



County of Allegheny

Office of the Controller

ALLEGHENY COUNTY JAIL
OVERTIME ANALYSIS REPORT
FOR THE YEAR ENDED
DECEMBER 31, 2009

NON-AUDIT SERVICE

December 8, 2010

**County of Allegheny
Office of the Controller
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Controller**

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GUY A. TUMOLO
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July 20, 2010

Mr. Ramon Rustin
Warden
Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219

Subject: **ALLEGHENY COUNTY JAIL OVERTIME ANALYSIS REPORT
FOR THE YEAR ENDED DECEMBER 31, 2009**

Dear Warden Rustin:

We analyzed the issues impacting Allegheny County's Jail's overtime costs to identify appropriate action steps for the Jail to take to facilitate future reductions in its compensation costs. Our primary focus was on 2009 expenditures, although data from prior periods and current data was also utilized. Our engagement was performed as a non-audit service. Consequently, our engagement was not performed in accordance with *Generally Accepted Government Auditing Standards*.

Our analysis revealed that excess overtime is attributable to a variety of factors. Although Family Medical Leave Act (FMLA) abuse and inmate medical trips to external healthcare facilities contribute to the excessive overtime, they are not the main causes. The root cause of the overtime is that there are not enough officers available to work regular time at the jail facility. We concluded that having more officers available to work regular time could be achieved by adopting a more aggressive approach to addressing FMLA abuse, improving the operating structure of the facility, taking steps to ensure that more officers are available to perform their normal duties, and hiring additional part-time officers to the extent that the Jail's daily staffing needs are not effectively reduced by the other measures.

Warden Ramon Rustin
July 20, 2010

We have developed a proposed action plan based on the results of our analysis. We believe that the implementation of our recommendations will assist the Allegheny County Jail in reducing its compensation costs. The results of our analysis are provided in the attached report.

We would like to thank the management and staff of the Allegheny County Jail, County Human Resources Department, County Law Department, and Allegheny Correctional Health Services for their courtesy and cooperation as we conducted our analysis.

Very truly yours,



Lori A. Churilla
Assistant Deputy Controller, Auditing



Mark Patrick Flaherty
Controller

cc: Honorable Richard Fitzgerald, President, County Council
Honorable William Russell Robinson, County Council
Honorable Dan Onorato, Chief Executive
Mr. James M. Flynn, Jr., County Manager
Ms. Amy Griser, Budget Director
Allegheny County Jail Oversight Board
Mr. Greg Grogan, Deputy Warden, Allegheny County Jail
Ms. Kathleen Kennedy, Director, Human Resources
Mr. Robert McTiernan, Assistant County Solicitor
Mr. Joseph Catanese, Director of Constituent Services
Ms. Jennifer Liptak, Budget Director, County Council
Mr. Guy A. Tumulo, Deputy Controller
Mr. Robert J. Lentz, Assistant Deputy Controller, Accounting
Ms. Pamela Goldsmith, Communications Director

EXECUTIVE SUMMARY

Purpose of Procedures:

We performed our analysis to identify appropriate action steps for the Allegheny County Jail to take to facilitate future reductions in its compensation costs.

Background:

The Allegheny County Jail paid approximately \$4.1 million in overtime costs in 2009, which was approximately \$2.1 million in excess of the amount budgeted for overtime expenditures. Jail administration attributed the bulk of the excess overtime costs to abuse of the Family Medical Leave Act ("FMLA") by the Jail's corrections officers, and also suggested that the frequency of inmate trips for medical care outside of the Jail facility has also contributed to the problem to a lesser extent.

The Controller's Office was engaged to analyze the overtime problem, both to evaluate the claims made by Jail administration as well as to identify any possible causes of the overtime problem and potential solutions to the problem that had not been identified.

Results in Brief:

We determined that overpayments of compensation are occurring because a reconciliation of independently-developed Jail time and attendance data from two separate systems is not being reconciled and manual forms used to gather time and attendance data are not completed accurately and in their entirety. However, we determined that the root cause of the majority of the excess overtime is that there are not enough corrections officers available to work regular time at the Jail facility. This deficiency is attributable to several factors. First, the Jail does not have enough corrections officers under its employ given the current operating structure of the Jail. Second, for a variety of reasons, an increasing number of corrections officers are required to operate the Jail facility. Third, a large number of corrections officers have taken and continue to take leave under the Family Medical Leave Act ("FMLA"). Finally, other aspects of the Jail's operations are making officers unavailable to work regular time at the Jail facility. To address the overtime problem, it will be important for Jail administration to develop an overall strategy designed to address each of these factors in order to achieve the best results.

EXECUTIVE SUMMARY

We determined that there are currently typically at least nine posts on the 3-11 shift that are staffed every day with scheduled overtime, before any call-offs occur. The shortage of officers that exists based on the Jail's current operating structure has required the Jail to utilize a significant amount of forced overtime, which has had a significant adverse impact on officer morale. In addition, the characteristics of the part-time corrections officer position are such that the position is often perceived as unattractive by potential job candidates in comparison to other available employment opportunities, which has made it difficult at times for the Jail to recruit and retain new part-time officers.

We determined that the Jail's payroll department does not have a single individual dedicated exclusively to monitoring for FMLA abuse. Not segregating the monitoring function has made it more difficult for the department to accomplish its primary objective of payroll processing. We also determined that the Jail's payroll department and the County Human Resources Department have not implemented many of the measures being utilized by other employers to prevent FMLA abuse. While there are some legitimate concerns about compliance with legal requirements attributable to the Jail's unique operating environment, it appears that fear of noncompliance with the law may be resulting in a failure to enforce the County's rights as an employer. The resultant passive approach towards monitoring currently being utilized has resulted in opportunities to prevent abuse being missed. In addition, there has not been enough consultation with the County Law Department to address suspected abuse, and as a result, Jail administration's responses to suspected abuse have been largely ineffective. In fact, in at least one instance the action taken by the Jail was in violation of the law.

We observed that the measures taken to prevent FMLA abuse to date have not addressed the perceived incentives associated with engaging in abuse or the officers' ability to rationalize engaging in such abuse. Officers have an expectation that overtime will be available and often required, thus the loss of any compensation attributable to their absence can easily be recouped. Additionally, the Jail's poor track record of dealing with suspected abuse has created the expectation of punishment avoidance. Further,

EXECUTIVE SUMMARY

the working conditions that full-time officers experience as part-time officers appear to be contributing to a culture in which the officers believe they are entitled to additional benefits to make up for those that they were previously deprived of.

It appears that unnecessary positions are being created and staffed for a variety of reasons. Safety is often used as justification for adding positions, without adequate consideration of cost. There is also an adversarial labor-management relationship that is making it difficult to hold officers accountable for their performance. Creating additional unnecessary posts, possibly to avoid confrontation with the labor unions or to ensure that enough officers are on site to effectively operate the facility, has compounded the overtime problem, in that positions must be staffed using overtime if officers are unavailable to fill them using regular time.

We determined that not enough is being done to help reduce the Jail's inmate population. The Jail has a large number of female inmates who qualify for transfer to alternative housing facilities, and space is available in those facilities to house the inmates. If fewer inmates were housed at the Jail facility, it would likely facilitate the elimination of posts, shortening of shifts, or achievement of other cost reductions attributable to fewer services utilized by the inmates.

We observed that scheduling of activities often occurs without consideration of the Jail's staffing needs. Non-routine activities that take officers away from performing their normal duties at the facility, such as weapons training, are not being scheduled in the winter months when possible when fewer officers are on vacation. In addition, more officers have been subpoenaed to appear in court in recent years. Although this is partially attributable to an increase in arrests within the Jail, the issuance of subpoenas in recent years may also have been excessive. Officers who spend at least one hour in court are currently entitled to four hours of overtime for their time in court. We also observed that planned inmate medical trips to external healthcare facilities are currently staffed with planned overtime to ensure that the required compliment of officers are available for the duty at the Jail.

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We recommend that Jail administration utilize historical attendance data in an attempt to predict absences and schedule extra capacity to address them, but observed that doing so at present would be pointless since the Jail does not have enough officers available to work regular time based on the Jail's current operating structure.

We evaluated the aforementioned conditions, and developed recommendations to address them. However, we noted that many of the conditions are interrelated and that some of our recommendations cannot be implemented until other preliminary steps are accomplished. We developed a proposed action plan to assist Jail administration in implementing a comprehensive solution to the overtime problem. The proposed action plan focuses first on preventing overpayments of compensation by tightening up internal controls over time and attendance and payroll processing. Next, the plan covers reducing the Jail's daily staffing needs via an evaluation and redesign of the Jail's current operating structure. The plan then calls for implementing changes to ensure that more officers are available to work regular time at the facility. Hiring additional part-time corrections officers is suggested to help eliminate routine overtime. Thereafter, the plan addresses the changes necessary to strengthen monitoring for FMLA abuse, as well as the measures that should be taken in an attempt to eliminate the incentives to engage in and the ability to rationalize such abuse. Finally, it is proposed that steps be taken to reduce the Jail's inmate population to further reduce the Jail's daily staffing needs.

Our specific recommendations to Jail administration are as follows:

Take steps to tighten up the internal control over the time and attendance and payroll processing functions.

- Consider whether a more effective means of tracking officer arrivals and departures (for purposes of completing the manual timekeeping forms) could be implemented.
- The Jail's payroll department should closely review the Overtime and Dock Record and route the form back to the Shift Commander for proper completion if adequate information about overtime hours worked has not been documented for each officer.

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- There should be a mandatory review of the Roll Call Books after each shift to ensure that the officers who worked at each post have been properly recorded, and that hospital runs and other circumstances that result in additional work hours are duly noted. At a minimum, the Roll Call Book used for each shift should be reviewed and signed by the Shift Commander, and Shift Commanders should be held accountable for reporting the proper number of hours for each officer on the Overtime and Dock Record.
- The Jail's payroll department should immediately begin reconciling the data from the Kronos and BTTE systems to ensure that overpayments of compensation are eliminated.
- The Jail's payroll department should evaluate other fully-integrated software solutions for time and attendance. If the decision is made to evaluate other software solutions, it will be imperative to ensure that the software will fully accommodate the Jail's processing needs before it is purchased.

Carefully analyze the Jail's current operating structure to identify circumstances where posts can be consolidated, restructured, or eliminated, or shifts shortened to reduce waste of the County's limited resources.

Work with labor as a partner to improve labor-management relations and facilitate holding officers accountable for their performance.

Consider the Jail's staffing needs prior to scheduling activities that will prevent officers from performing their regular duties at the facility.

Attempt to stagger the scheduling of inmate medical trips to external healthcare facilities to reduce the number of officers that must work overtime to complete the trips.

Attempt to accomplish the inmate medical trips using regular time once enough corrections officers are under the Jail's employ.

Monitor the issuance of subpoenas by the County Police to ensure that unnecessary subpoenas (which require the payment of overtime compensation) are not being issued.

EXECUTIVE SUMMARY

Take steps to reduce the inmate population by addressing the conditions that prevent inmates with qualifying offenses from being transferred to alternative housing programs.

Attempt to reduce opportunities to engage in FMLA abuse.

- Each of the departments whose participation is necessary to prevent FMLA abuse should continually monitor for regulatory changes and other developments that may improve the Jail's ability to prevent FMLA abuse, and communicate with each other regarding such changes and developments.
- The Jail's payroll department should utilize one well-trained individual with up-to-date knowledge to exclusively monitor compliance with the FMLA and initiate action to address deviations.
- The County Human Resources Department and the Jail's payroll department should implement the measures to prevent FMLA abuse that have not yet been implemented, and also perform the procedures that are currently being performed to prevent such abuse on a more consistent basis.
- Both departments should consult with the County Law Department more frequently to help ensure that actions taken in response to suspected abuse are appropriate under the circumstances and within the law.

Attempt to eliminate incentives to engage in FMLA abuse as well as reduce the officers' ability to rationalize engaging in abuse.

- Eliminate the expectation that overtime will be available and may be required.
- Prevent officers from holding a second job while on leave from the Jail.
- Improve the working conditions for part-time officers.
- Attempt to eliminate forced overtime to improve morale.

Adopt a "zero tolerance" policy with respect to FMLA abuse once the required personnel resources are in place, monitoring roles and responsibilities have been communicated, and vigorous (comprehensive) monitoring for FMLA abuse is being conducted.

EXECUTIVE SUMMARY

Do not alter the current buddy day policy.

Eliminate routine overtime to help reduce pension costs.

Utilize the hiring of part-time officers as necessary to help control overtime.

I. Introduction

Background

The Allegheny County Jail on Second Avenue in the City of Pittsburgh houses approximately 2,800 inmates at any given time. The facility operates on a 24 hour, 7 days per week basis. The Jail is staffed using three daily shifts, 7-3 (daylight), 3-11 (evening), and 11-7 (midnight). The Jail is categorized as a “direct supervision” facility and is labor intensive.

Inmates are housed in one of 35 housing “PODs” located on various floors of the facility. Each pod is arranged in two tiers of cells, which are primarily double occupancy. With the exception of the Disciplinary Housing Unit, the Jail staffs the PODs with one correctional officer per pod, on each of three shifts. Other correctional officers in the facility perform intake, escort, and other functions. There are currently approximately 414 full-time and 50 part-time correctional officers who work at the jail.

