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**REPORT TO THE ERIE COUNTY LEGISLATURE  
92 FRANKLIN STREET  
BUFFALO, NEW YORK 14202**

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**JULY 2007**

**AUDIT AND REVIEW OF  
OPERATIONS OF THE  
ERIE COUNTY CORRECTIONAL FACILITY**



**MARK C. POLONCARZ  
ERIE COUNTY COMPTROLLER**

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**Michael R. Szukala  
Deputy Comptroller - Audit & Control**

July 11, 2007

The Honorable  
Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

Honorable Members:

We have completed an audit of operations at the Erie County Correctional Facility (“ECCF”) for the year ended December 31, 2005 which included an analysis of staffing and overtime. Our audit was conducted in accordance with generally accepted government audit standards with the exception of a Peer Review every three years.<sup>1</sup>

The objectives of our audit were to determine (1) the adequacy of staffing levels based on inmate population, (2) the propriety of overtime and compensatory time, (3) whether the operational systems in place were functioning as intended, and (4) the cost effectiveness of overtime versus the hiring of additional staff.

## **BACKGROUND**

For the purposes of this audit, our attention was focused on the ECCF which together with the Erie County Holding Center (“ECHC”) represents the Erie County Sheriff’s Jail Management Division. The ECCF is a medium security institution under the control of the Erie County Sheriff, maintaining custody of persons who have been tried, convicted and sentenced. However, due to overcrowding, approximately 360 prisoners from the ECHC are housed at the ECCF.

The number of budgeted positions for security at the ECCF, SAP Account 1163020, was 197 in 2004 reduced to 178 in 2005.

There were 2,843 sentenced inmates admitted in 2005, of which 307 were female and 2,536 were male. The average age of an inmate at the ECCF during 2005 was 33.7 years.

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<sup>1</sup> A Peer Review is scheduled to begin in August 2007 and is expected to be complete in October 2007.

### Summary of Audit Findings

- We remain concerned with reimbursement rates from New York State for prisoners held by the County under State requirements. We estimate that the County lost over \$2.4 million in 2005 due to insufficient reimbursements, and that loss continues through 2007.
- Our examination of the ECCF Commissary Fund found that monies were inappropriately spent from this account, and that \$150,000 appears to have been paid from the wrong commissary account. We question whether this amount should have been paid from commissary funds at all. We believe that the Commissary Fund should be reimbursed for \$857,426 paid in 2005 plus an additional \$88,232 in similar payments made in 2006 (a 2005 expense not accrued).
- Our office's earlier 2007 audit of the ECHC revealed concerns with line-up pay. Those concerns continue in this audit of the ECCF. We believe that the approximately \$1.5 million spent annually for line-up pay throughout the Jail Management Division demands the use of time cards or the introduction of chronological time sheets.
- The ECCF has spent more than \$800,000 on inmate prescriptions in 2005. The Sheriff's Office has not taken all the steps necessary to ensure that reimbursement is obtained for medical services and prescriptions where appropriate. We also suggest that the Sheriff work with the New York State Commission of Correction and the State Legislature to implement legislation that would allow charging inmates a co-pay for prescriptions and services.
- Our previous ECHC audit also discovered a need within the Sheriff's Office to better use technology. From managing prisoners, to tracking employee time, the Sheriff's Office needs to better use technology to reduce its demands for manpower and costs.
- Pay telephone services for inmates at the ECCF is a source of revenue for the Commissary Fund. This source of revenue has not been maximized, and as a result of delays the Sheriff has missed the opportunity to collect over \$200,000 in telephone revenue.
- We determined that the Commissary Fund should only reimburse the General Fund \$157,510. Going forward, the Sheriff and the Erie County Division of Budget, Management and Finance should annually recalculate the amount due and bill the Commissary Fund accordingly.
- The Sheriff is exploring privatizing Commissary operations. In our analysis, the most prudent decision is to contract out the vendor services.
- The Sheriff is also investigating doing prisoner laundry in the ECCF. Our conservative estimate indicates that it would be a prudent move to have the ECCF process all laundry needs at the facility. This proposed operation would provide for greater security and prevents the loss of laundered items.

- Union rules and regulations remain a source of contention at the ECCF. Two separate unions employ employees at the facility as guards. The Sheriff's Office must take the steps necessary to address the different pay rates and fringe benefit packages for correction officers and deputy-officers at the ECCF. Also, management should initiate discussions with union Officials to gain an agreement to allow interchange of CSEA and Teamster staff at the ECCF when unexpected overtime occurs. The Sheriff's Office attempt to address this issue was blocked by a court action.
- Correction officers, CSEA members, are permitted to accumulate unlimited Holiday Compensatory Time. This resulted in a payment of over \$31,000 to a recently retired Correction Officer just for holiday compensatory time alone. This payment was the equivalent of working almost every holiday over an eleven (11) year period. The Sheriff's Office must take the steps necessary to ensure that similar payments in the future will be prevented.
- Overtime throughout the Jail Management Division had been a concern for years, as has staffing levels. We performed an analysis, similar to the analysis performed during our audit of the ECHC to determine an appropriate staffing level. The 2005 data indicated that the total for the cost center should be 195 officers. This cost center (Security – Holding Center 1163020) has 199 filled positions. We do not recommend that four positions be eliminated; rather we do recommend that any future hires be assigned to the ECHC.

## **PREFACE**

During the course of our audit, we were in frequent contact with representatives of the Sheriff's Office in an attempt to either obtain documentation or clarification for the items we did receive. Unfortunately, for whatever reason or reasons, our requests for documentation or clarification on some topics were met with substantial delays. These delays have impeded us in completing our audit work and report in an expeditious manner.

In addition, we were forced to make estimates in several areas of our examination because requests for information to the Sheriff's Office went unheeded. Thus some of our findings which follow were based on estimates driven by our conversations with management and the incomplete documentation received.

