COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

March 11, 2013

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Comptroller's Review on County Employees "Costing Over $100,000"

Dear Honorable Members:

On March 11, 2013, Erie County Comptroller Stefan Mychajliw issued a report entitled "Number of Employees Costing Taxpayers Over $100,000 in Salary and Benefits in 2012." The administration was not made aware of the review or provided with an opportunity by the Comptroller to comment prior to its issuance, and the Comptroller did not consult with any department heads in conducting his analysis. That said, the Division of Budget and Management has reviewed the Comptroller's report.

I commend the Comptroller for following the administration's lead in warning your Honorable Body about the rising costs of fringe benefits on Erie County government – a point which my office repeatedly warned about in the 2013 Budget hearings in November and December 2012. As you may recall, the county executive even went so far as to declare in his 2013 Budget executive message that "fringe benefits are the largest cost leader in 2013" and that " driven by increases in health insurance and State-mandated pension payments" fringe benefits "are the largest single category of growing expense" in the budget and are unsustainable.

723 County Employees <u>did not</u> Earn over $100,000 in 2012

The Comptroller's analysis mixes salary and overtime expense with fringe benefits in such a way that one would immediately assume that 723 employees "make over $100,000" per year, or as he calls it, the "$100,000 Club." It is unfortunate that the Comptroller chooses to label hard-working County employees in such a dramatic and inflammatory manner. While accurate that in 2012 over 700 County employees had a combined value of salary, overtime and fringe benefits of $100,000 or more, the report provides no context or explanation for why some departments had significant overtime. In addition, the Comptroller did not contact departments for an explanation of their overtime numbers or conduct any analysis with department heads as to their trends and use of overtime.

In 2012, using the Comptroller's own data for 'total wages' (which is base salary, overtime, sick bonus and/or cash-outs when they separated), ***only 106 County employees*** made over $100,000. While that is a large number, it is certainly not a cause for alarm and the misleading insinuations made by the

Comptroller designed to attract media attention. These 106 employees represent 2% of the County full time workforce.

Of the 106 employees who earned more than $100,000 in salary and/or overtime in 2012, 58% of the employees were Sheriff personnel (62 employees) and 14% were in the District Attorney's Office (15 employees). 23% of the county employees who made over $100,000 in 2012 were under the control of the county executive (25 employees). As the Comptroller noted, one leading area of expense was in the Health Department's Division of Correctional Health, for nurses compelled to work mandatory overtime pursuant to the US Department of Justice lawsuit settlement. In addition, certain employees, such as the former director of the Public Health Laboratory, medical examiners, commissioners of election, commissioner of social services, and county executive have earned more than $100,000 for years.

Sheriff Expense Drives Countywide Overtime Trends

In 2012, $13.1 million of the $17.4 million in countywide overtime expense came from departments not controlled by the county executive but by independent elected officials. The overwhelming majority of the employees making over $100,000 in salary and overtime in 2012 (and historically) are Sheriff Deputies and Correction Officers in the Sheriff's Division of Jail Management and Sheriff Deputies and investigators in the Sheriff Division (i.e. road deputies). Many Sheriff employees historically have routinely doubled their base salaries through overtime. In 2012, 74% of all incurred overtime came from the Sheriff ($10.5 million in overtime expense in Jail Management and $2.2 million in the Sheriff Division). In both cases, the Sheriff went over-budget by millions of dollars. This trend is expected to recur again in 2013, compounded by the Legislature's 2013 arbitrary budget amendment reducing the appropriation, but not the spending, for overtime in Jail Management.

Due to these issues, the county executive will be formally requesting that the Comptroller's Office commence an audit of the Sheriff's handling of overtime, including in the Sheriff Division and Jail Management.

Fringe Benefit Expense Continues to be a Problem

While disappointed that the new comptroller chose not to cooperate with the administration in a review, the administration is pleased to see that the Comptroller understands the unsustainable nature of fringe benefit expense for County government. This includes the growing burden of required payments to the State pension system and the problem created by the Giambra-era health insurance plans under which the majority of County union employees still do not pay anything for health insurance.

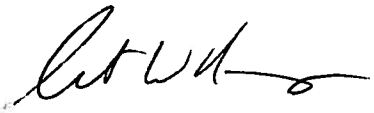
That is why County Executive Poloncarz has placed a high priority on settling union contracts in which union employees pay a portion of the County's costs of health insurance in exchange for cost of living adjustments. Unfortunately, CSEA members overwhelmingly rejected a summer 2012 offer to settle their contracts with modest, phased-in health insurance payments. With the recent successful Teamsters and CSEA Correction Officers contracts as a template, we hope that it will be possible to negotiate an affordable successor collective bargaining agreement for CSEA proper soon.

Contrary to the assertion made by Comptroller Mychajliw on page eight of his report regarding the Department of Social Services ("DSS"), no one in this administration has any "misguided notions" about DSS positions. In fact, this administration cut dozens of DSS positions in the 2013 budget to reduce expense, acknowledging that even after federal and state revenue is backed out, there is still usually a local share that can be reduced. I would also note that starting in 2014, the Comptroller's reorganization plan which was just approved by your Honorable Body will increase cost to the taxpayers through step increases and higher fringe benefit expense mainly because it deleted positions in lower job groups (job group 4, 6 and 7) and replaced them with job group 9 and 11 positions.

In his review, Comptroller Mychajliw wrote that "there needs to be thoughtful deliberation given by the County Executive and County Legislature to implement necessary reforms or cost cutting initiatives to reduce overtime." We agree on the need for overtime reduction measures, but note that since 75% of all overtime in 2012 was controlled by independent elected officials and the administration is not allowed under the Charter to manage or block such spending, that the Sheriff in particular be held to account for such spending. The Comptroller could be very helpful in any such process if he immediately commenced an audit of the Sheriff's overtime processes.

My office welcomes specific suggestions and input from the Comptroller and your Honorable Body on recurring cost savings measures, including in personal services, that are genuine, not arbitrary or spurious, and meet my and the Erie County Fiscal Stability Authority's criteria. If you have any questions regarding countywide payroll and overtime trends and issues or fringe benefits, please do not hesitate to contact my office.

Sincerely yours,



Robert W. Keating
Director of Budget and Management

RWK/tcc

cc: County Executive Mark C. Poloncarz
Erie County Fiscal Stability Authority
Comptroller Stefan Mychajliw