# County of Erie

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MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF CENTRAL POLICE SERVICES

JOHN GLASCOTT
COMMISSIONER

August 5, 2013

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

**Re: Response to Comptroller Audit of Department of Central Police Services – DNA Backlog Reduction Grant**

Dear Honorable Members:

On July 19, 2013 the Erie County Comptroller's office issued the above-noted audit regarding the DNA Backlog Reduction Grant in the Department of Central Police Services ("CPS"). The Comptroller's Office announced the audit on March 19, 2013, and the entrance conference was held on April 16, 2013. The DNA Backlog Reduction Grant is a 100% federally-funded grant whose purpose is to enable the CPS Forensic Laboratory's staff to conduct 'backlogged' DNA testing and analysis of crime scene evidence on overtime using federal funds.

Because I am not an expert on Generally Accepted Government Auditing Standards ("GAGAS") and I had never before undergone an audit, I sought and received assistance from the Erie County Division of Budget and Management ("Budget") while working with the Comptroller's Office in a responsible and cooperative manner.

I was pleased to receive a draft audit report at CPS on June 27, 2013, for review prior to a scheduled exit conference. However, I was surprised when the Comptroller's Office significantly amended the audit report on July 2nd and sent a new version to CPS several hours before the exit conference was scheduled to be held. That action precipitated the postponement of the exit conference until July 9th.

CPS cooperated fully with the Comptroller's Office in this audit process and our Laboratory Director and our fiscal staff went above and beyond in providing the Comptroller's Office with all requested documentation. I am pleased to note that the Comptroller has found no deficiencies or findings within the grant and the operations at the CPS Forensic Laboratory. This validates the strong team in the Forensic Laboratory led by Dr. John Simich.

That said, as Commissioner of Central Police Services I am concerned by certain statements in the audit report which have no factual basis or insinuate things that are not accurate. At an exit conference on July 9, 2013, CPS and Budget staff questioned and refuted a

number of the statements in the audit report for which the Comptroller's Office provided no support. **Despite this, the final audit report continues to make certain comments and observations which have no basis or proof.**

The final audit document dated July 19th contains new comments and observations that were not present in the draft audits or discussed at the exit conference, which I believe to be a technical violation of GAGAS. Second, at the exit conference, due to the Comptroller's lack of supporting data or evidence for certain claims, at our request, Deputy Comptroller-Audit Teresa Fraas agreed to delete certain comments from the audit report. However, Ms. Fraas appears to have subsequently reversed herself and not only retained those questionable comments, but she amplified on those comments in the final document, which I feel is inappropriate, unprofessional and a violation of GAGAS.

**Comptroller "Observation" on Grant Reimbursement Controls**

In particular, CPS is disturbed by a Comptroller 'observation' stating that "**We were not able to obtain sufficient evidence that all salary and overtime reported in this project occurred during the project period or agrees to the amounts actually worked and/or paid**" (bolding is original in the audit report). I take this to be a serious charge and statement, particularly because, as earlier noted, my staff provided the Comptroller's office with all documents that they requested. In fact, the auditor assigned to work on the report stated at the exit conference that "sometimes you gave us too much stuff (data)." Further if they needed additional information that information is always available through the County's SAP system.

I am concerned that any insinuation of impropriety on our part could subject the County to *ex post facto* review or actions by the federal granting agency, the National Institute of Justice in the U.S. Department of Justice ("DOJ") when there is no reason for such review. Let me be clear: the Comptroller's unsubstantiated insinuation could subject the County to further review by DOJ or jeopardize future federal funding for the Forensic Laboratory.

The Comptroller's Office provided no evidence to support their innuendo that CPS may have improperly charged or claimed any salary or overtime to the DNA Backlog Reduction Grant. Ms. Fraas conceded at the exit conference that the Comptroller's Office make this observation because their own staff did not go into the County's SAP system and run reports and check data as they should have. The Comptroller's Office admitted that they did not check SAP and independently validate the data. Instead, they conceded that they wanted CPS staff to run SAP reports, print those reports, and provide it to Ms. Fraas for her review. At one point in the exit conference, Ms. Fraas stated, "I don't want to look at SAP."

At the exit conference, CPS agreed to run SAP reports and provide those printed documents to Ms. Fraas, which we did on July 10th. In an email message to me on July 10th, Ms. Fraas stated that the report CPS provided "appears to contain the data that we requested," but she continued to insist that she wanted different data – all of which is in SAP and readily available to she and her staff. In the final audit document, the Comptroller's Office commented that the information provided did not validate that the overtime hours charged to the grant were actually worked. I firmly disagree. My staff provided daily sign-in sheets that in accordance with County rules are reviewed and approved by a supervisor. They correspond with SAP entries and validate that the hours charged to the grant were actually worked. In addition, the salary and

overtime data, by employee, is readily available in SAP for review. As a normal course of business, the Laboratory Director and CPS's fiscal staff review and approve all time and expenses charged to the federal grant before it is submitted to DOJ for reimbursement.