The Allegheny County Jail paid approximately \$4.1 million in overtime costs in 2009, which was approximately \$2.1 million in excess of the amount budgeted for overtime expenditures. We have identified the ten highest overtime earning Corrections Officers for 2009 and as of April 30, 2010.

2009 Ten Highest Overtime Earning Corrections Officers

<u>Officer</u>	<u>Regular Pay</u>	<u>Overtime Pay</u>	<u>Total Pay</u>
1	\$57,977	\$62,271	\$120,248
2	48,190	55,655	103,845
3	55,092	40,893	95,985
4	51,033	40,515	91,548
5	55,864	38,850	94,714
6	53,914	38,296	92,210
7	56,459	34,919	91,378
8	55,320	34,869	90,189
9	54,872	34,036	88,908
10	54,555	31,798	86,353

2010 Ten Highest Overtime Earning Corrections Officers (as of April 30)

<u>Officer</u>	<u>Regular Pay</u>	<u>Overtime Pay</u>	<u>Total Pay</u>
1	\$23,482	\$17,440	\$40,922
2	21,058	15,885	36,943
3	19,388	11,602	30,990
4	19,852	11,148	31,000
5	19,381	10,628	30,009
6	20,181	10,353	30,534
7	22,417	10,267	32,684
8	19,331	10,136	29,467
9	20,240	9,864	30,104
10	20,027	9,204	29,231

I. Introduction

Jail administration attributed the bulk of the excess overtime costs to abuse of the Family Medical Leave Act (“FMLA”) by the Jail’s corrections officers, and has suggested that the frequency of inmate trips for medical care outside of the Jail facility has also contributed to the problem to a lesser extent.

The Controller’s Office was engaged to analyze the overtime problem, both to evaluate the claims made by Jail administration as well as to identify any possible causes of the overtime problem and potential solutions to the problems that had not been identified.

II. Scope and Methodology

We performed our analysis to identify appropriate action steps for the Allegheny County Jail to take to facilitate future reductions in its compensation costs.

Specifically, we performed the following procedures:

- Conducted research to identify the types of issues that impact compensation costs that other correctional institutions across the country are encountering and how those institutions are addressing those issues.
- Obtained and reviewed the collective bargaining agreement, various arbitration decisions, the Family Medical Leave Act, the Jail's personnel policies and procedures, and other relevant documents.
- Interviewed personnel from the Jail (various disciplines), Human Resources, the Law Department, and Allegheny Correctional Health Services ("ACHS"), the non-profit organization responsible for the administration of medical care at the Jail.
- Examined records of the Jail, Human Resources, and the Law Department that were relevant to the incurrence of the excess overtime costs and examined records of ACHS pertaining to inmate trips to external facilities for medical care.
- Evaluated our findings and developed our recommendations.

We performed these procedures from January through July 2010. We provided a draft copy of this report to the Warden of the Allegheny County Jail and the Director of the Allegheny County Department of Human Resources to obtain their responses (see page 61 for the Warden's response and page 67 for the HR Director's response).

III. Observations and Recommendations

In order to assist in the development of practical and effective solutions to the Jail's overtime problem, we began with interviews of employees directly involved in the operations to gain a better understanding of the problem, specifically the various causes of the overtime. We attempted to determine whether corrections officers were receiving pay for overtime hours to which they were not entitled. We then focused our efforts on identifying other potential causes, and we determined that a variety of factors will continue to impact the Jail's compensation costs unless they are addressed in some fashion. In addition, we also noted that the G-20 economic summit held in Pittsburgh in 2009 resulted in a significant amount of overtime that will not recur unless the city is selected to host an event of such magnitude in the future.

Our analysis revealed that the root cause of the majority of the excess overtime is that there are not enough corrections officers available to work regular time at the Jail facility. This deficiency is attributable to several factors. First, the Jail does not have enough corrections officers under its employ. Second, for a variety of reasons, an increasing number of corrections officers are required to operate the Jail facility. Third, a large number of corrections officers have taken and continue to take leave under the Family Medical Leave Act ("FMLA"). Finally, certain aspects of the Jail's operations are making officers unavailable to work regular time at the Jail facility. To address the overtime problem, it will be important for Jail administration to develop an overall strategy designed to address each of these factors in order to achieve the best results.

III. Observations and Recommendations

Preventing Overpayments

We investigated the possibility that corrections officers received pay for overtime hours to which they were not entitled. We endeavored to gain a better understanding of the manner in which time and attendance records are maintained and payroll is processed at the Jail so that we might be able to identify weaknesses in the system. We noted that it is not feasible for the Jail to use the timekeeping system most commonly used by Allegheny County because each officer would need to utilize a computer to clock in and out each day. Most officers are not assigned their own computer because their normal job duties do not require one. Because so many officers begin and end their shifts at the same time, having a limited number of computers available for officers to use to clock in and out would not work.

We learned that the Kronos Workforce Central (“Kronos”) pay system software purchased by the Jail in 2002 was intended to accomplish both time and attendance and payroll processing functions. The Kronos system effectively tracks time and attendance via finger scans. However, there are several aspects of the Jail’s operations that make the use of the Kronos system for payroll processing quite problematic. For example, the software

- cannot process 10-hour shifts,
- does not properly account for buddy days (see “Other Matters for Consideration” for a detailed description of buddy days),
- and does not properly account for the 11-7 shift since that shift takes place over two different days.

We were informed that several attempts were made to have the vendor modify the software to eliminate these types of issues, without success. During 2007 and 2008, the Allegheny County Department of Computer Services (“DCS”) attempted to modify the software to make the payroll processing function usable for the Jail’s needs, but DCS was also unsuccessful. Consequently, the Kronos system is currently only utilized for maintaining time/attendance records.

III. Observations and Recommendations

DCS developed a workaround, the Bob Thomas Time Entry (“BTTE”) system, to address the Jail’s payroll processing functions. The BTTE system is an auto-pay system, which means that each employee will be paid their regular pay for their scheduled hours unless an entry of some type is made in the system. The Jail’s payroll department makes entries in the BTTE system based on the information contained in four manually prepared documents, Roll Call Books (shows who worked where and when), Call-Off Sheets, Buddy Day Reports, and Overtime and Dock Records.

Since the BTTE system data utilized for payroll processing is developed independently from the time and attendance data maintained by Kronos, it would be necessary to reconcile any time differences between the two systems in order to ensure that the proper amount of compensation was paid. It would also be important to have the manual forms listed above filled out completely and accurately to facilitate the reconciliation of system data.

We selected a sample of the 30 highest overtime payments in a single pay period, and tested selected days from those periods for a variety of attributes. We also selected and tested the entire pay period for five of the officers included in our first sample for a variety of attributes.

- We identified one overpayment in the amount of \$77.81 attributable to a corrections officer being paid 2 hours of overtime that were not supported by the Overtime and Dock Record or other manual timekeeping forms (the Jail’s payroll department adjusted one of the officer’s subsequent pays to correct the overpayment).
- We noted two instances where the Overtime and Dock Record signed by the Shift Commander reported more overtime hours than were used for the hospital runs to which the officers were assigned, with no explanation for the amount of overtime reported. Upon further investigation by the Jail’s payroll department, it was determined that the two officers were in fact overpaid a combined total of \$78.65 (the Jail’s payroll department adjusted one of each of the officers’ subsequent pays to correct the overpayments).

III. Observations and Recommendations

- We also noted one instance in which the applicable Overtime and Dock Record indicated that an officer was entitled to 9 hours of overtime because the officer worked 8 hours on a hospital run and was unable to take a lunch, yet the Roll Call Book showed no indication that the officer went on a hospital run. We attempted to verify that the officer actually went on a hospital run by checking the gun sign-out sheet for that day, but noted that the officer did not sign out a gun on that day.

While the amount of the overpayments associated with our test exceptions may not be significant in relation to the total overtime paid by the Jail in 2009, and while we believe that these types of overpayments are not a significant cause of the Jail's overtime problem, we believe, based on what we have observed, that it is possible that overpayments of this type could be more than inconsequential. Therefore, we recommend that the Jail take steps to tighten up the internal control over the time and attendance and payroll processing functions.

We noted that the aforementioned manual forms currently utilized by the payroll department to identify adjustments to be made to the BTTE system data appear to be properly designed, in that they would result in the accumulation of all of the necessary information if the forms were filled out completely and accurately. Unfortunately, we noted during the performance of our procedures that the manual forms are not always completed accurately and in their entirety. The reasons for overtime are not always clearly stated on the "Overtime and Dock Record", the form used by the Jail to track variances from regular hours for each shift.

The Roll Call Books also do not always accurately reflect changes in the officers manning certain posts due to buddy day exchanges, or indicate the posts that officers actually worked at due to changes made to their assignments. We suggest that the Jail's payroll department closely review the Overtime and Dock Record and route the form back to the Shift Commander for proper completion if adequate information about overtime hours worked has not been documented for each officer. Implementing this procedure should make it easier to identify the reasons for overtime, as well as prevent potential abuse that may have otherwise gone undetected. We also suggest a mandatory review

III. Observations and Recommendations

of the Roll Call Books after each shift to ensure that the officers who worked at each post have been properly recorded, and that hospital runs and other circumstances that result in additional work hours are duly noted.

We also noted that the officer working the front desk is responsible for keeping track of which officers enter and leave the Jail facility. The front desk officer is also responsible for answering the phone, and getting the incoming officers through security if another officer is not available to do so. During shift changes, a very large number of officers either enter or leave the facility through the employee entrance within a fifteen minute window. These conditions create an environment where errors in tracking arrivals, departures, and changes in work assignments, and therefore errors in tracking work hours, could occur. We recommend that Jail administration consider whether a more effective means of tracking officer arrivals and departures could be implemented. At a minimum, the Roll Call Book used for each shift should be reviewed and signed by the Shift Commander, and Shift Commanders should be held accountable for reporting the proper number of hours for each officer on the Overtime and Dock Record.

In addition to the often incomplete and inaccurate manual forms used to make adjustments to the BTTE system data, we also noted a problem with reconciliation of the independently-developed data from the Kronos and BTTE systems. The Jail's payroll department has acknowledged that the data from the Kronos system and the BTTE system is not reconciled. Ideally, the time and attendance and payroll processing functions should be fully-integrated, such that a reconciliation of data from two separate systems would not be necessary (this was initially intended to be accomplished by the purchase and implementation of the Kronos software in 2002). Since reconciling the independently-developed data from the two separate systems will be quite time consuming (and therefore costly), the Jail's payroll department should evaluate other fully-integrated software solutions. If the decision is made to evaluate other software solutions, it will be imperative to ensure that the software will fully accommodate the Jail's processing needs before it is purchased. However, whether or not another software solution is put in place, the Jail's payroll department should immediately begin reconciling the

III. Observations and Recommendations

data from the two systems to ensure that overpayments of compensation are eliminated or at least minimized.

Recommendations

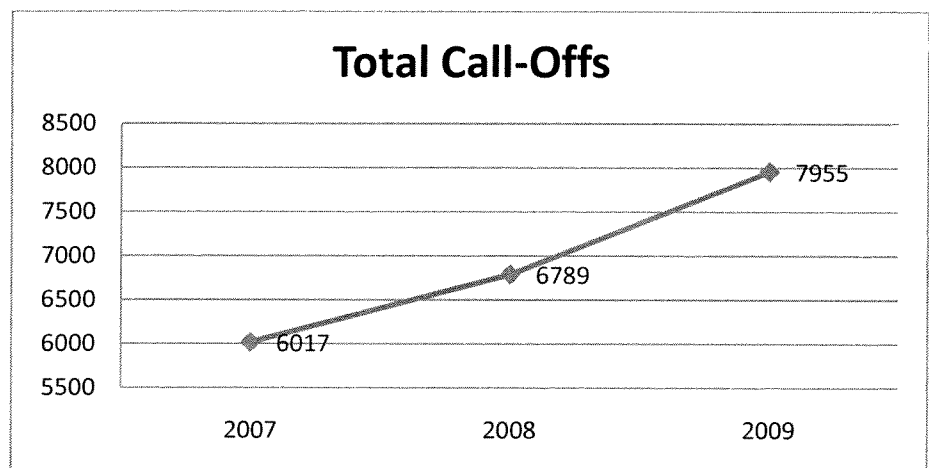
We recommend that the Jail take steps to tighten up the internal control over the time and attendance and payroll processing functions.

- Jail administration should consider whether a more effective means of tracking officer arrivals and departures (for purposes of completing the manual timekeeping forms) could be implemented.
- The Jail's payroll department should closely review the Overtime and Dock Record and route the form back to the Shift Commander for proper completion if adequate information about overtime hours worked has not been documented for each officer.
- There should be a mandatory review of the Roll Call Books after each shift to ensure that the officers who worked at each post have been properly recorded, and that hospital runs and other circumstances that result in additional work hours are duly noted. At a minimum, the Roll Call Book used for each shift should be reviewed and signed by the Shift Commander, and Shift Commanders should be held accountable for reporting the proper number of hours for each officer on the Overtime and Dock Record.
- The Jail's payroll department should immediately begin reconciling the data from the Kronos and BTTE systems to ensure that overpayments of compensation are eliminated or at least minimized.
- It may be beneficial for the Jail's payroll department to evaluate other fully-integrated software solutions. If the decision is made to evaluate other software solutions, it will be imperative to ensure that the software will fully accommodate the Jail's processing needs before it is purchased.

