

**Management Audit of Albuquerque Police Department Overtime
Report No. 02-104
Executive Summary**

Background

The Office of Internal Audit conducted an audit of the Albuquerque Police Department (APD) – Overtime Expenditures. Overtime expenditures were as follows:

Fiscal Year	Budgeted Overtime	Actual Overtime	Over budget Amount
2002	\$ 4,159,523	\$ 4,443,983	\$ 284,460
2003	\$ 3,559,517	\$ 3,944,382	\$ 384,865
2004 *	\$ 3,959,517	\$ ** 4,968,292	\$ 1,008,775

* Fiscal year 2004 figures are prior to possible post year adjustments.

** Approximately \$290,000 relates to the Bosque Fire, some of which will be reimbursed by the Federal Emergency Management Agency. APD has various memorandums of understanding for other programs. These agreements accounted for \$92,517 of reimbursed costs. Some unanticipated overtime expenditures are attributed to Presidential candidate visits made in FY 2004.

APD has specific guidelines through its Standard Operating Procedures (SOPs) that establish when overtime is authorized and who can authorize Law Enforcement Personnel to work overtime.

The union contract between the City of Albuquerque and the Albuquerque Police Officers' Association (APOA), the City's Personnel Rules and Regulations, and the Fair Labor Standards Act (FLSA) also establish how Law Enforcement Personnel must be compensated for overtime.

The Albuquerque City Council engaged an independent consulting firm to analyze elements of APD's total compensation program and compare those elements to the total compensation programs in effect at eight peer agencies. Among the programs the independent consultants analyzed was whether APD was effectively managing the cost of overtime pay. The independent consultants completed their analysis on March 19, 2001.

Objective

The objectives of our audit were to determine:

- Are overtime and special pay expenditures made in compliance with applicable laws, policies, regulations and union contracts?
- Are controls in place to minimize APD overtime?
- Have the APD Compensation Study recommendations been implemented?
- Has APD taken advantage of potential cost savings opportunities?

Findings

Due to the number of Law Enforcement Personnel involved with the enforcement of Driving While Under the Influence (DWI) and Traffic Violations, scheduling mandatory court appearances is difficult and many of the Law Enforcement Personnel cannot attend all court cases in which they are scheduled.

As a result, court cases relating to DWI and Traffic Violations are sometimes dismissed by the court system due to Law Enforcement Personnel failing to appear at scheduled court hearings.

In addition we noted:

- Many Law Enforcement Personnel have not complied with a Special Order to receive necessary training, including Intoxilyzer certification.
- Procedures requiring an Officer's Supervisor to notify Metropolitan Court when the Officer cannot attend are not consistently followed.
- Approval of overtime is not consistently documented in accordance with APD SOPs.
- Some of the recommendations from the independent consulting firm analyzing APD compensation have not been implemented.
- APD is lacking written policies for hazardous duty and shift differential pay eligibility.
- The City's Personnel Rules and Regulations regarding temporary upgrades are not being followed.
- Some Law Enforcement Personnel have compensatory time balances in excess of maximums established by the union contract between the City and APOA.
- One Officer, after a number of requests from APD management, has not turned in his timesheet. As a result, the City may not be in compliance with FLSA.

Recommendations APD management should enforce all the Department's SOPs. Law Enforcement Personnel who do not comply with the SOPs should be disciplined in accordance with APD and City policies. APD should continue to implement the recommendations made by the outside consulting firm and follow the City Personnel Rules and Regulations and the APOA Contract.

Management responses are included in the audit report.

MANAGEMENT AUDIT REPORT

OF THE

ALBUQUERQUE POLICE DEPARTMENT

OVERTIME

REPORT NO. 02-104



**CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT**



Internal Audit

FINAL

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

October 27, 2004

Internal Audit Committee
City of Albuquerque
Albuquerque, New Mexico 87102

Audit: Albuquerque Police Department
Overtime
02-104

FINAL

INTRODUCTION

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During 2001, City Council hired an independent consulting firm to analyze elements of APD's total compensation program and compare those elements to the total compensation programs at eight peer agencies. Overtime was one of the specified elements reviewed. APD overtime cost management practices were reviewed to determine if they were consistent with common "best practices." There were 6 categories of "best practices" including:

- Workflow efficiency efforts
- Budget control efforts
- Cost of compensation

- Staffing
- Management accountability
- Supervisor accountability.

