



ERIE COUNTY OFFICE BUILDING

County of Erie

MARK C. POLONCARZ
COMPTROLLER

October 21, 2011

Gregory C. Gach, Director
Division of Budget and Management
95 Franklin Street
Buffalo, New York 14202

**Re: A Review of Overtime at the Erie County Holding Center and the Erie
County Correctional Facility**

Dear Mr. Gach:

My office is in receipt of your letter dated October 12th, 2011, purporting to refute a review performed by the Comptroller's Office's Division of Audit and Control ("Audit") analyzing overtime within the Sheriff's Division of Jail Management. Upon reviewing your letter it is quite clear your analysis is flawed.

In general, your errors can be attributed to your analysis being theoretical in nature, while Audit's analysis dealt with actual practice. For example, when discussing overtime at the Holding Center, your analysis states that Audit's 2007 recommendation covering the hiring of twenty-two deputies did not reduce overtime at the Holding Center. Specifically stating that forty-two deputies have been hired since that time and overtime has increased. Although we do not refute this claim, we do believe it is taken wholly out of context.

It is well known that the main cause associated with increasing overtime at the jails is the increase in the number of posts that must be manned. While it is true that a number of new deputies were hired, during the period from 2007 to the present, numerous posts were also added at the Holding Center as required by the New York State Commission on Corrections ("COC") or the US Department of Justice. Either you were unaware of this fact, which I highly doubt, or you purposefully chose to omit it to support your faulty argument. Theoretically, more deputies would reduce overtime, but in the real world of operations at the Holding Center, the additional posts corrupt your analysis.

Your calculation of new hire annual hours worked is based on a series of theoretical assumptions. These assumptions used the maximum leave hours accrued by each employee—without providing any evidence to support this claim—thereby overstating time off and understating the number of hours of displaced overtime. Included in this misleading calculation are two days of "other time off" which remains unexplained. While your calculations are based

Response to Greg Gach Letter dated October 12, 2011

October 21, 2011

Page 2 of 4

on assumptions, Audit's analysis uses the actual SAP payroll data to show the actual hours worked and time taken off for the average deputy. Your theories are also flawed in that they credit 20.80 hours per employee for summer hours when, in reality, the Teamsters contract shows those working at the Holding Center earn only 16 hours. Once again, the qualitative difference between Audit's analysis and yours is simple: You use theoretical values manipulated to back up your findings, while Audit uses actual SAP payroll data to arrive at its conclusions.

Your letter states that our review "... contains no qualifying information to support (our) claim that hiring a new Corrections Officer at the Correctional Facility will save \$13,000 per year and hiring a new deputy at the Holding Center will save \$7,200." This sentence causes Audit to wonder if you and your staff actually read our analysis. Audit provided Exhibits One through Four in our review, displaying all our calculations and assumptions. Those exhibits never state that, for example, a new Holding Center deputy will save \$7,200 per year. Those exhibits do state that savings vary by year, due to salary schedule changes and other changes in costs to the County. Your generalization exposes your failure to understand that costs and savings vary by year. Once again, your theory does not match actual practice.

While Audit's review did not include an annual increase in health insurance costs, your analysis contends that using an annual increase of 6% in health care costs will take fringes to 60% in year seven from the original 47% year one cost. Once again this is theoretical and not an application of actual real world data. Based on SAP data regarding fringes, when Audit applies a 6% annual increase to health and dental costs, the fringe benefit rate is 54% in the seventh year. Not only is your calculation an overstatement, your use of seven years as compared to Audit's five year study, grossly, and intentionally, overstates your ending calculation for comparative purposes. Simply put, your theory is flawed.

Incidentally, when Audit included your theoretical figure in our calculation based upon actual data; Audit's five year savings at the Holding Center decrease only slightly from \$1.8 million to \$1.56 million. This is still a significant savings.

Your attempt to discredit the review because it did not account for lifetime health insurance payments to new hires upon retirement also falls short. Audit did calculations for the first five years only because, as stated, the real world changes the analysis within that period so much that any further projections become meaningless. It is, once again, an example of how a reliance on theoretical data rather than actual data has flawed your analysis.

While we are glad to see that the County Executive used our 2007 report on the Buffalo Lockup as justification for ending the agreement and returning this responsibility back to the City, we are disappointed that the October 1, 2011 termination date has been delayed until spring 2012. I would like to note that despite your claims to the contrary, Audit did inquire with the Sheriff as to how this return would affect the current deputies. Audit was told by the Sheriff's Office that the nineteen deputies assigned to the Buffalo Lockup would still be assigned to this area. Even though there would no longer be any intake of inmates from the City, these deputies would not be able to staff other posts and therefore would not reduce overtime.

