

# AUDIT REPORT



CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BUREAU OF MANAGEMENT AUDIT  
**WILLIAM C. THOMPSON, JR., COMPTROLLER**

## **Audit on the Effectiveness of Child Support Enforcement Services Performed by the Office of the Sheriff**

*MD04-081A*

**June 30, 2005**



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.  
COMPTROLLER

**To the Citizens of the City of New York**

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has conducted an audit to determine the effectiveness of child support enforcement services performed by the Office of the Sheriff, which is within the Department of Finance.

The results of our audit, which are presented in this report, have been discussed with officials of the Office of the Sheriff and the Department of Finance, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

**Report: MD04-081A**  
**Filed: June 30, 2005**

## *Table of Contents*

<b>AUDIT REPORT IN BRIEF</b>	1
Audit Findings and Conclusions	1
Audit Recommendations	2
<b>INTRODUCTION</b>	3
Background	3
Objective	4
Scope and Methodology	4
Discussion of Audit Results	6
<b>FINDINGS AND RECOMMENDATIONS</b>	8
Inadequate Respondent Address Research	10
Attempts to Find Respondents Not Performed at Different Times	14
Initial Attempts at Finding Respondents Not Performed in a Timely Manner	16
Alternate Personal Service Used on Initial Attempts to Find Respondents	19
<b>ADDENDUM</b> Response from Department of Finance officials	

*The City of New York  
Office of the Comptroller  
Bureau of Management Audit*

**Audit on the Effectiveness of Child Support  
Enforcement Services Performed by the  
Office of the Sheriff**

MD04-081A

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**AUDIT REPORT IN BRIEF**

This audit determined whether the Office of the Sheriff (Sheriff's Office) effectively carried out its responsibilities of serving summonses and subpoenas for child support as outlined in its written agreement with the Human Resources Administration (HRA).

**Audit Findings and Conclusions**

The Sheriff's Office is ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with HRA, as follows:

- The Sheriff's Office did not adequately research respondent address information.
- The Sheriff's Office did not make attempts to find respondents at different times (one attempt in the morning, one in the afternoon, and one in the evening).
- The Sheriff's Office did not make initial attempts to find respondents in a timely manner.
- The Sheriff's Office used alternate personal service on initial attempts to find respondents rather than making additional attempts of personal service.

In total, 24 (17 percent) of the 144 sampled cases in which respondents could not be found were for respondents who were delinquent in child support payments, with arrears totaling \$165,559. Based upon our analysis, we project that 1,545 of the entire population of 9,265 cases in which respondents could not be found during Fiscal Year 2003 were for respondents who were delinquent in child support payments. Moreover, had the Sheriff's Office been able to find and serve the 1,545 respondents and had the respondents subsequently appeared in court and made arrangements to make payments for their arrears, as much as \$10.6 million in child support

payments might have been collected and paid to the custodial parents for the care of their children.

Although overall the Sheriff's Office was ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with HRA, we did note that the Sheriff's Office correctly calculated the service dates to be at least eight days before the scheduled court hearing dates, and did not attempt service after the service dates. For 54 (75 percent) of the 72 sampled cases in which respondents were not found and the Sheriff's Office had accurate and sufficient address information, a minimum of three attempts to each address of record was made, as required by the written agreement with HRA. In addition, for 263 (89 percent) of the 297 sampled child support cases, the date and address of each attempt at finding respondents indicated on the sign-out sheets internally used by the Sheriff's Office corresponded with the information contained on the Certificates of Attempted Service and Certificates of Service submitted to HRA.

### **Audit Recommendations**

To address these issues, we make six recommendations, including the following:

- The Sheriff's Office should gain access to various computer databases such as Lexis Nexis to increase the automated search options for finding respondents.
- The Sheriff's Office should ensure that it complies with its written agreement with HRA and makes attempts on different days and different times (one attempt in the morning, one in the afternoon, and one in the evening.)
- The Sheriff's Office should establish written guidelines governing the length of time it should take to make its initial attempts to find respondents.

## INTRODUCTION

### Background

The Sheriff's Office was created in 1942 as the chief civil law enforcement agency for the City of New York (City). The Sheriff's Office, which is within the Department of Finance (DOF), processes legal documents, such as summonses, subpoenas, and writs issued by the New York State (State) Family, Supreme, and Surrogate Courts, as well as those issued by the City Civil and Criminal Courts.<sup>1</sup> In addition, the Sheriff's Office is responsible for the seizure of property pending future court decisions.

In August 1995, the Sheriff's Office created a Family Court Warrants Unit in partnership with the Office of Child Support Enforcement, then part of the Administration for Children's Services (ACS) and as of August 2003 part of HRA, targeted at parents who fail to pay required child support. Child support is the amount of money a court decides a noncustodial parent owes to the custodial parent—the person caring for his or her child (or children).<sup>2</sup> The agencies entered into a written agreement to assist custodial parents in obtaining child support payments owed by noncustodial parents by serving summonses and subpoenas within the five boroughs and executing arrest warrants throughout the entire State. The written agreement specifies that the Sheriff's Office assign 20 Deputy Sheriffs from its Queens field office to perform child support enforcement services. During Fiscal Year 2003, HRA provided the Sheriff's Office with approximately \$2 million for its child support enforcement services.

HRA provides the Sheriff's Office with child support cases to be served as well as all pertinent information such as the first and last name, home and work address, social security number, and court hearing date of the person against whom the case is brought—the respondent. Once cases are received, the Sheriff's Office enters all information for each case into its computer system and calculates service dates, the date by which a summons must be delivered; the date must be at least eight days before the scheduled court hearing date. The cases are then sorted by service dates and boroughs and are assigned to individual Deputy Sheriffs.

To verify respondent address information given by HRA, the Sheriff's Office uses the Child Support Management System (CSMS), which is an automated system maintained by the State Office of Temporary and Disability Assistance's Division of Child Support Enforcement. When a child support order is issued, a child support account is established by HRA in CSMS.

According to the written agreement, when serving summonses and subpoenas the Sheriff's Office has to make a minimum of three attempts at each address of record, including the work place, if any. These three attempts are to be made on different days and at different

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<sup>1</sup> A summons requires someone to appear in court; a subpoena requires evidence to be submitted either to court or to a similar body; and a writ demands that a person do or stop doing whatever is specified.

<sup>2</sup> Under State law, parents are responsible for supporting their child until the child is 21 years old whether or not the parents live together or whether or not they are married.

times (one in the morning, one in the afternoon, and one in the evening), provided that the addresses exist. A summons can be served to a respondent in the following ways:

- Personal Service: Delivery of a summons to the actual respondent named in the summons. Personal Service is the preferred method of service.
- Alternate Personal Service: Delivery of a summons to a person other than the actual respondent who is of suitable age and discretion and at the actual place of business or dwelling place of the respondent and by mailing a copy of the summons to the respondent's last known residence.
- Nail and Mail Service: Delivery of a summons by affixing the summons to the door of either the actual place of business or dwelling place of the respondent and by mailing a copy of the summons to the respondent's last known residence. The court will make an order providing for nail and mail service if after reasonable effort personal service has not been made.

