



State of Nevada
Governor's Finance Office
Division of Internal Audits

Audit Report

**Department of Corrections
Correctional Officer Overtime Management**

Report No. 18-01
October 11, 2017

EXECUTIVE SUMMARY

Department of Corrections

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Objective: Improve Nevada Department of Corrections Management of Overtime for Correctional Officers

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Scheduling overtime based on hours worked rather than hours paid could reduce instances of leave taken and overtime worked within the same work week. Based on our sample testing of correctional officer timesheets for 12 pay periods (24 work weeks), we found 20 percent of each work week included instances of leave taken and overtime worked within the same work week. For example, in a standard Monday through Friday work week, a correctional officer used leave on Monday, worked Tuesday through Friday, and worked Saturday at the overtime rate of time and a half. The officer was compensated for 52 hours even though he actually worked 40. In another example, in the same day a correctional officer used leave for 8 hours and subsequently worked 8 hours at the overtime rate. The officer was compensated for 20 hours even though he actually worked eight hours.

Correctional officer schedules are not finalized until two weeks prior to being effective. NDOC states all correctional officers are fully scheduled each pay period and there is no flexibility to assign officers when overtime needs occur. Longer term scheduling may allow NDOC more visibility on staffing needs to effectively schedule correctional officers to minimize use of overtime, specifically at the three facilities in southern Nevada that are near full staffing levels. This could benefit NDOC by up to \$777,000.

Establish a Strategy to Encourage Increased Number of Overtime Volunteers, Including Conducting a DHRM Climate Survey..... page 6

Establishing a strategy to encourage an increased number of overtime volunteers, including conducting a DHRM climate survey, should reduce the amount of mandatory overtime and help create a better work environment. Based on our sample testing, eight percent of all correctional officers are receiving 28 percent of NDOC's total overtime pay. NDOC represents only eight percent of correctional officers volunteer for overtime; the remaining 92 percent do not volunteer and are assigned mandatory overtime when deemed necessary by NDOC. NDOC practices may contribute to the low number of volunteers for overtime opportunities as shifts perceived by correctional officers as the best shifts are given to the most senior correctional officers and the least desirable overtime shifts are left for junior correctional officers or non-volunteers. A DHRM climate study could help NDOC determine why 92 percent of correctional officers do not volunteer for overtime.

Reassess Staffing to Determine Appropriate Correctional Officer Needs at Each Facility..... page 9

Reassessing staffing to determine needs will help NDOC more accurately state the correctional officer vacancy rate. Overtime hours paid for by a facility should, in general, equal the number of vacant position hours. In general, facilities with full staffing should have fewer overtime requirements. A comparison of average overtime hours per correctional officer shows Florence McClure and Warm Springs correctional facilities located in Las Vegas have the highest averages of overtime hours paid per correctional officer although they have the lowest vacancy rates.

Four NDOC facilities paid overtime far in excess of vacant position hours: Florence McClure (610 percent), Southern Desert (207 percent), High Desert (192 percent), and Warm Springs (142 percent). Florence McClure and High Desert paid approximately 40 percent of overtime for hospital coverage compared to the average of other facilities at ten percent. NDOC reports it is not staffed for hospital coverage.

Southern Desert paid approximately 50 percent of overtime for covering vacancies but only has a nine percent vacancy rate compared to the average of other facilities at 32 percent of overtime for covering vacancies. However, Warm Springs paid approximately 35 percent of overtime for covering holidays but only has a three percent vacancy rate. This may indicate scheduling issues as Southern Desert is over 90 percent staffed and Warm Springs is almost 100 percent staffed.

Ely and Lovelock correctional facilities have the highest vacancy rates although they have lower average overtime hours. Ely correctional facility paid overtime for 75 percent of vacant position hours and Lovelock correctional facility paid overtime for 57 percent of vacant position hours. NDOC's vacant authorized correctional officer FTE positions in Ely and Lovelock may be overstated by 25 and 43 percent respectively, which could benefit NDOC up to \$576,000 by eliminating or transferring positions to other facilities.

Implement Part-Time or Critical Needs Correctional Officer Positions for Hospital Coverage and Other Needs..... page 12

Implementing part-time or critical needs correctional officer positions for hospital coverage and other needs will help lower overtime costs.

The Capitol Police initiated a three-prong strategy to meet its peace officer requirements and to eliminate use of overtime payments: private security officers used during non-business hours; part-time positions that are not full time equivalent employees; and critical need positions manned by employees who are full time equivalents. These are, in general, Nevada retired peace officers, seeking to supplement their retirement pay without working a full-time job. This strategy allows the Capitol Police to take advantage of a non-traditional work force available in Nevada and reduce overtime pay by approximately 20 percent.

A similar strategy in NDOC may help lower growing overtime costs in the state's correctional facilities and provide opportunities for retired correctional officers to continue to use their experience. Providing correctional officer security for hospitalized prisoners was 18 percent of NDOC's overtime costs in fiscal year 2017. By implementing part-

time or critical needs correctional officer positions for hospital coverage and other needs NDOC would benefit by about \$500,000.

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INTRODUCTION

At the direction of the Executive Branch Audit Committee, we conducted an audit of the Nevada Department of Corrections (NDOC). Our audit focused on NDOC's overtime management. The audit's scope and methodology, background, and acknowledgements are included in Appendix A.

Our audit objective was to develop recommendations to:

- ✓ Improve Nevada Department of Corrections' (NDOC) management of overtime for correctional officers.