## **AUDIT FINDINGS**

### **1. Reimbursement Revenue Was Not Maximized**

Reimbursement from New York State was not adequate to cover the actual daily cost expended by the County to house prisoners. The County's average daily housing rate in 2005 was \$115 per day.<sup>2</sup> The reimbursement rate provided by the State was \$34 per day for State paroles held at

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<sup>2</sup> Report to the Chairman and Members of the ECFSA Board on the January 13, 2005 Four Year Financial Plan Modification Submitted by County Executive Joel A. Giambra for FY 2006 – FY 2009, Section V page 106.

the ECCF. As a result the County lost \$81 a day for each such State prisoner held which totaled \$2,489,130 for the 30,730 days they were held in custody during 2005.

	<u>Total Housing Cost</u>	<u>Voucher Amount</u>	<u>Daily Rate Shortfall (Net Loss)</u>
NYS Parolees	\$3,533,950	\$1,044,820	\$2,489,130

Acknowledging that to a certain extent the hands of the Sheriff are tied due to contracts, mandates and requirements outside of his direct control, **WE RECOMMEND** that the Sheriff together with the County Executive, the Erie County Legislature, and elected officials at the State level actively pursue available options to increase State reimbursement rates commensurate with actual housing costs and to lessen the number of inmates “forced” to be housed at the ECCF.

## **2. General Fund Expenses Charged To The Commissary Fund**

Due to severe budget cuts, payments by the Sheriff’s Office management that were previously made using money from the County’s General Fund (2006, 2007 and prior years) were instead paid from the ECCF’s Commissary Fund. This includes \$150,000 paid from the ECCF’s Commissary Fund to Erie County’s Department of Public Works for capital renovations at the *ECHC*. We also found that \$857,426 was paid in 2005 from the Commissary Fund to Metcare RX for inmate prescriptions. Sheriff’s Office management readily admitted that these payments were made from the wrong fund to mitigate the effects of employee layoffs in 2005.

Acknowledging that the purpose of the Commissary Fund is for prisoner welfare and rehabilitation, it appears that the Sheriff’s allocation of Commissary Funds for medical supplies normally budgeted for in account 505800 (Medical Supplies) is a misuse of these funds.

Additionally, the \$150,000 appears to have been paid from the wrong commissary account, and we question if this amount should have been paid from commissary funds at all. However, the Erie County Legislature approved the \$150,000 payment from the Commissary account in a resolution dated July 15, 2004.

**WE RECOMMEND** that the Commissary Fund be reimbursed for the \$857,426 paid in 2005 plus an additional \$88,232 in similar payments made in 2006 (a 2005 expense not accrued).

## **3. Inadequate Payroll Timekeeping**

The 2005 budget provided for line-up pay to all Jail Management staff in the amount of \$1,481,566. At the ECCF, line-up pay is a contractual benefit given to sworn officers for reporting to work fifteen (15) minutes prior to the commencement of their tours of duty. These employees receive one-quarter hour of lineup pay at time and one-half (1 ½) their regular hourly rate for such time each day they report for work. As an example, an Officer earning a base pay

of \$38,980 annually must earn an extra \$1,828 for showing up fifteen (15) minutes early each work day.

At the ECCF there is one location where sign-in sheets are placed for employees to manually record their time in and out each day. Although nominally under the supervision of the Watch Commander, this manual effort depends upon the honesty and integrity of each employee to record their arrival times accurately and properly. This seemingly easy process is made difficult because both Correction Officers and Sheriff Deputies sign-in using the same sheets. In addition, as deputies and officers from the shift being relieved are also entering the same area to sign-out on the time sheets applicable to their shift. Unfortunately, without compensating controls in place, temptation and a roughly \$1,800 annual benefit may prevent the employees from accurately recording their shift reporting time.

We found several instances where line-up pay was improperly granted to employees when they signed-in less than fifteen (15) minutes prior to the start of their shift. On the positive side, we also found several instances where oversight review resulted in making the appropriate adjustments in other instances when line-up pay was improperly credited.

In order to provide reasonable assurance that approximately \$1.5 million annually in line-up pay throughout the Jail Management Division is properly granted, **WE RECOMMEND** that management of the Sheriff's Office either reinstitute the use of time cards or introduce the use of chronological time sheets (where employees sign in and out in chronological order) so that the propriety of the entries could be more effectively supervised.

#### **4. Medical Services Not Billed**

The Sheriff's Office is not taking advantage of a potential revenue source to pay for some inmate medical costs. It has failed to bill inmate insurance companies for medical costs. In some cases, prisoners or inmates maintain private healthcare insurance. Local Law #5 enacted by the Erie County Legislature in 1992 requires the ECHC and ECCF to reimburse the County by billing private insurance companies so that the County does not have to completely absorb the financial burden of all medical costs. While we recognize that 2005 deficit funding costs have hurt the Sheriff's Office in technical and support areas, the failure to bill third-party health insurers for these medical costs resulted in lost reimbursements for the Jail Management Division approximating \$150,000 in 2005 (5% of related medical costs of \$3,000,000 ). This is an estimate since the Sheriff's Office personnel could not retrieve data from the Jail Management System ("JMS") on inmates with insurance coverage to allow us to calculate precise billable amounts lost. \$110,000 of this estimate includes medical costs that went unbilled as disclosed in our recently released ECHC audit. As part of the intake processing, health insurance data is captured from inmates during the intake processing at the ECHC. However, the ECCF does not capture inmate health insurance data during their intake process.

**WE RECOMMEND** that the Sheriff's Office take the steps necessary to ensure that reimbursement is obtained for medical services and prescriptions where appropriate. At a minimum, corrective steps should include enhancements to the JMS to retrieve and track such expenses for inmates with private health insurance coverage and to work in concert with the

Comptroller's Office collection unit to ensure that health insurers are properly billed. If prisoner health insurance data obtained at the ECHC cannot follow the inmate to the ECCF, intake personnel at the ECCF need to modify existing intake paperwork to include obtaining third-party insurance detail when appropriate.

Further, as delineated in the County's Four Year Financial Plan, **WE RECOMMEND** that Sheriff's management work with the County Administration, New York State Commission of Correction and the State Legislature to pursue and implement legislation that would allow charging the inmates a co-pay for prescriptions and services and have this withdrawn from their account as you would for normal commissary purchases. Such a step would serve two purposes - generate additional revenue to be used for Jail Management purposes and cause a decrease in the use of medical services and minimize frivolous requests for medications.