The Sheriff's Office closes a case when either a respondent has been found and served a summons, when a respondent has been found and arrested, or when due diligence has been performed but a respondent cannot be found and is not served or arrested. For all closed cases, the Sheriff's Office must submit detailed accounts to HRA on Certificate of Service or Certificate of Attempted Service forms describing respectively either the successful or the unsuccessful attempts made in finding respondents. During Fiscal Year 2003, there was a total of 18,194 closed cases—153 for respondents who were arrested, 9,265 for respondents who could not be found, and 8,776 for respondents who were found and served summonses and subpoenas.

### **Objective**

The objective of the audit was to determine whether the Sheriff's Office effectively carried out its responsibilities of serving summonses and subpoenas for child support as outlined in its written agreement with HRA.

### **Scope and Methodology**

The audit scope period was Fiscal Year 2003 (July 1, 2002 through June 30, 2003).

To obtain an understanding of the child support enforcement services, we interviewed officials from the Sheriff's Office, including the Supervising Deputy Sheriff and Lieutenant. We also interviewed the Deputy Associate Commissioner, Acting Director, and Supervisor of the HRA Central Court Services Unit under the Office of Child Support Enforcement. We reviewed the written agreement between HRA and the Sheriff's Office, as well as the internal *Daily Operational Procedures* of the Sheriff's Office.

We obtained from the Sheriff's Office monthly reports pertaining to the 18,194 closed child support cases during Fiscal Year 2003. For our sample testing, we limited our random selection to the two significant populations—the 9,265 cases in which respondents could not be found and the

8,776 cases in which respondents were found and served summonses and subpoenas. We then randomly selected 297 child support cases to review—144 cases in which respondents could not be found and 153 cases in which respondents were found and served summonses and subpoenas. For the 144 sampled cases, we determined the number of cases in which respondents were delinquent in child support payments and the dollar amount of the delinquent payments. The results of this sample were statistically projected.

For all of our sampled cases, we compared the service dates calculated by the Sheriff's Office to the scheduled court hearing dates and determined whether they were eight days apart, as required by the written agreement with HRA. We also compared the service dates to the dates the Sheriff's Office attempted to serve the summonses and subpoenas to determine whether the Sheriff's Office attempted service after the service dates.

We determined whether the Sheriff's Office could have used other computer databases besides CSMS to verify address information for respondents. To do so, we reviewed the Certificates of Attempted Service for the 144 cases in our sample in which respondents were not found and determined the number of cases in which respondents were not found after the initial, second, or third attempts because of insufficient or inaccurate address information provided to the Sheriff's Office.

We then prepared a list of the first and last names, dates of birth, and social security numbers for these respondents and asked the Comptroller's Technical Staff Supervisor to search various computer databases such as Lexis Nexis to verify address information that the Sheriff's Office had for these respondents. If we assessed that the address information that the Sheriff's Office had was insufficient or inaccurate, we then determined whether there were other addresses that these databases included for these respondents. Our purpose was to determine whether the Sheriff's Office might have been able to find the respondents had it used other databases. In addition, we spoke with officials from six other areas in the United States (and also searched the Internet) to inquire about the searches, if any, they make if the addresses that they were provided were insufficient or inaccurate.<sup>3</sup>

For the 144 cases in our sample in which respondents were not found, we determined whether the Sheriff's Office made a minimum of three attempts to each address of record, including the work place, if any, as required by its written agreement with HRA. For any cases in which the minimum of three attempts was not made, we determined whether the reasons were due to inaccurate or insufficient address information and then eliminated these cases from this analysis. In addition, for all cases in our sample where two or more attempts were made, we determined whether these attempts were made on different days and at different times (one in the morning, one in the afternoon, and one in the evening), as required by the written agreement with HRA.<sup>4</sup>

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<sup>3</sup> We spoke with officials from Fort Meyer, Florida; Tallahassee, Florida; Boston, Massachusetts; Baltimore, Maryland; Atlantic City, New Jersey; and Trenton, New Jersey. We also searched the Internet to obtain child case information from the Web sites of the following locations: Oregon; Lucas and Butler Counties, Ohio; South Dakota; Texas; and Georgia.

<sup>4</sup> In the absence of specificity in the written agreement, for purposes of our analysis, we considered morning to be 5:00 a.m.–12:00 p.m., afternoon 12:00 p.m.–5:00 p.m., and evening 5:00 p.m.–9:00 p.m.



To determine if the Sheriff's Office made initial attempts to serve summonses and subpoenas in a timely manner, we compared the dates cases were entered into the computer system of the Sheriff's Office (case-filed dates) to the dates of the initial attempts at finding respondents for all sampled cases. Since there were no written guidelines governing the length of time it should take the Sheriff's Office to make its initial attempts at finding respondents, we calculated the median number of days between the case-filed dates and the dates of the initial attempts for all cases. For testing purposes, we used the median as the standard.

Of the 153 sampled cases in which respondents were found and served summonses and subpoenas, we determined the number of cases in which the Sheriff's Office used alternate personal service rather than personal service. For these cases, we compared the service dates to the dates of the last attempts made to determine whether the Sheriff's Office could have made additional attempts at finding the respondents in person by using personal service—the preferred method of service according to its written agreement with HRA.

We obtained from the Sheriff's Office the internal sign-out sheets, the Certificates of Attempted Service, and the Certificates of Service for all cases in our sample. We determined whether the information contained on the sign-out sheets (internally used by the Sheriff's Office), such as the date, time, and address of each attempt at finding respondents corresponded to the information contained on the Certificates of Attempted Service and the Certificates of Service submitted to HRA.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

### **Discussion of Audit Results**

The matters covered in this report were discussed with Sheriff's Office and DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to Sheriff's Office and DOF officials and was discussed at an exit conference held on April 21, 2005. On May 13, 2005, we submitted a draft report to Sheriff's Office and DOF officials with a request for comments.

We received a written response from DOF officials on May 27, 2005. DOF officials disagreed with most of the audit's findings and recommendations. However, they stated that they have already taken steps to increase the automated search options in finding respondents by gaining access to Lexis Nexis; they also plan to implement a new computer program to ensure that work is assigned more efficiently and that attempts are made to find respondents on different days and at different times. DOF officials also stated:

“This Report does not unfortunately in any way examine or acknowledge the overall success of the program in providing process service and for the collection of payments

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when respondents have been served and come to court. HRA has in fact indicated to us positive results in those cases as well as its general satisfaction with how the Sheriff's Office has fulfilled its agreement with them.”

***Auditor Comment:*** The audit objective did not include a review of the effectiveness of the collection of payments after respondents have been served and come to court. This process is not part of the Sheriff's Office written agreement with HRA and is outside of its jurisdiction and control. However, as part of our review, we asked HRA officials to indicate whether respondents appeared in court for the cases in our sample in which respondents were found and served summonses and subpoenas. For 79 (80 percent) of the 99 cases in which HRA officials were able to provide us information, respondents did not appear in court. Thus, we do not understand the contention of DOF officials that HRA has indicated positive results for those cases that were served.

The full text of the response from DOF officials is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

The Sheriff's Office is ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with HRA, as follows:

- The Sheriff's Office did not adequately research respondent address information.
- The Sheriff's Office did not make attempts to find respondents at different times (one attempt in the morning, one in the afternoon, and one in the evening).
- The Sheriff's Office did not make initial attempts to find respondents in a timely manner.
- The Sheriff's Office used alternate personal service on initial attempts to find respondents rather than making additional attempts to try to use personal service.

