



LEGISLATIVE ANALYST REPORT

TO: HONORABLE MEMBERS OF THE BOARD OF SUPERVISORS
FROM: Gabe Cabrera, Legislative Analyst
THROUGH: Clarice Duma, Senior Legislative Analyst
DATE: January 31, 2001
SUBJECT: **NON-BUDGETED MUNICIPAL OVERTIME**

Summary of Request

Motion requesting the Office of the Legislative Analyst (OLA) to prepare a report to: (1) assess the aggregate costs to the City over the last five years of all non-budgeted overtime; (2) analyze current data within the City Attorney, and other departments regarding overtime, both current and from the last five years, by department, actions which led to the overtime, and total costs; and (3) survey "best practices" from other local governments which successfully utilize such data to direct and incentivize City departments to lessen their overtime costs.

Background

Each year, the Mayor proposes a budget for all City departments for the ensuing fiscal year. This budget is transmitted to the Board of Supervisors (the "Board") for review and approval in the form of the Annual Appropriation Ordinance. Once adopted by the Board, these budgeted amounts are referred to as the "original" budget. During the fiscal year, the budget may be revised via supplemental appropriations, transfers and carryforwards in accordance with the City Charter and Administrative Code. This is referred to as the "revised" budget. According to the Controller's Office, "non-budgeted" overtime may occur for two reasons:

1. Spending in Excess of Budgeted Amounts - When a department's actual overtime costs exceed its budgeted amount of overtime, the difference is called "non-budgeted" overtime.
2. City Budget and Accounting Practices - In the City's financial systems, overtime is identified by "object" code. Project and grant budgets are usually not broken down by object, but actual costs, including overtime expenditures, are always recorded by object. Overtime is included in project and grant budgets, but it is not itemized. Therefore, any overtime spent on projects is (technically) "non-budgeted" overtime, but it is due to the City's budgeting and accounting practices and not necessarily due to a difference between planned and actual amounts.

For the purposes of this analysis, overtime spent on projects is referred to as "project" overtime, and all other overtime is called "non-project" overtime.

Citywide Overtime Costs (FY 95-96 through FY 99-00)

The table below shows citywide overtime costs over the five-year period from FY 95-96 through FY 99-00:

Figure 1: Citywide O.T. Costs

OVERTIME	<i>1995-96</i>	<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>	<i>1999-00</i>
Non-project					
<i>MUNI drivers</i>	\$ 18,145,426	\$ 19,717,766	\$ 21,927,326	\$ 21,440,141	\$ 23,985,351
<i>Other</i>	<u>\$ 32,919,987</u>	<u>\$ 39,814,595</u>	<u>\$ 44,125,555</u>	<u>\$ 56,710,303</u>	<u>\$ 70,181,136</u>
Subtotal	\$ 51,065,413	\$ 59,532,361	\$ 66,052,881	\$ 78,150,444	\$ 94,166,487
Project	<u>\$ 4,432,208</u>	<u>\$ 5,262,184</u>	<u>\$ 5,050,021</u>	<u>\$ 5,485,917</u>	<u>\$ 6,166,690</u>
Total	\$ 55,497,621	\$ 64,794,545	\$ 71,102,902	\$ 83,636,361	\$ 100,333,177

Source: Controller's Office, San Francisco (SF).

Project overtime excludes overtime costs incurred by the Police Law Enforcement Services (PLES) Unit because those costs are paid by organizations requesting special security services from the Police Department.

The rest of this report discusses "non-project" overtime only. It does not consider "project" overtime because, as discussed above, overtime spent on projects is "non-budgeted" overtime due to the City's budgeting and accounting practices, and not necessarily due to a difference between planned and actual amounts.

Citywide “Non-Budgeted” Overtime Costs (FY 95-96 through FY 99-00)

Based on data provided by the Controller’s Office, in this section, we calculate citywide non-project, “non-budgeted” overtime costs.

This data is not for all City departments. It is only for (a) those departments which budgeted for overtime at the start of the fiscal year and (b) those departments which paid overtime during the year despite not budgeting for it. Departments which neither budgeted nor paid overtime do not appear in this data.

