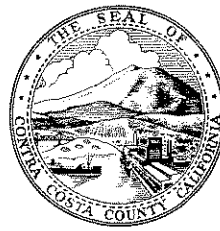


TO: BOARD OF SUPERVISORS
 FROM: JOHN CULLEN, County Administrator
 DATE: JULY 10, 2007
 SUBJECT: RESPONSE TO GRAND JURY REPORT NO. 0705, ENTITLED "THE COUNTY SHOULD DOUSE FIREFIGHTER OVERTIME PAY"



Contra
 Costa
 County
 S.D. 5

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION:

APPROVE response to Grand Jury Report No. 0705, entitled "THE COUNTY SHOULD DOUSE FIREFIGHTER OVERTIME PAY" and DIRECT the Clerk of the Board to forward the response to the Superior Court no later than July 23, 2007.

BACKGROUND:

On April 23, 2007, the 2006/2007 Grand Jury filed the above-referenced report, which was reviewed by the Board of Supervisors and subsequently referred to the County Administrator, who prepared the attached response that clearly specifies:

- A. Whether a finding or recommendation is accepted or will be implemented;
- B. If a recommendation is accepted, a statement as to who will be responsible for implementation and by what definite target date;
- C. A delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and
- D. The reason for not accepting or adopting a finding or recommendation.

CONTINUED ON ATTACHMENT: YES

SIGNATURE:

____ RECOMMENDATION OF COUNTY ADMINISTRATOR ____ RECOMMENDATION OF BOARD COMMITTEE
 ____ APPROVE ____ OTHER

SIGNATURE(S):

ACTION OF BOARD ON 07/10/2007 APPROVE AS RECOMMENDED OTHER _____

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT DIST. III)

AYES: _____ NOES: _____
 ABSENT: BONILLA ABSTAIN: _____

CONTACT: SARA HOFFMAN (925) 335-1090

CC: PRESIDING JUDGE OF THE GRAND JURY
 GRAND JURY FOREMAN
 ASSISTANT COUNTY ADMINISTRATOR
 CCCFPD FIRE CHIEF
 HUMAN RESOURCES DIRECTOR

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED: 07/10/2007

JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR

BY DEPUTY

**BOARD OF SUPERVISORS RESPONSE TO
GRAND JURY REPORT NO. 0705:
THE COUNTY SHOULD DOUSE FIREFIGHTER OVERTIME PAY**

FINDINGS

1. A crew of three – a captain, an engineer, and a firefighter – staff each of the District’s fire engines. Twenty-eight of the 30 crews for the District have at least one member who is a trained paramedic. There are three shifts, each made up of a complement of 93 fire fighting personnel (90 firefighters and 3 battalion chiefs) and five dispatchers. This staffing level is defined in the memorandum of Understanding between the County and United Professional Firefighters of Contra Costa County, Local 1230.

Response: Agree.

2. A firefighter’s regular workweek averages 56 hours. The work schedule is made up of approximately ten 24-hour work shifts per month. Compensation includes base pay, overtime pay, vacation and holiday pay, uniform allowances, fire recall/standby incentives, and educational/training/longevity incentives.

Response: Agree.

3. The District pays three of the 56 work hours as “scheduled” overtime at the rate of time-and-a-half, citing the Federal Fair Labor Standards Act as its authority for this practice. All non-management shift workers are also paid 12 hours of overtime for each of 13 holidays, whether they are working or not. All other overtime is classified as “unscheduled” overtime.

Response: Agree.

4. An average of 15% of each shift’s personnel are routinely absent due to vacations, sick leave, personal leave, training, or work-related injuries.

Response: Agree.

5. Relief staff (when available), or recalled staff, cover vacant positions and absences on an unscheduled overtime basis, at time-and-a-half. Relief staff members are permanent employees who are not assigned to a fire station. The Board of Supervisor, in negotiating with the union, has agreed to limit the number of relief staff members to 12 per shift, or a total of 36 firefighter positions. Currently, there are no relief staff members. As a result, overtime is used to cover both vacant positions and daily absences.

Response: Agree.

6. Approximately eighty-five percent of the District’s General Fund Budget is dedicated to salaries and benefits. In 2006, unscheduled overtime pay totaled approximately \$9 million, which represented 34% of total regular base pay.

Response: Agree.