### **5. Jail Management System ("JMS")**

The JMS for the Sheriff is designed to control the intake and/or reentry of an inmate into the system. A unique identifier can be attached to the inmate, including medical and security screenings and housing assignments. Also available for implementation are numerous possibilities such as movement schedules, personal property tracking, visitation management, etc. Most importantly, is the system's ability to generate statistical reports. Unfortunately, the JMS is not being utilized to the fullest extent possible.

We attempted on numerous occasions to obtain reports and statistics from the Sheriff's JMS, but were not provided any current system generated information. Not only could our audit have run smoother and more efficiently if we had ready access to statistical detail, but the Sheriff's day to day operation could also potentially operate more efficiently and less costly as well. In fact, even the Sheriff's website containing a multi-year statistical report is outdated, as it only is current through 2003. This report contains a tremendous amount of detail in a variety of areas but the specific detail has not been updated. While we acknowledge that a lack of technical staff was part of the problem, we also note that the Sheriff's Office did not take advantage of the system's full capabilities. Further, much of the work done by management (Captains, Lieutenants, and Sergeants) was and is prepared manually when it could be accomplished more efficiently using the system capabilities.

Some examples of what can be accomplished using the JMS are billing insurance carriers for inmates who have health insurance coverage (see Finding 4). Also, automating the daily schedule sheets and the inmate population count should be addressed as well.

**WE RECOMMEND** that management of the Sheriff's Office work together with the providers of the JMS to either update or enhance the modules currently in use or receive appropriate training or assistance necessary to automate current processes or procedures being handled manually. This will result in at least two positive outcomes – the elimination of manual recordkeeping and the provision of easy access to detail reports and statistics.

## AUDIT COMMENTS

### 1. Phone Commission Shortfall

In the spring of 2005, two inmate phone commission contracts (one with AT&T and one with Bell Atlantic) expired and were not renewed in a timely manner. These contract lapses resulted in a shortfall in phone commission revenue of over \$200,000. This is a conservative estimate as the Sheriff's Office was unable to provide us with sufficient supporting documentation that would have allowed us to make a more complete assessment.

A combined replacement contract for both the ECHC and the ECCF with Public Commission Services, Inc. ("PCS") was not made effective until November 22, 2005 as a result of undue delays. The current contract with PCS included a signing grant of \$100,000 compared to the \$150,000 signing bonus negotiated by ECCF personnel with Bell Atlantic in 1999 for the ECCF only. The two prior contracts were never approved as to form by the County Attorney although the present agreement with PCS was ultimately approved by the County Attorney. The phone commission shortfall did not directly impact the County's General Fund since phone commission monies are routinely deposited in the Commissary Account in the County's Trust and Agency Fund. However, the Commissary Account was negatively impacted.

In accordance with the contract, Verizon, formally Bell Atlantic notified the Sheriff that it would not renew the contract when it expired on February 28, 2005. However, Verizon was apparently willing to continue service without paying commissions to the County for the inmate calling services. Management of the Sheriff's Office verbally agreed to this arrangement. Accordingly, we were not able to determine the exact amount that the vendor "shorted" the commission payments to the Sheriff because of this arrangement. However, because the phones stayed in place for an additional six months, we prorated the lost commissions and have estimated this shortage to be over \$200,000. When the Sheriff inquired of the County Attorney as to whether they could recoup this lost revenue, they were advised that it would not be viable to take legal action against the vendor.

**WE RECOMMEND** that the Sheriff take steps to ensure that future contracts be negotiated in a timely manner to prevent lapses and the associated loss of phone commissions. **WE ALSO RECOMMEND** that the Sheriff should not agree to verbal contracts without consulting the Law Department.

### 2. Commissary Rent Overstated

During the course of the audit, we recalculated the Commissary reimbursement paid to the County's General Fund. In 2005, the reimbursement was budgeted at \$293,000 and through 2007, a similar amount was budgeted. Our recalculation disclosed that the reimbursement was substantially overstated on an annual basis by \$135,490. See **Figure 1** below for a detailed report on Commissary reimbursement.

**Figure 1**

<b>COMMISSARY REIMBURSEMENT</b>						
<u>PERSONNEL</u>	<u>ANNUALIZED COST 2006*</u>	<u>PERCENTAGE OF TIME</u>	<u>HOLDING CENTER</u>	<u>CORRECTIONAL FACILITY</u>	<u>TOTAL</u>	<u>COMMENTS</u>
Corrections Officer	\$ 85,078.34	100%	\$ -	\$ 85,078.34	\$ 85,078.34	Commissary Officer
Corrections Officer	74,669.94	25%	-	18,667.49	18,667.49	Inmate accts; vendor orders
Receptionist	39,777.50	10%	-	3,977.75	3,977.75	Input inmate orders
Commitments Clerk	62,419.05	10%	-	6,241.91	6,241.91	Input inmate orders
Admin. Assistant	88,925.59	10%	8,892.56	-	8,892.56	Vendor payments
Transport Deputy	56,267.59	40%	22,507.04	-	22,507.04	Transport commissary orders
* includes salary, allowances, OT, and fringes						
<b>BUILDING USE</b>						
Commissary 1177.87 sq ft X \$8.39				9,882.33	9,882.33	At Correctional Facility
<b>TRANSPORTATION</b>						
Mileage (twice weekly)						
104 trips X 44 miles round trip X \$.445 per mile			\$ 2,036.32	\$ -	\$ 2,036.32	For Transport Deputy
<b>TOTAL</b>					<b>\$ 157,283.72</b>	

**WE RECOMMEND** that starting with 2007, the Commissary Fund reimburse the General Fund \$157,510. For the future, the Sheriff and the Erie County Division of Budget, Management and Finance should annually recalculate the amount due and bill the Commissary Fund accordingly.

### **3. Commissary**

#### **Results of Operations**

Over the years there has been much discussion whether or not to continue maintaining a commissary. The State Commission of Correction's minimum standards only state that a commissary may be established, maintained and operated at the discretion of the Sheriff. The Sheriff's position has always been to provide items for sale to the prisoners.

