



Follow-up Review: Police Department Payroll and Work Permits

Report 2021-03





Internal Audit Unit

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Internal Audit presents this audit report as the follow-up for the audit of the Police Department, with a scope period of October 1, 2019 to March 31, 2020. The Follow-up Audit Results are presented on page 7. Management's responses to our audit recommendations are presented immediately following the recommendations in the report.

We would like to thank the staff from the Police Department and the Personnel Department for their assistance and cooperation during the audit.

Respectfully submitted,

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Audit Summary

In April 2018, the City Manager and Mayor received anonymous e-mails alleging that Fresno Police Department employees were both teaching classes at the Fresno City College (FCC) Police Academy while on City time and were working more hours than allowed. Internal Audit investigated these claims, and in June 2019 an initial audit report was released identifying three findings and five recommendations. As a result, a follow up audit was conducted to assess if the recommendations were implemented. This follow up audit, which has a scope period of October 1, 2019 to March 31, 2020, identified two findings which produced four recommendations.

Findings

- **Finding 1: FPD did not comply with policies regarding work permits**
 - A. One work permit was not properly maintained.
 - Out of thirteen FPD employees who were employed by SCCCD, one exception was found. The exception was a misplacement of an FPD employee work's permit. The FPD provided an email from the Personnel Services Department (PSD) where they acknowledged receiving the work permit, but they were unable to provide it for verification.
 - B. Six FPD employees worked more than the maximum hours allowed.
 - Internal Audit identified nine instances where six FPD employees exceeded the 16-hour work limit and did not have commander approval to exceed the limit. Audit also identified seven instances where six FPD employees did not take an equal amount of time off for those hours exceeding the 16-hour limit.
- **Finding 2: FPD did not employ adequate internal controls to ensure proper time management.**
 - A. Seven Officers had conflicting time
 - Internal Audit compared the City work schedules and hours in the City's payroll system with SCCCD timesheets to determine the number of hours that overlapped. It was found that seven FPD employees had 20 instances of overlapping time totaling 82.5 hours.
 - B. Flexing time issues
 - Internal Audit identified issues with flexing time in conjunction with teaching classes at SCCCD:
 - One occurrence where an officer flexed his FPD hours to the same date and time on two separate days to avoid conflicting SCCCD hours.
 - Two occurrences where a date that was shown as being flexed was incorrect.
 - One occurrence where there was an incorrect range of flex time listed.
 - C. One Officer worked at SCCCD while on injury leave
 - Internal Audit identified one instance where an officer was on injury leave while also working at SCCCD at the same time.

Recommendations

- Recommendation for Finding 1:
 - FPD and PSD should ensure appropriate retention procedures for all work permits received.
 - FPD should implement a procedure requiring written approval from a commander to allow a Police Officer to exceed the limit. An e-mail documenting the approval would be sufficient.
- Recommendations for Finding 2:
 - FPD should establish additional internal controls to safeguard against overlapping time between City hours and SCCCD hours. For example, FPD could establish a policy requiring all Department employees having outside employment to report their schedules to FPD Management.
 - FPD should have a review process for flex time to review for overlap and inaccuracies.

Introduction

In FY 2019, Internal Audit performed an audit of the Fresno Police Department (FPD) Payroll and Work Permits process involving FPD staff that was teaching classes at Fresno City College (FCC). The audit was initiated after the City Manager and Mayor received anonymous e-mails alleging that FPD employees were both teaching classes at the FCC Police Academy while on City time and working more hours than allowed under the Fresno Municipal Code (FMC). Internal Audit conducted a review of the Police Department's payroll and work permits for those officers teaching courses at FCC for the audit period January 1, 2015 through April 30, 2018. The audit report contained several findings, including the following:

- Four temporary part-time officers taught courses while on City time. Each of the individuals reported time on their City timesheets that conflicted with time they reported teaching courses on their FCC timesheets.
- One officer taught courses while they were scheduled on patrol with the City.
- Three officers on special assignment had City hours that overlapped with hours they reported teaching at FCC.
- Four officers on special assignment had City hours that overlapped with hours they reported teaching at FCC. However, given their ability to flex their schedules, it could not be determined with certainty that the individuals were working for the City at the time.
- For six officers on special assignment, it could not be determined if there was an overlap since those individuals did not report the time they actually worked due to their varying City work schedules.
- Six officers did not follow the FMC requiring that they maintain an active work permit and nine officers worked more hours than permitted.

