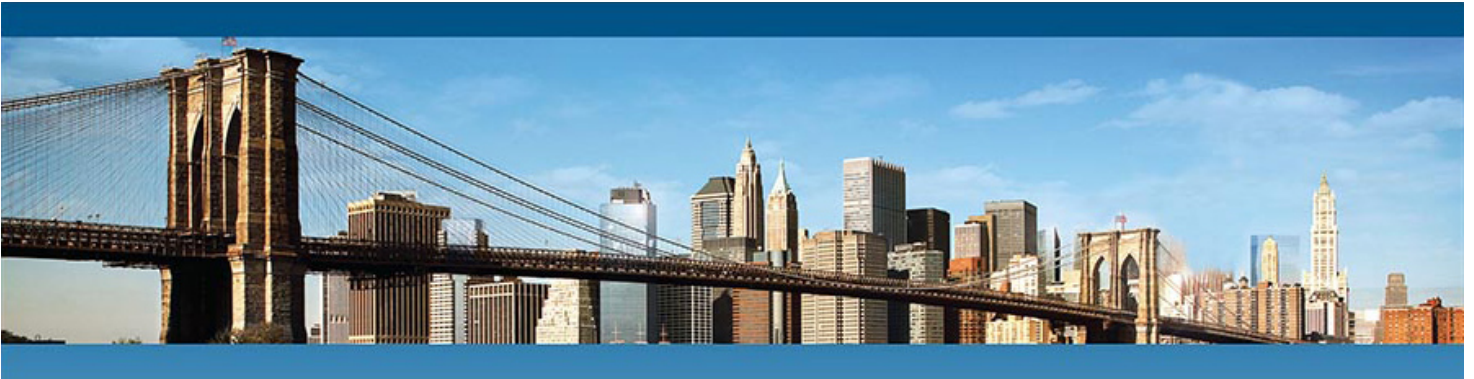




City of New York

OFFICE OF THE COMPTROLLER

Brad Lander
COMPTROLLER



FINANCIAL AUDIT

Maura Hayes-Chaffe

Deputy Comptroller for Audit

Audit Report on the Management and
Control of Overtime Costs at the NYC
Department of Probation

FP21-081A

May 10, 2022

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

May 10, 2022

To the Residents of the City of New York:

My office has audited the New York City Department of Probation (DOP) to determine whether DOP appropriately approved, authorized, and paid overtime in compliance with State and City labor laws, City regulations and guidelines and its own policies and procedures; and whether it effectively managed and controlled its overtime costs. We audit City agencies such as DOP as means of ensuring they operate in accordance with applicable City and State rules and are adequately monitoring and guaranteeing optimal efficiency over agency overtime costs.

The audit found that while DOP generally complied with the City's overtime regulations and its own policies and procedures, DOP did not obtain overtime cap waivers as required by the City Office of Labor Relations and Office of Management and Budget for 49 employees in Calendar Year 2019 and 12 employees in Calendar Year 2020. These individuals were paid cash overtime instead of compensatory time, as required. The auditors also found that no staff documented taking any meal breaks during their overtime shifts, despite the mandate to provide such breaks under NYS Labor Law. While employees may voluntarily waive this right, the waiver is intended to be occasional and at the option of the employee. The absence of documented meal breaks and/or waivers raises compliance concerns. The audit also found weaknesses in DOP's monitoring and control of overtime usage.

To address these issues, the audit made three recommendations to DOP: that it should obtain appropriate waivers before approving overtime for employees whose salaries exceed the overtime cap; ensure that the entitlement to meal breaks is only waived by employees on a voluntary basis, and is otherwise deducted from the overtime paid; and that DOP create a documented centralized review and monitoring process that would allow DOP to assess whether overtime is necessary and is being distributed equitably.

The results of the audit have been discussed with DOP officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander", written over a horizontal line.

Brad Lander

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ADDENDUM

THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Management and Control of Overtime Costs at the NYC Department of Probation

FP21-081A

EXECUTIVE SUMMARY

The New York City Department of Probation (DOP) is responsible for supervising adults and juveniles who are placed on probation by judges in the Supreme, Criminal, and Family Courts.¹ DOP provides information and recommendations to the courts to help inform sentencing and disposition decisions and provides a range of services to those on probation. DOP is responsible for investigating over 50,000 cases per year and directly supervises more than 24,000 adults and 2,000 juveniles.²

According to the Comptroller's Comprehensive Annual Financial Report for Fiscal Years 2019 and 2020, DOP's Personal Services expenditures totaled approximately \$80.3 million and \$80.2 million, respectively. The City's Payroll Management System and Open Data shows that DOP paid a total of \$3.2 million in overtime costs to 695 of its 1,409 employees on payroll during Fiscal Year 2019, and \$3 million to 672 of its 1,416 employees on payroll during Fiscal Year 2020.