In total, 24 (17 percent) of the 144 sampled cases in which respondents could not be found were for respondents who were delinquent in child support payments, with arrears totaling \$165,559.<sup>5</sup> We projected the results of our analysis to the entire population of 9,265 cases in which respondents could not be found during Fiscal Year 2003. Based upon our analysis, we project that 1,545 of the 9,265 cases were for respondents who were delinquent in child support payments.<sup>6</sup> We calculated \$10.6 million as the projected dollar amount for the projected delinquent child support payments.<sup>7</sup> Had the Sheriff's Office been able to find and serve the 1,545 respondents and had the respondents subsequently appeared in court and made arrangements to make payments for their arrears, as much as \$10.6 million in child support payments might have been collected and paid to the custodial parents for the care of their children. Successful service is a vital first step in the recoupment process.

**DOF Response:** "The Report relies primarily on 144 sampled cases in which respondents could not be found, for which a sample of 24 (17 percent) were respondents who were delinquent in child support payments, with arrears totaling \$165,559. Based upon this minimal analysis . . . a hypothetical loss of \$10.6 million in child support payments that might have been collected is projected to have occurred.

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<sup>5</sup> For the remaining 120 (144 minus 24) of the 144 cases in which respondents could not be found, the Sheriff's Office was to serve summonses and subpoenas for either the respondents to appear in court to establish child support or to appear in court to modify existing child support orders.

<sup>6</sup> Our projections are based upon a 90 percent confidence level and a sampling error of plus or minus 5.07 percent. Therefore, we are 90 percent confident that the frequency of occurrence of the number of cases of respondents who were not found and were delinquent in child support payments lies between 1,074 and 2,013 cases of the population of 9,265.

<sup>7</sup> Our projections are based upon a 90 percent confidence level and a sampling error of plus or minus \$5,005,249. Therefore, we are 90 percent confident that the frequency of occurrence of the delinquent child support payments lies between \$5,646,887 and \$15,657,385.

“We took the liberty of utilizing your stated . . . [statistics] for unserved cases and used it for those cases that the Sheriff’s Office successfully served and determined that these would have yielded \$14,831,795 for those cases with arrears. This is based upon taking [17] percent of the total number of cases successfully served, (1,463) and multiplying by the average amount of child support payments per case in your sample, \$6,898.29.”

**Auditor Comment:** Our projection for the delinquent child support payments from those cases in which respondents could not be found is based upon a statistically valid sample, as detailed in the audit report.

DOF officials cannot use the statistics we used for our projection of the respondents who could not be found and who were delinquent in child support payments to make a valid projection for respondents, delinquent in child support payments, who were successfully served.

Our reported projection and the DOF officials’ attempted projection serve to underscore the importance of successfully serving summonses and subpoenas and executing arrest warrants so that the money can be collected for custodial parents.

Many of these issues could have been avoided if the Sheriff’s Office had formal procedures for the oversight and monitoring of its work. Formal procedures document the steps (internal controls) management has developed to help ensure that goals and objectives are achieved; and they provide personnel the means to obtain a clear understanding of their responsibilities. The issues cited above are discussed in greater detail in the following sections of the report.

Although overall the Sheriff’s Office was ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with HRA, we did note that the Sheriff’s Office correctly calculated the service dates to be at least eight days before the scheduled court hearing dates, and did not attempt service after the service dates. For 54 (75 percent) of the 72 sampled cases in which respondents were not found and the Sheriff’s Office had accurate and sufficient address information, a minimum of three attempts to each address of record was made, as required by the written agreement with HRA. In addition, for 263 (89 percent) of the 297 sampled child support cases, the date and address of each attempt at finding respondents indicated on the sign-out sheets internally used by the Sheriff’s Office corresponded with the information contained on the Certificates of Attempted Service and Certificates of Service submitted to HRA.

**DOF Response:** “The Report states that for 75 percent of the sampled cases in which respondents were not found and the Sheriff’s Office had accurate and sufficient address information, a minimum of three attempts to each address of record were made. . . . This from a realistic management perspective means that the Sheriff’s Office is actually doing a good job in this area.”

**Auditor Comment:** The audit does not find fault with the number of attempts made by the Sheriff’s Office to find respondents. Rather, it criticizes the quality of these attempts.

The Sheriff's Office did not adequately research respondent address information, did not make initial attempts to find respondents in a timely manner, and for most of the cases reviewed, did not make attempts at different times, as required.

### **Inadequate Respondent Address Research**

The Sheriff's Office did not adequately research respondent address information. Of the 144 cases in our sample in which respondents were not found, 72 respondents were not found because of insufficient or inaccurate addresses. However, we were able to find other addresses for 52 (72 percent) of these respondents by searching various computer databases, such as Lexis Nexis.<sup>8</sup> We noted that eight (15 percent) of these 52 respondents were delinquent in child support payments, with arrears totaling \$44,386.

The written agreement between HRA and the Sheriff's Office states that the Sheriff's Office should investigate all information obtained to determine the present location of the respondents. We were informed that the Sheriff's Office, although not limited in its investigatory tools by the written agreement, does not use any other databases besides CSMS to verify address information for respondents. We spoke with officials from six other areas in the United States and inquired about the searches, if any, they make to verify respondent address information or to identify other addresses. Most of the officials stated that they use computer databases, such as tax record databases, utility company databases, Lexis Nexis, and motor vehicle databases.

In addition, through Internet research, we found that the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Act) resulted in an important tool for finding respondents. The Act requires employers to report to a State Directory of New Hires their new employee hires within 20 days of their hiring. The State Directory of New Hires reports the information to a National Directory of New Hires provided by the federal Office of Child Support Enforcement.

As shown below, in some cases, the Sheriff's Office could not find respondents because it did not have an apartment number or did not have the correct apartment number. In other cases, the Sheriff's Office had the wrong street. Had the Sheriff's Office used other databases, it might have been able to verify the address information that it received. We were able to find the needed information by searching various computer databases such as Lexis Nexis, as follows:

- For case 148987, the Sheriff's Office attempted to find the respondent at 1649 St. Nicholas Avenue, Apartment 59, New York, N.Y. However, it closed this case as "respondent could not be found—no such apartment number." We searched various computer databases and found two other addresses for this respondent; one of the addresses we found was 1649 St. Nicholas Avenue, Apartment 1059, New York,

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<sup>8</sup> For 13 of the 72 cases, we were unable to search the computer databases to find any information since we did not have the social security numbers for the respondents. For seven of the 72 cases, we found the same addresses that the Sheriff's Office was provided; no additional addresses were found.

N.Y. It appears the Sheriff's Office had the correct street and building number, but the wrong apartment number.

- For case 156680, the Sheriff's Office attempted to find the respondent who owed \$3,346 in child support payments at 178 Bond Street, Brooklyn, N.Y. However, it closed this case as "respondent could not be found—apartment number needed, multiple dwelling." We searched various computer databases and found three other addresses for this respondent; one of the addresses we found was 178 Bond Street, Apartment 5A, Brooklyn, N.Y. It appears the Sheriff's Office had the correct street and building number. However, had the Sheriff's Office searched other databases, it could have found the apartment number.
- For case 151767, the Sheriff's Office attempted to find the respondent at 185 West 185<sup>th</sup> Street, Apartment 5, New York, N.Y. However, it closed this case as "respondent could not be found—the address does not exist." We searched various computer databases and found three other addresses for this respondent; one of the addresses we found was 185 West 135<sup>th</sup> Street, Apartment 5, New York, N.Y. It appears that the Sheriff's Office had the correct building number and apartment number, but the wrong street.

