



"The Capital City of the Palm Beaches"

Internal Auditor's Office
P.O. Box 3366
West Palm Beach, Florida 33402
Telephone: 561/659-8084
FAX: 561/659-8066

TO: Lois J. Frankel, Mayor

FROM: Imogene Isaacs, CIA, CGFM, Internal Auditor

DATE: August 20, 2004

**SUBJECT: REPORT NO. 2004-02
AUDIT OF OVERTIME**

INTRODUCTION

Our 2003/04 Audit Plan includes an audit of payroll. Because of concerns regarding the use of overtime Citywide, we completed this Audit of Overtime in lieu of the overall audit of payroll. An audit of payroll will be scheduled for next fiscal year.

The objectives of this audit were to determine that:

- overtime was authorized and necessary;
- time worked was properly recorded and entered into the Oracle Time Management system and correctly paid;
- overtime compensation and compensatory time were awarded consistent with the Federal Fair Labor Standards Act, Florida Statutes, City Code, departmental rules and regulations, and bargaining unit agreements; and
- adequate procedures were in place and working to reasonably assure that overtime was controlled.

Additionally, we identified:

- factors contributing to rising overtime costs and related risks, and
- potential strategies to reduce overtime costs and mitigate risks.

Since this audit concentrated solely on overtime paid, it did not address the potential of employees *not* being paid for additional time worked.

CONCLUSION AND SUMMARY OF FINDINGS

In the past three fiscal years, overtime has escalated out of control.

General Fund actual expenses for overtime rose 55% from \$3,509,771 in FY 2001 to \$5,430,433 in FY 2003. In each of these three years, actual overtime costs significantly exceeded the adopted budget. Police Department overtime accounted for approximately two-thirds of last year's total City overtime expenses and has been the major driver of cost overruns.

The cost of unbudgeted overtime is paid for from the City's contingency reserve (a budgetary reserve set aside for emergency or unanticipated expenditures), or funds realized from increased revenues and decreased expenditures. Considering that Police actual overtime costs regularly overrun budgeted costs, it is difficult to characterize the additional costs as emergency or unanticipated expenditures. Poor planning is the apparent cause of these cost overruns. The effect is felt Citywide, as these overruns factor into the budget freezes that have become commonplace in the third or fourth quarter each year.

Overtime costs not only affect the current year budget, but, in the case of police officers, also create future liabilities in the form of increases to the City's required pension fund contributions.

Retirement benefits under the City's defined benefit pension plans are based on years of service and average salary for highest years as determined by the plan. The Police Pension Plan, unlike the other defined benefit plans, includes overtime compensation in the average salary calculation. Averaging ten hours of overtime a week for three years can raise an officer's pension by more than 33%; averaging twenty hours can produce a 75% increase in pension.

The potential for increasing their earnings and pensions is so great that officers are routinely manipulating their work schedules and disregarding overtime regulations to maximize overtime earnings. This also creates a disincentive for officers to seek promotions and higher levels of responsibility, as the ranks above Lieutenant are not eligible for overtime. In FY 2003, one Police Officer's earnings exceeded that of the Police Chief by over \$5,000.

The defined benefit provisions of the pension fund are supported by member contributions, investment income from the pension fund assets, and City

contributions. Officers contribute a fixed 7% of their earnings to the pension plan. Investment income from the pension fund assets varies with the economy. The City is responsible for the balance of the contributions required to maintain the pension fund, as determined by the fund actuary each year. For FY 2005, the City's contribution rate will be 24.32% of payroll.

As stated in the Annual Actuarial Valuation Report of September 30, 2003, required contributions by the City to the Police Pension Fund have greatly increased over the past few years, from \$1,975,410 in FY 2002 to \$3,498,786 for FY 03 and \$4,541,317 for FY 2004. The increasing amount of these contributions is due to low investment returns and substantial increases in officers' earnings primarily in the form of overtime.

Citywide, the most common reason given by department heads for the escalation of overtime was reaction to the requests of the Mayor and City Commission for new programs and increased level of service. Downtown security, NCON (Northwood Coalition of Neighborhoods) police details, building permit turnaround time goals, traffic control, and downtown cleanup were all cited as requiring significant additional overtime.

It should be noted that overtime cannot be totally eliminated, nor should it be, as assigning additional hours of work at a premium rate of pay can be the most cost-effective means of providing additional staffing as required. The challenge to management is in determining that additional work hours are in fact necessary and that no better alternative to overtime is available.

In practice, however, overtime was often used as a first alternative rather than a last alternative for meeting organizational needs. In some cases, better planning and utilization of existing resources and scheduling latitude could have eliminated a significant amount of the overtime worked and costs incurred. In others, the level and expected duration of overtime worked warranted hiring additional personnel as a more cost-effective alternative. During the course of this audit, both the Police and Fire Departments replaced continuing overtime coverage with regularly assigned employees, either through the addition or redeployment of staff. The need continues to regularly review overtime use and costs to determine the best means of providing required staff coverage.

A number of weaknesses were found in management's systems of internal control relating to the use and costs of overtime. Procedures regarding the authorization and approval of overtime were not always clearly communicated or followed. The distribution of overtime assignments in certain departments, especially the Police Department, was not perceived by employees to be fair nor was it cost-effective for the City.

Patterns evident in several departments indicated that overtime had, to some extent, become an “entitlement” to employees rather than an event based on organizational necessity. The authorization process had been reduced to a blanket authorization that employees used at their own discretion, rather than authorization being granted by management on a case-by-case basis. Adequate supervisory reviews should have revealed these overtime patterns and appropriate actions could have been taken, or taken more timely, to curtail abuses.

Inconsistencies were found between time clock reports, submitted time sheets, and overtime paid in many of the pay records tested. Procedural inconsistencies were found among departments and even among various timekeepers in the same department. The most serious procedural deficiencies were found in the Police Department. In more than half of the pay periods tested, hours paid did not equal the hours worked. The hours paid were sometimes more and sometimes less than the reported hours worked in that pay period. The following factors contributed to these pay inaccuracies:

1. Officers did not submit their own time or attest to the hours they worked.
2. Group time sheets submitted by supervisors for officers in their unit did not contain all time worked by the officers. Overtime worked on “extra duty” details was approved and submitted by a different supervisor.
3. Group timesheets submitted by supervisors were often late and/or inaccurate. Changes to officers’ normal schedules were frequently omitted, particularly when officers were allowed to “flex” their work schedules.
4. Clock times worked are not required or accurately maintained in the time management system. The time detail report from the system is very difficult to understand and not useful for supervisory review of payroll.
5. Overtime pay was frequently not paid in the pay period in which it was worked because of late overtime submittals. Each pay period, considerable time was expended by the timekeeper in researching officer inquiries about missing overtime pay.

Overtime pay and compensatory time were administered consistent with the Federal Fair Labor Standards Act (FLSA), Florida Statutes, City Code, departmental rules and regulations, and bargaining unit agreements with the following exceptions:

1. In the Police Department, late overtime was being recorded and paid as if worked in the pay period subsequent to when it was actually worked - affecting the required FLSA overtime rate calculations.
2. Compensatory time for certain training in the Police Department, commonly referred to as “training payback time” was not entered into the

- payroll system and therefore not subject to the restrictions on compensatory time.
3. Employees in the Police Benevolent Association (PBA) bargaining units were allowed to “cash out” accrued compensatory time as desired, whereas the PBA bargaining unit agreement only provides that the City may offer an opportunity to cash accrued compensatory time on an annual basis.
 4. Citywide, the method used for setting the hourly rate value for compensatory time final payouts was inconsistent with FLSA requirements.
 5. In the Fire Department, the overtime provisions of the International Association of Firefighters (IAFF) bargaining unit for non-shift personnel were not followed.

Some of the City’s practices and bargaining unit agreement provisions are contributing significantly to overtime costs. For instance, by counting paid leave as time worked rather than taking advantage of the allowable exemptions under the FLSA, the City has in effect lowered the threshold for hours actually worked before overtime payment is required. Consequently, the City is paying overtime where regular time is allowable.

Another costly practice is the granting of compensatory time in lieu of overtime compensation in work areas where little opportunity exists for the employee to take the time off without being covered by another employee on overtime. This creates a compounding effect due to the overtime hours required for coverage increasing with each overtime assignment made to cover an employee taking compensatory time off.

The following summarizes our findings that are discussed in detail along with our recommendations for improvements and management’s responses under the Findings, Recommendations, and Responses section below.

Finding No. 1: Better Planning is Needed by the Police Department to Control Overtime Costs proposes the systematic analysis of program effectiveness in attaining desired outcomes, short and long-term staffing requirements, and strategies to meet public safety priorities.

Finding No. 2: Management Controls Should be Strengthened to Insure that Overtime Worked is Necessary provides evidence that overtime was not always properly authorized and approved by management and that overtime abuses have occurred.

Finding No. 3: Costs to the City Could be Reduced through Better Distribution of Overtime and Judicious Use of Compensatory Time explains how uncontrolled overtime assignment distribution contributed to immediate and

future costs to the City and how the inappropriate use of compensatory time off as an alternative to overtime compensation can actually create additional overtime.

Finding No. 4: Timekeeping Systems Should be Re-engineered to Provide More Value to Management reports deficiencies and fragmentation in the various components of our timekeeping systems that impede accurate and timely pay processing and fail to provide management with adequate tools for controlling and allocating payroll costs.