The purpose of the commissary is to make available, for sale to prisoners, various items deemed appropriate by prison management which are consistent with the health and welfare of the prisoners as well as security and general operation of the facility. The prices of the items offered for sale shall be fixed by management to the extent that the commissary operations will be self-supporting and provide a modest return above costs. Profits resulting from commissary sales shall be deposited in a separate bank account and shall be utilized only for the purposes of prisoner welfare and rehabilitation. Examples of items for purchase include drinks, candy, snacks, personal hygiene products, stamps and stationery.

We reviewed the income statements and cash receipts/disbursements from the ECHC and the ECCF Commissaries for 2005 and 2006 and determined that there was a net loss of \$1,025,703 for 2005 and a modest profit of \$91,926 in 2006. (See **Figure 2** below)

**Figure 2**

**COMMISSARY FUND**

	<b><u>HOLDING CENTER</u></b>	<b><u>CORRECTIONAL FACILITY</u></b>	<b><u>TOTAL Net Profit (Loss)</u></b>
<b><u>2005</u></b>			
Beginning Balance	\$ 708,653.88	\$ 1,220,698.88	
Income	191,045.10	1,005,428.67	
Expenses	<u>598,973.57</u>	<u>1,623,203.08</u>	
Net Income (Loss)	(407,928.47)	(617,774.41)	\$ (1,025,702.88) [a]
Ending Balance	\$ 300,725.41	\$ 602,924.47	
 <b><u>2006</u></b>			
Beginning Balance	\$ 300,725.41	\$ 602,923.47	
Income	207,684.34	1,377,008.07	
Expenses	<u>341,943.77</u>	<u>1,150,822.38</u>	
Net Income (Loss)	(134,259.43)	226,185.69	\$ 91,926.26 [b]
Ending Balance	\$ 166,465.98	\$ 829,109.16	

**NOTE:** These figures were prepared on a cash basis

[a] Net loss caused by:	Payment to Metcare RX at the Holding Center	\$ 488,178.93
	Payment to Metcare RX at the ECCF	369,248.95
	Payment for the ECDPW Capital Project	<u>150,000.00</u>
		\$ 1,007,427.88

[b] Net profit shorted by payment to Metcare RX at the ECCF	\$ 88,232.74
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**Vendor Operated Commissary**

During the course of the audit, we became aware that the Sheriff's Office is interested in exiting the commissary business. To do so would require locating a vendor to perform this function and a means to get the orders to the vendor. We were informed that the Sheriff would like to install kiosks throughout both facilities where inmates could place orders and family and friends could make deposits on behalf of the inmate via an ATM-type platform. Additionally, we were told that a request for proposals ("RFP") was in process. However, when we requested a copy of the RFP, Sheriff's management informed us that it was still in draft form.

In order to determine the propriety of this possibility, we contacted several vendors to help in our cost comparison between a Sheriff-operated commissary and a vendor-operated commissary. The comparison is contained in **Figure 3** below.

**Figure 3**

	<b>2005 COMMISSARY COSTS</b>		<b>PROPOSED KIOSK COSTS</b>	
	<u>Expense</u>	<u>Income</u>	<u>Expense</u>	<u>Income</u>
Annual Fee To Sheriff	\$ -	\$ -	\$ -	\$ 24,000.00 (a)
Return on sales (from vendor)	-	-	-	188,000.00 (b)
Commissary Purchases	612,008.00	-	-	-
Sales to Inmates	-	854,681.00	-	-
Rent	244,167.00	-	-	-
Kiosk Costs				
Hardware	-	-	281,000.00	-
Software	-	-	-	-
<b>TOTALS</b>	<b>\$ 856,175.00</b>	<b>\$ 854,681.00</b>	<b>\$ 281,000.00</b>	<b>\$ 212,000.00</b>
Estimated Profit (Loss)		\$ (1,494.00)		\$ (69,000.00)
Telephones	753,911.00	150,747.00	\$200,000.00	\$400,000.00
Giveaways	13,118.00	-	12,000.00	-
Telephone Totals	767,029.00	150,747.00	493,000.00	612,000.00
PROFIT (LOSS)		\$ (616,282.00)		\$ 119,000.00
<b>OVERALL PROFIT (LOSS)</b>		<b><u>\$ (617,776.00)</u></b>		<b><u>\$ 50,000.00</u></b>

**NOTE: These figures were prepared on a cash basis**

(a) Estimated \$2,000 per month rental costs for space

(b) Estimated 22% return from vendor on gross sales

Obviously, there are many possibilities to discuss with the Sheriff, but for the sake of comparing costs for this report it does appear that in the long run (whether kiosks are purchased, leased or loaned) that the most prudent financial decision is to contract out these services. **WE RECOMMEND** that the Sheriff continue to pursue the opportunity to close the commissary and replace existing operations with a vendor that would have inmates ordering from kiosks installed in the housing units to simplify the commissary process. The Sheriff should issue a written RFP and follow appropriate procedures for disseminating, reviewing and selecting a winning

respondent. Furthermore, we note that the vacated commissary space could then be utilized for a potential laundry operation that is discussed below. (See Auditor Comment #4)

**4. Laundry Services**

Currently, laundry services for the ECCF are contracted out to the Erie County Medical Center Corporation (“ECMCC”) and a vendor, Sodexho. Sheriff’s management stated their desire to explore the possibility of having the inmates operate a laundry at the ECCF and ending the practice of contracting out laundry services. This would become feasible if the commissary was contracted out and the space then not used for the commissary could be used for the proposed laundry facility.

The Jail Management Division contracted out laundry services to ECMC and a contract vendor in 2005 at an annual cost of approximately \$118,000. However, there were complaints regarding missing laundry and an isolated instance where contraband (a knife) was found in returned laundry. Our analysis found that monthly laundry poundage processed dropped by up to 75% beginning in June 2005 compared to the preceding months. Sheriff’s management attributes the sudden and severe drop-off in monthly laundry poundage processed to the theft of laundry at either the ECMCC and/or the contracted laundry vendor. ECCF personnel estimate that the laundry could be done in house by utilizing the one (1) officer freed up from the commissary, utilizing inmate labor and purchasing washers and dryers (including installation costs) for approximately \$80,000. Useful life of the laundry equipment was conservatively estimated at five (5) years.