Nevada Department of Corrections Response and Implementation Plan

We provided draft copies of this report to NDOC for its review and comments. NDOC's comments have been considered in the preparation of this report and are included in Appendix B. In its response, NDOC accepted our recommendations. Appendix C includes a timetable to implement our recommendations.

NRS 353A.090 requires within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps NDOC has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six month follow-up results to the committee and NDOC officials.

The following report contains our findings, conclusions, and recommendations.

Improve Nevada Department of Corrections Management of Overtime for Correctional Officers

The Nevada Department of Corrections (NDOC) can improve management of overtime for correctional officers by:

- Scheduling overtime based on hours worked not hours paid;
- Establishing a strategy to encourage increased number of overtime volunteers; and
- Reassessing staffing needs.

These improvements will allow NDOC to better manage overtime use and may lower the amount of overtime pay necessary to meet prison staffing needs by over \$1.8 million annually.

Schedule Overtime Based on Hours Worked Not Hours Paid

NDOC should establish criteria for eligibility for overtime pay based on the actual hours worked in the facility rather than the hours a correctional officer is eligible for pay. This could benefit NDOC by up to \$777,000.

20 Percent of Overtime is Paid Without Working a Full Shift or Week

NDOC paid \$2.8 million in overtime for correctional officers who did not work for 40 hours in the facility. We sampled timesheets for 16 correctional officers with the highest overtime from NDOC correctional facilities over 12 pay periods throughout fiscal year 2017. We found 20 percent of each work week included instances of leave taken and overtime worked within the same work week. For example, in a standard Monday through Friday work week, a correctional officer used leave on Monday, worked Tuesday through Friday, and worked Saturday at the overtime rate of time and a half. The officer was compensated for 52 hours even though he actually worked 40. In another example, in the same day a correctional officer used leave for 8 hours and subsequently worked 8 hours at the overtime rate. The officer was compensated for 20 hours even though he actually worked eight hours.

Correctional Officer Practices Resulting in Overtime Paid Without Working a Full Week

Some correctional officers engage in practices that result in overtime without working a full week. Overtime practices noted from the sample include: ¹

- Taking paid time off and receiving overtime on the same day (10 instances during 12 pay periods);
- Taking a scheduled shift off and then working overtime on other days during the work week (78 instances during 12 pay periods).

NDOC Policy Could Help Control Overtime Costs

NDOC allows overtime pay after a correctional officer is eligible for pay of 8 hours per day or 40 hours per week. Eligibility includes any combination of actual work hours, approved leave hours, and other approved activities, such as training. Consequently, a correctional officer is eligible for overtime pay without having worked in the facility for a normal full day or week. For example, in one week, an officer may work 30 hours of regular time and take 10 hours of annual leave. If he or she works additional hours during that work period, it would be paid as overtime, despite the fact the employee did not actually “work” more than 40 hours in that week.

NRS 608.018 establishes the state must pay compensation for overtime for an employee who works more than 40 hours in any scheduled week of work; or more than 8 hours in any workday unless by mutual agreement the employee works a variable shift.

The Fair Labor Standards Act (FLSA) permits jurisdictions to consider overtime pay based on hours worked rather than hours paid. However, NAC 284.245 states paid-leave status is considered as time worked in calculating overtime. Audits of other jurisdictions have also noted a difference between FLSA guidance and agency practices.²

NDOC could develop policies that comply with state guidelines and limit the opportunity for overtime to employees who have actually worked 40 hours. This policy change should be possible for NDOC facilities that are near full staffing levels. There may still be instances when NDOC needs to pay overtime to correctional officers who have accrued approved paid leave in the same work

¹ We noted another state audit with similar results regarding custody/enforcement type overtime. Orange County, California, “Overtime Audit of the Sheriff-Coroner Department,” Office of the Performance Audit Director, October 28, 2008.

² “Overtime Audit of the Sheriff-Coroner Department,” Office of the Performance Audit Director, October 28, 2008, Orange County, California.

week. However, establishing policy to avoid such instances should help lower the amount of overtime paid by NDOC.

Lack of Long Term Scheduling May Increase Use of Overtime

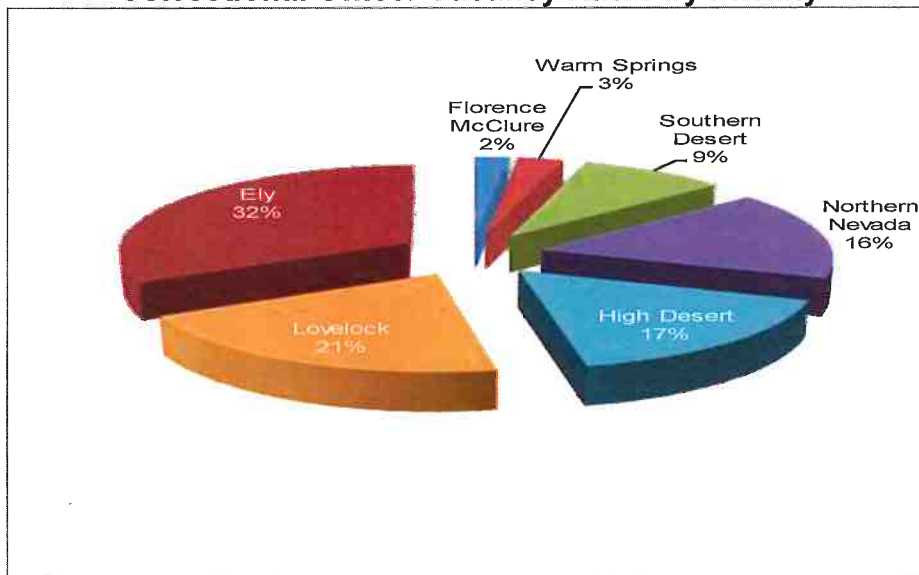
NDOC states correctional officer schedules are not finalized until two weeks prior to being effective. NDOC claims all correctional officers are fully scheduled each pay period and there is no flexibility to assign officers when overtime needs occur. However, finalizing schedules more than two weeks in advance may allow NDOC more visibility on staffing needs, including known and anticipated staffing shortfalls, and allow facilities to more effectively schedule correctional officers to minimize the use of overtime. Longer term scheduling should be possible in NDOC facilities that are near full staffing levels.