Finding No. 5: Certain City Practices Were Not Consistent with Fair Labor Standards Act Requirements and Bargaining Unit Agreements shows errors in the recording and payment of overtime and certain compensatory time in the Police Department, the method used for setting the hourly rate value for compensatory time final payout Citywide, and the calculation of overtime for non-shift personnel in the Fire Department.

City Administration agreed with all but a few of our recommendations. In those cases, alternative corrective actions were proposed. Responses follow each recommendation, and the full text of each response is included at the end of this report.

The complete written responses appear at the back of the report and are summarized in the **Findings, Recommendations, and Responses** section of the report.

We thank the City's timekeepers for responding to our survey and assisting in records review; Vicki Barnard, former Payroll Specialist, in Finance for answering our numerous inquiries; Mary Eversole, Accounting Clerk, and Linda Mc Dermott, Fiscal Services Supervisor, in the Police Department for their many hours of assistance; Neida Elena Castenada, Senior Systems Analyst, in Support Services for her considerable Oracle expertise; and Assistant Chief Van Reeth and the other overtime task team members from the Police Department for their collective efforts.

This audit was conducted by Ken Nielson, CPA, CIA, CISA, Sr. Assistant Internal Auditor, and Dennis Prewitt, CCP, CCSA, SPHR, Management Analyst.

SCOPE AND METHODOLOGY

This audit included all departments of the City. Tests of overtime payroll calculations were for the period March 29, 2003 through July 5, 2003 for a stratified sample of 45 employees from five City departments.

The audit was performed in accordance with generally accepted government audit standards. In performing this audit, we:

- reviewed the Fair Labor Standards Act, Florida Statutes, City Charter and Code, Administrative Policies, department rules and regulations, and bargaining unit agreements;
- surveyed timekeepers Citywide;
- interviewed the Mayor, City Commissioners, City Administrator, Department Directors, certain Division Heads, and Bargaining Unit representatives;
- examined employee rosters, schedules, timesheets, payroll reports, and online payroll records;
- recalculated a sample of employees' pay records including the FLSA regular rate and compiled hour-by-hour time records;
- recomputed time worked thresholds for award of overtime compensation or compensatory time;
- reviewed time records for adherence to departmental standard operating procedures in regard to overtime worked;
- mapped processes in certain units from work scheduling and overtime approval through time entry, review, and approval; and
- performed such other tests of procedures, practices, and records as were deemed necessary under the circumstances.

Since this audit concentrated solely on overtime paid, it did not address the potential of employees not being paid for overtime worked.

BACKGROUND INFORMATION

Overtime costs rose markedly and exceeded originally budgeted levels in each of the past three years. General Fund actual expenses for overtime increased 55% from \$3,509,771 in FY 2001 to \$5,430,433 in FY 2003.

Section 62-55 (a) of the City Code states "Overtime may be granted when necessary in order to meet emergency situations or operating needs, subject to budget limitations and to approval of the mayor." Overtime can be incurred when additional man-hours are required to cover for employee absences due to vacations, sickness, and other reasons and to staff for emergency or unexpected situations.

Overtime is particularly costly to employers because it must be paid at a premium rate as defined by the FLSA. Moreover, overtime provisions in the various union

agreements and City practices in regard to non-represented employees are considerably more generous than required by law.

While it is commonly believed that the required rate for overtime is one and one-half times an employee's base rate of pay, it can be significantly higher. The FLSA 29 U.S.C. 201 Section 7 (a) (1) requires an employer to pay overtime for hours in excess of 40 in a workweek at the rate of one and one-half times the "regular" rate of the employee. Essentially, the regular rate is the employee's hourly base rate *plus* an hourly pro rata of other types of pay not included in the base rate.

Depending on the work unit in the City, these "add-ons" can include educational incentives, certification pay, temporary assignment and step-up pay, uniform cleaning allowances, tool allowances, longevity, and many other forms of add-on pay. Because of this add-on pay, the regular rate can be 20% or more above the base pay rate.

Section 7 (e) of the FLSA allows employers to exclude certain types of pay from the regular rate computation and from consideration as "time worked"; specifically payments made for occasional periods when no work was performed due to vacation, holiday, and illness.

The City, however, does not utilize all of these exclusions. *All* types of paid leave except sick leave are included in the City's FLSA regular rate computation and are considered "time worked". The effect is that an unnecessary overtime premium is paid when an employee works overtime in a week with a paid absence other than sick leave. Using the FLSA exemption, the "paid but not worked" hours would offset any hours worked over 40, which would then be paid at straight time versus the overtime rate.

Coupled with the City's generous leave policies, counting all leave (except sick leave) as time worked can have a significant impact on overtime costs. Vacation leave, earned personal leave, discretionary days, compensatory time, bereavement leave, jury duty, military leave, incentive sick leave, and other paid leaves of absence count toward the forty hour threshold for the overtime requirement.

Not all employees are subject to the overtime pay requirements imposed by the FLSA. Certain executive, administrative, and professional job classifications that meet specified criteria are exempt from the overtime pay requirements, and employees in these jobs are commonly referred to as "exempt" employees.

The remaining employee population is classified as “non-exempt”. The City of West Palm Beach had 227 exempt and 1465 non-exempt employees at January 20, 2004.

An alternative to paying overtime compensation to non-exempt employees exists for public sector employers only. FLSA 29 U.S.C. 201 Section 7 (o) (1) provides that employees of a public agency may receive, in lieu of overtime compensation, compensatory time off at not less than one and one-half hours for each hour of employment for which overtime compensation is required.

Both the Police and Fire collective bargaining agreements contain alternative work period arrangements for some of their covered employees, allowable under Section 7 (k) of the FLSA.

The Police Patrol Division operates under a FLSA 7 (k) compliant “4/12” schedule that allows law enforcement officers to work 171 hours in a 28 day work period before overtime is required. The purpose of this arrangement is to allow public sector employers to balance the hours of work over an entire work period.

In each 28 day work period, our officers on the 4/12 schedule work two weeks with four 11 ½ hour work days (46 hours per week) and two weeks with three 11 ½ hour work days (34.5 hours per week) for a total of 161 hours. Each two week pay period, however, encompasses either two long or two short weeks for a total of 92 or 69 hours, respectively.

Officers are compensated for 80 hours at base rate plus ½ hour of overtime each pay period, regardless of actual hours worked. In this manner, the irregular pay period hours are balanced and the officers receive the equivalent of 161 hours of base pay per 28 day work period.

This pay arrangement; however, does not take advantage of the 171 hour threshold before overtime is required in a 28 day period, as provided for in the FLSA regulations for police officers. Per the collective bargaining agreement, officers must also receive overtime (at time and one-half) for any hours worked in excess of those regularly scheduled within any calendar week.

Shift employees in the Fire Department are paid under an FLSA 7 (k) arrangement that does to some extent take advantage of the threshold provision, which in the case of fire protection employees is 212 hours in a 28 day period (or a number of hours that bears the same ratio to the number of days in the period). Their work period is a 21 calendar day recurring cycle; therefore, 159 hours would be the allowable threshold under the FLSA, which was the case until April 2003 when it

was reduced from 159 to 151 hours under the terms of the collective bargaining agreement. It was subsequently reduced again, to 147 hours, in March 2004.

Firefighters work a 24 hour workday, followed by 48 hours off. This schedule is repeated until the seventh scheduled workday, at which time the employee takes a “Kelly Day” off instead of working. In this manner, each employee works 144 scheduled hours in a work period.

Firefighters’ payroll periods consist of 6 weeks with 3 bi-weekly draws, encompassing 2 work periods of 21 days each. Each draw is for 96 hours of base rate pay, regardless of hours worked, plus their base hourly rate for any hours worked in addition to those scheduled (straight overtime). Accordingly, employees are paid for 288 scheduled hours total for the two work periods.

Under the FLSA 7 (k) arrangement and contract provisions, firefighter overtime is not paid until 147 hours have been worked in a work period (with some contractual exceptions). At the end of each work period, the balance of overtime compensation above the straight time pay already included is calculated and paid. Therefore, the first 3 additional work hours beyond those scheduled are paid at the straight time rather than overtime rate.

Some overtime costs are incurred by the City due to union contract provisions for overtime pay in certain situations or work schedules with built-in overtime. For example, all four collective bargaining agreements contain some provision for a minimum amount of overtime to be paid when an employee is called back to work after scheduled work is completed. These minimum call-back provisions range from 2 ½ hours to 4 hours.

The PBA contract mandates overtime for required off-duty training. Premium pay up to twice the regular rate is required by the IAFF, PBA, and the National Conference of Firemen and Oilers/Service Employees International Union (SEIU) contracts for working on holidays. A summary of overtime provisions in the various contracts is included as Exhibit 1.

Some work units in the Police Department have overtime built into their regular schedules. Line-up pay is a form of overtime awarded for a 15 minute briefing period before each shift for divisions other than patrol, whose briefing is included within their shift.

Dispatch Operations has overtime built into the shift schedules because employees work a 12 hour shift, resulting in alternating work weeks of 36 and 48 hours per week. They are not eligible for the Public Safety 7 (k) arrangement under the FLSA that allows the balancing of hours over more than one week. Therefore,

overtime is required for the 8 hours worked over the regular 40 hour threshold in the week in which they work 4 shifts of 12 hours each. The net result is the equivalent of 88 hours of base rate pay for 84 hours worked each pay period.

