



**Testimony on the FY 2017-18
Executive Budget Proposal**

Workforce Development

Presented Before:

New York State Senate Finance Committee
Chair, Senator Catharine Young

&

New York State Assembly Ways and Means Committee
Chair, Assemblyman Herman D. Farrell, Jr.

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Introduction

I would like to start by thanking Chairwoman Young, Chairman Farrell, and members of the Senate and Assembly for the opportunity for CSEA to comment on the FY 2017-18 Executive Budget proposal.

CSEA proudly represents 300,000 public and private sector employees and retirees across the state. CSEA members care for the developmentally disabled and mentally ill, protect our children, plow our roads, and provide countless other state and local government services. Our members take pride in the work they do and in their place in their communities.

Mario Cuomo once said, "We must get the American public to look past the glitter, beyond the showmanship, to the reality, the hard substance of things. And we'll do it not so much with speeches that sound good as with speeches that are good and sound; not so much with speeches that will bring people to their feet as with speeches that will bring people to their senses."

Unfortunately, the hard substance of things is that we have seen the same thing for years from this administration's budget proposals. There are always speeches that sound good while in reality our state has ignored the needs of working people, the middle class, and thousands of families in need that don't have a voice.

Every year I come before this body and speak to the differences between the public promises made in the Executive Budget proposal and the lack of concern for the most vulnerable New Yorkers.

Quite frankly, I am tired of having to make these same arguments.

It shouldn't be controversial to say that persons with developmental disabilities and their families deserve the State services that have traditionally been available to them.

It shouldn't be controversial to say that direct care workers shouldn't have to work 12 days in a row, 16 hours a day, to provide services that people need.

It shouldn't be controversial to say that hard working New Yorkers deserve dignity and security in retirement, that local governments should control their own finances, and that the middle class shouldn't suffer while burdens are eased on the wealthy.

But apparently these things are controversial when they do not fit into a carefully manicured narrative on the direction of the state.

I urge the legislature to take into consideration the true needs of the people of this state instead of the showmanship.

Office for People with Developmental Disabilities (OPWDD)

Year after year, we see the same approach to OPWDD's budget.

CSEA has always been a willing partner in the appropriate transition of OPWDD's system of care from large institutions to community-based settings. Unfortunately, this transition has left thousands without care and with nowhere left to turn.

As the transition to community-based services has accelerated, the State workforce has been stretched beyond its limits. Extreme overtime and on-the-job injuries have taken their toll on the workforce and the clients they serve.

Based on the latest information provided to CSEA by OPWDD, there are 11,000 families waiting for some type of services. While OPWDD now disputes this claim, they have not provided any convincing evidence otherwise. It is not acceptable that an individual must be in crisis to receive the services he or she needs and deserves

Clients served by OPWDD deserve to be taken care of by a well trained workforce that they know and trust. It is time for the State to show a true commitment to provide care for all of New York's citizens who need it and allocate the resources to make sure individuals are safe and well cared for.

Instead, the Executive once again proposes a budget that holds State agencies to an arbitrarily imposed two percent spending cap. This freeze of agency budgets has resulted in the loss of at least 10,000 state workers (8.4% of the state agency workforce) since 2011, and the loss of even more positions through attrition is proposed in the 2017-18 budget. The Budget proposes the elimination of 253 full time equivalent (FTE) employees within OPWDD, rather than recognizing the structural staffing deficit within the agency.

According to a report by Comptroller DiNapoli, OPWDD lost 4,341 state employees (17.5% of its workforce) between 2007 and 2015. OPWDD employees worked the most overtime in terms of total hours, share of employees working overtime, and overtime as share of agency pay in 2015.

These numbers do not even take into account the per diem and part time employees that have exploded at the agency in recent years, who do not work overtime but instead work “extra time” that is not captured in overtime calculations.

The numbers become even more dramatic when looked at on a closer level.

Over 23 pay periods between FY2016 and FY2017, 2154 employees worked seven or more days in a row, with an average 12 consecutive days worked. Over that same time frame, over 7,000 employees worked more than 16 hours at a time, with an average work span of 17.85 hours.

The Executive Budget proposal does nothing to help bring down these extraordinary levels of overtime for OPWDD employees who, at this point, just want to go home. They miss being able to pick their kids up at school or spend time with their spouse. These are dedicated employees that are providing an essential service to the State who are being mandated to stay away from their families.

This overtime has also put immense stress on the workforce and put employees at risk. Workers are getting injured at extremely high rates, causing even more stress on the workers who have to cover for any lost time. OPWDD workers have a lost time rate that is 2.5 times the state average and 3.6 times the national average.¹

Injuries are an especially large problem within OPWDD and OMH. These two agencies alone made up for more than half of all lost work days and 40% of all compensable incidents in all of New York’s Executive Branch agencies in FY 2014/15. At OPWDD, 17.1 out of every 100 employees was hurt on the job, while in OMH that number was 17.6 out of 100. Injuries at OMH and OPWDD accounted for 42% of all direct costs from on-the-job injuries to the State.²

Quality of care should be a top priority for our State’s most vulnerable. Investments into the dedicated OPWDD workforce would go a long way to advancing that goal.

Care Pilots

The legislature has been a strong partner in advocating for the needs of this community, but we have seen that even when monies are appropriated they are not always let out the door by the Executive. This has especially been the case in regard to CSEA’s pilot programs developed in concert with OPWDD.

¹ New York State Department of Civil Service / U.S. Department of Labor

² New York State Department of Civil Service

CSEA worked cooperatively with OPWDD to create these pilot care programs in 2015 that utilize the state workforce for community based care. The services provided by these pilots include community habilitation, in-home respite, pathways to employment, supported employment, and community pre-vocational. These programs have been extraordinarily successful, but budgeted amounts have not been disbursed and these new ways of delivering State services are not presented as an option at the front door.

CSEA is willing to work with the State as much as possible to transition workers into community-based settings, but the commitment to providing better care needs to come from all parties.

Office of Mental Health

OPWDD isn't the only state agency that has been facing significant cuts in state support, as services provided by the Office of Mental Health are also transitioning to community-based services.

The Executive Budget proposes a reduction of the OMH workforce by another 353 FTEs and the elimination of 240 State-operated beds. This is at the same time that 85 state-operated outpatient clinics will be "transformed," which likely means that many of these facilities will be closed.

The Executive continues to claim that these beds should be taken down because they are empty. These beds are empty because the front doors of OMH facilities have been locked shut, and people are being denied the quality treatment that they need.

The proposed solution for this burgeoning lack of services is the creation of 280 new community-based beds to be operated by not-for-profit providers.

Reinvestment in community services has been promised for decades, but never seems to appear as promised. It seems that the state's model of transitioning care in both OMH and OPWDD is to move care from an intentionally diminished state workforce to the not-for-profit sector that is becoming increasingly overworked and underpaid.

Once again, this reduction of staff does not mean that services do not need to be provided. Nearly 35% of all OMH staff were working overtime in 2015, while OMH

workers had a lost time rate due to injury 1.6 times the state average and 2.3 times the national average.³

Even worse, fewer and fewer persons in need of treatment are getting the help that they need. According to a Treatment Advocacy Center report, U.S. prisons and jails housed over 356,000 inmates with severe mental illness in 2012 - 10 times the number of mentally ill patients in state psychiatric hospitals in the same year.

The need for continued services for the mentally ill is abundantly clear. Unfortunately, New York continues to move forward transitioning services in a way that leaves people falling through the cracks and local governments struggling to pick up the pieces.

The State has not provided any details as to where State-operated beds will be brought down. Without knowing where the beds are coming from, how can there be a plan in place for a reinvestment in appropriate community services? The answer is that there is no plan. This is just another example of the State shifting its responsibilities to local governments while at the same time blaming those same governments for an abundance of local services that need to be consolidated.

³ Office of the State Comptroller, New York State Department of Civil Service, U.S. Department of Labor

Local Governments

The state has continued to force more and more responsibilities on local governments, while at the same time reducing the resources available to them.

If the Governor's management of his state agencies tells us anything, it is that he should not be given more authority to control local governments and the services they provide. Local leaders have been put into office by the voters to determine the best course of action for their municipality. Like the state agencies, local governments can no longer do more with less.

Once again ignoring this fact, Governor Cuomo continues try and force local governments to share services and find tax savings by exaggerating the number of local governments and the burdens they place on taxpayers. The Governor is attempting to force the elimination of local identity and local services by tying Aid and Incentives to Municipalities (AIM) funding to this new scheme.

