



# STEFAN I. MYCHAJLIW

ERIE COUNTY COMPTROLLER

December 30, 2021

Erie County Legislature  
 92 Franklin Street – 4<sup>th</sup> Floor  
 Buffalo, New York 14222

**Re: Overtime for Certain Positions**

Dear Honorable Members:

On December 28, 2021, I submitted a report regarding overtime paid to the Health Commissioner. It asked that the Health Commissioner repay \$336,148 in overtime payments improperly made to her. The rationale for the repayments were based on New York State Law, as well as Erie County policies and procedures.

Subsequent to the submission of that report, while addressing questions posed by the WKBW-TV Investigative Reporting team, I was reminded of an audit conducted by then Comptroller Mark Poloncarz regarding payroll, conducted in 2009. The report, in part, discussed how “managerial confidential County employees who follow the CSEA contract are barred by County policy from receiving cash overtime or earning compensatory time in excess of 80 hours.” He then went on to discuss an emergency powers resolution, which allowed certain managerial confidential employees to receive overtime, but specifically excluded others for “any future time period.” In addition to the Health Commissioner, the list of positions excluded “for any future time period” includes:

- |  |                                     |
|--|-------------------------------------|
| Clerk of the Erie County Legislature             | Commissioner of Public Works        |
| Deputy County Executive                          | Director of Probation               |
| Director of Budget and Management                | Crime Control Coordinator           |
| Commissioner of Parks and Recreation             | Commissioner of Personnel           |
| Commissioner of Youth Services and Detention     | Commissioner of Mental Health       |
| Director of Central Data Processing              | Director of Labor Relations         |
| Director of the Buffalo & EC Public Library      | Assistant Director of Public Health |
| Commissioner of Emergency Services               | Director of Government Affairs      |
| Superintendent of the Correctional Facility      | Commissioner of Social Services     |
| Commissioner of the Board of Elections           | Veterans Service Officer            |
| Executive Director of the Office of the Disabled | Commissioner of Senior Services     |
| Commissioner of Fire Safety                      | Purchasing Director                 |
| Commissioner of Central Police Services          | County Attorney                     |

Several of the positions on this list received overtime in 2020 and 2021 (with some receiving overtime prior to that as well).

As such, while addressing improper overtime payments made to the Erie County Health Commissioner, you should also address improper overtime payments made to these positions as well. As discussed in my December 28, 2021 report, the proper remedy is a repayment of these improperly made expenditures of taxpayer funds. A repayment plan has been utilized effectively in the past when it is determined that improper payments have been made to employees.

Thank you for your attention to this serious misappropriation of funds.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stefan Mychajliw, Jr.", with a stylized flourish at the end.

Stefan I. Mychajliw, Jr.  
Erie County Comptroller