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

JANUARY 2007

**AUDIT AND REVIEW OF
OPERATIONS OF THE
ERIE COUNTY HOLDING CENTER**



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January 10, 2007

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

Dear Honorable Members:

The Erie County Comptroller's Office (the "Office") has completed an audit of the Erie County Sheriff's Office (the "Sheriff's Office") operations at the Erie County Holding Center ("Holding Center") 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.¹

The objectives of our audit were to determine: (1) whether control systems were in place, and if so, were functioning as intended; (2) the propriety of overtime and compensatory time; (3) the number of deputies needed to run the Holding Center; and (4) a cost comparison between overtime and the hiring of additional staff.

BACKGROUND

For the purposes of this audit, our attention was focused on the Holding Center, including the Alden Annex, which is only a part of the County's total Jail Management Division. The Holding Center is a maximum security institution maintaining custody of persons awaiting trial and disposition. This division of the Sheriff's Office also provides courtroom security for all City of Buffalo and Erie County (sometimes hereinafter the "County") Courts as well as the State Supreme Court.

Total County inmate admissions to the Holding Center have decreased slightly from 20,335 in 2004 to 19,903 in 2005. The number of Deputies in filled positions dropped from 388 in 2004 to 377 in 2005 for the cost centers reviewed in our audit.²

Summary of Audit Findings

The Holding Center remains a location that few see. It is a complex operation, composed of daily interactions between multiple levels of government and unions. This interaction between multiple governments has provoked the most serious financial concern at the Holding Center – the County is not being completely reimbursed for housing prisoners that are the responsibility of another government. In fact, the County is in effect subsidizing the state and federal governments for housing their prisoners. If this issue was remedied, the County would have saved over \$2 million in 2005.

¹ The last peer review was for the three year period ending December 31, 2003, and the next peer review is planned for 2007.

² Though it is not included in the audit period, as of December 31, 2006, there are were 388 deputies in filled positions for the cost centers covered by this audit.

At over \$7 million dollars, overtime within the cost centers associated with the Holding Center is a magnet for public attention. The proper recording of overtime and its allocation are essential to running the Sheriff's Office as efficiently as possible. Our Office discovered instances where the reasons for overtime were not properly recorded. Controls on overtime must be strong, and this should include spreading overtime out amongst all the deputies, as much as the union contract will allow. Our Office discovered 40 Sheriff's Office deputies working, on average, 65 hours per week and one employee who worked more than a dozen 80 hour weeks in 2005. Our Office also identified spikes in overtime at the Holding Center on Saturdays and Sundays between the hours of 7:30 AM and 11:30 PM. That overtime is resulting in part because too few employees are scheduled to work on Saturdays and Sundays. If scheduling were changed, our Office believes it may be possible to reduce overtime at the Holding Center by \$2.1 million dollars annually.

The Sheriff's Office allegedly has entered into an agreement with Teamsters Local 264, the bargaining unit representing Holding Center deputies, to employ two deputies instead of one when the inmate population rises above 48 in open dorm housing units at the Alden Annex. No copy of this alleged agreement could be produced. Assuming the agreement does exist, such an agreement contradicts a NYS Commission of Correction finding that recommends the use of one deputy. The use of two deputies in housing units, when the Commission of Correction only calls for one, has cost Erie County more than \$2.1 million annually.

Additionally, 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. While our Office recognizes that funding cuts have hurt the Sheriff's Office in technical and office areas, but by not billing insurance carriers for prisoner costs Erie County may have lost over \$100,000 in reimbursements in 2005.

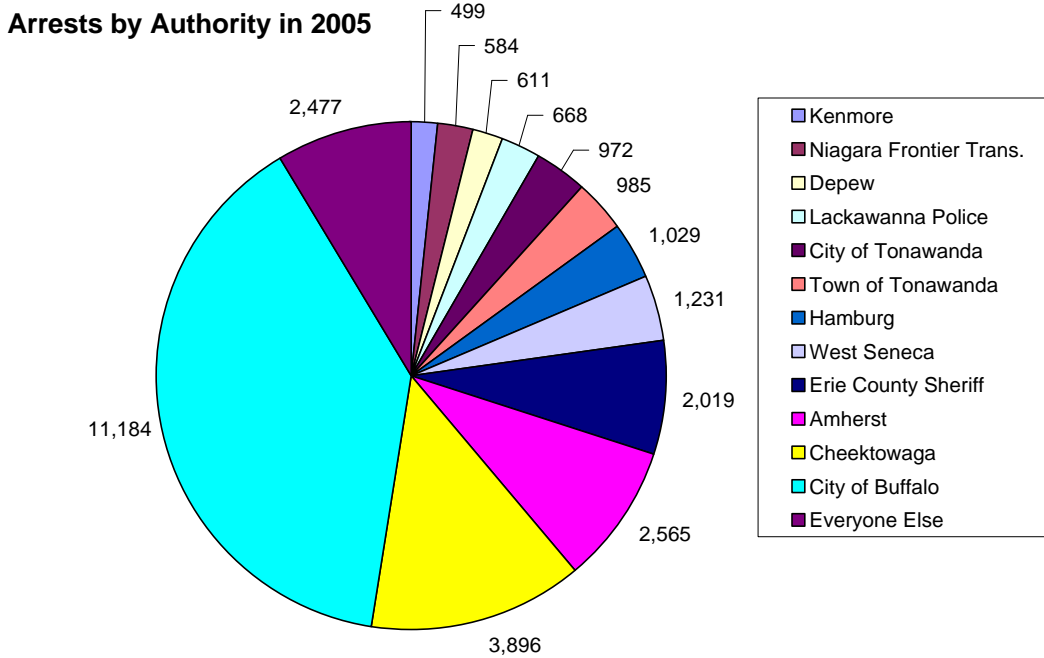
Finally, a model prepared by the audit team determined staffing at the Holding Center to be short by 91 positions using 2005 figures. It is not a surprise that the Holding Center is understaffed: mandatory overtime is a regular occurrence and deputies working 80 hour weeks are not uncommon. Eighty hour work weeks should be an exception, not a rule for any employee. Finding the \$3.5 million exclusive of benefits it would cost to hire these deputies is a daunting task: hiring a smaller number and filling existing vacancies as they occur is a better first step. We are recommending a staffing level of 399 at the Holding Center.³ This would require hiring an additional twenty-two deputies above the December 2005 staffing level of 377 (or eleven more than the December 31, 2006 level of 388), and that these deputies work Wednesday through Sunday as a work week, with eight working on the 7:30 AM shift, eight working on the 15:30 shift and the remaining six working on the 23:30 shift.

