

STATE OF NEW YORK  
**OFFICE OF THE INSPECTOR GENERAL**  
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**OFFICE OF THE WORKERS' COMPENSATION FRAUD INSPECTOR GENERAL**

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**LETIZIA TAGLIAFIERRO**  
INSPECTOR GENERAL

April 6, 2021

Anthony J. Annucci, Esq.  
Acting Commissioner  
New York State Department of Corrections  
and Community Supervision  
The Harriman State Office Campus  
1220 Washington Avenue  
Albany, New York 12226

Re: NYS IG 1708-316-2020

Dear Acting Commissioner Annucci:

On July 23, 2020, the New York State Department of Corrections and Community Supervision (DOCCS) alleged to the Offices of the New York State Inspector General that DOCCS Correction Officer [REDACTED], while on a three-year Army National Guard deployment under valid military orders, became employed by the Buffalo Police Department and attended the Buffalo Police Academy. DOCCS further alleged that [REDACTED] failed to properly seek approval from the agency for this outside employment and that he was paid by both the Buffalo Police Department and DOCCS for his time while attending the academy.

The Inspector General investigated this allegation and found that [REDACTED] indeed attended the Buffalo Police Academy and became employed by the Buffalo Police Department while he was employed at DOCCS in violation of DOCCS's outside

employment policy. Additionally, the investigation found that DOCCS improperly overpaid paid ██████ for military leave.

By way of background, ██████ who was assigned to Lakeview Shock Incarceration Correctional Facility (Lakeview), provided DOCCS with valid military orders dated March 4, 2019, placing him on active duty with the Army National Guard for three years. ██████ last reported to work at DOCCS on March 3, 2019, after which he was placed on Military Leave Without Pay pursuant to New York State Military Law section 243.

Under New York State Military Law section 242(5)(a), “Every public officer or employee shall be paid his or her salary or other compensation as such public officer or employee for any and all periods of absence while engaged in the performance of ordered military duty, and while going to and returning from such duty, not exceeding a total of thirty days or twenty-two working days, whichever is greater, in any one calendar year and not exceeding thirty days or twenty-two working days, whichever is greater, in any one continuous period of such absence.” DOCCS’s Military Leave Directive (Directive 2212) restates State Military Law. Pursuant to this law and directive, ██████ was appropriately paid by DOCCS in 2019 for his military leave.

#### ██████ Engaged in Unauthorized Outside Employment

DOCCS’s Outside Employment Directive (Directive 2218) states, “[N]o Department employee may engage in outside employment without written approval from the Commissioner or the Chair of the Board of Parole, or their designee.” Of note, this directive explicitly exempts employees in the military reserves from being required to obtain such approval for active duty.

The Inspector General’s investigation found that ██████ informally advised Lakeview staff in early January 2020 that he would be attending the Buffalo Police Academy. Lakeview Planning Lt. ██████ testified to the Inspector General that in early January 2020, ██████ told him that he was going to attend the Buffalo Police Academy. Subsequently, an inspector working for the Buffalo Police Department telephoned ██████ inquiring about ██████ suitability for employment as a police officer. According to ██████ shortly after the call, he advised ██████ that he would be required to resign from DOCCS before being hired by the City of Buffalo.

A Lakeview human resources staff member, testified that ██████ telephoned her in early January 2020, advising her that he intended to resign. According to this staffer, she informed ██████ that he was required to submit a resignation letter to the Lakeview superintendent to inform him of his resignation, the effective date, and that he intended to join the Buffalo Police Department; and that ██████ should provide at least two weeks’ notice. The staffer also told ██████ he must return his badge, uniforms, State ID, employee manual, and any other issued items. The staffer testified that ██████ agreed to comply with these requirements but did not do so at that time.

Later in January, ██████ testified, ██████ visited Lakeview. ██████ advised that he assumed ██████ would submit his resignation letter at this time but he did not. In response, ██████ again telephoned ██████ and explained that if he intended to attend the

academy he would have to resign. However, when ██████ still did not submit a resignation letter to ██████ ██████ made numerous unsuccessful attempts to contact ██████ On February 19, 2020, ██████ mailed a certified letter reiterating his earlier advice to ██████ which was returned as unclaimed.

On August 19, 2020, the human resources staff member testified, ██████ first provided her with a resignation letter, in which he wrote his resignation was effective January 6, 2020. According to this staffer, ██████ also claimed to her that he had placed his resignation letter in her office in-box in January 2020. The staffer denied this, testifying that she did not receive a resignation letter from ██████ at any time prior to August 19, 2020. Likewise, the Lakeview superintendent advised he did not receive a resignation letter directly from ██████ at any time.

The Buffalo Police Department confirmed that ██████ started employment there on January 17, 2020, and attended the Buffalo Police Academy.

The Inspector General found that ██████ violated DOCCS's Outside Employment Directive by engaging in outside employment with the Buffalo Police Department without first obtaining written approval from the commissioner, chair of the Board of Parole, or their designee. As ██████ is no longer a DOCCS employee, disciplinary action cannot be taken by the agency.

#### ██████ Improperly Received Military Leave Pay

Pursuant to New York State Military Law section 242(5)(a) and DOCCS's Military Leave Directive, employees are authorized to receive 30 calendar days or 22 work days of paid military leave, whichever is greater, per calendar year or any continuous period of ordered military leave more than one year. To meet this requirement for ██████ three-year period of deployment with the Army National Guard, DOCCS paid ██████ for 22 work days in 2019.

In early 2020, DOCCS again provided ██████ paid leave for his National Guard time. Specifically, ██████ was paid \$3,858.54 for the 22 workday period from January 17 to February 9, 2020. However, the investigation found this payment was improper and contrary to both State Military Law and DOCCS directive. As ██████ three-year leave was one continuous period, he was authorized to receive only one payment for his absence while on National Guard deployment.

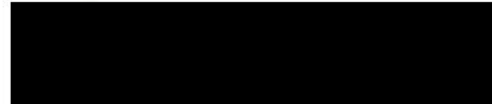
DOCCS Main Office human resources staff advised the Inspector General that this payment had been made in error by a then DOCCS human resource specialist. According to DOCCS, this human resource specialist erroneously advised Lakeview that ██████ was again entitled to military leave payment in 2020, despite facility personnel questioning him about the appropriateness of such payment. Notably, prior to the human resource specialist's resignation from DOCCS effective May 7, 2020, he was responsible for human resources matters at seven facilities including Lakeview. DOCCS advised that it has commenced steps to recover this overpayment from ██████

In light of these findings, the Inspector General recommends that DOCCS continue to seek recovery of the \$3,858.54 improperly paid to ██████ for military leave in

2020. Also, the Inspector General recommends that DOCCS provide additional guidance and training to staff with regard to military leave pay rules. DOCCS should also evaluate the feasibility of reviewing similar payments made to employees at the seven facilities under the purview of the aforementioned former human resource specialist for a three-year period before his resignation.

Please advise me of the action taken by DOCCS in response to these recommendations within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General Jeffrey Hagen at 716.847.7118.

Sincerely,



Letizia Tagliaferro  
Inspector General

Cc: Cathy Sheehan, Esq.  
Counsel and Deputy Commissioner