In some cases the Sheriff's Office could not find respondents because they lived in other states. Although officials of the Sheriff's Office can serve summonses and subpoenas only within the five boroughs, if they find that a respondent lives in another state and they have a complete address, they are responsible for informing HRA and indicating the address on the Certificate of Attempted Service. HRA is then responsible for contacting the proper locality within the other state and transferring the entire case to that state. Below are examples of two respondents we were able to find in other states by searching various computer databases:

- For case 150320, the Sheriff's Office attempted to find the respondent who owed \$5,630 in child support payments at an address on Park Avenue in the Bronx. However, the Sheriff's Office closed this case as "respondent could not be found—respondent's mother stated that respondent has not been seen in over four years and does not know where he lives." When we searched various computer databases, we found only one address for this respondent—in Bridgeport, Connecticut.
- For case 145304, the Sheriff's Office attempted to find the respondent at an address on Almeda Avenue in Queens. However, the Sheriff's Office closed this case as "respondent could not be found—respondent's mother stated that she does not communicate with child and does not know where respondent lives." When we searched various computer databases, we found five other addresses for this respondent, all in Savannah, Georgia.

**DOF Response:** "The jurisdiction of the Sheriff's Office is limited to the City of New York. The Sheriff's Office does not have the legal authority to serve process in Georgia. The case was returned to . . . HRA and they will take whatever steps they believe are necessary to serve respondents who reside outside New York City."

***Auditor Comment:*** We are aware that the jurisdiction of the Sheriff's Office is limited to the City of New York. However, if officials of the Sheriff's Office find that a respondent lives in another state and they have a complete address, they are responsible for informing HRA and indicating the address on the Certificate of Attempted Service. HRA is then responsible for contacting the proper authority within the other state and transferring the entire case to that entity.

Sheriff's Office officials did not know that the respondent in case 145304 lived outside New York City since CSMS did not provide any additional information. They were informed of this out-of-state residence only as a result of our audit. Therefore, at the time that the case was closed, HRA was not aware that the respondent lived in another state and could not have taken the appropriate steps to follow up on the case.

During the exit conference, Sheriff's Office and Department of Finance officials stated that the other addresses we found for the 52 respondents were most likely added to Lexis Nexis after the audit scope period, since address information is constantly updated.

While we agree that address information in Lexis Nexis is constantly updated, all the address updates cited in the examples above existed in Lexis Nexis prior to the audit scope period. Specifically, the address information we found for cases 148987, 156680, 151767, 150320, and 145304, were updated in Lexis Nexis as of May 5, 2001, November 13, 2000, February 9, 2001, February 1, 1995, and December 19, 1998, respectively. Had the Sheriff's Office used other databases, such as Lexis Nexis, it would have been able to verify the address information that it received.

The mission of the Child Support Enforcement Program is to "enhance the well-being of children by assuring that assistance in obtaining support . . . is available to children through locating parents, establishing paternity, establishing support obligations, and monitoring and enforcing those obligations." To ensure that the mission is carried out, the Sheriff's Office should develop more effective methods of finding respondents, such as increasing the number and types of automated search options it uses.

At the exit conference, HRA officials stated that CSMS is an extensive automated system. Although not interfaced with Lexis Nexis, it is interfaced with numerous external data systems, such as the Department of Motor Vehicles, the state lottery, the Department of Internal Revenue Service, state and federal tax databases, and the Directory of New Hires.

We contacted officials from the State Office of Temporary and Disability Assistance's Division of Child Support Enforcement to inquire about CSMS. They stated that even though CSMS has the capability of interfacing with external systems to verify addresses of respondents, it is not automatically done whenever a child support order account is established by HRA in CSMS. State Officials explained that a search inquiry of these external systems would have to be made by HRA or the Sheriff's Office in CSMS for a verification of an address. We found no evidence that such search inquiries were made in CSMS. If search inquiries had been made, the Sheriff's Office should have been able to obtain updated address information for the respondents as we had.

**DOF Response:** “We completely disagree with this assertion . . . the Sheriff’s Office did adequately research address information. Approximately 50 percent of the respondents were successfully served. . . . This is due, in large measure to the Sheriff’s Office utilization of CSMS to verify addresses provided by the process and to obtain new address information.”

**Auditor Comment:** The Sheriff’s Office could improve its service rate to above 50 percent. In some cases, the Sheriff’s Office was unable to find respondents for whom it did not have an apartment number or did not have a correct apartment number. For these cases, the Sheriff’s Office used CSMS to verify address information that it received—but was nonetheless unsuccessful. However, we were able to find the needed information for these cases by searching various computer databases, such as Lexis Nexis.

In other cases, the Sheriff’s Office was unable to find respondents because it was told by friends or relatives of the respondents that the respondents had not been seen in several years and their whereabouts were unknown. Again, for these cases, the Sheriff’s Office used CSMS to verify address information that it received—but was nonetheless unsuccessful. We were able to find the location of these respondents—in other states—by searching various computer databases. To ensure better proficiency, the Sheriff’s Office needs to use other databases besides CSMS to verify address information it receives.

## **Recommendations**

The Sheriff’s Office should:

1. Gain access to various computer databases such as Lexis Nexis to increase the automated search options for finding respondents.

**DOF Response:** “The agency agrees. . . . the Warrant’s Unit obtained access to Lexis Nexis . . . and is currently using Lexis Nexis as a research tool. . . . The CSMS system currently, as well as during the time covered by this audit, obtains address information from various databases including the Department of Motor Vehicles and the State Directory of New Hires.

“The Sheriff has utilized the CSMS system . . . to obtain better home address and employer information. This has resulted in a large number of successful services that would have otherwise not have been made as well as a corresponding increase in additional child support collections.”

**Auditor Comment:** We are pleased that the Sheriff’s Office obtained access to Lexis Nexis. However, we do not agree that merely by having obtained access to and by utilizing CSMS, the Sheriff’s Office made a large number of successful services—as our audit results indicate.



2. Ensure that search inquiries within CSMS are made for obtaining updated addresses for respondents.

**DOF Response:** “It . . . is standard practice for the Sheriff to make CSMS inquiries for the vast majority of cases received.”

**Auditor Comment:** For the cases in our sample of respondents who were not found in which the Deputy Sheriff’s indicated that “CSMS was checked,” the notations did not indicate the types of search inquiries that were made in CSMS or whether search inquiries were made with external systems, such as the Department of Motor Vehicles, the state lottery, the Department of Internal Revenue Service, state and federal tax databases, and the Directory of New Hires.

We find it highly unlikely that search inquiries with external systems were made since the Sheriff’s Office was unable to find updated address information for the respondents as we had. It is apparent that officials from the Sheriff’s Office and DOF also had doubts about the adequate use of CSMS since—as we recommended—the Warrant’s Unit has obtained access and is currently using Lexis Nexis as a research tool to increase its chances of finding and serving respondents.