Figure 2 below shows that budgeted overtime (Column A) has increased steadily over the five-year period. Over the first four years, it grew by approximately 29%. However, during FY 99-00 alone, budgeted overtime rose by about 53% from the previous year. This increase was due to a change in the City’s accounting practices. According to the Controller’s Office, prior to FY 99-00, overtime for Municipal Railway (MUNI) drivers was budgeted and charged with their salary object, rather than in the overtime object. Overtime for these drivers was budgeted separately for the first time in FY 99-00.

Actual overtime costs (Column B) also increased steadily over the five-year period. Over the first four years, they increased by approximately 72%. Like budgeted overtime, actual costs rose most in FY 99-00. During that fiscal year alone, they increased by about 66% from the previous year. Although the data shows a rise in actual costs, not all City departments, which budgeted for overtime, exceeded their overtime budgets (see Figure 3).

To calculate citywide non-project, “non-budgeted” overtime costs (Column C), we subtract budgeted overtime from actual overtime costs. Figure 2 shows that each year over the five-year period, the City spent more on overtime than it originally budgeted. Furthermore, the percentage by which actual costs exceeded budgeted amounts also rose over the five-year period.

Figure 2: “Non-budgeted” O.T. Costs

Fiscal Year	(A)		(B)		(C)	(D)
	“Budgeted” O.T. Amounts		“Actual” O.T. Costs		“Non-budgeted” O.T. Costs (B - A)	% Over Budget
1995-96	\$	30,644,888	\$	32,919,987	\$ 2,275,099	7%
1996-97	\$	31,498,674	\$	39,814,595	\$ 8,315,921	26%
1997-98	\$	31,664,301	\$	44,125,555	\$ 12,461,254	39%
1998-99	\$	39,391,115	\$	56,710,303	\$ 17,319,188	44%
1999-00	\$	60,227,633	\$	94,166,487	\$ 33,938,854	56%

Note: Figures for FY 95-96 through FY 98-99 exclude overtime for MUNI drivers; FY 99-00 includes such overtime since this is the first year it was budgeted as overtime.

Source: Controller’s Office, SF.

Departmental “Non-Budgeted” Overtime Costs (FY 95-96 through FY 99-00)

Figure 3: Departmental O.T. Outcomes

FY	# Depts. Breaking Even	# Depts. Over Budget	# Depts. Under Budget
95-96	0	34	12
96-97	0	27	17
97-98	0	32	14
98-99	0	31	13
99-00	1	32	14

Source: Controller's Office, SF.

Typically, the number of departments which overspent was in the low 30's, while the number which did not was in the mid-teens. In addition, over this five-year period, only one department in FY 99-00 spent its exact budget allocation.

Figure 4 below does not contain a precise accounting of every dollar overspent on non-project, “non-budgeted” overtime. Instead, we've striven to provide broad cost categories. This approach allows us to make some general comments about departments and their overspending between FY 95-96 and FY 99-00.

Each year, the majority of departments overspent by \$50,000 or less. The second largest groups overspent by \$300,000 or more. Within these groups, each year, at least 2 departments exceeded their budgets by over \$1 million. In addition, over the five-year fiscal period, there was a steady increase in the number of departments which overspent on overtime by \$300,000 or more, with the greatest number (10) occurring in FY 99-00.

Figure 4: Departments & “Non-budgeted” O.T. Costs

FY	< 50 K	< 100 K	< 150 K	< 200 K	< 250 K	< 300 K	> 300 K	Total
95-96	21	4	3	0	1	0	5	34
96-97	12	3	2	2	0	1	7	27
97-98	20	3	1	0	0	0	8	32
98-99	18	1	1	1	1	1	8	31
99-00	16	2	2	0	1	1	10	32

Source: Controller's Office, SF.

Based on the data provided by the Controller's Office, in this section, we analyze departmental non-project, “non-budgeted” overtime costs.

First, it is important to look at the total number of departments, which exceeded their budgets for “non-project” overtime during the five-year period (see Figure 3). Currently, there are approximately 62 departments citywide. Therefore, the departments reported in Figure 3 are a portion of those departments.

