

Audit Report of the Syracuse Police Department Overtime



Submitted to:

Mayor Stephanie A. Miner

and

Hon. Members of the Syracuse Common Council

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City of Syracuse Auditor

Report On Syracuse Police Department Overtime

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The City of Syracuse Office of the City Auditor Police Overtime Audit Report

A. Introduction:

Overtime in Police operations is an unavoidable expense. Examples of manpower needs that cannot reasonably be addressed without authorized overtime include:

- Continuity required at incidents in progress at shift changes
- Specialized services at unforeseen events and emergencies, such as:
 - o Evidence technicians
 - o Hostage negotiators
 - o SWAT Teams
- Scheduled special events, such as:
 - o Carrier Dome traffic control
 - o Downtown festivals and concerts
 - o Evening neighborhood meetings and school events
- Required in-service training
- Temporary assignments such as Police Academy instructors
- Mandated court appearances

However, as detailed in Section C below, SPD overtime is costly, with salary and benefits totaling nearly \$13 million in FY15/16.

B. Objectives:

Given the magnitude of these expenses, the Auditor's Office has conducted a high level review of the overtime program to:

- Document the components of this \$13 million overtime cost (Section C)
- Identify the drivers of overtime costs (Section D)
- Review current SPD administrative procedures for managing overtime costs (Section E)
- Make recommendations for cost savings and efficiency improvements (Sections F & G)

Please note that the auditing of pay calculations for individual overtime assignments is outside the scope of this review.

C. Methodology:

The Audit Department gathered information on the SPD overtime program through interviews with City staff most knowledgeable about the historical context and administration of the SPD overtime program.

City staff interviewed and the general topics covered included:

- Personnel Director Derrek Thomas (contract interpretation)
- Corporation Counsel Robert Stamey (negotiation and arbitration history)
- Budget Director Mary Vossler (budget impact)
- City Police Chief Frank Fowler (operational considerations)
- Captain Stephen Lynch and Sgt. Brian Lutz of the ABC Division (payroll administration and record keeping)

In addition, we offered PBA President Sgt. Jeff Piedmonte the opportunity to share his perspective on this topic with us. However, we did not receive a response.

Also, upon completion of a final draft of this report, we provided a copy to the City Administration for their comments. The Administration reviewed the draft and chose not to prepare a management response.

We also obtained and reviewed City and State documents which are essential to conducting a thorough review of the program including:

- City payroll runs for calendar 2015 which list overtime payments received by each SPD officer
- City Budget Office and SPD reports of aggregate actual and reimbursed overtime costs from FY11/12 through FY 15-16
- The City's 2016 actual and 2017 projected Police pension bills from the New York State Police and Fire Retirement System
- The most recently negotiated City/PBA contract covering the period of 1/1/2011 through 12/31/2015
- Relevant City/PBA interest arbitration awards, including the 2012 Lawson award addressing:
 - o the formula for calculating bi-weekly overtime payments and
 - o compensation for accumulated unpaid overtime hours upon an officer's retirement
- The SPD policy manual section pertaining to distributing, authorizing and reporting overtime payments
- Reports prepared by the SPD's Audit , Budget, and Control (ABC) Division regarding:
 - o Historical staffing levels
 - o Breakdowns of annual overtime salary costs by reasons for overtime for FY11/12 through FY14/15

D. Overtime Costs and Trends:

SPD overtime costs totaled approximately \$12.7 million in FY5/16. These costs consisted of:

- Overtime payments to police officers for time worked above their standard daily work schedule (\$9,075,071.) Based on the 6/30/15 active roster of 409, this equates to an average of \$22,188 per officer
- Fringe benefit payments that are billed to the City as a percentage of the overtime payroll:
 - o The City's share of mandated Federal FICA payments for Social Security and Medicare billed at 7.65% of payroll (\$694,243)
 - o Annual pension payments for overtime reported to the New York State Police and Firemen's Retirement System, billed at an effective rate of 24.4% of payroll (\$2,214,317). The City's FY15/16 Police pension bill is provided in Attachment #1.
- Deferred payout of overtime pay until an officer's termination as required under the comp bank (or "bonus time") provisions of the PBA contract (\$728,394 paid to 37 retirees in 2015.)