III. Observations and Recommendations

Hiring Additional Part-Time Officers

Jail administration has made the claim that overtime would not be a significant problem for the Jail if the full-time corrections officers already on the payroll actually showed up for work on a consistent basis. While this claim may be true, under the current circumstances it is not practical for Jail administration to expect that an overwhelming majority of officers will have good attendance records, and even less practical to plan for good attendance when attempting to satisfy the Jail's staffing requirements. The chart below documents the number of call-offs per year by correctional officers.



<u>2009 Event</u>	<u>Call-Offs</u>	<u>Resulting Overtime</u>
Super Bowl	82	\$23,031
Stanley Cup Final (Game 7)	48	22,853
First Day of Trout Season	35	9,916

Jail administration has determined that a problem with absenteeism exists (evidenced by our involvement), but has failed to acknowledge it when attempting to meet the Jail's daily staffing requirements. An elevated level of absenteeism (in this context absenteeism is intended to describe circumstances whereby for whatever reason, officers do not work their scheduled shifts) has been occurring for some time, and will likely continue until the Jail implements an effective solution to the

III. Observations and Recommendations

problem. In order to ensure the safe and effective day-to-day operation of the facility, Jail administration must ensure that an adequate number of corrections officers are on duty each day, on each shift. Even though Jail administration's belief that a significant amount of FMLA abuse is occurring may be true, it still has a responsibility to ensure that the current staffing needs of the Jail are met in a cost-effective fashion, and it should be attempting to ensure that the burden placed on the corrections officers who are not engaging in such abuse is minimized to preserve morale. The way to accomplish this is to ensure that "extra" part-time officers are scheduled for each shift to the extent that absences are expected.

Historical attendance data is available to enable the Jail to predict employee absences with a reasonable degree of certainty, and therefore predict potential shortfalls in staffing with a reasonable degree of certainty. The Jail should utilize that information to ensure that an adequate number of corrections officers are scheduled to work regular time. It is possible that an automated (computerized) scheduling system could be useful somewhere down the road to better predict employee absences. After implementing the other recommendations made in this report, Jail administration may want to evaluate the need for such an automated system.

Scheduling extra part-time officers may sound unreasonable to some when approaching the reduction of overtime costs. However, the "extra" part-time officers would not necessarily be extra, as they could replace officers who call-off, instead of having full-time officers (often senior officers) cover the shifts using overtime paid at time and a half. If extra officers were available for a particular shift to address a limited number of anticipated call-offs, they could be utilized in a number of different ways (possibly to fill on a temporary basis, certain permanent positions we will later suggest Jail administration consider eliminating).

Failure to acknowledge the absenteeism problem when attempting to meet the Jail's daily staffing needs has resulted in the continuous incurrence of unnecessary overtime. In fact, because there is a shortage of officers available to work regular time at the facility, there is typically a deficiency of at least 9 officers scheduled for the 3-11 shift before any call-offs occur, which means that a significant amount

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of overtime is paid every day to cover posts that could be covered, and should be covered, using regular time.

We prepared a simple analysis of the Jail's annual staffing requirements based on the posts currently utilized as well as the hours available to the Jail to meet those requirements from full-time and part-time officers (See Exhibit 1). The analysis does not take into account unforeseeable needs for additional staff, such as those attributable to emergency inmate medical trips to outside facilities. We have presented the hours available from the Jail's entire roster of full-time officers as well as the hours available from only those officers available for duty (at the time we performed our analysis, there were 20 officers off "until further notice", or "TFN"). We are aware that those more familiar with correctional facilities might attempt to calculate the "relief factor" of the institution, which is a much more involved and consequently more precise means of determining staffing requirements. We did not attempt to do so because the simple analysis we performed is adequate to support our conclusions and enabled us to devote attention to the other matters included in the broad scope of our engagement.

The analysis we prepared demonstrates that the Jail does not have enough officers in its employ to prevent a significant amount of overtime based on the Jail's current operating structure. At one point, Jail administration expressed a desire to promote a large number of part-time corrections officers to full-time positions to better address staffing needs, but was unable to convince the Allegheny County Office of Budget and Finance (hereafter "Budget Office") that it was necessary. Instead of pursuing the matter further with the Budget Office, Jail administration abandoned the quest, because it believed that a significant number of the part-time officers promoted to full-time positions might engage in abuse of the FMLA, thereby compounding the Jail's overtime problem.

Part-time officers are typically very interested in becoming full-time officers, not just for the additional work hours, but also for higher compensation, health benefits, vacation and sick time, uniform allowances and other similar benefits provided to full-time officers. Part-time officers are aware that their conduct is evaluated, and likely believe that any suspicion that they may be engaging in FMLA abuse

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may adversely impact their ability to obtain full-time positions. When part-time corrections officers are promoted to full-time positions, this disincentive to engage in FMLA abuse dissipates. Jail administration suspects that many of its full-time corrections officers are engaging in abuse of the FMLA, and Jail administration has been unable to effectively address the suspected abuse. (FMLA abuse will be specifically addressed later in our report.)

To the extent that the Jail can hire part-time corrections officers instead of promoting part-time officers to full-time officer positions it should do so. In addition to the fact that compensation costs associated with part-time officers are substantially less, as our analysis shows, the Jail has enough full-time officers to meet at least 80% of the Jail's staffing requirements. Full-time officers typically serve a number of years as part-time officers first, which suggests that the Jail has more than enough veteran officers to cover shifts that require more experienced corrections officers.

The Jail has historically experienced some difficulties in recruiting and retaining part-time corrections officers. Fortunately, the Jail was able to hire a total of 52 part-time corrections officers during 2009, as the recent economic downturn resulted in an increase in the number of job applications received from qualified applicants. However, in spite of these favorable conditions, the Jail employed only 50 part-time corrections officers at the time we performed our analysis, 33 officers less than the maximum number permitted by the Budget Office. As economic conditions continue to improve, the Jail will likely need to take steps to make the part-time officer position more attractive than other available employment opportunities to potential job candidates in order to be able to hire enough part-time officers to meet the Jail's staffing needs.

There are a number of circumstances that make it impractical for the Jail to attempt to hire new part-time corrections officers one at a time, on an as-needed basis. The process of recruiting part-time officers involves taking steps to ensure that job candidates fully understand the nature of the work they will be required to perform. Job candidates complete a "willingness survey" to document their willingness to perform certain required job functions (failure to demonstrate a willingness to perform required job functions results in

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job candidates being excluded from the hiring process). From prior experience, Jail administration is aware that many individuals who express an interest in the part-time officer position later decide that the work is not suitable for them. In addition, a mere willingness to perform the work does not mean that a job candidate is appropriate for the position. Job candidates must undergo and pass a criminal record check and psychological evaluation before they are hired. Part-time officers must also be trained before they can begin working at the Jail.

Because it is impractical to attempt to hire one new part-time corrections officer at a time, the Jail engages in hiring campaigns designed to recruit sizable numbers of qualified applicants who can go through each of the required steps at the same time, in the hope enough applicants can make it through the process to help satisfy the Jail's current staffing needs. While hiring occurs en masse, the roster of part-time officers is sporadically reduced, often one officer at a time, as a result of officers being promoted to full-time officers, being terminated, or otherwise leaving the Jail's employ.

Part-Time Corrections Officers Employed by the Jail During 2009

<u>First Day of</u>	<u>Number of Officers</u>
January	42
February	42
March	41
April	38
May	38
June	57*
July	56
August	54
September	52
October	49
November	68*
December	63

*A group of part-time officers was hired during this month.

The difficulty in recruiting and retaining part-time officers is likely attributable to the fact that the work experiences of part-time officers are generally not as pleasant as those of full-time officers. In addition to being limited to a maximum of 32 hours of work per week,

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receiving less pay and no health benefits for doing what may often be the least desirable work in the Jail, part-time officers are not awarded any sick or personal time. In fact, missing a day of work could adversely impact a part-time officer's ability to receive a promotion to a full-time officer position. The chart below details a corrections officer's base pay and leave time based on years of service.

Corrections Officer Base Pay and Leave Time (as of July 1, 2009)

<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>	<u>Vacation Days/Year</u>	<u>Holiday Days/Year</u>	<u>Sick Days per Year</u>
Part-Time	\$ 21,794	\$ 13.10	0	0	0
New Full-Time	34,053	16.37	0	16	0/5
1	36,249	17.43	10	16	10
1 1/2	36,976	17.78	10	16	10
2	37,900	18.22	10	16	10
2 1/2	42,109	20.24	10	16	10
3	43,283	20.81	15	16	10
4	46,186	22.20	15	16	10
5	54,623	26.26	15	16	10
10	55,430	26.67	15	16	10
15	56,103	26.97	20	16	10
20	56,776	27.30	20	16	10
25	57,449	27.62	25	16	10
30	58,121	27.94	25	16	10

It would likely be easier to hire and retain part-time officers if part-time officers were treated more like full-time officers in certain respects. For example, full-time officers are provided with an initial uniform allowance and subsequent maintenance allowances to cover the cost of dry cleaning, replacement items, etc. that are not provided to part-time officers. Part-time officers are required to wear the same uniforms that full-time officers wear, and actually have a greater need for a uniform allowance since they can only work 32 hours per week and their pay is lower. To help close the gap, the Jail could provide a partial uniform allowance to part-time officers, which the Jail could require be withheld from their last paycheck if the officer resigns before three months of employment are up. Also, full-time corrections officers with only one year of full-time service are entitled to two weeks of vacation annually, 16 holiday days per year (which replace the actual holidays since officers are not entitled to have the actual holidays off), and 10 annual sick days. Part-time officers are not entitled to those days, and are typically subject to sanctions for taking any days off, which may include termination, and therefore have no

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means to deal with emergencies, family crises, or any other circumstances that may represent legitimate reasons for time off. The Jail could help close the gap by providing part-time officers with one or two personal days each year. Upon further consideration of these suggestions, Jail administration may conclude that other alternatives or additional measures are appropriate. The examples of ways to narrow the gap between part-time and full-time officers that we have presented are only suggestions.

It will always be necessary to hire new part-time corrections officers to replace part-time officers who are promoted to full-time positions, quit, or are terminated. It is important to note that hiring additional part-time officers to compensate for the current deficiency of officers under the Jail's employ will only be necessary to the extent that the Jail is unable to make improvements in other areas of its operations in a timely fashion. Reducing the Jail's staffing needs, utilizing the time of officers being paid regular time more efficiently, and preventing officers from taking unnecessary leave through abuse of the FMLA should reduce or eliminate the Jail's need to hire a large number of part-time corrections officers in the near-term.

Recommendations

Jail administration should work more diligently to ensure that the Jail's current staffing needs are met in a cost-effective fashion.

- Jail administration should take steps to make the value proposition associated with the part-time officer position more attractive to potential job candidates in order to be able to hire enough part-time officers to meet the Jail's staffing needs.
 - Consider providing a small uniform allowance to part-time officers.
 - Consider providing part-time officers with one or two personal days each year.
- Once enough officers are under the Jail's employ, the Jail should utilize historical attendance data to ensure that an adequate number of corrections officers are scheduled to work regular time (which should include scheduling "extra" part-time officers for each shift to the extent that absences are expected).

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- Jail administration should consider whether an automated (computerized) scheduling system could help streamline the scheduling process and put the Jail in a better position to predict employee absences. However, before purchasing such software, steps should be taken to ensure that the software will accomplish the intended objectives given the Jail's unique and complex environment.
- The Jail should attempt to reduce or eliminate its need to hire a large number of part-time corrections officers in the near term by reducing the Jail's staffing needs, utilizing the time of officers being paid regular time more efficiently, and preventing officers from taking unnecessary leave through abuse of the FMLA.

Jail administration should be attempting to ensure that the burden placed on corrections officers who are not engaging in abuse is minimized to preserve morale.

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Addressing FMLA Abuse

The Family Medical Leave Act allows employees to take up to 12 weeks of unpaid leave per year to treat their own or a family member's serious health condition, or to spend time with a new child. FMLA leave can be taken over a period of consecutive days, or on an intermittent basis. Jail administration is not alone in its concerns about abuse of the FMLA. Companies have reported abuse of the Act's provisions since it was first passed in 1993. There are several factors that make FMLA abuse very difficult to curtail.

While the intentions of the Act were good, and the Act does benefit those with legitimate reasons for leave, the Act was not written in a manner that would prevent abuse. Certain provisions of the Act, such as the provisions that describe the medical conditions that enable employees to take leave, are vague and therefore subject to interpretation, which has created opportunities for abuse. Also of particular concern are the provisions pertaining to intermittent leave. Those provisions were intended to allow employees to take leave occasionally whenever treatment of a condition is medically necessary, but abuse of those provisions has generally resulted in decreased productivity and accountability.

