



MONTEREY COUNTY SHERIFF'S OFFICE

January 31, 2013

The Honorable Marla Anderson
Presiding Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

**RE: Sheriff's Office Response to the 2012 Civil Grand Jury Interim Final Report
No. 4**

Dear Presiding Judge Anderson:

Please accept the attached response to the 2012 Civil Grand Jury Interim Final Report No. 4.

Last year, the 2011 Civil Grand Jury reported on overtime issues in the County Jail in their Final Report. In my formal response to that report I expressed my appreciation to them for focusing attention on this important issue. I also emphasized this issue had been of great concern to me upon assuming office. As a result I had initiated several steps to address both the financial and health-related costs of this issue. Among the items I mentioned were:

1. The creation of twelve Custody and Control Specialist positions to handle duties previously performed by Deputy Sheriffs. These new positions will provide additional staffing in the jail at regular rates significantly below the Deputy Sheriff hourly rate, and allow deputies formerly assigned to these tasks to fill open shifts, thereby reducing overtime. We have just filled the first four of these positions. If this new structure is successful I may request an additional twelve positions to further reduce the use of overtime and staffing costs in the jail.
2. The implementation of a new timekeeping/scheduling software program that will allow for improved scheduling of shifts and monitoring of employee hours. The new system should be operational in the first half of 2013 and will enhance the scheduling of shifts, providing more control and oversight concerning the amount of overtime being worked by individual employees.

Scott Miller, Sheriff-Coroner

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Contrary to inaccurate statements in Interim Final Report No. 4, two policies were implemented in 2012 addressing this issue. The first, General Order 12-04 (copy attached), was implemented on May 14, 2012. After receiving comments from staff on the difficulty in understanding this policy, the Deputy Sheriff's Association (DSA) proposed a modification to this policy, which was implemented as General Order 12-06 (copy attached). It became effective August 8, 2012 and is still in effect.

3. Analyzing the operations of the entire Sheriff's Office to ensure that all services are being provided in the most effective and efficient manner. It should come as no surprise that the amount of overtime hours worked at the County Jail is most directly the result of severe budget and staff reductions over the past several years. I have directed staff to audit, evaluate and assess all units of our operations to determine where cost savings can be realized, so that we can maintain, if not augment, current staffing levels. Examples of such savings that have already been realized include:
 - Bidding out the inmate medical services contract for the first time in twenty-seven years, resulting in a reduction in annual costs of over half a million dollars;
 - Modifying the Forensic Pathologist contract, which reduced expenditures by over \$60,000 in the first year of implementation;
 - Reducing the number of on-call employees by forty percent, while still ensuring appropriate staff coverage for off-duty call outs;
 - Reducing the number of employees with take home vehicles by seventy percent;
 - Reducing the number of Command Staff positions and altering the schedules of Watch Commanders and Detectives to provide nighttime and weekend coverage, increasing management oversight and reducing overtime.

Given the appreciation I had for the 2011 Civil Grand Jury in addressing an issue that I had also identified as a critical issue, I am extremely disappointed in the factual inaccuracies contained in the 2012 Interim Final Report No. 4. Among those inaccuracies are:

- Stating on Page 1 that *'the CGJ selected five departments to investigate and met with the Department Heads of all five units, and then concentrated its efforts on the Sheriff's Department and Emergency Communications'*. As Sheriff of Monterey County, I am the Department Head of the Sheriff's Department. I was never contacted by, nor did I ever meet with, the 2012 Civil Grand Jury on the issue of overtime, although I would have enthusiastically done so;
- Stating on Page 2 that *'each department defines its own rules regarding overtime, insurance and benefits, hours of work and scheduling, sick leave, vacation pay, time off, among other things.'* In fact, all of these items are covered under the

employee bargaining unit's memorandum of understanding or the County's Personnel Policies and Practices Resolution, all of which are approved by the Board of Supervisors. Departments have very little discretion to adopt rules or policies in any of the areas mentioned in the statement above.

