MEMORANDUM

To: Jennifer Vega-Brown, City Attorney

From: Isela B. Denton, CPA, CIA, CFE, CDFM

Date: February 12, 2019

Subject: Police Overtime Audit Report

File #: 18-011

The enclosed report presents the results of our Police Overtime Audit.

This audit will be posted to the transparency page after your review.

Encl: Police Overtime Audit

cc: Joe Anzivino, Acting City Auditor, CIA
cc: Stuart Ed, City Manager

Approved by City Manager for release and to post on the transparency page.
EXECUTIVE SUMMARY

In accordance with the FY18 Annual Audit Plan, the Internal Audit Office completed an audit on Police Overtime. Based on our results, the following observations have been identified.

- LCPD corrections process can be improved.
- Requirements for the section 207(k) (7(k)) exemption were not met.
- Current standby process is not an effective monitoring control.
- LCPD payroll documentation was not always correct, complete, or consistent.

BACKGROUND

An audit of LCPD Overtime was completed according to the 2017-2018 Audit Plan. Police Overtime was an area of concern brought up through Internal Audit’s annual Risk Assessment process, and conversations with the Former Chief of Police.

AUDIT OBJECTIVES

The primary objectives were to verify if overtime charged by police officers is authorized and earned in accordance with the existing documented policies and procedures, and that the policies and procedures provide adequate internal controls over the overtime process.

SCOPE AND METHODOLOGY

The audit of LCPD’s overtime was conducted for a duration of four pay periods. The date range was from December 25, 2016 through February 18, 2017 and included a sample size of 112 out of 231 LCPD employees that earned overtime. The sample was selected using a random sample method. In addition, individuals with total overtime pay adding up to 50% or more of their total salary were included, if not already part of the random sample.

Procedures performed include:
- Review of documented policies and procedures, prior audit reports, organizational charts, and other related information regarding laws and regulations to gain an overall understanding of LCPD’s operations.
- Discussions with Human Resources and Payroll Personnel to understand their role in the overtime submission process.
- Observation of the payroll submission, approval, and data entry process with the current Police Department (PD) Administrative Assistant.
- Meeting with LCPD’s Administrative Assistants in charge of time entry for the different sections.
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- Review and verification of timesheets, overtime cards, and supporting documentation for the sample and pay period selected.

CONCLUSION

Although there was no evidence of overtime misuse or abuse, current controls could be strengthened to ensure accountability and effectively prevent or detect fraud, waste, or abuse of payroll funds.

Audrey Evins, CPA, CFE, CGPM  
City Auditor

Ise Anziving, CIA  
Internal Auditor

Isela Denton CPA, CIA, CFE, CDFM  
Internal Auditor

Patrick Gallagher  
Chief of Police

Cc: City Attorney  
City Manager
SUMMARY OF OBSERVATIONS & RECOMMENDATIONS

OBSERVATION 1: LCPD corrections process can be improved.

With the current process in place there is no way of knowing if a correction was made for an employee when reviewing LCPD’s payroll records. Corrections were filed electronically and separate from the corresponding timesheets. As a result, when a correction was made, there was no location with all the documentation to show the entire picture. Human Resources tracks corrections on a spreadsheet but does not keep a copy of the original timesheet and supporting documentation. Payroll also doesn’t keep a copy of the original timesheet and supporting documentation, only the documentation provided to make the correction. The documentation is then kept in notebooks filed by alphabetical order and by year, which makes it difficult to find the corrections for a certain pay period.

RECOMMENDATION 1: LCPD would benefit from changes to the corrections process.

It is essential that LCPD keep all the information for each pay period in one place. The current PD Administrative Assistant is now attaching the documentation for corrections to the corresponding timesheet. The other PD Administrative Assistants responsible for payroll input need to be informed so that they follow the same practice. It is also recommended LCPD run an Add Pay Report that shows the corrections made each pay period. The supervisor can then sign off on the report as verification that the corrections were processed correctly.

MANAGEMENT RESPONSE 1:

After further discussion regarding the corrections process, we believe there is a broader understanding of how we notate these issues in light of the fact that the new Administrative Assistant had already put methods and processes in place that directly mitigate this observation. We have also implemented a new process of records management regarding timesheets. In reference to the Add Pay Report, we would request access to this documentation through Human Resources.