³ Though it is not included in the audit period, as of December 31, 2006, there are were 388 deputies in filled positions for the cost centers covered by this audit.

STATISTICAL DATA

As part of our audit, we developed and obtained statistical data of those arrested in 2005. Figure 1 below is a graph displaying the arresting authority and number of individuals arrested in 2005.⁴

Figure 1



Of those remanded to the Holding Center in 2005, the vast majority were male, and being held on misdemeanor level offenses. See Figure 2 below.

Figure 2

Remanded to the Holding Center - 2005			
Offense	Male	Female	Total
Felony	4,558	960	5,518
Misdemeanor	8,617	2,200	10,817
Other Offenses	2,985	583	3,568
Totals	16,160	3,743	19,903

Additionally, the vast majority of prisoners housed at the Holding Center are confined for no more than three (3) days. See Figure 3 below.

Figure 3

⁴ Central Police Services “Summary Booking Arrest Status Listing” for the calendar year 2005.

Length of Confinement - Holding Center - 2005			
Days	Male	Female	Total
1-3	10,470	2,531	13,001
4-6	1,598	251	1,849
7-30	2,615	625	3,240
30-60	669	155	824
>60	879	147	1,026

This allows us then, to define the average prisoner in the Holding Center in 2005: Male, held on a misdemeanor charge, and spent less than four days in the Holding Center.⁵

AUDIT FINDINGS

1. Erie County is Subsidizing the Cost of Housing State and Federal Prisoners

Reimbursement from both New York State and the Federal government was not adequate to cover the actual daily cost expended by the County to house a prisoner. The County's average daily housing rate in 2005 was \$115 per day⁶ as previously calculated. The reimbursement rate provided by the State was \$34 per day for both State readyes and paroles meaning that \$81 a day was lost for each State prisoner held. This totals \$1,200,014 for 2005. While the Federal reimbursement rate was \$95 per day for the U.S. Marshal and \$93 per day for The United States Immigration and Naturalization Service, the County still lost \$20 and \$22 per day respectively for each Federal prisoner held or \$590,184 during 2005. *See Figure 4 below.* Erie County is not being singled out – all local governments are being paid at these rates.

The PFM report indicated that other localities correctional facilities would charge Erie County between \$80 and \$100 to house a prisoner.⁷

Additionally, the County lost \$1,187,397 for housing State-ready prisoners because the State does not reimburse the County for the days between the sentence and notification dates and for any days less than five between the notification and removal dates. *See Figure 4 below.*

⁵ 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 89 concludes that the average stay of an inmate at the Holding Center was 18.5 days. This study did not include those individuals arrested and released on the same day. The Audit Team figures do include those individuals.

⁶ “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.

⁷ 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 110.

Figure 4

	<u>Voucher Amount</u>	<u>Daily Rate Shortfall</u>	<u>Unreimbursed Housing</u>
NYS Readies	\$186,864	\$445,175	\$1,187,397
NYS Parolees	\$316,846	\$754,839	
US Marshal's Office	\$2,752,581	\$576,940	
INS	\$55,986	\$13,244	
TOTAL REVENUE	\$3,312,277		
TOTAL LOSS	\$2,977,595	\$1,790,198	\$1,187,397
NET LOSS	\$334,682		

Acknowledging that to a certain extent the hands of the Sheriff's Office are tied due to contracts, mandates and bureaucracy, WE RECOMMEND that the Sheriff's Office together with the County Executive, the Erie County Legislature, the Erie County Fiscal Stability Authority ("ECFSA"), and our elected officials at both the State and Federal levels actively pursue available options to increase reimbursement rates commensurate with actual housing costs and to lessen the number of inmates "forced" to be housed here at the Holding Center.

2. Inadequate Payroll Timekeeping

In 2005, lineup pay to Holding Center deputies and staff totaled \$1,242,031. Lineup pay is a contractual benefit given to certain employees for reporting to work fifteen minutes prior to the commencement of their shifts. Depending on the job titles of the employees, they would receive either 15 minutes or 30 minutes of lineup time at time and one-half their regular hourly rate for such time each work day. As an example, a deputy earning a base pay of \$42,373 annually could earn an extra \$1,985 just for showing up 15 minutes early each work day.

The system used to record lineup pay is a manual system relying on the honor and good faith of each employee. Employees manually sign-in on sheets at different locations, depending upon the post to which they are assigned. Each employee's name is listed separately, and each employee records his or her own sign-in time on the sign-in sheet. The introduction of one sheet per location, with no preprinted employee names, with each employee signing in as they arrive, would discourage any possibility of an employee arriving later, but signing-in at an earlier time. A time-clock or other electronic device would eliminate an employees incorrect recording of the time they arrived, and further, prevent early departures. Unfortunately, without compensating controls in place, human nature and a \$2,000 annual benefit may prevent the employees from accurately recording their shift reporting time.

In order to provide reasonable assurance that approximately \$1.2 million annually in line-up pay 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 all

employees sign in and out in chronological order) for all staff eligible for line-up pay so that the propriety of the entries could be more effectively supervised.

3. Medical Services Not Billed

As part of the intake processing, private health insurance coverage data is obtained from the prisoners. Unfortunately, this is an exercise in futility because the insurance carriers are never billed, thus forcing the County to shoulder the burden for all medical costs.