3 of 7 NDOC Facilities Near Full Staffing

Three of seven NDOC facilities, Florence McClure Women's Correctional Facility, Warm Springs Correctional Facility, and Southern Desert Correctional Facility have vacancy rates for correctional officers of nine percent or less. Correctional officers at these three facilities represent 28 percent of all correctional officers. These three facilities are located near or within the Las Vegas metropolitan area and a large potential employee pool. See Exhibit I.

Exhibit I

Correctional Officer Vacancy Rates by Facility



NDOC should be able to reduce overtime pay by up to \$777,000³ at the three correctional facilities which are near full staffing levels by longer term scheduling which avoids paying overtime to those who have not worked 40 hours in the facility.

Conclusion

Scheduling overtime based on hours worked rather than hours paid could reduce instances of leave taken and overtime worked within the same work week. Additionally, longer term scheduling of correctional officer shifts could allow NDOC to reduce overtime, specifically in the three facilities that are near full staffing levels. This could benefit NDOC by up to \$777,000, which is 28 percent of the \$2.8 million NDOC spent when correctional officers received overtime pay but did not work a full 40 hours in the facility.

Recommendation

1. Schedule overtime based on hours worked not hours paid.

³ Overtime paid for correctional officers who did not work for 40 hours in the facility = \$2,774,652
\$2,774,652 x 28 percent = \$776,903

Establish a Strategy to Encourage Increased Number of Overtime Volunteers

NDOC should establish a strategy to encourage increased number of overtime volunteers. An increased number of volunteers will reduce the amount of mandatory overtime and help create a better work environment.

Causes of Overtime Pay Vary

Overtime is caused by a variety of factors. Payroll data suggests that the most frequent causes of overtime are:

- Filling in for vacant positions (34 percent);
- Civilian hospital security (18 percent); and
- Holiday and weekend relief (14 percent).

Exhibit II summarizes NDOC's overtime by reason.

Exhibit II

Overtime Reasons

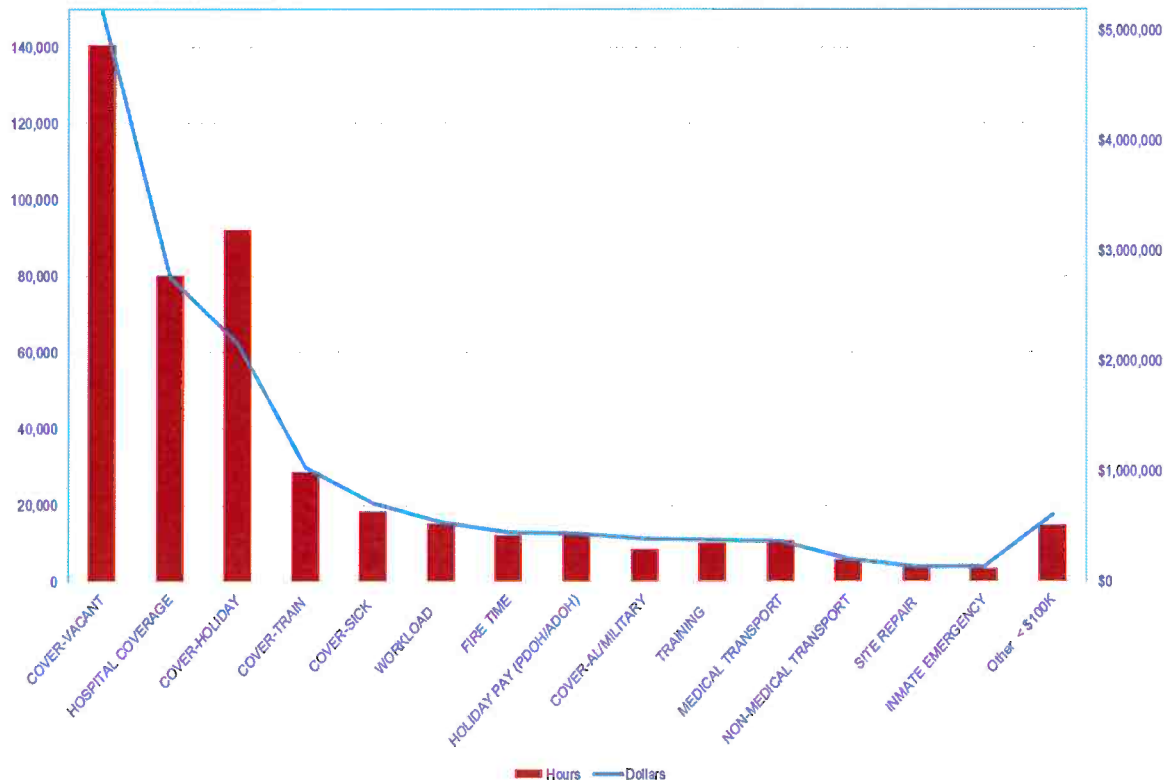


Table Notes:

^a "Other <\$100K" are timesheet categories such as Cover-Disciplinary and Budget Prep.

