



Report on Hillbrook Juvenile Detention Center Overtime Audit

April 14, 2022

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SECTION I

BACKGROUND AND EXECUTIVE SUMMARY

Background

Hillbrook Juvenile Detention Center (Hillbrook) was founded in 1974 and is a division of the Onondaga County Department of Children and Family Services (DCFS). It is a secure facility located in the town of Onondaga. Hillbrook originally provided mandated secure services for juvenile delinquents and juvenile offenders ages 10 to 16 arrested for committing a crime and deemed either at risk to public safety or flight risk for not appearing for a court date in Family Court. Hillbrook is certified by the New York State Office of Children and Family Services.

Hillbrook is a short-term facility for juveniles until the final disposition of their cases. Upon the outcomes of their court cases, the youth are returned to their communities, placed on probation or referred to agencies that provide longer-term care. It is directly overseen by the facility's Director and management team. The Hillbrook Director reports to the Commissioner of DCFS who reports to the Deputy County Executive of Human Services. Hillbrook primarily serves Onondaga County youth, but out-of-county juveniles may be admitted when there are vacancies. The County is reimbursed 100% of the expense from the respective county and from New York State.

Starting on October 1, 2018 New York State legislation [*Raise the Age*](#) created a new category of 16 year old detention facility juveniles called adolescent offenders (AOs). These are individuals that commit a felony-level crime and have their cases heard in the Youth Part of Criminal Court. If a judge determines there is a need for pre-trial detention, AOs are held in secure facilities such as Hillbrook. Raise the Age took effect for 17 year olds on October 1, 2019.

Resident Type	Description
Juvenile Delinquent	Youth under the age of 18 in Family Court
Juvenile Offender	Youth ages 13-15, prosecuted through Criminal Court
Adolescent Offender	Youth 16-17 year olds charged with felony offenses whose cases originated in Criminal Court but may be reduced to Family Court

Source: Hillbrook website - <http://ongov.net/hillbrook/>

In 2021 an expansion of the Hillbrook facility was completed, adding 18 more beds and bringing the facility's maximum accommodation level from 32 to 50 juveniles. A five bed portion of the new areas was opened around November 2021. Hillbrook officials are awaiting the onboarding of newly trained employees before they will fully utilize all of the new areas. Some non-staff related delays are also anticipated due to the need to increase the capacity of food service and medical components.

While at Hillbrook, juveniles participate in an educational program which operates year round. In addition, medical and various other services are offered such as psychiatric assessment, case management, worship services and pro-social programming. Since March 2021, seven juveniles have graduated with regents diplomas.

There are currently 44 full time (FT) employees and 41 part time (PT) employees at Hillbrook. Part-time employees are hired with the understanding they may work up to 40 hours per week. However, these employees' part-time hours are not guaranteed, so they may work elsewhere. Per Hillbrook Administration, it is advantageous to have so many part time employees for long shifts on the weekends and for filling in when there is an immediate gap in coverage due to unforeseen circumstances.

To secure their availability and determine staffing needs, part-time employees must complete a 10 week "Availability Sheet". Based on this sheet, part-time staff are slotted to cover shifts which are vacant after full-time staff have secured their schedules for the same 10 week period. On these Availability Sheets, the part-time staff acknowledge they must be available for a minimum of five early morning weekend "waking" shifts.

Hillbrook Management periodically contend with staffing challenges in order to remain in compliance with [staffing mandates from New York State](#). These mandates require specialized secure detention facilities, like Hillbrook, to have a specific ratio of staff to juveniles on site to supervise the detainees. This ratio can vary based on the types of juveniles (ages, gender, number of JDs vs. JOs vs., AOs, juveniles on suicide watch, etc.) in the facility at any one time. Staff overtime can occur during such times.

Over the last five years, total appropriations for Hillbrook (see table below) have remained relatively stable but the total wages has increased. Regular wages more than doubled, from \$1.18M to \$2.37M and other employee wages (for part-time employees) increased by approximately 35%, from \$680,270 to \$916,580. This may be due to the increase in the number of budgeted employees, particularly those who work part time.

Actual Appropriations and Revenues from PeopleSoft Queries

	Actual 2017	Actual 2018	Actual 2019	Actual 2020	Actual 2021
Hillbrook					
Revenues	\$ 3,656,213	\$ 6,847,711	\$ 10,973,319	\$ 9,425,651	\$ 3,998,984
Local	\$ 8,067,034	\$ 5,631,510	\$ 4,193,977	\$ 5,993,187	\$ 7,974,405
Total Appropriations	\$ 11,723,247	\$ 12,479,221	\$ 15,167,296	\$ 15,418,838	\$ 11,973,389
Salaries					
Regular Employee	\$ 1,178,156	\$ 1,347,522	\$ 2,021,157	\$ 2,113,325	\$ 2,370,645
Overtime Wages	\$ 164,280	\$ 217,087	\$ 369,029	\$ 611,831	\$ 534,528
Other Employees Wages	\$ 680,270	\$ 789,006	\$ 859,535	\$ 1,061,606	\$ 916,580
Employee Benefits	\$ 1,105,514	\$ 1,320,139	\$ 1,566,418	\$ 1,523,103	\$ 945,947
All Other Expenses	\$ 8,595,027	\$ 8,805,467	\$ 10,351,157	\$ 10,108,973	\$ 7,205,689
Totals	\$ 11,723,247	\$ 12,479,221	\$ 15,167,296	\$ 15,418,838	\$ 11,973,389

During this five year period, overtime (OT) wages have more than tripled, rising from \$164,280 in 2017 to \$534,528 in 2021. A significant amount of this overtime was paid to a very limited number of Hillbrook employees. In 2021, one Hillbrook Detention Home Counselor II (DHC II) was paid \$67,939 in regular salary and \$116,274 in overtime salary. The same employee was paid \$123,492 in overtime during 2020 and \$48,079 in 2019.

In 2021, fifteen employees at Hillbrook were paid \$10,000 or more in overtime pay. The average amount of overtime paid to these employees was \$22,990. In 2020, sixteen employees were paid more than \$10,000 in overtime. In 2019 there were eight.