After discussions with senior Sheriff's Office staff, they estimate that about 5% of the inmates have some form of health insurance. If we extrapolated this percentage over the \$2.2 million in health care costs attributable to the Jail Management Division in 2005, it would equate to approximately \$110,000 that could have been billed to the insurance carriers of the inmates but was not. This is an estimated figure because the Jail Management System could not provide us with any specific documentation as to the actual percentage of inmates with coverage from which we could have calculated an accurate amount of billable dollars lost.

WE RECOMMEND that the Sheriff's Office take the steps necessary to ensure that reimbursement is obtained for medical services and prescriptions. At a minimum, corrective steps should include enhancements to the Jail Management System to track such expenses for inmates with private health insurance coverage and to work in concert with the County's collection unit to ensure that health insurers are properly billed.⁸

4. Time Records Do Not Always Support Overtime Payments

In 2005, overtime costs for the Holding Center cost centers reviewed in our audit were approximately \$7.75 million. The sheer magnitude of this figure warrants careful attention to detail. For a selected sample of 30 employees, we found the following during our review of sign-in sheets:

- A descriptive purpose of why the overtime was worked was not listed on the sign-in sheets in 7 of 29 (24%) instances.
- The sign-in sheet for one employee could not be located.
- The reason code was not recorded for 2 of 29 (6%) employees.
- In 2 of 29 (6%) instances, overtime was not properly documented. One sign-in sheet was not signed by a supervisor and one deputy received compensatory time for donating blood.
- We also found in our sample a Holding Center deputy who worked 80 regular hours plus 120 hours of overtime in a single pay-period. That same deputy also worked 80 regular hours plus 99.25 overtime hours in a second pay-period. This equates to nearly two full shifts per day for each day in the 14 day period.

⁸ The County's collection unit is scheduled to be assimilated by the Comptroller's Office in 2007.

It should be noted that the Sheriff's Office has not developed limitations on the amount of overtime a deputy can work, nor are any contained in contracts with unions. Various industries are regulated to promote safety, i.e. airline pilots, truck drivers, to name two. Considering the budget constraints facing the County and the security and public safety risks omnipresent at the Holding Center, it seems odd that deputies can work double shifts on 14 consecutive days. We found 40 deputies averaging more than 65 hours per each work-week in 2005. Each of those 40 deputies earned more than \$100,000 in 2005.

WE RECOMMEND that the Sheriff's Office take the steps necessary to strengthen internal controls for processing overtime payments to ensure that sign-in sheets include the reason and purpose for the overtime, and that all overtime payments are authorized and properly documented.

WE ALSO RECOMMEND that the Sheriff's Office place limitations on the amount of overtime an employee can work in a pay-period.

5. Jail Management System

The Jail Management System for the Sheriff's Office 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. More importantly is the availability to generate statistical reports. Unfortunately, the System is not being utilized to the fullest extent possible.

We tried on numerous occasions to obtain reports and statistics from the Sheriff's Department's Jail Management System, but were not provided any current system generated information. Management of the Sheriff's Office informed us that there was no one available to help us obtain the data that we wanted because the individual who handles the system detail was on sick leave. Not only could our audit have run smoother and more efficiently if we had ready access to statistical detail, but the Sheriff's Department's day-to-day operation could run smoother as well. Even the Sheriff's Department's website is outdated as it contains multi-year statistical data current only 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 acknowledge that the Sheriff's Office did not take advantage of the system's full capabilities. Further, a lot of the work done by the senior deputies (Captains, Lieutenants, and Sergeants) was prepared manually when it could have been accomplished much quicker and more efficiently using the system capabilities.

Some examples of what can be accomplished using the Jail Management System are billing insurance carriers for inmates who have health insurance coverage (see Finding No.3). Also, automating the daily schedule sheets and the inmate population count should be addressed as well. These items are still typed individually by typewriter, which is a costly, labor intensive action.

WE RECOMMEND that management of the Sheriff's Office work together with the Division of Information and Support Services, and providers of the Jail Management System 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—eliminate manual recordkeeping and provide easy access to detail reports and statistics.

6. Overstaffing

During the course of our audit we noted that the management of the Holding Center is routinely making use of two deputies in the six open dorm housing units at the Alden Annex. This practice is in contrast to what the NY State Commission of Correction ("COC") recommended as necessary staffing in those units.⁹ The COC noted that the second deputy is redundant and strongly recommended that the Sheriff's Office cease filling and backfilling the non-mandated security posts. However, management staff of the Sheriff's Office informed us that there was an agreement in place that requires an extra deputy to be used in those housing areas where the actual capacity exceeds 48. The Sheriff informed us that this was a management decision based upon the assessed risk of the situation.

As a result, there is a disparity between the recommended staffing totals of the COC and the actual staffing employed by the Sheriff's Department. This is significant in that this practice costs the County \$2.1 million annually by making use of the extra deputy. The six open dorm units at the Alden Annex are mostly used to house un-sentenced inmates and are staffed and supervised with sheriff deputies and not correction officers. Also, there were some concerns over inadequate supervision and unclear supervisory lines at the Annex given that two unions are now guarding inmates side by side at different pay-rates at the Correctional Facility.

Ending this staffing practice could free thirty-two full-time positions at the Holding Center.¹⁰

WE RECOMMEND that the Sheriff's Office either produce evidence of an agreement allowing the extra deputy to be used or end the practice.

WE RECOMMEND that Sheriff's Office management continue to meet with representatives of both the Corrections Officers and Deputies who work at the Alden Annex in order to clarify responsibilities and supervision at that location.

⁹ New York State Corrections Report on the escape of Ralph Phillips, dated 8/8/2006, page 52.

¹⁰ This was determined by taking 6 posts by 3 shifts a day by 365 days yielding 6,570 posts. As we reveal in Figure 9, because the average deputy stands 203 posts annually, the 6,570 posts would require 32 full time positions.

