



Investigation Report: Overtime Payments – Allegation an hourly police sergeant falsified overtime from January 2019 to May 2019

ASSURANCE • INSIGHT • OBJECTIVITY

Final Report

Audit Plan Code: 20-06

Records available are not sufficient to substantiate the sergeant falsified overtime. However, we noted deficiencies in the overtime reporting and approval processes in the department.



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Abbreviations

CAP	Corrective Action Plan
ERP	Enterprise Resource Planning
FLSA	Fair Labor Standards Act
HR	Human Resources
IIA	Institute of Internal Auditors

Definitions

For the purpose of this report, these definitions are provided to the reader:

Callback	The time spent by an off-duty EPISD police officer addressing a law-enforcement activity from start to finish. Generally, the officer is contacted by police dispatch, an on-duty police officer, or their immediate supervisor.
Chief A	Refers to the Chief of Police during the time the overtime was reported.
Chief B	Refers to an interim Chief of Police during the period of May 29, 2019, to August 15, 2019.
Chief C	Refers to the interim Chief of Police, who started on August 16, 2019.
Court Date/ Appearance	The time spent by a uniformed EPISD police officer required to attend court for EPISD law enforcement cases.
Frontline	School administration software used by EPISD for various purposes among them (i) maintaining student information and (ii) capturing and processing employee's time swipes.
I-Leads	Software used by the EPISD Police Department to create, query, and manage law enforcement records.



Executive Summary

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We have completed the investigation on a complaint alleging falsified overtime.

According to the Institute of Internal Auditors' professional standards and related recommended guidance, Internal Audit should maintain an active role that relates to both promoting and assessing ethics throughout the District. The scope of Internal Audit activities, outlined in Board Policy CFC (Exhibit), includes evaluating whether the actions of the District's employees comply with the District's policies, procedures, and applicable laws, regulations, and governance standards.

The Executive Summary provides, on a summarized basis, the results discussed throughout the body of the investigation report that follows. The investigation report includes background information, detailed results, recommendations, and an exhibit.

The Board of Trustees approved this project as part of the 2019-2020 Internal Audit Plan.

Complaint

The Internal Audit Department received a complaint alleging an hourly sergeant of the El Paso Independent School District Police Services Department falsified overtime during the period January 2019 to May 2019.

The complaint stated: "I have concerns [name omitted] is falsifying overtime hours on these memos. Some of the memos state [name omitted] only made a phone call but s/he [sic] charges two to three hours for overtime. I also noticed some of the officers mentioned in the memo were not on the clock during the times reported on the memo by [name omitted]."

Summary of Results

For the dates in question, we noted the following after reviewing available evidence:

1. We confirmed there was contact between the sergeant in question and other EPISD police officers on the dates and near the times reported in his/her overtime documentation in approximately 98% of the cases.
2. Records available do not fully support the total length of time reported as overtime by the sergeant. However, we cannot rule out the possibility the sergeant made additional phone calls or texts to outside agencies or police officers and/or performed social media research on his/her personal digital device(s), as the sergeant stated.
 - 2.1. In addition, it appears the Police Services Department had an unwritten practice to report time spent on callbacks and/or court dates/appearances.
3. We determined 16 out of 46 (35%) work descriptions submitted by the sergeant for overtime worked do not appear to be critical law enforcement matters. These represent 30.2 overtime hours reported by the sergeant.
4. We confirmed the sergeant submitted overtime adjustments for times when police officers, s/he claimed to have contacted, were "not on the clock," as stated in the complaint. However, there is phone record evidence to support

there was communication between the sergeant in question, and the police officers for the overtime adjustments. We found a matching phone call/text in all cases (13) where the sergeant mentioned contacting an off-duty police officer.

5. The sergeant did not obtain supervisor approval on the District's Authorization to Work Overtime Request form prior to working the overtime as required for all hourly employees.
6. Supervisors interviewed stated there are no supervisors on-duty for police officers working the night shift(s). In our analysis of overtime for the fiscal year 2018-2019, the top three overtime earners were hourly police supervisors. In total, three police supervisors earned approximately \$37,000 in overtime.

Management's Corrective Action Plan

District management and leadership submitted a Corrective Action Plan (CAP) outlining the activities to be implemented. All five (5) recommendations made by Internal Audit were incorporated into the CAP. The CAP appears to be sufficient to address the results outlined in this report. Internal Audit will conduct follow-up reviews to validate CAP activities have been implemented.

