

Police Overtime for Court Appearances

Report No. 93-5 -- Report Summary

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INTRODUCTION AND BACKGROUND

The management audit of police overtime for court appearances was requested by the Chair of the King County Council Fiscal Management and Human Services Committee in response to concerns over increasing officer overtime usage for court appearances. A specific concern was the impact of the Fair Labor Standards Act on court overtime expenditures. Under the Fair Labor Standards Act, any work performed by an hourly employee in excess of forty hours per week requires overtime compensation.

From 1987 through 1992, the Department of Public Safety (DPS) used the practice of "standby" to control overtime expenditures for court appearances. An officer on standby was on-call for a court appearance and was compensated at half-time pay. However, due to concerns that under the Fair Labor Standards Act standby might be considered work time and thus require overtime compensation, DPS discontinued the practice of standby. Since January 1993, all officers

appeared for court as subpoenaed and were compensated at overtime rates.

OBJECTIVE AND SCOPE

The audit objective was to determine the financial impact of discontinuing standby due to concerns that it might be considered work time under the Fair Labor Standards Act, and thus require overtime compensation of police officers for court appearances. The audit also examined strategies for reducing police overtime for court appearances.

The audit scope was limited to the review and analysis of King County officer overtime usage for court appearances. Audit analysis focused on policies and procedures related to compensation for court appearances, court proceedings for which officers were subpoenaed, and DPS overtime expenditures for court appearances. The audit also reviewed police overtime records for the months of January and February 1992 and 1993 to determine the extent of overtime usage for court appearances. Audit staff interviewed personnel from the Department of Public Safety, District Court, and the Prosecuting Attorney's Office to review procedures for trial notification and court proceedings. Finally, audit staff interviewed public safety and court personnel from other jurisdictions to examine their strategies for reducing police overtime for court appearances.

SUMMARY STATEMENT OF FINDINGS

The general conclusion of the audit was that an estimated 37% increase over the past year in DPS court overtime expenditures indicated the necessity for controls over officer court appearances. Since the great majority of officer appearances were in King County District Court, cooperation among DPS, District Court, and the Prosecuting Attorney's Office was essential to control the number of court appearances by County officers. The audit recommended that DPS, in conjunction with District Court and the Prosecuting Attorney's Office, implement a "key system" to limit the number of officer appearances in District Court and reduce overtime expenditures for court appearances. The audit also recommended that the Prosecuting Attorney's Office implement a voice mail system to notify officers of jury trial dates and cancellations.

MAJOR FINDINGS AND RECOMMENDATIONS

Finding 1. District Court accounted for over 80% of police court appearances and related overtime expenditures.

Approximately 81% of court appearances by County officers in January and February 1993 were

in King County District Court, accounting for \$102,563 (82%) of court overtime expenditures during that time. District Court appearances comprised 78% of court appearances during the same period in 1992. The audit therefore focused on controlling officer appearances in District Court in developing an effective strategy for reducing court overtime expenditures.

Finding 2. Court overtime expenditures increased 37%, primarily due to elimination of standby system.

DPS expenditures for court appearances from January through May 1993 totaled \$315,900, an increase of \$84,600 (37%) over the same period in 1992. An additional intangible cost of court appearances was the potential impact on the public safety function as, for example, officers become fatigued by excessive court appearances during off-duty hours.

Several factors were responsible for the increase in expenditures for court appearances, including a growing District Court caseload and an even larger increase in the number of officer subpoenas for District Court. However, the predominant factor was the elimination of the standby system. When standby was discontinued in January 1993, all subpoenaed officers were directed to appear in court. Consequently, from January and February 1992 to the same period in 1993, the number of actual appearances by officers in District Court increased by 172%. Since officers were typically scheduled for court during off-duty hours, court appearances were compensated at a minimum of 4 hours overtime, or \$118 for each court appearance.

The audit recommended implementation of a "key system" as the most effective solution for reducing police overtime for District Court appearances. Under a key system, each officer is assigned specific dates for availability for court appearances, effectively reducing the number of court appearances by officers and scheduling court appearances for the most cost-effective time. The audit recommended that the key system be implemented first for non-jury trials and then for jury trials as the system is refined. The audit also recommended that the Prosecuting Attorney's Office establish a voice mail system, such as the one currently in use at Shoreline division of District Court, to provide officers with timely notification of jury trial dates and cancellations.

Finding 3. Different levels of officer appearances among District Court Divisions were due to variations in court calendars and processes.

The audit found that the number of officer appearances varied among the divisions of District Court, due in part to different court calendars and subpoena processes. Overall, officers did not testify in 89% of District Court appearances. The fact that an officer did not testify in court did not necessarily mean that his or her presence was not needed, because the officer's presence may have persuaded the defendant to plead guilty. However, the officer's presence was unnecessary when the case was continued or dismissed, which occurred in 42% of District Court appearances where the officer did not testify, although the percentage varied among District Court divisions. Unnecessary District Court officer appearances cost the County over \$38,000 in overtime expenditures during January and February 1993.

The audit recommended that District Court continue to implement uniform policies and

procedures to promote efficiencies in court proceedings as well as minimize police court overtime, with experimentation by individual divisions to test the effectiveness of alternative court calendars and subpoena processes.

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