Background

The FMC allows employees holding full-time permanent positions to work a second job outside the City after first obtaining a work permit from the City. Eight- and ten-hour shift employees may work a maximum of sixteen (16) hours per week, while twenty-four hour shift employees may work a maximum of twenty-four (24) hours per week. The purpose of this requirement is to ensure that a second job does not create a conflict of interest or impair the efficient performance of the employee's City job. Additionally, all City employees are expected to show up for and remain at work as scheduled.

FPD has several employees who work at the State Center Community College District (SCCCD), which include four community colleges and two educational centers: FCC, Reedley College, Clovis Community College, Madera Community College, Madera

Community College at Oakhurst, and the Career and Technology Center. The majority of these FPD employees work at the FCC Police Academy, which is one of the only full-service law enforcement training facilities in the State of California.

Audit 2019-03 Recommendation Status

The following is a status update on the various recommendations made to the City during the initial audit of the Police Department Payroll and Work Permits, as discussed in Audit Report 2019-03:

Finding Name	Recommendation	Status
<p>Multiple Officers Taught FCC Courses While on City Time</p> <p>A. Four Temporary Part-Time Officers Had City Timesheets That Conflicted with Their FCC Timesheets</p> <p>B. One Officer Taught Courses at FCC While Scheduled on Patrol</p> <p>C. Three Officers on Special Assignment Had Conflicts Between Their City Schedules and Their FCC Timesheets</p>	<p>To address the improper time recording we identified, the Fresno Police Department should:</p> <ul style="list-style-type: none"> • Establish a policy that requires all part-time employees submit accurate timesheets that record the actual hours they worked and that holds the employees accountable for the hours they report on their timesheets. • Reduce the leave balance for the Patrol Officer or seek to recover from them the wages paid to them for the time they did not work. • Establish policies and procedures for officers in command to document instances in which a subordinate officer on special assignment with a set schedule flexes their hours. • Establish a method by which officers in command document the actual hours worked by their subordinate officers who are on special assignment and do not have a set schedule. 	<p>In progress –</p> <ul style="list-style-type: none"> • The FPD was able to provide Internal Audit with the scheduled hours worked for all employees who were reviewed as part of the follow-up audit. The part time employees identified in the original audit have now transitioned from part time civilians to full time officers and have regular documented hours in the system. • The Department has added a component to the Overtime, Time-off (OTTO) computer program which will allow the ability to track instances where an employee might flex their working hours with supervisor approval.

		<ul style="list-style-type: none"> • The FPD Management response to this recommendation included: “implementing a process whereby all Department employees having outside employment will be required to report all such employment to the Personnel Bureau within a week of having worked.” This process has not been implemented yet. • Perhaps due to the partial implementation of the audit’s recommendations, Internal Audit identified multiple instances where officers continued to teach courses on City time, which is detailed in the findings of this report.
<p>Officers Did Not Comply With Laws Related to Work Permits</p> <p>A. Officers Did Not Maintain Work Permits</p> <p>B. Nine Officers Worked More Than the</p>	<p>To address the non-compliance with the work permit requirements, the Fresno Police Department should take appropriate disciplinary actions against the officers who did not maintain their work permits and those who worked more hours than allowed by FMC.</p>	<p>In progress –</p> <ul style="list-style-type: none"> • In the After-Action Report memorandum issued by the Police Department, the department members identified as being in violation of the department policy were

<p>Maximum Hours Allowed</p>		<p>addressed by Management.</p> <ul style="list-style-type: none">• The Personnel Services Department management response included: “Going forward, the Personnel Services Department will send out quarterly Public Affairs announcements that remind full time employees of the Fresno Municipal Code (FMC) requirement to obtain a Work Permit when they seek to be paid for work with another employer”. This has not been implemented yet.• Internal Audit identified instances where FPD employees are still not fully complying with laws associated with work permits, which is detailed in the findings of this report.
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Efforts Related to Recommendation Implementation

After Audit Report 2019-03 was released, the former Chief of Police, Jerry Dyer, directed the FPD Internal Affairs Bureau (Internal Affairs) to conduct an audit of their department based on the findings in the Internal Audit report. Internal Affairs confirmed the findings of the audit. In response, Internal Affairs issued a memorandum titled “AFTER ACTION REPORT – OUTSIDE EMPLOYMENT AUDIT” on August 12, 2019. The memo spelled out additional steps for FPD to take in implementing the recommendations made in Audit Report 2019-03. In response to both reports, FPD’s management issued various policy changes and took various actions. The most significant of these changes was an update to FPD Policy 1040 – “Fresno Police Department Policy Manual Extra Duty & Off-Duty Employment”. This update utilized the following language in the Municipal Code:

“Any exception to these time limits [the 16-hour and 24-hour/week caps on working a second job] will be determined on an individual basis and will be governed by the nature of the work to be performed, the nature of the applicant's city duties, and other pertinent factors that have bearing on the individual's ability to devote their full time and attention to city employment.”

to create the following exceptions to the cap on a second job’s work hours:

“Exception: *Members may work more than the weekly 16-hour limit of outside employment under all of the following circumstances:*

- *The outside employment benefits the Department;*
- *The member has commander approval to exceed the limit; and*
- *The member takes an equal amount of time off (for those hours exceeding the 16 hour limit) from their Department duties using their accrued leave hours, excluding their accrued sick leave.”*

In addition, Policy 1040 also updated the requirements for FPD staff to obtain a work permit:

“Members must submit their work permit applications annually between June 1 and June 15 to the Personnel Bureau. Failure to submit the annual application during this period may result in an extended review and approval. First time applications can be turned in anytime but must be submitted before the member begins any outside employment, and also submitted again during the renewal period above.

Completed applications shall be returned to the Personnel Bureau for approval and forwarding to the City Personnel Services Division. Work permits are not valid until all required signatures have been obtained.”

FOLLOW-UP AUDIT RESULTS

In order to determine the effectiveness of the policy changes implemented after Audit Report 2019-03 and the FPD's Policy 1040 were issued, further testing within the new scope period of October 1, 2019 – March 31, 2020 was conducted. The findings are listed below, along with recommendations to improve upon the Police and Personnel Services Departments' processes.

Finding 1: FPD did not comply with policies regarding work permits.

A. One work permit was not properly maintained.

The FMC Section 3-102 (b) states that no employee shall engage in work at any other occupation without having first obtained an outside work permit. Out of thirteen FPD employees who were employed by SCCCD, one exception was found. The exception was a misplacement of an FPD employee work's permit. The FPD provided an email from the Personnel Services Department (PSD) where they acknowledged receiving the work permit, but they were unable to provide it for verification. Sections 8 and 12 of Administrative Order 2-6 (Employment Procedures and Records Maintenance) state that PSD shall keep the original Work Permit in the employee's file and the employing Department/Division shall keep a copy of the Work Permit in the employee's file.

B. Six FPD employees worked more than the maximum hours allowed.

As mentioned earlier, FMC Section 3-102 (b) caps the number of hours that a City employee can work outside employment. The FMC also creates an exception to that cap, which (for the FPD) is codified under the department's Policy 1040 :

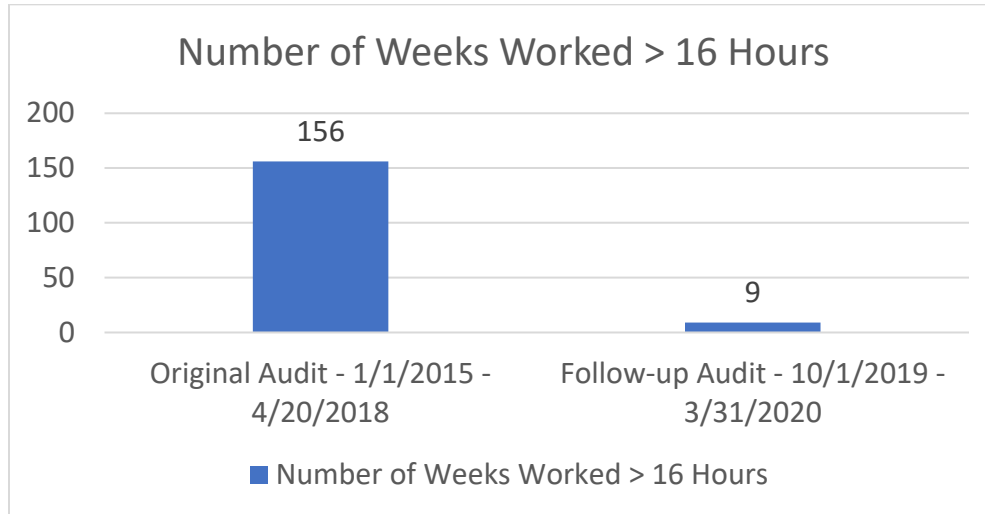
Exception: *Members may work more than the weekly 16 hour limit of outside employment under all of the following circumstances:*

- *The outside employment benefits the Department;*
- *The member has commander approval to exceed the limit; and*
- *The member takes an equal amount of time off (for those hours exceeding the 16 hour limit) from their Department duties using their accrued leave hours, excluding their accrued sick leave."*

Internal Audit identified nine instances where six FPD employees exceeded the 16-hour work limit and did not have commander approval to exceed the limit. Audit also identified seven instances where six FPD employees did not take an equal amount of time off for those hours exceeding the 16-hour limit.