Although the data varies from year to year, we're able to observe some distinct features. Each year, there were at least twice as many departments which overspent on overtime than those which did not, except in FY 96-97.

Prior Research and Analysis

The San Francisco Civil Grand Jury, the Budget Analyst Office and the Controller's Office have examined overtime and related issues in San Francisco. This section summarizes (1) the Civil Grand Jury's FY 99-00 report on citywide overtime; (2) the Budget Analyst's 1996 management audit of the San Francisco Police Department (SFPD); and (3) the Controller's 1999 audit report on SFPD's accounting for funds collected for providing special security services.

San Francisco Civil Grand Jury Report (FY 99-00)

In FY 99-00, the San Francisco Civil Grand Jury issued a report on overtime in the City and County of San Francisco. The Civil Grand Jury interviewed various City department officials and reviewed FY 1998-99 payroll records of all City departments where overtime hours exceeded 16% of the number of hours an employee is regularly scheduled to work. The report concluded that approximately 2,600 City employees reached that level of overtime. This represents about 9.3% of the estimated total number of City employees (28,000). These 2,600 employees work for the following eight City departments: Police, Fire, MUNI, Health, Parking and Traffic, Recreation and Park, Water and the Sheriff's Department.

The report identified the following causes of excessive overtime for Police, Fire and MUNI (However, it did not do the same for the other five departments noted above):

- The Police Department: (1) under-staffing; (2) court appearances by arresting officer after shift ends or on day off; (3) report writing when an arrest is made near end of shift; (4) arrested person in need of medical treatment is routinely rejected by the Sheriff's Department causing the officer, who may be at the end of his/her shift, to accompany the prisoner to medical facility and wait until the facility accepts the prisoner; (5) City emergencies; (6) unplanned protests; (7) visits by VIPs; (8) supplying officers for private events (for more information, see description of the Controller's Office 1999 audit in this report); (9) street fairs; (10) sporting events; (11) filming of movies and commercials; and (12) private security needs of businesses.
- The Fire Department: (1) under-staffing; (2) City emergencies; (3) absences due to fraudulent worker's compensation claims; (4) work rules requiring minimum staffing at stations and to operate equipment; (5) general discontent by rank and file employees with management is believed to be responsible for some absenteeism; (6) overtime paid to employees who participate in the delivery of toys during the Department's Toys for Tots program; and (7) alleged incidents of racism directed at the Fire Chief may have resulted in overtime abuses in order to call into question the Chief's management skills.
- MUNI: (1) under-staffing; (2) unexcused absenteeism; (3) overtime abuses; (4) fraudulent worker's compensation claims; (5) outdated management information systems; (6) special events; (7) poor hiring practices; and (8) labor agreements which limit management's ability to terminate employees for poor attendance.

This Civil Grand Jury report contains 19 recommendations to curb excessive overtime. Fourteen of these 19 recommendations were specifically tailored for the Police, Sheriff, Fire and MUNI, while the other 5 were meant to be implemented on a citywide basis. These 5 recommendations included: (1) hiring additional persons to the following job classifications which received significant overtime hours in various City departments – General Laborer (7514), Security Guards (8202), Institutional Police Officers (8204), and Museum Guards (8226); (2) budgeting discretionary and emergency overtime separately (only unforeseen events should be

considered in the emergency category); (3) requiring all City departments to submit reports when overtime for an employee exceeds 16% of base salary on a monthly basis, rather than twice per year, as is the case now; (4) appointing an independent oversight body to review monthly overtime reports provided by City departments; and (5) issuing a mayoral directive on citywide overtime use. As of the writing of this report, the Legislative Analyst had not yet learned if departments had begun implementing any of these recommendations.

The Budget Analyst's Management Audit of the Police Department (1996)

In December of 1996, the Budget Analyst's Office issued phase one of a two-phase management audit of the San Francisco Police Department. Phase one examined (among other issues) the Department's use of overtime in FY 95-96. This audit noted that special events were the single largest reason for overtime. In FY 95-96, Police logged 103,858 overtime hours for special events, which represents 35.8% of all overtime funded from the General Fund. Investigative overtime, miscellaneous overtime and off-duty court appearances were the second, third and fourth most significant sources of General Fund overtime (19.7%, 18.5% and 14.7% respectively).¹ Lastly, arrest overtime, which is incurred primarily when an arrest is made near the end of a shift, was 11.3% of all overtime funded by the General Fund.