Facing frozen state aid, an overly restrictive property tax cap (currently 0.68%), and increased cost shifting from the State, local governments have already been forced to find efficiencies and share services as much as possible in order to survive. The State has dumped tens of millions of dollars into a variety of programs attempting to incentivize consolidations and shared services in recent years. Undoubtedly, this money would be put to better use by using it for identified needs and an increase to AIM, which has been held flat since 2011-12.

Furthermore, voters have proven time and again that they prefer local control of their public services. This was shown most recently by the Village of Depew in Erie County, where voters voted almost three-to-one against the dissolution of their village.

The state should properly fund local governments and state programs to help localities survive instead of threatening them and forcing unwanted and unneeded changes.

Collective Bargaining and Retiree Health Insurance

The 2017-18 Executive Budget reintroduces several proposals that show a clear disrespect for the collective bargaining process and protecting our retirees.

Governor Cuomo has once again proposed an illegal increase in New York State Health Insurance Program (NYSHIP) premium contributions for all people who retire from the state on or after October 1, 2017 with less than 30 years of service. This proposal is clearly an attempt to change the terms and conditions of employment of active state employees, a mandatory subject of collective bargaining. This proposal should be taken out of the budget immediately because it is a clear violation of the Taylor Law.

The Governor takes a second swing at retirees by proposing to cap the state's reimbursement of Medicare Part B premiums for NYSHIP retirees and ignoring future increases in the premium rate. The proposal would further harm retirees by completely eliminating the state's reimbursement of the Income Related Monthly Adjustment Amounts (IRMAA) for higher income retirees.

CSEA strongly opposes these proposals and the attempt to seek savings from retirees instead of other misguided spending.

Additionally, the Governor has again proposed that the terms of a collective bargaining agreement for public employees be made available to the public before union members or the appropriate legislative body have a chance to ratify the contract. This provision is nothing more than an attack on public employees. It will do nothing but create animosity and hostility toward public employees. Legislation like this, whose only goal is to divide and anger the citizenry, has no place in our state.

Office of Children and Family Services (OCFS)

OCFS is another agency where worker injuries have become a significant problem.

These issues were put on display just this past weekend as a CSEA member working as youth development aide at Brookwood Secure Center was brutally attacked by a

youth in their care. The employee required 20 stitches and will now miss time, forcing more overtime for other employees.

No one should be afraid for their safety while working for a public good. Employees need to be protected, and agencies must be provided with proper staffing levels to avoid these incidents in the future.

Raise the Age

The Executive Budget proposes to raise the age of criminal responsibility from 16 to 18 years of age. CSEA supports this proposal in concept, however proper implementation is paramount in order for the policy to be done correctly.

Proper Probation Funding

County probation departments are already understaffed due to lack of proper state funding. Their caseloads continue to increase as the state continues to divert people from state prison to community based services. State law requires probation officers to be responsible for monitoring not only those placed on probation, but also for monitoring sex offenders, individuals convicted of certain driving while intoxicated crimes, and youths who are placed on probation instead of being sent to an OCFS facility.

Under the “Raise the Age” proposal, county probation officers will be responsible for assessing all youths who enter the criminal justice system. Some have estimated that probation officers will have to perform an assessment on over 20,000 youths who have been arrested. When combined with their already high caseloads, this will not be sustainable with the existing workforce. It is clear that additional probation officers will have to be hired. However, due to financial limitations put on local governments, this cannot happen without adequate financial commitments from the state.

While the budget says that the state will pay for the local government costs of this population, there are no guarantees that this funding will not be decreased in future years. Without guaranteeing future funding, this could simply become yet another unfunded mandate on counties.

OCFS Facilities

Under this program, 16 and 17 year olds that commit crimes that would normally put them at risk of being sent to a Department of Corrections and Community Supervision (DOCCS) facility will be placed in facilities for youths operated by OCFS. CSEA firmly

believes that if a 16 or 17 year old is convicted of a crime under this program they must be sent to a secure OCFS facility that is staffed by OCFS employees.

Child Care

CSEA represents more than 10,000 registered, licensed group, and enrolled legally-exempt family child care providers in 57 counties outside New York City. Family child care is the most flexible and affordable child care option for working families. It is often the best and sometimes the only option for parents needing non-traditional hours and flexible care in order to work jobs with late night or irregular hours.

This budget has raised concerns due to the lack of funding appropriated to implement the recently renewed Child Care and Development Block Grant (CCDBG). It is expected that the additional costs will be passed on to providers and counties.

Without additional funding, counties will have to cut available child care slots. This will cause thousands of families across New York to lose child care assistance on which they rely to look for and maintain employment. New York, like other states across the country, already serves just a fraction of the children and families eligible for child care assistance. If state funding does not increase, things will get worse. The loss of subsidy slots will cause many parents who can not afford to pay the market price of child care to find care in the underground market, where providers do not comply with state or federal health and safety laws.

Economic Development

It appears that the Cuomo administration has finally gotten on board with what the rest of the state has known for years - that START-UP NY is a supremely flawed program that did not live up to its billing as a massive job creator. In fact, START-UP had created only 408 jobs through its first two years.

Unfortunately, the administration has decided to double down on its mistake instead of admit its failure and move forward with a better plan.

The Executive Budget proposes rebranding START-UP NY as the “Excelsior Business Program.”

Rather than increase accountability for companies and demanding more job creation, the proposed legislation would eliminate all pretense that the program isn't simply a handout to preferred companies.

Companies would be required to create only a single job over five years to earn tax-free status for a decade, and if they can create five jobs will even get a refundable tax credit. Companies that create five jobs will literally be paid to operate in New York, using public infrastructure for free while their employees also pay no income taxes.

Our state should be investing in local economies in a way that will have a real impact on middle class workers instead of allowing a handful of chosen companies to reap enormous benefits without creating any economic development.

Procurement and Oversight

The Executive Budget includes a host of procurement reforms and the creation and/or expansion of oversight powers within state agencies and local governments.

What all of these proposals overlook is the fact that the State Attorney General and State Comptroller once had oversight of many of these areas. These officials already have staff in place that can handle these responsibilities in a truly independent manner, rather than entrusting the Executive with even more responsibility over all levels of government.

CSEA's position is that the State Comptroller and State Attorney General should be given back their oversight of procurement and contracting to restore independent oversight over state government instead of another power vested within the Executive.

Further, the budget proposes a major expansion of design-build contracts.

Design-build is a method of project delivery where one entity works under a single contract to design and construct a capital asset. Currently, only five state agencies/authorities have the authority to enter into design-build contracts. The Executive Budget proposes expanding design-build authorization to all agencies, authorities, and counties outside of New York City and would expand the types of projects where a design-build contract could be used.

CSEA has long held that certain conditions should be met in order for design-build proposals move forward. These include requiring specific legislation on a project-by-project basis, language protecting existing collective bargaining agreements, and

protecting public sector jobs, including ensuring continued public operation and maintenance of assets.

CSEA strongly opposes the design-build proposal as written.

Revenue

The lives of many New Yorkers were changed dramatically when unregulated misconduct by major banking institutions led to the collapse of the U.S. housing market in 2007, setting off the greatest economic downturn since World War II.

By the time the Great Recession hit our state, inequality had already been on the rise for decades. The Great Recession just made things worse. From July 2008 through December 2009, New York lost 316,000 jobs and unemployment remained above 8% from February 2009 until March 2013. Tens of thousands of state and local government workers lost their jobs and families saw their retirement security weaken as stock markets reeled.

More and more, wealth and income was being concentrated in the hands of corporate CEOs and the wealthy. New York had the most unbalanced economy in the country, and things were only getting worse.

So in 2009, CSEA joined other groups in calling for a tax on the wealthy to change the rules and make the economy work for all families. The new, progressive tax structure created in the 2009-10 budget established a “Millionaire’s Tax” with a top tax rate of 8.97% that raised an additional \$5 billion per year that our state desperately needed.

Unfortunately, the impact of the Millionaire’s Tax was blunted two years later when Governor Cuomo called the legislature to Albany for a special session in December 2011. The more progressive tax brackets established in 2009 were allowed to expire and a new structure was put into place, lowering the top rate to 8.82%. These changes cost the state \$2.6 billion annually compared to 2009 rates. The new rates were renewed in the 2013-14 budget.

While the Great Recession hurt families at all income levels, its impact was by no means equal. Working families have not witnessed the recovery experienced by the top 1%, as the bottom 99% of earners actually saw their incomes decrease from 2009-2012. When income growth is calculated from 1979 through 2012, the top 1%’s share rises to 82.7% of all growth.