Monitoring for compliance with the FMLA is also difficult and time consuming. A single individual or department cannot be expected to stop FMLA abuse on their own. The Jail's payroll department, the County's Human Resources Department, and the County's Law Department must work together to ensure that strict compliance with the law and the County's leave policies are monitored, that suspected deviations are appropriately evaluated, and that immediate and effective action is taken in response to deviations that are deemed to be indicative of abuse. To accomplish this, each of those departments whose participation is necessary to curtail the FMLA abuse must have a good understanding of the Act and related employment laws. Unfortunately, the volume and complexity of the Act and the related employment laws, combined with the fact that the regulatory environment and labor practices are changing, does not facilitate gaining a good understanding of an employer's rights or the

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measures available to an employer to prevent abuse. The U.S. Department of Labor is aware that the potential for abuse of the FMLA exists, and has indicated that it is working to address abuse. However, until the law is rewritten, the Jail and other employers must find a way to curb abuse that does not violate any provisions of the FMLA or other employment laws and regulations.

Merely developing the capability to monitor for compliance is not sufficient to stop FMLA abuse. Monitoring for abuse is a very time-intensive activity, and unless there are some personnel resources that are dedicated exclusively to engaging in such monitoring, an employer runs the risks that its monitoring will not be vigorous enough to prevent the abuse, and that its capacity to effectively accomplish other routine tasks, such as payroll processing, will be diminished.

Identifying noncompliance with the Act and related employment laws is only half of the battle. Jail administration must follow through with action to prevent unnecessary leave from being awarded and to ensure attempts to perpetrate fraud are appropriately punished. Punishment of the offense is important, as it discourages other individuals from attempting to engage in such abuse. This can be difficult, because individuals suspected of engaging in abuse are typically very aware of the provisions of the Act and the related employment laws and how to respond to an employer's efforts to prevent abuse.

In order to prevent abuse, Jail administration must be certain that it has not violated the law in any way and that its position for the action taken can be supported. Employees have brought suits against their employers when leave under the FMLA was denied. Employers subject to collective bargaining, such as the Jail, may have such matters resolved via binding arbitration. In such an environment, it is especially important to ensure that the employer has operated within the law and that its position can be supported, because decisions against the employer can have a lasting adverse impact on the employer's ability to prevent FMLA abuse.

We have analyzed data provided by Jail administration which suggests that the Jail may be subject to a significant amount of FMLA abuse. (However, the purpose of our analysis was not to build cases

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against suspected abusers, and consequently, we make no accusations of abuse in this report.) The chart below identifies the number of correctional officers who have taken FMLA Leave within the past few years.

<u>Year</u>	<u>Numbers of Officers Who Have Taken FMLA Leave Time</u>
2008	110
2009	149
2010 (as of 4/30)	96

During the performance of our procedures, we noted that the Jail's payroll department does not currently have a single individual dedicated exclusively to monitoring compliance with the FMLA. In addition, the division of the burden of monitoring for FMLA compliance among several individuals appears to be making it unnecessarily more difficult for the department to accomplish its regular payroll processing functions. While the Jail's Payroll department and County Human Resources department were generally knowledgeable about the FMLA and related employment laws, we observed that those departments had not implemented many of the measures utilized by others to prevent FMLA abuse that we identified during our research. This initially led us to believe that those departments were not aware of the most recent regulatory changes and newest developments in the area of FMLA abuse. However, after further discussions with those departments, we determined that certain measures were not implemented due to legitimate concerns about compliance with legal requirements attributable to the Jail's unique operating environment. Unfortunately, it appears that in a number of ways, fear of acting in a noncompliant manner may be resulting in a failure to enforce the County's rights as an employer, and that the resultant passive approach towards monitoring being utilized has resulted in opportunities to prevent abuse being missed.

The Jail's payroll department is able to see firsthand the impact that suspected FMLA abuse is having on the Jail's overtime expenditures and morale, and to its credit, has put forth significant effort toward stopping suspected abuse. However, as we previously indicated, the Jail's payroll department is unable to prevent abuse on its own. There are some measures that can be utilized to prevent FMLA abuse that

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fall within the County Human Resources Department's jurisdiction, and communication between the two departments would also have to occur on a regular basis to identify some types of abuse. Because the monitoring conducted by the Human Resources Department was not as aggressive as we believe it could have been (supported by test results to be discussed shortly) and a strong inter-departmental framework to address suspected abuse was not in place, the time and effort put forth by the Jail's payroll department to prevent abuse were not very productive. If more members of the department had focused exclusively on the department's primary objective of payroll processing, proper completion of manual timekeeping forms and reconciliation of the time and attendance data between the Kronos and BTTE systems (see Preventing Overpayments section) may have been accomplished. This would have provided some assurance that a significant number of compensation overpayments were not occurring, and would have been a better use of their time given that a significant reduction of suspected abuse has not been achieved.

The issue of FMLA abuse has led employers and others to publish (and share in other ways) information pertaining to abuse of the FMLA and practices that can be used to prevent it. We recommend that each of the departments whose participation is necessary to prevent FMLA abuse continually monitor for regulatory changes and other developments that may improve the Jail's ability to prevent FMLA abuse, and communicate with each other regarding such changes and developments. We also recommend that the Jail's payroll department utilize only one individual with a very good understanding of the FMLA and the related employment laws, employers' rights, and appropriate ways to deter FMLA abuse who, with the exception of taking steps to identify regulatory changes and new developments, would exclusively monitor for compliance with the FMLA and initiate action to address deviations. This should enable the department to better accomplish its primary objective of payroll processing.

During the performance of our procedures, we compiled a list of measures that we identified through our research that can be used to combat FMLA abuse (See Exhibit 2). We selected a sample of 48 FMLA leave applications and applied procedures designed to identify which measures to assist in preventing FMLA abuse have been implemented and performed on a consistent basis by the Jail's payroll

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department and/or the County Human Resources department and which have not. We determined that while several measures intended to prevent abuse are in place and are performed on a consistent basis, there are a large number of measures that have either not been implemented or have not been implemented on a consistent basis.

The Jail's payroll department verifies that each officer who files an application qualifies for FMLA leave by making sure they meet the length of service and service hour requirements, that all paid leave is used before FMLA leave is granted, that no more than 12 weeks of FMLA leave per year is granted on a rolling 12-month basis, and that the leave is being taken for the qualifying reason(s) described in their approved leave application. These measures were performed on a consistent basis (48 of 48 FMLA leave applications).

We determined that the County Human Resources Department did not consistently follow up on information missing from FMLA leave applications (25 of 48 FMLA leave applications, or 52%). It also did not have "fitness for duty" certificates (13 of the 31, or 42%, of the approved applications that were filed for an officer's medical condition) from officers' healthcare providers in their personnel files. The County Human Resources Department has asserted that the Jail's payroll department collects the certificates before allowing officers to return to work (for foreseeable leave). Steps should be taken to ensure that the County Human Resources Department receives all documentation pertaining to the administration of FMLA leave. In addition, the personnel files we examined contained the FMLA leave application that was developed by the U.S. Department of Labor, but we have been informed that the County Human Resources Department is accepting other application forms because it believes refusing to accept the applications could represent noncompliance with the law.

We also determined that the Jail's payroll department did not work with officers to schedule medical treatment during non-work hours. The County Human Resources Department did not contact an officer's healthcare provider directly if the provider did not supply adequate information concerning the officer's medical condition or need for leave, require a second or possibly a third medical opinion from a County-selected physician in connection with FMLA leave applications deemed questionable, did not require recertification of an

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officer's medical condition when leave day requests extended beyond the term of their approved leave, or require recertification of an officer's medical condition every 30 days after the expiration of the initial leave period (0 of 48 FMLA leave applications). The Jail has also not implemented a policy prohibiting officers from working a second job while they are on leave. The testing we performed did not enable us to determine whether the Jail has established and enforced a 30-day notice period for foreseeable leave.

While it is unfortunate that implementing some of the measures described above, such as requiring that medical conditions be recertified every 30 days after the initial leave period expires, may make things more difficult for officers who have legitimate reasons for FMLA leave, it is necessary for the Jail to implement the additional measures to prevent abuse. In addition, it is important to implement any measures designed to combat FMLA abuse on a consistent basis in order for them to be effective.

To this point we have focused on the role that the Jail's payroll department and County Human Resources department must play in preventing FMLA abuse. However, the County Law Department must also be involved. In order to improve the Jail's ability to combat abuse, the Jail's payroll department and County Human Resources Department should be seeking advice from the County Law Department when violations of the FMLA or the Jail's time and attendance policies are identified, or at least before action is taken to respond to suspected abuse to ensure that the Jail's response is appropriate and in compliance with applicable laws.

We observed that a number of employment-related cases that were subject to binding arbitration from 2007 through 2009 were decided against the Jail. This initially suggested to us that a problem of some form exists. We obtained copies of and read a number of the arbitration decisions. While the Controller's Office personnel who performed the analysis are not attorneys, it appeared to us that the majority of cases that we read that were decided against the Jail could have been decided in the Jail's favor based on the facts of the case. It appears to us that inadequate consultation with the County Law Department has often resulted in positions and actions being taken that

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violate the provisions of the FMLA or related regulations or cannot be adequately supported.

For example, at one point a large number of corrections officers on the midnight shift were approved for intermittent FMLA leave, and therefore could not be forced to work overtime to fill any unfilled posts on the daylight shift if they claimed they needed an FMLA leave day. Because this was impeding the Jail's ability to adequately staff the facility during the daylight shift, Jail administration attempted to change the work schedules of the 14 least senior corrections officers approved to take FMLA leave and working the midnight shift to the daylight shift. This act violated the FMLA, and the related arbitration case (Grievance Number L-KAD-09-G-59) was properly decided against the County. The Jail was required to restore the officers' original schedules. Had Jail administration sought the advice of the County's Law Department prior to changing the schedules of the corrections officers, the Law Department most likely would have been able to provide guidance that would have helped the Jail address the situation while remaining in compliance with the provisions of the Act.

We believe that a determination that the facts of a particular case may be weak is typically not made until the matter reaches the County's Law Department, at which point it may be too late to resolve the matter by a means other than binding arbitration. This is significant, because as previously stated, when the Jail loses cases in binding arbitration the decisions can have a significant unfavorable impact on the Jail in that changes may be written into the collective bargaining agreements or otherwise impact the Jail's future operations. A formal process should be developed to actively seek the advice of the County Law Department to prevent unnecessary confrontations with the labor unions in the future. Active involvement of the County Law Department in the earlier stages of potential FMLA abuse will assist the Jail in improving documentation and reducing litigation.

The methods to address FMLA abuse described to this point focus on the establishment and enforcement of policies and procedures, and enforcement of the law. They involve attempts to eliminate the opportunity to engage in abuse. This is important because as we indicated earlier, the Jail's poor track record of addressing suspected

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abuse has likely led officers to believe that the potential to engage in abuse and not get caught exists. However, engaging in FMLA abuse is a fraudulent activity. Like any other type of fraud, there are three elements that must be present for the fraud to occur. First, there must be an incentive to engage in fraud. Second, there must be an opportunity to perpetrate a fraud. Finally, there must be an ability to rationalize the fraudulent act. Officers perceive incentives differently and vary in their ability to rationalize engaging in abuse, and as a result, the Jail cannot know for certain which or how many officers may attempt to engage in abuse. Some officers may attempt to engage in abuse, even with the best policies and procedures and enforcement efforts in place. Unless Jail administration takes action to reduce or eliminate the opportunity to engage in FMLA abuse, abuse could occur (or recur) when it is perceived that an incentive to engage in abuse exists or when officers become able to rationalize abuse. Therefore, to achieve the greatest amount of success in preventing abuse, the Jail should not only focus on implementing the enforcement measures described above in an attempt to eliminate the opportunity for abuse to occur, but also attempt to address the incentives to engage in abuse and conditions that would likely impact an officer's ability to rationalize engaging in abuse.

There are a number of incentives for corrections officers to engage in FMLA abuse. By using FMLA leave days and then working overtime on pass days (Jail terminology for scheduled days off), officers can create weekly work schedules for themselves that are more to their liking than the schedules to which they were otherwise entitled based on their seniority. In addition, it is possible for officers to take an intermittent FMLA leave day, pick up an extra shift in the same week, and earn time and a half for one day while still working a 40 hour week. Based on this, it appears that the officers' expectation that overtime will be available (and possibly even required) may be making abuse of the FMLA's intermittent leave provisions a more attractive prospect to potential abusers. There are also incentives for officers to take foreseeable (non-intermittent) leave. Officers on FMLA leave are still entitled to health benefits even though they are not working. Also, as previously indicated, officers on FMLA leave are currently not prohibited from working a second job while they are on FMLA leave from the Jail.

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A portion of the Jail's corrections officers likely perceive an opportunity to successfully engage in abuse because Jail administration does not have a good track record with respect to preventing FMLA abuse. For some, the expectation that abuse will go unpunished may be all that is needed to rationalize the fraud. Unfortunately, those officers who are not drawn into engaging in abuse simply because the act may likely go unpunished may not be short of other factors that permit them to rationalize engaging in FMLA abuse. Some corrections officers may just have a poor work ethic which permits them to rationalize abuse.