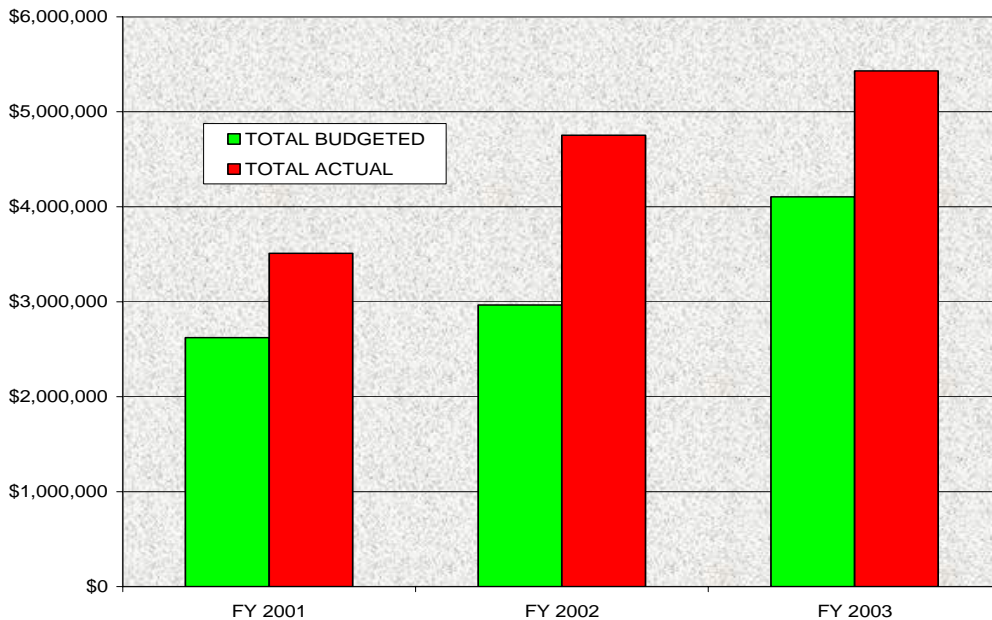
FINDINGS, RECOMMENDATIONS, AND RESPONSES

FINDING NO. 1: Better Planning is Needed by the Police Department to Control Overtime Costs

In the past three fiscal years, overtime costs have escalated out of control. General Fund actual expenses for overtime rose 55% from \$3,509,771 in FY 2001 to \$5,430,433 in FY 2003.

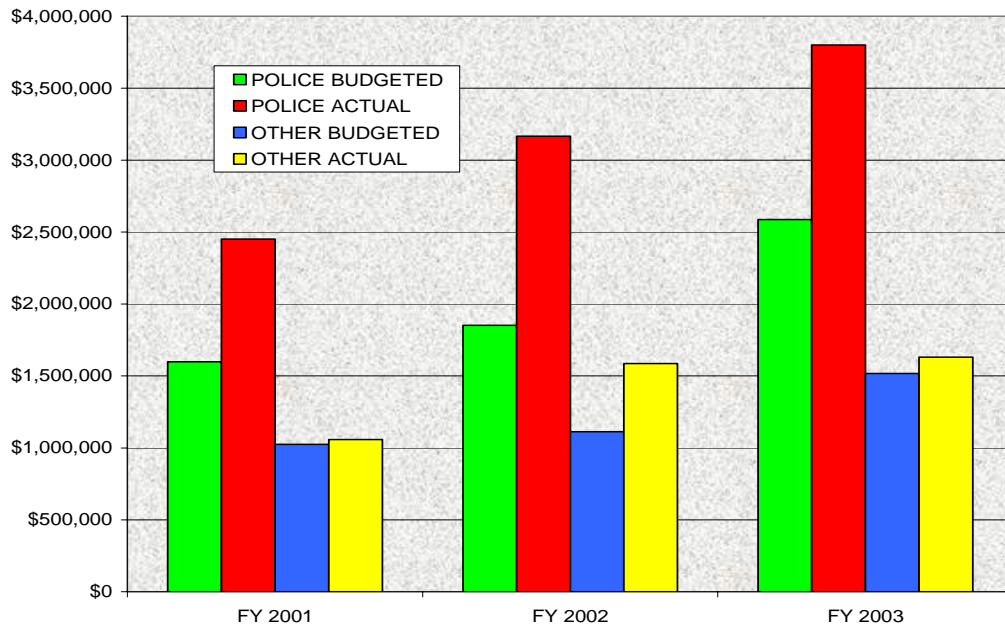
Actual overtime costs for each year significantly exceeded the budgeted amounts despite budget increases each year (but not enough to cover the prior year's actual), as illustrated on the chart below.

CITY OVERTIME TREND FY 2001-FY 2003



Police Department overtime has been the major driver of these cost overruns, as shown by the next chart comparing Police overtime with all other City departments combined.

POLICE OVERTIME VS. ALL OTHER CITY OVERTIME



It should be noted that some police overtime costs for security and traffic control services are included in other City department budgets.

The cost of unbudgeted overtime is paid for from the City's contingency reserve (a budgetary reserve set aside for emergency or unanticipated expenditures), or funds realized from increased revenues and decreased expenditures. Considering that Police actual overtime costs regularly overrun budgeted costs, it is difficult to characterize the additional costs as emergency or unanticipated expenditures. Poor planning is the apparent cause of these cost overruns.

In interviews conducted during this audit, department heads frequently cited reaction to the requests of the Mayor and City Commission for new programs and/or increased levels of service as a major contributor to budget overruns. Department heads chose to meet these new requests with increased overtime rather than resetting priorities and reassigning resources. Activities such as traffic control continued to be funded with overtime though it was apparent that downtown construction would create a continuing need rather than a short-term event. Perhaps a better alternative would have been to use civilian Police Aides, who are trained to direct traffic but receive a much lower rate of pay, for this activity instead of Police Officers.

Furthermore, in some areas, no actions were taken when the level of overtime exceeded the point where it would be more cost-effective to support the activities

with additions to staff. This may be an indication of an organizational culture that favors the use of overtime over staff additions.

The City might make better use of existing resources by transitioning from this reactive mode to a proactive strategy, by more effectively linking programs to the City's strategic priorities and associated goals and evaluating expected outcome versus actual outcome of the program activities. Improved strategic planning can mitigate the "out of control" costs of overtime.

For example, one of the objectives included under the strategic goal for the Police Department's Patrol Division is to: "Continue funding for the S.T.O.P. II (Specialized Traffic Orientated Policing) program." Since all of S.T.O.P. II salary expenditures are overtime this objective is clearly aimed at increasing overtime costs rather than controlling it. There is no performance measure identified with this objective. Objectives should always link to performance measures to assess outcomes.

In this way, performance measures can be used to improve planning by determining the effectiveness of programs that are intended to affect a given outcome. If program results are not measured, we do not know the relative value of continuance or expansion of a program versus the development of a different strategy.

When crime deterrence is the focus of overtime use, the incremental benefit of using overtime to meet objectives must also be measured. More broadly, all factors that influence the level of crime incidence need to be studied so the most effective preventative measures can be applied.

Recognizing the need to focus their resources, the Police Department implemented a new CompStat computer system in October 2003 in an effort to become more proactive in law enforcement activities and "work smarter". The CompStat system will enable improved data gathering and analysis to interpret emerging crime trends and patterns so resources can be optimally deployed to obtain maximum results.

While the Police Department CompStat system is still in a start-up mode, the Mayor has already initiated discussion of expanding the system Citywide to facilitate an outcome oriented, data driven system of management. Results from similar systems implemented across the country during the past four years indicate great potential for increases in program effectiveness and efficiency. For example, as published in Governance Technology, November 2003 issue, Baltimore reported a 40 percent reduction in overtime from their CityStat initiative, as well as improved city services while saving \$45 million in program costs.

Such a system could be used here to help control overtime costs. By systematically monitoring outcomes and measuring program performance, we can determine “what works” in reaching City objectives. With forward thinking, the City’s labor resources will be better allocated to support the City’s strategic priorities and the need for unplanned and possibly unproductive additional staffing will be decreased.

RECOMMENDATIONS AND RESPONSES (*responses are in italics*):

We recommend that the Police Chief:

1. Evaluate ways to free up sworn officers and reduce overtime costs such as, hiring additional Police Aides to perform various duties such as directing traffic, performing vehicle accident investigations, etc. and using civilians in positions not requiring sworn officers;

The department recently allocated funds eliminating a Police Captain position to hire one additional Police Aide and one Crime Scene Investigator. Unfortunately, the Universal Hiring Grant required us to also maintain the position of a sworn police officer. Otherwise we would have been able to hire a second Police Aide. Currently the agency is exploring the reallocation of funds dedicated to an additional Police Captain salary and that of an Administrative Services Coordinator. Assistant Chief Van Reeth is scheduled to retire in October of 2005 which will open up a Captains position. The Administrative Services Coordinator’s position has been eliminated from next year’s budget.

2. Continue development of the CompStat system with emphasis on improved deployment of resources, enhanced efficiency of field operations, increased data collection and analysis, and regular reporting to management.

CompStat is in place holding monthly meetings addressing the issues of resource deployment and measuring their efficiency in field use. Data collection and analysis has been improved with the introduction of crime view web which allows officers at the operational level to review criminal patterns and trends from their lap top computers.

FINDING NO. 2: Management Controls Should be Strengthened to Insure that Overtime Worked is Necessary

Section 62-55 (a) of the City Code states “Overtime may be granted when necessary in order to meet emergency situations or operating needs, subject to budget limitations and to approval of the mayor.”

To insure that overtime is worked only when necessary, overtime must be authorized before it is worked and approved for payment after it is worked. Procedures for the authorization and approval of overtime vary among and even within departments depending on the nature of the work and individual circumstances.