Our economy simply isn't working for all New Yorkers anymore. While there continues to be funding for Cuomo administration priorities like gondola rides and tax giveaways, State agencies are already operating at the margins with an arbitrary 2% spending cap and there is less and less funding for the services that our communities truly count on.

CSEA supports a true "Millionaire's Tax" that will help to ensure that the wealthy pay their fair share while protecting the services that working people and the middle class depend on every day.

Separation of Powers

Our State Constitution declares that the legislative power in New York is vested in the Senate and Assembly.

The power given to the Executive and the Division of the Budget in the proposed appropriation bills is a broad overreach. The legislature has an obligation to reject this expansion of the Executive and maintain its status as a co-equal branch of government.

CSEA opposes all language that allows the Governor to move, transfer, reduce, or change appropriations without legislative consent.

Conclusion

I would again like to thank the Chairs and members of the Senate and the Assembly for allowing me the opportunity to speak here today.

While this Executive Budget proposal includes plenty of glitter and showmanship, it is severely lacking in hard substance. I look forward to working with all of you to finalize a budget that will actually improve the lives of working people, retirees, and all of the middle class.

On behalf of 300,000 active and retired, public and private employees across New York State, I hope that you will join us to stand as a united voice for the needs of all New Yorkers, strong communities, and vital public services.

Thank you.

Addenda

The following have been attached to this testimony for your reference:

- Comptroller DiNapoli's report on State Agency Use of Overtime (2015 data)
- OPWDD extreme overtime reports
- Article detailing the impact of overtime on an OPWDD worker

Number of Employees who worked 7+ Consecutive Days at any time between FY 2015/16 PP 9 and FY 2016/17 PP 6

<i>DDSO</i>	<i>Distinct Count of Employee</i>	<i>Average of # Consecutive Days</i>	<i>Average # of Mandated Hours</i>
Bernard_Fineson	95	11	3
Brooklyn	100	12	6
Broome	133	11	5
Cap ta _District	155	11	4
Central_NY	289	11	2
Finger_Lakes	204	11	3
Hudson_Valley	189	11	4
Long_Island	276	12	6
Metro	55	11	19
Staten_Island	114	12	12
Sunmount	66	11	1
Taconic	197	13	5
Western_NY	285	11	5
Grand Total	2154	12	5

Number of Employees who worked 16+ Consecutive Hours at any time between FY 2015/16 PP 9 and FY 2016/17 PP 6

<i>DDSO</i>	<i>Distinct Count of Employee Name</i>	<i>Average of WORK SPAN (hrs)</i>
Bernard_Fineson	238	18.71
Brooklyn	207	18.21
Broome	498	16.84
Cap ta _District	498	17.81
Central_NY	921	19.25
Finger_Lakes	918	17.19
Hudson_Valley	856	17.98
Long_Island	713	18.29
Metro	303	18.32
Staten_Island	401	16.75
Sunmount	257	17.09
Taconic	470	18.29
Western_NY	765	17.90
Grand Total	7,034	17.85

Number of Employees who worked 3+ Double Shifts any time between FY 2015/16 PP 9 and FY 2016/17 PP 6

<i>DDSO</i>	<i>Distinct Count of Employee Name</i>	<i>Total Hours Worked</i>	<i>Total Hours Mandated</i>	<i>% of Hours Mandated</i>
Bernard_Fineson	258.00	181,515.25	35,287.75	19%
Brooklyn	198.00	93,316.75	6,783.25	7%
Broome	334.00	155,032.75	11,476.75	7%
Cap ta _District	289.00	176,762.50	6,403.25	4%
Central_NY	573.00	257,923.75	4,699.50	2%
Finger_Lakes	371.00	140,894.00	5,552.25	4%
Hudson_Valley	612.00	410,534.75	24,983.00	6%
Long_Island	584.00	493,948.25	24,787.00	5%
Metro	282.00	161,329.75	38,096.50	24%
Staten_Island	285.00	129,810.75	23,251.00	10%
Sunmount	333.00	126,819.50	20,978.25	17%
Taconic	327.00	172,965.75	9,132.25	5%
Western_NY	642.00	313,180.75	15,275.25	5%
Grand Total	5,079.00	2,914,044.50	225,706.00	8%



OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

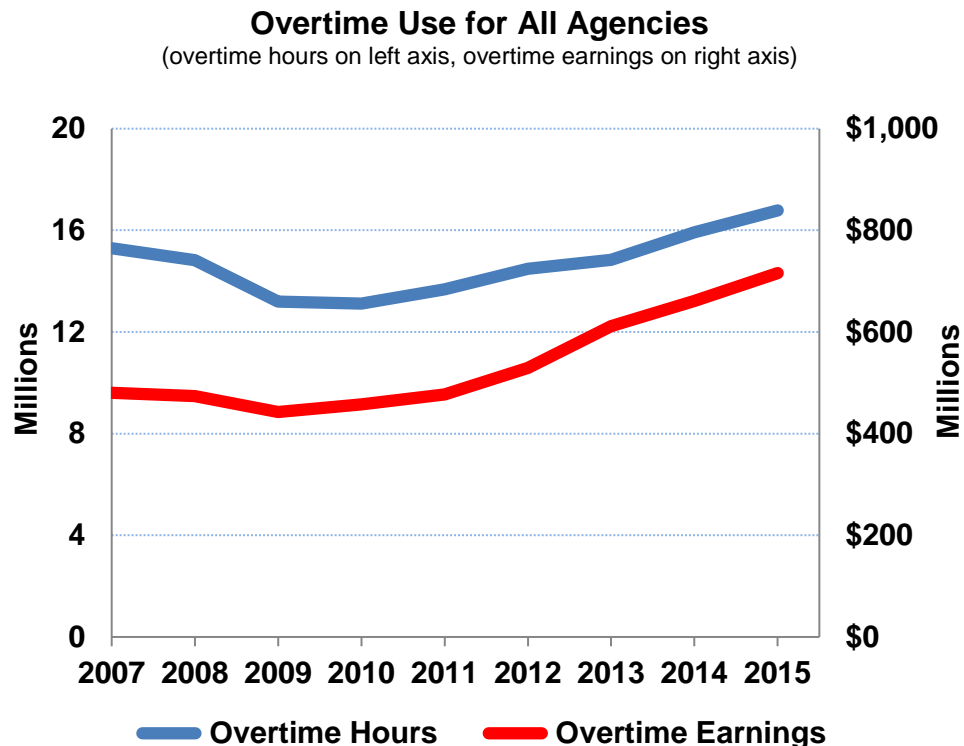
New York State Agencies' Use of Overtime

February 2016

Summary

This report by the Office of the State Comptroller on use of overtime by New York State agencies examines patterns over the past nine calendar years.¹ The total cost of overtime in calendar year 2015 was more than \$716 million covering roughly 16.8 million overtime hours worked.

Figure 1



As shown in Figure 1, total overtime usage by New York State agencies increased in 2015 for the fifth straight year, albeit at a slightly slower pace. The 5.4 percent increase in overtime hours was almost two percentage points less than in 2014, when overtime increased by 7.3 percent.

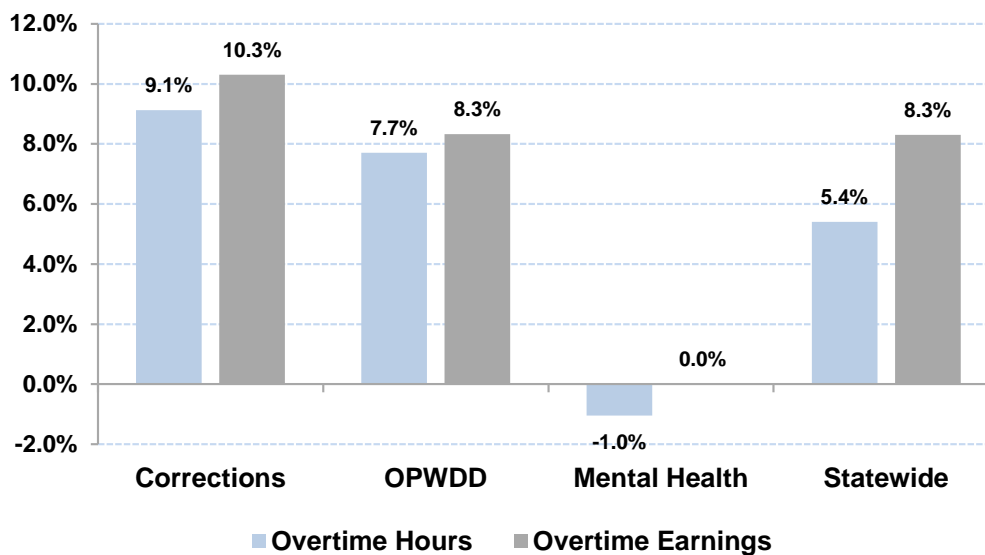
¹ The data used to produce this report are taken from the New York State payroll system, which is operated and maintained by the Office of the State Comptroller. Overtime usage is presented in this report on a calendar year basis. This report is based on total employee counts at the agencies, rather than Full-Time Equivalent (FTE) counts. Lump sum and retroactive overtime payments are not included. With the exception of 2008 and 2013, which each had an extra pay period, the data generally reflect 26 two-week pay periods each year. Hours and earnings totals include payments made in pay period 27 of 2008 and 2013, which consisted of, respectively, the institutional and administrative payrolls. Calculations of averages exclude data from these partial end-of-year pay periods.

