Office of Professional Accountability

Special Report:

Recommendations for Management Action

to

Chief Kathleen M. O'Toole

Issued by

Director Pierce Murphy

September 26, 2014

EXECUTIVE SUMMARY

Following an anonymous complaint regarding excessive overtime spending in the Seattle Police Department's training unit, the Office of Professional Accountability conducted an extensive review with the assistance of the Office of the City Auditor and the Seattle Ethics and Elections Commission. As a result, three recommendations for management action have been made to the Chief of Police.

Complaint Synopsis

The Seattle Police Department (SPD) Office of Professional Accountability (OPA) received an anonymous internal complaint alleging that the SPD's Training section, known as the Education and Training Section (ETS), overspent millions of dollars in overtime (OT), rewrote schedules to enhance overtime opportunities for ETS employees, and created the ability for multiple ETS employees to each earn in excess of 500 hours of OT in 2013.

ETS has a captain and lieutenant who supervise the budget, curriculum and assignments, as well as sergeants and officers who manage or conduct trainings. They are assigned to ETS as part of a regular SPD rotation of assignments. In addition, SPD personnel with particular expertise throughout the Department are routinely asked to serve as "adjunct" trainers, who are paid overtime to assist with certain trainings in addition to their regular SPD assignment. Some OPA investigators earned OT in 2013 as adjunct ETS trainers (not as part of their OPA investigative assignments). In order to avoid even the appearance of a conflict of interest, I conflicted the investigation of this complaint to the Seattle Ethics and Election Commission (the Commission). The Commission enlisted the technical assistance of the Office of the City Auditor (the City Auditor) to conduct additional analysis of overtime spending in the ETS.

Based on its preliminary review for the Commission, the City Auditor observed that the overtime use patterns of several individuals within the ETS indicated potential misconduct and should be further investigated. The Commission recommended that the City Auditor conduct a full audit once the OPA misconduct investigation was concluded. The Commission concluded that none of the OPA personnel who acted as adjunct ETS trainers were in positions of responsibility concerning the actions and/or decisions of ETS with respect to OT spending. As a result, the Commission concluded that no conflict existed and the case was sent back to OPA to complete the misconduct investigation. An OPA investigator was assigned to the case, along with an on-loan fraud detective from the SPD Criminal Investigations Bureau.

Timeline

01/30/2014 – Anonymous complaint received in OPA office

02/12/2014 – Case referred to the Commission for investigation

02/16/2014 – The Commission engaged the assistance of the City Auditor

05/15/2014 – Case returned to OPA by the Commission once it was determined no conflict existed in OPA along with the data collected by the City Auditor

07/09/2014 – The OPA investigation was concluded

08/11/2014 – The OPA Director certified the OPA investigation

09/10/2014 – Director's Certification Memo and Recommended Findings sent to SPD Chief of Police and Chain of Command for Review

SUMMARY OF FINDINGS OF FACT

During 2013, as many as 38 employees of various ranks were assigned to ETS. The Section was led by a captain, with a lieutenant and four sergeants responsible for supervision and management control. As 2013 began, the ETS was part of the Professional Standards Bureau (PSB) of SPD reporting to an assistant chief. The PSB was directly responsible for the implementation of two initiatives SPD considered to be highly important and crucial to the future success of the organization, the Department's own reform initiative called "20/20" and the Settlement Agreement the City entered into with the United States Department of Justice over findings of unconstitutional use of force by SPD.

The review conducted by the City Auditor as part of this investigation was primarily focused on the analysis of 2013 payroll data. The City Auditor found that a significant number of ETS employees, including supervisors and managers, earned large amounts of overtime while also using a significant amount of vacation leave. Several ETS employees earned overtime on the same days they took leave and many ETS trainers earned overtime nearly every day for long periods, including on what appeared to be scheduled days off.

Through limited interviews, the City Auditor identified potential areas of risk related to controls over the approval and coding of overtime hours, oversight of training functions, documentation of training activities for both students and trainers, and the alignment between class and trainer schedules.

The OPA investigation that followed the City Auditor's review largely confirmed these observations. The situation in ETS (prior to 2014) was severely deficient with respect to management and budgetary controls. The unit lacked adequate systems and procedures to ensure that overtime hours reported were actually worked and properly approved. OPA found that ETS exceeded its 2013 overtime budget by more than one million dollars, with a significant portion of that overtime charged to an account linked to compliance with the Settlement Agreement, even though no training related to the agreement had been submitted to the Monitor for approval. In fact, it appears that the majority of the overtime spent in 2013 was directly related to developing draft curriculum for the 20/20 project and delivering an expanded "Street Skills" module to all sworn SPD employees. The 2013 "Street Skills" training was twice as long (four days instead of two) as it had been in previous years, an expansion linked to the 20/20 project and not driven by the Monitor or directly linked to any requirement of the Settlement Agreement.

The OPA investigation focused on the role that ETS supervisors and managers played in the scheduling and approval of overtime. Time and time again in OPA interviews, ETS personnel described an environment in 2013 (especially in the first half of the year) where it was more important to produce "cutting edge" curriculum proposals and get a high volume of officers through Street Skills training than it was to stay within budget or pay attention to payroll or accounting procedures. OPA was told that, at the beginning of 2013, the mission of ETS was to train everyone in Street Skills and produce "world class" training modules in the hope that SPD could get out from under the Settlement Agreement quickly and avoid a lengthy and costly period of compliance.