In most departments, authorization to work overtime is given verbally to employees while approval of overtime worked is required to be in writing. The form of this written approval varies from a specific overtime approval slip for each overtime assignment, to a roster on which overtime is recorded for an entire shift or group of employees. In some cases, approval is recorded by the manager directly on a Time Detail Report after time entry into Oracle.

Authorization of overtime may be executed at the first-line supervisory level, while the approval of overtime worked often extends to division head level. The reverse would be a more logical approach. Once overtime is authorized and worked, it must be paid.

These controls can be effective only if due diligence is performed by management. Since overtime is paid at a premium rate, many employees are more than eager to work extra hours. Patterns evident in several departments as described below indicate that overtime controls were not being used effectively and, as a result, overtime was to some extent becoming an “entitlement” to employees rather than a managerial choice.

The authorization process had in some areas been reduced to a blanket authorization that employees used at their own discretion, rather than being granted by management on a case-by-case basis. Routine patterns of overtime developed as employees availed themselves of the opportunity. Adequate management review nonetheless should have revealed these overtime patterns and actions could have been taken, or taken earlier, to curtail abuse.

For example, in the Construction Services Department, one Chief Building Inspector earned over \$60,000 in overtime compensation in addition to his \$52,000 in regular wages and other compensation - for a total compensation of \$112,000 in FY 2002. This high level of overtime continued into FY 2003.

To fit in this much overtime, he routinely worked an extraordinary schedule. His payroll records for a 3 month period in FY 2003 showed a routine of starting his day before regular office hours, continuing through the normally unpaid lunch hour, and extending well past the end of the scheduled day and often into late

evening. As many as 11 to 15 continuous work hours were reported with no unpaid breaks for meals or commuting time.

Weekends were frequently worked in addition to the after-hours overtime. Much of the overtime was reportedly performed in the field conducting inspections or at home reviewing construction plans. Time reported for this employee for the first week of the test period is shown on the chart below:

DATE	DAY	SCHEDULE	WORKED	BASE HRS	O/T HRS	DAILY TOTAL
30-Mar	SU	OFF	7:00 am -11:00 am		4	
			8:00 pm -11:00 pm		3	7
31-Mar	M	7:00 am - 4:00 pm	7:00 am - 4:00 pm	8	1	
			4:00 pm - 8:30 pm		4.5	
			10:00 pm -11:00 pm		1	14.5
01-Apr	T	7:00 am -4:00 pm	7:00 am - 4:00pm	8	1	
			4:00pm - 5:30 pm		1.5	10.5
02-Apr	W	7:00 am -4:00 pm	5:00 am - 7:00 am		2	
			7:00 am - 4:00 pm	8	1	
			4:00 pm - 8:30 pm		4.5	15.5
03-Apr	TH	7:00 am - 4:00 pm	7:00 am - 4:00 pm	8	1	
			4:00 pm - 5:30 pm		1.5	10.5
04-Apr	F	7:00 am - 4:00 pm	7:00 am - 4:00 pm	8	1	
			4:00 pm - 6:30 pm		2.5	11.5
05-Apr	SA	OFF	6:00 pm - 12:00 am		6	6
WEEK TOTAL				40	35.5	75.5

Note that one hour of overtime was paid each day during normally scheduled work hours for Monday through Friday, indicating that no unpaid lunch break was taken. Also note that 15 ½ continuous work hours were reported for Wednesday, with no unpaid breaks for meals or commuting.

Even a cursory supervisory review certainly should have brought this level and pattern of overtime into question, but it continued for well over a year until a new manager was hired in March 2003. Recognizing the problem, the manager took action to better control the additional hours worked and the overtime hours diminished markedly, followed shortly thereafter by the resignation of the employee.

An example of effectively addressing a newly emerging overtime problem was also observed in the Construction Services Department during this audit. The regular schedule for employees included a mandatory one hour unpaid lunch

break. Work Schedule Policy 4-6, effective July 7, 2003, states “Unpaid lunch breaks of a minimum of one-half hour up to a maximum of one hour should be taken, unless precluded by operational necessity.” However, faced with work backlogs, some employees would just grab a sandwich while working through much of their lunch break. Eventually, this practice caught on to the point where approximately 18 employees were regularly working overtime through lunch.

This “working lunch” routine was not only contrary to policy and unhealthy for employees, but also expensive for the City. Because some work was performed during the lunch period, the City was required to pay overtime for the entire hour in observance of FLSA regulations. To correct this situation, the department offered an opportunity for employees to reduce their lunch period to ½ hour. About 80% of the employees chose to do so. While overtime is still being worked after hours, it is no longer “built in” to the daily routine in place of a lunch break and is reportedly a less frequent occurrence.

The Construction Services Department has set some ambitious performance goals for turnaround time on plan reviews, building inspections, and occupational license issuances. Overtime is regularly utilized to complete work within targeted timelines. Notwithstanding, management must continue to use the authorization and approval process to guard against overtime becoming routine rather than the exception.

Approximately two-thirds of last year’s total overtime expenses were incurred in the Police Department. Officers are particularly motivated to work overtime not only because it is paid at a premium rate, but also because working overtime can result in increased pension benefits.

Similar to the City’s other defined benefit pension plans, annual pension amounts are based on years of service and average salary for the employee’s highest earning years. Unlike other defined benefit plans; however, overtime compensation is included in the average salary calculation for police officers. Averaging ten hours of overtime a week for three years can raise an officer’s pension by more than 33%; averaging twenty can produce a 75% increase. Some officers may soon be able to retire with double the pension benefits they would have earned without the overtime. The potential gain is so great that officers are routinely manipulating their work schedules and disregarding overtime regulations to maximize overtime. This also creates a disincentive for officers to seek promotions and higher levels of responsibility. In FY 2003, one Police Officer’s earnings exceeded that of the Police Chief by over \$5,000.

Standard Operating Procedures are established in the Police Department for Special Events, Extra Duty Details and Outside Employment that include some controls on overtime as listed below:

- Officers are prohibited from working more than 16 hours within a 24-hour period unless ordered to do so in the event of an unusual occurrence.
- Officers who are scheduled to work day shift must allow 8 hours off between the ending time of an extra duty detail and the starting time of the officer's shift.
- Officers working a 4 day, 11 ½ hour per day schedule may not work outside contract details during the scheduled work period except on the first or last day of their schedule.

While it is believed that the intent of this last regulation is for outside contract details to only be allowable *before* the first day's shift or *after* the last day's shift, some officers interpreted the rule differently and took overtime assignments during the scheduled work period.

It is possible to adhere to all of the above restrictions in the Standard Operating Procedures and still work a considerable amount of overtime, as demonstrated by one of the officers in our test sample who worked 162 overtime hours during our 3 month test period while following the rules with only one exception.

However; for the other 7 officers in the sample we found numerous contraventions of the rules, particularly in regard to the 16 hours per 24-hour period limitation. Over 40 instances were found where officers exceeded the 16 hours limit. Two officers exceeded the limit 10 times each during the 3 month test period – working as many as 20 to 23 hours straight in one day.

The requirement for 8 hours off before a scheduled shift was also frequently circumvented. An officer's performance after such long hours may well be impaired and thus expose the City to risk of liability as a result.

We also found numerous instances in which an officer altered his regular work schedule; apparently to work overtime assignments in another area (see following time chart). No record of approval was found for these schedule changes, nor were they reflected in the time sheets submitted to the timekeeper for time entry.

However, the same officer did not alter his schedule to facilitate his attendance at community association meetings, but rather worked his regular schedule then attended the community meetings on overtime. This would strongly suggest that scheduling in both cases was for the benefit of the officer rather than in the best interests of citizens and the City.

Instances were also found in which officers exchanged outside contract details without approval, apparently in order to work more lucrative overtime assignments. According to standard operating procedures, officers who sign up for outside contract details but cannot work the detail are required to find another eligible officer willing to work it. An extra duty exchange form signed by both officers must be submitted prior to the event.

However, exchange forms could not be located for some details although outside employer records indicated that exchanges were made. Furthermore, officers accepted outside contract details but then exchanged the outside detail when more desirable City overtime assignments for the same time period subsequently became available. These circumstances do not indicate that the officer *could not* work the outside contract detail, but rather that he *chose* not to work it in order to accept the City overtime.

Review of pay records also showed that the current application of overtime pay for “line-up” is inconsistent and questionable. Originally, line-up was the traditional roll call that preceded a shift. Apparently, some supervisors are approving 1 ¼ hours of line-up pay each week regardless of schedule or whether officers actually attend a line-up. This equates to 15 minutes per day overtime for officers on 8 hour (5 days/week) shifts, while officers on 10 hour (4 days/week) shifts receive 18 ¾ minutes a day overtime. Line-up pay appears to have evolved into an entitlement rather than pay for extra time worked.

Other discrepancies were found in our review of Police overtime. In one instance, pay records indicate that an officer worked an overtime detail in West Palm Beach while on military training leave. According to the documentation provided with the leave request, the military training was conducted at a duty station in South Dakota. According to the pay records, the officer worked a 6 hour overtime assignment on the third day of military leave, two days after the report date on his military orders. In another instance, an outside contract assignment was worked by an officer while on bereavement leave.

Numerous overlaps in time were found between regular schedules and overtime or outside contract assignments. In many cases, insufficient documentation was available in the pay records to determine what hours and assignments were actually worked. Very often, group timesheets submitted by supervisors to the timekeeper did not reflect leave taken or changes to scheduled hours. Overtime slips that were submitted directly to the timekeeper often conflicted with the regular work times indicated on the group timesheets.

