



# KING COUNTY AUDITOR'S OFFICE

DECEMBER 1, 2022

## Follow-up on King County Sheriff's Office Overtime: Calculation of Sheriff's Office Overtime Payments

**King County has made substantial progress in simplifying overtime pay calculations by transitioning Sheriff's Office employees to biweekly paychecks and using Multiple Components of Pay (MCOP).** MCOP combines many formerly separate pay types together into a single rate, which is simpler, more consistent, and allowed the County to stop making some duplicative payments of overtime premiums. We issued a technical addendum to our June 2017 audit of [King County Sheriff's Office overtime](#) to detail specific problems in the County's calculation of overtime pay. In addition to the 12 recommendations in the original audit, we made another eight recommendations in the addendum (numbered 13 through 20). The transitions to biweekly pay and to MCOP effectively implemented several of these recommendations.

**We estimate that King County is still failing to pay around \$270,000 in overtime premiums to Sheriff's Office employees each year.** At the same time, the County is also paying around \$18,000 more in overtime premiums than required by either the law or the collective bargaining agreement. These two amounts generally do not offset each other, since the underpayments and overpayments often occur to different employees on different paychecks. The majority of the underpayments could be resolved by calculating overtime pay as permitted by section 7(k) of the Fair Labor Standards Act (FLSA). The County bargained for the right to make payments according to section 7(k) in the 2013 collective bargaining agreement, but it has not implemented this option.

This follow-up report estimates the financial impact of several issues with payroll calculation for Sheriff's Office employees. We based these estimates on payroll data from the first half of 2022, after the transition to biweekly pay periods.

Of the eight audit recommendations:

	4 <b>DONE</b>		3 <b>PROGRESS</b>		0 <b>OPEN</b>		1 <b>CLOSED</b>
<b>Fully implemented</b> Auditor will no longer monitor.	<b>Partially implemented</b> Auditor will continue to monitor.	<b>Remain unresolved</b> Auditor will continue to monitor.	<b>No longer applicable</b> Auditor will no longer monitor.				

Please see details below for implementation status of each recommendation.





**The King County Executive should transition King County Sheriff's Office employees to an extended work period for overtime calculations (as allowed under section 7(k) of the Fair Labor Standards Act and allowed under the current collective bargaining agreement) so that elements of alternative schedules, such as roll call hours, will not regularly require payment of overtime.**

STATUS UPDATE: While King County transitioned Sheriff's Office employees from a semimonthly to a biweekly pay schedule, it has not implemented the 7(k) work period for the purpose of calculating overtime pay. This means that all hours worked over 40, rather than over 42.75, require overtime payments under the FLSA. As explicitly stated in the collective bargaining agreement, this includes hours worked during weekly 50-minute roll call meetings for deputies and sergeants. However, the PeopleSoft system does not record time spent during roll calls, so Sheriff's Office employees continue to be underpaid. We estimate that unpaid overtime for roll call hours adds up to around \$190,000 per year (or around \$19 per week, on average, for eligible employees).

In addition, sergeants and deputies receive payments for "regular guaranteed hours" so that they are now paid for 80 hours every two weeks, even if their regular shift is less than 80 hours. The County shifted these guaranteed hours from semimonthly amounts to biweekly amounts, which means they are much more consistent and also align with the new biweekly pay periods. However, guaranteed hours still do not align with the FLSA work period, which is a single week rather than biweekly. The County could align these two periods either by paying guaranteed hours weekly or by changing the FLSA work period to be biweekly (which is allowed under section 7(k) of the FLSA). Alignment is important because payments for guaranteed hours count toward remuneration under the FLSA, so they must be included when calculating the FLSA regular rate for overtime pay. However, the County currently does not include these payments, which in general reduces some overtime payments below the amount required by the FLSA. We estimate that this unpaid overtime adds up to around \$45,000 per year (or around \$62 per week on average for impacted employees).<sup>1</sup> In rare cases, the omission of regular guaranteed hours can also increase the overtime premium above what is required by the FLSA. In total, we estimate these overpayments add up to around \$900 per year (or around \$40 per week, on average, for impacted employees).

WHAT REMAINS: The County Executive should transition deputies and sergeants to the 7(k) period. This would eliminate the \$190,000 per year liability, since the 50-minute roll calls are shorter than the 2.75-hour increase in the threshold for overtime eligibility under the FLSA. This change would also reduce the total amount of overtime payments due in general under the FLSA, as discussed in Recommendation 17. The County should also align the payment of guaranteed hours with the FLSA work period and include those payments in its calculation of the FLSA regular rate.

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<sup>1</sup> This estimate uses the currently configured system, where King County pays the entire guaranteed hour amount in the second week of the biweekly period. This effectively means that each weekly FLSA work period has either zero guaranteed hours or the full biweekly amount. The estimated amount of underpaid overtime would probably change if the County aligned the guaranteed hours payments with FLSA work periods.

## Recommendation 15

PROGRESS



**The King County Executive should clarify and document:**

- a) **Whether Sheriff's Office employees are paid regular pay on an hourly or salaried basis;**
- b) **Whether Sheriff's Office employees are paid contractual overtime on an hourly or salaried basis;**
- c) **The method by which the Executive calculates overtime pay for both contractual overtime and overtime under the Fair Labor Standards Act.**

**This may require consultation with the King County Police Officers Guild and other labor unions.**

STATUS UPDATE: In response to our audit of overtime pay for paramedics and corrections officers, the County Executive formed the Payroll Governance Committee to implement our recommendations and coordinate how the County addresses a wide range of payroll-related policies across departments. In response to this recommendation, the Payroll Governance Committee stated that "public safety officers are considered to be paid hourly" and that "they are paid regular guaranteed hours, similar to being salaried." During our conversations with staff from the Department of Human Resources, there was also some confusion and disagreement about whether deputies and sergeants should be considered hourly or salaried for purposes of calculating overtime under the FLSA.