OPA specifically looked at the following patterns of overtime use that may have indicated that employees were using their positions to earn overtime to which they were not entitled:

- Earning overtime on the same day scheduled leave time was taken
- Earning overtime on a consistent basis over an extended period for delivering scheduled training that is a core part of one's assignment
- Earning overtime on a regular basis for one's scheduled day off when that day is the every-other weekday off for an employee working a "9-80" shift
- Earning more overtime than physically possible in a 24-hour period

Earning Overtime and Using Leave on the Same Day

While this practice is discouraged and defeats the purpose of the leave, it is not prohibited by policy. Available payroll records and the testimony of those interviewed support the conclusion that this overtime was approved by ETS supervisors and managers. The rationale given for allowing this to happen was that ETS employees had high leave balances that had or were about to reach the maximum allowed level. At the same time, the pressure on ETS from SPD leadership was so great that very few ETS employees felt they could be absent from work. As a result, many ETS employees worked on their vacation days and put in for overtime.

Scheduling Trainers' Work Hours

The starting time for Street Skills training was changed to 10:00 a.m. in 2013. It had previously started at 7:00 a.m. However, the scheduled work hours for ETS Street Skills trainers were not similarly adjusted and they continued to start work at 6:00 a.m. This meant that the trainers were at work a full four hours before their scheduled training sessions began and were virtually guaranteed overtime hours every day. No adequate answer was provided to OPA for the obvious question of why ETS management did not act to match the work hours of the trainers with the time of the training.

Overtime and Scheduled Days Off

ETS employees worked what is known as a "9-80" shift. This means that an employee works the required 80 hours in a two-week period by working 9 hours on 8 days and 8 hours one day. Employees on this schedule have every other Monday or Friday off. The analysis conducted by the City Auditor pointed out that a number of ETS employees appeared to be earning overtime on a consistent basis for hours worked on their scheduled every other Monday or Friday off. The OPA investigation only uncovered one instance when it appeared that an ETS employee may have attempted to switch his or her scheduled day off to ensure that overtime would be earned for teaching scheduled training. While this schedule change was initially approved by a supervisor, that decision was later reversed.

Excessive Overtime

One ETS employee was found to have been paid overtime that exceeded the hours available in a day. The employee was paid for 31.5 hours of overtime for one day. The employee's supervisor approved that timesheet. While backup records could not be found and memories were not clear, it appears that this anomaly was likely the result of an error in coding overtime to various budget accounts for the same day, not an attempt to claim overtime for hours not actually worked. Nonetheless, the supervisor should have spotted the problem and sent the timesheet back to the employee for correction.

ANALYSIS:

No preponderance of evidence was found that would prove that any individual or group of ETS employees misused their position and authority to claim overtime for hours they did not work, or that work schedules were altered so employees could earn unnecessary overtime that could have been avoided. Clearly ETS supervisors failed to keep overtime spending within budget, did not have tight supervisory controls and did not keep accurate records. This contributed to the perception within SPD that individuals working in ETS earned overtime they would not have been paid had there been more rigorous management and oversight both by ETS supervisors and SPD command staff. However, because these issues appear to have been pervasive, with responsibility resting more with the Department than specific individuals, and because ETS had been directed to produce a high volume of draft curricula and deliver four days of training to over 1,200 sworn personnel without adequate staffing or budget, I have recommended that SPD as an organization be held accountable for this failure to control overtime spending.

DIRECTOR'S RECOMMENDED FINDINGS

I recommended the following findings and the Chief of Police has accepted them:

Named Employee #1:
Allegation #1: Responsibility of Supervisors
Recommended Finding: **Not Sustained** – (Management Action)

Allegation #2: Integrity-Misuse of Authority
Recommended Finding: **Not Sustained** – (Unfounded)

Named Employee #2:
Allegation #1: Responsibility of Supervisors
Recommended Finding: **Not Sustained** – (Management Action)

Named Employee #3:
Allegation #1: Responsibility of Supervisors
Recommended Finding: **Not Sustained** – (Management Action)

Named Employee #4:
Allegation #1: Department Mission Statement & Priorities
Recommended Finding: **Not Sustained** – (Management Action)

Named Employee #5:
Allegation #1: Responsibility of Supervisors
Recommended Finding: **Not Sustained** – (Management Action)

RECOMMENDATIONS FOR MANAGEMENT ACTION

I have made the following recommendations for management action to the Chief of Police:

Recommendation #1

That steps are taken to ensure that adequate leadership, management oversight, supervisory control, and robust procedures are in place to enforce budget compliance, control overtime spending and align employee efforts with the goals and mission of the Department. This should begin immediately within the Education and Training Section, but extend to all of SPD as soon as possible.

Recommendation #2

That the Chief of Police formally invites the City Auditor to conduct an audit of the ETS, along with recommendations for systemic improvements, if appropriate.

Recommendation #3

That the Chief of Police implement without delay those recommendations made by the City Auditor that will reasonably be expected to improve the effectiveness and accountability of the ETS.

FINAL THOUGHTS

This investigation raised serious concerns regarding the leadership and management of SPD's Education and Training Section in 2013. A great deal of taxpayer money was spent by ETS in 2012 and 2013, a significant percentage of it in the form of overtime pay for supervisors and officers assigned to that unit. With the exception of ongoing training, specialty courses, and an incomplete attempt to train all sworn SPD employees in an expanded Street Skills course, the money spent produced little of value. Much of the "world-class" training curriculum researched and developed for the 20/20 project was never delivered and did not add to the effectiveness of SPD or move the organization closer to compliance with the Settlement Agreement.

At the same time, it is heartening to see that the ETS appears to be producing training and educational material in 2014 specifically linked to the requirements of the Settlement Agreement. I am aware of changes already made in the leadership and management of the ETS that are intended to address many of the issues identified in this report. The Chief and her staff are encouraged to continue these reforms.