Overtime earnings rose for the sixth straight year, with an 8.3 percent increase (see Figure 2), similar to the 8.2 percent rise the previous year. Other key findings include:

- Total overtime earnings and hours in 2015 were higher than in any of the previous eight years. For both hours and earnings, six of the ten State agencies with the highest levels of overtime reported increases from 2014 to 2015.
- Overtime comprised 4.6 percent of overall payroll spending in 2015, up slightly from 4.3 percent in 2014, reflecting the highest share over the years analyzed in this report. Overtime spending cumulatively totaled over \$4.8 billion, or just over 3.6 percent of total payroll, between 2007 and 2015.
- Overtime hours at the Office for People With Developmental Disabilities (OPWDD) rose 7.7 percent from the prior year and 54.0 percent from 2010 to 2015, and the average OPWDD overtime earner worked more than 19 hours overtime per pay period in 2015. Overtime earners in four other agencies also worked an average of more than 15 hours per pay period in 2015.

Figure 2

**Percentage Change in Overtime Hours and Earnings, 2014 to 2015
Agencies with the Highest Overtime Use**



- The average annual number of State employees, not including the State University of New York (SUNY) and the City University of New York (CUNY), increased slightly in 2015 but was 13.1 percent lower than in 2007. Eight major agencies have seen reductions of more than 10 percent in employee counts since 2007, with the largest decreases occurring in the Office of Children and Family Services (Children & Family), OPWDD, and the Department of Environmental Conservation (DEC).

Overview

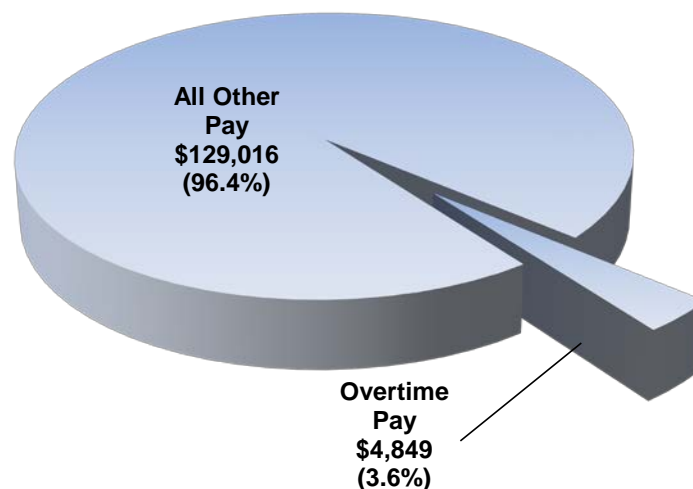
Consistent with applicable provisions of the Federal Fair Labor Standards Act, employees of the State who are eligible for overtime compensation are paid for work performed in excess of 40 hours per week at a rate equal to one and one-half times their regular rate of pay. Not all State employees are eligible for overtime earnings. Generally speaking, under Division of the Budget (DOB) guidelines, employees in positions allocated or equivalent to Civil Service grade 23 and above are exempt from and/or ineligible for overtime compensation.² Longstanding DOB policy regarding State agency use of overtime provides that:

It is the policy of the State that overtime work be held to a minimum consistent with the needs and requirements of sound and orderly administration of State government. The State requires supervisors to hold overtime work to such a minimum by the proper scheduling and assignment of activities, simplification of work processes and requiring compliance with realistic standards of performance. It is critical that agencies carefully review all current scheduling, standby and on-call arrangements to insure that overtime payments are consistent with this policy.³

Figure 3 shows overtime as a share of total earnings between 2007 and 2015, expressed both in dollar terms and as a percentage. The amounts for All Other Pay represent the difference between the total State payroll and overtime. Overtime has accounted for 3.6 percent of all State payroll costs since 2007, totaling more than \$4.8 billion over that period. Total overtime expenditures in 2015 were approximately \$716 million.

Figure 3

Overtime as a Share of Total Payroll, 2007 – 2015
(in millions of dollars and in percentages)



² See Division of the Budget, *Payment of Overtime Compensation to State Employees*, Budget Bulletin G-1024, dated July 27, 1986. Effective October 26, 2012, the Division of the Budget instituted a special policy through Budget Bulletin G-1034 to accommodate employee overtime compensation for work associated with Superstorm Sandy, granting commissioners and agency heads the flexibility to provide employees who were otherwise ineligible for overtime with overtime compensation for excessive hours worked for necessary preparation and response to the storm, within existing budget allocations. According to DOB's website, this budget bulletin is no longer in effect.

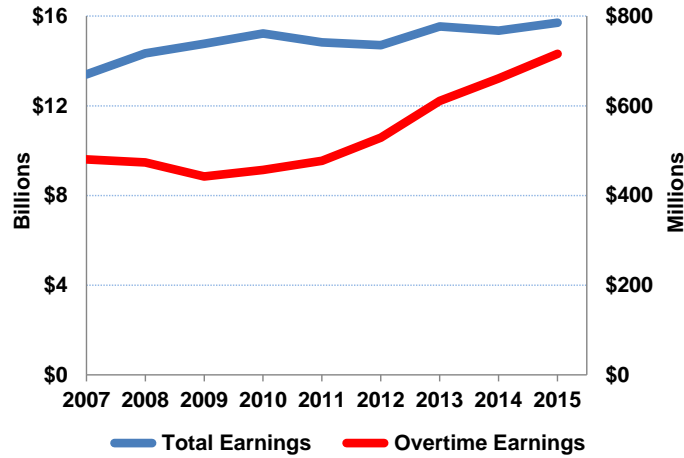
³ Ibid.

As illustrated in Figure 4, total earnings of State employees in 2015 increased by \$352 million, or 2.3 percent, after decreasing by 1.2 percent the previous year. Overtime earnings have increased yearly since 2009. Figures on overtime earnings and hours for major agencies, from 2007 through 2015, are in the appendices to this report.

Figure 4

Comparison of Total Earnings vs. Overtime Earnings Trends for All Agencies

(total earnings on left axis, overtime earnings on right axis)



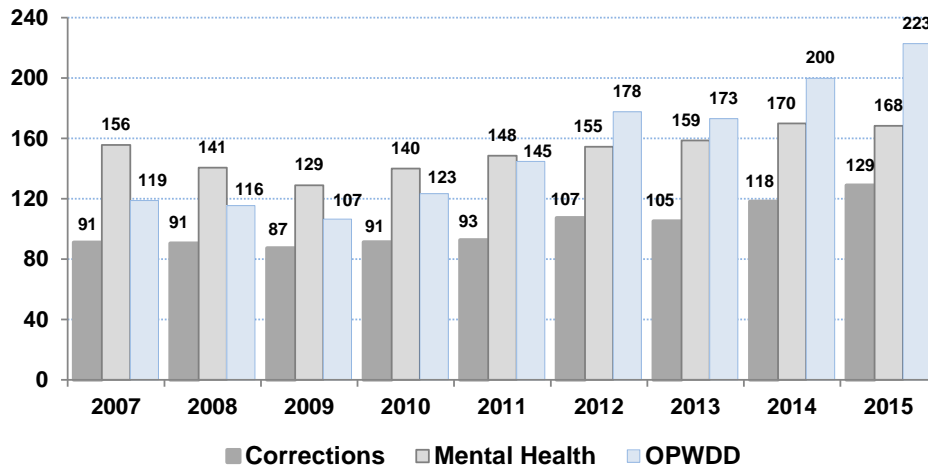
Agencies With the Most Overtime

The majority of overtime use in 2015 was concentrated within three agencies that manage institutional settings – OPWDD, Corrections and Mental Health. Together, these agencies accounted for 65.3 percent of the overtime hours and 62.9 percent of the overtime earnings logged by all State agencies in 2015, consistent with recent patterns. Figure 5 shows the average number of hours of overtime per employee for each of these agencies. While overtime hours declined slightly at Mental Health, overall overtime per employee increased from 2014 to 2015, continuing a general trend starting in 2010. Overtime per employee at OPWDD more than doubled from 2009 through 2015.

