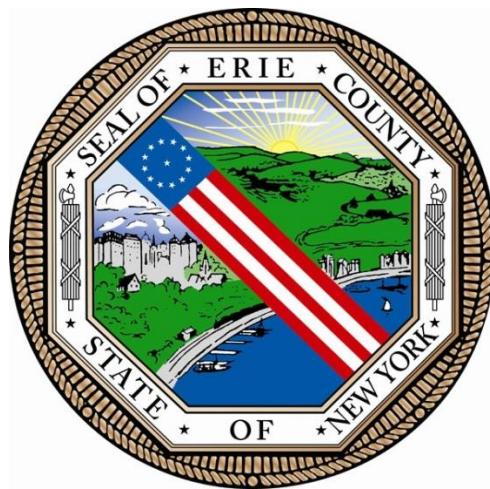


September 2020

**A Report on Updated Overtime Expenses
Charged to COVID-19 Relief Fund and Pay for Not Working**



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September 2, 2020

Erie County Legislature
92 Franklin Street 4th Floor
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Dear Honorable Members:

The Erie County Comptroller's Office has completed a report on certain personnel expenses charged to fund 252, commonly known as CARES Act relief for municipalities.

Our objectives were to:

- Update the amount of expenses for overtime attributed to fund 252.
- List Managerial Confidential recipients of overtime payments.
- Compare overtime expenses with unutilized/emergency closing payments by time period.

To accomplish these objectives, we reviewed expenses attributed to fund 252, as well as usage of the unutilized and emergency closing time codes.

This report serves as both an update to previous reports regarding overtime expensed to fund 252, as well as new comparisons to other expenses, specifically unutilized time and emergency closing time. Those categories of time were used by employees who did not report to work, but also did not have the ability to work remotely. A meeting scheduled prior to the August break to discuss overtime was postponed, with the intent to meet soon for the discussion. This updated and new information may be useful at such a discussion when it occurs.

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Background

On March 25, 2020, the United States Senate passed the “Coronavirus Aid, Relief and Economic Security Act” (CARES) as amended. The United States House of Representatives approved the measure on the following day, and the bill was signed into law on March 27, 2020.

The CARES act is currently the largest relief act in United States history. It was the third relief measure passed to counter the physical and economic impacts of COVID-19, a coronavirus which originated in China, spread internationally, and whose epicenter is now the United States. Even as the rest of the nation is experiencing a surge of cases not currently seen in Erie County, Erie County is experiencing a rate of death from COVID-19 compared to positive cases of 7.2%. This compares to 3.1% for the United States as a whole, and 5.9% for New York State as a whole.

The CARES Act provided significant aid to local governments to combat COVID-19. Erie County received \$160 million in federal funding. Erie County created a special fund to account for expenses permissibly reimbursed by CARES Act governmental funding. The fund is identified as fund 252. The money in fund 252 can be used for various purposes related to combatting COVID-19. These purposes include wages to individuals who tasks are to substantially address COVID-19, outfitting offices and other areas to reduce potential exposure to COVID-19, fortifying capacity to work remotely to avoid COVID-19, and supplies and protective gear to guard against COVID-19, to name just a few permissible uses. There have been suggestions that law may be amended to allow governments to use this source of funds to address other needs, such as loss of tax revenue due to business closures. However, at this time, such a plan is speculation.

As stated, a permissible use of CARES Act funding is to pay employees whose efforts are substantially devoted to addressing COVID-19. As a result, some employees have been hired specifically for such tasks, while others have been authorized overtime for such tasks. The tasks needed to address COVID-19 are varied, and may be different from tasks typically undertaken by employees in their daily activities.

At the prompting of legislature questions and commentary, our office has previously submitted reports quantifying overtime and holiday worked pay expended to MC employees, overtime and holiday worked pay expended to employees represented by bargaining units, and pay for employees who did not report to work and were unable to perform work remotely.

This report focuses specifically on overtime, holiday worked, emergency closing, and unutilized costs associated with fund 252. It synthesizes, as well as updates information previously provided. Further, it offers a direct comparison of expenditures for employees who did not work with expenditures for overtime during the same pay periods.

Overtime

As of the pay period ending August 14, 2020, 838 employees have charged 68,520 hours of overtime to fund 252, resulting in an expenditure of \$3,612,947. Of this amount, \$907,310 has been paid to 54 MC employees. This amounts to 25.1% of overtime payments to employees. MC employees comprise 6.5% of the county workforce. While the process for allocating overtime to union represented employees is outlined in labor contracts, MC employees are not bound to the terms of those contracts for overtime assignment purposes.