7. Unscheduled overtime costs of \$9 million in 2006 have increased by more than 70% since 1999. In 2006, more than 98% of firefighter personnel were paid for unscheduled overtime:

- 128 Fire personnel received more than \$30,000 in unscheduled overtime

- 32 of the 128 fire personnel received more than \$50,000 in unscheduled overtime
- 11 of the 32 fire personnel received more than \$70,000 in unscheduled overtime
- 3 of the 11 fire personnel received more than \$100,000 in unscheduled overtime

One Firefighter received over \$138,000 in unscheduled overtime pay, which resulted in a total one-year compensation of over \$232,000.

Response: Agree.

8. Improvements to retirement benefits negotiated in 2002 led to a spike in the number of retirements in 2005 and 2006. The change in service credits from 2% to 3% per year at age 50 has increased the need for overtime because of the high number of vacancies created by retirements. This problem is made worse by the lack of adequate notice of impending retirements, typically less than 30 days. The District has no policy to encourage early notification of firefighters' intended retirements. As of February 2007, the District had 50 unfilled firefighter positions, of which 49 were attributed to retirements.

Response: Agree.

9. The District's policy is to manage overtime costs through the effective use of relief staff rather than overtime personnel. The cost savings resulting from this practice vary, depending on the positions to be filled, the number of vacancies, and the number of relief staff members. Annual savings range from \$13,000 to \$40,000 per year per position, depending upon the job classification (e.g., captain, engineer, and firefighter).

Response: Partially Agree. The District's policy is to manage operating costs through the most efficient combination of relief staffing and overtime. This is achieved through careful analysis of the District's absentee rate to determine the best operational and fiscal balance between overtime and additional staffing.

10. Unlike some other safety agencies, for example, the Los Angeles County Fire District and the California Highway Patrol, the District currently has no limit on the number of continuous hours a firefighter may work.

Response: Agree.

11. Section 23 of the labor contract between the District and the International Association of Fire Fighters Local 1230 reads, "The District shall expend every effort to see to it that the work performed under the terms and conditions of this Memorandum of Understanding is performed with maximum degree of safety consistent with the requirement to conduct efficient operations."

Response: Agree.

12. The Centers for Disease Control and Prevention and the Institute for Occupational Safety and Health have identified problems with shift work and excessive hours. Their studies have shown that fatigue is associated with decreased alertness, lowered cognitive functions, declining vigilance in physical task performance and increased injuries, and illness. Sleep loss can affect job performance.

It can also make it easier to fall asleep at inappropriate times, endangering safety workers and those they serve.

Response: Agree.

13. A District firefighter's normal shift is 24 continuous hours (8am to 8am). They work three 24-hour shifts within a nine-day work cycle. Many firefighters routinely work for 72 consecutive hours or more. In the past, the District has proposed a limit on continuous work hours but failed to successfully negotiate this with the union.

Response: Agree.

14. A key element in the need for overtime is the large number of vacant firefighter positions. The latest hiring list of firefighter candidates was exhausted in 2005. Inadequate planning for staffing needs by the District, coupled with the requirements administered by the County's Human Resources department (e.g., a consent decree resulting from a past lawsuit against the County), have created long delays in establishing a new list of qualified candidates.

Response: Partially Agree. Both an unanticipated high number of retirements as well as a lengthy time period to complete the process of establishing a firefighter hiring list contributed to delays in hiring new firefighters.

15. Hiring procedures have added to the vacancy crisis that results in the increased use of overtime. Past hiring cycles have taken up to a year-and-a-half before a single firefighter was hired. In the most recent cycle, the District did not ask the Human Resources department to begin the hiring process for new candidates until the current list no longer included any acceptable candidates. The District delayed its request despite the knowledge that the previous list had taken over a year to develop.

The current cycle began November 1, 2005, and proceeded as follows:

11/05/05	District asked Human Resources to begin process
3/20/06	Human Resources announces exam
4/3/06-4/7/06	Applications accepted by Human Resources
5/6/06	Written test administered
7/06	List of eligible candidates published
7/9/06	District requests certification of eligible candidates
7/17/06	District receives a list of 395 candidates from Human Resources
8/11/06	District mails candidate interview notices (Round 1)
8/15/06	Human Resources provides applications to the District
8/28/06-9/12/06	District conducts Round 1 interviews

From September to November, an internal Merit Board complaint investigation concerning alleged bias in candidate screening filed by two candidates resulted in an additional delay. The allegations were later determined to have been unfounded.

11/13/06	District mails candidates interview notices (Round 2)
11/13/06	District mails regret notices to unsuccessful candidates
12/4/06-12/8/06	District conducts Round 2 interviews with 78 candidates
Jan/Feb 2007	Background investigations conducted

Response: Agree.

16. As of March 2007, 16 months following the November 2005 request to begin the hiring process, no new firefighters had been hired. Because of the length of the current hiring cycle, the District is incurring over \$60,000 per month in additional overtime costs, based on the number and mix of vacant openings.

