

2012 MONTEREY COUNTY CIVIL GRAND JURY

INTERIM FINAL REPORT NO. 4

MONTEREY COUNTY OVERTIME EXPENDITURE

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SUMMARY

The 2012 Monterey County Civil Grand Jury (CGJ) reviewed the total overtime pay earned by Monterey County employees. We found that overall, the amount of overtime pay generated as a percent of total payroll was reasonable. However, we did find two departments, Sheriff's and Emergency Communications Service that had what we consider to be an excessive level of overtime relative to their total payroll. We also, felt there was a degree of apathy regarding this excessive overtime. Of equal concern to the CGJ was this overtime was occurring in departments where the work performed is particularly stressful and therefore could lead to serious negative consequences if individuals work too many hours in a high stress environment. We have made several recommendations to help reduce excessive overtime in these situations.

BACKGROUND

The Monterey County Board of Supervisors' stated policy is to discourage overtime, according to the County of Monterey Personnel Policies and Practices Res. No. 98-394, A. 8.1. However, if extra hours are required for the accomplishment of County business, the appointing authority may authorize and approve overtime. (A8.2)

Overtime is accrued after 8 hours in a work period and after 40 hours in a work week. The law also allows employer/employees to mutually agree to different calculations of overtime.

Monterey County departments such as Natividad Medical Center, Probation Department and Sheriff's Department have done so. Overtime in those departments is defined as time actually worked in excess of eighty (80) hours in a pay period. (A8.41) The pay period in this case is two weeks. In general, nonexempt employees are entitled to overtime pay, exempt employees are not.

While most of the twenty-seven (27) Monterey County Departments provide for some kind of overtime compensation for their employees, the CGJ selected five departments to investigate in more detail based on the highest dollars of overtime by department. After further analysis of the data and meetings with department heads of all five units we concentrated our final review on two particular departments: Sheriff's Department and the Emergency Communications Service Department due to their unusually high percentage of overtime expense.

Excessive overtime may indicate poor management of human resources, an overstretched work force and the possibility that some employees are "gaming" the system through unproductive use of time. Finally the CGJ believes that too much overtime may contribute to poor performance in high stressed environments.

INVESTIGATIVE METHODOLOGY

We interviewed the managers or their deputies in the county offices of the Sheriff, Probation, Emergency Communications/911, Human Resources, Social and Employment Services and Natividad Medical Center.

We researched numerous public documents from the county as well as internal reports provided by those persons interviewed.

A list of specific documents reviewed is attached to this report.

FACTS RELEVANT TO THE INVESTIGATION

Monterey County Human Resources Department issues only principal rules and general guidelines on personnel management in compliance with Fair Labor Standards Act (FLSA), Family Medical Leave Act (FMLA) and other applicable federal and state laws. The Board of Supervisors set the parameter for the Human Resources Department to negotiate with each bargaining unit.

County employees' payroll time and attendance are monitored through an automated time reporting system (ERP system). All nonexempt employees are required to enter the time they arrive for work by logging in to ERP with their own passwords. The system records the hours the employee works each scheduled workday, and sends the timecard to their supervisors. Employees may enter time only for themselves and only from locations approved by their supervisor. Their immediate supervisor is responsible for reviewing, approving and reporting all hours worked and any paid time off for the nonexempt employee.

There are twenty-three (23) bargaining units in the county, representing such groups as Deputy Sheriffs' Association, Registered Nurses Association, Health Employees, General Employees, etc. The results of those negotiations are set forth in individual Memorandums of Understanding between the County of Monterey and those bargaining units.

The County Administrative Officer's (CAO) office has 16 "on loan" positions built into the county's annual budget to be used on a requested basis. These positions are available to all departments, upon justification, to supplement needed positions not previously approved in the individual departments' budget.

Each department defines its own rules regarding overtime, insurance and benefits, hours of work and scheduling, sick leave, vacation pay, time off, among other things. There is no uniform rule regulating overtime work and pay or compensatory time off.

In the 2011-2012 Monterey County Budget, overtime was not identified as a separate line item. However, the 2012-13 Budget has allocated a total of \$8,258,121 for overtime pay. This amount represents but 2.6% of total wages of the county (which is \$314,609,298). There are two

departments, The Sheriff's Department, and Emergency Communications Services that operate on a 24/7 schedule and those two departments account for 59% of the budgeted overtime.

In the fiscal year 2012-2013, the Sheriff's Department has an overtime budget of \$3,498,000, and Emergency Communications has an overtime budget of \$1,374,000.

THE SHERIFF'S DEPARTMENT

The 2011-2012 Sheriff's Department budgeted overtime expenses of \$3,078,941. As of June 15, 2012, \$4,167,081 had been spent, an overage of \$1,088,140, or 35% over budget.

Jail Operations budgeted \$1,092,895 for overtime, but had spent \$1,934,921, an overage of \$842,026, or 77% over budget.

However, eight units in the Sheriff's Department have no set overtime budget, but spent \$194,608 on overtime pay.

In July of 2012 a cap of 56 hours per week including overtime was discussed but nothing has been implemented as of October 2012.