Recommendations were then developed by the consulting firm to manage overtime costs.

Throughout this report various APD Standard Operating Procedures (SOPs) are quoted. The term “Officer” refers to non-supervisory Law Enforcement Personnel. Sergeants and ranks above are considered supervisors. However, in the Albuquerque Police Officer’s Association (APOA) union contract, the term “Officer” is used interchangeably for all ranks.

AUDIT OBJECTIVES

The objectives of our audit were to determine:

- Are overtime and special pay expenditures made in compliance with applicable laws, policies, regulations and union contracts?
- Are controls in place to minimize APD overtime?
- Have the APD Compensation Study recommendations been implemented?
- Has APD taken advantage of potential cost savings opportunities?

SCOPE

Our audit did not include an examination of all the functions, activities, and transactions of APD. Our audit test work was limited to overtime expenditures during the period of January through December 2002 and special pay expenditures for July 2003 through April 2004. Law Enforcement Personnel compensatory time balances were reviewed as of May 28, 2004. Intoxilyzer Operator Certifications were reviewed as of July 10, 2004.

This report and its conclusions are based on information taken from a sample of transactions and do not purport to represent an examination of all related transactions and activities. The audit report is based on our examination of APD’s activities through the completion of fieldwork and does not reflect events or accounting entries after that date.

The audit was conducted in accordance with Government Auditing Standards, except Standard 3.49 requiring an external quality control review.

METHODOLOGY

We reviewed timesheets, judgmentally selected, for 20 APD employees for all pay periods in calendar year 2002 including the ten highest-earning court overtime Law Enforcement Personnel. For ten of these Law Enforcement Personnel, 36 dismissed or continued case settings were further analyzed.

Intoxilyzer certifications were tested for a sample of 120 Law Enforcement Personnel. These individuals were all charged to either the Foothills Sub-Station or Traffic pay codes.

Special pay expenditures were tested for a sample of 40 transactions (out of approximately 2,250) in which an individual received one of the following types of special pay: bilingual, clothing allowance, hazardous duty, incentive, longevity, shift differential or super longevity.

Twenty individuals, of a population of 212, who received temporary upgrade pay were also selected for testing, resulting in the review of 122 upgrade transactions.

We used a combination of the statistical sampling method and the judgmental selection method. Additionally, we interviewed key personnel and performed analytical procedures.

FINDINGS

The following findings concern areas that we believe would be improved by the implementation of the related recommendations.

1. APD SHOULD ADHERE TO SOPs

APD is charged with apprehending, arresting and assisting in the efficient prosecution of persons who are found to be in violation of the law. Operating policies and procedures that APD Law Enforcement Personnel must follow are outlined in the SOPs.

Overtime Relating To The Arrest And Prosecution Of Suspects Driving While Under The Influence (DWI)

We examined a sample of 23 DWI cases that were processed through Bernalillo County Metropolitan Court (Metro Court). Our examination revealed the following relating to 8 of the cases:

- A Sergeant initiated a traffic stop. A Patrolman 1st Class Officer (P1C) was called “to assist with the DWI investigation”. Both Law Enforcement Personnel were issued subpoenas by defense counsel. One of the individuals was on leave during two of the trial dates and the case was continued. Documentation of the leave being approved could not be located. The case was eventually dismissed due to the length of time it was in Metro Court.