The Budget Analyst's audit contained 47 recommendations to the Police Department. With respect to overtime, it advised the Police Department to: (1) establish overtime quotas for each unit in the Department in order to better control overtime expenditures; (2) introduce flexible time for investigators and pay investigative standby at straight time rather than overtime pay; (3) pay court standby pay at straight time rather than overtime pay and implement the provisions of Proposition 115 (which authorizes individual police officers to present the reports of other officers as hearsay evidence at preliminary hearings, reducing the number of officers required to attend court); and (4) require district sergeants, when possible, to delegate arrest-related duties to officers who have sufficient time remaining on their shifts to perform such duties without incurring overtime.

Mr. John Goldberg of SFPD's Fiscal Division reports that the Department has fully implemented Recommendation Nos. 1 and 4, listed above. However, it has not implemented Recommendation No. 2 because paying for investigative standby at straight time rather than overtime pay is a contract issue between the City and the Department's labor union. Standby pay may not be changed until the current contract expires on June 30, 2001, according to Police officials. Finally, the Department has only partially implemented Recommendation No. 3. It continues to pay court standby at overtime rather than straight pay because that is also a contract issue. However, it has implemented the provisions of Proposition 115, including a pilot project (at the Tenderloin Station and the Narcotics Division) whose purpose is to identify those officers designated in the police report as available to provide Proposition 115 testimony.

The Controller's Office Audit Report (1999)

Section 10B.2 of the City's Administrative Code requires the Police Department to charge organizations requesting special security services a base rate (which is the overtime pay rate of the uniformed police officers providing those services), as well as the cost of additional equipment and materials needed to provide the services. In November of 1999, the Controller's Office issued an audit report on the Police Department's accounting for funds collected for providing special security services. Among other findings, the report indicates that the Police Department generally charged for its services correctly, but did not charge all

¹ Investigative overtime is for investigators in the Investigations Bureau who work beyond their scheduled hours. Miscellaneous overtime is for civilian employees as well as sworn officers who train, attend meetings or carry out other functions during off duty hours.

organizations the 22.5% administrative overhead fee required at the time by the City's Administrative Code.² According to the Controller's report, the Police Department did not collect \$944,689 in administrative overhead from various organizations over the two-year period from FY 96-97 through FY 97-98. The Police Department responded to the Controller's findings in a memorandum dated October 29, 1999 (which is attached to the audit). In this memorandum, Police Department staff advised that previous City administrations directed the Police Department not to charge the 22.5% administrative overhead fee to some organizations.

Overtime Controls in Other Jurisdictions

It is important to note that all of the following jurisdictions enter Memorandum of Understanding (MOUs) with labor unions to govern overtime. However, they also govern overtime through legislation, mayoral directives and informal policies and practices, as discussed below.

City of Los Angeles - In Los Angeles, there are at least three provisions in the City's Administrative Code to help reduce overtime costs. First, the City Council must pre-approve by resolution, at the start of the fiscal year, the classes of City employees that are eligible to work overtime. Those classes of employees that are not pre-approved to work overtime may not do so for the duration of the fiscal year. Secondly, no employee may work overtime without prior approval from his/her department's administrative head. Only supervisory personnel may credit employees with overtime worked without prior approval. Lastly, no employee whose regular biweekly rate, without bonuses, is above the 5th step of regular biweekly rate for the class of Civil Engineer can receive overtime compensation (although they may work overtime). The annual salary for a Civil Engineer at the 5th step is \$81,348. The Los Angeles Controller's Office estimates that of Los Angeles's 47,000 employees citywide, approximately 1,000 employees (2%) earn at least \$81,348 per year.