We had to conservatively estimate the cost comparison as there is a discrepancy between ECMCC, the laundry vendor and the Sheriff’s Office regarding the exact poundage laundered and the exact amount billed.

**Figure 4**

**LAUNDRY COSTS**

<u>Year</u>	<u>ECMC</u>	<u>Correctional Facility</u>	<u>Notes</u>
2005 <sup>(a)</sup>	\$118,000	Officer Salary	\$41,962 (step 3)
		Officer Fringes	\$20,981 [50%]
2006 <sup>(b)</sup>	\$200,000	Washers/Dryers <sup>(c)</sup>	\$16,000 (20% of purchase price)
		Supplies	<u>\$18,000</u>
		Total	\$96,943

(a) 10 month actual; 2 month estimate

(b) Sheriff’s estimate for full year

(c) Prorated based on estimated five year life of equipment

Given that contracted laundry service costs are estimated to increase dramatically going forward, we recommend that Sheriff’s management seriously consider doing laundry in house. Our

conservative estimate indicates that it would be a prudent move to have the ECCF process all laundry needs at the facility. In addition, this proposed operation would provide for greater security and help prevent the loss of laundered items. Therefore, **WE RECOMMEND** that the Sheriff in conjunction with closing the commissary, take the steps necessary to establish a laundry operation at the ECCF.

**5. Union Issues**

**Inequality Amongst Working Peers**

Unlike the ECHC, the ECCF cellblocks are staffed by members of two unions, the Correction Officers (CSEA Local 815) and the Sheriff Deputy Officers (Teamsters Local 264). Teamster union members staff cellblocks at the Alden Annex, which house both sentenced and unsentenced inmates. The remaining units at the ECCF are staffed by CSEA members who also guard both types of inmates. Members of each union guard inmates side by side at different pay rates, and different fringe benefit packages. A schedule of the different pay rates can be found in **Figure 5**.

**Figure 5**

<b>SALARY COMPARISON</b>			
<b>SALARY STEP</b>	<b>CORRECTION OFFICER SALARY (CSEA)</b>	<b>SHERIFF DEPUTY SALARY (TEAMSTER)</b>	<b>SALARY DIFFERENCE</b>
0	\$34,594	\$37,889	(\$3,295)
1	\$36,810	\$40,315	(\$3,505)
2	\$38,980	\$42,372	(\$3,392)
3	\$41,140	\$44,441	(\$3,301)
4	\$43,300	\$46,494	(\$3,194)
5	\$45,468	\$48,549	(\$3,081)
A	\$46,584	\$49,602	(\$3,018)
B	\$47,636	\$50,648	(\$3,012)
C	\$48,710	\$51,709	(\$2,999)
D	\$49,789	\$52,757	(\$2,968)
E	\$50,869	\$53,812	(\$2,943)

Union constraints also hinder transferring members from either of the two unions to the other union's posts when staff shortages occur in Alden (and vice versa). This is a costly and wasteful practice. We also noted some concerns over inadequate supervision and possible overstaffing given the unusual dual union staffing of the ECCF.

Finally, because of all the different paycales, there are increased County payroll costs excluding extra fringe benefit costs by over \$250,000 annually

**WE RECOMMEND** that Sheriff's management take the steps necessary to ensure that a plan is formulated and implemented to address the different pay rates and fringe benefit packages for officers at the ECCF. Also, management should initiate discussions with union officials to gain an agreement to allow the interchange of CSEA and Teamster staff at the ECCF when unexpected overtime occurs.

### **Holiday Compensatory Time**

One example of different benefits allows Correction Officers (CSEA) to accumulate unlimited holiday comp time. This resulted in a payment of over \$31,000 to a recently retired Correction Officer just for holiday comp time. This payment was the equivalent of working almost every holiday over an eleven (11) year period while functioning as the union president. From a practical and realistic perspective, one must question the propriety of the payroll review process that allowed this to occur and go uncontested for so long.

**WE RECOMMEND** that Sheriff's management take the steps necessary to ensure that situations of this nature be addressed in such a manner that similar payments in the future will be prevented. We note that the Sheriff tried to eliminate this benefit, but was directed by Labor Relations to reinstate the benefit.

### **6. Proactive Measures to Control 207-c Absences**

Under General Municipal Law Section 207-c, law enforcement personnel who are injured in the line of duty or fall ill in the performance of their duties are entitled to nontaxable full payment of municipal compensation benefits such as salary, fringe benefits and all medical costs until recovery, disability retirement or attainment of retirement age. We found that compared to a 1996 audit, there was a decrease in lost work shifts from 1960 lost shifts in 1996 to an adjusted 479 lost work shifts in 2005. Excluded from the lost work shifts in 2005 were old compensation cases, one including a case from 1996. It should also be noted that ECCF had more inmates and staff in 2005 verses the 1996 data. The dollar value for the lost work shifts in 2005 was estimated at \$91,534. We commend the Sheriff's Office for taking positive steps to limit downtime at the ECCF due to 207-c absences.

### **7. Commissary Funds Were Not Transferred and No Monthly Financial Statements**

Cash funds of the ECHC have not been transferred to the ECCF as part of the combined commissary. Separate bank accounts and accounting records are still maintained for each facility. The commissaries from the ECHC and ECCF were officially combined on January 20, 2001. The ECHC cash account balance as of December 31, 2005 was \$300,725.

In addition, we found that monthly financial statements were not prepared for the Commissary Fund and Telephone Fund accounts for both facilities.

**WE RECOMMEND** that the monies be transferred to simplify operations and to eliminate duplicative tasks.

**WE ALSO RECOMMEND** that financial statements be prepared on a monthly basis to facilitate the management decision making process.

### **ANALYSIS OF STAFFING AT THE CORRECTIONAL FACILITY**

Overtime costs within the Sheriff's Office have been a point of contention for more than a decade in Erie County. They have been reviewed by multiple entities, including Public Financial Management ("PFM")<sup>3</sup> and the Commission of Correction. Despite the various prior reports and recommendations, specific, immediately implementable suggestions to address overtime are lacking. One question often asked is whether hiring additional officers would significantly reduce the payment of overtime, and if so, how many officers would be required to alleviate the problem. This report, like our previous audit of the ECHC, attempts to answer this issue. The SAP system recorded \$1.48 million in overtime for the cost center 1163020 (Security – Correctional Facility) for fiscal year 2005.