WHAT REMAINS: The Payroll Governance Committee should clearly document the basis (hourly or salaried) and method by which it calculates overtime pay for Sheriff's Office employees.

## Recommendation 16

DONE



**The King County Executive should treat the base pay rate and additional pays consistently when calculating overtime in the PeopleSoft payroll system, based on the method documented in Recommendation 15.**

STATUS UPDATE: King County negotiated and implemented the MCOP option, which incorporates most prior additional pays into the base pay rate. This means that these rates are treated consistently using the hourly method. The few additional pays that were not incorporated into the base rate are also calculated using the hourly method.

IMPACT: The County is now making overtime payments consistently without arbitrary distinctions between different types of pay.

## Recommendation 17

PROGRESS



**The King County Executive should not pay more overtime than is required by the King County Police Officers Guild collective bargaining agreement for any hours worked under the Fair Labor Standards Act threshold (either 40 hours per week or an alternative work period allowed under provision 7(k) of the Act). Once the enriched rate is eliminated, the**

**King County Executive should ensure that contractual overtime pay for hours worked under this threshold still includes time-and-a-half payments for additional pays (as listed in Article 7 of the collective bargaining agreement).**

STATUS UPDATE: King County eliminated the enriched rate as part of its transition to MCOP, which incorporated many additional pays into the base pay rate. When an employee works overtime, they receive one-and-a-half times this combined rate, which is consistent with the overtime requirements in the collective bargaining agreement. However, the County did not incorporate all additional pays into the combined rate (specifically, the educational incentive and longevity pay premiums were not included). This means that an employee working overtime will not receive these unincorporated pays at time-and-a-half, contrary to the labor contract. Instead, employees will receive these pays at half-time, but only when PeopleSoft calculates and uses the FLSA regular rate for the overtime payment. The County currently only uses the FLSA rate for overtime payments when the employee works more than 40 hours per week. This means that when an employee works overtime and more than 40 hours per week they will receive one-third of the contractually owed overtime premium for these unincorporated additional pays; if they work less than 40 hours per week in total then they are not paid for any of the owed overtime premium for these unincorporated additional pays. We estimate that these underpayments add up to around \$13,000 per year (or around \$5 per week on average for impacted employees).

As well as the additional pays listed in Article 7 of the collective bargaining agreement that are required for contractual overtime, there are also other types of additional pays that only need to be paid at time-and-a-half for hours worked in excess of the FLSA threshold. The County appropriately includes these other pays when calculating the FLSA regular rate. However, in some instances the County awards the FLSA rate to more hours (or at a higher rate) than what is required by the FLSA or the collective bargaining agreement. We estimate that these overpayments add up to around \$18,000 per year (or around \$21 per week, on average, for impacted employees).

Conversely, the County does not always apply the FLSA regular rate to all the hours that it should. Occasionally, an employee will work more than 40 hours per week in a category that is not eligible for contractual overtime pay (e.g., roll calls, regular shifts, holidays, overtime paid at straight time). Even though these hours are not eligible for contractual overtime pay, they are still eligible for overtime pay at the FLSA regular rate. Not including roll call hours (which are discussed in Recommendation 14, above), we estimate that these underpayments add up to around \$23,000 per year (or around \$84 per week on average for impacted employees).

WHAT REMAINS: The County should only pay the amount of overtime required by either the FLSA or the collective bargaining agreement, whichever is greater.

**Recommendation 18**

**DONE**



**The King County Executive should transition King County Sheriff's Office employees to biweekly pay based on a weekly or biweekly amount of base pay, if employees are paid on a salary basis. If employees are paid on an hourly basis, then the King County Executive should use the actual regular rate of pay when calculating overtime premiums.**

STATUS UPDATE: King County has transitioned Sheriff’s Office employees from the semimonthly pay period to a biweekly pay period. Deputies and sergeants receive biweekly “regular guaranteed hours,” which means that they are always paid for 80 hours of regular work per two-week pay period.

IMPACT: The transition to biweekly pay resolves many inconsistencies in overtime pay calculations that were caused by prorating semimonthly wage amounts into weekly FLSA work periods.

## Recommendation 19

CLOSED



**The King County Executive should include hours worked for compensatory leave in lieu of overtime pay in its calculation of overtime premiums under the Fair Labor Standards Act.**

STATUS UPDATE: King County policy is not explicit when it comes to assigning the value of compensatory leave at the time it is earned, which can have an impact on the calculation of the regular rate under the FLSA. Current practice suggests that the County assumes the value of the compensatory leave is equal to whatever the employee’s regular rate would have been if the employee had not worked hours for compensatory leave in lieu of overtime pay. In effect, this circular assumption means that the leave would not have any effect on the calculated regular rate. Since it does not appear that there are any federal or state laws, rules, or guidance that would forbid using this implied assumption, this recommendation can be closed.

## Recommendation 20

DONE



**The King County Executive should develop and implement a method that minimizes variation in the value of additional pays when calculating King County Sheriff's Office employee overtime premiums.**

STATUS UPDATE: King County negotiated and implemented the MCOP option, which incorporates most prior additional pays into the base pay rate, removing the need for a proration method. The few additional pays that were not incorporated into the base rate are now prorated to a consistent weekly amount.

IMPACT: The County is now making overtime payments consistently without arbitrary variations in the value of additional pays.

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Peter Heineccius conducted this review. If you have any questions or would like more information, please contact the King County Auditor’s Office at [KCAO@KingCounty.gov](mailto:KCAO@KingCounty.gov) or 206-477-1033.