Figure 5

Average Annual Overtime Hours per Employee

(total number of overtime hours per year divided by annual average number of employees per pay period)



2015 Agency Overtime Comparisons

Figure 6 summarizes overall overtime results for major State agencies in 2015, including total overtime hours accrued, total overtime earnings in millions of dollars, the percentage of agency employees who received overtime, the average overtime pay per hour and the percentage of agency pay spent on overtime.

Figure 6

2015 Agency Overtime (OT)
(Ranked by overtime pay as share of agency pay)

Agency	Total OT Hours	Total OT Pay (Millions \$)	OT Employees as Share of Agency Employees	Average OT Pay per OT Hour	OT Pay as Share of Agency Pay
OPWDD	4,566,814	\$150.0	44.7%	\$32.85	13.5%
STATE POLICE	848,809	\$64.6	43.3%	\$76.13	10.1%
VETERANS' HOMES	166,390	\$5.9	46.5%	\$35.32	10.1%
MENTAL HEALTH	2,580,538	\$101.6	34.6%	\$39.35	9.3%
CORRECTIONS	3,810,404	\$198.7	34.1%	\$52.16	9.2%
TRANSPORTATION	1,266,730	\$44.5	33.9%	\$35.16	8.3%
CHILDREN & FAMILY	334,261	\$12.9	24.9%	\$38.51	6.5%
GENERAL SERVICES	132,018	\$4.5	22.5%	\$34.23	4.3%
PARKS	114,049	\$4.5	11.8%	\$39.31	2.9%
DEC	117,434	\$6.1	11.0%	\$52.12	2.6%
SUNY	1,600,174	\$68.5	8.3%	\$42.84	1.9%
COMPTROLLER	69,475	\$2.6	11.0%	\$36.88	1.4%
COURTS	396,261	\$20.0	12.3%	\$50.35	1.3%
CUNY	387,001	\$15.8	3.6%	\$40.84	1.2%
TAXATION & FINANCE	86,638	\$3.1	6.3%	\$35.75	1.0%
HEALTH	43,854	\$1.8	3.7%	\$40.78	0.7%
ALL OTHER AGENCIES	238,489	\$10.2	3.6%	\$42.90	0.5%
OTDA	15,927	\$0.7	4.3%	\$42.94	0.5%
LABOR	2,987	\$0.1	0.6%	\$35.45	0.1%
STATEWIDE	16,778,253	\$716.1	17.1%	\$42.68	4.6%

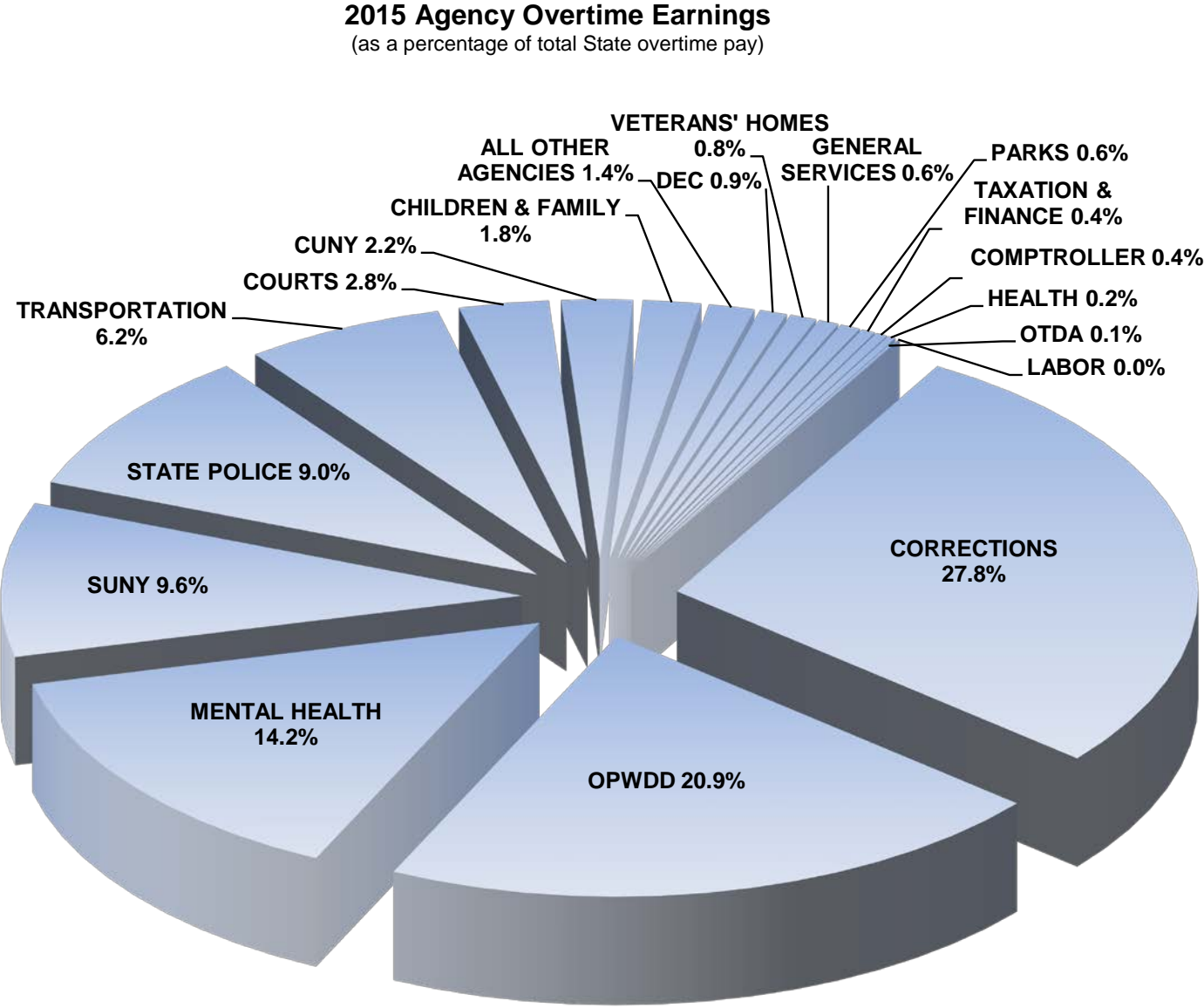
Key measures of overtime in 2015, as shown in Figures 6 and 7, are as follows:

- **Overtime hours** – State agencies accrued about 16.8 million hours of overtime in 2015, almost 861,000 hours, or 5.4 percent, more than in 2014. OPWDD had the most total overtime, with approximately 4.6 million hours, accounting for 27.2 percent of the total overtime hours in the State. Corrections followed with over 3.8 million hours, or 22.7 percent of the total, and Mental Health had close to 2.6 million hours, or 15.4 percent of the total. See the appendices for more details on overtime hours.
- **Overtime earnings** – In 2015, the State spent over \$716.1 million on overtime earnings, an increase of \$54.9 million, or 8.3 percent, over 2014. As previously noted, OPWDD, Corrections and Mental Health accounted for more than 60 percent of the total overtime payroll spending by State agencies. Of the total, Corrections accounted for 27.8 percent, followed by OPWDD at 20.9 percent and Mental Health at 14.2 percent. Together, SUNY

and CUNY accounted for about 11.8 percent. The State Police and the Unified Court System (Courts) combined also accounted for 11.8 percent of the total. The Department of Transportation (Transportation) accounted for 6.2 percent. All other agencies accounted for the remaining 7.3 percent. The appendices provide additional details on overtime earnings from 2007 through 2015.

Figure 7 identifies individual agency overtime earnings as a percentage of overtime earnings for all State agencies in 2015. With the exception of the State Police, where this proportion increased to 9.0 percent compared to 5.9 percent in 2014, these percentages are generally similar to those in 2014.