AUDIT COMMENTS

1. Holding Center near capacity

The problem of the Holding Center operating at or near capacity has been and is a contentious issue. There have been many analyses performed to address this issue, but to date, no easy and low cost solution has been rendered. Some reasons for the Holding Center operating at or near capacity include the housing of State parole violators and the detention of prisoners not represented at initial bail hearings by an attorney. Additionally, municipalities in Erie County vary widely in their practice of releasing violators on their own recognizance, issuing appearance tickets or detaining the arrestees in the Holding Center until they make bail or appear before a judge for disposition.

As reported in the Cardozo Law Review in Volume 23, Issue 5-6, May 2002 “Do Attorneys Really Matter: The Empirical and Legal Case for the Right of Counsel at Bail,” the City of Baltimore performed a study of nearly 4,000 low income defendants accused of nonviolent offenses. These indigents, represented at hearings by an attorney, had their bail reduced to an affordable level or were released on their own recognizance (“ROR”). Of the 4,000 individuals served in the study, an estimated 600 avoided pretrial detention, or approximately 15% of the population served.¹¹ The study does not quantify the actual savings due to avoiding pretrial detention other than to state it is “substantial.”

Governments in Erie County make statistics available for ROR. In our review, ROR includes those individuals released on their own recognizance, those issued appearance tickets, and those persons released to a responsible third party. Of the 11,184 individuals arrested by the Buffalo police, only 965, or 8.6%, were released ROR. The ROR rate outside the City limits was over 50% in 2005. An increase of one-half of the suburban rate for City of Buffalo prisoners could save the Sheriff as much as \$700,000 annually based upon a 3 day Holding Center stay.

The Erie County Jail Management Division had a capacity of 1,623 in 2005, including the Correctional Facility and the Holding Center. The Sheriff’s Office calculates the average prisoner population for the entire Jail Management Division in 2005 at 1,479.¹² Our sample of 42 days indicated an average of 1,489 prisoners at the two locations. Due to the difficulty of separating out the Alden Annex prisoners from those listed at the Correctional Facility, a more detailed breakdown of prisoners held exclusively at Holding Center cost centers was not possible. The Jail Management Division was at more than 90% of capacity, on average, throughout 2005.

WE RECOMMEND that management of the Sheriff’s Department, in conjunction with the Erie County District Attorney and the Erie County Bar Association, explore alternatives to increase ROR rates, focusing on those prisoners from the City of Buffalo.

¹¹Cardozo Law Review, Volume 23, May 2002, “Do Attorneys Really Matter: the Empirical and Legal Case for the Right of Counsel at Bail – Page 15.

¹² 2007 Erie County Budget – Page 357.

2. Documentation Problems

Our review of inmate population count reports disclosed 14 reporting period errors in 2005 including:

- for 3 reporting periods, the actual number of inmates did not agree to documentation supporting the census; and
- for 11 reporting periods, the daily increase or decrease for inmate population did not agree with documentation on the inmate population count.

Also, we found that during periods of employee layoffs in 2005, 48 road patrol and court security deputies charged their time to the Holding Center's Transportation unit in SAP, Erie County's computerized financial management system, but were not recorded as filling Transportation posts on the daily schedule.

Review procedures in the Sheriff's Office failed to detect the above errors. The inaccurate reports were submitted to the COC.

WE RECOMMEND that Sheriff's Office Management have another employee review these reports before they are submitted to the COC.

3. Overtime Allocation

Our analysis of overtime revealed that senior deputies receive more overtime than junior deputies. A sample of 291 employees working within Holding Center Cost Center 1161020 (Security – Holding Center) with a seniority date in 1999 or prior averaged more than twice as many hours of overtime as their younger colleagues, this despite the similar number of employees (145 versus 146 persons). *See Figure 5 below.*

Figure 5

Seniority Date	Persons	Hours	Average Hours Per Person
1979 and older	13	8,442	649
1980-1985	24	15,526	647
1986-1989	40	24,147	604
1990-1995	39	25,813	662
1996-1999	29	21,241	732
2000-present	146	41,927	287
Totals	291	137,096	

The above data indicates that senior deputies work 39% more overtime hours than would be expected if overtime were equally distributed among all deputies. If overtime were evenly distributed across the workforce, the Sheriff's Office could save approximately \$130,000 in overtime payments annually.

A roster of deputies in order of seniority by shift (an “Overtime Wheel”) is utilized so each employee has the option of accepting or declining overtime according to seniority. When overtime is needed, each deputy is consulted in order of seniority. If an employee declines or accepts, they must then wait for all the other deputies on the “wheel” to be offered overtime before they can be offered overtime again. While this practice is in accord with the governing union contract, it creates a bias toward senior deputies, thereby costing the County more in the long run.

Additionally, overtime is also not evenly spread by day. A sample of four months overtime was taken for Holding Center Cost Center 1161020 (Security – Holding Center) via SAP and broken down by the day overtime was earned. As Figure 6 below indicates, Saturdays and Sundays have more overtime hours than any weekday.

Figure 6

Weekday	OT Hours	Average	Hours Above (Below) Average
Sunday	9,384	8,039	1,345
Monday	7,169	8,039	(870)
Tuesday	7,596	8,039	(443)
Wednesday	8,095	8,039	56
Thursday	7,078	8,039	(961)
Friday	7,672	8,039	(367)
Saturday	9,279	8,039	1,240
Total	56,273		

To determine what shift was responsible for the most overtime, we took a sample of 378 shifts in 2005, or 35% of all the shifts worked in 2005. The 7:30 AM shift had on average 28 employees on overtime during any one shift during the period of our sample. The 15:30 PM shift also averaged 28 employees on overtime during any one shift during the period of our sample. The 23:30 shift averaged 19 employees on overtime during any one shift during the period of our sample. The Holding Center in 2005 had an average of 75 employees on overtime each day.