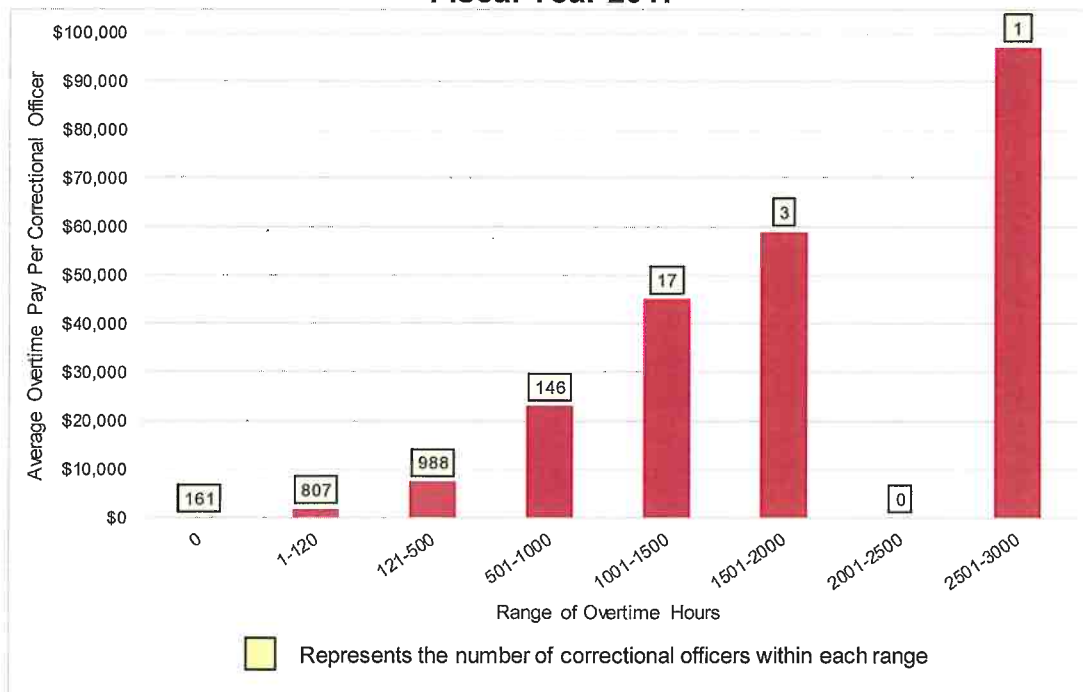
^b Average hourly rate for Cover Vacancy, \$37; Hospital Coverage, \$35.50; Cover Holiday, \$23.50.

Only Some Correctional Officers Receive Overtime Pay

We sampled timesheets from each facility for 12 pay periods throughout fiscal year 2017 for those correctional officers who earned 75 percent or more of their pay in overtime. Correctional officers receive 85 percent of NDOC's overtime; however, only eight percent of correctional officers are receiving 28 percent of total overtime pay.⁴ NDOC represents only eight percent of correctional officers volunteer for overtime. The remaining 92 percent do not volunteer and are assigned mandatory overtime when deemed necessary by NDOC. Additionally, one of the 164 correctional officers receiving overtime pay at Southern Desert was paid \$97,000 while the remaining correctional officers averaged \$7,000. Exhibit III summarizes overtime pay for correctional officers.

Exhibit III

**Correctional Officers'
Average Overtime Pay
Fiscal Year 2017**



⁴ Total number of correctional officers with over 500 hours in overtime = 167.
 Total number of correctional officers paid in 2017 = 2,123.
 Percent of correctional officers with over 500 hours = 7.8 percent (167 / 2,123).
 Total overtime paid for 500 hours or more to correctional officers = \$4,405,726.
 Total NDOC overtime paid = \$15,502,166.
 Percent of overtime paid to correctional officers with over 500 hours = 28.4 percent (\$4,405,726 / \$15,502,166).

NDOC Practices May Lead to Low Numbers of Volunteers

NDOC should establish a strategy to encourage increased number of overtime volunteers. Increased numbers of volunteers will reduce the amount of mandatory overtime and help create a better work environment.

Two NDOC practices may contribute to the low number of volunteers for overtime opportunities:

- Correctional officers bid for their preferred schedule, with priority based on seniority. Consequently, shifts perceived by correctional officers as the best shifts are given to the most senior correctional officers and junior correctional officers are assigned the least desirable shifts.
- Overtime opportunities are offered to volunteers before assigning mandatory overtime to correctional officers. The volunteer list is a daily listing based on a first come, first serve basis to fill a shift need, according to NDOC. The volunteers may choose certain posts and/or shifts. Consequently, the most desirable overtime opportunities go to those who volunteer first. Non-volunteers are assigned the least desirable overtime shifts.

These practices may lead to a less than optimal work environment, affecting morale and a correctional officer's willingness to volunteer for overtime. NDOC acknowledges other issues, including leadership in the facilities, may lead to the challenging work environment that affects correctional officer morale.

DHRM offers climate studies that could help NDOC management determine why 92 percent of correctional officers do not volunteer for overtime. A climate study would contribute to developing a strategy to encourage increased numbers of correctional officers to volunteer for overtime.

Conclusion

Establishing a strategy to encourage increased number of overtime volunteers, including conducting a DHRM climate survey, should reduce the amount of mandatory overtime and help create a better work environment

Recommendation

2. Establish a strategy to encourage increased number of overtime volunteers, including conducting a DHRM climate survey.