- A P1C Officer “assisted” a Sergeant on a traffic stop that resulted in a DWI charge. Both the Sergeant and the P1C were subpoenaed by defense counsel. The P1C was on court-approved leave; however the judge dismissed the case, citing “Officer Failure to Appear” (FTA).
- A P1C Officer states in a criminal complaint that a Sergeant observed and stopped an offender. The P1C arrived “to assist”. The stop resulted in a DWI charge. Both individuals were subpoenaed by the defense. The judge dismissed the case citing “Officer on vacation”. Approved leave documentation could not be located for either individual.
- A P1C Officer states in a criminal complaint that he “assisted a Sergeant on a traffic stop.” The stop resulted in a DWI charge. Both the P1C and the Sergeant were subpoenaed. The case eventually ended in a plea agreement.
- A criminal complaint written by a P1C reports that a Sergeant observed the suspect, clocked the suspect, and conducted a traffic stop. The P1C then made contact with the suspect and conducted field sobriety tests. Three individuals were noted in the “intent to call witnesses” including one individual who was not named in the criminal complaint. The case was dismissed citing “One Officer FTA –State cannot proceed”. Court Services could not provide documentation that leave had been approved for any of the individuals.
- Two separate cases were noted where a P1C Officer was dispatched to “assist a Sergeant with a DWI stop.” Both individuals were subpoenaed by the defense. The case was dismissed citing “Officer FTA”. Court Services could not provide documentation that leave had been approved for either of the two individuals.
- A criminal complaint noted one Officer, a P1C, involved with the arrest; however, two individuals, the P1C and a Sergeant were subpoenaed. The case, which included a DWI third offense charge, a driving on a revoked license charge, a reckless driving charge, a no car insurance charge and an open container first offense charge, was dismissed. The judge cited “Officer FTA”. Court Services could not provide documentation that leave had been approved for either of the two individuals.

SOP 1-11-12 (F) regarding overtime/compensatory time review process states:

“Officers who are involved in the arrest of an individual will not have other Officers become involved in the incident solely for the addition of court time. In cases where more than one Officer is involved in an arrest, the same Officer will write the offense/incident report and citations. The last line of the report will state which Officer(s) are necessary for the prosecution of the case. If other Officers were only witnesses to the incident, personnel will state that in the report.”

In the 8 cases described above, the documentation required by SOP 1-11-12 (F) regarding the individuals necessary for the prosecution of the case was not noted in the criminal complaint.

SOP 2-01-4 (A) regarding notification to Courts of vacation, leave time and/or out of state training states:

“Personnel who have cases pending in Metropolitan Court or District Court and wish to take vacation, other leave, and/or attend out of state training will notify the court services of their intent by presenting the appropriate form (P-30 or PD-4019) to the Court Services office before submitting the form to their supervisor. The P-30 shall be submitted not less than 30 calendar days prior to the start of the planned leave of absence.”

As described in the cases above, approved leave documentation was not found in 6 cases.

The union contract between the City of Albuquerque and APOA requires the City to pay Law Enforcement Personnel a minimum of two hours at time-and-a-half even though actual time spent in court may be less. When cases are continuously rescheduled because one individual is not in court, the other individuals that did appear are paid a minimum of two hours. As a result, the City incurs additional overtime costs. Also, court cases are not being prosecuted, but rather dismissed, as noted in 7 of the 8 cases above.

In order to ensure the timely prosecution of offenders and reduce overtime costs, APD management should enforce all the Department’s SOPs. Law Enforcement Personnel who do not comply with the SOPs should be disciplined in accordance with APD and City policies.

Intoxilyzer Certifications

APD Special Order 03-53 from the Chief, dated July 3, 2003, addressed to “All Department Personnel”, stated:

“Recently, the Advanced Training Unit underwent an assessment for the purposes of determining the level of compliance by department personnel in attending mandatory training for the 2002-2003 training cycle. A voluminous amount of personnel failed to appear for...intoxilyzer re-certification...”

“I must remind each of you that it is your responsibility to maintain the necessary qualifications, which are mandated by the New Mexico Department of Safety, City Rules and Regulations, and Department SOP’s. Failure to fulfill the mandated requirements that are promulgated by each of the aforementioned entities will result in the recession of individual certifications.

“Personnel shall attend mandatory training during the dates and times specified and will neither expect nor anticipate additional ‘make-up’ training dates....Supervisor will ensure assigned personnel comply with the mandatory training requirements. Failure to do so will result in appropriate disciplinary action.”

The Intoxilyzer is the instrument used to analyze the suspect’s breath to determine the concentration of alcohol in the sample. Law Enforcement Personnel get certified on this instrument in order to administer breath tests conducted during DWI stops.

Our testwork revealed that 28 of the 120 Law Enforcement Personnel tested did not have an Intoxilyzer certification as of July 10, 2004. An additional 8 certifications had expired. Eighty-four certifications were found to be current.

When Intoxilyzer certifications are not kept current, another individual, who is certified, will be called to the scene to perform the alcohol breath tests. The additional individual may then be subpoenaed in the case and be required to attend court, resulting in additional court overtime.