The following is an example illustrating many of the departures from standard operating procedures described above. This table shows work time submitted for an officer for March 30, 2003 to April 5, 2003; the first of the 14 weeks tested.

The level of overtime reported for this particular week is typical of weekly overtime during the entire test period, as this officer actually worked more overtime hours than regularly scheduled hours in 11 of the 14 weeks, and worked more overtime hours than regular hours for the entire period.

DATE	DAY	SCHEDULE	WORKED	BASE HOURS	OVERTIME HOURS	DAILY TOTAL
30-Mar	SU	OFF	OFF			0
31-Mar	M		0545-0945		4	
		0800-1600	0800-1600	8		
			1800-2300		5	17
01-Apr	T		0545-0945		4	
		0800-1600	0800-1600	8		
			1800-2300		5	17
02-Apr	W	0800-1600	0800-1600	8		
			1400-1600		2	
			1600-1800		2	
			1800-0200		8	20
03-Apr	TH	0800-1600	0800-1600	8		
			1800-0330		9.5	17.5
04-Apr	F	0800-1600	0800-1600	8		
			2000-0430		8.5	16.5
05-Apr	SA	OFF	OFF			
			1900-0430		9.5	9.5
WK TOTAL				40	57.5	97.5

The reported time was compiled from overtime request slips and rosters and scheduled time sheets submitted by this officer's supervisor to the timekeeper. Note that:

1. Overlaps are indicated between scheduled hours and overtime hours on Monday, Tuesday, and Wednesday of this week. According to the timekeeper, when she contacted the officer in an attempt to reconcile these overlaps he informed her that he had changed his schedule to 0945-1745 on Monday and Tuesday.

However; no record of approval for the schedule change could be produced. We noted evidence of this officer changing his own schedule throughout the period.

At some point, he began notating scheduled changes, after the fact, on the back of overtime slips that were submitted to the timekeeper. No schedule changes were indicated on the timesheets submitted by the officer's supervisor.

2. The officer did not have a full eight hours off duty on Monday night (6 $\frac{3}{4}$ hours off), Wednesday night (6 hours off), or Thursday night (4 $\frac{1}{2}$ hours off).

3. More than 16 hours in 24 were worked on every scheduled workday of this week as follows: Monday (17 hours), Tuesday (17), Wednesday (20 hours), Thursday (17.5 hours), and Friday (16.5).

4. In addition to the overtime for additional work hours as shown on the above table, compensatory time in lieu of 1 $\frac{1}{4}$ hours of overtime pay was credited to this officer for "line-up". It is evident from the work hours reported; however, that this officer in many cases could not have attended a line-up before his shift as he was working an overtime assignment.

Supervisory review of time submittals and reports did not result in corrective actions being taken on these issues. One contributing factor is the fact that not all time worked by an officer is approved by the supervisor and reported on a single time sheet; therefore, departures from standard operating procedures may go unnoticed.

The time detail reports that are reviewed by supervisors after time entry don't help identify problem areas either, as they are far too complex and do not contain accurate clock times. Both of these factors are discussed in Finding No. 4, Timekeeping Systems Should be Re-engineered to Provide More Value to Management. Nonetheless, it also became apparent during staff and management interviews that supervisors were aware of officers' contravention of these rules but for some reason or another did not take adequate corrective action.

Other situations were found during the audit where increased managerial review was needed. Weekend overtime hours for refuse collection in City parks by two Public Utilities Sanitation Division employees were routinely telephoned in to the timekeeper by a Parks Maintenance Division supervisor. However, no back-up documentation was submitted.

Parks Maintenance has since strengthened controls in this area by requiring both employees to punch in and out of the Parks time clock when performing these services. The time cards are now reviewed by the Parks Maintenance Supervisor, who then submits written instructions to the Time Entry Clerk.

In the Public Utilities Department, the Chief Operator of the Water Plant reviewed and approved time reports for all employees (approximately 30) at his work location. He also authorized and approved his own overtime hours, averaging about 8 hours overtime per week for the test period. No evidence of review by management was found in the pay records.

The Public Utilities Director confirmed that the Chief Operator was allowed to authorize his own overtime, stating that his level of responsibility and quality of work certainly warranted the extra pay.

Considering the authority and responsibilities assigned to this employee’s position, it is questionable whether the position has been assigned the correct FLSA classification. Under the FLSA, certain jobs are “exempt” from the requirement for an employer to pay overtime. Criteria have been established for executive, administrative, professional, computer occupations, and outside sales jobs.

A comparison of the FLSA executive or supervisory exemption to the job description for Chief Operator (Water) dated October, 2001 is shown on the table below:

FLSA CRITERIA	JOB DESCRIPTION
Must manage an organizational unit	Supervises, coordinates and controls the operation of the City's Water Treatment Facility
Must regularly direct the work of subordinate employees exercising authority to hire and fire (or whose recommendations are given particular consideration)	Interviews, trains, motivates, assigns and evaluates work; and disciplines employees
Must regularly exercise discretion and independent judgement	Resolves day-to-day questions and/or problems; formulates, recommends, and implements process control strategies; and negotiates, awards, oversees and inspects contract work
Must perform supervisory or closely related work 80 percent of the time or more	Supervises approximately 30 employees

As can be seen, the Chief Operator (Water) would appear to meet the criteria and could be exempt from the overtime requirement. If reclassified to exempt status, the salary grade should be set commensurate with the responsibilities of this supervisory position and salary adjusted appropriately within the salary range based on the qualifications, experience, and performance of the incumbent. Equitable compensation for the work performed would then not be dependent upon overtime compensation.

The Chief Operator (Water) is just one example of a potential FLSA misclassification. Another job that may meet the criteria of the executive exemption is Recreation Center Supervisor, with responsibility for a recreation center and assigned staff. Reportedly, these employees often work over 40 hours a week but do not report the additional time as there are insufficient funds budgeted for overtime.

Revisions to the FLSA were recently enacted by the Department of Labor to clarify the criteria for executive, administrative, and professional exemptions. These new regulations are scheduled to go into effect August 23, 2004. At that time, a complete review should be conducted of all jobs within the City's Classification and Pay Plan to determine the proper FLSA classification.

Overtime costs can be better managed through improved authorization and approval procedures and supervisory review. Authorization of overtime should be situational, based on the operational needs of the department, and not for the convenience of employees. Eligibility for overtime should be established through proper classification of jobs in the City according to FLSA criteria.

RECOMMENDATIONS AND RESPONSES:

1. We recommend that the Human Resources Director:

- a. In concert with the Policies Working Group, develop an overtime policy to include guidelines for departments in establishing written procedures for overtime authorization, approval, and monitoring.

I agree with the recommendation and will recommend to the Policy Committee Leader that it be accomplished by the end of September 2004.

- b. Perform an FLSA classification review of all jobs in the City utilizing the revised criteria.

I agree with this recommendation and will have the Human Resources Compensation section perform this function to be completed by the end of calendar year.

2. We recommend that the Police Chief:

- a. Review Standard Operating Procedures #9.01 Special Events, Extra Duty Details and Outside Employment to determine if the limitations on overtime hours worked are appropriately set and then establish procedures

to insure that officers adhere to the restrictions including supervisory reporting of any non-compliance.

S.O.P. #901 has been reviewed and adjustments have been made outlining the amount of overtime worked within a day, time off between overtime details, and discipline for violations. To insure adherence to the restrictions the department is currently exploring the use of a pay sheet/time sheet which closely examines those particular issues allowing supervision to better track a particular officer's activities.

- b. Require the Special Events Coordinator to periodically monitor outside extra duty detail activities to insure that details were worked by the scheduled officer and, if not, that approval was granted for job exchanges, and maintain accurate records of times worked and personnel assigned.

This has been in place since February 2004. On a monthly basis, the Special Events Coordinator currently monitors all contract and City sponsored extra duty details requested of the department. Monthly reports have been created and are monitored, which indicate the total number extra duty details an officer has worked along with the number of exchanges submitted. All violations are reported to the Assistant Chief of Police in charge of Field Operations. All records pertaining to extra duty details are maintained and controlled as they have been in the past, by the Special Events Coordinator.

- c. Create procedures covering officer scheduling including supervisory approval for schedule changes.

Changes are needed to S.O.P. 17.04 Supervisory Notification Section #2, Incidents Requiring Supervisory Notification. The additional items will be added: Request by officers to flex or adjust their work shift; and an authorization of overtime related to the extension of normal duty work hours. Targeted Completion Date October 1, 2004.

- d. Cease the practice of providing line-up pay in situations other than when overtime is actually worked.

It will be the responsibility of line supervision to notice those within their chain of command that a given line-up briefing did not take place and assure that the appropriate time sheets reflect same. Target Implementation Date is immediate.

FINDING NO. 3: Costs to the City Could be Reduced through Better Distribution of Overtime and Judicious Use of Compensatory Time

The cost of overtime is determined by the method of compensation for the additional hours worked and the pay rate of the employee. The current method of distributing overtime assignments in the Police Department favors senior officers, resulting in higher immediate and future costs to the City. Awarding compensatory time in lieu of overtime compensation can be cost-effective for the City in certain work situations and not in others.

Overtime Distribution

Approximately two-thirds of last year's total overtime expenses were incurred in the Police Department. The majority of overtime worked is not directly assigned to officers but rather is distributed to volunteers on a seniority basis. The decision by police officers to work overtime is driven by financial gain, both immediate and future.

