



Department of Public Safety and Correctional Services

Office of the Secretary

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STATE OF MARYLAND

WES MOORE
GOVERNOR

June 30, 2023

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The Honorable Wes Moore, Governor
The Honorable Brooke Lierman, Comptroller
The Honorable Dereck E. Davis, Treasurer
Board of Public Works
80 Calvert Street
Annapolis, Maryland 21401

Dear Governor Moore, Comptroller Lierman, and Treasurer Davis:

The Department of Public Safety and Correctional Services (DPSCS) presents Secretary's Agenda Item 31, which is a \$13 million settlement to resolve claims asserting unpaid wages resulting from an investigation conducted by the U.S. Department of Labor (DOL) Wage and Hour Division into violations of the *Fair Labor Standards Act* (FLSA) during the period of November 6, 2018 and August 4, 2021. The investigation disclosed violations resulting from the failure to pay statutory overtime pay for hours worked in excess of 40 hours per week.

In November 2020, the DOL, Wage and Hour Division notified the DPSCS that it was conducting an investigation into time-keeping practices at Jessup Correctional Institution (JCI). In particular, it examined the alleged failure to properly pay overtime for employees who worked past the scheduled end of their shift. It was determined that certain employees were working past the end of their shifts, but because the signed approval from a supervisor was not obtained, overtime was not being paid. DPSCS ultimately agreed that in those instances overtime was worked and should have been paid, and DPSCS provided DOL with approximately \$468,000 to pay the affected employees.

DOL expanded its investigation under the FLSA to all DPSCS correctional institutions based on similarity in the pre and post shift timekeeping practices across all facilities. During the investigation period, DPSCS executed universal changes to its timekeeping system beginning in August 2021 as a remedy to these practices.

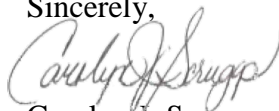
In support of DOL, DPSCS engaged in an analysis of 3,874 current and former employees who held the classifications of Correctional Officer I, Correctional Officer II, and Correctional Officer Sergeant and submitted these calculations to DOL. Staff from DPSCS met with DOL on March 20, 2023 to discuss the DPSCS findings and reach an agreement on the \$13 million owed to 3,874 current and former DPSCS correctional officers. The DOL approved these findings on June 15, 2023 and advised the DPSCS that it would contact affected employees directly.

The Moore Administration worked closely with AFSCME and DOL to bring this issue to resolution quickly. The FY2023 budget included funding to cover this settlement amount, which was added to the budget as a supplemental deficiency by Governor Moore and approved by the General Assembly in March 2023.

In an effort to ensure all parties eligible for unpaid wages under FLSA are accounted for, DPSCS and DOL continue to review additional officer classifications as part of the investigation. The Department will focus first on correctional supply officers, correctional dietary officers, and correctional maintenance officers, following the same method of back wages calculation used for correctional officers. If other classifications of employees are found by the Department to be within the eligible category, they will be addressed in this extension of the tolling period. The Department will review the final criteria with the DOL prior to finalizing amounts due. The Department will submit a revised file with total back wages due to DBM and BPW for approval, and then to WHD for processing. DPSCS has since drafted a revised policy, which is currently under review by AFSCME, to ensure that overtime is properly paid going forward and supplemental training will be provided so that all are clear about the proper documentation of overtime.

Thank you for your partnership as the Moore Administration works to expeditiously resolve this matter that preceded this Administration and make more than 3,800 current and former state employees whole without further delay.

Sincerely,



Carolyn J. Scruggs
Secretary