Figure 7



Note: Department of Labor overtime earnings, which total 0.015 percent, are available in Appendix A.

- **Overtime workers as a share of all agency employees** – This measure identifies the percentage of an agency’s workforce that earns overtime, providing an indicator of each agency’s reliance on overtime to accomplish its work. Agencies with over 25 percent of their workforces accruing overtime can be considered heavily reliant on overtime to meet their responsibilities. Six State agencies meet this criterion. Veterans’ Homes had the highest share of overtime workers, at 46.5 percent.
- **Average overtime pay per overtime hour** – This measure compares average hourly overtime earnings rates among agencies. The State Police paid the highest hourly rate, at \$76.13 per overtime hour. Corrections paid the next highest hourly rate, at \$52.16 an hour, followed closely by DEC at \$52.12 an hour.
- **Overtime pay as a share of agency pay** – Figure 8 shows overtime earnings as a percentage of agency pay. In 2015, the agency with the highest percentage of payroll devoted to overtime was OPWDD at 13.5 percent of total pay. Next were the State Police and Veterans’ Homes at 10.1 percent each.

Figure 8

Overtime as a Percentage of Agency Pay in 2015

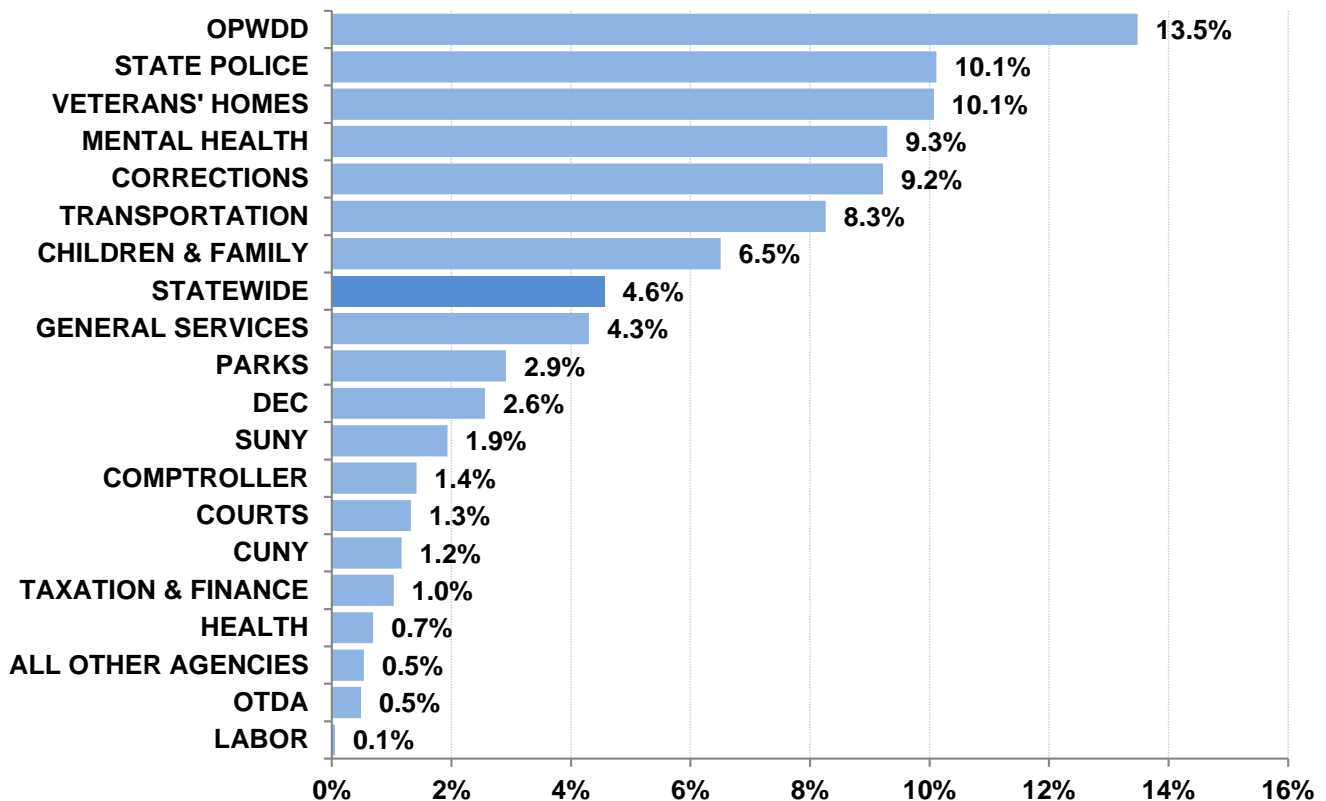


Figure 9 shows two additional measures of overtime use in 2015 – average overtime hours and average overtime earnings per pay period – for all employees who worked overtime at major State agencies, sorted by average biweekly overtime earnings.

Compared to 2014, the statewide average of overtime hours per pay period for employees who worked overtime increased 4.5 percent in 2015, while the statewide average of overtime earnings per pay period increased 7.4 percent.

Figure 9

2015 Overtime Averages

(per pay period for employees who worked overtime)

Agency	Hours	Earnings
STATE POLICE	13.3	\$1,010
CORRECTIONS	14.5	\$758
MENTAL HEALTH	18.7	\$737
OPWDD	19.2	\$630
CHILDREN & FAMILY	16.1	\$622
CUNY	15.1	\$617
DEC	11.4	\$594
TRANSPORTATION	16.8	\$589
HEALTH	12.9	\$528
SUNY	10.8	\$462
GENERAL SERVICES	12.5	\$429
VETERANS' HOMES	11.3	\$399
COURTS	7.5	\$376
ALL OTHER AGENCIES	8.5	\$365
PARKS	9.2	\$360
TAXATION & FINANCE	9.6	\$344
COMPTROLLER	9.3	\$342
OTDA	7.3	\$312
LABOR	5.8	\$206
STATEWIDE	14.9	\$637

In 2015, the State Police had the highest average biweekly overtime earnings, followed by Corrections, Mental Health and OPWDD. State Police and Corrections have the highest overtime hourly pay rates among State agencies.

In the case of Mental Health and OPWDD, human service agencies tend to have higher average overtime earnings per pay period, driven largely by the number of overtime hours worked. Compared to 2014, the statewide average of earnings per hour of overtime increased 2.7 percent in 2015.

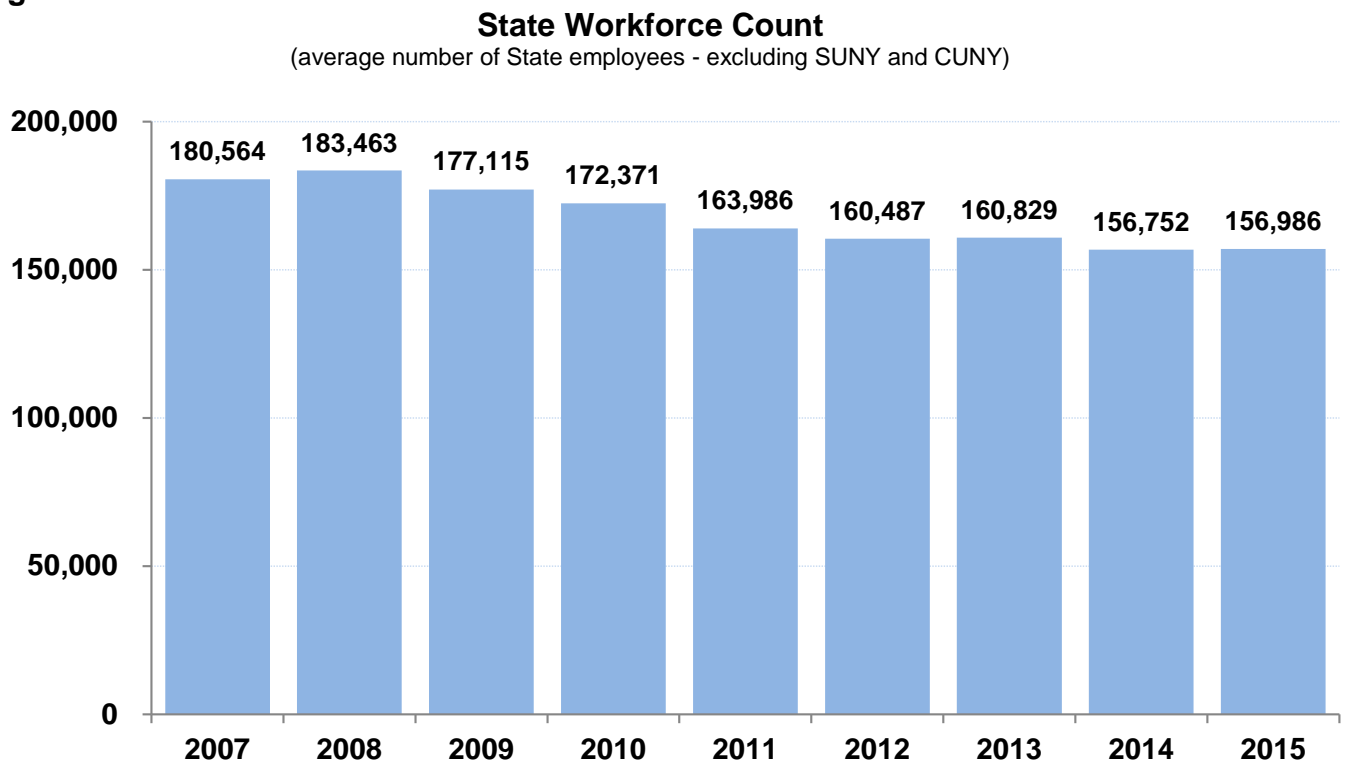
State Workforce Trends, 2007 through 2015