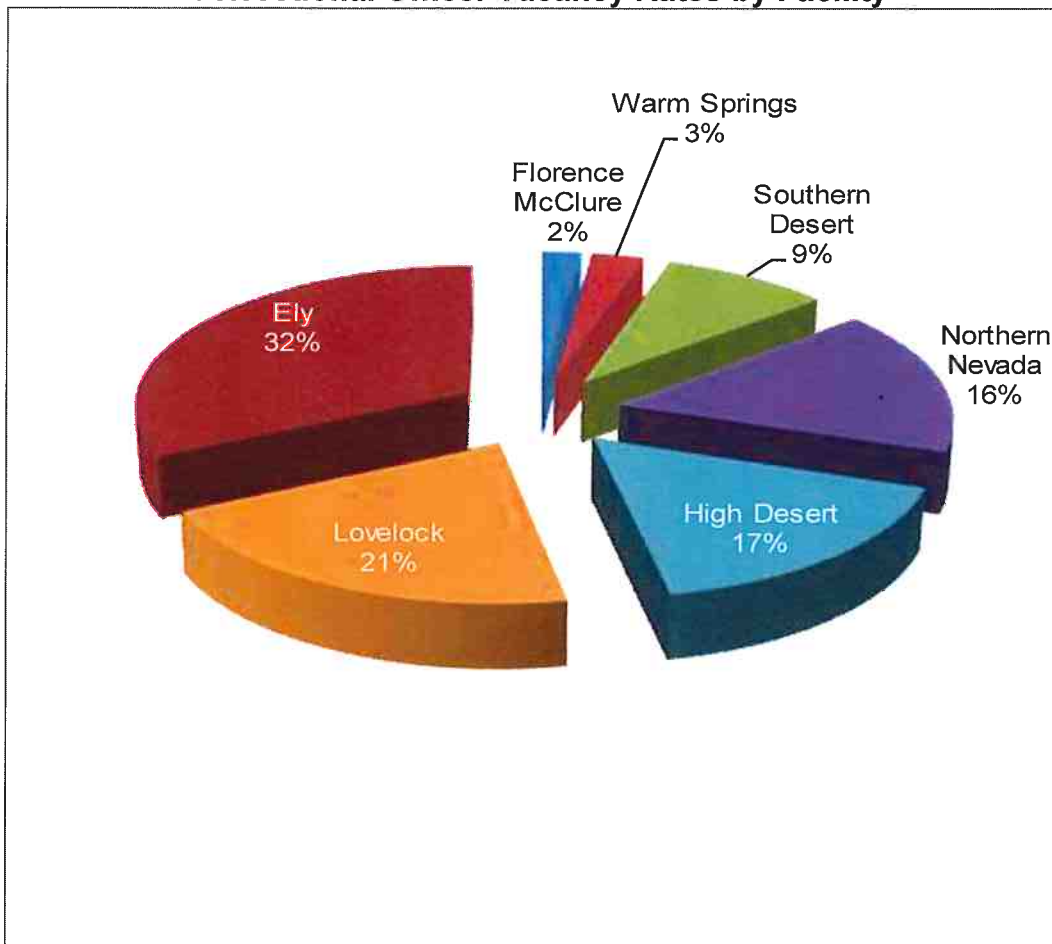
Reassess Staffing to Determine Appropriate Correctional Officer Needs at Each Facility

NDOC should reassess staffing to determine appropriate correctional officer needs at each facility and implement part-time or critical needs correctional officer positions. Accurately stating the correctional officer vacancy rate and implementing part-time or critical needs correctional officer positions could benefit NDOC by \$1.1 million annually.

Exhibit IV summarizes correctional officer vacancy rates within NDOC.

Exhibit IV

Correctional Officer Vacancy Rates by Facility



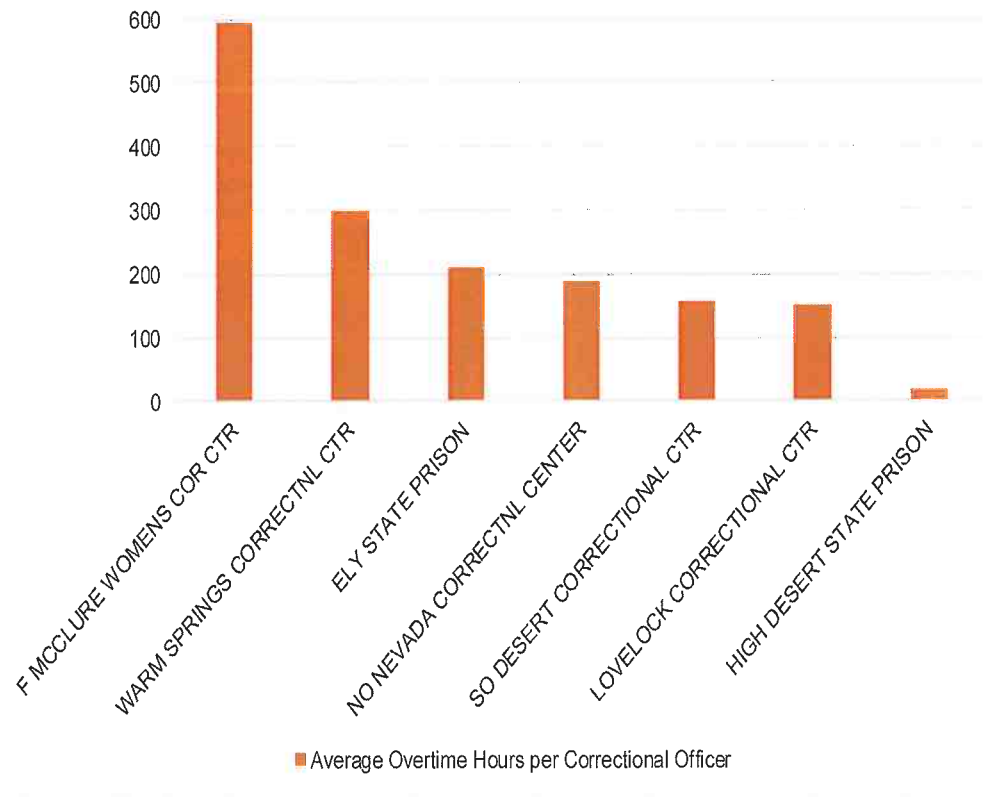
Average Overtime Hours per Correctional Officer