- Stating on Page 3 that *'in July of 2012 a cap of 56 hour per week including overtime was discussed but nothing has been implemented as of October 2012.'* In fact as stated above, the "56 hour rule" was implemented as General Order 12-04 in May, 2012, then modified by General Order 12-06 in August, 2012. Both General Orders were intended to limit the number of hours a deputy could work in any given period to maintain the deputy's physical and mental health.
- Stating on Page 3 that the deputies *'regular staffing schedule of 2 shifts of 12 hours and 2 shifts of 8 hours is designed for deputies to work 40 hours a week.'* In fact, the regular schedule for deputies in the Jail and on patrol is to work seven (7) shifts of twelve (12) hours, and one (1) shift of eight (8) hours in each pay period (two weeks).

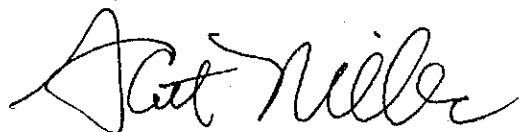
The most troubling aspect of these inaccuracies is that it misrepresents what continues to be a significant issue in the Sheriff's Office. Over the past ten years, over seventy (70) deputy sheriff positions have been eliminated. In addition, several employees are out on long term medical issues. Hiring new deputies is an arduous process that can take a year or more, given the testing and training that needs to occur. If we had not lost these positions, and if the County exercised more initiative in managing Worker's Compensation claims, overtime use in the Sheriff's Office would not be a major issue.

Furthermore, the Grand Jury report cites the fact that Sheriff's Office overtime expenditures exceeded the overtime budget for Fiscal Year 2011-12, without acknowledging the salary savings from the vacant positions in the budget. The salary savings from those positions, combined with the other cost savings measures mentioned above, resulted in us spending approximately \$500,000 less than our approved total budget. Historically, overtime use is balanced by difficult-to-fill vacancies.

In summary, my executive staff and I continue to place heavy emphasis on identifying and implementing new policies and systems that can address overtime issues, while maintaining our ability to protect the citizens of this County, our staff, and the inmates at the County Jail.

Please feel free to contact me if I can provide any additional information.

Sincerely,



Scott K. Miller
Sheriff-Coroner

MONTEREY COUNTY SHERIFF'S OFFICE
RESPONSE TO
THE MONTEREY COUNTY
CIVIL GRAND JURY INTERIM REPORT NO. 4 -
MONTEREY COUNTY OVERTIME EXPENDITURE

F-1. If the proposed cap of 56 hours of work a week is implemented in the Sheriff Department, it will allow 16 hours of overtime per week. However, certain employees will have their total hours worked reduced.

I disagree partially with the finding. A 56 hour cap was implemented as General Order 12-04 (copy attached), on May 14, 2012. After receiving comments from the staff on the difficulty in understanding and monitoring this policy, the Deputy Sheriff's Association (DSA) proposed a modification to this policy, which was implemented as General Order 12-06 (copy attached) effective August 8, 2012 and is still in effect. I do agree that it has worked to reduce some employee's total hours worked.

F-2. Insufficient control of nonproductive time off by Sheriff's deputies resulted in excessive overtime.

I disagree wholly with this finding. The majority of overtime hours are a result of reduced staffing, workers compensation issues, and the difficulty in hiring qualified deputies to take on the challenges and responsibilities that come with law enforcement positions.

F-4. The Sheriff's department is not utilizing the CAO's "on loan" positions to cover their long term Worker's Compensation leave vacancies.

I agree with this finding. The reason we don't use the "on loan" positions to cover for deputies who are out on medical leave is that the qualifications and certifications required to become a deputy would not make this concept workable. In order to qualify as a deputy, an applicant must pass a written and physical agility test, oral interview panel, extensive background investigation, polygraph examination, psychological and medical testing, Sheriff's interview, have completed a six month basic police academy, and an eighteen week Field Training Program before they can be deployed as a deputy to handle calls on their own. This process can often take longer than a year to complete and statewide averages for hiring police officers hover around one percent of all applications received. There is no "pool" of qualified deputy candidates waiting to be hired to backfill a deputy who is out on leave.