Our sample also revealed that of the twenty-eight shifts in our sample that had forty or more employees on overtime, all but two were a Saturday or a Sunday. At a minimum, one-hundred and nine shifts in our sample had deputies working mandated overtime. Fifty-one of those days, almost half of all the days with mandatory overtime in our sample, were Saturdays and Sundays. Finally, there were no days in our sample where no overtime was worked on a shift. Disturbingly, we discovered that the schedule sheets used for our sample did not record every instance of mandatory overtime. The above statistics for mandatory overtime are too low.

One Sunday in our sample demonstrates the magnitude of the overtime and scheduling problems: on May 22, 2005 the 7:30 shift had eighty-two deputies report for duty. Forty-seven of those deputies (or more than 50%) were on overtime. Of those forty-seven, twenty were working mandatory overtime. This shift had only eight deputies on vacation, out sick or otherwise unable

to report for work. Why this shift (a day and a shift that on average requires 89 posts to be manned) scheduled for thirty-five regular time deputies, compelling overtime for forty-seven deputies remains a mystery.

WE RECOMMEND that should the Sheriff's Office hire new deputies, they begin by working Wednesdays through Sundays, thus covering the days that generate the most overtime. This workweek change would not require any changes to the present union contract and could be instituted by the Sheriff's Office immediately.

WE ALSO RECOMMEND that should new employees be hired, they be allocated to the various shifts in the ratio of 37% of the new hires to the 7:30 shift, 37% to the 15:30 shift and the remainder to the 23:30 shift in order to reduce overtime on each shift proportionally. (This recommendation is explained in more detail under the topic entitled "***How many Deputies are needed at the Holding Center? – Shift Assignments at the Sheriff's Department.***")

WE ALSO RECOMMEND that the Sheriff's Office re-examine the process that assigns employees to the various shifts and workdays. The process is clearly flawed. A re-examination of work weeks, shifts and manpower planning should be performed by the Sheriff's Department. Additionally, the County's SAP system has the ability to activate a "Shift Scheduling Module," that would allow the Sheriff's Office to automate many payroll and scheduling tasks.

WE ALSO RECOMMEND that the Sheriff and his senior staff meet with DISS to determine if this SAP module would better serve the Sheriff's Office planning needs.

Other Items

In the course of our audit, the Audit Team did tour the Holding Center multiple times. As a result of our observations during these tours, there exists a further recommendation regarding security procedures at the Holding Center. During our Entrance Conference with the Sheriff's Office staff, they encouraged our review of security procedures on the sole condition that should a problem be uncovered, they be allowed to correct it before it was publicized. This is to prevent an inmate from using this report as a guide.

Our office identified one area of security concern, and the Sheriff's Office has agreed to correct the problem we pointed out. Our office will be monitoring this concern in the future to ensure the timely correction of this security issue.

Overtime in the Sheriff's Department

The SAP system recorded \$7.75 million in overtime for the seven cost centers associated with the Holding Center for calendar year 2005. Of that sum, more than \$6.1 million dollars of overtime is located in just one cost center: Security at the Holding Center.

Overtime costs at the Holding Center have been a point of contention for more than a decade in Erie County. They have been reviewed by multiple entities, Public Financial Management

(“PFM”) in their report¹³ and the COC to name just two. Despite the various prior reports and recommendations, specific, immediately implementable suggestions to address overtime are lacking. One question often asked is whether hiring additional deputies would significantly reduce the payment of overtime, and if so, how many deputies would be required to alleviate the problem. This report attempts to answer this issue.

This audit recognizes that determining the cost benefit of paying overtime versus hiring new deputies 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 deputy 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 deputy versus paying overtime to a current deputy. No previous study has looked at all of these issues.

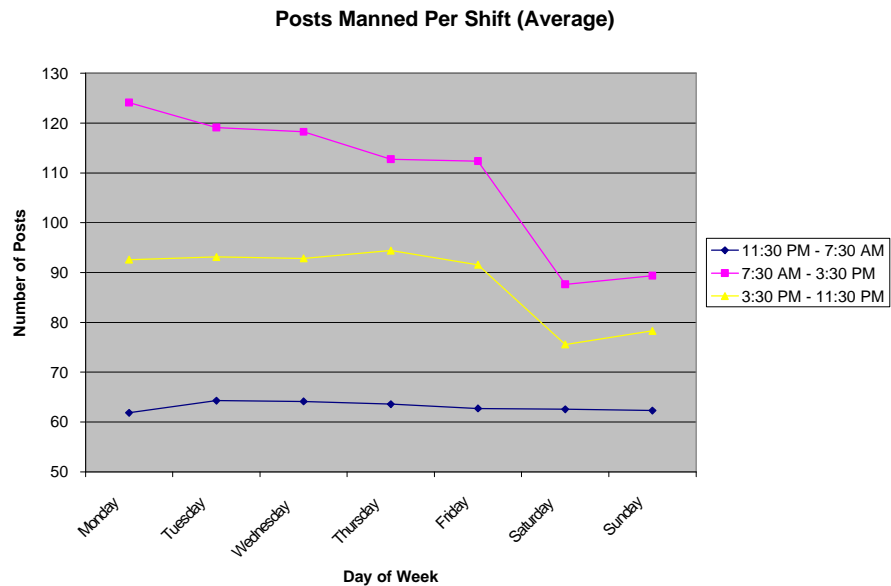
To determine the number of deputies needed for the Holding Center, the scheduling sheets were obtained by the Audit Team. These sheets list the posts manned at the Holding Center and the name of the deputy who stood that post. These sheets provided a complete listing of posts, and significantly, provided a record of which posts were manned on specific shifts on specific days. These sheets also provided a listing of the posts that were “variable.” Variable posts were not manned on every shift, or every day, but instead staffed on an as needed basis.

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

There are three shifts at each of the facilities: 11:30 PM to 7:30 AM, 7:30 AM to 3:30 PM and 3:30 PM to 11:30 PM or the Night, Day, and Afternoon shifts respectively. The staffing levels at both facilities vary not just by shift, but by day. As Figure 7 below indicates, Monday typically has the largest number of manned posts, while Saturdays and Sundays typically have the fewest staff on duty.