Overtime hours paid for by a facility should, in general, equal the number of vacant position hours. Facilities with full staffing should have fewer overtime requirements.

A comparison of average overtime hours per correctional officer in each facility shows Florence McClure and Warm Springs correctional facilities located in Las Vegas have the highest averages although they have the lowest vacancy rates. Ely and Lovelock correctional facilities have the highest vacancy rates although they have lower average overtime hours. See Exhibit V.

Exhibit V

Average Overtime Hours per Correctional Officer by Facility

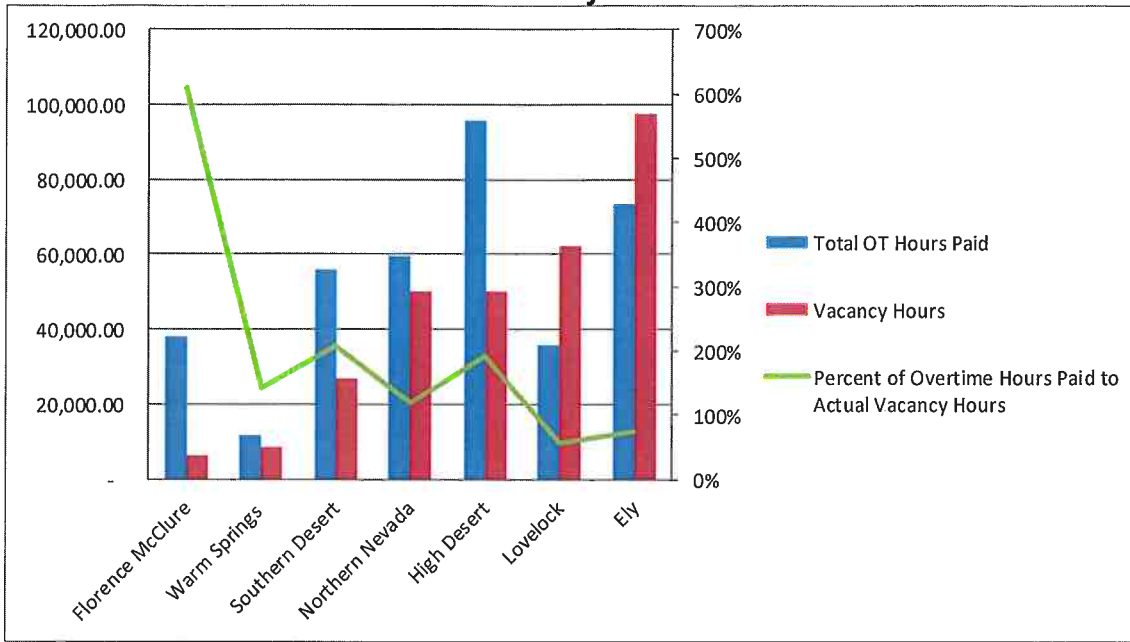


Vacant Position Hours Do Not Align with Hours Paid for Overtime

Overtime pay for vacant positions does not align with vacancy rates in NDOC's facilities. NDOC information shows a variance between work hours represented by vacant correctional officer positions and the number of hours paid overtime to cover vacant positions. Exhibit VI shows vacancy hours by facility.

Exhibit VI

Vacancies by Facilities



Total authorized correctional officer full time equivalent (FTE) positions were 1,887 and total filled FTEs were 1,719 as of January 2017, which represents a vacancy rate of nine percent.⁵ Vacant correctional officer positions at each facility represent a total of 145 FTEs amounting to approximately 302,000 hours of work.⁶ NDOC paid overtime for approximately 370,000 hours of work or 123 percent of its vacant positions.

Two Correctional Facilities Paid for Fewer Overtime Hours than Vacant Position Hours

Ely correctional facility paid overtime for 75 percent of its vacant positions hours and Lovelock correctional facility paid overtime for 57 percent of its vacant position hours. NDOC’s vacant authorized correctional officer FTE positions in Ely and Lovelock may be overstated by 25 and 43 percent, respectively, which could benefit NDOC up to \$576,000.⁷ NDOC should reassess staffing needs at these facilities to determine if vacant correctional officer positions are necessary,

⁵ Stated vacancy rate = 8.9 percent ~ 9 percent $(1,887 - 1,719) / 1,887$

⁶ The difference of 23 vacancy positions are those correctional officers at other NDOC programs such as Prison Industries and conservation camps (Total FTE Vacancies 168 – Facility FTE Vacancies 145; $1,887 - 1,719 = 168$).