Title	Year	Regular Pay	Overtime Pay	Gross Pay
Detention Home Counselor 2	2021	67,938.68	116,273.75	184,212.43
Detention Home Aide 2	2021	40,978.52	38,367.17	79,345.69
Detention Home Counselor 2	2021	71,154.64	26,869.16	98,023.80
Detention Home Aide	2021	43,384.13	22,589.32	65,973.45
Detention Home Aide 2	2021	45,185.30	16,511.02	61,696.32
Detention Home Aide 2	2021	42,794.29	15,712.90	58,507.19
Detention Home Aide 2	2021	40,530.80	15,019.17	55,549.97
Detention Home Aide	2021	24,424.03	13,831.02	38,255.05
Detention Home Aide	2021	37,315.28	13,418.06	50,733.34
Detention Home Aide	2021	37,774.38	12,821.84	50,596.22
Detention Home Aide 2	2021	39,489.79	10,864.89	50,354.68
Detention Home Aide 2	2021	32,693.66	10,719.46	43,413.12
Detention Home Counselor 2	2021	48,400.46	10,711.31	59,111.77
Detention Home Aide	2021	37,461.04	10,624.60	48,085.64
Detention Home Aide	2021	43,169.69	10,510.73	53,680.42

Executive Summary

The audit noted the following:

- Hillbrook Management has regularly been out of compliance with [New York State Labor Law, Section 161](#). This law calls for supervisory employees to have one day's rest every seven days. One Hillbrook Detention Home Counselor II's time worked record indicates non-compliance with this law 82 times over the course of the 130-week testing period. Possible penalties from the state for this non-compliance totals \$243,000.
- Hillbrook's Policies and Procedures Manual contains policies that contradict the CSEA contract and which therefore presents difficulties in attempting to control employee overtime.
- Hillbrook Management is regularly out of compliance with several guidelines of their Policies and Procedures manual. Examples include:
 - Not limiting the amount of overtime of employees.
 - Not having employees request paid time off in advance.
 - Not recording all of the appropriate documentation and sign-offs on the department's "Request for Leave" sheets.
 - Allowing compensatory time (CT, CTE) to be accrued and overtime be paid when employees are also using paid leave.
 - Having staff work more than three overtime shifts per pay week.
 - Having staff work more than two sixteen hour shifts per pay week.
 - Having staff work more than twenty-four hours of overtime in a seventy-two hour period.
- Hillbrook Management is regularly out of compliance with segments of the current CSEA contract. Examples include:
 - Not regularly following the contract's policy of assigning overtime on a seniority rotating basis.
 - Not regularly having documented authorization in regards to the DHC II Voluntary Overtime sheets.

- A significant amount of overtime has been paid from 2017-2021 due to various factors. These include:
 - An understaffing issue, particularly at the supervisory level, causing challenges to provide staffing necessary for the continuous supervision of juveniles consistent with the requirements for a facility of its type.
 - Overtime opportunities taken by/delegated to the most senior DHC II at Hillbrook and not given out on a rotating basis.
 - An excessive use of paid time off to account for employees coming in late and/or leaving early from their scheduled shift and then permitting working time outside of their scheduled hours thereby “earning” overtime.
 - During the COVID-19 pandemic, 42 employees were out of work due to health-related matters. In 2020, 10 employees used a total of 567.25 hours of NYS-COVID sick time. In 2021, 32 employees used 1,723 hours of COVID sick time.
- The excessive amount of overtime accumulated by one Hillbrook DHC II, who is a member of Tier 4 of the New York State Retirement system, raises this employee’s average salary and their level of contributions to the NYS Retirement system significantly. This cost is indirectly passed on to County taxpayers.

Recommendations:

- A. *We recommend Administrators of the Department of Children and Family Services monitor the Management of Hillbrook to ensure compliance with all New York State Labor Laws.*
- B. *We recommend all Hillbrook policies related to overtime should be reviewed with staff and adhered to by Management. Policies should be posted in strategic locations for all staff to have access to review.*
- C. *We recommend Administrators of the Department of Children and Family Services and Hillbrook Management review Hillbrook policies relative to overtime so as to determine conformity to the CSEA contract.*
- D. *We recommend Administrators of the Department of Children and Family Services monitor Hillbrook Management to assure regular compliance with the CSEA contract in effect.*

- E. We recommend Administrators of Hillbrook adhere to the time and attendance policies of the CSEA contract in effect. Tardiness should not be tolerated.*
- F. We recommend the Department of Personnel scrutinize altering of paid time off (PTO) and attendance practices at Hillbrook.*
- G. We recommend consideration be given to an alternative to Hillbrook's current work schedule with the intended purpose being a possible reduction in the amount of overtime worked by Hillbrook employees.*
- H. We recommend Administrators of the Department of Children and Family Services and Hillbrook request additional DHC II positions in the annual budget process. Overtime has increased over the last several years, especially within supervisory positions. With Hillbrook's expansion from 32 to 50 beds, it is likely more DHC II supervision will be needed.*

SECTION II

SCOPE AND METHODOLOGY

Scope:

In order to ascertain the reasonable and effective use of County taxpayer funds, the Comptroller's Office has taken the opportunity to review overtime costs at the Hillbrook Juvenile Detention Center. The purpose of this report is to provide information and recommendations to Hillbrook's Management on overtime hours and related policies and procedures used to staff the facility. The audit period for this report is from July 6, 2019 through December 31, 2021.

The audit's objectives were to:

- Determine if Hillbrook Management was in compliance with New York State Labor Law.
- Determine if Hillbrook Management was adhering to the Hillbrook Policy and Procedures Manual.
- Determine if Hillbrook Management was adhering the current CSEA contract.
- Determine if effective and efficient use of staff hours were utilized to minimize the use of overtime compensation.
- Determine if Hillbrook has appropriate staffing to comply with all applicable laws, codes and policies while also ensuring the health, well-being and security of staff and juveniles.
- Provide Department of Children and Family Services and Hillbrook Management with recommendations related to Hillbrook staffing practices and overtime policies and procedures.

Methodology:

In order to complete the objectives we:

- Reviewed the County's employee contracts, applicable laws and regulations, and Hillbrook's policies and procedures to determine the expectations for Hillbrook employee overtime practices.
- Interviewed Hillbrook's Director of Operations and Administrative Officer to determine specific practices for Hillbrook employee overtime.
- Reviewed Hillbrook's Policies and Procedures Manual sections related to employee overtime practices.
- Reviewed the current CSEA contract sections related to employee overtime practices.