It must be noted that, in comparison to the original audit, the number of instances where an FPD employee has worked more than 16 hours in a week has greatly decreased. Please see Figure 1.

Figure 1: Number of Weeks Worked Greater than 16 Hours



Source: Internal Audit, based on review of SCCCD timesheets.

Recommendations:

- FPD and PSD should ensure appropriate retention procedures for all work permits received.
- FPD should implement a procedure requiring written approval from a commander to allow a Police Officer to exceed the limit. An e-mail documenting the approval would be sufficient.

Management Response:

Retention procedures have been updated and all work permits are logged in an Excel document in addition to being placed in the file.

The Department is revising Policy 1040 to specifically require written approval for any employee to exceed the work hour limit.

Finding 2: FPD did not employ adequate internal controls to ensure proper time management.

A. Seven Officers had conflicting time

Internal Audit tested thirteen FPD employees that had outside employment agreements with SCCCD. These individuals are required to complete timesheets with their SCCCD

time-in and time-out for each day within a pay period. Internal Audit compared the City work schedules and hours in the City’s payroll system with SCCCD timesheets to determine the number of hours that overlapped. It was found that seven FPD employees had 20 instances of overlapping time totaling 82.5 hours. Figure 2 below summarizes the number of hours that Officers reported working for both the City and SCCCD, and the total dollar amount that cannot be verified as being appropriately disbursed.

Figure 2 – Police Officers Time Overlap

Name	# of hours	\$ overpaid
Officer 1	7	\$ 452.06
Officer 2	20	\$ 866.40
Officer 3	4	\$ 173.28
Officer 4	11	\$ 648.66
Officer 5	4.5	\$ 261.10
Officer 6	24	\$ 1,039.68
Officer 7	12	\$ 626.64
Total:	82.5	\$ 4,067.82

Source: Internal Audit based on a review of Fresno Police Department and SCCCD timesheets.

The original audit was unable to determine a total overlap amount since flexed hours were not recorded. FPD have improved their processes and internal controls which has yielded more reliable data that was readily available. As a result, Internal Audit was able to accurately determine the total overlap amount.

B. Flexing time issues

Some FPD officers can flex their hours due to the nature of their assignment. These flexed hours are tracked in the OTTO program, where a supervisor approves or denies them. This accommodation allows officers to make up certain hours or an entire shift during an unscheduled set of time.

Even though flexing work hours is a permissible accommodation, Internal Audit identified some issues with flexing time in conjunction with teaching classes at SCCCD:

- One occurrence where an officer flexed his FPD hours to the same date and time on two separate days to avoid conflicting SCCCD hours.
- Two occurrences where a date that was shown as being flexed was incorrect.
- One occurrence where there was an incorrect range of flex time listed.

C. One Officer worked at SCCCD while on injury leave

FPD Policy 1040 states the following:

“Working While on Leave – Members are prohibited from engaging in any off duty work [including Order Back, AWS, Contract Law Enforcement Services (CLES), etc.] or activity for which they are compensated or derive personal gain when they are:

- *On sick leave (including Special Sick);*
- *On Family Sick/Family Care Leave pursuant to FMLA or CFRA*
- *On injury leave or receiving temporary disability payments; or*
- *On leave without pay for illness or injury.”*

Internal Audit identified one instance where an officer was on injury leave while also working at SCCCD at the same time. The Officer’s original City work schedule did not conflict with SCCCD class time schedule.

Recommendations:

- FPD should establish additional internal controls to safeguard against overlapping time between City hours and SCCCD hours. For example, FPD could establish a policy requiring all Department employees having outside employment to report their schedules to FPD Management.
- FPD should have a review process for flex time to review for overlap and inaccuracies.

Management Response:

An internal investigation is being conducted by the Department regarding the issues of overlapping work hours, inaccurate flex time requests, and working while on leave. If the internal investigation determines that employees did in fact violate Department policy, appropriate corrective/disciplinary action will be taken.

The Department recognizes the need to improve internal controls to safeguard against overlapping time between City hours and outside employment hours. The Department is currently examining several reporting options to improve reporting and review of outside work hours and flex time requests.