Many Law Enforcement Personnel are not in compliance with this Special Order. We recommend all Law Enforcement Personnel take responsibility for ensuring their Intoxilyzer certifications are kept current. For those who do not comply with this Special Order, APD should “appropriately discipline” them, as stated in the Order above.

Officer Add-Ons

Court Services provided case setting information from calendar year 2002 for Law Enforcement Personnel in our sample. For each case that the individual was not the primary Law Enforcement person, that individual is listed as an “Add-On”. We noted three Sergeants with 520, 340 and 311 add-ons during the year.

We also noted that 2 of the 14 individuals tested did not have current Intoxilyzer certifications. Additionally, another individual’s certification had expired.

It appears there are several individuals whose numbers of add-ons are over the average amount. Add-ons may result when Law Enforcement Personnel are not certified to perform Intoxilyzer tests and are required to call in an additional, certified individual. Court overtime may then result when additional Law Enforcement Personnel are required to appear in court.

APD management should enforce Special Order 03-53 ensuring all required Law Enforcement Personnel are Intoxilyzer certified.

Metropolitan Court Notification

SOP 2-01-5 (C) states:

“When personnel are scheduled for court or M.V.D. hearings and are unable to appear because of unforeseen circumstances, they shall notify the court at the earliest possible time, prior to the scheduled appearance as follows:

1. Metropolitan Court notification – The Officer’s supervisor shall notify the Court Services Unit at 768-2290. Calls will be accepted on the day of court only.
 - a. If the Officer cannot get a hold of his/her supervisor, the Officer then must go get an on-duty supervisor from their division to notify Court Services of the missed court.”

We noted numerous instances where it appeared the Officer himself, not the Supervisor, notified Court Services of the Officer’s inability to attend court or that they would be late. It appears SOP 2-01-5 (C) was not being enforced when the Officers called into Court Services to report their inability to appear in Metro Court. Court Services should record the name and rank of the individual reporting the absence on the “Officers Call In List.” Law Enforcement Personnel should be reminded of the requirements of this SOP.

Approval of Overtime

SOP 1-11-1 (C) states:

“All overtime with the exception of Court Overtime must be pre-approved by the direct supervisor of the employee working the overtime assignment and recorded on a daily basis on weekly time sheets...”

SOP 1-11-1 (B) states:

“A Non-Scheduled Time form (PD-4019) will be completed by personnel performing the overtime. The form must be approved by the appropriate supervisor in the chain of command.”

We reviewed 494 timesheets to determine if overtime was being properly approved. In 110 cases, or approximately 23% of the time, APD did not provide a “Non Schedule Time” Form (PD-4019). An additional 52 timesheets and the associated Form PD-4019 were not provided by APD to verify approval.

Law Enforcement Personnel are not complying with SOP 1-11-1 resulting in the City paying overtime costs that are unapproved and perhaps unnecessary. Overtime costs cannot be properly managed if proper approvals are not obtained. The study performed by the independent consultant recommended, "Increase APD management accountability for overtime cost management." We recommend all Law Enforcement Personnel be reminded of the requirements of this SOP.

RECOMMENDATION

APD should adhere to all SOPs specifically regarding

- Court overtime
- Approved leave
- Intoxilizer certifications
- Officer add-ons
- Metro Court notification
- Approval of overtime

Compliance with SOPs should be monitored and appropriate disciplinary action taken for those who do not comply.

EXECUTIVE RESPONSE FROM APD

"APD concurs that the Department should adhere to all SOPs specifically regarding court overtime and will continue doing so. In addition to the reductions in court overtime from processes addressed in the SOPs, the Department has implemented the Pretrial Program and the Traffic Arraignment Program which have reduced court overtime costs by almost 20% in two years. Although APD adhered to all material aspects of the SOP, it acknowledges that it did not comply with one of the documentation requirements from SOP 1-11-12 (F) regarding which officer(s) are necessary for the prosecution of the case as noted in the eight exceptions listed in the body of the audit. That information is not available at the time the report is written. The SOP will be reviewed and the outdated sentence deleted. Prosecution of these cases was in no way hindered by the missing documentation.

"APD concurs that the Department should adhere to all SOPs specifically regarding approved leave. Department personnel have complied with the SOP in the vast majority of cases. Failure to appear instances occur for reasons other than vacation leave. For example, Courts will schedule the same individual to be at two different courtrooms at the same time. The officer can only be at one hearing

and the other is dismissed. Personnel not complying with the SOP will continue to be disciplined in accordance with APD and City policies.