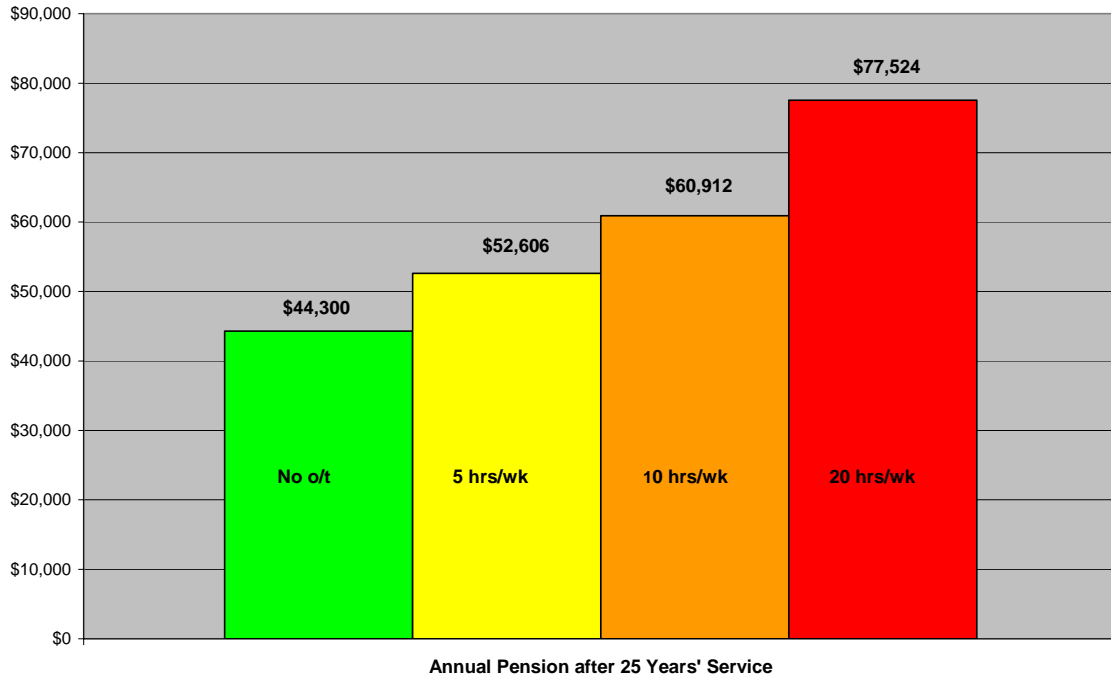
Reportedly, junior officers often opt for extra duty details arranged through the Department but paid by private entities. At a flat rate of \$30 per hour, these details pay more than the officers' time and one-half rate for City paid overtime. More senior officers opt for the City paid overtime, because of their higher pay rate and the effect that "loading up" their final three years with overtime will have on their pensions.

Pension amounts are computed by a formula that takes into account years of service and final average salary. Final average salary, for pension purposes, is based on an officer's three highest years of compensation.

As overtime is included in compensation when computing retirement benefits for police officers; sustaining a high level of overtime worked during the last three years before retirement (or entry into the D.R.O.P. Plan) can very significantly raise the employee's pension amount.

The following chart illustrates the effect of overtime on an officer's pension when retiring this year after 25 years of service with the City. Pension amounts are compared for an officer who worked no overtime in his three final years with officers who averaged 5, 10, and 20 hours of overtime per week for the period.

EFFECT OF OVERTIME ON OFFICERS' PENSIONS



It can be seen by this example that working 5 hours overtime a week average for 3 years yields an 18.75% increase in pension. Averaging 10 hours overtime produces a 37.5% increase, while averaging 20 hours overtime raises a pension by 75%.

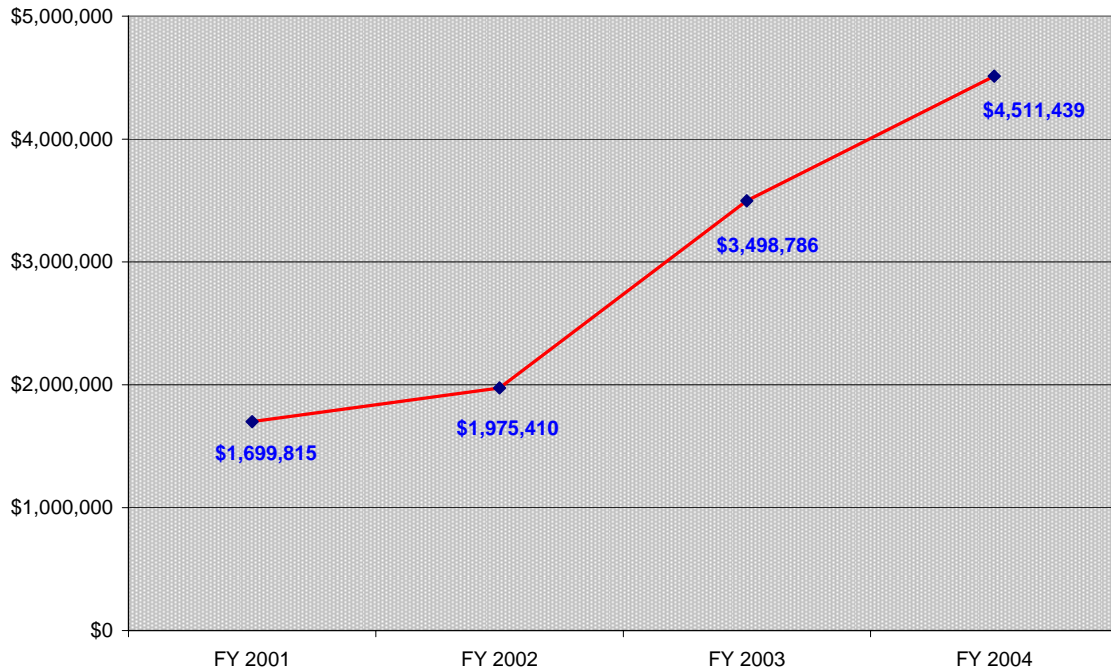
Bear in mind that the level of overtime only has to be sustained for 3 years to produce these outcomes. The above illustration was based on the rank of Police Officer. As Sergeants and Lieutenants are also eligible for overtime, their pensions are affected in the same manner but at higher dollar amounts.

The defined benefit provisions of the pension fund are supported by member contributions, investment income from the pension fund assets, and City contributions. Officers contribute a fixed 7% of their earnings to the pension plan. Investment income from the pension fund assets varies with the economy. The City is responsible for the balance of the contributions required to maintain the pension fund, as determined by the fund actuary each year. For FY 2005, the City's contribution rate will be 24.32% of payroll.

Because pensions are based on the 3 highest earning years, officers who "load up" overtime only during those years are not contributing proportionately. This adversely affects the pension fund and increases costs to the City.

Contributions by the City to the Police Pension Fund are shown below:

City Contributions to Police Pension Fund



If overtime were distributed more evenly between officers, both the immediate cost and future pension costs would be reduced because more overtime would be worked by junior officers than is currently the case.

Immediate costs would be reduced because the per hour pay rate is lower for junior officers, and future pension costs would be lower because the officers' three highest compensated years would include less overtime compensation.

In addition, an even distribution of overtime would eliminate the earnings "spike" caused by loading up on overtime to produce three higher than usual earning years. The pension contributions would be more proportionate to the overall career earnings of an officer, and adverse effect to the pension fund would be reduced. Pension fund future liabilities would be much more predictable.

Various software products are available to assist in the assignment of overtime. These programs can be set up to consider qualifications, experience, schedule, overtime worked to date, and/or other variables to produce a suggested list of potential assignees. Not only could such a program assist in distributing overtime more evenly, but the "fairness" of such a system would be readily apparent.

Compensatory Time

The Fair Labor Standards Act (FLSA) 29 U.S.C. 201 Section 7 (o) (1) provides that employees of a public agency may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required.

Utilizing this provision is cost-effective for the City in those work situations that allow opportunities for the employee to take the earned compensatory time off without being covered by another employee. For instance, special circumstances require a clerical employee to work two hours overtime to finish a report. Three hours of compensatory time off are earned that can be taken as workload allows without coverage.

Many other work situations, however, do not lend themselves to this alternative as jobs such as Firefighter, Police Officer, Emergency Communication Operator, Refuse Collector, and others must be covered when an employee is absent. Often, these jobs are in 24 hours a day, 7 days a week operations.

When compensatory time is awarded instead of overtime pay in these circumstances, the cost to the City can quickly escalate. For example, John Doe works 8 hours overtime on Saturday to cover for a sick co-worker. He may elect to receive either 8 hours of overtime pay at one and one-half times his regular rate of pay, or 12 hours of compensatory time off. He chooses to take the compensatory time.

Later, he uses the 12 hours compensatory time off, and his position is covered by Jane Smith who also opts for compensatory time. She now earns 18 hours of compensatory time, and when she uses it provides an opportunity for someone to earn 27 hours of compensatory time by covering her.

When an employee uses compensatory time off, it is also counted as time worked contrary to exemptions allowable under the FLSA. Therefore, it is quite possible for two employees to “cover each other” and continue to build overtime to their mutual benefit but at the expense of the City.

The interesting anomaly is that the cost of compensatory time when cashed out is accounted for as overtime cost by the City, but when compensatory time is taken the cost is accounted for as regular salary. Since compensatory time is just another way of compensating for extra hours worked, it would be logical to account for it as overtime cost in both cases. In FY 2003, the cost of compensatory time used Citywide was \$360,410.