⁷ Total vacancy hours for Ely and Lovelock = 62,400 and 97,760, respectively (47 FTE x 2080, 30 FTE x 2080 respectively)

Total overtime hours paid for Ely and Lovelock = 73,178 and 35,857 hours, respectively

Total overtime pay (in dollars) for Ely and Lovelock = \$1,534,806 and \$441,228, respectively

Reduction = Ely \$385,935 ($\$1,534,806 \times 25$ percent) and Lovelock \$189,728 ($\$441,228 \times 43$ percent)

Total reduction = \$575,663 ($\$385,935 + \$189,728$)

should be eliminated, or transferred to other facilities to reduce overtime requirements.

Four NDOC Facilities Paid Overtime in Excess of Vacant Hours

Four NDOC facilities paid overtime far in excess of vacant position hours: Florence McClure (610 percent), Southern Desert (207 percent), High Desert (192 percent), and Warm Springs (142 percent). Analysis of reasons for overtime showed:

- Florence McClure and High Desert paid approximately 40 percent of overtime for hospital coverage compared to the average of other facilities at ten percent. NDOC reports it is not staffed for hospital coverage.
- Southern Desert paid approximately 50 percent of overtime for covering vacancies but only has a nine percent vacancy rate compared to the average of other facilities at 32 percent for covering vacancies. This may indicate a scheduling issue as the facility is over 90 percent staffed.
- Warm Springs paid approximately 35 percent of overtime for covering holidays but only has a three percent vacancy rate. This may indicate a scheduling issue as the facility is almost 100 percent staffed.

NDOC agrees that, in general, hours paid for overtime should match vacant position hours excluding hospital coverage. NDOC reports it is not staffed to cover medical transport and hospital coverage. Other options could be available to NDOC to reduce overtime for hospital coverage. Better, long term scheduling may help reduce overtime for known shift requirements; however, other options to increase staff may also help control overtime costs.

Creating Part-Time or Expanded Critical Need Correctional Officer Positions May Help Lower Overtime Costs

NDOC should create part-time or expanded critical need correctional officer positions to help lower overtime costs. A part-time or critical need correctional officer cadre could save NDOC \$500,000 annually.

Capitol Police Reduced Overtime Costs Using Part-Time and Critical Need Officer Cadre

The Department of Public Safety, Capitol Police Division initiated a part-time and critical need peace officer cadre to meet its staffing needs because it could not recruit and retain a sufficient number of peace officers. The initiative was instrumental in helping the Capitol Police meet its mission to provide safety and security at the many locations under its jurisdiction and reducing overtime costs, according to the Chief of the Capitol Police.

The Capitol Police initiated a three-prong strategy to meet its peace officer requirements and to eliminate use of overtime payments: private security officers used during non-business hours; part-time positions that are not full time equivalent employees; and critical need positions manned by employees who are full time equivalents.

The part-time peace officers are limited to working up to 79 hours a month, under 1,039 hours a year, with a wage threshold of approximately \$24,000 in order not to lose retirement benefits for retirees. Non-retirees working over the 79-hour threshold may subject the state to pay for benefits. They are paid at the entry grade, step 1 rate and may receive overtime in the event of an emergency or other requirement. The critical need peace officers are allowed to work more than 1,039 hours annually and are compensated at the entry grade, step 1 rate. Critical need positions require Board of Examiners' approval and are for positions deemed essential that cannot be filled through the normal personnel process. Employees filling critical need positions and retirees working part-time under 79-hour threshold do not lose retirement benefits.

The use of part-time and critical need peace officers allows the Capitol Police to take advantage of a non-traditional work force available in Nevada. These are, in general, Nevada retired peace officers, seeking to supplement their retirement pay without working a full-time job. The Capitol Police and Department of Public Safety fiscal staff note that keys to success for a part-time or critical need peace officer cadre are accurately tracking work hours and pay, and maintaining a pool of part-time officers to draw from for work shift needs. Standard training requirements still apply to this cadre of part-time or critical need peace officers.

The Capitol Police report they have been able to reduce the use of overtime pay by approximately 20 percent as a result of implementing part-time and critical need positions. A similar approach in NDOC may help lower growing overtime costs in the state's correctional facilities and provide opportunities for retired correctional officers to continue to use their experience to the benefit of the state.

Part-Time Correctional Officers Could Reduce Medical and Other Overtime Costs

Providing correctional officer security for hospitalized prisoners was 18 percent of NDOC's overtime costs. Part-time correctional officers could reduce those costs by about \$500,000. Part-time correctional officers fulfilling prison hospital, medical transport, and civilian hospital security as well as other type duties throughout the prison system can be paid at a lower rate than full-time correctional officers.

Conclusion

Reassessing staffing to determine needs will help NDOC more accurately state the correctional officer vacancy rate and could save NDOC up to \$576,000 annually. Creating a part-time correctional officer cadre could help reduce NDOC's overtime costs, specifically for medical and other needs by \$500,000 annually. Moreover, there may be additional opportunities to use part-time or critical need correctional officers throughout the prison system.

Recommendations

3. Reassess staffing to determine appropriate correctional officer needs at each facility.
4. Implement part-time or critical needs correctional officer positions for hospital coverage and other needs.