- Gathered overtime hours from Onondaga County's KRONOS timekeeping system (Kronos) for Hillbrook employees in the scope period of the audit.
- Asked the County Personnel department for their interpretation of employee contracts and policy and procedure manuals specific to Hillbrook.
- Selected a sample of 22 Hillbrook employees with the highest overtime compensation at the end of the year 2020.
- Selected one of each title: Detention Home Counselor II (DHC II), Detention Home Aide II (DHA II) and Detention Home Aide (DHA) with the highest paid overtime for 2021 and compared their instances of using PTO to earn OT to the next highest paid in their respective title at the end of 2021.
- Reviewed and summarized selected employees' County ID badge swiping practices in KRONOS.
- Reviewed a sample of employee use of paid time off and how it affected overtime.
- Requests for interviews with Hillbrook staff related to overtime policies and practices were made of the Director of Juvenile Justice and Detention. He deferred the requests to his superiors and they did not respond.

SECTION III

FINDINGS AND RECOMMENDATIONS

This audit discovered Hillbrook is not currently in compliance with several different directives in relation to how it manages staff overtime. The sections that follow outline those directives and instances of non-compliance:

Segment I: New York State Labor Law Section 161

Per the County's Commissioner of Personnel, state labor laws supersede any union contract and/or County Department manual. [New York State Labor Law Section 161](#) calls for supervisory employees to have "one day rest in seven". It reads:

"Every owner, lessee or operator of a warehouse, storagehouse, office, dwelling, apartment, loft and any other building or structure wherein a janitor, superintendent, supervisor or manager or engineer or fireman is employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week."

At Hillbrook, employees in the title of Detention Home Counselor II supervise subordinates and oversee the processing of new admissions, making this title supervisory in nature and accountable to this law. To comply with New York State Labor Law Section 161, Hillbrook Management must disqualify any employee from the overtime rotation list if they have not yet had their 24 consecutive hours off in any seven day period.

Finding 1: Hillbrook's Management is not in compliance with New York State Labor Law Section 161. One DHC II nearly doubled their base salary with overtime earnings while being in violation of this law 82 out of 130 weeks during the time period of 7/6/2019 thru 12/31/2021.

Highest Paid DHC II in 2020 (w/OT)

Date Range	Number of Weeks in Date Range	Number of Weeks Did Not Receive 24 Consecutive Hours of Rest	Percentage of Weeks Did Not Receive 24 Consecutive Hours of Rest
7/6/2019 - 12/31/2019	26	7	27%
1/1/2020 - 12/31/2020	52	38	73%
1/1/2021 - 12/31/2021	52	37	71%

Below are the number of violations and possible financial penalties for not being in compliance with New York State Labor Law Section 161 during the time period referenced above:

NYS Labor Law §161 Possible Penalties

Penalty	Amount	Number of Offenses	Total
1st Penalty	\$ 1,000	1	\$ 1,000
2nd Penalty	\$ 2,000	1	\$ 2,000
3rd and Consecutive Penalties	\$ 3,000	80	\$ 240,000
Total		82	\$ 243,000

Recommendation A: *We recommend Administrators of the Department of Children and Family Services monitor the Management of Hillbrook to ensure compliance with all New York State Labor Laws.*

Segment II: Hillbrook Policy and Procedure Manual

Hillbrook has a Policies & Procedures Manual for staff that was updated in 2019. Hillbrook does not appear to be in compliance with this manual in at least five areas.

The first portion of the Hillbrook Policies and Procedures Manual they are not in compliance with is **Section 3F #1 - Overtime Worked**. It states:

“To ensure the safety and security of the facility and to promote staff wellness it shall be the right of the Director to limit the amount of overtime worked.”

Finding 2: In a span of three work days (9/5/20, 9/6/20 and 9/7/20) one Hillbrook DHC II worked double shifts of 16+ hours each day followed by double shifts of 18+ hours with an average time off in between shifts of just 4-5 hours. Hillbrook’s Director should have rotated the overtime among several supervisors.

Time Worked - Hillbrook DHC II						
Date	Clock Out	Length of Shift Just Finished (Hrs)	Time Off in Between Shifts (Hrs)	Date	Next Clock In	Length of Next Shift (Hrs)
9/5/2020	3:17pm	16	4 hrs	9/5/2020	7:24pm	18.25
9/6/2020	1:47pm	18.25	5 hrs 30 mins	9/6/2020	7:11pm	18.25
9/7/2020	1:36pm	18.25	4 hrs 30 mins	9/7/2020	6:07pm	19.25

There were additional instances of non-compliance by Hillbrook Management with other portions of their Policies and Procedure Manual, specifically **Sections 3E, F2, F3 and F4**.

Non-compliance with those sections is based on the work activity of 14 Detention Home Counselor II (DHC II) and Detention Home Aide (DHA) employees for two different periods of time, from 2/1/20 – 3/13/20 and from 5/22/21 – 7/16/21.

Employees Sampled

Number of Employees Tested	Title	Time Period	Pay Periods in Time Period	Hours Out of Work Due to COVID	Hours Off of Regular Shifts for Training	Bereavement Hours Off
4	DHC II	2/1/2020 - 3/13/2020	3	0	0	0
7	DHC II	5/22/2021 - 7/16/2021	4	0	0	0
3	DHA	5/22/2021 - 7/16/2021	4	0	0	16

Section 3E - Time Work states:

“Compensatory time shall not be accrued or overtime shall not be paid when an employee is also using paid leave including but not limited to sick leave, compensatory time used, paid holiday, family medical leave, vacation, personal or floating holiday.”

Finding 3: We noted 42 instances whereby 8 of the 14 Detention Home Counselor II (DHC II) or Detention Home Aide (DHA) employees earned compensatory time or paid overtime when also using paid leave.

CT or OT Earned with PTO

Number of Employees	Title	Time Period	Total Instances
2	DHC II	2/1/2020 - 3/13/2020	6
4	DHC II	5/22/2021 - 7/16/2021	33
2	DHA	5/22/2021 - 7/16/2021	3

Section F2 - Overtime Worked states:

“Staff shall not work more than three (3) overtime shifts per pay week.”

Finding 4: We identified four Hillbrook employees taking extra overtime shifts and using paid time off. It appears paid time off is used to compensate the regular work schedule. We noted 50 instances whereby 4 of the 14 tested employees worked more than three (3) overtime shifts in a pay week.