Part-time officers typically have to work part-time for a number of years before the opportunity to interview for a full-time position is even presented to them. Because part-time officers work so long for less pay, without benefits, and often doing less desirable work without the ability to take leave time if needed, they could feel that they are being taken advantage of. Full-time officers able to rationalize engaging in FMLA abuse for these reasons would likely view the benefits they gain from abuse as simply a return on the time they invested as a part-time officer. While conditions for part-time officers improve once they are promoted to full-time, many officers may still believe that they deserve more money, extra days off, better work assignments and the ability to change their schedule to one that suits them better. Unfortunately, engaging in FMLA abuse enables officers to achieve these things.

When officers take FMLA leave days, other officers must work their shifts. Officers can sign up to volunteer for overtime, but once the pool of volunteers for a particular shift has been exhausted, to the extent necessary, officers on duty during the preceding shift are forced to remain at the Jail and work an additional shift. Officers approved for FMLA leave may be able to avoid working the additional shifts. Forced overtime appears to be having a significant adverse impact on morale, not just because the overtime is unwanted, but because it is often perceived as an unnecessary burden placed on those who are playing by the rules by those who are likely engaging in FMLA abuse. This perceived injustice could enable an officer who had not previously engaged in FMLA abuse to rationalize engaging in such abuse.

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The Jail's corrections officers are aware that the Jail does not have enough officers under its employ to prevent significant overtime from occurring. If officers were unable to get overtime for some reason (i.e. as a result of a campaign by the Jail to eliminate overtime), the potential benefits to be derived from FMLA abuse, and therefore the incentive to engage in such abuse, would be somewhat limited. Based on this, eliminating the expectation that overtime will be available should be a critical component of the Jail's overall strategy for curbing FMLA abuse.

We have already suggested that improving the working conditions for part-time officers will be necessary to facilitate hiring enough officers to meet the Jail's future staffing needs. Although reducing the disparity between part-time and full-time corrections officer positions will probably not do much to prevent current full-time officers from attempting to engage in FMLA abuse, the next generation of part-time officers may not feel so inclined to engage in abuse once they are promoted to full-time positions.

The Jail's payroll department already appears to recognize that more aggressive monitoring for FMLA abuse needs to occur. Some have suggested that hiring private investigators to assist in the identification of FMLA abusers may be the next logical step for the Jail to take. However, there is a substantial cost associated with the use of private investigators, and there is no guarantee that utilizing private investigators will result in the identification of a significant amount of abuse. In addition, there is no assurance that the evidence obtained during the investigative process will be adequate to mete out punishments, or that identifying officers engaging in FMLA abuse in that manner will prevent future abuse. The use of private investigators may be warranted in the future as a last resort if the Jail is unable to stop the suspected abuse using more conventional means. We believe the Jail should focus first on implementing on a consistent basis the other enforcement measures we have identified. Our research indicates that other entities have already achieved varying degrees of success by doing so.

Clearly, Jail administration cannot afford to continue to take a passive approach in addressing suspected abuse of the FMLA. Communicating a zero tolerance policy with respect to FMLA abuse

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and conducting high quality monitoring for compliance in a vigorous fashion should both reduce abuse and consequently overtime and address the Jail's morale problem.

Recommendations

The Jail should attempt to reduce opportunities to engage in FMLA abuse through the following:

- Each of the departments whose participation is necessary to prevent FMLA abuse should continually monitor for regulatory changes and other developments that may improve the Jail's ability to prevent FMLA abuse, and communicate with each other regarding such changes and developments.
- The Jail's payroll department should utilize one well-trained individual with up-to-date knowledge to exclusively monitor for compliance with the FMLA and initiate action to address deviations.
- The County Human Resources Department and the Jail's payroll department should implement the measures that have not yet been implemented to prevent FMLA abuse, and also apply the procedures that are currently being utilized to prevent such abuse on a more consistent basis.
- Both departments should consult with the County Law Department more frequently to help ensure that actions taken in response to suspected abuse are appropriate under the circumstances and are legally admissible.

The Jail should attempt to eliminate perceived incentives to engage in FMLA abuse as well as address the factors that may influence the officers' ability to rationalize engaging in abuse.

- Eliminate the expectation that overtime will be available and may be required (see recommendations on hiring additional staff).
- Prevent full-time officers from holding a second job while on FMLA leave from the Jail.
- Improve the working conditions for part-time officers.
- Attempt to eliminate forced overtime to improve morale.

The Jail should adopt a "zero tolerance" policy with respect to FMLA abuse once the required personnel resources are in place,

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monitoring roles and responsibilities have been communicated, and vigorous (comprehensive) monitoring for FMLA abuse is being conducted.

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Reducing the Number of Officers Required to Operate the Jail Facility

Over the past several years, Jail administration has eliminated several positions. However, Jail administration has added more positions than the number of positions that have been eliminated. We deemed it necessary to determine why additional posts have been added over the past several years, and whether those posts are actually necessary for the safe and effective operation of the Jail facility.

The Allegheny County Jail operated for many years with staffing levels below those required for accreditation by the American Correctional Association (“ACA”). The ACA offers various types of accreditations. The type of accreditation that a particular facility may be eligible to earn is dependent upon the nature of the inmate population housed at the facility and the standards utilized at the facility. At least two of the alternative housing facilities that Allegheny County inmates are housed in have earned an Adult Community Residential Standards (“ACRS”) accreditation. Although there are currently 83 ACA-accredited agencies in Pennsylvania, only the Federal detention center in Philadelphia has been awarded the Adult Local Detention Facility (“ALDF”) accreditation, the same accreditation earned by the Allegheny County Jail. The Jail derives no direct monetary benefits to offset the added costs associated with obtaining and maintaining the ACA accreditation. The primary benefit of the accreditation is to demonstrate that the Jail is being operated in a safe and responsible fashion. The ACA accreditation is important to the Jail’s current administration.

In prior years, staffing levels were set based on the assessment of staffing needs conducted by the administration of the Jail at that time. To be clear, operating with staffing levels below those required for accreditation does not mean that safety was not considered in the Jail’s staffing decisions or that safety was compromised. In fact, there is little evidence to suggest that the Jail was not operated safely and effectively during that time period. Jail administration increased staffing levels and made other improvements to the Jail facility a few years ago to facilitate earning accreditation from the ACA. However,

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only a portion of the positions added over the past several years can be directly attributed to attempting to ensure compliance with accreditation requirements. We believe the positions that were added over the past several years that were not associated with the accreditation process may have been added because adding the positions was perceived as much easier than dealing with other underlying problems.

Although relations may have recently improved somewhat, labor-management relations have historically been quite adversarial. This is evidenced by the fact that the collective bargaining agreement between the Jail and its corrections officers has historically gone to arbitration. When that type of relationship exists, it is more difficult to hold officers accountable for their performance. Under those circumstances, it is much easier to create an additional post to ensure that specific functions are accomplished than it is to hold officers accountable for their performance.

For example, a "Phone Operator" position was created and has been staffed for all three shifts (7-3, 3-11, and 11-7) every day. This position was initially added at the request of County management due to public complaints regarding phone calls that went unanswered and an inability of those who answered the phone to help the caller in a meaningful way. Since then, however, it does not appear that any measures have been taken to address the problem in a more cost-effective fashion, or that there is any interest in doing so. There are a number of individuals who work in the Jail's visitor center and in other locations who should be able to answer the telephone. If they were better trained to respond to phone calls, instructed to answer the phone within four rings, and monitored to ensure they were doing so, a specific post for answering the phone would not be necessary. There is also call routing technology that should be available at a reasonable cost that would help route calls to the proper place without utilizing any additional human resources.

Understanding what management is trying to accomplish and the expectations that it has of its workforce, and understanding that management is willing to provide incentives for achievement of desired results may prompt the labor unions to work in cooperation with management in some respects as opposed to engaging in an

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adversarial relationship. However, it appears that labor is currently being provided with very little incentive to focus on anything but its own objectives. As a result, the overtime problem is currently being perceived as management's problem, when it should be perceived as a common problem. There are many changes that could be made to reduce the incurrence of overtime and the cost of that overtime. Based on this, it appears that management should change the approach it takes toward contract negotiations. Management should establish expectations with respect to productivity and attendance, and additional compensation or other benefits provided should be contingent upon the achievement of those results. When absenteeism or a lack of productivity is evident, it should be documented and addressed during negotiations.

There should also be budgetary controls in place that prevent the addition of unnecessary posts. The Allegheny County Office of Budget and Finance (the "Budget Office") should assist in planning for and monitoring the expenditures of each County department to ensure that required services are provided and resources are employed efficiently and effectively in the achievement of that objective. While the Budget Office bears some responsibility for ensuring budgetary control, Jail administration is in a better position to identify such waste because it has firsthand knowledge with respect to the operation of the Jail facility. There is an expectation on the part of the Budget Office and County management in general that Jail administration will consider all of the relevant factors, including cost, before making such decisions. However, we noted that Jail administration seems to frequently use safety as the justification for adding posts, without adequate consideration to cost.

We also suspect that a number of positions may have been added over the past several years in part as a response to suspected FMLA abuse, to help Jail administration ensure that there would always be enough officers in the facility to effectively operate it. However, adding the positions as regular posts that are required to be staffed every day has only compounded the overtime problem, since the positions must be filled using overtime if officers are not available to work regular time.

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While we did gain a limited understanding of the Jail's operations during the performance of our procedures, we do not believe our understanding is adequate to enable us to recommend eliminating specific posts. We have identified certain posts that we believe could be posts that might be evaluated for elimination (Exhibit 3), but the list we have provided is not intended to be all-inclusive. Since Jail administration is more knowledgeable about the operation of the facility, we believe Jail administration should take a hard look at each post and reevaluate whether it is appropriate to staff them based on consideration of all of the relevant factors, including cost and consolidation of duties. Reducing the number of posts that must be staffed, whether it involves the posts we have identified or other posts determined to be non-essential, would assist in eliminating excess overtime, since the displaced officers could be used to fill other positions for which overtime would have otherwise been utilized.

In addition to eliminating posts, the Jail may be able to reduce its compensation costs and the need for overtime by shortening certain shifts. For example, there are a number of inmate pods that are currently locked down (inmates are required to leave the common area and return to their cells) at 9PM or 10PM. When pods are locked down, only one officer is necessary, since duty is limited to patrolling the hallways. However, all officers assigned to the pods currently work until 11PM. Locking down those pods at 8PM would enable the Jail to schedule all but one officer in each pod for five hour shifts. Locking down the pods early would have no impact on compliance with the law, since inmates are only entitled to one hour out of their cells for recreation/exercise per day. Currently, inmates get much more time for those purposes each day.

The fact that the Jail's inmate population is at the high end of available capacity tends to lend some credence to the claim that more officers are necessary to ensure safety. However, during the course of performing our procedures, we determined that not enough is being done to reduce the Jail's inmate population.

We were made aware of the efforts being undertaken by the Allegheny County Jail Collaborative ("Collaborative") which was formed in 2000 to more effectively accomplish the goals of the corrections process. In theory, the primary goal of the corrections

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process should be to bring about behavior modification in those convicted of crimes so that they do not continue to engage in criminal behavior. While most would acknowledge that there are at least a limited number of “hardened” criminals for whom such behavior modification is not likely to be achieved, it is generally believed that most individuals would benefit from some form of treatment or counseling more than just being incarcerated. The Collaborative is attempting to bring about a change in how convicted criminals are handled. After an evaluation of their crimes and other relevant factors, convicted criminals could be immediately transferred to drug and alcohol treatment facilities, alternative housing programs, or other programs collectively deemed appropriate by the entities involved in the criminal justice process in lieu of incarceration in the Allegheny County Jail.

While the efforts of the Collaborative may be worthwhile, it is not clear at this point whether the Collaborative will achieve success with respect to what it is trying to accomplish. To bring about such a change will likely require the participation and cooperation of the Allegheny County Jail, the Courts, the District Attorney’s Office, the County Police, the Department of Human Services and the Health Department. Even though a change in the manner in which convicted criminals are handled may occur in the future, it is not clear exactly when that might happen, or whether changes will occur to the extent that they are currently envisioned. Based on this, the Jail should be focusing more on what it can be doing right now to reduce the inmate population.

We are aware that Jail policy properly prohibits inmates convicted of violent crimes and other serious offenses from being housed in alternative housing programs. However, it appears that there are many female inmates in the Jail whose offenses would not prohibit them from serving their time in alternative housing. We were advised that transferring female inmates to alternative housing facilities is difficult because they are often subject to multiple detaining orders issued by other jurisdictions. This occurs because frequently moving from place to place is generally a characteristic of the lifestyle of women who are convicted of crimes in Allegheny County. It appears that instead of attempting to contact the other jurisdictions or taking whatever other steps may be necessary to speed up the process of transferring

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particular female inmates to alternative housing programs, the current practice is generally to passively wait until the circumstances requiring the inmates to be housed at the Jail facility change. Consequently, the female inmates remain incarcerated, and corrections officers must be staffed to monitor the pods in which they reside. Even if the Jail were unable to reduce the number of corrections officers staffed to monitor inmate pods as a result of transferring these inmates to alternative housing facilities, it is possible that other posts could be eliminated, shifts shortened, or other cost reductions achieved as a result of the reduction in services utilized by the inmates (fewer inmates who need medical transportation to outside healthcare providers would reduce the need for overtime to handle the trips, fewer meals prepared would likely enable the kitchen officer shift to be shortened, etc.).