Response: *Partially Agree. Although the current hiring cycle has been longer than anticipated, the amount of money being spent on overtime is not an additional cost. Rather, funding budgeted for positions that are currently vacant is being used to cover the overtime in the short term. The total amount being spent for overtime will be reduced as new firefighters are added to the work force. The District has already hired a portion of the firefighters needed and anticipates filling all needed positions by the summer of 2008.*

17. After completing the hiring process, candidates must pass psychological evaluations and physical examinations. Recruits must complete a 16-week District training program prior to assignment. Therefore, the current hiring cycle results in a minimum of 20 months before the first new firefighter reports to work.

Response: Agree.

18. The District trains all new hires at its academy. Classes do not begin until there is a minimum of 10 recruits with a maximum of 25. These limitations have caused training delays. Generally, the academy is limited to the District's recruits.

Response: Agree.

19. There are private companies with extensive experience in screening fire service candidates. Use of such a service could reduce staff time required by the in-house hiring process and provide the District with a list of qualified candidates. The San Ramon Valley Fire Protection District makes use of one such private company to pre-screen its firefighter candidates.

Response: Agree.

20. Of the more than 2000 firefighter applicants, over 1,400 candidates took the District's examination given on May 6, 2006.

Response: Agree.

RECOMMENDATIONS

1. Continue to use relief crews in covering for absent firefighters. Negotiate the removal of the 12 per shift limitation that applies to firefighter relief staffing, and leave the relief staffing level to the discretion of the District.

Response: Requires further analysis. The District believes that the authorized relief pool of 12 firefighters per shift meets the current staffing needs. An ongoing analysis of the absentee rate will continue in order to assess the need for adjustment in the relief staffing pool. This analysis will be completed by October 19, 2007. Ideally, staffing levels should be left to the discretion of management and not controlled by labor contract restrictions.

2. Negotiate a change to the Memorandum of Understanding that would limit continuous work to 72 hours and require that an employee must have at least 24 hours off after a 72-hour continuous segment. Exceptions may be made if emergency activities require extended duty.

Response: Requires further analysis. While the District has an interest in establishing a policy to limit continuous hours worked, there is insufficient data establishing a safe maximum threshold for hours worked. The District will continue to monitor available research in the area of worker fatigue. Meet and confer on this issue with labor groups will commence by October 19, 2007.

3. Propose that personnel give 90 days notice prior to retirement. Develop a monetary incentive program to encourage early retirement notification.

Response: Requires further analysis. This recommendation has merit if the intended outcome is simply to reduce overtime expenditures since the District would have more lead time to initiate hiring replacements. Whether or not a monetary incentive program would be worth the cost for a 90 day advance notice will require additional analysis. This analysis will be completed by October 19, 2007. Additionally, current contract restrictions capping the relief pool have an impact on the value of this recommendation.

4. Whenever possible, require that training for current firefighters be conducted without incurring overtime.

Response: Has been implemented. The District currently makes its best effort to conduct training without incurring overtime. Due to thinly stretched resources needed for emergency response throughout the District, the use of overtime to accomplish training needs is very often the most affordable method while still maintaining adequate emergency response capabilities.

5. Institute a structured, periodic staffing plan to better anticipate the on-going staffing needs of the District.

Response: Has been implemented. The District has established a two year hiring plan that will address current vacancies as well as anticipated attrition.

6. Develop and maintain an active candidates list based on a plan which can be accomplished by one or more of the following options:
 - The District, in conjunction with Human Resources, streamlines the hiring cycle to reduce its length.
 - The District investigates alternatives, such as the District assuming responsibility for the entire hiring process.
 - The District researches the possibility of outsourcing all or part of the hiring process to a private company.

Response: Requires further analysis. The District agrees that an active candidate list is required in order to streamline the hiring process. The District, in conjunction with the Human Resources Department, will be working to determine the best way to achieve this goal. This analysis will be completed by October 19, 2007.

7. Pursue the possibility of establishing an on-going, regional fire academy to accelerate basic training of candidates.

Response: Requires further analysis. Recent vacancy rates exceed the number of recruits that can be trained at the District facility. However, once the District's own training needs are met, there will be an opportunity to combine recruits from other fire agencies to consolidate training needs. Issues such as differing standard operating procedures would need to be resolved in order to implement consolidated training. This analysis will be completed by October 19, 2007. Additionally, the Fire District and the Contra Costa Sheriff's Office are currently developing a proposal for the construction of a Regional Public Safety Training Campus that would facilitate consolidation of fire service training within the county.