Worked More Than 3 OT Shifts per Pay Week

Number of Employees	Title	Time Period	Total Weeks	Total # of OT Shifts During Week(s) Violated
1	DHC II	2/1/2020 - 3/13/2020	2	11
1	DHC II	5/22/2021 - 7/16/2021	2	22
2	DHA	5/22/2021 - 7/16/2021	2 each	17

Section F3 - Overtime Worked states:

“Staff shall not work more than two sixteen (16) hour shifts per pay week.”

Finding 5: We noted 32 instances whereby 3 of the 14 tested employees worked more than two shifts of at least sixteen hours in a pay week.

More Than 2 Sixteen hr Shifts Per Pay Week

Number of Employees	Title	Time Period	Total Weeks	Total # of OT Shifts During Week(s) Violated
0	DHC II	2/1/2020 - 3/13/2020	0	0
1	DHC II	5/22/2021 - 7/16/2021	3	17
2	DHA	5/22/2021 - 7/16/2021	Employee A - 3 Employee B - 2	15

Section F4 - Overtime Worked states:

“Staff shall not work more than twenty-four (24) hours of overtime in a seventy-two (72) hour period.”

Finding 6: We noted 25 instances in which 4 of the 14 employees worked more than twenty-four hours (24) in a seventy two (72) hour period.

More Than 24 OT hrs in 72 hr Period

Number of Employees	Title	Time Period	Total Instances
1	DHC II	2/1/2020 - 3/13/2020	8
1	DHC II	5/22/2021 - 7/16/2021	15
2	DHA	5/22/2021 - 7/16/2021	2

Recommendation B: *We recommend all Hillbrook policies related to overtime should be reviewed with staff and adhered to by Management. Policies should be posted in strategic locations for all staff to have access to review.*

Recommendation C: *We recommend Administrators of the Department of Children and Family Services and Hillbrook Management review Hillbrook policies relative to overtime so as to determine conformity to the CSEA contract.*

Segment III: CSEA Union Contract

In addition to being out of compliance with New York State Labor Law, Section 161 and its own Policies and Procedures Manual, Hillbrook is also out of compliance with four portions of the 2020-22 CSEA contract.

The first portion of the contract they are out of compliance with is **Article 12D - Availability**, related to overtime being based on seniority and rotating basis. It states:

“Overtime will be made available to the senior qualified employee in the job title which is ordinarily and customarily assigned the work by the Employer on a rotation basis insofar as practical over the period of this agreement.”

Finding 7: Hillbrook does not regularly follow the rotating basis of this contract clause for the DHC II position. Per Hillbrook Management, they always offer it to the highest senior employee first. The overtime sheets provided did not indicate evidence of rotation. Also per Hillbrook Administration, due to this employee usually taking the voluntary OT, they have not had to mandate OT.

The second portion of the CSEA contract Hillbrook is out of compliance with is **Article 28 - Vacation Leave**. It states:

“When leave is requested and approved, and the employee is on such approved leave, all such days off must be charged to the approved leave category and may not be converted to any other leave category during such leave except in cases of death in the employee’s immediate family as defined herein under Bereavement Leave. In such cases, up to four (4) days of vacation leave may be converted to bereavement leave.”

Finding 8: Five of the 17 dates showing on the “Request for Leave” sheets for one employee were approved as vacation. These were initially entered in KRONOS as another leave category and then adjusted. One of the 17 dates showing on the “Request for Leave” sheets for an employee was approved as vacation, but was entered in KRONOS as Sick Used.

A third portion of the CSEA contract Hillbrook is not in compliance with is **Article 28 - Sick Used and Sick Verified**. It states:

“A physician’s statement verifying the employee’s incapacity or inability to perform the job duties shall be required upon the request of the department head in case of:

- A. Absence of three (3) consecutive workdays or more;*
- B. Sick leave taken on day(s) where paid leave credits or absence(s) have been previously requested and disapproved;*
- C. For sick leave taken on their last scheduled workday prior to a holiday or vacation day, the holiday when they are required to work except as*

provided in (D) below, and their first scheduled work day after a vacation or holiday;

D. Sick leave taken on more than one holiday in a calendar year on which the employee is scheduled and required to work;

E. Unverified absence in excess of seven (7) days (or the equivalent in hours) in a calendar year except for employees who have one hundred and sixty-five (165) days of sick leave and for employees scheduled on a twelve (12) hour shift schedule in which case shall be in excess of six (6) days or 72 hours.”

Finding 9: Departmental payroll clerk(s) at Hillbrook adjusted time worked records in KRONOS for a DHC II—the highest paid (with overtime) at Hillbrook—by adjusting Sick Used time to another paid time off category. Specific examples include:

Original Kronos Entry Date	Date of Time Used, Type and Amt. of Time	Date of Change in Kronos	Change Made	Additional Changes
4/19/2021	.25 hr. FLSA for 4/18/21	4/20/2021	.25 hr. Sick for same date	.25 hr. Vacation for same date
4/19/2021	.25 hr. FLSA for 4/19/21	4/20/2021	.25 hr. Sick for same date	.25 hr. Vacation for same date
6/14/2021	4.25 hr. Sick for 6/13/21	6/14/2021	4.25 hr. Vacation for 6/21/21	
6/15/2021	4 hrs. Sick for 6/14/21	6/21/2021	4 hr. Vacation for same date	
6/16/2021	4 hr. Sick for 6/14/21	6/16/2021	4.25 hr. Sick for same date	4.25 hr. Vacation for same date
6/21/2021	4.25 hr. Sick for 6/16/21	6/21/2021	4.25 hr. Vacation for same date	

These adjustments give the appearance of trying to circumvent Part E of Article 28. At a minimum, the multiple adjustments made to this DHC II’s time worked record is an inefficient use of the payroll clerk’s work time.

The fourth portion of the CSEA contract Hillbrook is not in compliance with is **Article 34**. It states:

“Tardiness will not be tolerated and will result in a loss of pay for FLSA non-exempt employees and in a deduction of accrued leave (vacation leave, personal leave, compensatory time in that order) for FLSA exempt employees unless or until accrued leave time is exhausted...”

The audit found many instances of paid time off used when employees reported to work late and/or left early but, were paid overtime before or after their scheduled shift. We tested the employees paid the highest amounts of overtime in 2021 in the titles Detention Home Counselor II (DHC II) Detention Home Aide II (DHA II) and Detention Home Aide (DHA) for instances such as this. We also tested employees in those titles making the second highest amount of overtime in 2021. Both sets of employees were in these titles at the end of the year. Some hours may have been accumulated while in other titles.