INTERNAL AUDITOR’S COMMENT 1:

To elaborate on the response above, after the exit conference discussions, Internal Audit had a broader understanding of how the Police Department is currently notating their corrections. For example, after payroll is run the Deputy Chief reviews the payroll report and annotates if any corrections need to be made. If corrections are needed it is then sent to the PD Administrative Assistant to gather documentation and start the corrections process. The PD Administrative Assistant then makes sure to attach any documentation for the corrections to the payroll records. Although it is important to note that during the test period, prior to the current PD Administrative Assistant, this was not occurring.
OBSERVATION 2: The requirements for section 7(k) exemption were not met. In addition, there were also errors in the system set-up of FLSA calculations.

The Police Department made the section 7(k) exemption election found under the 29 U.S.C. Section 207 for the Police Academy Cadets. The exemption allows the City of Las Cruces to pay law enforcement officers based on work periods of any length between seven and 28 days, and to prorate accordingly the number of hours that must be worked before overtime is paid. For example, for a 14-day work period, overtime is paid after 86 hours. It was found, through conversation with the Deputy Chief, that there is nothing in writing to satisfy the section 7(k) requirements.

Although the Police Department made the section 7(k) election, the 46th Police Academy Cadets were set-up in the system for the FLSA half time to kick in after 40 hours each week. As a result, the 46th Police Academy Cadets had the potential to be overpaid up to six hours of FLSA half time depending on the amount of overtime worked. When the error was discovered a cadet from the 47th Police Academy was selected for review to verify if a correction had been made. The 47th Police Academy Cadets were also set-up the same way and had the potential to be overpaid up to six hours of FLSA half time. In addition, the time worked over 86 hours was coded as Emergency Overtime (code 201), which is guaranteed time and a half. This also caused the 47th Police Academy Cadets to be overpaid the FLSA half time for any time worked over the 86 hours.

Another process that has the potential to cause an overpayment or underpayment of the FLSA half time calculation is the way the Cadet's time is entered in the system. Their time is not entered as reflected on the timesheet, instead it is entered in the system to make it look consistent. There was one instance found where this practice caused an overpayment of the FLSA half time calculation.

Lastly, there were instances found where the FLSA calculation did not calculate properly. These were two separate circumstances and were in addition to the Police Academy Cadets scenario reported above. This is concerning because the FLSA calculation is a system generated calculation.

RECOMMENDATION 2: Ensure the requirements for the section 7(k) exemption are met, and set-up the system to properly calculate the FLSA half time calculation and test for accuracy.

To establish the section 7(k) exemption based on 29 CFR 553.51 – Records to be kept for employees paid pursuant to section 7(k) certain requirements need to be met by the City of Las Cruces. For each employee subject to the partial overtime exemption in section 7(k), the City of Las Cruces needs to maintain and preserve records containing the information and data required by section 553.50 and, in addition, make some notation on the payroll records which shows the work period for each employee and which indicates the length of that period and its starting time.
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LCPD is aware of the FLSA half time calculation error and have been working to get it resolved. The cadets are paying the overpayment through a pay deduction. In addition, LCPD will be running a practice payroll at the end of December or beginning of January to verify that the FLSA half time calculation error was fixed. After the correction, the FLSA half time calculation should kick in after 86 hours in a 14-day work period and there shouldn’t be a reason to use Emergency Overtime code 201 for any of the cadet’s overtime.

The current practice of entering cadet’s time to make it consistent needs to be stopped immediately. The timesheet represents the actual time worked and was reviewed and verified by the supervisor. Cadet’s time should be entered in the system as it is on the timesheet and should not be altered in any way. If the current system does not allow this, then it needs to be resolved so that the cadet’s time can be entered exactly as shown on their timesheets.

Lastly, whenever an error is found in an FLSA half time calculation, research needs to be done to get to the root cause. Human Resources and/or Information Technology needs to be informed. FLSA calculations are system generated, an error in the FLSA calculation can mean there is an error in the system, which can be the cause of multiple errors.

MANAGEMENT RESPONSE 2:

The above information specifically in the recommendation outlines our solution. We have continued to work with Human Resources regarding the FLSA calculation error and this was provided to the auditors by Deputy Chief Dunivan prior to this report being completed; however, we are requesting Human Resources and IT review this issue. We will conduct a payroll entry test for cadets before the 48th Academy begins to ensure that this issue has been resolved. We are also recommending that the (7k) exemption/86 hr. rule for police cadets be added in the CLC Personnel Manual (Section 400).