This equates to an average one-time payout of \$19,686 per retiree.

The costs of SPD overtime are rising. Despite the July 2012 elimination of SPD airport security patrols, which averaged about \$2.7 million in overtime salary costs each year, overtime payments are now higher than when the SPD airport security program was operational .

At the same time, re-imburements of overtime costs from outside sources to the City are declining. In FY2011/12, 57.5% of all overtime salaries were reimbursed from a combination of grants, airport operating funds, and other sources. In the last three years, only 25.6% of these overtime salary costs have been covered by reimbursements to the City.

As a result of increased salary and fringe overtime costs and decreasing re-imburements, the portion of SPD overtime costs that must be supported by general City revenues, including property taxes is increasing, approximately doubling since FY11/12.

E. Cost Drivers:

In addition to increases associated with annual changes in the SPD salary schedules, the City’s overtime costs are determined by several major cost drivers:

1. Manpower Availability: Overtime assignments are necessary when there are not enough police officers on regular duty to handle the existing workload. While authorized staffing levels of uniform personnel has remained at 493 or 494 since FY10/11, the five year trend in actual staffing levels as of 6/30 of each year is as follows:

FY10/11	487
FY 11/12	468
FY12/13	439
FY13/14	449
FY14/15	413
FY15/16	420 (including 22 recruits in training)

All things being equal, the reduction in available personnel puts pressure on the overtime budget.

An internal SPD analysis of current overtime assignments lists the number one reason for overtime is to meet minimum staffing needs in the patrol division, which requires \$1.4 million in overtime salaries alone. As recently as FY12/13, overtime salaries for this purpose were only \$214,505.

2. State Pension Tiers and Billing Rates: All SPD sworn personnel are members of the New York State Police and Fire Pension System. Depending upon his/her employment date, each officer is assigned to one of six “Tiers”, each with its own schedule of pension benefits, employer costs, and employee cost sharing requirements.

In addition, within these Tiers, employers have limited options to provide benefit enhancements beyond the basic pension plan. In the past, City/PBA negotiations have resulted in the election of some of these enhancements.

Employers like the City are responsible for the costs of the pension plans that are not covered by returns on the fund’s investments plus the contributions of employees.

In recent years, in an effort to reduce pension costs, the State has established new Tiers 5 and 6 that have included more restrictions on the pensionability of certain overtime earnings and requiring for the first time contributions by police officers and firefighters. (Police officers hired prior to January 2010 do not make contributions to their pension plans.)

Tier 5 covers officers who were hired between January 2010 and March 2012. Major changes to reduce costs are the introduction of an employee cost sharing provision (at 3% of salary) and the capping of overtime earnings used in pension calculations to 15% of annual salary.

Tier 6 covers officers who were hired after April 1, 2012. Tier 6 adjusted the member contribution requirement from a flat 3% to a sliding scale of from 3 to 6 per cent salary. It also adjusted the formula for calculating pension benefits from a 3 year final average salary to a five year average salary, thereby moderating the impact of any spikes in annual compensation.

Over time, as new hires are enrolled in Tier 6 and existing employees retire, (and all other factors being equal), pension costs to the City should decline. As an illustration of the potential for cost reductions , most current City police officers are covered by plans that require a roughly 25% employer payroll contribution rate. In contrast, as noted in Attachment #1, the current Tier 6 employer contribution rate is 14.3%.

In New York State, pension benefits for public employees, including police officers, are guaranteed by the New York State Constitution. Once an officer is enrolled in his Retirement Tier, the benefits offered him cannot be diminished.

In summary, pension benefit levels, employee contribution rates and billing rates associated with overtime are outside the control of the City. The decision to offer new pension Tiers with different benefit levels and costs is the prerogative of the New York State Governor and Legislature.