Since 2007, the average annual number of employees working for the State, not including SUNY and CUNY, has declined by 13.1 percent, as illustrated in Figure 10. The workforce grew slightly in 2015 – by 0.15 percent, or 234 employees.

This number is based on the agency “count,” or total number of all employees, including full-time, part-time and temporary staff per pay period throughout the year. These workforce counts are somewhat higher than the comparable number of Full-Time Equivalent (FTE) employees.⁴ Compared to these figures, the number of FTE employees would range from 8,100 to 14,400 fewer per year from 2007 to 2015.

SUNY and CUNY are excluded from this calculation for methodological reasons including certain changes over time in the reporting of workforce counts.

Figure 10



⁴ FTE reflects a unit of measure which is equal to one filled, full-time, annual-salaried position, rather than people. For example: one person serving in one position at 100 percent time (full-time) equals 1 FTE; two people sharing one position, each at 50 percent time (half-time) equals .5 FTE + .5 FTE, for a total of 1 FTE; and two people serving in two positions, each at 50 percent time (half-time) equals .5 FTE + .5 FTE, for a total of 1 FTE. In total, these examples indicate that 5 people are employed within State service, but since 4 people work half-time, only 3 FTEs are counted. See the explanation of Full Time Equivalent at <http://openbudget.ny.gov/userGuide.html>.

Figure 11 shows actual workforce counts on an average annual basis, broken down by agency. The table is sorted by the percentage change that has occurred between 2007 and 2015. Some changes may be due to the transfer of staff between agencies and reorganizations that have been underway during this period.

Eight major agencies have seen staff reductions of more than 10 percent since 2007. The largest percentage reductions in employee counts during that period have been in Children & Family, OPWDD, DEC, OTDA and Transportation. Five agencies saw workforce reductions, and 11 agencies experienced increases, during 2015.

Figure 11

Agency Workforce Counts 2007 – 2015

(average number of State employees)

Count - Average Number of Agency Employees	2007	2008	2009	2010	2011	2012	2013	2014	2015	Change 2007 to 2015	
Major Agencies											
CHILDREN & FAMILY	4,200	4,215	3,947	3,732	3,493	3,404	3,275	3,140	3,193	(1,007)	-24.0%
OPWDD	24,838	25,316	24,743	24,027	23,348	22,672	22,606	21,214	20,497	(4,341)	-17.5%
DEC	4,367	4,512	4,344	4,122	3,813	3,852	3,705	3,613	3,607	(760)	-17.4%
OTDA	2,378	2,343	2,306	2,338	2,219	2,108	1,927	1,969	1,978	(400)	-16.8%
TRANSPORTATION	10,264	10,429	10,273	9,990	9,198	9,010	8,975	8,580	8,578	(1,687)	-16.4%
HEALTH	4,158	4,285	4,206	3,908	3,593	3,410	3,286	3,412	3,521	(637)	-15.3%
MENTAL HEALTH	17,983	18,474	17,759	17,331	16,681	15,907	15,717	15,355	15,326	(2,657)	-14.8%
CORRECTIONS	32,993	32,847	31,737	30,899	31,156	30,360	30,162	29,536	29,572	(3,421)	-10.4%
COURTS	18,252	18,695	18,675	18,522	17,448	16,935	17,166	16,461	16,629	(1,623)	-8.9%
GENERAL SERVICES	1,977	2,008	1,851	1,690	1,510	1,455	1,538	1,683	1,805	(173)	-8.7%
PARKS	4,390	4,596	4,189	4,053	3,919	3,965	4,011	3,936	4,056	(334)	-7.6%
STATE POLICE	6,031	6,055	6,032	5,819	5,511	5,356	5,456	5,550	5,679	(352)	-5.8%
LABOR	3,633	3,656	4,030	4,475	4,403	4,408	4,303	3,891	3,438	(195)	-5.4%
VETERANS' HOMES	1,276	1,316	1,272	1,227	1,180	1,183	1,205	1,192	1,219	(58)	-4.5%
COMPTROLLER	2,637	2,707	2,688	2,641	2,543	2,545	2,585	2,595	2,622	(15)	-0.6%
TAXATION & FINANCE	5,384	5,430	5,639	5,930	5,584	5,315	5,004	5,296	5,495	110	2.1%
All Other Agencies											
ALL OTHER AGENCIES	35,804	36,580	33,424	31,667	28,387	28,603	29,907	29,329	29,773	(6,031)	-16.8%
AVERAGE - ALL STATE AGENCIES	180,564	183,463	177,115	172,371	163,986	160,487	160,829	156,752	156,986	(23,579)	-13.1%
Universities											
SUNY	63,465	65,014	64,727	64,992	65,206	67,137	68,121	67,926	68,691	5,226	8.2%
CUNY	29,598	32,136	32,735	34,653	35,768	38,523	39,680	27,151	27,639	(1,959)	-6.6%
All Agencies and Universities											
OVERALL AVERAGE	273,627	280,613	274,577	272,016	264,960	266,147	268,630	251,829	253,316	(20,311)	-7.4%

Appendices

The appendices in this report show annual State agency overtime earnings and hours from calendar year 2007 through 2015.

Appendix A

The following chart provides a nine-year history of overtime earnings by agency.

Agency Overtime Earnings – Annual Totals

(in millions of dollars)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	9-Yr Total
CORRECTIONS	\$99.7	\$94.1	\$92.7	\$103.0	\$104.6	\$137.3	\$160.4	\$180.2	\$198.7	\$1,170.8
OPWDD	\$69.7	\$74.0	\$69.9	\$81.8	\$95.1	\$112.9	\$124.1	\$138.5	\$150.0	\$916.1
MENTAL HEALTH	\$77.9	\$76.4	\$71.3	\$78.4	\$83.9	\$85.2	\$94.6	\$101.5	\$101.6	\$770.7
SUNY	\$42.9	\$46.8	\$46.7	\$48.6	\$50.8	\$52.2	\$57.9	\$62.6	\$68.5	\$477.1
TRANSPORTATION	\$39.0	\$39.4	\$34.7	\$28.8	\$41.5	\$29.9	\$43.3	\$46.1	\$44.5	\$347.2
STATE POLICE	\$43.3	\$32.8	\$26.9	\$24.1	\$25.9	\$34.1	\$35.1	\$38.9	\$64.6	\$325.8
COURTS	\$35.9	\$38.5	\$34.9	\$35.5	\$20.0	\$13.6	\$17.8	\$18.0	\$20.0	\$234.1
CHILDREN & FAMILY	\$12.0	\$11.0	\$11.7	\$12.3	\$11.5	\$13.7	\$15.3	\$15.8	\$12.9	\$116.3
CUNY	\$11.0	\$12.6	\$12.3	\$10.3	\$10.3	\$11.7	\$12.9	\$15.2	\$15.8	\$112.0
ALL OTHER AGENCIES	\$15.5	\$16.0	\$9.3	\$7.7	\$7.4	\$8.1	\$11.7	\$11.0	\$10.2	\$96.9
DEC	\$7.2	\$6.3	\$4.4	\$4.3	\$5.1	\$6.0	\$6.6	\$5.8	\$6.1	\$51.8
VETERANS' HOMES	\$4.3	\$4.5	\$4.3	\$5.0	\$5.2	\$5.7	\$6.4	\$6.7	\$5.9	\$48.1
PARKS	\$5.0	\$5.0	\$4.4	\$3.8	\$3.9	\$4.8	\$5.2	\$4.4	\$4.5	\$41.0
TAXATION & FINANCE	\$4.2	\$2.5	\$4.4	\$1.1	\$0.6	\$1.6	\$8.3	\$6.7	\$3.1	\$32.6
COMPTROLLER	\$3.3	\$3.6	\$3.4	\$3.8	\$3.3	\$3.0	\$2.6	\$2.5	\$2.6	\$28.1
GENERAL SERVICES	\$3.6	\$2.9	\$1.7	\$1.5	\$2.3	\$2.5	\$3.3	\$4.0	\$4.5	\$26.3
LABOR	\$1.2	\$2.4	\$4.5	\$3.4	\$3.2	\$4.3	\$3.5	\$0.8	\$0.1	\$23.3
HEALTH	\$3.2	\$3.2	\$2.2	\$1.7	\$1.5	\$1.2	\$1.8	\$1.7	\$1.8	\$18.4
OTDA	\$1.5	\$1.7	\$2.5	\$2.0	\$1.3	\$1.3	\$0.6	\$0.8	\$0.7	\$12.4
STATEWIDE	\$480.3	\$473.8	\$442.4	\$457.3	\$477.4	\$529.0	\$611.2	\$661.2	\$716.1	\$4,848.8