¹³ 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.

Figure 7



The number of posts manned varies by shift. At night, with inmates asleep, a minimum of staff is needed at each facility. The numbers of staff vary during the day as requirements dictate.

Variable versus Fixed Posts

The number of posts manned varies both by shift and by day. To better determine manpower needs at the Holding Center, our analysis broke out the posts that were always manned from those posts that were manned at some times, but not others. Posts that were always manned, “fixed posts,” include the command center and the larger cell blocks.

The single largest component of those posts that are not manned every day is comprised of deputies who transport prisoners between various locations: the Holding Center, the Correctional Facility, the courts, and the Erie County Medical Center Corporation. By far, the most active destinations are the various courts.

Transportation of inmates requires a large amount of manpower – as many as 21 deputies assigned to this task in a single day shift. Our sample revealed fully half of our sample weeks averaging more than 19 deputies on a transport assignment Monday through Friday on the day shift. This figure does not compare well with the 25 total deputies used to man a typical day shift in all the cell blocks in the Holding Center. These numbers do not include supervisors or support staff. The afternoon shift also uses deputies to transport prisoners, but as courts are not typically active during this time, the number of deputies used is much lower, on average about 6 deputies per shift Monday through Friday.

The transportation of prisoners is also manpower intensive when compared to the number of prisoners supervised. A single deputy can oversee up to 48 inmates at the Holding Center. Two deputies may be needed to transport a single inmate between locations. When travel time,

vehicle costs, paperwork and other, minor factors are considered, the transportation of inmates is the single most inefficient task performed by the Sheriff’s Office (though inefficient, the nature of the task more than likely cannot be altered for security purposes).

The second-largest variable post is that of visitation. Six deputies on average supervise inmates during day shift visitation periods Saturday through Wednesday (visitation is not offered on Thursdays and Fridays). As inmates are rotated through the visitor’s hall (each inmate is allowed only one hour per week of visitation), and considering visitors must also be supervised during visitation hours, comparing the number of individuals monitored verses the number of deputies involved, the process of visitation is the most efficient task performed by Sheriff’s Office deputies.

How many Deputies are needed at the Holding Center?

To determine the number of deputies needed at the Holding Center, the audit team needed to determine two key facts: the number of shifts an average deputy works in a year, and the number of posts that need to be manned at this facility.

Time Off

In order to correctly determine how much time off a Sheriff’s Office deputy uses during the year, a random sample was taken of Sheriff’s Office deputies who worked at the Holding Center, the Alden Annex or in Transportation in 2005. We examined the records of eighty-two deputies as to the time off they took in 2005. As noted in Figure 8 below, we determined the following characteristics:

Figure 8

Item	Sick	Vacation	Personal	Comp
Shifts Off	817	1,468	303	519
Average Shifts Off Per Employee (Rounded Up)	10	18	4	7

Additionally, deputies have off two days out of every seven, not necessarily Saturday and Sunday, as well as twelve paid holidays, and can have two additional days for other events such as donating blood or union business. We also subtracted the annual recommended five days that should be used for training of deputies. Based on our calculations, the average deputy is available to work 203 days out of a calendar year. *See Figure 9 below.*

Figure 9

SAP Sample Data	Amount
Days in a year	365
LESS:	
Vacation Used per Year	18
Sick Used per Year	10
Comp Used per Year	7
Personal Time Used per Year	4
Annual Holidays	12
Weekend Days	104
Other Days	2
Subtotal	157
Training days	5
Total Annual Days Off	162
Days Available to Work	203

A day off is equal to a shift off in our analysis. An employee was assumed to take off an entire shift, and never to work a partial shift. All totals have been rounded upward to the nearest whole number for simplicity.

The COC did a staffing analysis in 2004 of County Sheriff's Office deputies. The method used to determine their conclusions is not documented in their report. As noted in Figure 10 below, the COC determined slightly different figures for the average deputy, concluding that the average deputy was available to work 209 days out of the year:

Figure 10

NYS Corrections Estimates	Amount
Days in a year	365
LESS:	
Vacation Used per Year	17
Sick Used per Year	12
Comp Used per Year	0
Personal Time Used per Year	4
Annual Holidays	12
Weekend Days	104
Other Days	2
Subtotal	151
Training days	5
Total Annual Days Off	156
Days Available to Work	209

The Sheriff's Office itself estimates that the average deputy works 206 shifts in a year.¹⁴ However, contrary to our and the COC's findings, the ECFSA 2005 report prepared by PFM states the Sheriff's Office averaged 13.1 sick days over the 2004-2005 period.¹⁵

¹⁴ Schedule provided to the audit team at a meeting on October 27, 2006 by the Sheriff's Department.

Erie County's SAP system maintains a record of the hours worked by each employee. This record is the actual hours worked in the case of overtime, and does not include vacation time, sick, personal or compensatory time taken as hours worked. To confirm our above estimates of shifts worked, we selected a random sample of 60 deputies in SAP cost center 1161020 (Security – Holding Center) and discovered our sample of full-time deputies worked an average of 202.07 regular shifts in 2005. That same sample of deputies worked just over 30,717 hours of overtime in 2005, yielding about 64 overtime shifts per person.

Number of posts that must be manned in a year

The Sheriff's Office keeps separate listings of employees and the posts they man, a listing for the Holding Center (including Transportation posts) and the Alden Annex (for the purpose of our analysis, the Alden Annex has been counted a part of the Holding Center). These "Schedule Sheets" list not just the employees on duty, but those on vacation, out sick, on a day off or other leave, and those working overtime. These sheets represented the key resource in the analysis of the number of posts that must be manned.

Our Office's audit team took a sample of 154 shifts, each shift including both the Annex and the Holding Center. This sample included every day of the week and all three shifts were included. There are a total of 1,095 shifts in a year as both facilities operate 24/7/365.