“APD concurs that the Department should adhere to all SOPs specifically regarding intoxilizer certifications. APD routinely rotates officers between different duties, some of which need to have the intoxilizer certification and some of which do not. The Department strives to maintain 100% certification for individuals in positions that need the certification and will continue training programs to move toward that goal.

“APD concurs that the Department should adhere to all SOPs specifically regarding officer add-ons. APD is in compliance with SOP 1-11-12 (F). The Court, the District Attorney and the Defense Attorney are responsible for adding on officers to Court cases.

“APD concurs that the Department should adhere to SOPs specifically regarding Metro Court notification. APD acknowledges that exceptions to the SOP occurred during the time that the test occurred in 2002. Since that time, the SOP has been reviewed and amended to improve efficiency of operations. All the exceptions noted are in compliance with the updated SOP.

“APD concurs that the Department should adhere to SOPs specifically regarding approval of overtime. According to policy, overtime should be approved on multiple forms. In most cases, the overtime is being approved by an authorized individual on at least one of these forms. APD concurs that all Law Enforcement Personnel be reminded of the requirements of this SOP.”

2. APD SHOULD CONTINUE TO IMPLEMENT THE RECOMMENDATIONS MADE BY AN OUTSIDE CONSULTING FIRM TO REDUCE OVERTIME.

During 2001, City Council hired an independent consulting firm to analyze elements of APD’s total compensation program and compare those elements to the total compensation programs at eight peer agencies. Overtime was one of the specified elements reviewed. Recommendations were then developed by the consulting firm to manage overtime costs. The recommendations included:

- Introduce call system for Officers to check on changes to scheduled court time.
- Reschedule shifts so that more Officers testify at straight time.
- While waiting to appear in Court, Officers should be given productive work to perform.

- Lobby for decriminalization of minor traffic violations to reduce court time pay.
- Encourage use of compensatory time during the same work week as it is accrued.
- Increase APD management accountability for overtime-cost management.

APD management reports that they were aware that a study had been conducted and they have made progress on the implementation regarding several of the consultant's recommendations.

RECOMMENDATION

APD should continue to review the report and implement the recommendations prepared by the outside consulting firm to reduce overtime costs.

EXECUTIVE RESPONSE FROM APD

“The Chief of Police has reviewed the recommendations of the 2001 study and APD has implemented most of these recommendations. The recommendations dealt primarily with containment of Court overtime costs. APD has reduced these overtime costs by almost 20% in two years. Larger unbudgeted overtime costs resulted from the Bosque fire, the Balloon Fiesta, the Party Patrol program and overtime reimbursed by other entities.

“The Department has an on line system for officers to check on changes to scheduled court time. Shifts have been rescheduled so that more officers testify at straight time. The Department has lobbied for decriminalization of minor traffic violations to reduce court time pay and a resolution should be appearing before the Council soon. Although the APOA contract does not allow the City to require use of compensatory time in the same work week as it is accrued, the Department is encouraging its use as soon as possible. APD management is accountable for overtime cost management as it is accountable for all areas of the Department.”

3. APD SHOULD DEVELOP WRITTEN POLICIES RELATING TO HAZARDOUS DUTY AND SHIFT DIFFERENTIAL PAY

Hazardous Duty

Under the 2002 – 2003 APOA Contract, Section 32 (B) *Specialty Pay*, “The City shall pay the following to Officers assigned to hazardous classifications as follows...Crisis Intervention Team (C.I.T.) \$ 23.08 per pay period... Assignment to the hazardous

classifications shall be voluntary however reassignment to another classification shall not be a grievable issue.”

We noted three of four Officers receiving C.I.T. pay did not have documentation of C.I.T. certification in their training files maintained at the Academy. We learned C.I.T. training is often received outside of APD and the individuals do not always provide the Academy with a copy of the certification. The APD Personnel Section also does not require a copy of the certification be submitted in order to receive the hazardous duty pay. This may result in ineligible hazardous duty pay being received by Law Enforcement Personnel. Also, C.I.T. Personnel may not be adequately trained to handle crisis situations if they, in fact, did not receive C.I.T. training. APD should develop a policy requiring all Law Enforcement Personnel, who are not permanently assigned to a pay code authorized under contract to receive hazardous duty pay, such as Bomb Squad, S.W.A.T. or Mounted Unit, receiving hazardous duty pay to submit training documentation to the APD Personnel Section.