A significant contributing factor to this compensatory time problem is that in the SEIU and PBA Collective Bargaining Agreements the City has given up management's right to decide which option, overtime pay or compensatory time off, will be awarded when overtime is worked. The employee is given the choice.

The annual cost of overtime for the City is increasing at an alarming rate. Overtime for police officers can incur both present and future costs. Better distribution of overtime in the Police Department and more judicious use of compensatory time citywide can help contain overtime costs.

RECOMMENDATIONS AND RESPONSES:

1. We recommend that the Police Chief:

- a. Evaluate alternatives to overtime in meeting demands for police presence;

Alternatives have already been developed in February 2004 with the restructuring of the Community Response Division and redeployment of personnel to NET teams which can be deployed to address crime trends and patterns identified by CompStat.

- b. Initiate the development of a system of assigning overtime that will more evenly distribute overtime hours among officers; and

There is no clear cut answer to this issue. The current system in place affords an officer wishing to work extra duty details the capability of accepting assignments which cause the least conflict within his or her given work schedules. Conflicts lead to the job exchanges.

Currently the selection process incorporates seniority and provides limitations on the number of assignments an officer can take allowing officers a reasonable opportunity to gain extra duty assignments. It is the belief of senior administrative staff the introduction of the individual pay/time sheets mentioned earlier in this report will greatly enhance the ability of line supervision to track and monitor these compliance issues. Violations of policy become apparent quickly allowing corrective measures to be taken.

Auditor's Note to Response: There are two issues related to the current method of overtime distribution. One is compliance with the S.O.P. for overtime, and this is well addressed by the Chief's response. However, the second is that a means is needed to prevent officers from "loading up" on overtime and greatly increasing their pension

benefit at high eventual cost to the City. Alternatives should be considered. For example:

- While a cap on overtime that is pensionable must be bargained, a cap on the amount of overtime worked is still a management right.
- Or, the voluntary sign-up system could provide for several officers to volunteer, and the officer with the least overtime could be awarded the detail.
- Or, a software application could be used to distribute overtime evenly.

More thought should be given to coming up with a better overtime distribution system.

- c. In cooperation with the Human Resources Director, negotiate with the bargaining unit to cap the amount of overtime an officer may work per year, or the amount of overtime worked that is pensionable.

Current contract negotiations are under way.

2. We recommend that the Finance Director record the cost of compensatory time taken in the same manner as overtime.

We will record all compensatory time, used or paid out, to a separate new general ledger account specifically for compensatory time. For a useful management tool, we will also begin publishing to administration and department heads a report of compensation earned.

3. We recommend that the Human Resources Director review the City's bargaining unit agreements and use of compensatory time, and develop criteria to preclude the granting of compensatory time in work areas where employees must be covered when absent.

I agree with this recommendation and will have the Human Resources Compensation section perform this function to be completed in concert with the other policy issues by the end of September.

FINDING NO. 4: Timekeeping Systems Should be Re-engineered to Provide More Value to Management

The City utilizes Oracle Time Management (OTM) software to enter time worked and other necessary information into Oracle Payroll for payroll processing. In OTM, an online timecard is either created manually by the time entry clerk (TEC) or autogenerated in the Payroll section of the Finance Department.

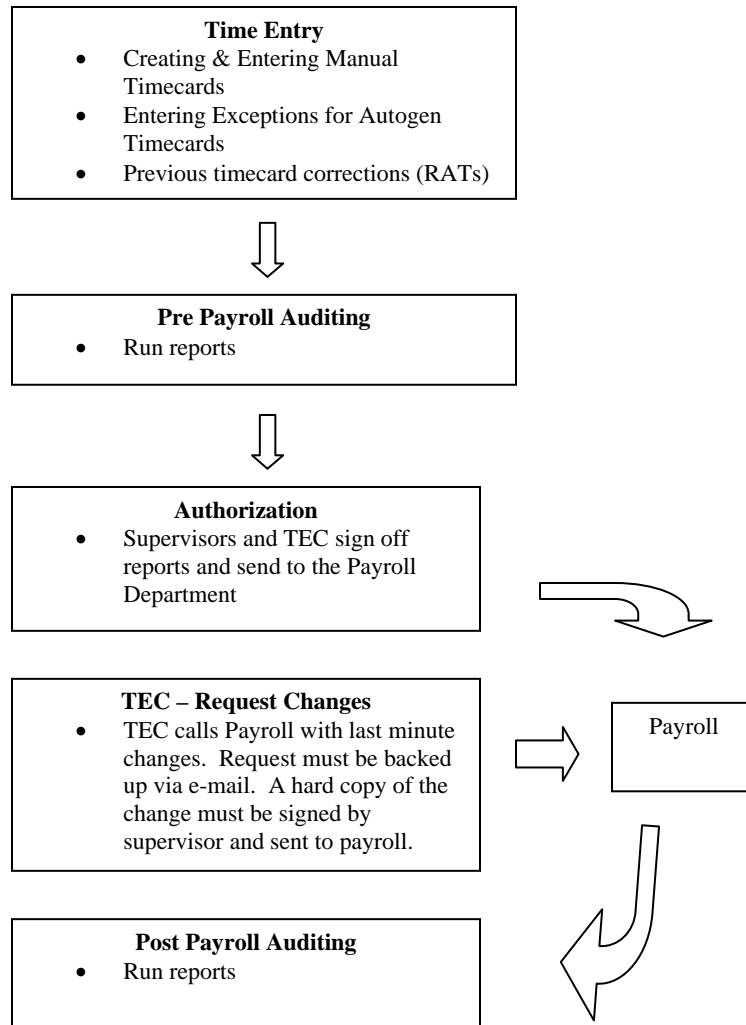
A manual timecard starts with a blank form on which time worked is entered day by day. An autogenerated card already contains the employee's schedule. In most

work areas, the timecards are autogenerated and the TEC then enters any changes, or exceptions, that occurred during the pay period. In both cases, corrections to previous timecards (retro-active timecard adjustments) can also be entered.

After time entry for a pay period, the TEC runs a time detail report for review and approval by the supervisor then forwards it to Payroll. The TEC calls Payroll (and also e-mails a memo and sends a hard copy with supervisor’s signature) to effect any last minute changes. Payroll then runs a final report to allow post payroll auditing.

A workflow diagram of this process is presented below:

OTM (Oracle Time Management) Workflow



In the above workflow diagram, the first step is time entry; however, some method of submitting information to the TEC for entry is required. Various time submittal processes have evolved in the City.

Many work units, especially those mostly comprised of employees who are either not eligible for overtime or seldom work any overtime, rely solely on exception processing. If the TEC receives a leave request or other information regarding a departure from the normal schedule, the exception is entered on the employee's online autogenerated timecard. If not, it is assumed that the employee worked their normal schedule and no entry is required.

While this process reduces paperwork, some control is lost because there is no affirmation by the employee that the normal schedule was worked. In the absence of any other method of tracking time worked, it is possible for an employee to forget absences. Several groups have addressed this by having employees submit a signed statement attesting that no exceptions to the normal schedule occurred during the period.

In the Support Services Department, Management Information Systems Division has developed a Lotus Notes on-line timesheet that can be used for direct submittal to the TEC. After time entry, the supervisor can review the time detail report and backup such as leave or overtime slips, and then approve the time for payment.

Some work units utilize hard copy timesheets on an individual or group basis. Often these timesheets start out showing regularly scheduled time, and exceptions such as leave and overtime are superimposed later.

Time clocks are used in three departments of the City covering seven different work areas. None of the time clocks interface directly with Oracle. In two of these work areas, the TECs manually enter information from the timecards or a computer generated timecard report into Oracle. In others, supervisors review the timecards and compile individual or group timesheets that they then submit to the TECs. In some areas, the time clocks are essentially used only to confirm arrival times and check for employee punctuality.

Time submittal is decentralized to a certain extent in the Police Department, posing significant control problems in regard to overtime. Overtime worked in an officer's assigned unit is generally submitted to the TEC by the direct supervisor. However, overtime may also be worked in other units, on special details, or even in a totally different job such as an officer filling in to cover an Emergency Communications Operator position. This overtime may even be entered by a TEC other than the primary TEC.

Officers may also work extra duty security details that are arranged through the Police Special Events Coordinator for local businesses. These details are paid directly by the outside employers and the time worked is recorded separate from our timekeeping system.

In all these cases, the immediate supervisor may not even be aware of the additional duty time. Therefore, it is difficult, if not impossible, for supervisors to insure that officers under their command adhered to standard operating procedures regarding overtime hours worked.

The eight officers' pay records indicated 26 overlaps in hours where the same clock times were recorded as worked in two different places or for two different activities. We were able to resolve most of the discrepancies by reviewing back-up documentation such as schedules, overtime slips, extra duty rosters, and time detail reports. We were also able to identify several recurring causes for these apparent time overlaps and other time discrepancies, including:

1. Group timesheets submitted to the TEC without notation of changes in schedule, including days and hours worked;
2. Officers flexing their own schedules without informing their supervisor or the TEC;
3. Officers exchanging outside extra duty details without submitting the required exchange of duty form;
4. Incomplete records of exchange of duty;
5. Off-the-books compensatory time (referred to as training payback time); and
6. Late submittal of overtime slips.

While most of these discrepancies were satisfactorily resolved, several were not because sufficient backup information was not available to verify the actual events.

The timekeeping system as it is currently used in the Police Department does not support the detection of overlaps or violations of pertinent standard operating procedures because not all overtime is available to supervisors for review as discussed above, nor are actual clock times worked entered by the TEC. All time entered can be reviewed via the Oracle time detail report, but these reports can be very difficult to understand as they are currently set up.