Our sample generated an average number for the fixed posts and variable posts 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 deputies, yields the number of deputies needed to man those posts.

The COC 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".¹⁶ Two different relief factors are used, 1.25 for Monday through Friday daytime posts and then 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 18 employees for 10 posts, as an example.

As a result, a certain number of additional deputies 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 a deputy can work in a year.

For uniformed deputies only, we determined there are 95,086 posts to be manned annually. This number, divided by the 203 posts a deputy should theoretically stand yields approximately 468 deputies to man those posts – assuming no use of overtime. The actual number of deputies (not budgeted positions, but actual filled positions) in the Holding Center cost centers used in our

¹⁵ 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 IV page 9.

¹⁶ New York State Commission of Correction Regulation 7041.3.

analysis in December of 2005 was 377. As a result, in 2005 the Sheriff's Office would have needed to hire an additional 91 deputies in order to man all posts without using any overtime or with any change in scheduling.

The number of 468 deputies assumes that all deputies 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 Department.

The actual number of 377 filled positions in December of 2005 was not representative of the number of filled positions during the year for those cost centers. There were as few as 360 filled positions during 2005.

Independent of the above analysis, we obtained from SAP the number of hours worked by deputies assigned to the Holding Center, and divided that number by the eight hours in a shift to get 94,972 shifts worked in 2005, inclusive of overtime. Our model indicates that there are 95,086 shifts in a year, or a difference of 114 shifts. This difference between SAP and our model, about a one 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 deputy.

A detailed examination of the SAP reports obtained revealed another problem: there are deputies that are not listed as filling a post at the Holding Center that upon closer examination did fill a post at the Holding Center. There were thirty-five (35) road deputies and thirteen (13) deputies in Court Security that performed the function of transporting inmates but were not on the Schedule Sheets for the Holding Center. We have accounted for those persons in our analysis.

How many positions are needed if overtime is included?

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

The elimination of mandatory overtime does not eliminate all overtime. Mandatory overtime, where a deputy is compelled to work because no other deputy volunteered for overtime, is only a portion of all overtime. It is mandatory overtime which has the greatest effect on morale within the Sheriff's Department, and any reduction in mandatory overtime also reduces overall overtime. Our analysis placed special emphasis on the reduction of mandatory overtime. In our review of 378 individual shifts, there were 9,445 instances of overtime in our sample. Exactly 1,000 of those instances were instances of mandatory overtime.

Our review of 378 individual shifts revealed details of mandatory overtime and overtime per shift and per day. For example, by adding eight new positions to the 7:30 AM shift, 26 of the 46 shifts with mandatory overtime would have had no mandatory overtime at all, but would still

have some deputies on overtime. Those same eight positions would have eliminated 29% of all overtime hours on that shift. Those eight positions would have exceeded the number of persons on overtime for only one shift in our sample of 129 individual 7:30 AM shifts.

Eight additional persons added to the 15:30 shift eliminates 13 of the 28 shifts with mandatory overtime, reduces overtime hours on that shift by 29% and there are no shifts where less than eight persons were on overtime on that shift in our sample of 122 individual 15:30 shifts.

The 23:30 shift had 35 shifts with mandatory overtime, and six additional employees would have eliminated 16 of those shifts, or 45%. Those same six employees would have eliminated more than 30% of the overtime hours worked on that shift during our sample, yet not one shift had less than six employees on overtime in the 127 individual 23:30 shifts of our sample.

Therefore, WE RECOMMEND that twenty-two (22) new deputies be added to the December, 2005 figure of 377. The total for the cost centers we examined should be 399 deputies. As of December 31, 2006, these cost centers had 388 deputies.

The 22 new deputies would each start at \$37,889, yielding a cost of \$833,558 the first year of their employment, exclusive of benefits. A deputy at step five of his eleven step salary schedule makes \$48,549, or \$23.341 per hour or \$35.01 as an overtime rate.¹⁷ The 22 deputies, working 148 shifts their first year, would work 26,048 hours.¹⁸ Paying overtime to 22 average deputies as described above would cost the County \$911,940, thus the new employees would save the County \$78,382 in the first year, not including benefits. Even including an increase to a second-year salary of \$40,315; working a full 203 shifts, the new officers would cost \$886,930, saving the County over \$363,907 in the second year of their employment.

Shift Assignments at the Sheriff's Department

As Figure 6 above shows that overtime is concentrated on weekends, our Office believes that the way Sheriff's Office officers are scheduled to work at the Holding Center is flawed. We performed an analysis and propose the following changes to the way deputies are allocated to the three shifts per day, and to the days deputies work within the work-week. The changes we have proposed are not in conflict with the current governing union contract, and could be implemented by the Sheriff's Office within 30 calendar days.

Note that the schedule proposed as *Figure 11* does not eliminate overtime. It also only uses 366 deputies as this schedule does not allow for any consideration of time off. This schedule does address the problem of under-scheduling employees on weekend days, and other days with higher than average overtime.

¹⁷ "Collective Bargaining Agreement by and between the County of Erie and the Sheriff of Erie County and Teamsters Local 264 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America dated June 11, 2002 – Salary Schedule – Page 94.

¹⁸ New deputies undergo 55 days of training as per the Sheriff's Department. 148 shifts assumes new deputies would normally have worked 203 shifts less the 55 days of training.