I would further note that this grant – which is 100% funded by the federal government – is subject to regular review and audit by DOJ and they have never found any grounds or problems with the County's claims and reimbursements. This is further proof that the Comptroller's innuendo-laden observation is flawed and without merit.

**Section called "Opportunity for Process Improvement"**

In this section of the audit report, the Comptroller noted that due to federal funding reductions, there is always a risk that overtime for the grant might not be covered by the federal grant. While true, at the exit conference we pointed out that if the grant funding was reduced by the DOJ, CPS would accordingly reduce expense and overtime so as to avoid new County share costs. The Division of Budget and Management has repeatedly informed us that if CPS faces reduced grant funds, the County cannot automatically guarantee to continue certain functions at 100% County expense.

Based on their observation, the Comptroller recommended "CPS management continue to create operating efficiencies" to reduce expense in the event such federal funding was reduced. We asked Ms. Fraas if the Comptroller could recommend suggestions for such operating efficiencies but she told us that she did not have any ideas. We will continue, as always, to explore efficiencies throughout CPS. We believe that if the Comptroller is going to issue a report recommending an action by a department, then the auditor should be able to define and explain that action and recommendation.

Finally, the audit report commented on a $696 excess receivable. There was a $696 payroll entry error that was made by the Department of Personnel's payroll staff – not CPS – but that error was caught and corrected by CPS staff before the audit began, thus validating our checks and balances managing this very important grant. The audit report does not reveal this fact and insinuates that the auditors uncovered this item, which is not accurate. Given that this is the sole substantiation the auditors have of any error in a grant totaling over $525,000, and CPS addressed the error internally, CPS staff should be commended for their fiscal management of the DNA Backlog Reduction Grant.

**Fraas Comments' are Contradictory**

CPS staff met with Ms. Fraas and her auditor on May 30, 2013, to discuss the audit. At that meeting, after some minutes of discussion, Ms. Fraas attempted to characterize the meeting as an exit conference, even though it was not communicated as such to CPS in advance, and CPS had not been provided with an audit document for review as Ms. Fraas had pledged to do on April 16th. When we pointed this out, she agreed to hold a formal exit conference.

At the May 30th meeting, Ms. Fraas repeatedly told me and my staff that we had done an "excellent job," told us to "continue to do your good work" and stated that the Comptroller's audit had no findings and "nothing of significance." She said there could be a "process improvement note" in the audit, but "I don't think we found anything where you could possibly

improve on your system here." Ms. Fraas also stated: "We have found no issues whatsoever with any of the documentation, with any of the . . . anything. Things were done timely. . . The information (submitted by CPS) is correct. Excellent job, we thank you for your cooperation."

However, when CPS received the draft and final audit reports, we were stunned to see the above-noted observations and recommendations which differed markedly from Ms. Fraas oral comments.

**Conclusion**

I am pleased that the Comptroller's auditors validated the internal controls and effective management by Central Police Services on the DNA Backlog Reduction Grant. Despite several insinuations in the audit report, and inconsistencies between what Ms. Fraas stated in the May 30th meeting, the exit conference, the amended draft audit report, and the final audit report, it is clear that CPS efficiently and responsibly administered this federal grant.

The CPS Forensic Laboratory demonstrates on a daily basis the high quality of work that they perform on behalf of law enforcement and prosecutors. For instance, DOJ uses a formula to calculate the required minimum number of cases that must be completed with the funding that was received. The minimum number of DNA cases that the Laboratory was required to complete for the 2010 DNA Backlog Grant was 282 and the laboratory completed 394 cases. As a career law enforcement professional, I am honored to work alongside the professional staff in the laboratory. Their work is constantly scrutinized by outside agencies at the Federal, State, and local levels and the laboratory is accredited by the American Society of Crime Laboratory Director's/Laboratory Accreditation Board and the New York State Commission on Forensic Science.

The Comptroller's Office has failed to demonstrate any issues or deficiencies in the procedures and handling of the grant. As such, I am forced to reject the Comptroller's audit report.

Thank you for the opportunity to provide this formal written response to the Erie County Comptroller's audit of the DNA Backlog Reduction Grant.

Sincerely,

John Glascott
Commissioner of Central Police Services

cc: Mark C. Poloncarz, Erie County Executive
Stefan I. Mychajliw, Erie County Comptroller
Robert W. Keating, Director of Budget and Management
Erie County Fiscal Stability Authority