Attachment #3 summarizes the changes in benefits and pension calculation methods for Tiers 1 through 6.

3. FICA Billing Rates: FICA billing rates are determined at the Federal level and are also outside the control of the City. In the future, if social security reform measures are passed, that'll require increased employer contributions and pension costs will be directly increased.

4. PBA Contract Provisions and Compulsory Arbitration Decisions:

The current PBA contract is the cumulative result of a series of negotiated agreements and compulsory arbitration awards dating back to the early 1970's. Although the most recent contract expired on 12/31/15, all provisions of the contract remain in force until a successor agreement is negotiated or an arbitration award is issued.

Overtime pay is paid at 1.5 times an officer's hourly rate (plus longevity allowances) for hours actually worked. The hourly rate is determined by dividing an officer's annual base pay by 2080, regardless of the actual number of hours worked in a year (per Arbitrator Eric Lawson's 2012 decision.) However, the labor contract contains two exceptions to paying overtime only for actual hours worked:

- Court appearances (Section 8.2): minimum payments of from 2 to 4 hours of overtime are guaranteed depending on how the timing of the court appearance relates to the officer's normal work schedule. Overtime pay for court appearances accounts for approximately \$220,000 per year in overtime costs
- Off-duty call-ins (Section 8.5): a minimum payment of four hours of overtime pay is guaranteed when the overtime assignment is not contiguous with an officer's regular tour of duty

5. Reimbursements: The impact of overtime costs on City taxpayers can be mitigated by obtaining reimbursements from Federal and State grants, Syracuse University (for Dome traffic control costs) and other sources. Since the elimination of SPD security services at the airport, total reimbursements have averaged approximately \$1.6 million per year or about 12.6% of the overtime salary and fringe costs incurred.

F. Administration of Overtime:

SPD payroll administration, including processing of overtime payments and the billing for reimbursements is the responsibility of the SPD's Audit, Budget and Control Bureau. We wish to commend the members of the Bureau for their diligence and accuracy in processing the volume of overtime assignments that they are responsible for.

In reviewing this Bureau's operations, we wish to highlight three areas of concern:

1. The current system of administering overtime relies on a decades-old manual, paper intensive tracking system. Each year approximately 40,000 to 45,000 multi-part 3 x 5 inch paper slips wind their way through the Public Safety Building's inter-office mail system to be signed and counter-signed, as overtime assignments are authorized, reported on and paid for.

While there have been no significant problems reported, it is apparent that the system has significant limitations, including:

- The potential for inaccurate determination of the amount of pay due as a result of illegible handwriting or manual calculation
- The potential for a loss of slips in transit, which would delay payment to officers
- The difficulty in tracking the status of payments
- The difficulty of producing timely management reports on the overtime program (such as breakdowns by time of day, reasons for overtime, and status of reimbursements) as all slips have to be physically sorted and summarized to produce such reports
- The expense of clerical positions to input data from the slips to the City's AS 400 to produce bi-weekly paychecks containing overtime payments earned

We understand that the SPD has had ongoing discussions with other law enforcement Departments and vendors with an eye toward replacing this manual system with a web based system.

A copy of the SPD overtime authorization slip is provided in Attachment #4.

2. The paper slips contain blanks to be filled out for the recording of the start and end time of the work detail and of the actual time worked so that the amount of overtime pay earned can be calculated.

We note that in some cases of overtime assignments covered by the minimum 4 hour call-in contract provision, the end time is not recorded on the paper slips (or on any other Departmental record or communication). The only notation is that the assignment was covered by the call-in provision so that the clerk would know to process a 4 hour payment.

While the failure to record a specific end time in these cases does not affect the amount of pay due, the lack of an end time makes it impossible to document the precise time the officer is off duty and on his own time.

This information may be critical should the officer be involved in an accident or other situation where the City may be brought into a liability claim.

3. In discussing reimbursement procedures with ABC staff, we noted an inconsistency in the Department's billing of available outside State and Federal grants, Syracuse University (and previously the Syracuse Airport Authority) versus billing for other special details.