A program to reduce overtime at the Jail will be started sometime in 2012 with the hiring of 12 civilians to replace sworn deputies. The goal is to fill 24 positions in all.

The current "regular" staffing schedule of 2 shifts of 12 hours and two shifts of 8 hours is designed for deputies to work 40 hours a week. However, overtime is the norm because most deputies work 4 days at 12 hours a day, automatically creating 8 hours of overtime per week.

There are several employees in the Sheriff's Department who are out on long-term worker's compensation leave whose positions are being filled by overtime workers.

We were told of cases of sheriff deputies working 40 hours one work week, and then applying for non-productive time off the second week. However, they actually work the second week and claim 40 hours or more of overtime for that week.

In 2010, The Monterey County correctional institutions produced five (5) of the top ten (10) overtime recipients. In 2011, they produced eight (8) of the top 10. Total overtime pay for the above group was: \$263,143 in 2010 and \$503,940 in 2011.

THE EMERGENCY COMMUNICATIONS/911 DEPARTMENT

The Emergency Communications Services Department operates 24 hours a day, seven days a week. The Department has 62 employees and a \$7.6 million budget. The Department has budgeted \$1.3 million for overtime pay.

This Department provides all answering services of Emergency 911 as well as dispatch services for all city police, fire, medical or other emergency service response units within the county

except for Carmel. 70% of the Department's budget is paid for by the contracting agencies. 911 calls are about 40% of the dispatcher's work load.

The staffing schedule in this Department is fluid because they don't need the same number of employees to work around the clock. The standard work week is 40 hours. The typical shifts are two 8-hours (12 to 8) and two 12-hours (6 to 6). However many people work 12 hours a day, four days a week making it a 48 hour week. In addition there are numerous part-time shifts available. Every two weeks, a sign-up sheet is posted for shift vacancies. Employees may sign up for the open shifts, which are assigned according to seniority. Supervisors in this Department are nonexempt employees who can also earn overtime pay.

The Department has a number of part-time employees who have retired from the department and now are available to work on a part-time basis, or who are full-time employees with other emergency services and have knowledge of emergency communications. In either case, they need less training to perform their work, and they earn an hourly wage without benefits.

There can be schedule adjustments if employees want to request time off. Employees can put in a "trade request" to trade shifts with other employees, but they need supervisor's approval. By October, employees need to file their vacation plan for the following year. Vacation slots are filled according to seniority.

Employees can volunteer for an on-call shift, for which they are paid a premium, even if they are not called in. If they are called in, they receive overtime pay, which is one and a half times base pay. Overtime pay for the individual employee in this Department does not affect their pension calculation.

Employees in this department may choose to bank compensatory time off with no calendar time limit, but there is a cap of 160 hours on the amount of time the employee may bank.

FINDINGS

F1. If the proposed cap of 56 hours of work a week is implemented in the Sheriff Department, it will still allow 16 hours of overtime per week. However, certain employees will have their total hours worked reduced.

F2. Insufficient control of nonproductive time off by Sheriff's deputies resulted in excessive overtime.

F3. Because the County does not request clearly defined budgeting for overtime nor provide clear reports by departments showing overtime costs, we believe the issue does not receive the regular financial scrutiny it deserves.

F4. The Sheriff's department is not utilizing the CAO's "on loan" positions to cover their long term Worker's Compensation leave vacancies.

RECOMMENDATIONS

R1. The Sheriff Department should implement a proposed cap of 56 hours of work per week.

R2. All Monterey County departments should be required to highlight their overtime in their annual budget requests.

R3. The County budget should show the percentage (%) of overtime versus payroll and publish this figure in the Final Budget.

R4. Departments that are able to utilize more part-time employees to reduce overtime should make an effort to do so.

R5. The Sheriff's Department should replace the deputies now out on Workers Compensation leave and use the "on loan positions" from the CAO's budget. Use of these positions would reduce overtime in this department.

R6. The County payroll system should be modified to provide timely reporting of overtime expenditures by department, and require department heads to explain all overtime exceeding 8% of payroll on a quarterly basis to the Board of Supervisors.

RESPONSE REQUIRED

Monterey County Board of Supervisors

Findings: F3.

Recommendations: R2.,R3.,R6.

Monterey County Sheriff

Findings: F1., F2.,F4

Recommendations: R1.,R4.,R5.,R6.

BIBLIOGRAPHY

County of Monterey Personnel Policies and Practices Res. No. 98-394

County of Monterey Policy Statement Payroll Time and Leave Reporting

Memorandum of Understanding Between the County of Monterey and The Deputy Sheriffs' Association of Monterey County Master Contract for Units A,B,C July 1, 2011-June 30, 2012

Memorandum of Understanding Between County of Monterey and Service Employee

International Union (SEIU) Local 521 Supervisory Employees Unit F, General Employees Unit J, and Social Services Unit, July 1, 2011 through June 20, 2013

Memorandum of Understanding Between County of Monterey and Monterey County Registered Nurses' Association, July 1, 2011 through June 30, 2012

The County of Monterey Recommended Budget for Fiscal Year Ending June 30, 2013

The 2011/12 Budget of the Sheriff's Office