This audit was commenced to determine whether DOP appropriately approved, authorized, and paid overtime in compliance with State and City labor laws, City regulations and guidelines, and its own policies and procedures; and whether it effectively managed and controlled its overtime costs.

Audit Findings and Conclusion

The audit found that while DOP generally complied with the applicable regulations, directives, policies and procedures, DOP did not obtain overtime cap waivers as required and, as a result, DOP paid cash overtime to 49 employees in Calendar Year 2019 and 12 employees in Calendar Year 2020 who were not entitled to receive it. The auditors also found that DOP either violated NYS Labor Law by failing to provide mandated meal breaks or inappropriately included mealtimes

¹ Probation is the process whereby the court has determined that an individual can avoid prison or jail and remain in the community under supervision of DOP.

² 2020 Preliminary Mayor's Management Report

<https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2020/dop.pdf> (accessed November 16, 2020).

in the calculation of overtime paid to employees. In addition, the auditors found weaknesses in DOP's monitoring and control of overtime usage. These are detailed more fully below.

Audit Recommendations

This report makes a total of three recommendations, including that DOP should:

1. Obtain appropriate waivers before approving overtime for employees whose salaries exceed the overtime cap.
2. Ensure that the entitlement to meal breaks is only waived by employees on a voluntary basis, and otherwise deducted from the overtime paid.
3. Create a documented centralized review and monitoring process that would allow DOP to assess whether overtime is necessary and equitably distributed.

Agency Response

In its response, DOP agreed to implement the three recommendations.

AUDIT REPORT

Background

The New York City Department of Probation (DOP) is responsible for supervising adults and juveniles who are placed on probation by judges in the Supreme, Criminal, and Family Courts. DOP provides information and recommendations to the courts to help inform sentencing and disposition decisions. In addition to the Commissioner's Office, DOP is organized into four primary divisions: Adult Operations, Juvenile Operations, Administration, and General Counsel. DOP provides core services such as investigations, victim advocacy, community supervision, immediate response to violations, and treatment services to those on probation. In total, DOP provides intake and interstate services, investigations, and supervision for over 50,000 cases per year and directly supervises more than 24,000 adults and 2,000 juveniles.

DOP's employees currently record their daily attendance in CityTime, a secure, web-based time and attendance system for City employees that automatically sends requests for leave, overtime, and timesheets to supervisors for approval and interfaces with the City's Payroll Management System for pay and leave processing. As per DOP's Procedure No. 60-1-00, Overtime Authorization & Processing, "When needs and requirements dictate, approval for overtime may be granted in accordance with applicable Mayoral Directives, Citywide overtime regulations, collective bargaining agreements, Fair Labor Standards Act (FLSA) rules, NYC Comptroller determinations and the agency-wide standards detailed in this procedure." Based on DOP's procedures and other Federal, State, and City laws, cash overtime is paid only to non-managerial employees.

According to the Comptroller's Comprehensive Annual Financial Report, DOP's Personal Services expenditures totaled approximately \$80.3 million in Fiscal Year 2019 and \$80.2 million in Fiscal Year 2020. The City's Payroll Management System and Open Data, for the same years, shows that DOP paid a total \$3.2 million in overtime costs to 695 of its 1,409 employees on payroll during Fiscal Year 2019, and \$3 million to 672 of its 1,416 employees on payroll during Fiscal Year 2020.

Objectives

This audit was commenced to determine whether DOP appropriately approved, authorized, and paid overtime in compliance with State and City labor laws, City regulations and guidelines, and its own policies and procedures; and whether it effectively managed and controlled its overtime costs.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of review was from July 1, 2018 through June 30, 2020.³ Please refer to the Detailed Scope and Methodology at the end of this report for the specific audit procedures and detailed tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOP officials during and at the conclusion of this audit. A preliminary draft report was sent to DOP on February 17, 2022, and discussed with DOP officials at an exit conference held on March 7, 2022. On April 7, 2022, we submitted a draft report to DOP with a request for written comments. We received a written response from DOP on May 6, 2022.

In its response, DOP agreed to implement the three audit recommendations.