The former sources of re-imbusement are billed for all overtime costs incurred by the City, including the costs of fringe benefits. However, other special details are billed only for salary costs and not for the State Retirement System or FICA charges. This practice results in City taxpayers subsidizing these other operations for the approximately 32% fringe cost incurred.

This inconsistent billing practice has been in place for many years. Current members of the ABC Division could not recall the existence of a written Departmental policy or Council ordinance authorizing these partial re-imburements.

G. Cost Containment Recommendations:

The Audit Department has the following recommendations for overtime cost containment in the SPD overtime program:

1. Develop an annual program budget statement for SPD overtime – Currently, it is difficult for City elected officials, City taxpayers and other interested parties to ascertain the net tax rate impact of the SPD overtime program.

Departmental overtime costs are now captured in four different expenditure accounts in two separate Police Bureaus. Similarly, overtime reimbursements are reflected in four different reimbursement accounts. Pension and FICA costs attributable to overtime are components of two large City-wide fringe benefit accounts and not broken out separately.

In addition to displaying tax rate impact of overtime program, a comprehensive statement of overtime costs and reimbursements would help ensure a complete and accurate costing out of City and PBA contract proposals during future rounds of labor negotiations. This practice may minimize the possibility of inadvertently misrepresenting the cost impacts of various City and union proposals.

One possible model suggested for consideration for displaying overtime costs and reimbursements and net tax levy impact is the annual Parking Facilities Analysis Statement as provided on page xxxi of the FY2015/16 City budget.

2. Make full use of personnel called in for non-contiguous overtime – Per the City/PBA labor contract, personnel called in to work overtime that is not contiguous to their normal schedule are guaranteed four hours of overtime pay. In some circumstances, the original overtime assignment is completed in less than 4 hours. In these cases, the Department has officers on site and available for additional work at no increased cost. However, current practice is to dismiss the officer and authorize 4 hours of pay.

Chief Fowler has explained that in many of these situations, it is impractical to provide meaningful assignments for the remainder of the four hour period.

Nevertheless, we suggest the SPD revisit the possibility of identifying a range of appropriate supplemental assignments in these cases so that taxpayers' funds are put to productive use.

3. Develop contract proposals to modify overtime payment provisions – The current PBA contract provisions regarding overtime pay for call-ins and court time are up for renegotiation. Other police contracts in the State have a less generous guarantee for call-ins. The City negotiating team should consider developing a similar proposal to reduce these costs.

4. Consider the additional hiring of police officers to reduce the need for patrol overtime– Cost/benefit analyses of hiring more officers vs paying more overtime should be prepared and updated by the City on a regular basis.

Key cost factors such as the level of future pension contributions and the cost of providing health insurance to new employees change annually. Furthermore, the concerns about staff burnout should be assessed as the Department continues to operate with significant number of vacant positions over an extended period of time.

H. Administrative Efficiency Recommendations:

The Audit Department has the following recommendations to improve administrative efficiency in the SPD overtime program:

1. Elimination of paper overtime slips - The SPD should accelerate its investigation into alternatives for a computerized system for overtime approvals and overtime payment. Once such alternatives have been identified, the Department should work with the Budget Department to identify funding and solicit RFP's from qualified vendors to implement such a system.
2. Establishment of a written policy on overtime reimbursement billings – The SPD should develop a written policy regarding charging private organizations and non-profit agencies for overtime details. The policy should explicitly state whether billings are to include the fringe benefit costs incurred by the City as a result of the overtime assignment. In developing this proposed policy, the SPD should consult with the Corporation Council's Office to determine:
 - a. whether such arrangements are permitted under the gift clause of the New York State Constitution and, if so
 - b. whether Common Council approval of such a policy is required
3. Clarification of off duty time for called-in overtime – To limit the City's liability for off-duty incidents, the SPD should require that all overtime slips, including those involving the 4 hour guaranteed payment for call-ins, be filled out completely and specifically include the time of going off duty.