Conclusion

There are records to support the off-duty sergeant made/received phone calls/texts from EPISD police officers (who were on or off-duty) between January 2019 and May 2019, as the sergeant reported. However, records available do not fully support the total length of time reported and compensated. In addition, it appears the Police Services Department had an unwritten practice to report time spent on off-duty calls (callbacks) and/or court dates/appearances in increments of hour(s).

We made recommendations to assist District administration in addressing the results in this report.



Investigation Report

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Complaint

The Internal Audit Department received a complaint alleging an hourly sergeant of the El Paso Independent School District Police Services Department falsified overtime.

The complaint stated: "I have concerns [name omitted] is falsifying overtime hours on these memos. Some of the memos state [name omitted] only made a phone call but s/he [sic] charges two to three hours for overtime. I also noticed some of the officers mentioned in the memo were not on the clock during the times reported on the memo by [name omitted]."

According to CKE(Local), "Complaints against a District police officer shall be in writing on a form provided by the District and shall be signed by the person making the complaint. In accordance with law, the District shall provide to the police officer a copy of the complaint." As such, we provided a copy of the complaint to the sergeant.

Background

The District compensates overtime for nonexempt employees in accordance with federal wage and hour laws. Nonexempt employees are entitled to overtime compensation. The sergeant in question is a nonexempt (hourly) employee who receives a phone stipend as part of his/her job duties. The sergeant reports to the Chief of Police and submits timesheets and other timekeeping documentation for review. During the time of our investigation, the sergeant reported to three different Chiefs as follows: (i) Chief A up to May 24, 2019, (ii) Chief B, who was interim, from May 29, 2019 to August 15, 2019, and (iii) Chief C who is the interim since August 16, 2019.

Board policies and District procedures state the following regarding reporting time worked:

- Board Policy DEAB(Local) Compensation Plan Wage and Hour Laws state, "When overtime is necessary, a nonexempt employee shall request the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline but shall be compensated in accordance with the FLSA."
- The EPISD Financial Services Administrative Reference Guide states, "the District must compensate employees for overtime" and the form [Authorization to Work Overtime] must be completed by the employee and supervisor prior to overtime being worked." It also states, "If an hourly employee fails to obtain approval from the supervisor, prior to the time worked, the supervisor is to document and follow disciplinary action." In addition, "If an hourly employee works overtime again, without prior approval, contact Human Resources immediately for further guidance."
- The EPISD Employee Handbook states, "...all hours on duty must be accurately reflected on the weekly time sheet or time clock system..." and "...employees are responsible to complete the time sheet to reflect actual time worked."

According to the EPISD Police Procedures Manual, "...officers shall at all times respond to lawful orders of supervisors and to the call of employees and students in needs of police assistance. The fact that they may be technically off-duty shall not relieve them from the responsibility of taking prompt and proper Police action." The sergeant is called, as necessary, after his/her shift ends (off-duty) by (i) police dispatch and (ii) EPISD police officers on the field for supervisory assistance. The sergeant's regular work shift is during the school day.

Hourly employees are required to swipe their badges to record time worked. The time clock system allows for manual adjustments (including those affecting overtime) to the original time swipes if necessary. The employee can request time adjustments in writing from the approved site timekeeper who can enter them in Frontline for approval and processing. The sergeant used memos along with the District's Authorization to Work Overtime forms to request overtime adjustments. All documentation for time worked is kept and maintained at the site for recordkeeping.

We determined there were sufficient anomalies to start an investigation based upon an initial review of the EPISD Police Services Department payroll records, analysis of the time swipes, and interviews with appropriate employees.

Objective and Scope

The objective of the investigation was to determine the validity of the complaint. The scope was limited to time worked adjustments for the sergeant in question made between January 2019 and May 2019, which resulted in overtime pay.

Our investigations seek to obtain facts and evidence to help establish what happened, identify the responsible parties, and provide recommendations where applicable.