Additionally, often times the projected return date of injured employees is unknown or incapable of estimation. Given the recruiting/training restrictions, this idea is impractical and illogical.

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RESPONSE TO
THE MONTEREY COUNTY
CIVIL GRAND JURY INTERIM REPORT NO. 4 -
MONTEREY COUNTY OVERTIME EXPENDITURE**

R-1. The Sheriff Department should implement a proposed cap of 56 hours of work per week.

The recommendation has already been implemented. A 56 hour cap was implemented as General Order 12-04 (copy attached), on May 14, 2012. After receiving comments from the staff on the difficulty in understanding and monitoring this policy, the DSA proposed a modification to this policy, which was implemented as General Order 12-06 (copy attached) effective August 8, 2012 and is still in effect.

R-4. Departments that are able to utilize more part-time employees to reduce overtime should make an effort to do so.

This recommendation has been implemented. The Sheriff's Office regularly uses part-time and temporary employees to reduce overtime. As stated above, deputy sheriffs require special training and testing that is not normally conducive to part-time employment. One area where it may prove feasible is in the use of retired police officers to act as paid reserves to act in limited situations, thereby freeing up full-time deputies for other assignments. A proposal to create a paid reserve position was sent to the County's Human Resources Staff over a year ago. We are still waiting for their response.

R-5. The Sheriff's Department should replace the deputies now out on Workers Compensation leave and use the "on loan positions" from the CAO's budget. Use of these positions would reduce overtime in this Department.

This recommendation will not be implemented due to the fact that there is no pool of qualified deputies to select from to fill these proposed "on loan positions." As stated in my response to F-4 above, the requirements to become a deputy sheriff are arduous and time-consuming. The Sheriff's Office currently has over a dozen deputy sheriff vacancies that we have been trying to fill for over a year. The difficulty in finding qualified candidates is not unique to the Sheriff's Office and is being experienced by most law enforcement agencies in the state. Regardless of the difficulty in filling these positions, I will not lower my standards in hiring individuals into these positions that have so much responsibility and authority.

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R-6. The County payroll system should be modified to provide timely reporting of overtime expenditures by department, and require department heads to explain all overtime exceeding 8% of payroll on a quarterly basis to the Board of Supervisors.

This recommendation will not be implemented because it is outside the purview of the Sheriff's Office to implement this recommendation. While I personally agree that the County's payroll system is lacking in its ability to provide useful reports for managing employee resources (and have committed significant financial and staff resources toward implementing a new timekeeping and scheduling system in the Sheriff's Office), I have no authority to change the system that the County utilizes for payroll purposes. In addition, I don't have the authority to require other department heads to report to the Board of Supervisors on any matter.



Monterey County Sheriff's Office

General Order No: 12-04

SUBJECT: Record Keeping

Date: 5/14/2012

Effective immediately, Sheriff Miller has authorized this General Order until it can be added to the Lexipol manual.

1041.1.1 RECORD KEEPING

The Office shall keep complete and detailed records regarding the attendance and pay status of each employee.

A. Payment in lieu of working: No member of the Office shall pay another employee to work a shift for him/her.

B. Voluntary Overtime: During shortages of personnel, employees may be given the opportunity to volunteer for overtime duty in their classification. When such occurs the following applies:

1. No employee may work more than 16 consecutive hours, nor may any employee work more than sixteen (16) hours in a 24 hour period, **or more than fifty-six (56) hours in any five (5) day period.**

Commander L. Nash
Professional Standards and Training Division



Monterey County Sheriff's Office

General Order No: 12-06

SUBJECT: Voluntary Overtime

Date: 8/8/2012

Effective immediately, Sheriff Miller has authorized this General Order to supersede and replace General Order No. 12-04 (56-Hour Rule) until it can be added to the Lexipol manual.

Employees are encouraged to get adequate rest.

No employee will volunteer for overtime triggering more than three consecutive 16 hour work days.

No employee shall volunteer to work overtime hours that would prevent taking at least 1 day off per week.

Exceptions to this policy must be approved by the employee's supervisor.