Our audit recognizes that determining the cost benefit of paying overtime versus hiring new officers requires examining four concepts: (1) determine the tasks that need to be performed, (2) determine the number of individuals needed to perform those discrete tasks, (3) determine how many tasks per year an individual officer can perform (these three variables should yield the number of persons needed to man the facility), and (4) determine how much it costs to hire a new officer versus paying overtime to a current officer. No previous independent study has looked at all of these issues for the ECCF.

To determine the number of officers needed for the ECCF, the scheduling sheets were obtained by this office. These sheets list the posts manned at the ECCF and the name of the officer who stood that post. These sheets provided a complete listing of posts, and significantly, provided a record of which posts were manned on specific shifts on specific days. These lists provided the core data for our analysis, as they did for our similar analysis of the ECHC.

To discover how many officers are needed to man the posts at the ECCF the amount of time off taken by officers had to be determined. A random sample of officers who worked in the facility was taken and the time-off used by those officers was analyzed. This data was combined into a single analysis.

In order to determine how many individuals are needed to staff the ECCF, the number of shifts in a year that an individual works must be determined. In the case of the ECCF, this is complicated by the two unions that together staff the facility and the fact the two unions have different contracts with different pay scales and benefits for similar work. There are approximately eighty-one (81) employees covered by the Teamsters and one-hundred eighty-two (182) employees covered by the CSEA as of December 31, 2005 working side by side at the ECCF.

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<sup>3</sup> Report to the Chairman and Members of the ECFSA Board on the January 13, 2005 Four Year Financial Plan Modification Submitted by County Executive Joel A. Giambra for FY 2006 – FY 2009, Section V pages 89-111.

The number of shifts a person works at the ECCF in an average year is very similar to the number worked by deputies at the ECHC. As both locations face similar problems, with similar work rules, and even the same union work rules in common for some employees (see Auditor Comment #5), it would not be unexpected. We sampled sixty-six (66) random individuals of the one-hundred ninety-three (193) employees who were listed as working at the ECCF in cost center 1163020 in 2005. These sixty-six (66) employees comprised more than 34% of the employees in that cost center. Our results indicated no significant difference in the amount of time off taken at the ECCF with one exception: Holiday Compensatory Time.

Correction Officers receive “Holiday Compensatory Time”, a benefit not enjoyed by Sheriff Deputy Officers. Holiday Compensatory Time is time off credited to an employee for working holidays. This additional time off slightly changes the amount of time off taken by officers at the ECCF. As a result the number of shifts worked by the average employee at the ECCF differs from that worked at the ECHC.

The Commission of Correction uses a different figure for the expected number of shifts worked in an average year by employees in corrections job groups. The numbers used by the Commission of Correction are included here for comparison purposes.

**Figure 6**

	Holding Center Amount	Correctional Facility Amount	NYS Comm of Correction Amount
Days in a year	365	365	365
LESS:			
Vacation Used per Year	18	18	17
Sick Used per Year	10	10	12
Comp Used per Year	7	13	0
Personal Time Used per Year	4	4	4
Annual Holidays	12	12	12
Weekend Days	104	104	104
Other Days	2	2	2
Subtotal	157	163	151
Training days	5	5	5
Total Annual Days Off	162	168	156
Days Available to Work	203	197	209

In our analysis, we use the number 197 when calculating the number of shifts worked in a year by ECCF staff.

The ECCF is manned every day of the year, and operates on a 24 hour a day schedule. Three (3) shifts are used to operate the facility, the shifts starting at 0800, 1600 and 0000, the day, afternoon and night shifts respectively. Duties at the ECCF change by shift and by day of the week. To obtain an accurate idea of the manpower needed to run the facility, each shift was broken down by weekday, and that detail averaged to produce the number of posts needed to be manned on a day on a given shift.

One-hundred and ninety-two (192) of the 1,095 shifts that occurred in 2005 at the ECCF were randomly selected, a sample size of more than 17% of the shifts in 2005. The sample was evenly distributed among days of the week and the three (3) shifts.

Our sample generated an average number for posts stood per workday per shift. Annualized, those figures give the average number of posts that need to be manned each year. This average number of posts that need to be manned each year, divided by the average shifts worked each year by officers, yields the number of officers needed to man those posts.

The Commission of Correction uses for its calculations a “relief factor.” Relief factors are “the full coverage factor designed to insure that a sufficient number of persons are employed to perform facility functions 365 days per year”.<sup>4</sup> Two different relief factors are used: 1.25 for Monday through Friday daytime posts and the range of 1.7 - 1.8 for all other posts. A relief factor is multiplied by the number of posts to be filled in order to receive the actual number of employees needed. A relief-factor of 1.8 yields a need of eighteen (18) employees for ten (10) posts, as an example.

As a result, a certain number of additional officers are needed to ensure all positions are manned at all times. Senior Sheriff’s Office employees use a relief factor of 1.8 in their calculations. A relief factor is not used in our calculations, as we use actual, average time-off and actual posts worked to determine the number of shifts an officer can work in a year.

The ECCF created its own estimate of needed posts, independent of our analysis. This estimate was provided to us during our audit, and is provided here in the column adjacent to our analysis, headed “Correctional Facility Expected Staffing.” The ECCF estimate was created through the use of the experience of the officers involved. The summary of our analysis and the ECCF estimate is provided below:

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<sup>4</sup> New York State Commission of Correction Regulation 7041.3.