The following are overtime payments made to MC employees from fund 252:

<u>Office</u>	<u>Title</u>	<u>Hours</u>	<u>Amount</u>
Health	Commissioner	713.98	\$103,374
Sheriff	Chief of Special Services	750.5	\$61,368
Sheriff	First Deputy Superintendent - Compliance	619	\$55,706
Sheriff	First Deputy Superintendent	586.5	\$47,958
Sheriff	Undersheriff	455.5	\$44,769
Sheriff	Superintendent	507.5	\$44,726
Emergency Services	Commissioner	542.64	\$42,622
Sheriff	Chief of Administration	526.5	\$42,168
Emergency Services	Deputy Commissioner - Preparedness	656.28	\$39,337
Sheriff	First Deputy Superintendent	473	\$37,090
Emergency Services	Deputy Fire Coordinator - Fire Safety	662.41	\$36,457
Sheriff	Chief of Operations	546.75	\$35,743
Sheriff	Chief Deputy Sheriff	440.25	\$35,260
Sheriff	Captain	390.75	\$26,037
Personnel	Commissioner	272.33	\$22,642
Emergency Services	Public Safety Officer - Special Assistant	433.84	\$19,404
Purchasing	Director	234.73	\$18,828
Sheriff	Chief Deputy - Civil	245.25	\$18,166
Law	Assistant County Attorney	201.05	\$17,292
Sheriff	Special Assistant to the Sheriff	352	\$16,668
County Executive	Deputy County Executive	122.7	\$14,541
Health	Deputy Commissioner	232.14	\$13,914
Personnel	Deputy Commissioner	231.96	\$13,506
Public Works	Deputy Commissioner	182.23	\$11,439
Personnel	Chief of Classification and Compensation	116.38	\$9,141
Info Support Services	Director of Information Technology	101.88	\$8,368
Public Works	Commissioner	61.47	\$6,500
Labor Relations	Commissioner	81.31	\$6,207
Social Services	Commissioner	59.73	\$6,167
Youth Detention	Deputy Commissioner	80.77	\$5,918
Sheriff	Chief of Community Services	136	\$5,396

Budget and Management	Deputy Budget Director	63.97	\$5,131
Info Support Services	Chief Information Officer	37.26	\$4,416
Central Police Services	Commissioner	43.69	\$3,632
Personnel	Secretary, Commissioner of Personnel	88.53	\$2,854
Senior Services	Commissioner	34.75	\$2,787
Social Services	First Deputy Commissioner	26.82	\$2,571
Law	County Attorney	19.75	\$2,340
Health	Secretary to the Commissioner	56.18	\$2,242
Law	First Assistant County Attorney	21.1	\$2,009
Public Works	Special Assistant to the Commissioner	29.83	\$1,980
County Executive	Chief of Staff	23.75	\$1,740
County Executive	Junior Administrative Consultant	23.95	\$1,288
County Executive	Deputy Press Secretary	23.16	\$1,245
County Executive	Administrative Assistant to the Chief of Staff	27.43	\$1,087
County Executive	Secretarial Assistant - County Executive	26.23	\$885
County Executive	Junior Administrative Consultant	17.97	\$876
County Executive	Legislative Liaison	14.62	\$786
County Executive	Administrative Assistant to the Chief of Staff	17.1	\$784
County Executive	Secretary to the Deputy County Executive	15.56	\$538
Personnel	Personnel Specialist	7.92	\$436
County Executive	Secretarial Assistant - County Executive	13.42	\$429
Personnel	Training Coordinator	5.13	\$276
Budget and Management	Coordinator of Grants and Program Administration	4	\$266

Holiday Pay

In addition to overtime, some employees received compensation for working on county recognized holidays. Since CARES Act funding became available, there have been three county recognized holidays (and the day generally celebrated by Erie County): Good Friday (April 10); Memorial Day (May 22); and, Independence Day (July 3). Since the last report, pay periods have intervened and adjustments have occurred. The result is a revision in the fund 252 holiday worked pay expense for 238 employees of \$124,445 for 2323.16 hours worked.