One C.I.T. Officer tested received hazardous duty pay; however, he had not volunteered to take a C.I.T. call in eight months. C.I.T. Personnel volunteer to take C.I.T. calls while they are on duty. If an individual does not volunteer or refuses to take a call, another individual is called. The Officer in our sample received a “verbal warning” in December 2003 indicating the Officer had not taken call since August 2003. In April 2004 he was removed from the C.I.T. Officer list making him ineligible for hazardous duty pay. APD does not currently have a policy stating an allowable period of not taking call for the C.I.T. program. It appears the only method used to monitor taking call is when there is excessive inactivity. This could result in C.I.T. Personnel receiving hazardous duty pay who are not actively participating in the C.I.T. program. APD should develop a written policy to specify how often an individual is required to volunteer or take a C.I.T. call in a specific amount of time. The Law Enforcement Personnel receiving C.I.T. pay should then be monitored to ensure compliance with the policy. Furthermore, the Officer noted above should reimburse the City for the 4 months of hazardous duty pay (January 2004 through April 2004) received after he was warned about his behavior. At \$23.08 a pay period, this results in a payment of \$184.64 due to the City.

The process for reporting C.I.T. Personnel who receive hazardous duty pay is insufficient. Currently, the C.I.T. Sergeant reviews a list, by area command, of C.I.T. Personnel. This list is then provided to the APD Personnel Section to serve as documentation for individuals who should receive hazardous duty pay. We noted instances where the C.I.T. Sergeant was not familiar with several C.I.T. individuals because they were located at a different area command. Again, this may result in Law Enforcement Personnel receiving hazardous duty pay who are not eligible. APD should have each area command individually report their own C.I.T. Personnel who are eligible for hazardous duty pay. This would provide a better control over who receives the pay.

We also noted there is no written procedure for selecting which Law Enforcement Personnel will participate in the C.I.T. program. APD has not documented the requirements of the program and therefore, many individuals are unaware of the criteria necessary to participate in the program. APD should develop a policy defining the selection process and criteria for becoming C.I.T. Personnel.

Shift Differential

We tested eight APD employees who received Shift Differential pay for the pay period ending April 2, 2004. One Officer had recently changed from swing shift to day shift and continued to receive shift differential pay for swing shift. Under the 2002 – 2003 APOA Contract, Section 31 Shift Differential, “Patrolmen, sergeants and lieutenants assigned to Watch III (swing shift) will be paid \$11.54 per pay period.” SOP 1-11-6 defines Watch III as “Any shift that begins between 1000 hours and 1659 hours.” The Officer noted above, worked Watch II (day shift), “any shift beginning between 0330 hours and 0959 hours” for the pay period ending April 2, 2004, making him ineligible for shift differential pay. The APD Personnel Section did not discontinue the shift differential pay until the pay period ending April 30, 2004.

Timekeepers in the APD Personnel Section only review lineups to identify shift changes every 2-3 months. There is an “unwritten policy” that a shift change is not considered permanent until the individual has been on the new shift for 30 days. It appears that if a timekeeper is not notified by the individual or supervisor directly, the change will not be caught by the timekeeper in a timely manner and employees may improperly receive shift differential pay. APD should develop a written procedure to specify when shift differential pay will be reviewed and adjusted accordingly. Furthermore, the City should request reimbursement from employees when the shift differential pay is received in error. In the case noted above, this will result in a payment of \$23.08 due to the City (2 pay periods at \$11.54 each).

RECOMMENDATION

APD should develop written policies relating to hazardous duty and shift differential pay.

APD should develop a policy requiring all Law Enforcement Personnel, who are not permanently assigned to a pay code authorized under contract to receive hazardous duty pay, submit training documentation to the APD Personnel Section.

APD should develop a written policy to specify how often an individual is required to volunteer or take C.I.T. call in a specific amount of time. The Law Enforcement Personnel receiving C.I.T. pay should then be monitored to ensure compliance with

the policy. Hazardous duty pay received erroneously should be reimbursed to the City.