Methodology

To achieve the objective of this investigation, we:

- Reviewed relevant Board policies and District procedures,
- Obtained and reviewed EPISD Police Services Department payroll records,
- Performed data analysis,
- Analyzed documentation submitted as part of the complaint,
- Reviewed related email communications,
- Reviewed cell phone provider records submitted by the sergeant in question,
- Reviewed EPISD police dispatch logs,
- Interviewed EPISD police personnel as necessary,
- Consulted with the Employee Relations, Legal, and Maintenance departments,
- Reviewed access logs to the District's Frontline ERP system,
- Obtained cell phone contact information for EPISD police personnel for comparison purposes, and
- Reviewed related EPISD Police Services Department's internal affairs documents.

Due Professional Care for Internal Auditors

The Institute of Internal Auditors Performance Standard 1220 - Due Professional Care states internal auditors, “must exercise due professional care by considering the:

- Extent of work needed to achieve the engagement’s objectives,
- Relative complexity, materiality, or significance of matters to which assurance procedures are applied,
- Adequacy and effectiveness of governance, risk management, and control procedures,
- Probability of significant errors, fraud, or noncompliance, and
- Cost of assurance in relation to potential benefits.”

“*Due professional care*” implies reasonable care and competence, not infallibility, or extraordinary performance. As such, due professional care requires the internal auditor to conduct examinations and verifications to a reasonable extent. Accordingly, internal auditors cannot give absolute assurance that noncompliance or irregularities do not exist.

Scope Limitations

Internal Audit does not have the authority to search the employee’s personal computer for signs of computer-related law enforcement activities for the dates in question. As such, we cannot determine if all documents/records were available for our review. However, these limitations did not significantly impact our ability to achieve our investigation objective.

Results

In summary, there are records to support the off-duty sergeant made/received phone calls/texts from EPISD police officers (who were on or off-duty) between January 2019 and May 2019, as the sergeant reported. However, records available do not fully support the total length of time reported and compensated. In addition, it appears the Police Services Department had an unwritten practice to report time spent on off-duty calls (callbacks) and/or court dates/appearances in increments of hour(s).

We have listed the detailed results of our investigation in the following pages.

Result 1

We confirmed there was contact between the sergeant in question and other EPISD police officers on the dates and near the times reported in his/her overtime documentation. We compared the phone calls reported by the sergeant in his/her overtime documentation (memos/forms) with cell phone records. The sergeant documented the reason for these calls and the work s/he performed using memos and the District's Authorization to Work Overtime Request forms.

We were able to verify there was a call/text near the times reported in approximately 98% of the cases. The review of phone records shows:

- 1.1 In 45 out of 46 instances (98%), the phone number listed on the cell phone records matched the corresponding police officer's number or the police department's dispatcher number.
- 1.2 In most cases, the start time recorded on the overtime documentation (memos/forms) is near the time a phone call or text was made/received to/from dispatch or EPISD police officers' cell phone numbers.
- 1.3 The memos/forms were subject to two levels of review (Lieutenant and Chief A) before payment was approved in Frontline. The memos/forms do not have notes/comments to show the reviewers questioned the validity of the work performed before approving the payment.

Result 2

Records available do not fully support the total length of time reported as overtime by the sergeant. However, we cannot rule out the possibility the sergeant made additional phone calls or texts to outside agencies or police officers and/or performed social media research on his/her personal digital device(s), as the sergeant stated. In addition, it appears the Police Services Department had an unwritten practice to report time spent on callbacks and/or court dates/appearances in increments of hour(s).

According to the sergeant:

- Chief A "had told all of us that whenever you got a call and it's almost like a court date. Whenever you got a call after hours, that's district-related and it's a law enforcement function, you record two hours."
- S/he responded to the calls because they were critical to the day-to-day operations of the department. A call is not limited to the length of the actual phone call but includes the time spent researching and following up on the event until disposition.
- A phone call may result in performing additional work such as (i) researching social media, (ii) accessing the Frontline system for student information, (iii) accessing the I-Leads system, and (iv) responding using e-mails.

2.1 The sergeant could not provide documentation to show there was an approved practice of calling in a 2-hour block for callbacks, which allowed police officers to report more time than they worked. However, based on interviews with Police Services Department staff in supervisory roles, it appears there was an unwritten practice to report time spent on callbacks and/or court dates/appearances in increments of hour(s).