Late submittal of timesheets and overtime and failure to notate changes in schedule on timesheets is adversely affecting the timeliness and accuracy of pay. Over 70 retroactive time adjustments were found in our review of the pay records

for 8 officers over the 3 month period. This data would lead us to believe that an extraordinary amount of administrative time is expended performing these retroactive adjustments for the entire department.

During the course of this audit, the former Police Chief created a task team to study some of the problem areas that were being encountered, including supervisory approval of overtime, timely submission of overtime slips, tracking of overtime, conflicts of overtime with established shift schedules, and flexing of schedules.

Internal Audit staff was asked to participate on this task team in a consulting capacity. Considerable hours were spent identifying the many variations in time submittal methods utilized within the department, mapping payroll process components, determining cause and effect factors, and evaluating potential controls for the payroll process components.

The need exists for the review of time submittal and subsequent payroll processes in all other departments to assure that they result in correct and timely pay and provide information needed by management to optimize scheduling and work assignment, track and control project labor costs, and effect improved planning.

Different work units have different needs in terms of time submittal and other payroll process controls. The Oracle Time Management System used by the City starts with time entry; there is no specified time submittal process. Various time submittal methods have evolved in different work areas, and many are fragmented and inefficient.

In the Police Department, specific times worked must be accurately reported to allow supervisors to review officers' adherence to standard operating procedures. In other work areas citywide, such as those staffed primarily by exempt employees, there is no real need to record or report clock times. Some type of control should be used, however, to assure accuracy of total hours worked and/or leave taken. As a minimum, a written affirmation that no exceptions to the normal schedule occurred during the period provides that control.

RECOMMENDATIONS AND RESPONSES:

1. We recommend that the Human Resources Director:
 - a. In cooperation with the Finance Director develop and implement a timekeeping policy that requires that all time submittal processes in the City incorporate some form of positive affirmation by employees that the work and/or leave hours as submitted are correct; establishes the official

record of time worked; and includes a supervisory review and approval process.

I basically agree with this solution. However I believe the City should form an Information Technology Time and Attendance Evaluation Task Force to perform a cost benefit analysis in automating the scheduling, time, attendance and FMLA usage. In the meantime I will recommend to the Policy Committee Leader that a policy be written by the end of October 2004.

- b. Review the time submittal, entry, and review processes for all departments to identify problem areas and propose solutions consistent with timekeeping policy to promote accuracy and efficiency.

I believe that the Finance Department should take the lead in this area. This is more of a payroll function than a Human Resources function.

Auditor's Note to Response: This recommendation should be implemented by Human Resources. Human Resources "owns" the Oracle Time Management (OTM) module. In their separation of duties, Human Resources authorizes pay and Finance (Payroll) delivers it. The time collection and approval process are related to authorization; not delivery. Human Resources also has staff with the requisite skills to interview employees, collect and organize data, map processes, and identify process improvements.

2. We recommend that the Police Chief require that individual timesheets be signed and submitted by all officers to include date and time of day of all work performed and leave taken, including all time worked for outside contract employers that was coordinated by the City.

Agreed. Time sheets have been developed; final date of implementation has not been set. Certain units and divisions within the police department have been utilizing this payroll sheet on a trial basis to identify potential problems and develop remedies to correct those problems before implementation on a department wide basis. Implementation Date is the first pay period of September 2004.

FINDING NO. 5: Certain City Practices Were Not Consistent with Fair Labor Standards Act Requirements and Bargaining Unit Agreements

Certain pay practices related to overtime were found inconsistent with Fair Labor Standards Act requirements and/or Bargaining Unit Agreements.

1. The Fair Labor Standards Act (FLSA) 29 U.S.C. 201 Section 7 (a) (1) requires an employer to pay overtime at the rate of one and one-half times the “regular” rate of the employee. Essentially, the regular rate is the employee’s hourly base rate plus an hourly pro rata of other types of pay not included in the base rate such as educational incentives, step-up pay, and other forms of add-on pay.

As described previously, the time submittal process for overtime is decentralized. Overtime is submitted to the timekeeper via group timesheets, individual overtime slips, or group overtime rosters. Late submittal of overtime is commonplace. Over 70 retroactive time adjustments were found in our review of the pay records for 8 officers over the 3 month period. It was reported that because performing the numerous retroactive adjustments was overly burdensome to the timekeepers, at some point the timekeepers were instructed to enter late overtime as if worked in the pay period subsequent to when it was actually worked.

This practice can alter the FLSA standard rate for the week in which the time was worked and also the week in which it was paid. While the dollar amounts may be minimal, it is nonetheless inconsistent with FLSA requirements. Officers were also reportedly withholding overtime slips to their advantage. For example, when sick leave was taken and therefore overtime submitted during that week would have been paid at the straight time rate instead of the overtime rate, officers would hold the slips until the next week when there was no sick leave taken to preserve the higher overtime rate.

2. The Fair Labor Standards Act (FLSA) 29 U.S.C. 201 Section 7 (o) (3) (a) limits the accrual of compensatory time for public safety employees to not more than 240 hours. Article 26, Section 13. A. of the PBA contract reduces the maximum accrual to 120 hours.

However, review of officers’ pay records showed that compensatory time for certain training in the Police Department, commonly referred to as *training payback time*, was not entered into the payroll system. Supervisors were informally keeping the time off “owed” for attending this training off the books. Therefore; this form of compensatory time was not subject to the restrictions on compensatory time maximum accrual, and work hours were inaccurately reported in payroll records.

3. The Fair Labor Standards Act (FLSA) 29 U.S.C. 201 Section 7 (o) (3) (b) states “if compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.” Section 7 (o) (4) states “an employee ... shall, upon termination of employment, be paid for the unused compensatory

time at a rate of compensation not less than (A) the average regular rate received by such employee during the last 3 years of the employee's employment, or (B) the final regular rate received by such employee, whichever is higher."

However, payouts of accumulated compensatory time for terminating employees have been at one and one-half times the employee's base rate of pay, rather than the final FLSA regular rate or 3 year average FLSA regular rate. This could have resulted in an underpayment for the accrued compensatory time under certain circumstances.

4. Article 26, Section 13. D. of the PBA bargaining unit agreement states "The City may offer employees an opportunity to cash accrued compensatory time on an annual basis." However, employees were allowed to cash accumulated compensatory time whenever they chose.

5. Article 22, Section 2. of the IAFF bargaining unit agreement states "Non-shift personnel will be compensated at one and one-half times their regular rate for hours worked (or where paid leave, except sick leave, is granted by the City) in excess of eighty (80) hours during the work period."

The actual practice of the City, however, was to pay overtime for hours worked in excess of 40 (including paid leave) in a work week. Although the City did not follow the provisions of the bargaining unit agreement, these provisions as stated may be inconsistent with FLSA 7 (k) requirements. Therefore, the City paid overtime as required by the FLSA rather than as specified in the more restrictive bargaining agreement language.

These departures from FLSA requirements and bargaining unit agreements should be corrected.

RECOMMENDATIONS AND RESPONSES:

1. We recommend that the Police Chief direct timekeepers to cease recording late overtime as if worked in a subsequent week and to perform retro-active time adjustments (RATs) as necessary.

Arrangements are being made through the Fiscal Services Supervisor to comply with recommendation.

2. We recommend that the Police Chief direct supervisors to cease the practice of carrying "training payback time" off the books and properly record all such time in the official records.

Agreed. Instruction will be given to supervisors to record and document time appropriately.

3. We recommend that the Human Resources Director in cooperation with the Finance Director develop and implement a procedure to insure proper calculation of the final payout for compensatory time based on the FLSA requirements.

I agree with this recommendation and will have the Human Resources Compensation section perform this function to be completed by end of calendar year. In addition I believe the City should perform a study to determine if Compensatory time should be offered. I recommend that Internal Audit head up this study.

Auditor's Note to Response: As reported in Finding No. 3, we have already determined that the use of compensatory time in areas where employees must be covered when they take the compensatory time off is costly to the City, and can actually generate more overtime. We believe that there is still benefit to the City in offering compensatory time in those areas where employees can take the time off without coverage.

4. We recommend that the Finance Director instruct the Payroll Specialists to discontinue cash outs of accrued compensatory time and communicate this action to Police Department timekeepers.

Within bargaining parameters, we will eliminate mid-year payouts of compensatory time except in hardship cases approved by the City Administrator.

5. We recommend that the Human Resources Director initiate a Memorandum of Understanding to revise Article 22, Section 2 of the IAFF bargaining unit agreement to provide for overtime compensation for non-shift, non-exempt personnel for hours over 40 in a work week consistent with practice, rather than for over 80 in a work period.

Since the City is in a bi-weekly payroll period I believe it is better not to change from an 80 hour cycle to a 40 hour cycle. Doing so would eliminate management's ability to meet business needs through flexible scheduling and could potentially increase overtime costs.

Auditor's Note to Response: The IAFF contract provides for non-shift personnel (40 hour day shift) to receive overtime for hours over 80 in a two week work period. The FLSA requires overtime compensation or

compensatory time in lieu of overtime compensation for over 40 hours in a work week, unless exempted under a 207 (k) arrangement. Non-shift employees are not covered under the 207 (k) arrangement for shift firefighters. Current practice is to pay non-shift employees overtime pay for hours over 40 in a work week. This change is intended to make the union agreement consistent with FLSA requirements and current practice.