As shown in Finding 4; there were many instances of PTO used when the employee was late and/or left early but had worked OT before or after their scheduled shift. We tested the highest paid OT in 2021 for each of the three titles for instances such as this, as well as the second highest OT paid in 2021 (employees in that title at the end of the year, some hours may have been other titles). Our findings were as follows:

Finding 10: The audit found indications of a trend at Hillbrook that the higher an employee's CSEA job title, the stronger the possibility PTO will be used to generate OT. A reason this might occur is less administrative oversight as the titles elevate and the employee is not being directed to the contract's language by higher administration. As you can see in the following illustration, the highest paid DHC II with OT used PTO on 100 occasions to use towards OT in 2021.

<u>Use of PTO Generating OT Hours</u>				
	YEAR	INSTANCES	TOTAL PTO HOURS	Title; Months in Title; # of Instances
Highest 2021 OT DHC II	2021	100	106.75	DHC II ALL YEAR
	2020	81	142	DHC II ALL YEAR
2nd Highest 2021 OT DHC II	2021	12	7.5	DHC II 5/8/2021 TO PRESENT - 8 MONTHS
	2020	0	0	SR. CORR. OFFICER ALL YEAR
Highest 2021 OT DHA II	2021	5	15.25	DHA - 8 MONTHS 2X'S; DHA II - 4 MONTHS 3X'S
	2020	0	0	DHA ALL YEAR
2nd Highest 2021 OT DHA II	2021	7	9.75	DHA - 7 MONTHS 5X'S ; DHA II - 5 MONTHS 2X'S
	2020	35	53	DHA II - 10 MONTHS 28X'S; DHA 2 MONTHS 7X'S
Highest 2021 OT DHA	2021	2	1.25	DHA ALL YEAR LONG
	2020	1	0.5	DHA ALL YEAR LONG
2nd Highest 2021 OT DHA	2021	1	0.5	PT 3 MONTHS; FT 9 MONTHS
	2020	0	0	PT

Recommendation D: We recommend Administrators of the Department of Children and Family Services monitor Hillbrook Management to assure regular compliance with the CSEA contract in effect.

Recommendation E: *We recommend Administrators of Hillbrook adhere to the time and attendance policies of the CSEA contract in effect. Tardiness should not be tolerated.*

Recommendation F: *We recommend the Department of Personnel scrutinize altering of PTO and attendance practices at Hillbrook*

Segment IV: Management Oversight of Requested Time Off and Voluntary Overtime

During meetings with Hillbrook's Director of Operations and Administrative Officer, and in follow-up emails, they explained that paid time off (PTO) requests made by Hillbrook employees should be made in writing as follows:

PTO Request Timetable

Type	Days in Advance
Vacation	at least 4 days
Comp Time	at least 3 days

Finding 11: We provided Hillbrook with a list of five employees for whom there were a total of 35 instances in which paid time off was entered in Kronos. Hillbrook produced Request for Leave Sheets (Exhibit 1) for one of the five employees. Those sheets included 17 of the 35 paid time off instances. A summary (Exhibit 2) of our testing of these sheets indicated:

- There was no submission date on the sheets for any of the 17 dates requested off
- There was no written indication the days were requested the required four days in advance
- There was no written documentation of any administrative review or approval

By not directing staff to follow these policies, maintaining the minimum allowable staffing levels becomes even more challenging than the norm and likely contributes to Hillbrook's increasing levels of staff overtime. The lack of written documentation approving the time off requested on Request for Leave Sheets is also a concern.

Finding 12: The audit also found issues related to the completion of Voluntary Overtime Sheets, specifically those for DHC II employees. We tested 14 Voluntary Overtime Sheets provided by Hillbrook Management for the period of 1/1/2021 thru 8/21/2021. Each Voluntary Overtime Sheet can potentially include up to 38 entries that require authorization initials. Testing indicated:

- Authorization initials were missing from a significant number of entries on 7 of the 14 Voluntary Overtime Sheets.
- In one instance (1/26/21), it appears a DHC II authorized their own overtime as they were the initials in that approval column. An employee should not be able to authorize their own overtime.

Segment V: Staffing Level Concerns

Currently there are four “pods” being used for juveniles at Hillbrook. Each pod is made up of living quarters that accommodate around 8 juveniles. During conversations with Hillbrook Management, we were informed to be in compliance with NYS code, there needed to be two DHC II’s working during each of the two “waking” shifts (one DHC II per 2 pods) and one DHC II for the sleeping shift. Each scheduled shift is 8 hours in length.

Finding 13: Below are two tables. The first shows calculations for the current DHC II staffing situation for the four pods. The second table is the calculation for the near future when the fifth and sixth pods will become active. The fifth and sixth pods will require (using current staffing methodology) one DHC II per each waking shift.

<u>Currently with Four Active Pods</u>				
	<u>Shifts</u>			<u>Hours Per Day</u>
	<u>Waking</u>	<u>Waking</u>	<u>Sleep</u>	
Sunday	8 x 2	8 x 2	8 x 1	40
Monday	8 x 2	8 x 2	8 x 1	40
Tuesday	8 x 2	8 x 2	8 x 1	40
Wednesday	8 x 2	8 x 2	8 x 1	40
Thursday	8 x 2	8 x 2	8 x 1	40
Friday	8 x 2	8 x 2	8 x 1	40
Saturday	8 x 2	8 x 2	8 x 1	40
DHC II Hours Per Week				<u>280</u> / 40 hours = 7 FT DHC II's Needed to Cover Hours

Near Future with Six Active Pods

	<u>Shifts</u>			<u>Hours Per Day</u>
	<u>Waking</u>	<u>Waking</u>	<u>Sleep</u>	
Sunday	8 x 3	8 x 3	8 x 1	56
Monday	8 x 3	8 x 3	8 x 1	56
Tuesday	8 x 3	8 x 3	8 x 1	56
Wednesday	8 x 3	8 x 3	8 x 1	56
Thursday	8 x 3	8 x 3	8 x 1	56
Friday	8 x 3	8 x 3	8 x 1	56
Saturday	8 x 3	8 x 3	8 x 1	56
DHC II Hours Per Week			<u>392</u>	/ 40 hours = 10 FT DHC II's Needed to Cover Hours

Hillbrook currently has 5 full-time DHC II positions approved in the annual budget. This has been the same number of positions since 2014. The staffing level is currently short by approximately 2 FT DHC II employees. For future activity including the other two pods, Hillbrook will be short 5 FT DHC II employees. The shortage of full time DHC II's contributes to the excessive amounts of overtime and will continue to do so when the last 2 pods open.