#### **Attempts to Find Respondents Not Performed at Different Times**

The Sheriff’s Office did not attempt to find respondents at different times (one in the morning, one in the afternoon, and one in the evening), as required by its written agreement with HRA. Of the 144 sampled cases in which respondents were not found, 98 were cases in which two or more attempts to find respondents were performed by the Sheriff’s Office. For 69 (70 percent) of these 98 cases, the attempts were not performed at different times. We noted that ten (14 percent) of the 69 cases were for respondents who were delinquent in child support payments, with arrears totaling \$69,363—one of these respondents alone owed \$30,920.

**DOF Response:** “This is misleading. If it is determined that a respondent does not live at an address it does not make any difference at what time the service attempts are made.”

**Auditor Comment:** In many cases in our sample, the Sheriff’s Office did not determine that it had insufficient or inaccurate address information until after the second or third attempt. Therefore, these attempts should have been made at different times, as required by the written agreement. We repeat that our finding “Attempts to Find Respondents Not Performed at Different Times” includes only those cases in which two or more attempts were made. We eliminated from this finding those cases for which the Sheriff’s Office determined that it had insufficient or inaccurate address information after the initial attempt.

Table I, following, shows the times that attempts were performed by the Sheriff’s Office to find respondents for the 69 cases in which attempts were not performed at different times.

**Table I**

Summary of the Times That Attempts Were Performed by the Sheriff’s Office to Find Respondents for the 69 Cases

(A) Time Category	Number of Cases	Percentage of Total Cases
Only Morning and Afternoon Attempts Performed	36	52%
Only Morning Attempts Performed	8	12%
Only Afternoon Attempts Performed	16	23%
Only Morning and Evening Attempts Performed	3	4%
Only Afternoon and Evening Attempts Performed	6	9%
<b>Total</b>	<b>69</b>	<b>100%</b>

As shown in Table I, the Sheriff’s Office failed to make attempts during different times, and hardly ever during evening hours. In 24 (35 percent) of the 69 cases, the Sheriff’s Office attempted to find the respondents at the same time during each of the attempts made—only during the mornings or only during the afternoons. Moreover, in 60 (87%) of the 69 cases, the Sheriff’s Office failed to make attempts to find the respondents during evening hours.

The agreement between the Sheriff’s Office and HRA states that the Sheriff’s Office is to operate during the hours of 5:00 a.m. and 9:00 p.m. and make attempts to find respondents on different days and different times—one in the morning, one in the afternoon, and one in the evening—provided that the addresses exist. However, we found that the times that attempts were performed by the Sheriff’s Office were not monitored. By making attempts on different days and at different times, the Sheriff’s Office would increase its chance of finding the respondents in person.

**DOF Response:** “It is indicated that the Sheriff’s Office hours are 5:00 a.m. to 9:00 p.m. Please note that Deputy Sheriffs’ work shifts are currently between the hours of 7:00 a.m. and 7:00 p.m.”

**Auditor Comment:** The agreement between the Sheriff’s Office and HRA clearly defines the hours of the Sheriff’s Office to be between 5:00 a.m. and 9:00 p.m. If the Deputy Sheriffs are operating during hours other than what is specified in the agreement, this should be brought to the attention of HRA officials. If the change of hours is agreeable to both parties, the agreement should be modified.

## **Recommendation**

3. The Sheriff's Office should ensure that it complies with its written agreement with HRA and makes attempts on different days and different times (one in the morning, one in the afternoon, and one in the evening.)

*DOF Response:* "The cases the Warrant's Unit receives are currently assigned on a manually basis by pulling cases from file drawers. The Sheriff's Office is looking to implement a new computer program to ensure that work is assigned more efficiently and that attempts are made on different days at different times."

## **Initial Attempts at Finding Respondents Not Performed in a Timely Manner**

The Sheriff's Office did not make initial attempts to find respondents in a timely manner. As stated previously, the Sheriff's Office does not have written guidelines governing the length of time it should take to make its initial attempts to find respondents. Therefore, we calculated the median number of days between the dates cases were filed and the dates of the initial attempts for all sampled cases. The number of days between the dates cases were filed and the dates of initial attempts to find respondents ranged from one day to 64 days, with a nine-day median. For 23 (8 percent) of our sampled 297 cases, initial attempts to find respondents were not made until more than 30 days after the cases were filed at the Sheriff's Office.

We used the nine-day median as a standard of how long the Sheriff's Office should take before going out to make its initial attempts. Of the 297 cases reviewed, 147 (49 percent) exceeded the nine-day median. We noted that of those cases that exceeded the median, 79 (54 percent) were for respondents who could not be found—14 (18 percent) of these 79 cases were for respondents who were delinquent in child support payments, with arrears totaling \$96,329.

Table II, below, shows the range of days it took the Sheriff's Office to make initial attempts at locating respondents for the 297 sampled cases.

**Table II**

Range of Days It Took the Sheriff’s Office to Make the Initial Attempts at Finding Respondents for the Full Sample of 297 Cases

<b>Range of Days Sheriff’s Office Took to Make the Initial Attempts at Finding Respondents</b>	<b>Number of Cases</b>	<b>Percentage of Total Cases</b>
One day through 9 days	150	51.00%
10 through 20 days	86	29.00%
21 through 30 days	38	13.00%
31 through 40 days	11	3.00%
41 through 50 days	10	3.00%
51 through 60 days	1	0.50%
61 through 70 days	1	0.50%
Total	297	100.00%

The following are examples of the time it took the Sheriff’s Office to make the initial attempts at finding respondents and the number of days remaining before the service dates:

- For case 147685 that was filed on July 31, 2002 by the Sheriff’s Office, the service date was October 16, 2002. It took the Sheriff’s Office 64 days to make its initial and only attempt at finding the respondent on October 3, 2002—just 13 days before the service date. The Sheriff’s Office closed this case as “respondent could not be found.” We noted that this respondent was delinquent in child support payments, with arrears totaling \$4,743.
- For case 148370 that was filed on August 12, 2002 by the Sheriff’s Office, the service date was September 23, 2002. It took the Sheriff’s Office 37 days to make its initial and only attempt at finding the respondent on September 18, 2002—only five days before the service date. The Sheriff’s Office closed this case as “respondent could not be found.”

**DOF Response:** “Case #147685. . . . The fact that an attempt was not made for 64 days is not relevant because the respondent did not live there and the CSMS system did not contain any additional information.

“Case #148370. . . . The fact that an attempt was not made on this case for 37 days is not relevant because the respondent did not live or work [there] and the CSMS system did not contain any additional information.”

**Auditor Comment:** We understand that at the time of the audit CSMS was the only database being used by the Sheriff’s Office. However, in its response, DOF officials stated that Lexis Nexis is currently being used as a research tool. Therefore, officials of the Sheriff’s Office must make their initial attempts to find respondents in a timely manner so they have adequate time to search various databases, such as CSMS and Lexis Nexis, for addresses of respondents they cannot find.

When initial attempts to find respondents are not performed in a timely manner, the time remaining in which to find respondents by the service dates is reduced as is the likelihood of finding the respondents. The remedy is to provide better assurance that there is adequate time to find respondents. Written guidelines governing the length of time it should take to make its initial attempts should be established and monitored.

During the exit conference, Sheriff’s Office and Department of Finance officials stated that the assignment of cases to the Deputy Sheriffs is “dictated by the service dates.” The standard is cases with earlier service dates will be served before cases with later service dates.