There is not a lack of space for inmates in the alternative housing programs. In fact, we are aware that at least one of the organizations that administers an alternative housing program utilized by the Jail acquired and renovated additional space to accommodate more female inmates. This organization had an expectation that the Jail would route more female inmates that were approved to reside in alternative housing to its program. Incidentally, that organization has also been accredited by the ACA.

Recommendations

We recommend that Jail administration:

Carefully analyze the Jail's current operating structure to identify circumstances where posts can be consolidated, restructured, or eliminated, or shifts shortened to prevent a wasteful use of the County's limited resources.

Attempt to work with labor as a partner to improve labor-management relations and facilitate holding officers accountable for their performance.

Take steps to reduce the inmate population by addressing the conditions that prevent inmates with qualifying offenses from being transferred to alternative housing programs.

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Making More Officers Available for Work at the Facility

We determined that there are a number of ways the Jail can reduce the need for overtime by changing the manner in which it operates. We identified a number of conditions that result in officers being unavailable to perform necessary functions at the Jail facility.

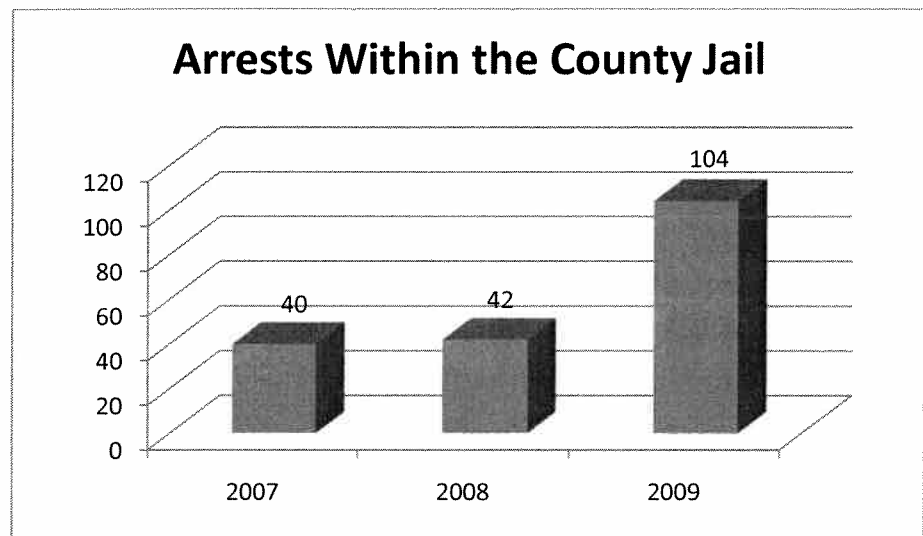
Scheduling of activities often occurs without consideration of the Jail's staffing needs. For example, required weapons training has been conducted in the summer months when the maximum number of corrections officers are on vacation. Conducting the weapons training at an indoor facility (and conducting any other activities that impact the availability of officers to work at the facility) in one of the winter months when more officers are available to cover shifts at the Jail facility would help to reduce the need for overtime.

Pursuant to current Jail policy, inmate medical trips to external facilities are always staffed with at least two of the Jail's corrections officers (two Sheriff's deputies may also participate in the transportation process on occasion), which is more than what is required by the applicable regulations and ACA standards. The Jail's policy was implemented in the interest of safety, and we would hesitate in most cases to argue that one officer is sufficient for that type of duty. However, planned medical trips frequently occur simultaneously at the beginning of the 7-3 shift, staffed by officers working overtime (possibly forced). This is done to ensure that officers are available for the duty since there are not enough officers available to meet the Jail's staffing needs using regular time. Based on the Jail's current policy, if there were three planned medical trips scheduled to occur on a given day, six officers would typically be working overtime to transport the inmates. Although the Jail may be somewhat limited by the availability of external medical practitioners, the Jail should consider staggering the external medical trips to the extent possible so that fewer officers would be necessary for the transports. We are aware that it is not currently possible to staff inmate medical trips to external facilities with officers working regular time because there are not enough officers available to meet the Jail's

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current staffing needs using regular time. However, ideally that is how such medical trips would be staffed.

We also noted that in recent years, more officers have been required to spend time in court than was necessary in prior years. This is significant, because in addition to the officers attending court being unavailable to perform functions at the Jail facility during that time, officers required to attend court functions for at least one hour are currently entitled to four hours of overtime for their time in court. We determined that the increase in the number of subpoenas issued to corrections officers was partially attributable to a significant increase in the number of arrests that have been made inside the Jail facility.



However, it was also brought to our attention that there has been a lack of restraint exercised when issuing subpoenas. Instead of limiting subpoenas to those officers directly involved in incidents and the officer in charge at the time, it is possible that every officer that witnessed a particular incident was issued a subpoena to appear in court and testify. A large number of subpoenas have also been issued for legal proceedings of lesser importance, such as preliminary hearings. To be clear, subpoenas are not issued by the Jail. The Allegheny County Police who work in conjunction with the Jail's Internal Affairs Division at the Jail Facility are involved in that process. We learned that the condition we described was attributable to a lack of knowledge regarding best practices. The condition had already been identified and communication regarding the condition has

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occurred, so there is an expectation that improvement will occur in this area.

Recommendations

We recommend that Jail administration:

- Consider the Jail's staffing needs prior to scheduling activities that will prevent officers from performing their regular duties at the facility.
- Attempt to stagger the scheduling of inmate medical trips to external healthcare facilities to reduce the number of officers that must work overtime to complete the trips.
- Attempt to accomplish the inmate medical trips using regular time once enough officers are under the Jail's employ.
- Monitor the issuance of subpoenas to ensure that unnecessary subpoenas (which require the payment of overtime compensation) are not being issued.

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Other Matters for Consideration

Buddy Days

The Jail implemented a “buddy day” policy in 2005, which was revised in 2007. The policy permits officers to exchange shifts or days off and is intended to reduce employee call-offs and overtime expenditures. Because each officer involved in a buddy day exchange is still required to work only one shift, there is typically no overtime associated with such exchanges. A claim has been made that the Jail’s buddy day policy is responsible for a significant portion of the excess overtime. We reviewed the Jail’s buddy day policy, and determined that it does contain sanctions for abuse. The first offense warrants a 90-day suspension from participation, the second offense warrants a 180-day suspension, and officers who violate the policy three times are suspended from participating in buddy day exchanges indefinitely. Because Jail administration is enforcing the “three strikes and you’re out” provision of its buddy day policy, each officer could only cause an overtime shift to be incurred three times at most.

We tested a small sample of buddy day exchanges to determine whether the proper amounts were paid to the officers involved in the exchanges and whether violations of the policy were enforced. We verified that the officers involved in the exchanges were paid the proper amounts and that violations of the policy were identified and subject to the appropriate sanctions.

We have been advised that as a result of a decision issued in connection with a matter resolved via binding arbitration the Jail cannot abolish its buddy day policy. However, we believe abolishing the buddy day policy would be a step in the wrong direction. The policy provides officers an opportunity to obtain time off that is important to them without using leave time and without the Jail paying overtime. The buddy day policy is the only means for officers who are not engaging in FMLA abuse to take time off without using leave time. By eliminating such an opportunity, the Jail would likely be subject to a greater degree of absenteeism and abuse, and therefore additional overtime expenditures.

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Medical Trips

Many members of Jail administration have suggested that the high volume of inmate medical trips to external healthcare facilities has caused a substantial amount of the excess overtime. It was suggested that the medical facilities at the Jail are more than adequate to treat some of the conditions for which treatment at external facilities is prescribed.

Inmate Medical Trips to External Healthcare Facilities

<u>Year</u>	<u>Planned Trips</u>	<u>Emergency Trips</u>
2007	485	218
2008	502	299
2009	522	294
2010 (as of 4/30)	188	120

The Controller's Office Audit Division has no medical practitioners on staff, and is therefore not in a position to second guess medical diagnoses. However, we believed it was important to review a sample of 2009 inmate medical trips to external facilities to determine whether the inmate's medical file contained an authorization for the external treatment.

We noted that authorization for an external medical trip was not contained in the inmate's medical file for three (3) of 30 (10%) external medical trips during 2009 that were selected for testing. We also noted that one (1) file (3%) contained an "Emergency Departure Referral Diagnosis & Approval Form" but was not signed by the attending physician. Yet although signed approval forms were not contained in four (4) of 30 inmate files (13%), we did observe that the inmate medical files generally contained sufficient documentation related to the medical conditions that were treated at external facilities. Based on the results of our test, it is clear that improvement can be made with respect to ensuring that signed authorization forms for inmate transport to external medical facilities are included in the inmates' medical files.

We agree with Jail administration's claim that inmate medical trips have contributed to the Jail's overtime problem. While it is possible that some unnecessary external medical trips may be occurring, we

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know that the Jail's current practice of using planned overtime for all planned medical trips is responsible for the incurrence of much more overtime than could be attributed to that caused by unnecessary external medical trips. We have estimated the average hours paid for overtime shifts in 2009 attributable to medical trips to be 10 hours, and based on that estimate, using planned overtime for all 2009 planned medical trips was responsible for the incurrence of approximately \$400,000 in overtime.

To reduce overtime related to external medical trips, Jail administration must utilize one or more of the approaches we've identified to ensure that enough corrections officers are available to work regular time at the Jail facility, whether it be hiring more part-time officers, reducing leave time taken in connection with efforts to curtail FMLA abuse, reducing the number of posts required to be staffed, or otherwise changing the way the Jail operates. Once enough officers are available to work regular time at the Jail facility, the Jail could create two new daylight positions whose primary responsibility would be inmate medical transportation, or could staff those external trips with experienced officers available as a result of "extra" officers being scheduled for the daylight shift. Either method would help to reduce overtime.

Inflated Pension Payments

There are additional reasons to focus on the elimination of overtime other than the obvious immediate financial cost associated with the overtime. We previously indicated that forced overtime seems to be having a significant adverse impact on morale. In addition, senior officers in the last few years of their employment before retirement typically volunteer for a lot of overtime. Officers with the most seniority are given the first preference for overtime as required by the collective bargaining agreement. Volunteering for the overtime, which the senior officers are certain to get, enables the officers to receive monthly pension payments upon retirement that are significantly higher than they would have normally been entitled to receive based on their regular annual salaries. The cost associated with such inflated pension payments is not included in the overtime amount that prompted this analysis, but the cost is real and substantial.

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We developed the data in Exhibit 4 with the assistance of the Retirement Board of Allegheny County. The Exhibit shows how overtime worked by five specific officers in the last two years of their employment significantly increased their monthly pension payments.

Post-Implementation Issues

It is important to note that while most corrections officers may dislike being “forced” or required to work overtime, some officers have most likely built earnings from overtime into their annual budgets. If Jail administration focuses on eliminating overtime, these officers will be dissatisfied, and could attempt to create a need for overtime when they perceive the greatest opportunities to do so exist (i.e. when a number of part-time officers quit within a short period of time). This underscores the need to be able to hire part-time officers to control overtime, and makes the argument for improving the working conditions of part-time officers more compelling.

Recommendations

We recommend that Jail Administration:

- Do not alter the current buddy day policy.
- Attempt to accomplish the inmate medical trips using regular time once enough officers are under the Jail’s employ.
- Eliminate routine overtime to help reduce pension costs.
- Utilize the hiring of part-time officers as necessary to help control overtime.

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We have provided a number of recommendations to address conditions we identified during the performance of our analysis. However, attempting to implement all of our recommendations concurrently would be quite challenging. It would also not be possible since some of the recommendations we have made cannot be implemented until other preliminary steps are accomplished.

We believe that the Jail should first focus on preventing overpayments of compensation. While a software solution that provides fully-integrated time and attendance and payroll processing functions is ideal and the Jail's payroll department may conclude that seeking such a solution down the road is advantageous, it is very important that the Jail's payroll department immediately begin to reconcile the independently-developed data from the Kronos and BTTE systems to minimize the potential for overpayments of compensation. The department should also require the manual forms used to document time and attendance be completed accurately and in their entirety. Finally, the Roll Call Book used for each shift should be reviewed and signed by the Shift Commander, and Shift Commanders should be held accountable for reporting the proper number of hours for each officer on the Overtime and Dock Record, at least until a more effective means of tracking officer arrivals, departures, and work assignments is developed.

After taking steps to prevent overpayments of compensation, the Jail should focus on reducing the Jail's daily staffing needs by improving the Jail's operating structure, particularly the number posts that are staffed daily on a mandatory basis and the way they are organized. We alluded earlier to an analysis we conducted that demonstrated that the Jail currently has a shortage of officers available to work regular time at the facility based on the current operating structure. Consequently, streamlining the operating structure by consolidating or eliminating posts, creating "floater" positions, or shortening certain shifts will not require any officers to lose their jobs. It would likely only result in some junior officers performing different job duties, a sharp reduction in overtime, and a better overall use of the Jail's human resources. If Jail administration elected to implement our suggested post reductions (identified in Exhibit 3), it would reduce the Jail's salary costs by approximately \$1 million annually.

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To ensure that the facility operates effectively and efficiently with a reduced number of posts that are required to be staffed on a daily basis, Jail administration will also need to take more steps to hold officers accountable for their performance, and create an environment where rewards are tied to performance.