APD should have each area command individually report their C.I.T. Personnel who are eligible for hazardous duty pay to the APD Personnel Section.

APD should develop a policy defining the selection process and criteria required to participate in the C.I.T. program.

APD should develop a written procedure to specify when shift differential pay will be reviewed and adjusted accordingly. Shift differential pay received erroneously should be reimbursed to the City.

EXECUTIVE RESPONSE FROM APD

***“Crisis Intervention Team policies and procedures are outlined in SOP 2-13. APD concurs that policies relating to qualifications and selection of new C. I. T. Officers, retention of training certifications, minimum activity levels and payroll reporting may need to be reviewed and the SOP amended.*”**

“Shift differential payments are reviewed from time to time. The Inspection Department of APD finished their last review in September, 2004. Individuals who were overpaid are being required to repay any monies received in error.”

4. APD SHOULD ADHERE TO SOP 1-11-9 AND CITY PERSONNEL RULES AND REGULATIONS SECTION 702.3 RELATING TO TEMPORARY UPGRADE PAY

Temporary upgrades commonly occur at APD when an individual is absent from regular duty or for work performed outside of the individual’s classification due to business necessity. SOP 1-11-9 states:

“When a supervisor is to be away from work for a period of five days or more, a subordinate may be temporarily upgraded to the position that is graded higher. The upgrade procedures will only apply to employees that are under contractual agreement.” The SOP requires “an inter-office memorandum be written by the supervisor (one rank above the upgrade) that is in charge of the activity to their deputy chief/deputy director/area commander, with a copy sent to the police payroll supervisor. The correspondence must include:

- The dates that the upgrade will be effective
- The reason the upgrade is necessary

- The name and employee number of the person being upgraded
- A request that the upgraded employee's salary be adjusted.
- Approval lines for the chain of command.”

In 11 of the 122, or 9%, of the transactions tested, we found no documentation authorizing the upgrade. Eight of the 20 Law Enforcement Personnel's files tested contained a memo authorizing the upgrade “until further notice,” indicating no date when the upgrade pay was to conclude. Upon review of the payroll system, we noted these individuals did stop receiving the upgrade pay; however, there was no indication in the file of when the upgrade status terminated.

The APD Personnel Section paid these employees for temporary upgrades without receiving the proper written documentation described in SOP 1-11-9. The individual authorizing the upgrade is responsible for preparing the correspondence to the APD Personnel Section. In accordance with the SOP, this authorization must be written. Verbal authorizations are not adequate. APD Law Enforcement Personnel should adhere to the temporary upgrade pay documentation requirements specified in the SOP. When the SOP is not adhered to, unauthorized temporary upgraded status is paid to individuals. Also, Law Enforcement Personnel may be paid for hours not in an upgraded status because the APD Personnel Section has not received notification of the exact date the upgrade will terminate.

The APD Personnel Section should ensure upgrade authorization documentation is submitted and contains all the elements required by the SOP. It also appears the documentation received is not always filed in the personnel record in a timely manner. APD Personnel Section stated that due to the limited number of timekeepers and the number of personnel they process payroll for, filing this documentation does not always occur in a timely manner.

We also noted that APD is not adhering to City Personnel Rules and Regulations Section 702.3 “Maximum Time Limit of Upgrade for Collective Bargaining Employees”. In our sample of 20 Law Enforcement Personnel, 16 received temporary upgrade pay in excess of 160 hours. None of the 16 individuals received approval from the City's Employees Relation Office for an extension. Section 702.3 states:

“The maximum length of time an employee may be upgraded is 160 hours per position, per fiscal year. The number of hours may be extended with the approval of the Employee Relations Office.”

Without this approval, APD is not compliance with City Personnel Rules and Regulations and unauthorized temporary upgrade pay may result. APD Personnel Section stated they were unaware of this rule until recently.

RECOMMENDATION

APD should adhere to SOP 1-11-9 and City Personnel Rules and Regulations Section 702.3 with regard to temporary upgrade pay. APD Supervisors requesting temporary upgrades for Law Enforcement Personnel should adhere to the documentation requirements specified in the SOP.

APD Personnel Section should ensure upgrade authorization documentation is submitted and contains all the elements required by the SOP, *before* processing upgrade pay. Employees should not be upgraded for more than 160 hours per fiscal year.