**Figure 7**

Correctional Facility (less Annex staff) - Audit of 2005 data

0800-1600			Annual Posts	Correctional Facility
Day Shift	Shifts Per Year	Number of Posts	to be Manned	Expected Staffing
Day of the Week				
Monday	52	51	2,645	51
Tuesday	52	53	2,734	51
Wednesday	52	54	2,813	51
Thursday	52	48	2,504	51
Friday	52	48	2,494	51
Saturday	52	44	2,280	51
Sunday	52	41	2,117	51
1600-2400			Posts	Correctional Facility
Second Shift	Shifts Per Year	Number of Posts	to be Manned	Expected Staffing
Afternoon Shift				
Monday	52	38	1,964	37
Tuesday	52	38	1,985	37
Wednesday	52	38	1,957	37
Thursday	52	37	1,906	37
Friday	52	38	1,991	37
Saturday	52	37	1,905	37
Sunday	52	35	1,813	37
0000-0800			Posts	Correctional Facility
Third Shift	Shifts Per Year	Number of Posts	to be Manned	Expected Staffing
Night Shift				
Monday	52	27	1,428	26
Tuesday	52	27	1,424	26
Wednesday	52	28	1,433	26
Thursday	52	27	1,428	26
Friday	52	28	1,461	26
Saturday	52	29	1,522	26
Sunday	52	27	1,401	26
Annual Subtotal			41,203	41,496
Divided by the annual posts an Officer stands:			197	197
Number of Officers needed at the Correctional Facility in 2005 *			210.00	211.00

\* (assumes NO OVERTIME)

Shifts reviewed for this analysis  
Total Shifts in 2005

192 (The recommended sample size was 123)  
1095

The difference between our analysis, and the estimate created by the ECCF staff is one position. We find this to be statistically insignificant.

For uniformed officers only, we determined there are 41,203 posts to be manned annually. This number, divided by the 197 posts an officer should theoretically stand yields approximately 210

officers to man those posts – *assuming no use of overtime*. The actual number of officers (not budgeted positions, but actual filled positions) at the ECCF for the cost center Security – Correctional Facility (1163020) in December of 2005 was 175. As a result, in 2005 the Sheriff’s Office would have needed to hire an additional 35 officers in order to man all the posts at the ECCF without using any overtime.

The number of 210 officers assumes that all officers take only the average time off, this time off is spread out evenly throughout the year, there are no scheduling changes, and most importantly, that overtime would be unacceptable in the Sheriff’s Office.

The actual number of 175 filled positions in December 2005 was not representative of the number of filled positions within cost center 1163020 (Security – Correctional Facility). There were as few as 166 filled positions, in July 2005 for this cost center.

Independent of the above analysis, we obtained from SAP the number of hours worked by officers assigned to the ECCF and divided that number by the eight hours in a shift to get 40,133 shifts worked in 2005, inclusive of overtime. Our model indicates that there are 41,203 shifts in a year, or a difference of 1,070 shifts. This difference between SAP and our model, about a three percent decrease of our figure, may be the result of the model overestimating the number of posts or the model underestimating the number of days worked by the average officer.

Assuming all overtime is unacceptable, 210 persons should be assigned to Cost Center 1163020 (Security – Correctional Facility). The complete elimination of overtime at the ECCF is impractical: it would require overstaffing the facility. Some overtime is a proper and effective management practice.

We examined the overtime worked at the ECCF in 2005 by day of the week. The table below is a sample of nine months data. Overtime is not evenly distributed by days of the week – more overtime is worked on Wednesday and Friday, and less, on average on Monday and Tuesday.

**Figure 8**

Weekday	Overtime	Actual	Expected	Difference
	Hours	Percent of Total	Percent of Total	
Sunday	4,516.84	14.29%	14.28%	0.01%
Monday	3,596.33	11.38%	14.28%	-2.90%
Tuesday	4,018.94	12.72%	14.28%	-1.56%
Wednesday	5,196.80	16.45%	14.28%	2.16%
Thursday	4,624.52	14.64%	14.28%	0.35%
Friday	5,024.09	15.90%	14.28%	1.62%
Saturday	4,619.93	14.62%	14.28%	0.34%
Total	31,597.45	100%	100%	

## Overtime at the ECHC and at the ECCF

Overtime at the ECCF is lower in both dollars and hours than at the ECHC for the same time period. A true comparison between the two locations is difficult: the two facilities are very different. The ECHC is a maximum security facility; the ECCF is a medium security facility. The ECHC is of older design, requiring more manpower to operate. The ECCF is of a much newer design, specifically set-up to require a lower staffing level.

Our comparison of overtime between the ECHC and the ECCF revealed that seniority has a smaller impact on overtime at the ECCF than at the ECHC. A random sample of sixty-six employees (66) from ECCF cost center (SAP code 1163020) for the year 2005 showed that the thirty-three (33) individuals with the lowest seniority in our sample worked 8,350 hours, or 50.7% of the overtime hours worked in our sample—evidence that overtime is spread amongst the staff at the ECCF evenly.

**Figure 9**

Item	For the Year 2005	
	Security - Holding Center	Security - Correctional Facility
Cost Center Identifier in SAP	1161020	1163020
Hours of Overtime Earned	174,792	42,329
Dollars of Overtime Earned	6,113,729	1,481,289
Persons Assigned to the Cost Center who worked OT	327	176
Average OT dollars per person	18,696	8,416

Keeping these facts in mind, the ECHC uses more than four times as much overtime (in dollars) as the ECCF, with nearly twice the staff.

### How many positions are needed if overtime is accepted?

The rationale behind determining the number of needed positions at the ECCF if some overtime is accepted must address three (3) concerns: (1) addressing present overtime costs, (2) addressing staffing needs and (3) addressing long-term overtime costs in the Sheriff's Office. Adding too few employees does not fully solve the problem, but by adding too many employees, other problems arise (i.e. overstaffing the slower periods of the year in order to reduce overtime during the busier periods).

Employee concerns at the ECCF make it clear that mandatory overtime (when an officer is compelled to work because no other officer volunteered for overtime) and double shifts (where an employee works more than eight (8) hours in a day) are a source of poor morale. Mandatory overtime has the greatest negative effect on morale within the Sheriff's Office, and any reduction in mandatory overtime also reduces overall overtime and reduces double shifts. Our analysis placed special emphasis on the potential reduction of mandatory overtime and double shifts. In our review of 192 individual shifts, there were fifty-nine (59) shifts with mandatory overtime.