Once these changes have been implemented, Jail administration should focus on changing certain other aspects of the Jail's operations that will make more officers available for work at the facility. A review of the Jail's planned activities should be conducted to ensure that as many required activities that do not directly relate to the normal operation of the facility (such as mandatory weapons training) as possible are scheduled in the winter months when the fewest officers are on vacation, and steps should be taken to ensure that the Jail's daily staffing needs are taken into consideration when future activities are planned. A process should be put in place to ensure that changes in scheduling needs are communicated to the scheduling function in a timely fashion, to facilitate the development of the most useful (accurate) weekly schedules and prevent the need to utilize overtime. The number of subpoenas issued should also be monitored to help ensure that officers are not unnecessarily prevented from performing their normal duties at the facility.

To the extent that routine overtime is still necessary, part-time officers should be hired. We indicated earlier that because there is a shortage of officers available to work regular time at the facility, there is typically a deficiency of at least 9 officers scheduled for the 3-11 shift before any call-offs occur, which means that a significant amount of overtime is paid every day to cover posts that could be covered, and should be covered, using regular time. The cost associated with just that routine overtime in 2009 was approximately \$1 million. However, before attempting to hire additional part-time officers, consideration should be given to improving the value proposition of the part-time officer position using the suggestions we have provided (uniform allowance, sick/personal days) or some other method. The hiring of part-time officers is critical to ensuring that routine overtime is not incurred.

After addressing the aforementioned items, the Jail should work to strengthen its monitoring for FMLA abuse. It has been alleged that

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FMLA abuse is one of the largest causes if not the largest cause of the Jail's overtime problem. If that were the case, attempting to address the Jail's monitoring for FMLA abuse before dealing with any of the other issues we have identified would certainly be logical. We determined that overtime paid in 2009 that was attributable to FMLA leave time taken was approximately \$1.4 million. That amount includes overtime attributable to officers with legitimate reasons for FMLA leave as well as those suspected of engaging in abuse. The amount of overtime associated with suspected FMLA abuse was approximately \$500,000. While curtailing FMLA abuse is important, it is obvious that the other factors at work are having a more significant impact on the incurrence of overtime at the Jail, given that the total overtime paid by the Jail in 2009 was approximately \$4.1 million. Another reason to focus on the other issues we have identified first is that addressing the FMLA abuse problem is not as simple as applying a band-aid. As we previously indicated, the Jail's payroll department, the County Human Resources Department, and the County Law Department must work together to provide the greatest opportunity to prevent abuse. Each department must have personnel dedicated exclusively to preventing such abuse, personnel who have up-to-date knowledge regarding the law and abuse prevention techniques and communicate effectively with the other departments as needed. We have suggested that Jail administration should adopt a "zero tolerance" policy with respect to FMLA abuse, but adopting such a policy without a means to provide effective enforcement of the policy will have no impact. To ensure that the policy is effective, great care will have to be exercised to ensure that enforcement efforts are well coordinated so that each department understands its role in the process, and that qualified people are selected to engage in monitoring. Monitoring for FMLA abuse must be conducted in a vigorous fashion and on a consistent basis, and perceived violations of the law or the Jail's time and attendance policies must be dealt with aggressively but within the limitations of the law.

One of the reasons that FMLA leave time has had such a significant impact on overtime at the Jail is that many of the other conditions we have suggested that Jail administration address before attempting to tackle FMLA abuse have contributed to the shortage of officers available to work regular time at the facility. A shortage of officers available to work regular time at the facility has made the Jail

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exceptionally vulnerable to the impact of FMLA leave. Such a shortage means that overtime must be used to staff shifts not filled as a result of officers taking leave time. No matter how strong enforcement measures become, there is no guarantee that the Jail will be able to completely eradicate FMLA abuse. First implementing the other changes we have suggested should help to reduce overtime and the extent to which the Jail is susceptible to the impact of FMLA leave time.

Once enforcement measures are strengthened, attempting to address the perceived incentives to engage in abuse and the ability to rationalize engaging in abuse should also go a long way toward preventing abuse. Strengthening enforcement measures and effectively curtailing abuse should eliminate the expectation of punishment avoidance. The key incentive that the Jail should focus on addressing is the expectation that overtime will be available. Reducing the number of officers required to operate the facility, taking steps via scheduling changes and other measures to make more officers available to work at the facility, and hiring additional part-time officers to the extent necessary to address the Jail's daily staffing needs will reduce the need to incur overtime.

Finally, Jail administration should focus on reducing the inmate population by ensuring that all qualifying inmates are transferred to alternative housing facilities. Reducing the number of inmates housed at the Jail facility will help to reduce the Jail's daily staffing needs, since fewer officers will be required to staff inmate pods.

We understand that Jail administration has been unable in the past to implement all of the changes in the operating environment it sought to make. The Jail needs to work to make the labor unions partners instead of adversaries. Attempting to make changes without clearly explaining the rationale for the changes creates suspicion that the proposed action is intended to diminish the other's position. Jail administration should consider establishing a small task force which would include labor representation (and possibly independent parties if deemed necessary and appropriate) to work on resolving the Jail's overtime problem, which should involve developing an approach to implementing the recommendations contained in our report. This

IV. Proposed Action Plan

would help both sides gain a more accurate picture of the problems faced and facilitate the development of mutually beneficial solutions.

Clearly, a streamlining of the Jail's operating structure would also benefit the Jail's corrections officers. While some officers who desire to earn overtime may not get the overtime they seek, a reduction in the number of posts that are required to be staffed every day would likely eliminate the need for any officers to work forced overtime. Less forced overtime should lead to reduced stress levels and higher morale. Given that there would be no loss of jobs, but reduced stress and improved morale, labor unions should welcome improving the Jail's operating structure, especially if they get to have some input into how those changes are implemented.

We project that a savings of approximately \$1,000,000 per year can be realized from improving the Jail's operating structure by consolidating posts, eliminating unnecessary posts, shortening shifts or utilizing other appropriate measures. We believe the Jail has the potential to save up to \$500,000 per year in overtime costs by improving FMLA abuse prevention measures. The Jail could realize cost savings of as much as \$325,000 per year by working more diligently to transfer qualifying inmates to alternative housing programs. Staffing inmate medical trips to external healthcare facilities using regular time should bring about a net cost reduction of at least \$100,000 per year. Hiring additional part-time officers only to the extent necessary to eliminate any remaining routine overtime should result in a net savings of about \$22,500 per each officer hired.

EXHIBIT 1

Computation of Jail Annual Staffing Requirements

Number of Employees per Shift Needed in Each 7 Day Week:

	7-3 shift	3-11 shift	11-7 shift	Total
Sunday	95	91	69	255
Monday	121	101	70	292
Tuesday	121	101	70	292
Wednesday	120	101	70	291
Thursday	121	101	70	292
Friday	120	101	68	289
Saturday	98	91	68	257
	<u>796</u>	<u>687</u>	<u>485</u>	<u>1,968</u>

Total Employees for Shifts That Need Covered	1,968
x Hours in a Standard Shift	8
	<u>15,744</u>

Less adjustments for short shifts:

7-3 M-F (9 shifts x 5 days x 2 hours)	(90)
7-3 S/S (5 shifts x 2 days x 2 hours)	(20)
3-11 (14 shifts x 7 days x 3 hours)	(294)
	<u>15,340</u>

x Weeks in a Year	52
Hours Needed in a Year	<u>797,680</u>

Computation of Jail Available Staffing

	Full-Time Officers	Part-Time Officers	Total
Regular Hours Worked in a Week	40	32	
x Weeks in a Year	<u>52</u>	<u>52</u>	
Regular Hours Worked in a Year (no days off)	2,080	1,664	
Less:			
Average Vacation / Holiday Entitlement in Hours (2010)	(263)		
Average Sick Time Used in Hours (2009)	(92)		
Hours of Mandatory Training Time	<u>(40)</u>		
Average Regular Hours Actually Worked in a Year	1,685	1,664	
x Total Number of Officers	<u>414</u>	<u>50</u>	
Total Regular Hours (Estimate)	<u>697,590</u>	<u>83,200</u>	<u>780,790</u>
Staffing Requirements Satisfied - All Officers (Estimate)	<u>87.45%</u>	<u>10.43%</u>	<u>97.88%</u>
Average Regular Hours Actually Worked in a Year	1,685	1,664	
x Total Number of Officers Available (not on family leave)	<u>394</u>	<u>50</u>	
Total Regular Hours Available (Estimate)	<u>663,890</u>	<u>83,200</u>	<u>747,090</u>
Staffing Requirements Satisfied - Available Officers (Estimate)	<u>83.23%</u>	<u>10.43%</u>	<u>93.66%</u>

EXHIBIT 2

Techniques That Can Be Used to Combat FMLA Abuse

For All FMLA Leave

Application Process Steps

- Utilize the leave application developed by the US Dept. of Labor.
- Verify that each officer who files an FMLA leave application qualifies for leave by making sure that they were employed for at least 12 months and had at least 1,250 hours of service in the most recent 12 months.
- Require all paid leave (vacation and sick time) to be used before FMLA leave is granted.
- Ensure that each application is complete by following up on any missing information.
- Notify an officer in writing if necessary information is missing, and allow only seven days to cure the deficiency.
- Contact an officer's healthcare provider directly if the provider did not supply adequate information concerning the officer's serious health condition and need for leave.
- Require a second and possibly a third medical opinion from a County-selected physician if a request for FMLA leave is deemed questionable.

Monitoring Process Steps

- Require recertification of an officer's medical condition each time an officer attempts to take FMLA leave beyond the period provided for in their approved leave application.
- Require each officer to recertify their medical condition every 30 days (once their initial leave period expires).
- Make limited inquiries each time FMLA leave is taken to ensure that the leave is being taken for the qualifying reason described in their approved leave application.
- Take steps to identify suspicious leave patterns (i.e. Monday/Friday) and require recertification of an officer's medical condition each time such a pattern is identified.
- Take steps to ensure that each officer is not permitted to take more than 12 weeks of FMLA leave time per year calculated on a rolling 12-month basis.

Other Steps

- Establish a policy that prohibits full-time officers from working a second job while they are on leave from the Jail.
- Work with officers to schedule medical treatment during non-work hours.
- Move officers who are frequently absent to shifts less disrupted by frequent absences.

Additional Steps for Foreseeable Leave

- Establish and enforce a 30-day notice period.
- Require a "fitness for duty" certificate from an officer's healthcare provider before allowing the officer to return to work.

EXHIBIT 3

Possible Staff Reductions for Consideration

Positions	Days	Shift	Reduction in Hours		Cost
			per Week	per Year	Savings*
<i>Eliminate:</i>					
3rd Supply Officer	M-F	7-3	40	2,080	\$ 56,160
2nd Property Officer	SS	7-3	16	832	22,464
Phone Operator	All	7-3	56	2,912	78,624
Intake System Officers (2)	M-F	7-3	80	4,160	112,320
2nd Property Officer	SS	3-11	16	832	22,464
Phone Operator	All	3-11	56	2,912	78,624
Intake System Officers (2)	M-F	3-11	80	4,160	112,320
Phone Operator	All	11-7	56	2,912	78,624
Intake System Officers (2)	M-F	11-7	80	4,160	112,320
<i>Change Shift:</i>					
Kitchen Officer	All	3-11			
to					
Kitchen Officer	All	3-8	<u>21</u>	<u>1,092</u>	<u>29,484</u>
			<u>501</u>	<u>26,052</u>	<u>\$ 703,404</u>

* At regular time, using an estimated average hourly rate of \$27

EXHIBIT 4

Examples of Inflated Pension Payments Attributable to Overtime

	Current Age	Years of Service	Final Regular Monthly Salary	Average Monthly Salary for Last 2 Years Employed	Projected Monthly Pension Payment Without Overtime	Actual Monthly Pension Payment With Overtime	Portion of Actual Monthly Pension Payment Attributable to Overtime	Portion of Actual Monthly Pension Payment Attributable to Overtime Annualized
Officer A	55	30	\$ 4,843.44	\$ 5,935.54	\$ 2,918.41	\$ 3,576.46	\$ 658.05	\$ 7,896.60
Officer B	55	20	4,764.93	7,035.31	2,386.51	3,523.63	1,137.12	13,645.44
Officer C	55	29	4,668.83	7,124.32	2,762.54	4,215.46	1,452.92	17,435.04
Officer D	55	34	4,843.44	7,121.36	3,108.03	4,569.78	1,461.75	17,541.00
Officer E	55	24	4,753.75	11,827.63	2,575.10	6,407.02	3,831.92	45,983.04



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RAMON RUSTIN
WARDEN

GREGORY GROGAN
DEPUTY WARDEN

LANCE BOHN
DEPUTY WARDEN

November 30, 2010

Ms. Lori Churilla
Assistant Deputy Controller, Auditing
104 Courthouse
436 Grant Street
Pittsburgh, PA 15219

Dear Ms. Churilla:

I am in receipt of the draft copy of your report entitled *Allegheny County Jail Overtime Analysis Report for the Year Ended December 31, 2009*.

As requested, specific responses have been prepared to the recommendations on page 18, 25-26, 37-38, 44, and 47 of the draft and are enclosed. In addition to these responses being sent to Jeff Vargas electronically, a signed copy will be sent to you.