The full text of DOP's response is included as an addendum to this report and is addressed more fully below.

³ Auditors also used data from Calendar Years 2019 and 2020 to conduct analyses of an overtime cap that was based on calendar years.

FINDINGS AND RECOMMENDATIONS

The audit found that while DOP generally complied with the City's overtime regulations and its own policies and procedures, DOP did not obtain overtime cap waivers as required by the City Office of Labor Relations and Office of Management and Budget for 49 employees in Calendar Year 2019 and 12 employees in Calendar Year 2020 who exceeded the overtime cap. These individuals were inappropriately paid cash overtime instead of compensatory time, as a result. The auditors also found that DOP either violated NYS Labor Law by failing to provide mandated meal breaks or inappropriately included mealtimes in the calculation of overtime paid to employees. The audit also found weaknesses in DOP's monitoring and control of overtime usage.

The details of these findings are discussed in the following sections of this report.

DOP Paid Overtime to Employees Who Exceeded the Overtime Cap

Before paying cash overtime to employees in certain bargaining units, agencies are required to obtain waivers for employees who earn above the established overtime cap. If waivers are not obtained, employees already earning above the cap are to be paid in straight compensatory time; they are not eligible to receive cash overtime. This requirement originates in labor agreements covering the audit period and appears in DOP's Overtime Authorization and Processing procedure.

According to DOP's procedure, "Agency personnel vested with overtime approval authority shall not approve overtime in excess of the cap without first having obtained waiver letters from the appropriate Deputy Commissioner as well as Office of Labor Relations." According to New York City Office of Labor Relations' (OLR's) Interpretive Memorandum No. 2019-1,⁴ "When an employee's annual gross salary rate [. . .] in effect on the date that overtime is performed, plus all overtime differentials and premium pay paid during the calendar year to date, is higher than the applicable cap amount [. . .], such employee shall no longer be eligible to receive cash payment for such overtime, except as may be [...] authorized pursuant to an overtime cap waiver issued by the Office of Labor Relations, and shall instead receive compensatory time at a rate of straight time (1x) for all authorized overtime."

The auditors found that DOP did not always obtain waivers as required, and as a result some employees received cash overtime they were not entitled to. During Calendar Year 2019, DOP paid 49 ineligible employees a total of 3,444 hours of overtime, totaling \$201,413 in overtime payments. During Calendar Year 2020, DOP paid 12 ineligible employees a total of 309 hours of overtime worked totaling \$18,995.

As a related matter, the auditors note that overtime payments are a factor in calculating the pensions of employees who are members of the New York City Employees' Retirement System (NYCERS). NYCERS' formula for calculating pension payments is based in part on an employee's highest three years of five years of wages earned, including overtime payments, depending on the employee's particular pension plan. Inappropriate overtime payments potentially inflate the

⁴The Interpretive Memorandum from the OLR states, "Effective October 26, 2019, the overtime cap for employees subject to the overtime provisions of the 1995-2001 Citywide Agreement shall be [...] \$87,860." The overtime cap for Calendar Year 2019 was \$85,301.

value of an employee's pension, which is payable for the remainder of a retired employee's lifetime and in some circumstances to beneficiaries.

At the exit conference, DOP officials informed the auditors that the overtime waivers were not requested as required for these employees due to an error in the calculation of the salaries. DOP calculations were based on the annual base salary and not the annual gross salary. DOP officials stated that this has now been rectified.

DOP Either Did Not Provide Meal Breaks or Counted Mealtimes as Earned Overtime

NYS Labor Law Section 162 (4) requires that “[e]very person employed for a period or shift of more than six hours starting between the hours of one o’clock in the afternoon and six o’clock in the morning, shall be allowed at least [...] forty-five minutes for a meal period.”⁵ This applies to regular and overtime hours worked. The 1995-2001 Citywide Agreement Article IV, Section 8 b. prohibits payment of overtime for meals.

The data reviewed by the auditors shows that employees did not record any meal (or break) times in CityTime for overtime shifts, even if they were longer than 6 hours. During Fiscal Year 2020 there were 374 employees who completed overtime shifts exceeding 6 hours that did not include a mealtime in their timesheets, and 192 instances where employees worked from 10 hours to 19.5 hours of overtime with no deductions taken for mealtime. Most of these instances (162) were worked on holidays and weekends.