However, our review of the sampled cases found no relationship between service dates and initial attempts. For example, for case 159649 that was filed on March 20, 2003 by the Sheriff’s Office, the service date was May 15, 2003. Based on the standard of the Sheriff’s Office, this case did not have to be served right away since the service date was almost two months away from the case-filed date. However, the Sheriff’s Office made its initial attempt at finding the respondent on March 25, 2003—only five days after the case-filed date.

While it is adequate for the Sheriff’s Office to assign cases to its Deputy Sheriffs based on service dates, there still needs to be written guidelines governing the length of time it should take to make its initial attempts to find respondents. When initial attempts are not performed in a timely manner, the time remaining in which to find respondents by the service dates is reduced as is the likelihood of finding the respondents.

## **Recommendations**

The Sheriff’s Office should

4. Establish written guidelines governing the length of time it should take to make its initial attempts to find respondents.

**DOF Response:** “The nine-day time period set forth in your audit report is an artificial standard . . . [because] written guidelines were in place. . . . The Sheriff’s Office has to ensure that service attempts are made on all cases before the return date. . . . The goal of the Sheriff’s Office is to ensure that service attempts are made on all process received.”

**Auditor Comment:** The written guidelines of the Sheriff’s Office do not govern the length of time it should take to make initial attempts to find respondents. Rather, the guidelines

state that the assignment of cases to the Deputy Sheriffs is “dictated by the service dates.” Cases with earlier service dates will be served before cases with later service dates.

The nine-day median was used in our audit for testing purposes only. We used this median as a standard in the absence of written guidelines defining that period. We did not state that the Sheriff’s Office should implement the nine-day median as its standard. However, the Sheriff’s Office should determine and establish in the written guidelines a reasonable number of days preceding initial attempts to find respondents.

5. Monitor adherence to its established guidelines.

*DOF Response:* “The Sheriff will continue to ensure that the supervisors assigned to the Warrant’s Unit continue to monitor the dates the work is received and when service attempts are made.”

### **Alternate Personal Service Used on Initial Attempts to Find Respondents**

The Sheriff’s Office used alternate personal service on initial attempts to find respondents rather than making additional attempts to try to use personal service—the preferred method of service according to its written agreement with HRA. For 67 (44 percent) of the 153 sampled cases in which summonses and subpoenas were served, alternate personal service to the respondent’s mother, brother, niece, sister, grandmother, or boss was used on the initial attempt to find the respondents, even though there was time left before the service dates to make the three required attempts to serve the respondents themselves.

For example, the service date for case 152958 was January 7, 2003, and the first and only attempt made by the Sheriff’s Office was on November 8, 2002. Thus, the Sheriff’s Office had 60 days left until the service date to make additional attempts and personally serve the respondent. Instead, it closed this case as “alternate personal service” after serving the summons to the respondent’s friend. In another example, the service date for case 148343 was September 10, 2002; the first and only attempt made by the Sheriff’s Office was on August 14, 2002. The Sheriff’s Office had 27 days left until the service date to make additional attempts and personally serve the respondent. Instead, it closed this case as “alternate personal service” after serving the summons to the respondent’s grandfather.

The agreement between the Sheriff’s Office and HRA states that alternate personal service can be used, but that personal service is the preferred method of service. However, the Sheriff’s Office has no written guidelines governing when it is appropriate to use alternate personal service. Specifically, the guidelines do not define the number of attempts, for example, two attempts, that the Sheriff’s Office should make to try to personally serve the respondents before using alternative personal service if those attempts are unsuccessful. The Sheriff’s Office should work diligently to ensure that personal service is used and that alternate personal service is used only after an established number of attempts to serve respondents personally have been unsuccessful.

## **Recommendation**

6. The Sheriff's Office should ensure that it adheres to its written agreement with HRA by using personal service—the preferred method of service. Alternate personal service should only be used after an established number of attempts to serve respondents personally have been unsuccessful.

**DOF Response:** “The service of process by alternate personal service is personal service as described in section 308 of the New York State Civil Practice Law and Rules (“CPLR”) and as described in section 427 (a) of the New York State Family Court Act.

“Implementing your recommendation would have an adverse impact on the number of respondents who are successfully served and a corresponding adverse impact on child support collections and would not serve any legal purpose.”

**Auditor Comment:** The objective of the audit was to determine whether the Sheriff's Office effectively carried out its responsibilities of serving summonses and subpoenas for child support as outlined in its written agreement with HRA. Article II (Scope of Services), Part C (Service of Subpoena/Subpoena), of the agreement defines personal service as delivery of a summons or subpoena to the named respondent at least eight days before the time stated for court appearance. Likewise, the agreement defines alternate personal service as serving a person other than the respondent at least eight days before the time stated for court appearance. The agreement further states that alternate personal service may be used, but that personal service is the “agency's preferred method of service.” The intent of this recommendation is to ensure that the Sheriff's Office adheres to its written agreement with HRA by using personal service—the preferred method of service.

DOF officials have presented no evidence that making a good faith effort at personal service would reduce both the number of respondents successfully served and the corresponding amounts of child support collected. We note that according to the written agreement, the Sheriff's Office has to make a minimum of three attempts for all cases.



**FINANCE  
NEW • YORK**  
THE CITY OF NEW YORK  
DEPARTMENT OF FINANCE

**BY FAX AND HAND-DELIVERY**

May 27, 2005

Mr. Greg Brooks  
Deputy Comptroller  
Office of the Comptroller  
1 Centre Street  
New York, NY 10007-2341

**Re: Audit # MD04-081A  
Draft Report Audit on the Effectiveness of Child Support Enforcement  
Services by the Department of Finance's Office of the Sheriff**

Dear Mr. Brooks:

This letter is the New York City Department of Finance (Finance) response to the City of New York Office of the Comptroller (Comptroller) Draft Audit Report on the Effectiveness of Child Support Enforcement Services by the Department of Finance's Office of the Sheriff.

Prior to responding to the specific recommendations, statements and findings of the Report, we want to state our emphatic disagreement with its summary conclusion that the Sheriff's Office is ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with the Human Resources Administration (HRA). This conclusion is based upon four findings which are either not true, misleading or irrelevant to Finance's agreement with HRA.

The Department of Finance welcomes and appreciates any audit which would have allowed us to explore ways to take our operation to the next level of efficiency and excellence, however, we must express our disappointment with the limited focus of the Report and its reliance on dubious statistical sampling to paint a grossly inaccurate portrait of the state of the child support enforcement operation in the Sheriff's Office.

The Report relies primarily on 144 sampled cases in which respondents could not be found, for which sample 24 (17%) were respondents who were delinquent in child support payments, with arrears totally \$165,559. Based upon this minimal analysis of a



minimal sample, a hypothetical loss of 10.6 million dollars in child support payments that might have been collected is projected to have occurred. This Report does not unfortunately in any way examine or acknowledge the overall success of the program in providing process service and for the collection of payments when respondents have been served and come to court. HRA has in fact indicated to us positive results in those cases as well as its general satisfaction with how the Office of the Sheriff has fulfilled its agreement with them.

Representatives of your office were advised at our April 21<sup>st</sup> exit conference that the 10.6 million dollar child support projection was an unrealistic projection for the reasons set forth briefly as follows:

1. If the Office of the Sheriff had bad address information the respondent could not be served.
2. If the respondent does not live in New York City, the Office of the Sheriff cannot serve the respondent.
3. You cannot assume that the Sheriff will be able to serve all respondents even when we have correct address information.
4. You cannot assume that if the person is served, that they will pay in full.
5. You cannot assume that the court they were summoned to will enter a judgment for the amount sought.