I appreciate having had the opportunity to work with your office on this audit. I believe that the common goal of both the Audit as set for the in the recommendations and the Jail as set forth in our responses is to efficiently maintain the day to day operation of the Jail. If you should have any questions, please feel free to contact me. Thank you.

Sincerely,

Ramon C. Rustin
Warden



1. We recommend that the Jail take steps to tighten up the internal control over the time and attendance and payroll processing functions.

- Jail administration should consider whether a more effective means of tracking officer arrivals and departures (for purposes of completing the manual timekeeping forms) could be implemented.

Current visual identification is required for real-time post assignments and post replacements.

- The Jail's payroll department should closely review the Overtime and Dock Record and route the form back to the Shift Commander for proper completion if adequate information about overtime hours worked has not been documented for each officer.

Payroll currently closely reviews Overtime and Dock Records. Missing information is retrieved via completed roll call books and Kronos timekeeping system. Routing the form back to the Shift Commander would not be feasible due to the fact that Payroll receives them after the day is completed and a Shift Commander from a previous shift may not be available for several days after due to pass days, vacation days, etc.

- There should be a mandatory review of the Roll Call Books after each shift to ensure that the officers who worked at each post have been properly recorded, and that hospital runs and other circumstances that result in additional work hours are duly noted. At a minimum, the Roll Call Book used for each shift should be reviewed and signed by the Shift Commander, and Shift Commanders should be held accountable for reporting the proper number of hours for each officer on the Overtime and Dock Record.

Mandatory review and approval of Roll Call Books after each shift would be appropriate.

- The Jail's payroll department should immediately begin reconciling the data from the Kronos and BTTE systems to ensure that overpayments of compensation are eliminated or at least minimized.

Reconciliation between the two systems is currently done to verify questionable records; however, complete reconciliation is hindered due to inadequacies in the Kronos system that prevent the Jail's unique scheduling parameters from integrating successfully into Kronos's work and pay rules.

- It may be beneficial for the Jail's payroll department to evaluate other fully-integrated software solutions. If the decision is made to evaluate other software solutions, it will be imperative to ensure that the software will fully accommodate the Jail's processing needs before it is purchased.

Upon evaluation of the Kronos system prior to purchase, the Jail was assured that it would accommodate all of our processing needs.

2. Jail administration should work more diligently to ensure that the Jail's current staffing needs are met in a cost-effective fashion.

- Jail administration should take steps to make the value proposition associated with the part-time officer position more attractive to potential job candidates in order to be able to hire enough part-time officers to meet the Jail's staffing needs.

- Consider providing a small uniform allowance to part-time officers.

The full-time officers will want an increase in their allowance if the part-time officers get any sort of initial issue allowance or stipend.

- Consider providing part-time officers with one or two personal days each year.

The administration will consider issuing the part-time officers two personal days; this is something that may be subject to argument with the Officer's Union. The union will argue for two personal days as the full-time officers currently do not get personal days. Issuing personal days for part-time officers and full-time officers would be a great expense.

- Once enough officers are under the Jail's employ, the Jail should utilize historical attendance data to ensure that an adequate number of corrections officers are scheduled to work regular time (which should include scheduling "extra" part-time officers for each shift to the extent that absences are expected).

Attendance patterns (by shift, day and month) are very predictable. Having sufficient officer positions to begin with, whether full-time or part-time, would permit coverage for expected absences.

- Jail administration should consider whether an automated (computerized) scheduling system could help streamline the scheduling process and put the Jail in a better position to predict employee absences. However, before purchasing such software, steps should be taken to ensure that the software will accomplish the intended objectives given the Jail's unique and complex environment.

Jail administration is able to predict employee absences based on every day staffing needs. The number of officer positions would have to remain constant regardless of predicted absences, as intermittent new hires and lay-offs are not practical to meet the predicted needs.

- The Jail should attempt to reduce or eliminate its need to hire a large number of part-time corrections officers in the near term by reducing the Jail's staffing needs, utilizing the time of officers being paid regular time more efficiently, and preventing officers from taking unnecessary leave through abuse of the FMLA.

The part-time officers reduce the costs in over-time paid for full-time officer call offs. The retention of full-time officers is very high; therefore officers have difficulty waiting a year or two for full-time status.

3. Jail administration should be attempting to ensure that the burden placed on corrections officer who are not engaging in abuse is minimized to preserve morale.

The administration is working on reducing attendance abuse through different programs and privileges. The administration has a 'buddy day' program; in order for officers to be able to participate they have to have a certain amount of sick days on their books. The administration also offers free parking to officers who have perfect attendance.

Page 37-38

4. The Jail should attempt to reduce opportunities to engage in FMLA abuse through the following:

- Each of the departments whose participation is necessary to prevent FMLA abuse should continually monitor for regulatory changes and other developments that may improve the Jail's ability to prevent FMLA abuse, and communicate with each other regarding such changes and developments.

The Jail actively implements direction received by County departments with regard to FMLA changes.

- The Jail's payroll department should utilize one well-trained individual with up-to-date knowledge to exclusively monitor for compliance with the FMLA and initiate action to address deviations.

The Jail's payroll department was initially responsible for monitoring FMLA as well as addressing deviations in the past. Due to the continued extensive increase in FMLA use over the years, the County hired a third-party administrator to handle all FMLA monitoring. Without the success of this third-party administrator, the County Human Resources department then took control of the FMLA monitoring including approval and denial of leaves. To redirect this process back to the Jail payroll department would seem to be redundant. Whether the Jail payroll department, third-party administrator, or Human Resources department oversee employee use of FMLA, legal involvement is necessary.

- The County Human Resources Department and the Jail's payroll department should implement the measures that have not yet been implemented to prevent FMLA abuse, and also apply the procedures that are currently being utilized to prevent such abuse on a more consistent basis.

The Jail payroll department follows County policy as it is implemented through the Human Resources department.

- Both departments should consult with the County Law Department more frequently to help ensure that actions taken in response to suspected abuse are appropriate under the circumstances and are legally admissible.

Such large-scale FMLA use (currently approximately 129 employees, or 22%) require full-time legal involvement.

5. The Jail should attempt to eliminate perceived incentives to engage in FMLA abuse as well as address the factors that may influence the officers' ability to rationalizing in abuse.

- Eliminate the expectation that overtime will be available and may be required (see recommendations on hiring additional staff).

We are attempting to cut overtime as much as possible; our numbers this year reflect such.

- Prevent full-time officers from holding a second job while on FMLA leave from the Jail.

The jail has no authority over this recommendation.

- Improve the working conditions for part-time officers.

The working conditions are the same for part-time officers as they are for full-time officers; the only difference is compensation, insurance benefits, uniform allowance, and benefit time.

- Attempt to eliminate forced overtime to improve morale.

The reduction in overtime reduces forcing; the full-time officers will sign up for overtime as it is limited and uncertain.

6. The Jail should adopt a "zero tolerance" policy with respect to FMLA abuse once the required personnel resources are in place, monitoring roles and responsibilities have been communicated, and vigorous (comprehensive) monitoring for FMLA abuse is being conducted.

With legal involvement for all phases of FMLA monitoring and abuse prevention, such a zero-tolerance policy would be an accessible goal.

Page 44

7. Carefully analyze the Jail's current operating structure to identify circumstances where posts can be consolidated, restructured, or eliminated, or shifts shortened to prevent a wasteful use of the County's limited resources.

Unfortunately, the consolidation, shortening of shifts, or elimination of posts, such as escort officers would compromise security. Most of the levels in the jail are maximum security and need adequate personnel. This would become a union grievance as well, which would cost in arbitration costs and in officer morale.

8. Attempt to work with labor as a partner to improve labor-management relations and facilitate holding officers accountable for their performance.

The administration has partnered with the officers' union and has made progress in holding officers and staff accountable for performance. This partnership is important to the administration as former union leadership had been very difficult to work with and were anti-management.

9. Take steps to reduce the inmate population by addressing the conditions that prevent inmates with qualifying offenses from being transferred to alternative housing programs.

The administration has taken steps to reduce the inmate population, through diligent parole petition on inmate's minimum sentences and transferring to alternative housing. This is done very carefully as public safety could be at stake if not done properly. There is a policy that references contracts between alternative housing and the jail. Not all alternative housing facilities take all offenders; different facilities take different types of offenders. As far as reducing the standards so that more inmates could go to alternative housing, this would possibly put an unnecessary risk to public safety.

Page 47

10. Consider the Jail's staffing needs prior to scheduling activities that will prevent officers from performing their regular duties at the facility.

The administration is assessing the hospital runs and possibly creating a hospital run team for hospital runs and extra security in the event of no hospital runs. Training has also been assessed and will be scheduled during non-peak vacation periods.

11. Attempt to stagger the scheduling of inmate medical trips to external healthcare facilities to reduce the number of officers that must work overtime to complete the trips.

Many of the medical trips are emergency medical trips; this means that they cannot be scheduled. The medical appointments have been scheduled to accommodate the scheduling needs of the operations department.

12. Attempt to accomplish the inmate medical trips using regular time once enough officers are under the Jail's employ.

Ideally, the medical trips are sent out with officers on regular time. The staff will make a conscious effort to assign officers on regular time to hospital runs and not officers on overtime.

13. Monitor the issuance of subpoenas to ensure that unnecessary subpoenas (which require the payments of overtime compensation) are not being issued.

The Internal affairs office will be notified to monitor the issuance of subpoenas and officer appearances in court.



DAN ONORATO
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KATHLEEN KENNEDY
DIRECTOR

NICK BIANCHI
DEPUTY DIRECTOR

December 3, 2010

Mark Patrick Flaherty
Controller
Allegheny County Office of the Controller
104 Courthouse
436 Grant Street
Pittsburgh PA 15219

Dear Mr. Flaherty:

Thank you for the opportunity to respond to the Jail Overtime Analysis Report. I would like to comment on several statements contained in the report.

Page 30 – “We also recommend that the Jail’s payroll department utilize only one individual with a very good understanding of the FMLA...who...would exclusively monitor for compliance with the FMLA and initiate action to address deviations.” Assigning a dedicated person to monitor FMLA at the Jail may very well lead to better compliance. In addition, the Department of Human Resources has received a proposal from a vendor with expertise in FMLA compliance. We are willing to work with the Jail in exploring these two items.

Page 31 – Since the time of this audit, many new controls have been implemented by the Department of Human Resources. A) The HR team has been much more aggressive in physician follow up and has frequently asked for additional medical clarification before approving leaves. B) A new tracking spreadsheet has been developed to allow the jail staff to access critical frequency and duration information about individuals on leave. C) When allowable by law, the staff has routinely asked for additional certification if the projected frequency or length of the leave has changed. Leaves have been denied for failure to provide said documentation. Regarding the Department of Labor FMLA certification, we believe in most cases it is provided by the employees, but since it is stated in the Federal Regulations (825.306) that it is optional, we do not require it. As for second and third medical opinions, we do and will continue to recommend them as the cases merit. The cost for these second/third medical opinions is borne by the department; therefore, approval would be required by the Jail.

Page 32 – “The Jail has also not implemented a policy prohibiting officers from working a second job while they are on leave.” We have serious concerns about prohibiting jail employees on FMLA from having a second job. First of all, implementing such a policy could subject Allegheny County to an EEOC/PHRC complaint because we would be singling out only those employees covered by the Act. Secondly, it is entirely feasible for a jail employee to be able to perform a second job that does not have the physical requirements that their jail position requires of them. We will definitely discuss this issue with the County Law Department.

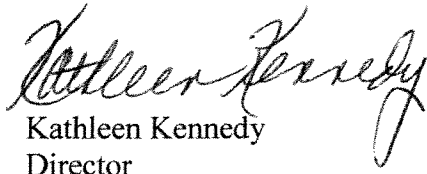
Page 32 – “In order to improve the Jail’s ability to combat abuse, the Jail’s payroll department and County Human Resources Department should be seeking advice from the County Law Department...” The Department of Human Resources communicates with the Jail and the Law Department on a regular and consistent basis through emails, phone calls, and meetings and will continue to do so.

Page 37 – “Each of the departments whose participation is necessary to prevent FMLA abuse should continually monitor for regulatory changes and other developments that may improve the Jail’s ability to prevent FMLA abuse...” The Department of Human Resources monitors the Department of Labor website as well as pending and recently enacted legislation, attends seminars and maintains membership in HR organizations, all in an attempt to stay current on FMLA regulations. We provide training to County departments on FMLA regulations and procedures. Currently we are in the process of revising our FMLA policy with plans to disseminate it in early 2011.

The Department of Human Resources is fully committed to working with the Jail and the County Law Department to improve upon the administration of FMLA, while keeping in mind an employee’s right to FMLA. Balancing the two is always a challenge.

If you require any further information please do not hesitate to contact me.

Very truly yours,


Kathleen Kennedy
Director

Cc: Guy Tumolo, Deputy Controller
Lori Churilla, Assistant Deputy Controller, Auditing
Jeffrey Vargas, Audit Manager
James Flynn, County Manager
Ramon Rustin, Warden
Richard Hrivnak, Deputy Director, Department of Human Resources
Robert McTiernan, Assistant County Solicitor