Appendix B

The following chart provides a nine-year history of overtime hours by agency.

Agency Overtime Hours – Annual Totals

	2007	2008	2009	2010	2011	2012	2013	2014	2015	9-Yr Total
OPWDD	2,950,981	2,924,900	2,638,139	2,965,848	3,378,317	4,024,717	3,836,751	4,239,803	4,566,814	31,526,271
CORRECTIONS	3,005,194	2,973,602	2,775,403	2,819,161	2,888,396	3,256,812	3,134,687	3,491,550	3,810,404	28,155,208
MENTAL HEALTH	2,799,412	2,596,516	2,290,173	2,425,279	2,476,752	2,458,536	2,445,027	2,607,666	2,580,538	22,679,900
SUNY	1,357,967	1,424,671	1,342,439	1,350,440	1,411,322	1,436,002	1,363,333	1,466,690	1,600,174	12,753,039
TRANSPORTATION	1,343,628	1,308,566	1,105,164	901,985	1,270,583	872,383	1,243,178	1,323,187	1,266,730	10,635,403
COURTS	845,391	884,765	747,867	728,917	407,573	270,606	352,562	358,308	396,261	4,992,249
STATE POLICE	723,719	567,980	443,590	357,892	360,017	462,116	472,124	523,720	848,809	4,759,967
CHILDREN & FAMILY	390,439	341,722	351,014	356,363	321,519	383,779	402,301	412,184	334,261	3,293,581
CUNY	316,635	355,483	327,933	269,375	262,058	312,543	323,610	363,667	387,001	2,918,307
ALL OTHER AGENCIES	515,918	490,394	264,530	205,323	182,748	195,991	276,954	265,311	238,489	2,635,658
VETERANS' HOMES	156,755	153,682	137,282	154,678	158,718	177,015	188,622	192,672	166,390	1,485,814
PARKS	182,277	166,400	136,270	117,117	114,897	130,949	125,790	109,139	114,049	1,196,887
DEC	190,057	163,335	107,430	102,087	123,906	124,647	129,648	111,899	117,434	1,170,443
TAXATION & FINANCE	130,977	70,776	127,470	29,362	16,499	47,389	231,814	190,647	86,638	931,571
COMPROLLER	104,751	111,003	103,359	111,189	91,765	85,052	71,208	67,805	69,475	815,607
GENERAL SERVICES	119,868	91,919	51,579	41,630	62,763	66,145	88,655	113,457	132,018	768,033
LABOR	37,667	70,050	126,591	95,254	83,324	114,036	89,300	21,578	2,987	640,786
HEALTH	91,372	86,382	58,995	45,198	38,158	31,047	44,460	41,053	43,854	480,519
OTDA	35,964	42,453	56,758	44,495	30,558	30,798	14,490	17,012	15,927	288,455
STATEWIDE	15,298,972	14,824,600	13,191,985	13,121,592	13,679,872	14,480,562	14,834,515	15,917,346	16,778,253	132,127,698

OPWDD budget proposal harms individuals, families



Chanda Brown outside the state Office for People With Developmental Disabilities group home where she works.

Editor's Note: *This article about a CSEA member employed as a direct support assistant at a state Office for People With Developmental Disabilities group home in Brooklyn will appear in the February edition of the CSEA Work Force, as well as on the CSEA Work Force website at cseany.org/workforce.*

BROOKLYN — Chandra Brown begins preparing for her workday at 3 a.m. and is never sure when her day will end.

In recent months, Brown, a direct support assistant (DSA) based at a state Office for People With Developmental Disabilities group home in Brooklyn, has been mandated to work two, three, and sometimes even four consecutive shifts by her supervisors.

Tired and frustrated, she mostly worries about the time spent away from her four year-old daughter, and not being able to give the individuals she cares for on the job the quality care they deserve.

“(My daughter is) at a young and impressionable age,” said Brown, 39, who drives from her Bronx home to Brooklyn after dropping the girl off with a caretaker to take her to her Pre-K class. Brown’s daughter has already missed five days of school due to her mother’s work schedule.

Brown and many of her co-workers are facing similar scenarios throughout the state. A report released by State Comptroller Thomas DiNapoli in 2016 listed OPWDD as the state agency with the highest number of overtime hours at 4,566,814, with nearly 45 percent of its workers receiving \$150 million

in overtime pay.

Workers say mandatory overtime and time away from their families is becoming the norm. Because of minimum staffing levels at OPWDD residences and group homes that have replaced many centralized care facilities, workers have been told that they can’t leave the premises on their lunch breaks.

“We cannot work below our minimum [staffing levels],” said Brooklyn Developmental Center Local President Faye Wilkie-Fields. “It doesn’t leave room for anyone to get a day off or even get out for lunch because the minimums are strictly enforced.”

Making a bad situation worse

Gov. Andrew Cuomo's 2017-18 state budget proposal makes things even worse on OPWDD workers, who are already stretched too thin because of understaffing. The governor is proposing to cut about 250 full-time positions in the agency through attrition.

While many of the cuts stem from the upcoming closure of Bernard Fineson Developmental Center in Queens, those who care for our state's most vulnerable individuals are being unfairly asked to do more with less once again.

Bernard Fineson's impending closure, as well as last year's closure of Brooklyn Developmental Center, are part of OPWDD's plan to close many of its larger care facilities and transition care to community-based services, often provided by not-for-profit corporations.

As a result of policies at the state level over the last few years, the delivery of care for individuals with developmental disabilities and mental illness is dramatically changing.

Under the guise of the U.S. Supreme Court Olmstead decision, which holds that individuals in need of services must receive the least restrictive care option that is appropriate to one's needs, the state has been reducing services it provides to this vulnerable population and relying on community organizations and nonprofits to provide care the state has traditionally provided.

OPWDD workers fear an increase in mandatory overtime, while families worry that the high level of

"I can't see the individuals being happy and I can't see them getting the right and adequate amount of care. Our workers are suffering from fatigue. How can they offer their best?"



Chandra Brown prepares a meal for individuals residing at the Brooklyn group home where she works.

care provided to their loved ones at state OPWDD facilities may be disrupted or reduced as the state transitions services.

Many workers have also expressed concerns over onerous and arbitrary disciplinary practices being meted out by the state's Justice Center. In many cases, workers who had been suspended or disciplined have been vindicated and made whole.

In the meantime, the huge number of workers who get cited on a regular basis means fewer workers at OPWDD facilities, which translates into mandatory overtime.

Brown said while she has always worked some mandatory overtime since starting at Brooklyn Developmental Center in 2010, but never at the present levels.

"I don't mind working," she said. "I know that I can do it on some weekends, but during the week it's hard because of my child care."

Citing some of the burdens our members and the individuals have had to endure since the closure of Brooklyn Developmental Center, Wilkie-Fields said workers are angry and tired.

"We are in such a deplorable situation," said Wilkie-Fields. "I can't see the individuals being happy and I can't see them getting the right and adequate amount of care. Our workers are suffering from fatigue. How can they offer their best?"

— David Galarza



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