To better understand whether DOP has its own meal break policy to govern the computation of overtime hours, the auditors requested and received DOP’s Employee Handbook. The auditors found that DOP’s Employee Handbook does not include a section that addresses meal breaks. In addition, during the exit conference, DOP officials stated that NYS Labor Law on occasion may allow an employee to waive their right to a meal break due to work situations and needs. Although this may be accurate, the right to waive a meal break belongs to the employee and must be freely given; the employer may not waive the requirement on the employees’ behalf. According to DOP, the employees in the auditors’ analysis worked straight through their meal periods and were not paid cash overtime for these periods. It was not possible to determine if this was accurate or whether any waiver of meal breaks was voluntarily given.

Following the exit conference held on March 7, 2022, DOP provided an updated Overtime Authorization & Procedure (dated December 7, 2021) which now states, “Employees working six hours or more of overtime are entitled to an unpaid meal break of a minimum of 30 minutes. Any meal breaks taken must be recorded in City Time.”

⁵ Non-Factory Workers are entitled to a 30-minute lunch break between 11:00 a.m. and 2:00 p.m. for shifts six hours or longer that extend over that period *and* a 45-minute meal break at the time midway between the beginning and end of the shift for all shifts of more than six hours starting between 1:00 p.m. and 6:00 a.m. All Workers are entitled to an *additional* 20-minute meal break between 5:00 p.m. and 7:00 p.m. for workdays that extend from before 11:00 a.m. to after 7:00 p.m. <https://dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf> (accessed January 15, 2021).

Lack of Documentation to Evidence Consistent Monitoring of Overtime Costs

Agencies are expected to closely monitor and review overtime, to ensure that it is used in accordance with established requirements and only when needed. For example, Mayoral Directive 94-3, Section 8, effective September 14, 1994, requires agency heads “to personally review the top overtime earners in their agency, at least quarterly, to ensure that overtime is being distributed equitably and to avoid potential abuse” and states that “overtime must be carefully monitored and controlled [...] is not a discretionary expenditure [...] and] should be used only if planned and budgeted for.” DOP’s Procedure 10-01-21, Overtime Authorization & Processing states, “Managers and Supervisors should properly manage staff workloads and schedules to avoid the unnecessary assignment of paid overtime or compensatory time; it should be assigned to handle only the most essential agency business.”

A review of the overtime data for DOP found indications of weak monitoring. For example, five employees made above 40 percent of their total earnings in overtime, and of these the two highest overtime earners in fiscal year 2019 made 49 percent of their total earnings in overtime. The two highest overtime earners worked 1,495 and 1,380 hours in overtime, earning approximately \$80,332 and \$49,108 in overtime, above and beyond their regular salaries. Further, DOP did not obtain the overtime cap waiver from OLR, as required, for the highest overtime earner.

The auditors were not able to confirm that DOP reviewed or monitored the top overtime earners in accordance with Directive 94-3. DOP stated that although the Commissioner and other DOP executives meet and review overtime regularly, such meetings and reviews are not documented.

DOP could mitigate risks by implementing a procedure requiring documentation of its review and monitoring of continuous high-overtime earners. Such controls are necessary to ensure that an agency’s overtime policies are appropriate and equitable, and that overtime costs are kept at a minimum.

Recommendations

DOP should:

1. Obtain appropriate waivers before approving overtime for employees whose salaries exceed the overtime cap.

DOP Response: The agency agreed with this recommendation.

2. Ensure that the entitlement to meal breaks is only waived by employees on a voluntary basis, and otherwise deducted from the overtime paid.

DOP Response: The agency agreed with this recommendation.

3. Create a documented centralized review and monitoring process that would allow DOP to assess whether overtime is necessary and equitably distributed.

DOP Response: The agency agreed with this recommendation.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

To understand DOP's organizational structure along with the general roles, responsibilities, regulations, and guidelines that governed the processing of overtime, auditors reviewed various reports including Comptroller's Comprehensive Annual Financial Report, City's Payroll Management System and Open Data for Fiscal Years 2019 and 2020, publications, and other relevant information obtained from the DOP and OLR websites, and other sources, such as, NYC Employees' Retirement System to ascertain the requirements governing payroll and overtime process. Auditors also reviewed applicable rules and regulations, including the City Comptroller's Directives #1- Principles of Internal Control, #13 - Payroll Procedures and Mayoral Directive 94-3, Mayor's Management reports for Fiscal Years 2019 and 2020, and relevant provisions of the Citywide Agreement, FLSA rules, OLR's Interpretive Memorandum No.2019-1, New York State Labor Law, and DOP's Procedure 10-01-21, Overtime Authorization & Processing.