Recommendation G: *We recommend consideration be given to an alternative to Hillbrook's current work schedule with the intended purpose being a possible reduction in the amount of overtime worked by Hillbrook employees.*

Segment VI: Cost Benefit Analysis

The highest paid Hillbrook DHC II (with overtime and benefits) came at a cost of \$236,033 in 2021. The County could have paid the salary and benefits of 3 new employees* for approximately \$228,098. Doing this would have saved the County approximately \$7,935 while also providing more staff and thus potentially lowering overtime expenses.

Highest Paid DHC II for 2021 (w/OT) vs New Employee			
<u>Highest Paid DHC II in 2021 (w/OT)</u>		<u>Average New Employee 2021</u>	
Current Employee Salary and OT	\$ 184,212.43	Average New Employee Salary	\$ 58,315.00
County Benefits Cost	\$ 51,820.57	Average County Benefits Cost	\$ 17,717.64
Total 2021 Cost for Employee	<u>\$ 236,033.00</u>	Total 2021 Cost for New Employee	<u>\$ 76,032.64</u>

* Step A of 2021 salary, Tier 6 retirement, avg. of no health/dental and having family health/dental

Recommendation H: *We recommend Administrators of the Department of Children and Family Services and Hillbrook request more DHC II positions in their annual budget.*

Overtime has increased over the last several years, especially within supervisory positions. With Hillbrook's expansion from 32 to 50 beds, it is likely more DHC II supervision will be needed.

Segment VII: County Legislature Resolution # 63 April 3, 2012:

In addition to being non-compliant with New York State Labor Law 161, the Hillbrook Policies and Procedures Manual and the CSEA contract, Hillbrook is also not adhering to Onondaga County Legislature Resolution #63, April 2012 (Exhibit 3) which is legislation specifically related to overtime procedures/policies.

When this legislation was crafted and approved, rationale for Resolution #63 included:

- The cost of public pensions being passed from the State of New York to local municipalities, including counties, towns, cities and villages.
- The state pension system including a defined benefit plan obligating local municipalities to pay for the fixed and defined employee benefits regardless of the financial performances of the State pension administration investments.
- The cost of public employee pensions to all taxpayers increasing significantly.
- A higher demand for pension payments and fewer local dollars available to pay for them.
- The long-term financial liability created by the inclusion of overtime earnings in benefit calculations.
- Allocation of overtime based strictly on seniority artificially causing increased pension benefits, to the significant detriment and cost to tax payers.

The County Legislature updated Resolution 63 in July 2021. Since then they have tracked County employee overtime levels. In December of 2021 County department heads and elected officials were sent a list of any employees that had accrued overtime pay in excess of 15% of their salary in the third financial quarter of 2021. Hillbrook had 25 employees in the list with the job title Detention Home Counselor 2, Detention Home Aide 2 or Detention Home Aide. In March of 2022 a similar report that was sent out had 24 Hillbrook employees with those titles in the list.

While Resolution 63 is not a law or code that must mandatorily be adhered to, the amount of overtime worked at Hillbrook over the course of the audit period clearly indicates that they are not operating within the intended spirit of the legislation.

Segment VIII: Overtime Effect on Tier 4 Member Retirement

Finding 14:

In 2020 the highest paid DHC II at Hillbrook took all of their overtime pay in salary (as opposed to accruing CTE). This employee is a member of Tier 4 of the New York State retirement system. Members of Tier 4 contribute just 3% of their gross salary to the system and only for their first 10 years of membership. There is no limit on the amount of overtime that can be earned. The average annual base salary for this employee per the County's PeopleSoft records for the past three years is \$64,118.94.

Based on our calculations, when adding the overtime earned, it is estimated this employee will be paid approximately \$81,466.97 a year in retirement benefits, an additional \$17,348 more than their working average annual salary for the past three years.

SECTION IV EXHIBITS

Exhibit # 1: Request for Leave Sheet Example

Request for Leave

Complete for on calendar month – Do not overlap months

Submission Date: _____

☒ **Vacation** Dates: 2/4 (9-7a); 2/5 (11a-2p); 2/6 (9-7a); 2/7 (9-7a)

☐ **Personal** Dates: _____

☐ **Comp** Dates: _____

☐ **Sick Leave** Dates: _____

☐ **Floating Holiday** Dates: _____

☐ **Holiday** Date: _____

☐ **Request Pay OR**

☐ **Comp** _____

Date in Lieu of Holiday

Comp Day Must Be Used in 6 Weeks

☐ **Other** (Specify) _____

☐ **Add/Correct IN Punch** Specify exact time: _____

☐ **Add/Correct OUT Punch** Specify exact time: _____

☐ **Lunch Break Adjustment** _____

Employee Name: [REDACTED]

Signature: [REDACTED]

Verification of Time on Kronos: _____

Date Verified: _____

Employee Initials: _____

Administrative Review

Date Received: _____

Verification of Time by: _____

(Date Verified)

(Payroll Initials)

Approved By: _____

Modify as Follows:

Denied By: _____

Exhibit # 2: Request for Leave Sheets Table

Request for Leave Sheets Table for Report

Request Sheet	Submission Date	Request Type	Request Date	Request Shift	Employee Signature	Date Verified	Verified Employee Initials	Administrative Review
1	⊘	Vacation	2/4/2020	3am - 7am	✓	⊘	⊘	⊘
1	⊘	Vacation	2/5/2020	11pm - 3am	✓	⊘	⊘	⊘
1	⊘	Vacation	2/6/2020	3am - 7am	✓	⊘	⊘	⊘
1	⊘	Vacation	2/7/2020	3am - 7am	✓	⊘	⊘	⊘
2	⊘	Vacation	2/16/2020	11pm - 7am	✓	⊘	⊘	⊘
2	⊘	Vacation	2/18/2020	11pm - 7am	✓	⊘	⊘	⊘
2	⊘	Vacation	2/19/2020	3am - 7am	✓	⊘	⊘	⊘
2	⊘	Vacation	2/20/2020	3am - 7am	✓	⊘	⊘	⊘
3	⊘	Vacation	3/8/2020	11pm - 3am	✓	⊘	⊘	⊘
3	⊘	Vacation	3/10/2020	11pm - 3am	✓	⊘	⊘	⊘
3	⊘	Vacation	3/11/2020	11pm - 3am	✓	⊘	⊘	⊘
3	⊘	Vacation	3/12/2020	11pm - 3am	✓	⊘	⊘	⊘
3	⊘	Vacation	3/13/2020	3am - 7am	✓	⊘	⊘	⊘
4	⊘	Vacation	6/13/2021	11pm - 3am	✓	⊘	⊘	⊘
4	⊘	Vacation	6/14/2021	11pm - 3am	✓	⊘	⊘	⊘
4	⊘	Vacation	6/15/2021	11pm - 3am	✓	⊘	⊘	⊘
4	⊘	Vacation	6/16/2021	11pm - 3am	✓	⊘	⊘	⊘

⊘ Missing information, incomplete

✓ Form signed by employee

Exhibit # 3: Onondaga County Legislature Resolution # 63 April 3, 2012

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April 3, 2012

63

Motion Made By Mr. Kilmartin, Mr. Knapp,
Mr. Plochocki, Mr. May, Mr. Dougherty, Mrs. Tassone,
Mrs. Rapp, Mr. Liedka, Mr. Ryan, Mr. Stanczyk,
Mr. Holquist, Mr. Shepard, Mr. Jordan, Mr. McMahon,
Ms. Williams, Mrs. Ervin

RESOLUTION NO. _____

DECLARING THE POLICY OF THIS LEGISLATURE THAT THE PRACTICE OF STACKING OF
OVERTIME SHOULD BE ELIMINATED, CALLING FOR REPORTING ON OVERTIME, AND
REQUESTING NEGOTIATIONS CONSISTENT WITH THIS POLICY, ALL TO THE EXTENT
ALLOWABLE BY CONTRACT AND APPLICABLE LAW

WHEREAS, the State of New York sets terms and conditions for public employee pension
contributions, pension administration and pension payments for those eligible to receive pension benefits;
and

WHEREAS, the cost of public pensions is passed from the State of New York to local
municipalities, including counties, towns, cities and villages; and

WHEREAS, the current state pension system includes a defined benefit plan obligating local
municipalities to pay for the fixed and defined employee benefits regardless of the financial performances
of the State pension administration investments; and

WHEREAS, with the downturn in the economy, the cost of public employee pensions to all
taxpayers increased significantly in recent years; and

WHEREAS, with higher demand for pension payments and fewer local dollars available to pay
the same, public and private evaluators, including Governor Cuomo, have determined the current pension
system is unsustainable without fundamental change; and

WHEREAS, each level of government should do everything possible to support, promote and
institute fundamental changes to the pension collection, management and distribution systems; and

WHEREAS, one of the contributing factors in increased pension costs is the long-term financial
liability created by the inclusion of overtime earnings in benefit calculations; and

WHEREAS, Onondaga County should strive to bring about pension reform by implementing new
overtime management policies and procedures based on necessity, expertise and skill, while eliminating
the costly practice of stacking overtime hours based on seniority; and

WHEREAS, allocation of overtime based strictly on seniority artificially increases pension
benefits for the sole benefit of an employee, and to the significant detriment and cost to the tax payer;
now, therefore be it

RESOLVED, it is hereby declared a policy of this Legislature, that to the extent allowable by
contract and applicable law, county department heads and elected officials should take all appropriate
action to eliminate the disproportionate stacking of overtime hours worked by any individual employee
and proportionately distribute overtime hours amongst employees based on necessity, expertise and skill;
and, be it further

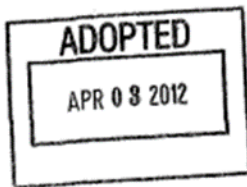
Exhibit # 3: Onondaga County Legislature Resolution # 63 April 3, 2012
Cont'd

RESOLVED, that County department heads, including elected officials are requested to submit in writing to the county legislature any instance in which a county employee accrues overtime in excess of five percent (5%) of their regular pay in a fiscal quarter; and, be it further

RESOLVED, that county department heads, including elected county officials undertake new policies and procedures, where allowed by contract and applicable law, to prevent disproportionate stacking of overtime; and, be it further

RESOLVED, that those involved in contract negotiations are hereby requested to negotiate future contracts consistent with the intent set forth herein.

Pension OT
ss
kam



FILED WITH CLERK
ONOND. CO. LEG.
March 23, 2012
KMF

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND
EXACT COPY OF LEGISLATION DULY ADOPTED BY THE
COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE

3rd DAY OF April, 20 12

Debrah A. Maturo

CLERK, COUNTY LEGISLATURE
ONONDAGA COUNTY, NEW YORK

74:6 07 05 00N21

ADVISORY

**Exhibit # 4: Onondaga County Legislature Resolution # 80 Adopted
7/6/2021 Amending Resolution in Exhibit 3**

July 6, 2021

WAIVER

Motion Made By Mr. May

RESOLUTION NO. 80

AMENDMENT TO RESOLUTION NO. 63-2012, ELIMINATING THE PRACTICE OF STACKING OF OVERTIME, REPORTING OF OVERTIME, AND NEGOTIATIONS CONSISTENT WITH THIS POLICY, TO THE EXTENT ALLOWABLE BY CONTRACT AND APPLICABLE LAW

RESOLVED, that Resolution No. 63-2012 is hereby amended to increase the amount of reportable overtime from 5% to 15%, with the second Resolve clause of the resolution substituted to read as follows:

RESOLVED, that County department heads, including elected officials, are requested to submit, in writing, to the County Legislature any instance in which a County Employee accrues overtime in excess of fifteen percent (15 %) of their regular pay in a fiscal quarter; and, be it further

RESOLVED, that in all other respects, aspects of Resolution No. 63-2012, shall remain undisturbed and in full effect.

ADOPTED 7/6/21



I hereby certify that the foregoing is a true and exact copy of the legislation duly adopted by the County Legislature of Onondaga County on the 6th day of July 2021.
Clerk, County Legislature

A handwritten signature in blue ink, appearing to be "J. M.", is written over a horizontal line.