As a further reality check and to provide perspective, we took the liberty of utilizing your stated methodology for unserved cases and used it for those cases that the New York City Department of Finance Office of the Sheriff ("Sheriff") successfully served and determined that these would have yielded \$14,831,795 for those cases with arrears. This is based upon taking 16.667% of the total number of cases successfully served, (1,463) and multiplying by the average amount of child support payments per case in your sample, \$6,898.29. The total number is \$10,092,198. Since the respondents in these cases were successfully served we believe that it is certainly more likely that they will pay. Using the methodology set forth in footnote number 7 on page 7 of the Report, we believe that it is appropriate to have our projection include a sampling error of an additional \$4,739,597.

On pages 1 and 7 of your draft report you state that the Sheriff's Office is ineffective in carrying out its responsibilities in serving summonses and subpoenas for child support according to its written agreement with HRA as follows:

"The Sheriff's Office did not adequately research respondent address information."

We completely disagree with this assertion. Although the Sheriff is not contractually required to research respondent address information, (please see the response to your first

recommendation for more detail concerning the Sheriff's contractual obligations), the Sheriff did adequately research address information. Approximately 50% of the respondents were successfully served. In light of the circumstances of the population we are discussing, this is actually an impressive result. This is due, in large measure to the Sheriff's utilization of the Child Support Management System(CSMS) system to verify addresses provided by the process and to obtain new address information.

On page 3 of the Report, it is stated that the New York City Sheriff's Office under its agreement with HRA has responsibility for executing arrest warrants throughout the entire State. The jurisdiction of the New York City Sheriff's Office is limited to the City of New York.

On page 8, the Report states that for 75% of the sampled cases in which respondents were not found and the Sheriff's Office had accurate and sufficient address information, a minimum of three attempts to each address of record were made, as required by the written agreement with HRA. This from a realistic management perspective, means that the Sheriff is actually doing a good job in this area. The Audit presents this bit of good news as some kind of failing rather than the successful performance it actually represents.

On page 10 of the Report, it is indicated that the Sheriff's hours are 5:00am to 9:00pm. Please note that deputy sheriffs work-shifts are currently between the hours of 7:00am and 7:00pm.

On page 11, under "Attempts to Find Respondents Not Performed at Different Times", it is stated that for 69 of 98 cases(where two or more attempts to serve respondents were made(of the 144 sampled cases) attempts to serve were not performed at different times. This is misleading. If it is determined that a respondent does not live at an address it does not make any difference at what time the service attempts are made.

Our comments concerning the report's six recommendations are set forth below including the various findings and statements related to case studies:

**Recommendation 1: Gain access to various computer databases such as Lexis-Nexis to increase the automated search options for finding respondents.**

The agency agrees. In fact, the Warrants Unit obtained access to Lexis-Nexis in October 2004 and is currently using Lexis-Nexis as a research tool. The Warrants Unit did not have access to the Internet during the period of time covered by this audit. Your representatives were advised that the Sheriff had access to Lexis-Nexis at the exit conference.

The CSMS system currently, as well as during the time covered by this audit, obtains address information from various databases including the Department of Motor Vehicles and the State Directory of New Hires.

Your representatives at the exit conference had no idea what databases the CSMS system utilized. The preliminary draft audit stated that the Sheriff should obtain access to the DMV database and the State Directory of New Hires database. Your representatives had to be informed that the CSMS system does provide access to these systems and did so during the period of time covered by this audit.

On page 8 of the draft report, you stated, "In addition, through Internet research, we found that the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (ACT) resulted in an important tool for finding respondents. The Act requires employers to report to a State Directory of New hires their new employer within 20 days of their hiring. ..." The implication from this statement is that the Sheriff did not know about or utilize the State Directory of New Hires. If your office had adequately researched the capabilities of the CSMS system, this language would not have been included in either your preliminary or draft report.

The cooperative Contract between the Sheriff and HRA does not require the Sheriff to conduct any separate investigations concerning the addresses of respondents to be arrested or served. The Contract requires the Office of the Sheriff to investigate all information obtained from the Office of Child Support Enforcement and the New York City Law Department for arrest warrants. The contract does not require the Sheriff to do any research for respondent address information for the service of summonses.

The Sheriff asked the Administration for Children's Services ("ACS") for a meeting to discuss the quality of the address information they were supplying for respondents for arrest warrants and summonses in the year 2000. The Sheriff advised ACS that the address information they were providing was in many cases incomplete (no apartment number or the address information was out-of-date). The Sheriff asked ACS what the Sheriff could do to assist in this matter. ACS then (at the request of the Sheriff) provided the Sheriff with access to the Child Support Enforcement System ("CSMS"). The Sheriff has utilized the CSMS system since that point to obtain better address and employer information. This has resulted in a large number of successful services that would have otherwise not have been made as well as a corresponding increase in additional child support collections.

We have the following comments concerning Sheriff cases you reference in this same section (Inadequate Respondent Address Research) of your report. The comments concerning the cases listed below were also made at the exit conference by a representative of the Department of Finance.

**Case # 148987** – The apartment number provided with the process does not exist. The deputy assigned to this case spoke to the building superintendent who said the respondent was not known. The CSMS system was then checked but no additional information was available. The Sheriff did not have access to other databases during the period audited.

**Case # 156680** – No apartment number was provided with the process. The Deputy took the initiative to also go to the management office who advised that they had no listing for

the respondent at that address. Tenants in the building also stated that they did not know the respondent. The CSMS system was then checked but no additional information was available. The Sheriff did not have access to other databases during the period audited.

**Case # 150320** – The respondent’s mother stated that the respondent did not live there and she had not seen him in 4 years and that he was possibly living in Illinois. Your office found an address in Bridgeport, CT. The jurisdiction of the Office of the Sheriff is limited to the City of New York. The amount of child support arrears is not relevant. Your office seems to be making the assumption that if the Sheriff does not find out-of-state address information that the respondents who live outside of New York State will not be contacted. This case was returned to ACS (now HRA) and they will take whatever steps they believe are necessary to serve respondents who reside outside New York City.

**Case #145304** – The respondent’s mother advised the deputy that the respondent had moved out of the apartment over a year ago. The CSMS system did not have any additional address information. My comments for case 150320 also apply here. The jurisdiction of the Office of the Sheriff is limited to the City of New York. The Sheriff does not have the legal authority to serve process in Georgia. The case was returned to ACS (now HRA) and they will take whatever steps they believe are necessary to serve respondents who reside outside New York City.

**Recommendation 2: Ensure that search inquiries within CSMS are made for obtaining updated addresses for respondents.**

On page 10, the Report states: “We found no evidence that such search inquiries were made in CSMS. If such search inquiries had been made, the Sheriff’s Office should have been able to obtain updated address information for the respondents as we had.” We checked the 7 cases you specifically mention in this draft report for which service was not made. CSMS checks were performed on all 7 of these cases and notations concerning these inquiries were made on either the certificate of attempted service or the case card for all 7 cases. It was and is standard practice for the Sheriff to make CSMS inquiries for the vast majority of cases received.