To obtain an understanding of payroll procedures and as part of the review of DOP's internal control regarding the overtime process of requesting, approving, recording, and compensating, auditors conducted interviews with DOP's Deputy Commissioner, Director of Internal Audit, Assistant Commissioner for Financial Operations and Director of Human Resources regarding their overall operations, procedures, functions, budget, and payroll units. In addition, the auditors interviewed each borough's supervisor of probation officers and directors to gain a better understanding of their responsibilities, the role of their units, and the overtime approval process.

To ascertain whether DOP complied with the rules governing the overtime cap, auditors reviewed the salaries and overtime earnings for DOP's entire employee population for Calendar Years 2019 and 2020, and using information on the City Human Resource Management System (CHRMS) pay details reports,⁶ the auditors identified the employees with total accumulated pay over the overtime cap who required a waiver from OLR and OMB because they were FLSA-exempt.⁷ Auditors obtained the Calendar Year 2019 and 2020 waiver lists approved by OLR, and then compared selected employees to the 2019 and 2020 waiver lists to determine whether DOP obtained waivers for these employees. Based on the results of this analysis, the auditors expanded their test to ensure that these employees who were granted a waiver by the OLR did not exceed the percentage allowed after they reached the overtime cap limit.⁸

To assess the accuracy of the data (the Overtime Request report) provided by DOP, auditors independently obtained the electronic PMS report from CHRMS for Fiscal Year 2020. The auditors first filtered the PMS report for the employees who worked overtime, then used the Excel function "random between" to select a sample of 50 employees from a total population of 672 who earned overtime during Fiscal Year 2020. To ensure that the overtime was accurately reported, the auditors traced the 50 employees' overtime recorded in the PMS report to the Overtime Request

⁶ Because the Overtime Cap and waiver lists are based on the calendar year, we used the calendar year PMS reports instead of fiscal year (our audit scope).

⁷ FLSA-exempt employees require cap waivers from OLR and OMB.

⁸ Percentage approved for those employees who have waivers do not exceed 10% or 20% above their annual salaries.

report. To test the completeness of the Overtime Request report, the auditors randomly selected another 50 employees from the Overtime Request report and traced them back to the PMS report to determine whether the recorded overtime information on the Overtime Request report was complete and there was no omission or over-reported overtime hours. Further, the audit did not specifically evaluate the reliability and integrity of the computer-processed payroll and personnel data that the auditors obtained from PMS since the City's external auditors review the system as part of their annual audit of the City's financial statements.

To determine whether DOP approved, authorized, and processed (or paid) overtime requests in compliance with its policies, procedures, and other applicable criteria, auditors obtained and reviewed the Fiscal Year 2020 Overtime Request report with the total population of 672 employees who earned overtime during Fiscal Year 2020. The auditors used the stratified sampling method to arrange the total population of 547 employees who earned overtime equal to and greater than 10 hours into three groups and randomly selected 20 employees from each group, totaling of 60 employees as their sample for audit testing. The three groups represent the low, medium, and high amount of overtime hours earned by employees.⁹ Auditors then selected the month of October 2019 to review because it was the month with the most overtime hours earned in Fiscal Year 2020. Their audit analysis included a test of the 60 sampled employees for October 2019, from which they identified 44 employees who worked overtime 396 times during the month. Auditors then requested the daily activity reports for October 2019 from DOP's Caseload Explorer system,¹⁰ Overtime Requests & Approvals report, and other types of documents for the selected 44 employees, and used these documents to determine whether the overtime hours earned were actually performed, properly pre-authorized, and finally approved. To further evaluate the accuracy of overtime payments, the auditors then compared the overtime hours recorded on the Overtime Request report to the PMS report for the same period of October 2019.

To determine whether DOP's unit head was authorizing and processing overtime in accordance with applicable Mayoral Directive 94-3, Section 8, and its own procedures and guidelines, auditors interviewed DOP officials who are responsible for financial budgeting, conducted walk-throughs with probation supervisors, reviewed DOP operating procedures and compared them to cited audit criteria for compliance. In addition, the auditors requested the Review of Top Overtime Earners and the Agency Overtime Plan reports for their audit period to review whether DOP effectively monitored overtime usage. Moreover, the auditors analyzed Fiscal Years 2019 and 2020 payroll reports to identify the top overtime earners and calculate the percentage of overtime over the total earnings. Auditors then selected employees whose overtime earnings were over 10 percent of their total earning and compared it with Fiscal Years 2019 and 2020 payroll reports to determine whether DOP effectively and equitably distributes overtime to their employees to avoid potential abuse.