Pension - OT yv dak 6.28.2021

SECTION V

HILLBROOK MANAGEMENT RESPONSE



County of Onondaga

Department of Children & Family Services

Child Welfare • Mental Health Services • Juvenile Justice • Youth Bureau • School Based Initiatives

J. Ryan McMahon II
County Executive

John H. Mulroy Civic Center
421 Montgomery Street, Syracuse, NY 13202
Phone: 315-435-2884 Fax: 315-435-3814

Amy Cunningham
Commissioner

www.ongov.net

April 22, 2022

Martin D. Masterpole
Comptroller, Onondaga County
421 Montgomery Street, 14th Floor
Syracuse, NY 13202

Dear Comptroller Masterpole,

The following is in response to the draft Report on Hillbrook Juvenile Detention Center Overtime Audit dated April 14, 2022. This response is presented by the administration of the Department of Children and Family Services and the Hillbrook Juvenile Detention Center in consultation with the Onondaga County Personnel Department. We thank you for the opportunity to have this response letter issued with your final report.

Segment I: New York State Labor Law Section 161

Re: Finding #1 - We disagree with this finding as the Onondaga County Attorney has determined that this section of New York State Labor Law does not apply to the employees referenced in this report. Please see the opinion letter of the County Attorney provided to you under separate cover.

Segment II: Hillbrook Policy and Procedure Manual

Re: All findings and recommendations in Segment II – We acknowledge the Hillbrook Policy and Procedure Manual is inconsistent with the current collective bargaining agreement between the Civil Service Employees Association and the County of Onondaga (hereinafter “CBA”) in certain instances and as such the manual is not followed in those instances. However, for all findings in this segment, Hillbrook administration adhered to the terms of the CBA such that all employees in question were scheduled and compensated in accordance with its terms. Therefore, the manual will be amended to be consistent with the CBA and, upon completion, made available to all employees.

Segment III: CSEA Union Contract

Re: Finding #7 – This finding is incorrect. Hillbrook bids out all voluntary overtime on a rotating basis. The voluntary overtime records provided to you demonstrate this. The fact that one Detention Home Counselor II (hereinafter “DHC2”) receives the bulk of the

overtime is merely due to other DHC2's turning down opportunities for voluntary overtime. Additionally, this also leads to the use of mandated overtime in accordance with the CBA, which due to the shifts usually and customarily needing to be filled, leads to the DHC2 in question working additional overtime.

Re: Finding #8 – We believe that this finding is due to a misunderstanding of the language in the CBA and how it operates. While it is true that once a leave has started, the leave type in use cannot be changed (except in the case of bereavement leave), however, leave types can and frequently are changed in advance of the leave commencing. We are confident that the better record-keeping capabilities provided by the implementation of the SharePoint system will alleviate this concern.

Re: Finding #9 – This finding raises concerns for us and will be reviewed further by the department with the assistance of the Personnel Department.

Re: Finding #10 – The problem identified in this finding is correct – that being, an abundance of overtime by DHC2's being needed to operate the facility. However, the conclusion drawn here is incorrect. The actual reason is quite simply that there are only five (5) DHC2's which, at certain times, are not enough to accomplish the work of the facility without overtime. The department is presently reviewing the Hillbrook staffing model to address this issue, which includes the recent addition of two (2) part-time DHC2's.

Segment IV: Management Oversight of Requested Time Off and Voluntary Overtime

Re: Finding #11 – We acknowledge that documentation on this is lacking. Further, there are justifiable instances where requests are made and approved in a shorter time-span than preferred. The department will revisit its standards in this regard and the implementation of SharePoint is expected to resolve the documentation concerns.

Re: Finding #12 – The practice of not initialing the voluntary overtime sheets is not acceptable and will be corrected. Additionally, voluntary overtime should be approved by an administrator and not signed off by a DHC2. Hillbrook has an administrator on call twenty four hours per day available to sign off, even if not in the building.

Segment V: Staffing Level Concerns

Re: Finding #13 – Respectfully, your office does not possess the expertise to evaluate and make recommendations on appropriate staffing of a juvenile detention facility. That said, and as previously stated herein, the department is presently reviewing the current staffing model.

Segment VI: Cost Benefit Analysis

Re: Recommendation H – As previously stated, the department is presently reviewing the current staffing models.

Segment VII: County Legislature resolution #63; April 3, 2012

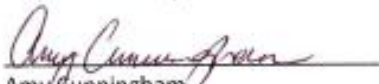
While there is no finding or recommendation in this segment, we disagree with the statement that, "... the amount of overtime worked at Hillbrook over the course of the audit period **clearly** (emphasis added) indicates that they are not operating within the intended spirit of the legislation." There is no need to need to infer the intended spirit of the legislation since the Legislature itself precisely declares its intent in the first Resolved clause of the resolution, which is to eliminate the "disproportionate stacking" of overtime. Nowhere in the resolution does the Legislature declare an intent to reduce total overtime levels. You may be of the opinion that the amount of overtime worked at Hillbrook is excessive, and that opinion may be valid, but you cannot ascribe the same to the Legislature solely via this resolution which makes no such claim nor declares such intent.

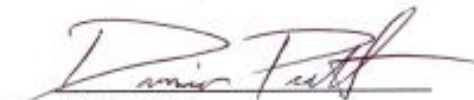
Segment VIII: Overtime Effect on Tier 4 Member Retirement

Re: Finding #14 – We do not understand the purpose of this finding nor its message. We would, however, like it noted that the employee in question regularly works overtime shifts (both voluntary and mandated) that are unwanted by other DHC2's, and in doing so allows Onondaga County to continue providing a valuable service. This DHC2 earned the salary and overtime legally and in accordance with the terms of the CBA, and will receive an appropriate and legal pension in accordance with New York State retirement law. Any perceived or real shortcomings of the department in its management of overtime should not reflect negatively on a dedicated employee who has "stepped up" when needed.

This concludes our response. Thank you for the opportunity to comment on this report. As noted in responses to certain findings herein, the Department of Children and Family Services and the Hillbrook Juvenile Detention Center, in consultation with the Personnel Department, will be taking action on those related recommendations.

Cordially,


Amy Cunningham
Commissioner, DCFS


Damian Pratt
Director, Juvenile Justice and Detention


Carl Hummel
Commissioner, Personnel