MEMORANDUM

August 12, 2019

TO: CHIEF JERRY DYER
Chief of Police

THROUGH: DEPUTY CHIEF LYDIA CARRASCO
Administrative Services Commander

FROM: LIEUTENANT MICHAEL LANDON
Internal Affairs Bureau Commander

SUBJECT: AFTER ACTION REPORT – OUTSIDE EMPLOYMENT AUDIT

BACKGROUND:

In February 2019, the City of Fresno Finance Department completed an Internal Audit of the Fresno Police Department, hereafter referred to as City Audit. The City Audit was conducted to investigate an anonymous complaint alleging several Fresno Police Officers were teaching courses at State Center Community College District (SCCCD), otherwise known as Fresno City College (FCC) Police Academy, while on City time. The timeframe utilized for the audit was January 1, 2015, through April 30, 2018. The scope of the audit also investigated the possession of valid work permits by the involved employees, as well as work hour limits as outlined within the Department's Policy and Procedures. Procedure 1040 requires members to obtain approval for a work permit prior to any outside employment, and limits members to an accrued total of 70 work hours, including mandatory court appearances, within a work week. Of the 70 total work hours, members are not to exceed 16 hours of outside employment per week.

On April 4, 2019, the Fresno Police Department Internal Affairs Bureau conducted an internal audit, based on the information brought forth by the City Audit (Report 2019-03). The purpose of the Internal Audit was to determine if officers employed by the Fresno Police Department (FPD) and by FCC complied with Department Policies and Procedures regarding work permits, work hour limits for outside employment, and to identify if officers were getting paid to work at FCC while on duty at FPD. The Internal Audit revealed 21 Department members were in violation of Department Policy by either not having a work permit on file or allowing the permit to lapse, and / or exceeding the

16 hour weekly limit of outside employment. Two of those people identified are no longer employed by the Department. The audit also determined the Department lacked a tracking method for employees who flex their FPD work hours in order to teach at the police academy. This gave the appearance that FPD members were getting paid to work at the police academy during hours they were normally scheduled to work at the Department.

AUDIT RECOMMENDATIONS:

The Internal Audit resulted in the following three recommendations:

1. Set a renewal date for all Department work permits issued.
2. Create a process in OTTO to allow an employee to modify their work schedule when the employee flexes their schedule, with supervisor approval.
3. Revise Department Policy/Procedure to allow employees, with Commander approval, to exceed the 16-hour per week limit for outside employment if:
 - a) The employee takes leave time from the City to accommodate outside employment work hours, and
 - b) The outside employment provides a benefit to the Department.

POST AUDIT – ACTION TAKEN

The following four items were put into action as a result of the Internal Audit and the City Audit:

1. The 19 current Department Members identified as being in violation of Department Policy as a result of the Internal Audit were addressed with written corrective action in the form of Documented Oral Reprimands. Eight of those employees were in violation of exceeding the weekly 16-hour outside employment limit and allowing their work permits to expire. Eleven employees did not properly maintain valid work permits.
2. Effective July of 2019, the Department's Personnel Bureau mandates every Department member granted a work permit must renew the work permit annually, by June 15. A reminder notice will go out to all Department members. Policy 1040 was revised to reflect this change.

Updated Policy 1040 Excerpt:

“Members must submit their work permit applications annually between June 1 and June 15 to the Personnel Bureau. Failure to submit the annual application during this period may result in an extended review and approval. First time applications can be turned in anytime but must be submitted before the member begins any outside employment, and also submitted again during the renewal period above.

Completed applications shall be returned to the Personnel Bureau for approval and forwarding to the City Personnel Services Division. Work permits are not valid until all required signatures have been obtained.”

3. Fresno Police Department Policy and Procedure 1040 was updated to include additional guidelines surrounding the 16 hour per week limit to outside employment.

Policy 1040 Existing Language (Excerpt):

*“**Weekly Limit** – Members are limited to an accrued total of 70 work hours, including mandatory court appearances, within a workweek. Of the 70 total work hours, members are not to exceed 16 hours of outside employment (pursuant to Fresno City Municipal Code 3-102). Additionally, members shall have at least one non-work day during each work week.”*

Language Added to Policy 1040

*“**Exception:** Members may work more than the weekly 16 hour limit of outside employment under all of the following circumstances:*

- *The outside employment benefits the Department;*
- *The member has commander approval to exceed the limit; and*
- *The member takes an equal amount of time off (for those hours exceeding the 16 hour limit, from their Department duties using their accrued leave hours, excluding their accrued sick leave.”*

4. Department Members use the Overtime, Time-Off (OTTO) computer program to account for overtime and time off. The Internal Audit identified the absence of the Department’s ability to track instances where an employee might flex their working hours with supervisor approval, to work outside employment. The Department added a component to the OTTO system which will allow these instances to be documented, approved and available for review. Additionally, a Roll Call Training Bulletin (RCTB 19-09) was distributed to Department Members with instructions, expectations and requirements for the new “Flex Time” component in OTTO. Department Policy is also in the process of being revised to reflect these changes.