City of New York - Overtime controls in New York are not set in the City's Administrative Code. Instead, they are outlined in a "mayoral directive" to the heads of all City Departments. In September of 1994, Mayor Rudolph Giuliani issued a directive that defined departmental responsibilities for: (1) planning and controlling overtime; (2) monitoring spending patterns for overtime; and (3) justifying increases in monthly overtime reports to the Mayor's Office of Management and Budget (OMB) and the Mayor's Office of Operations. Based on phone interviews with staff in these offices, the Legislative Analyst has learned that the directive requires each department to identify the sources of overtime costs, and to develop a comprehensive plan to reduce those costs. There is evidence that suggests that this directive has been successful. For instance, in FY 1996, overtime earnings for regular operations at City departments totaled \$452.3 million, a reduction of \$15.4 million from \$467.7 million in spending for the same purpose in FY 1995, and \$61.1 million, or 12% , less than the regular operations overtime of \$513.4 million in FY 1994.³ This is the latest available data, according to OMB.

City of Chicago - Chicago manages its overtime costs in a way that is less formal than the other jurisdictions surveyed. The City Controller simply notifies the Mayor's Office of Management and Budget whenever a City department exceeds its overtime budget by any amount during the fiscal year. The Mayor's Office then requires the department to justify its overtime expenditures. It is not unusual for a department to exceed its overtime budget especially when unexpected events occur (i.e. a visit from a VIP results in extra police overtime or a record-breaking snowfall warrants additional overtime for public work employees). However, if a

² On February 7, 2000, the Board of Supervisors approved an ordinance (File No. 99-2233) amending the City's Administrative Code to eliminate the 22.5% administrative overhead fee.

³ Press Release #440-96. September 14, 1996. "Mayor Giuliani Announces Overtime Earned for Regular Operations Declines for 2nd Consecutive Year." City Hall Press Office. New York, New York.

department cannot justify its overtime costs, then the Mayor's Office begins to monitor that department's overtime use on a monthly basis. The Mayor's Office also meets with the department on a monthly basis to identify the causes of the excessive overtime, and to propose solutions for controlling its use. The Mayor's Office also advised the Legislative Analyst that department heads and their managers are responsible for curbing overtime expenditures.

City of Portland – Portland's Administrative Code includes provisions governing overtime use, as is the case in Los Angeles. The Administrative Code states that overtime pay is not authorized for employees who qualify as executives, administrators or professionals as defined by the Federal Fair Labor Standards Act except: (1) as provided by a labor agreement; (2) when past practice dictate otherwise and is specifically authorized by the "Commissioner in Charge"⁴; or (3) when the Bureau Director and Commissioner in Charge specifically authorizes overtime pay for work performed during a mayoral declaration of emergency. Portland pays overtime at 1-1/2 times an employee's base rate of pay. However, in order to curb overtime spending, compensatory time off may be authorized by an employee's supervisor in lieu of cash up to a total accrual of 75 hours in a calendar year. Any accrued compensatory time remaining at the end of a calendar year is paid either in cash or carried over into the next year (although it counts against that calendar year's total accrual). Finally, in order to monitor overtime spending, each bureau's appropriation unit(s) must prepare a biweekly time report and submit it to the City's Accounting Division for those employees whose time deviates from their standard work hours, in accordance with Portland's Administrative Code.

Conclusion

The following section summarizes the major findings of this report. First, over the five-year period from FY 95-96 through FY 99-00, the City spent more on overtime than it originally budgeted, and the percentage by which actual costs exceeded budgeted amounts rose steadily over this five-year period. More specifically, each year, there were at least twice as many departments which overspent on overtime than those which did not, except in FY 96-97. Typically, the number of departments which overspent was in the low 30's, while the number which did not was in the mid-teens. In addition, each year, the majority of departments overspent by \$50,000 or less. The second largest groups overspent by \$300,000 or more. Within these groups, each year, at least 2 departments exceeded their budgets by over \$1 million. In closing, more research and analysis must be done, such as an audit of each City department's overtime spending, before our report's findings can be accepted as final and as basis for revising existing, or adopting new, overtime controls.

⁴ Portland's Mayor and four Commissioners serve both as its legislative body and as administrators of city departments (referred to as "bureaus"), individually overseeing bureaus and carrying out policies approved by the Council while wearing its legislative hat.