- 2.1.1 Of the 46 times, the sergeant reported overtime, 20 instances were for more than 2 hours, and 26 instances were between 1 and 2

hours. The sergeant did not report overtime for less than 1 hour. *See Exhibit A for details.*

2.1.2 When we asked if the department had an internal practice of reporting in increments of hours instead of time worked, Chief A stated: "...it wasn't increments of hours, it should have been time worked."

2.1.3 A sergeant in the department stated the following when we asked about time reporting practices in the department:

- "if you were off and you got called into court, that's two hours,"
- "...we had that practice until [Chief B] got here and said what is that?" and the practice included "for callbacks."

2.1.4 Another sergeant in the department stated the following:

- For reporting time worked for court appearances outside the workday, "...so here we always mirrored everything to the city... most of the guys would put in for three hours."
- For reporting time worked for callbacks, "I remember [Chief A] saying to one of the sergeants, check with maintenance because I know they have their workers all stand by and they called out or whatever they go fix it, they get a minimum of two hours or something like that" and "that was the standard practice, was two hours."

2.1.5 There is no callback reporting process outlined in the EPISD Police Services Department's Standard Operating Procedures Manual for police officers to follow. However, there is a minimum two-hour callback reporting process specific for maintenance employees in the Maintenance Employee Handbook. This process requires the employee to report at EPISD Central office, swipe in, perform the work at an EPISD location and swipe out when finished.

2.1.6 The Lieutenant in the department stated the following when referring to court appearances, "...the minimum is three hours... that was one of the adoptions that we had as far as our department."

2.1.7 An e-mail dated July 23, 2019, written by Chief B to supervisors, seems to indicate there was a callback practice. The email states, "...there is no District authorization that has been approved for the current practice of granting a minimum number of hours of overtime to attend court, or any callback duty."

2.1.8 Chief C acknowledged there was a callback practice EPISD hourly police officers would follow when they received calls after their shift ended. Chief C stated the following:

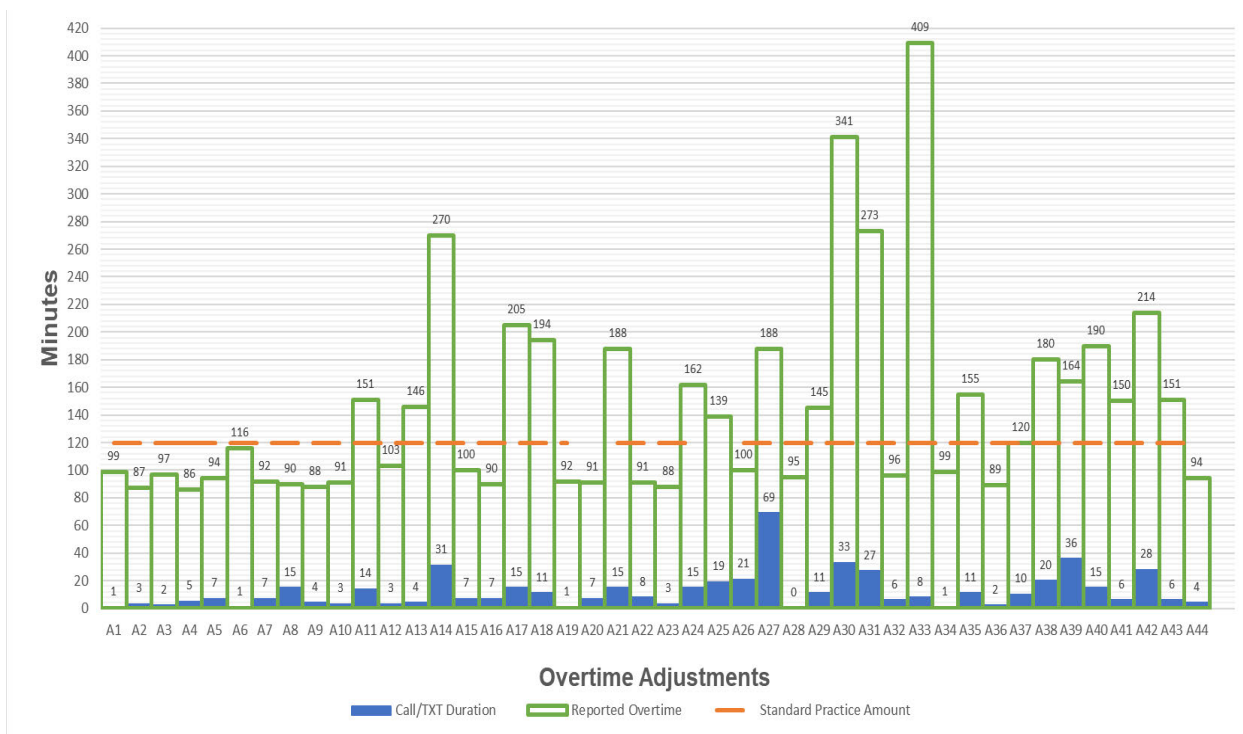
- "it was my understanding that [Chief A] was using something from transportation or something"
- "so they would get a minimum, but [Chief A] was allowing that I don't know how many, I'm not sure what the stipulate was one hour or two hours."