OBSERVATION 3: Current standby process is not an effective monitoring control.

One of the Administrative Assistants relies solely on the standby hard copy schedule to verify that LCPD employees were on standby and paid for accordingly. The problem is standby schedules can change due to unforeseen circumstances. It would then be up to the supervisor to send an updated standby schedule to the Administrative Assistant. There were many instances where LCPD employees claimed standby pay and were not on the standby schedule or they were on the standby schedule but did not claim standby pay. There was also an occasion where there were multiple standby schedules for the same period and depending on which standby schedule was referenced it would show a different number of standby days. In addition, documentation is not attached to payroll records to support the standby days paid.
RECOMMENDATION 3: The standby process can be improved to provide a more efficient and reliable process.

The standby schedule is the main control relied on, which leaves room for error and abuse of the system. As a result, the current PD Administrative Assistant made some changes and is only going off of the original standby schedule. If there are changes to the standby schedule, the supervisor is asked to provide an updated standby schedule. Otherwise changes made verbally to the PD Administrative Assistant will not be honored. It is also recommended that documentation for standby pay be attached to the payroll records for support. As mentioned before, this allows for the entire backup documentation to be in one location.

MANAGEMENT RESPONSE 3:

The above recommendation has been implemented and administrative staff members are now requiring a standardized standby list/memorandum for all specialty units with an on-call status.

OBSERVATION 4: LCPD payroll documentation was not always correct, complete, or consistent.

After review of the records, required supporting documentation was not always attached to the timesheet. There were also instances where timesheets, supporting documentation, and overtime cards were not filled out completely or correctly. In addition, differences were found between timesheets, the supporting documentation, and the system.

It was also noticed that a good portion of the timesheet errors were calculation errors. There were two occasions where Cadet's timesheets were not calculated correctly. Based on the time in and time out entered on the timesheets they were overpaid 1.5 hours on one occasion and underpaid .33 hours on another.

During the course of the audit it was noted that the records were not organized in a logical manner, which made locating the audit sample time consuming. The current PD Administrative Assistant made significant changes to substantially improve the management and organization of the timekeeping records.

RECOMMENDATION 4: Provide continuous training to employees on the time entry process and stress the importance of filling out their timesheet and supporting documentation completely, correctly, and consistently.

Training is an essential part in creating awareness of the importance of filling out the timesheet and supporting documentation completely and correctly. It is imperative that the information on the timesheet and the system are identical, and that the documentation supports what is claimed on the timesheet. If a change or correction
is required, documentation to support this change needs to be attached to the timesheet. Although recurring training is still encouraged, the current PD Administrative Assistant is very detailed and is doing an amazing job in reviewing all the documentation to make sure it is complete, correct, and consistent. In addition, the current PD Administrative Assistant is attaching documentation to support any changes made to the timesheet after it has been turned in.

A recommendation to decrease the error calculations on the timesheets is to have timesheet totals calculate automatically. Formulas entered in the timesheet should be locked so they are not altered. If there are issues with the timesheet formulas becoming corrupt, making employees aware of this issue and having a central location where employees can access an uncorrupt timesheet can help with this issue.

**MANAGEMENT RESPONSE 4:**

The above recommendation has been implemented and administrative staff members have provided additional training to address the accuracy of timesheets. We are also in the process of creating a new timesheet with correct formulas/cells for all departmental personnel.

**INTERNAL AUDITOR’S COMMENT 4:**

After a discussion with the Deputy Chief and to further clarify, the training mentioned above was implemented after the exit conference and has been going on for the last several weeks. The PD Administrative Assistant has been meeting with each shift and providing training on how to properly fill out timesheets. Some examples of the items reviewed during the training are the differences between essential and non-essential personnel, and how to properly code holidays.

**LONG-TERM RECOMMENDATION:**

During the process of the audit and taking into consideration the observations identified, there was one recommendation that kept recurring. The automation of the payroll process would improve the process significantly and might be a long-term goal for LCPD to consider. By automating the process, controls can be put in place to ensure all fields are filled in, decrease the percentage of manual errors, and possibly better manage the officer’s schedules.