EXECUTIVE RESPONSE FROM APD

“APD concurs that the Department should adhere to SOP 1-11-9 and City Personnel Rules and Regulations Section 702.3 with regard to temporary upgrade pay. Upgrades should not be processed by Personnel until full documentation is received from APD supervisors and no upgrades should be for more than 160 hours per fiscal year without the proper authorizations.”

5. APD SHOULD ADHERE TO THE APOA 2003-2006 CONTRACT REGARDING COMPENSATORY TIME BALANCES

In accordance with the Contract, Section 36, “Time worked over 40 hours per week will be compensated at 1 ½ times the Officer’s regular rate of pay, or in the form of compensatory time. Compensatory time will be computed at the rate of 1 ½ times the hours actually worked. The maximum accrual of comp time for any Officer is 200 hours.”

As of May 28, 2004, there were 66 Law Enforcement Personnel who exceeded the 200-hour compensatory limit. The breakdown of individuals is as follows:

200 - 300 hours	58 individuals
301 – 400 hours	5 individuals
401+ hours	3 individuals

APD is not in compliance with its Contract when compensatory time balances exceed the 200-hour limitation. The increased time spent in court has contributed to the increase in overtime. Compensatory time is often awarded instead of paying overtime as a means to stay within the program’s budget. APD should develop a plan for these individuals to utilize their compensatory time in excess of 200 hours. In the future, APD should monitor compensatory balances to ensure they remain within the limits allowed by the Contract.

RECOMMENDATION

APD should adhere to the Contract that limits compensatory time balances and develop a plan for Law Enforcement Personnel to utilize their balances in excess of 200 hours.

EXECUTIVE RESPONSE FROM APD

“APD has issued Special Order 04-58 requiring that all personnel be in compliance with the comp time provision in the APOA contract. Effective September 1, 2004, personnel who are in comp time excess by their birthday will be forced off effective on the date of their birthday until their balance reaches 200 hours. This mandatory comp time reduction will occur biannually (determined by the date of the employee’s birthday) if personnel continue to go into comp time excess. APD monitors compensatory balances on a regular basis.”

6. APD SHOULD CONSIDER DISCIPLINARY ACTIONS WHEN OFFICERS ARE NOT COMPLIANT WITH THE FLSA AND CITY PERSONNEL RULES AND REGULATIONS

During testwork we noted an Officer who had not turned in his timesheet for the pay period ending April 2, 2004. APD management reports that they have repeatedly requested the timesheet; however, the Officer has not complied. Record keeping requirements under the FLSA Section 810, state, in part,

“With respect to employees subject to – and not exempt from – the FLSA’s minimum wage and overtime pay provisions, the following records are required (29 C.F.R. Section 516.2) ...hours worked each workday and total hours worked each workweek (29. C.F.R. Section 516.2 (a) (7)).

Also, Section 301-13 of the City’s Personnel Rules and Regulations states,

“All City records, including reports, vouchers, requisitions, payroll and personnel records must be prepared factually and accurately. It is the personal obligation of the employee completing such records as well as the supervisor to ensure that such records are accurate and comply with federal, state, and City record-keeping and accounting requirements.”

APD Personnel Section has attempted to contact the Officer repeatedly to obtain the timesheet to no avail. A non-exempt employee who has not submitted a time report is not in compliance with the FLSA. Also, proper payroll coding cannot occur when the APD Personnel Section has not received a time report. APD should consider disciplinary

actions be taken against Law Enforcement Personnel who do not comply with the FLSA and City Personnel Rules and Regulations.

RECOMMENDATION

APD should refer this individual and others who do not comply with the FLSA and City Personnel Rules and Regulations to the employees' supervisor for appropriate disciplinary action.

EXECUTIVE RESPONSE FROM APD

“APD concurs that any personnel not turning a timesheet should be referred to the employee’s supervisor for appropriate disciplinary action.”

CONCLUSION

APD management should enforce all Department SOPs. Law Enforcement Personnel who do not comply with the SOPs should be disciplined in accordance with APD and City policies. APD should continue to implement the recommendations made by the outside consulting firm and follow the City Personnel Rules and Regulations and the APOA Contract.

We appreciate the cooperation of Albuquerque Police Department staff during the audit.

Budget Auditor

REVIEWED AND APPROVED:

APPROVED FOR PUBLICATION:

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