For MC employees, the amount expended was \$34,153. The following are holiday worked payments made to MC employees from fund 252:

<u>Office</u>	<u>Title</u>	<u>Hours</u>	<u>Amount</u>
Health	Commissioner	29.08	\$4,210
Sheriff	Undersheriff	29	\$2,850
Sheriff	Chief Deputy Sheriff	15.5	\$1,882
Sheriff	First Deputy Superintendent - Compliance	20.5	\$1,845
Sheriff	Chief of Administration	13.5	\$1,682

Purchasing	Director	19.73	\$1,583
Emergency Services	Commissioner	20	\$1,571
Sheriff	Superintendent	17	\$1,498
Sheriff	First Deputy Superintendent	17	\$1,390
Sheriff	Chief of Special Services	17	\$1,390
Personnel	Commissioner	8	\$1,330
Sheriff	First Deputy Superintendent	16.5	\$1,294
Health	Deputy Commissioner	11	\$1,139
Sheriff	Chief of Operations	17	\$1,111
Emergency Services	Deputy Fire Coordinator - Fire Safety	20	\$1,101
Emergency Services	Public Safety Officer - Special Assistant	20	\$895
Labor Relations	Commissioner	11.37	\$881
Public Works	Commissioner	8	\$846
Social Services	Commissioner	8	\$826
Sheriff	Chief Deputy - Civil	8.5	\$630
Personnel	Chief of Classification and Compensation	6.6	\$518
County Executive	Deputy County Executive	4.1	\$486
Emergency Services	Deputy Commissioner - Preparedness	8	\$480
Personnel	Deputy Commissioner	8	\$455
Public Works	Deputy Commissioner	6.4	\$402
Sheriff	Captain	6	\$400
Budget and Management	Deputy Budget Director	4.92	\$395
Health	Secretary to the Commissioner	8.45	\$337
Personnel	Secretary, Commissioner of Personnel	10.03	\$323
County Executive	Chief of Staff	3.02	\$221
Sheriff	Special Assistant to the Sheriff	3	\$142
Sheriff	Chief of Community Services	1	\$40

Other Overtime

The above payments are limited to overtime expenses paid from fund 252. Overtime was also paid to employees in other funds. However, viewing the history of overtime payments made to other funds, it is not uncommon for payments from other funds to be switched to fund 252 at a later date. As such, the above figures should not be viewed as a cap on amounts that will be charged to fund 252 as of July 10, 2020. The above amounts may change if overtime is ultimately transferred from another fund to fund 252.

For example, the Office of the County Executive did not include overtime in the proposed or legislature approved 2020 budget. We sampled two employees, the Chief of Staff and the Press Secretary, to determine if overtime was paid since April 3, 2020. A total of \$4,639 has been paid in overtime to these two employees since April 3. However, only \$1,740 of that amount has been

charged to fund 252. This would leave a deficit in the overtime line of \$2,899 which would have to be addressed through budget adjustments, unless it is permissible to assign the payments to fund 252.

The above-mentioned example is not unique to the County Executive’s office and is intended only as an example to indicate that overtime charged to fund 252 could change, even though the overtime has already been paid to employees.

Overtime by Pay Period

To date, employees have been paid for 68,520 hours of overtime for a total expense of \$3,612,947. The amount of overtime pay varies by pay period. The following chart lists the amount expended from fund 252 for overtime by pay period, including the amount expended for overtime by MC employees:

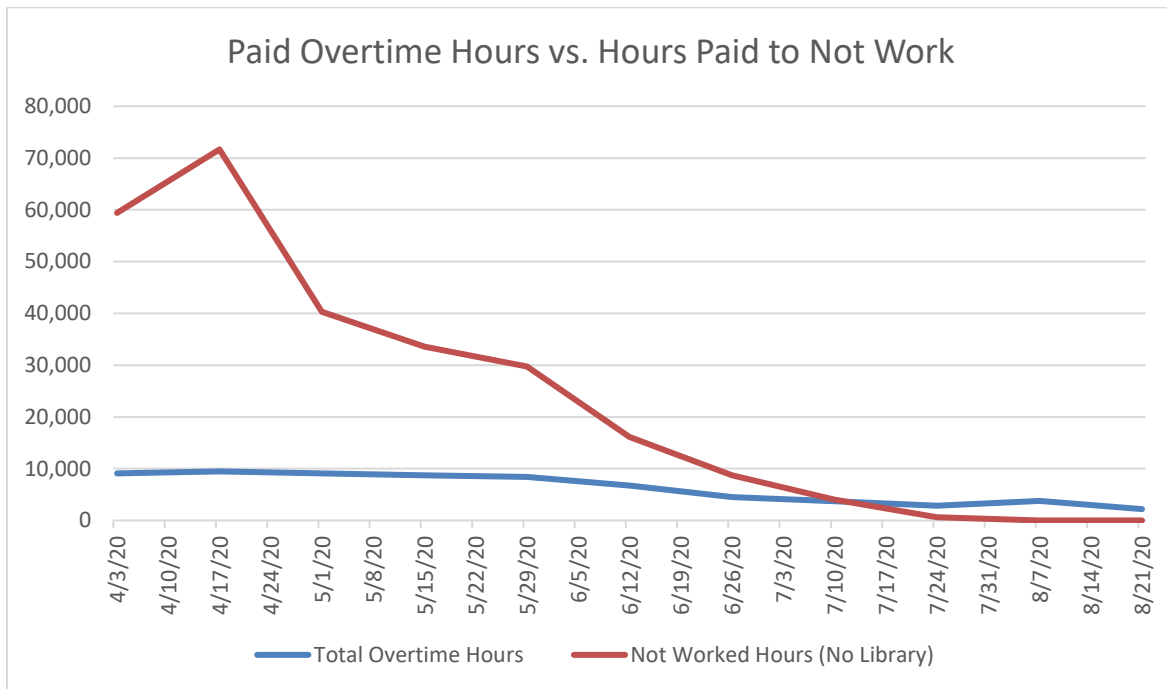
<u>Posting Date</u>	<u>Total Hours</u>	<u>Total Amount</u>	<u>Hours MC</u>	<u>Amount MC</u>
4/3/20	9,061	\$483,748	2,152	\$160,353
4/17/20	9,475	\$500,873	1,655	\$126,086
5/1/20	9,110	\$504,195	1,760	\$139,958
5/15/20	8,692	\$450,989	1,413	\$109,920
5/29/20	8,428	\$442,110	1,121	\$90,334
6/12/20	6,731	\$350,945	926	\$71,626
6/26/20	4,495	\$244,070	1,004	\$77,907
7/10/20	3,715	\$198,301	618	\$48,854
7/24/20	2,863	\$151,429	494	\$38,933
8/7/20	3,760	\$177,528	211	\$17,950
8/21/20	2,190	\$108,760	303	\$25,389

Overtime by Pay Period Compared to Unutilized/Emergency Closing Time

Paid overtime has generally decreased in each pay period since the April 11, 2020 – April 24, 2020 work period (payment posting date May 1, 2020. So has the amount of pay for employees who did not report to work and were unable to work remotely. In each of the eight pay periods through paychecks posted on July 10, 2020, the amount of hours paid for not working exceeded the amount of hours of paid overtime. In short, employees were being paid overtime at the same time other employees were being paid not to work. [It should be noted that data used for posting date April 3, 2020 was for the time code “Other Paid Absence,” which includes time spent working remotely; “Emergency Closing” and “Unutilized” were not available for that date.]

The graph below compares the amount of paid overtime hours to the amount of paid hours for not working in each pay period since the onset of COVID-19 in Erie County. Because the libraries

were actually closed and inaccessible for much of the time period depicted, the “emergency closing” hours expended from fund 252 to library employees are not included.



Conclusions

The CARES Act provides Erie County with \$160 million to combat COVID-19. The funds are to be used for COVID-19 related expenses that were not otherwise anticipated in the budget. Although it has been speculated that the law will be changed to allow governments to use funds to address needs such as revenue shortfalls, no change has yet been made to the law.

To date, \$3,612,947 has been expended from fund 252 for overtime. This represents payments to employees, and does not include other personnel related expenses for this time worked. Of this amount, \$907,310 has been paid to 54 MC employees. This amounts to 25.1% of all fund 252 overtime.

Overtime is typically not available to MC employees. However, overtime has been paid to MC employees during the period notable for the prevalence of COVID-19 in Erie County, both from fund 252 and the general fund. WE RECOMMEND that the County examine its use of overtime for MC employees expended from the general fund, as well as other special funds that may exist.

Separately, \$124,445 has been expended from fund 252 for 2,323.16 hours of holiday worked pay. Holiday worked pay, like overtime, is paid at an enhanced rate. Of this amount, \$34,153 was expended to MC employees.

While \$3,737,392 was expended for work beyond employees' typical work schedule, with additional payments made for other personnel related expenses, over \$5,865,044 was expended for employees who did not report to work and did not have the capability to work remotely. In the first eight pay periods after social distancing measures were implemented, the amount of hours paid for not working exceeded the amount of hours paid for overtime work from fund 252. WE RECOMMEND that, if a situation again arises wherein employees are compensated for not working, consideration be given to utilizing this latent workforce preferentially over paying overtime at an enhanced rate.

The CARES Act allows expenditures to promote social distancing to combat COVID-19. Equipping employees to work remotely is an acceptable expenditure of the funds. WE RECOMMEND that consideration be given to better equipping employees to work remotely in order to reduce the number of employees compensated for remaining home and not working.