Figure 11

Shift	Work Week		Off						
	7:30:00 AM Shift		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
49	M-F	Sa-Su	49	49	49	49	49	off	off
15	T-Sa	Su-M	off	15	15	15	15	15	off
17	W-Su	M-Tu	off	off	17	17	17	17	17
18	Th-M	Tu-W	18	off	off	18	18	18	18
18	F-T	W-Th	18	18	off	off	18	18	18
20	Sa-W	Th-F	20	20	20	off	off	20	20
15	Su-Th	F-Sa	15	15	15	15	off	off	15
Deputies Per Day			120	117	116	114	117	88	88
Average Posts Per Day			124	119	118	113	112	88	89
Overtime Needed			4	2	2	(1)	(5)	(0)	1

Shift	Work Week		Off						
	3:30:00 PM Shift		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
33	M-F	Sa-Su	33	33	33	33	33	off	off
15	T-Sa	Su-M	off	15	15	15	15	15	off
15	W-Su	M-Tu	off	off	15	15	15	15	15
16	Th-M	Tu-W	16	off	off	16	16	16	16
15	F-T	W-Th	15	15	off	off	15	15	15
15	Sa-W	Th-F	15	15	15	off	off	15	15
15	Su-Th	F-Sa	15	15	15	15	off	off	15
Deputies Per Day			94	93	93	94	94	76	76
Average Posts Per Day			93	93	93	94	92	76	78
Overtime Needed			(1)	0	(0)	0	(2)	(0)	2

Shift	Work Week		Off						
	11:30:00 PM Shift		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
12	M-F	Sa-Su	12	12	12	12	12	off	off
14	T-Sa	Su-M	off	14	14	14	14	14	off
14	W-Su	M-Tu	off	off	14	14	14	14	14
12	Th-M	Tu-W	12	off	off	12	12	12	12
13	F-T	W-Th	13	13	off	off	13	13	13
12	Sa-W	Th-F	12	12	12	off	off	12	12
13	Su-Th	F-Sa	13	13	13	13	off	off	13
Deputies Per Day			62	64	65	65	65	65	64
Average Posts Per Day			62	64	64	64	63	63	62
Overtime Needed			(0)	0	(1)	(1)	(2)	(2)	(2)

366 Total number of deputies on this schedule

This schedule does NOT account for sick, vacation, personal time or any other time off.

The above schedule recommendation is not the only option available to the Sheriff’s Department. Many possibilities exist. *Figure 11* is presented as both a suggestion and a basis for discussion.

In *Figure 11*, the column headed “Shift” shows the number of deputies assigned to work the work week listed to the immediate right. The two consecutive days off per every seven, as per the union contract, are in the column marked “Off”. Please be aware that the two days off per every seven are *not* required to be Saturday and Sunday. Days off are shaded in *Figure 11*.

Each day of the week is listed, and the number of employees assigned to work that day are shown in the column headed by that day of the week. The row “Deputies Per Day” is a sum of the deputies assigned to work that day, and the row “Average Posts Per Day” is the average number of deputies needed to work that particular day and specific shift as per our schedule. Please note that the average number of posts change not only per day, but also by shift. Each shift of the three shifts per day is accounted for in *Figure 11*. A negative number in the row marked “Overtime Needed” indicates that our schedule would overstaff that shift, where a positive number would require overtime to fill the average number of posts for that shift.

Due to the variability of various posts throughout the Alden Annex, the Holding Center and the variability of prisoner transport duties, it does not seem possible to consistently schedule employees to eliminate overtime. It is possible to dramatically reduce overtime. The proposed schedule above, adopted concurrently with the staffing increase to 399, would be expected to reduce overtime to \$4 million annually. In 2005 the overtime for the cost center Security-Holding Center was \$6.1 million, yielding an annual savings to the County of about \$2.1 million.

WE RECOMMEND that the Sheriff’s Office reexamine its scheduling of deputies at the Holding Center. A new plan, designed to address shortfalls in staff on weekend days must be developed.

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.

Additionally, crime is not a constant, predictable event. The recent City of Buffalo crackdown on certain activities has an impact on arrests, and thus on the number of residents of the Holding Center. Small reductions in the inmate population, although desirable, do not translate to lower staffing at the Holding Center. Any changes in variances granted the Holding Center by the COC might also have an effect on our analysis.

We assume that the average amount of time off per deputy will not change. More employees, available to replace those off, could change the long-term behavior of Sheriff’s Office deputies, enabling them to take off more time than they have in the past. As small a change as an increase or decrease of two 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 Department. 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 cost centers reviewed in this audit. 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. Layoffs struck 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. We did look for problems like this, and did find cases, such as when we discovered road deputies performing the function of transporting inmates. Any other, as yet undiscovered issues would alter our analysis and our findings.

Sheriff's Office deputies 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 deputies that they are forced to work mandatory overtime. Additional deputies and scheduling changes would reduce the mandatory overtime, but would also allow deputies to use their accumulated time, as replacements would be available. It is possible that an increase in time off for deputies 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 deputies 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 deputies take time off at popular times of the year.

RESULTS OF EXIT CONFERENCE

An exit conference was held on January 9, 2007 with the Sheriff and members of his staff. The contents of this report were discussed and the Sheriff indicated general agreement with our findings and recommendations.

Points the Sheriff and his staff wanted emphasized include the idea that “overtime breeds overtime.” Employees who work overtime, and take compensatory time in place of cash, then take time off which must be covered by another employee, usually on overtime. The Sheriff also disagreed with our finding and the COC recommendation on staffing at the Alden Annex. He does believe the extra deputy provides a level of safety for deputies and prisoners alike.

The Sheriff and his staff did make it clear that a new Holding Center could be constructed to reduce staffing levels, thus lowering costs.

A detailed discussion took place regarding Figure 11.

In accordance with the County’s Audit Response System and Procedures, we request that the Sheriff prepare a written response to our office and the County Executive concerning the findings and recommendations. A draft of this written response should be submitted to the Division of Budget, Management and Finance for review and approval prior to its submission to the County Executive. The final written response should be submitted to our office and the County Executive by February 9, 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 February 9, 2007.

ERIE COUNTY COMPTROLLER’S OFFICE

Cc: Hon. Timothy B. Howard, Erie County Sheriff
Hon. Joel A. Giambra, Erie County Executive
Hon. Frank J. Clark, Esq., Erie County District Attorney
Mr. James M. Hartman, Director, Div. of Budget, Management and Finance
Mr. Joe Gervase, Division of Information and Support Services
Erie County Fiscal Stability Authority