2.2 We searched for evidence to support the work descriptions and times reported as callbacks by the sergeant. For the purposes of this report, a

callback is time spent by an off-duty EPISD police officer to address a law-enforcement activity from start to finish. The results are as follows:

- 2.2.1 According to Frontline access logs, there are no entries that show the sergeant accessed the system for any of the dates (calls) in question.
- 2.2.2 We could not verify if the sergeant performed any social media research due to our scope limitation. See the scope limitation section for details.
- 2.2.3 The sergeant stated s/he did not access the I-Leads system. As such, there would be no access logs for the calls in question.
- 2.2.4 We found three e-mails that could support the work descriptions reported in three of the time adjustments (A1, A23, and A25 in *Exhibit A*).

Exhibit A – Comparison of Call/Text Length vs. Overtime Length Reported



Notes: (a) 44 memos contain 46 overtime adjustments requested by the sergeant.
(b) For clarification, A27 includes more than one call, but all calls are less than an hour in length.
(c) There is a corresponding email for A1, A23, and A25.

Result 3

We determined 16 out of 46 (35%) work descriptions submitted by the sergeant for overtime worked do not appear to be critical law enforcement matters. This represents 30.2 overtime hours reported by the sergeant.

The criticality of the 46 work descriptions was determined as follows:

- 3.1 Chief A determined 16 work descriptions were non-critical and could have been addressed “the following day for the attention that they needed.”
- 3.2 The remaining 30 work descriptions (65%) appear to be critical, according to us (19) and Chief A (11).
 - 3.2.1 We determined 19 met the critical matters definition. We defined critical law enforcement matters as dealing with life or safety issues, missing students, threats, assaults, etc.
 - 3.2.2 We presented the remaining 27 to Chief A because their criticality was not apparent to us.
 - 3.2.2.1 Chief A determined 11 of these work descriptions were critical, and 16 were non-critical.

The work descriptions were included as part of the payroll documentation for Chief A’s review during the weekly time clock swipes approval process. Chief A approved the overtime in Frontline.

Result 4

We confirmed the sergeant submitted overtime adjustments for times when police officers, s/he reported to have contacted, were “not on the clock,” as stated in the complaint. However, there is phone record evidence to support there was communication between the sergeant in question, and the police officers for the overtime adjustments. We found a matching phone call/text in all cases (13) where the sergeant mentioned contacting an off-duty EPISD police officer.

It is not clear why EPISD police officers did not report this time as time worked. It is possible (not all-inclusive) they (i) calculated the time spent was less than 15 minutes and thus not compensable (15 minutes is the minimum work increment compensable by the District), (ii) they chose not to report it, (iii) they forgot to report it as time worked, or (iv) they could not obtain prior approval to work overtime as required.

Result 5

The sergeant did not obtain supervisor approval on the District’s Authorization to Work Overtime Request form prior to working the overtime as required for all hourly employees. The sergeant worked the overtime first, then subsequently prepared and submitted the forms at the end of the week to the Lieutenant for review. According to the Lieutenant, his/her review included a reasonable test, and once completed, s/he would initial the forms. The forms and additional timesheet information would be turned over to the Chief of Police and timekeeper for further review(s), final approval, and processing.

- 5.1 According to the sergeant, “my prior approval was already embedded with Lieutenant [name omitted] and [Chief A] because they already knew my activities.”
- 5.2 None of the 17 Authorization to Work Overtime Request forms (one form per week) attached to the weekly timesheets had Chief A’s approval or disapproval on the form.