To determine whether DOP complied with the NYS Labor Law, Section 162, Guidelines for Meal Periods, auditors obtained and reviewed the Fiscal Year 2020 Overtime Request report which contains the information of starting and ending times for each overtime performed and extracted the employees who worked overtime equal to and greater than 7 hour shifts to verify whether the

9 Low Group: employees that earned from 10 hrs to 100 hrs in overtime;

Medium Group: employees that earned from 101 hrs to 300 hrs in overtime;

High Group: employees that earned from 301 hrs to 886 hrs in overtime.

10 DOP officials provided auditors the login information for the selected probation officers only, and they explained that "Caseload Explorer is a NYS oriented secure case management system that is used by probation officer title series employees to manage their caseloads and supervise their clients. Only eligible personnel with the proper certification have access to this system."

overtime hours were accurately calculated and did not include the mealtime as total overtime reported to PMS.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis for the auditors to assess and evaluate the adequacy of DOP's management and control of employee overtime costs.

Ana M. Bermúdez
Commissioner

May 6, 2022

33 Beaver Street
New York, NY 10004
212-510-3710

By Electronic Mail

Ms. Maura Hayes-Chaffe
Deputy Comptroller for Audit
NYC Office of the Comptroller
One Centre Street
New York, NY 10007

**Re: Audit Report on the Management and Control of Overtime Costs
at the NYC Department of Probation's (FP21-081A)**

Dear Deputy Comptroller Hayes-Chaffe:

The New York City Department of Probation ("DOP") is in receipt of the April 7, 2022 draft report entitled "**Audit Report on the Management and Control of Overtime Costs at the NYC Department of Probation**" (the "Draft Report") for Calendar Years 2019 and 2020, prepared by the Office of the New York City Comptroller. We would like to thank the Comptroller's audit team for their professionalism in conducting this audit and are grateful for the opportunity to respond to the Draft Report.

It has been and will continue to be the goal of DOP to ensure appropriate management and control of overtime costs. To this end, we have addressed the recommendations included in the Draft Report in further below.

Recommendations:

- 1. Obtain appropriate waivers before approving overtime for employees whose salaries exceed the overtime cap.**

AGREE: DOP is aware of, and typically seeks appropriate waivers before approving overtime for employees whose salaries exceed the overtime cap as per the Citywide policy. To this end, waivers were submitted, and approved through this process for 18 employees in

CY2019 and 17 employees in CY2020.

However, due to a human error related to how the policy is applied when factoring in “additions to gross salary” (ATG), a number of waivers that technically should have been submitted for approval were not. In each of these cases, the employee’s base salary was below the overtime cap waiver threshold and the policy only impacted them once they earned enough during the course of the year, driven by the ATGs, to push them over the cap. All overtime paid to these employees was necessary and properly documented, and within the Department’s PS/overtime budget.

2. Ensure that the entitlement to meal breaks is only waived by employees on a voluntary basis, and otherwise deducted from the overtime paid.

AGREE: DOP acknowledges the entitlement of employees to meal periods while working overtime, similar to during regular working hours. However, as per the NYS Department of Labor, employees do have the right to opt out of a meal period, on an occasional basis as long as it is not part of their work schedule. In those cases, as part of the City Time process, the employee records the hours worked without deducting a meal period and upon employee/supervisor certification they are then paid for all overtime hours worked in full alignment with City, City Time and NYS Department of Labor policies.

As noted in the Draft Report, even though the meal period policy for overtime is the same as it is for regular time, we have already modified our agency overtime policy document to specifically address meal periods. Additionally, we will begin requiring employees to note in City Time when/if they voluntarily waive this entitlement.

3. Create a documented centralized review and monitoring process that would allow DOP to assess whether overtime is necessary and equitably distributed.

AGREE: The Commissioner and Cabinet already routinely review and monitor overtime and were aware of, and had authorized, the overtime being earned by the employees covered in this audit as necessary and appropriate to support critical agency operations. As recommended, we have now begun to document that this review is taking place.

Once again, I want to thank you for the opportunity to review and respond to the Draft Report. We welcome the opportunity to further examine and strengthen our practices with regard to the management and control of overtime costs.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ana M. Bermúdez', with a stylized flourish at the end.

Ana M. Bermúdez