To determine what specific shift was responsible for the most mandatory overtime, we used the same sample of 192 shifts in 2005, or 17.5% of all the shifts worked in 2005. The day shift had eighty-one (81) instances of mandatory overtime over twenty (20) shifts during the period of our sample. The afternoon shift also had eighteen (18) shifts with fifty-two (52) instances of mandatory overtime during the period of our sample. The night shift had sixty-six (66) instances of mandatory overtime over twenty-one (21) shifts during the period of our sample. We use the term “instances” instead of “persons” when referring to mandatory overtime because some persons worked more than one shift of mandatory overtime.

The largest number of persons working non-mandated overtime on a given day during our sample was forty-seven (47), on June 22, 2005. The fewest number of persons on non-mandated overtime was one (1), on March 25, 2005. That person worked just one (1) hour.

Our review of 192 individual shifts revealed details of mandatory overtime and overtime per shift and per day. For example, by adding ten (10) new positions to the Day shift, nineteen (19) of twenty (20) shifts with mandatory overtime would have had no mandatory overtime at all and only twelve (12) shifts would have any non-mandated overtime. Adding five (5) new positions to the Afternoon shift would have eliminated seventeen (17) of eighteen (18) shifts with mandatory overtime and eliminated nine (9) of the fifty-two (52) shifts with non-mandated overtime. If five (5) new positions were added to the Night shift, all but three (3) instances of mandatory overtime are eliminated in our sample. There were fifty (50) shifts with overtime on the night shift in our sample and five (5) new officers would have eliminated eighteen (18) of those shifts. The shifts with overtime that were not entirely eliminated would have seen overtime reduced.

The process of examining the number of double shifts forced us to take a different sample. We looked at 5,425 instances of overtime over nine (9) months and discovered two-hundred sixty-three (263) double shifts in our sample. The twenty (20) officers listed above eliminate all the double shifts in our sample. Eighty-seven (87) of the two-hundred sixty-three (263) double shifts we discovered – one third of all double shifts worked in our sample - were worked on Saturdays or Sundays.

Therefore, **WE RECOMMEND** that twenty (20) new officers be added to the December, 2005 figure of one-hundred seventy-five (175). The total for the cost center we examined should be one-hundred ninety-five (195) officers. The budget for this cost center in 2007 is two-hundred ten (210) positions. However, as of June 15, 2007, this cost center (Security – Holding Center 1163020) had one-hundred ninety-nine (199) filled positions.

The difference between the one-hundred ninety-nine (199) positions and one-hundred ninety-five (195) positions we suggest is four (4) positions. We do not recommend that four (4) positions be eliminated from the budget of the Sheriffs Office. Rather, we recommend that any further hires be assigned to the ECHC as per our previous audit. This cost center did not have these 199 positions filled over the period of the entire year. On January 30, 2007 there were 181 filled positions.

We were unable to test our assumptions on the reduction in double-shifts and overtime that would result in increased staffing levels. As recently as May 15, 2007, this cost center had only 182 filled positions.

### **Notes on our methodology and calculations**

While we believe our methodology to be accurate to a ninety-five percent (95%) confidence level, it is impossible to determine future events. We believe our samples are correct; however, any error in our samples would change our findings.

Any changes in arrest patterns, sentencing guidelines, Commission on Corrections requirements or swings in criminal activity impact the number of residents of the ECCF. Additionally, small reductions in the inmate population, although desirable, do not translate to lower staffing at the ECCF. A change in variances granted to either the ECCF, or the ECHC, by the Commission of Correction may also have an effect on our analysis.

We assume that the average amount of time off per officer will not change. More employees, available to replace those off, could change the long-term behavior of employees at the ECCF, enabling them to take off more time than they have in the past. As small a change as an increase or decrease of two (2) average days off per person per year would change the basis of our analysis.

The reader should be warned that budgeted overtime does not match actual, past incurred overtime for the Sheriff's Office. In 2005, budgeted overtime for the Jail Management Division as a whole was \$4.2 million dollars. Actual overtime was over \$7 million dollars for the ECHC and over \$1.4 million for the ECCF in 2005. Unless otherwise stated, our audit uses the actual overtime figures obtained from SAP.

Our analysis requires that for our savings predictions to hold, funded positions must be fully staffed throughout the year. Vacant positions increase overtime by forcing existing staff to work overtime to cover the posts not manned by the person who would have occupied the vacant position.

Calendar year 2005 was a difficult year for Erie County government. Layoffs affected every department. If, in coping with these layoffs, the Sheriff's Office did not man all the needed posts, or did otherwise cope with the problems presented in a fashion not documented, our analysis would suffer.

Officers at the ECCF have accumulated time off which comes in the form of vacation, sick, personal, or compensatory time. During our audit our auditors noted anecdotal evidence of frustration among officers that they are forced to work mandatory overtime. Additional officers and scheduling changes would reduce the mandatory overtime, but would also allow officers to use their accumulated time, as replacements would be available. It is possible that an increase in time off for officers could be expected after any new hires are brought in or scheduling shifts implemented, but would diminish over the span of a year as all officers would then have an opportunity to use more of their accumulated time. It is this "wave" of time off that may cause a

temporary surge in overtime, as officers take time off at popular times of the year. We looked for this effect upon the completion of our audit of the ECHC and our recommendation that eleven (11) new positions be created. The new positions were not created leaving us with no evidence upon which to test our theory.

## **RESULTS OF EXIT CONFERENCE**

An exit conference was held on July 10, 2007 with the Sheriff's Office.

In accordance with the County's Audit Response System and Procedures, we request that the Sheriff prepare a written response to our office, the Director of Budget, Management and Finance and the County Executive concerning the findings and recommendations by August 10, 2007.

We further request that the Sheriff forward copies of the response to the Erie County Legislature and the Erie County Fiscal Stability Authority by August 10, 2007.

## **ERIE COUNTY COMPTROLLER'S OFFICE**

cc: Hon. Joel A. Giambra, Erie County Executive  
Hon. Timothy B. Howard, Erie County Sheriff  
James Hartman, Director of Budget, Management and Finance  
Laurence Rubin, Esq., Erie County Attorney  
Anthony Baynes, Jr., Chair, Erie County Fiscal Stability Authority