- 5.3 The Lieutenant's initials were on these forms along with his/her "Received" stamp. According to the Lieutenant, the stamp indicates his/her review but not final approval.
- 5.4 A letter dated March 21, 2018, from the Chief A to the sergeant in question states, "...you will request and confirm approval of overtime prior to working beyond your 40-hour workweek and adhered (sic) to your 8-hour workday....". It also says, "...automatic authorization is not permitted unless a critical emergency emergencies which requires your immediate attention."
- 5.5 A memo dated November 29, 2017, from Chief A, includes a directive to Police Services staff that states, "...support employees are not authorized to work in excess of their assigned schedule without prior approval from their supervisor."

Observation 1

Supervisors interviewed stated there are no supervisors on-duty for police officers working the night shift(s). Supervisors are contacted for assistance during their off-duty time due to the nature and unpredictability of law enforcement. The effect is an increase in payroll costs since overtime rates would apply instead of regular rates. In our analysis of overtime for the fiscal year 2018-2019, the top three overtime earners were hourly police supervisors. In total, three police supervisors earned approximately \$37,000 in overtime.

Recommendations and Management's Response

We made five (5) recommendations to assist District administration in addressing the results in this report. Administration agreed to implement all the recommendations and developed nine (9) corrective action plan activities.

1

We recommend the Chief of Police, in consultation with Human Resources and Payroll departments, clearly define what constitutes a callback and court date/appearance and compensate according to federal/state wage and hour laws. The callback reporting process and definitions should be outlined in the EPISD Police Services Department's Standard Operating Procedures Manual. Once finalized, all police personnel should receive training on the new/updated process. Supervisors should be knowledgeable of the process for their monitoring duties.

Management and Leadership Response: Agreed with the recommendation and incorporated into the CAP as activities 1, 3, and 4.

Person Responsible: Interim Chief of Police – Police Services Department

Implementation Date: March 31, 2020

2

Due to the unpredictability and nature of law enforcement operations, there are instances when it is not feasible for hourly police officers to complete the Authorization to Work Overtime form and obtain prior approval before working overtime.

As such, we recommend the Chief of Police work with the Policy and HR Departments to determine whether the current overtime pre-approval requirements outlined in Board Policy and local guidelines are suitable for hourly police officers. The goal is to update/create a policy that would increase compliance by hourly police officers while maintaining the appropriate controls for the overtime request process. If deemed necessary to update Board policy, management

shall ensure all other local policies and guidelines, including the EPISD Police Services Department's Standard Operating Procedures Manual, are in alignment with such policy.

Management and Leadership Response: Agreed with the recommendation and incorporated into the CAP as activity 5.

Person Responsible: Interim Chief of Police – Police Services Department

Implementation Date: June 30, 2020

3

The Chief of Police should clearly outline the overtime approval process in the EPISD Police Services Department's Standard Operating Procedures Manual. The process should clearly outline the roles and responsibilities of police personnel involved in the timekeeping, monitoring/review, and approval process.

All police personnel should receive training on the overtime approval process. Supervisors should be closely familiar with the entire process to ensure it is applied consistently and appropriately as part of their monitoring duties.

Management and Leadership Response: Agreed with the recommendation and incorporated into the CAP as activities 2, 4, and 6.

Person Responsible: Interim Chief of Police – Police Services Department

Implementation Date: April 30, 2020

4

We recommend the Chief of Police perform a cost-benefit analysis of having supervisor(s) on-duty during night shifts versus off-duty supervisors available via phone call/text to offer assistance. The Chief of Police should consult with the Budget and Finance Departments as needed to complete the analysis.

We also recommend the Chief of Police implement the results of the analysis if changes (i) are deemed beneficial to the mission of the department, (ii) can be accomplished in a fiscally responsible manner, and (iii) are approved by the Superintendent.

Management and Leadership Response: Agreed with the recommendation and incorporated into the CAP as activities 7 and 8.

Person Responsible: Interim Chief of Police – Police Services Department

Implementation Date: June 1, 2020

5

We recommend the Chief of Police, in consultation with Human Resources, determine if any action is warranted against the sergeant for not completing the required form prior to the overtime being worked.

Management and Leadership Response: Agreed with the recommendation and incorporated into the CAP as activity 9.

Person Responsible: Interim Chief of Police – Police Services Department

Implementation Date: December 20, 2019



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