Response to Greg Gach Letter dated October 12, 2011

October 21, 2011

Page 3 of 4

It should be noted that the number of inmates at a post is irrelevant: a deputy must still be assigned to cover that post. This is a real world fact without reflection in your theoretical analysis. While your statement that transferring this service back to the City will theoretically reduce the flow of inmates into the Holding Center is true, it does not reflect the real world fact that posts will not be reduced and overtime shifts will not be eliminated.

Additionally, your assertion that moving the reception area to the gym and changing the suicide prevention screening process would reduce overtime is more than theoretical: it is both unexplained and illogical. With the recent suicides at the Holding Center, it appears that a change in the screening process may discover more inmates that should be placed under constant observation, thus increasing the number of posts. Even in theory, an increase in the number of posts, without a corresponding increase in staffing, causes an increase in overtime.

It is interesting that your analysis fails to mention that the Sheriff's Office is awaiting a staffing evaluation by the COC. This staffing evaluation is expected to increase the number of posts required at the Holding Center, thus greatly increasing the amount of overtime required by the current deputies. As mentioned in Audit's review, one additional post over the course of a year requires more than five full time deputies to man. Your theoretical analysis ignores one real world fact: at some point it will be impossible for the current number of deputies to work additional overtime. Your theoretical analysis also ignores the real world safety concerns surrounding exhausted staff working long hours: invariably exhausted staff make errors in judgment, and such errors increase the risk of harm to both the deputies and the inmates.

Additionally, your contention that the Comptroller's Office decided to call this a "review" and not an "audit" in order to escape any requirement to consult with Budget on our findings is without merit. As you know, an audit requires the testing of internal controls. This testing is time consuming and would have added nothing to the desired focus of the review: how to reduce overtime and save the taxpayers' money while ensuring a safe, secure work environment for our employees. As you are well aware, Audit is suffering from reduced staffing due to your attempt to decimate our office. The Deputy Comptroller – Audit recommended that this project be undertaken as a review, and not an audit, in order to maximize the use of limited manpower. I agreed. To suggest that Audit performed a review in order to not include Budget is disingenuous at best and demonstrates a lack of understanding of audit processes, Generally Accepted Government Auditing Standards or the manpower requirements of the Division of Audit and Control. Additionally, when Audit has undertaken past projects, they have never involved the Budget Office in developing any findings.

It is clear that your analysis contains theoretical assumptions, while Audit's review contains actual, real world, data when available. When Audit was forced to make an assumption, it was conservative in nature and based upon real world data.

Your analysis has not only inflated leave hours for deputies in its calculations, it has also calculated the yearly increase in health insurance incorrectly, which only compounds the flaws in your analysis. In addition, your analysis purposely added two additional years (seven years compared to Audit's five year analysis) for the sole purpose of showing a \$1.8 million dollar

Response to Greg Gach Letter dated October 12, 2011
October 21, 2011
Page 4 of 4

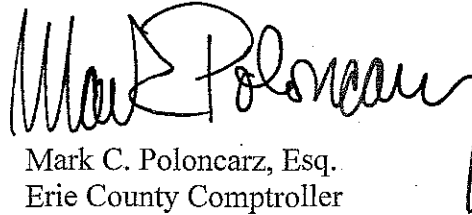
loss. Audit suggests that your theoretical analysis uses a series of gimmicks, flawed assumptions and outright made-up data to come up with a pre-determined outcome.

While Audit agrees that most studies do show that it is less expensive to pay overtime than to hire new employees those studies are based on fringe benefit rates of 60% to 65%. SAP data shows that the Jail Management personnel have a fringe benefit rate of 47%. This low rate is the basis as to why, in this case, it is cheaper to hire new deputies than to pay overtime. Budget's failure to challenge that finding leads me to believe our findings are correct.

Finally, while I am not surprised to see the county executive resort to manipulation of data and lies during this time, I am surprised to see it from you. Whatever credibility you had as a career public servant has now been reduced to zero based on your deliberate attempt to destroy our findings without a scintilla of facts to back up your purported "analysis."

Should you or your staff wish to prepare an honest, unbiased and technically correct analysis, free of theoretical flaw, Audit would be happy to instruct them in this process. In that case, please feel free to contact the Deputy Comptroller – Audit at your convenience.

Sincerely yours,



Mark C. Poloncarz, Esq.
Erie County Comptroller

MCP/nr

cc: Erie County Legislature
Erie County Fiscal Stability Authority