If the assigned Deputy discovered that the address for a respondent did not exist or that the respondent had moved and the assigned Deputy did not obtain any useful information in the field, the only other address information option during the period of time covered by this audit was the CSMS system. If an inquiry was made to the CSMS system and the CSMS system did not provide any additional address information for the respondent, the Deputy would have had no choice but to close the case as there would then be no productive information available with which to pursue it further.

**Recommendation 3: The Sheriff's Office should ensure that it complies with its written agreement with HRA and make attempts on different days and different times (one in the morning, one in the afternoon, and one in the evening).**

The Sheriff's Office does ensure that it complies with its written agreement and does make attempts at service on different days at different times. However, if attempted service at any point reveals that the address information is incorrect further attempts at service in the evening or a later date at that location would be pointless and a waste of resources. All that being said, the cases the Warrants Unit receives are currently assigned on a manual basis by pulling cases from file drawers. The Sheriff's Office is looking to implement a new computer program to ensure that work is assigned more efficiently and that attempts are made on different days at different times.

**Recommendation 4: Establish written guidelines governing the length of time it should take to make its initial attempt to find respondents.**

Representatives of your office were advised at the exit conference that the nine-day time period set forth in your audit report is an artificial standard. They were also advised at the exit conference that written guidelines were in place and they were given copies of these guidelines at that time. The Sheriff has to ensure that service attempts are made on all cases before the return date. The Sheriff made the initial service attempt within 20 days 80% of the time and made the initial attempt at service within 30 days 93% of the time. The goal of the Sheriff's Office is to ensure that service attempts are made on all process received. It would not be productive for the Sheriff to ensure that service attempts are made within 9 days for a case that is returnable in 2 months if this prevents the Sheriff from making additional service attempts on a case that is returnable in one week. It also seems likely that if you successfully serve someone in nine days and the court hearing date is scheduled for 2 months in the future it is less likely that the respondent will appear in court since he or she may forget about the court date than if you served this person closer to the hearing date.

The decision concerning what cases are assigned to field deputies is dependent on the date the case has to be returned to court. The Sheriff will receive cases on the same day for which the return dates are months apart. The Sheriff has to work on the cases which have the earlier return dates first. The cases are selected by geographical area in order to get the maximum number of stops in a workday. This means that cases with earlier return dates will be assigned along with other cases in the same geographical area irrespective of the return dates for these cases. The current written service of process procedures which were also in effect during the period of time covered by the audit state the following:

"All service of process is to be performed in accordance with the NYS Family Court Act and section 308 of the CPLR unless otherwise specified in this section."

Field assignments will be given prior to each tour by a supervisor. Upon receiving their field assignment, the Deputy will select a proportionate amount of field work to be

completed for that day. The selection process should be dictated by the service dates of the process. The deputy will sign out all cases for field attempts on the daily sign-out sheet. Daily sign-out sheet to be initialed by the supervisor. The Deputy will take a copy of the process with the case card attached into the field and leave all in-house copies in his/her mailbox.”

We have the following comments concerning Sheriff cases you reference in this section of your report. (Initial Attempts At Finding Respondents Not Performed in a Timely Manner). The comments concerning the cases listed below were also made at the exit conference by a Finance representative.

**Case #147685** – The wife of the respondent stated that he no longer resided at this location due to an order of protection. The CSMS system was then checked. No additional information was available. The fact that an attempt was not made for 64 days is not relevant because the respondent did not live there and the CSMS system did not contain any additional information.

**Case #148370** – The residential information supplied with the process was a plumbing business. The respondent was not known at the plumbing business. No additional information was available. The fact that an attempt was not made on this case for 37 days is not relevant because the respondent did not live or work at the plumbing business and the CSMS system did not have any additional information.

#### **Recommendation 5: Monitor adherence to its established guidelines**

The Sheriff will continue to ensure that the supervisors assigned to the Warrants Unit continue to monitor the dates the work is received and when service attempts are made.

**Recommendation 6: The Sheriff's Office should ensure that it adheres to its written agreement with HRA by using personal service-the preferred method of service. Alternate personal service should only be used after an established number of attempts to serve respondents personally.**

Your representatives at the exit conference were advised that alternate personal service is personal service. They were also advised that this recommendation did not make any sense legally or operationally and that, if implemented, the result would be lower child support collections.

The service of process by alternate personal service is personal service as described in section 308 of the New York State Civil Practice Law and Rules (“CPLR”) and as described in section 427(a) of the New York State Family Court Act.

Section 308 of the CPLR states:

“Personal service upon a natural person shall be made by any of the following methods:

1. by delivering the summons within the state to the person to be served, or
2. by delivering the summons within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served..."

Section 427 (a) of the Family Court Act states:

"Personal service of a summons and petition may be made by delivery of a true copy thereof to the person summoned at least 8 days before the time stated therein for appearance or by delivery of a true copy thereof to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served ..."

Once a case is successfully served it is closed and returned to court. Neither the law nor the courts require that additional attempts be made to personally serve the respondent once alternate personal service is made. The respondent has been legally served.

Implementing your recommendation would have an adverse impact on the number of respondents who are successfully served and a corresponding adverse impact on child support collections and would not serve any legal purpose. Deputies would have to make additional service attempts on cases where legal service could have been already effected. Deputies would, according to your recommendation, be directed to not serve persons of suitable age and discretion at the usual place of business, dwelling place or usual abode and to come back to make additional service attempts where neither the respondent or person of suitable age and discretion may be present. This will mean that successful service will not be made at all on cases that are currently being legally served. This would also result in Deputies not making additional service attempts on other open cases since they will be making additional unnecessary service attempts on cases that should have already been successfully served and closed. Another problem is that if you do not make alternate personal service when you have the opportunity, it is certainly predictable that if someone is at home on a subsequent service attempt they will be less likely to open the door and accept service since they will already know why the Deputy Sheriff is at the door to their home.

We have the following comments concerning Sheriff cases you reference in this same section of your report(Alternate Personal Service Used on Initial Attempts...):

**Cases #152958 and #148343** were successfully served in accordance with applicable law and no additional service attempts were necessary or warranted.

In concluding our response to this audit, we wish to express our disappointment that this audit failed to identify more substantive recommendations that would actually aid us in the performance of these tasks. For example, we are currently working with HRA so that the process can be provided to the Department of Finance electronically thus saving time

and resources rather than having the process manually picked up and then key-entered into the Sheriff's Office database.

The Department of Finance continues with its efforts to improve performance through the utilization of new technology in the Sheriff's Office. In addition, the Department of Finance is working with a consultant to assist with a performance management initiative that focuses on the customers we serve. This initiative will be helpful in suggesting ways we can improve the work we perform for HRA, for example setting appropriate timetable indicators for process serving, that better enable us to better manage the process within the existing legal parameters.

Finally, we do wish to thank you for your efforts. Although we are not in agreement with many of your recommendations and findings, where we are in agreement and already in compliance, we understand and recommit ourselves to serving the best interests of the City of New York.

If you have any questions concerning this response, please feel free to call me at (212) 669-4878.

Sincerely,



Michael Koslow  
Audit Coordinator

cc: Martha E. Stark, Commissioner, Department of Finance  
Rochelle Patricof, First Deputy Commissioner, Department of Finance  
Lindsay Eason, Sheriff  
Frances Pardus-Abbadessa, Deputy Commissioner  
Human Resources Administration