downstate.

Finally, OMRDD needs to reduce overtime spending. Our report showed that different DDSO's paid very different rates of overtime than others, sometimes without any clear apparent cause. OMRDD is the third highest spender of overtime out of all the state agencies. While the 24 hour nature of the work explains why OMRDD is so high up on the list, it does not excuse this rate of spending. Employees should also not be looking to overtime earnings as a source of regular supplemental income. OMRDD needs to improve its control of overtime spending and how it is managed across all facilities. If all the DDSO's spent overtime at the same average rate as the Hudson Valley DDSO did, OMRDD could cut its overtime spending by 5%, for a savings of **\$3.8 million**.

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<sup>i</sup> 2010-11 Executive Budget Agency Presentations, pg. 149

<http://publications.budget.state.ny.us/eBudget1011/agencyPresentations/pdf/AgencyPresentations.pdf>

<sup>ii</sup> Information provided by the Office of the State Comptroller

<sup>iii</sup> 2010-11 Executive Budget Agency Presentations, pg. 149

<sup>iv</sup> Statewide Comprehensive Plan 2009-2013, pg. 25

[http://www.omh.state.ny.us/omhweb/planning/statewide\\_plan/2009\\_to\\_2013/full.pdf](http://www.omh.state.ny.us/omhweb/planning/statewide_plan/2009_to_2013/full.pdf)

<sup>v</sup> 2010-11 Executive Budget Agency Presentations, pg. 152

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- vi OMRDD CORE budgeting report, 2008, pg. 4  
[http://www.budget.state.ny.us/pubs/archive/fy0809archive/enacted0809/coreMissionBudgeting/OMRDD\\_CoreMission.pdf](http://www.budget.state.ny.us/pubs/archive/fy0809archive/enacted0809/coreMissionBudgeting/OMRDD_CoreMission.pdf)
- vii Ibid. pg. 1
- viii 2010-11 Executive Budget Agency Presentations, pg. 152
- ix Data provided by the Office of the State Comptroller.
- x Data provided by the Office of the State Comptroller.
- xi Review of Work Hours and Schedules of Direct Care Staff in New York State  
[http://www.omr.state.ny.us/images/hp\\_news\\_ot\\_report.pdf](http://www.omr.state.ny.us/images/hp_news_ot_report.pdf)
- xii <http://www.gopetition.com/petitions/stop-government-waste.html> Last Accessed June 4, 2010
- xiii Ibid.
- xiv [http://westchester.blockshopper.com/sales/tracts?148\\_08\\_franklin\\_roosevelt\\_state\\_park/2008/](http://westchester.blockshopper.com/sales/tracts?148_08_franklin_roosevelt_state_park/2008/) Last accessed March, 2010.
- xv [http://westchester.blockshopper.com/sales/tracts/148\\_04\\_lake\\_mohegan/2008](http://westchester.blockshopper.com/sales/tracts/148_04_lake_mohegan/2008) Last Accessed March, 2010
- xvi Information furnished by the Institute of Applied Human Dynamics (IAHD), an organization that provides services to individuals with developmental disabilities since 1957 in the Bronx and Westchester Counties. Their website is:  
<http://www.iahdny.org/>