Exhibit VII

Estimated Benefits

Recommendations	Annual Benefit
1. Schedule overtime based on hours worked not hours paid.	\$777,000
2. Establish a strategy to encourage increased number of overtime volunteers, including conducting a DHRM climate survey.	Improve morale
3. Reassess staffing to determine appropriate correctional officer needs at each facility.	\$576,000
4. Implement part-time or critical needs correctional officer positions for hospital coverage and other needs.	\$500,000
Total	\$1,853,000

Appendix A

Scope and Methodology, Background, Acknowledgements

Scope and Methodology

We began the audit in February 2017. In the course of our work, we interviewed staff and discussed processes inherent to NDOC's responsibilities. We reviewed NDOC records for fiscal years 2015 through 2017, applicable Nevada Revised Statutes and other state guidelines. We also surveyed other states and other state agencies, comparing overtime usage for correction officers and law enforcement.

This audit included a compilation and detailed analysis of multiple data sets, interviews with staff, timesheet summary and sign-in sheet sampling and review, and discussions with NDOC executive staff.

We concluded field work and testing in August 2017.

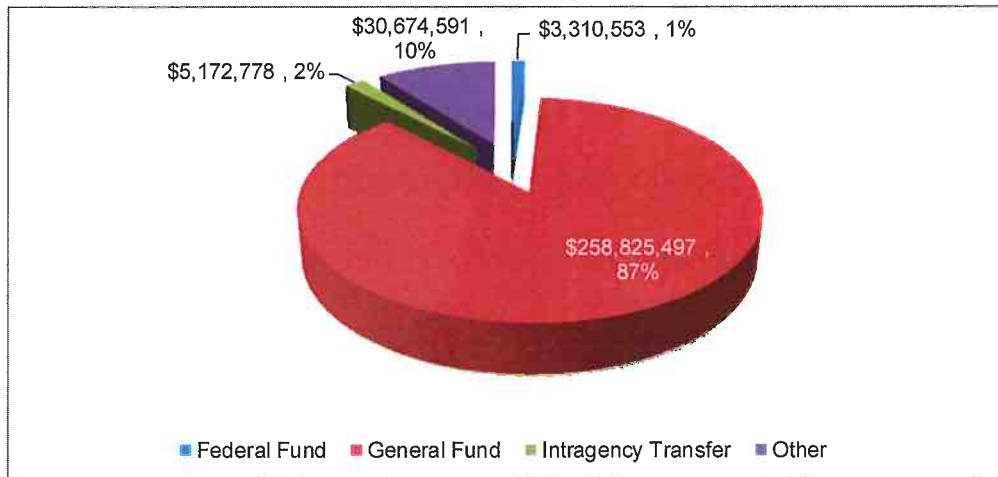
We conducted our audit in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

Background

NDOC improves public safety by ensuring a safe and humane environment that incorporates proven rehabilitation initiatives that prepare individuals for successful reintegration into Nevada's communities. NDOC's budget for fiscal year 2017 was approximately \$298 million. Exhibit VIII summarizes NDOC's funding sources for fiscal year 2017.

Exhibit VIII

**Department of Corrections Funding Sources
Fiscal Year 2017**



Source: 2017 Legislatively Approved Budget

Table Note: Other includes balance forward from prior year and appropriations.

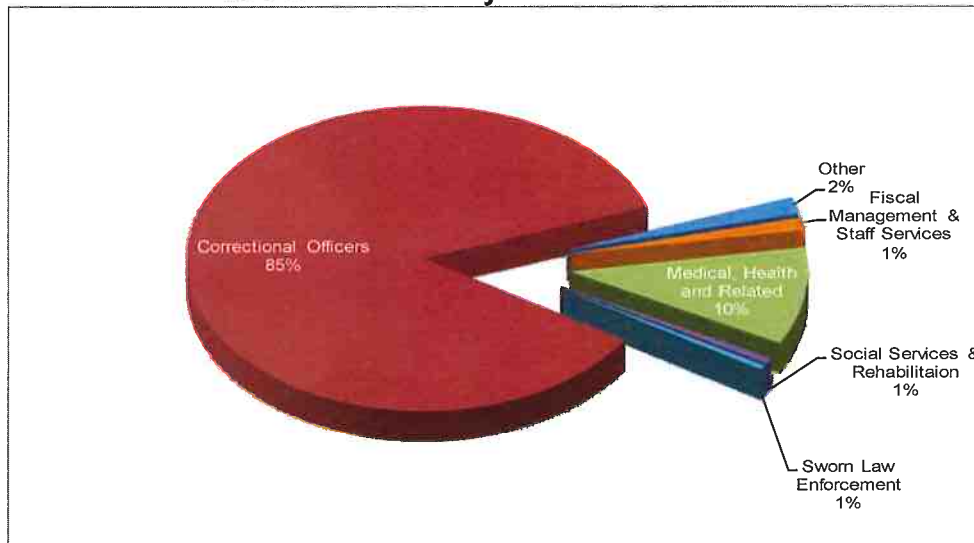
NDOC is legislatively authorized 1,889 correctional officer FTE for fiscal year 2018. Currently, there are 1,697 correctional officer positions filled, which NDOC states allows them minimal staffing levels.

**All NDOC Facilities
Pay Overtime**

All NDOC facilities pay overtime to correctional officers and other positions. Correctional officers receive the majority of overtime. Exhibit IX summarizes fiscal year 2017 overtime paid by NDOC.

Exhibit IX

NDOC Overtime by Positions FY 2017



Use of Overtime Pay Continues to Trend Upward

Overtime use varies among NDOC facilities; however, the comparison of the variance of overtime NDOC facilities pay has remained relatively consistent. From fiscal years 2015 to 2017 use of overtime has increased by an average of 34 percent per year. In fiscal year 2017, the top three users of overtime pay were High Desert Prison in Clark County, Ely Prison in White Pine County, and Northern Nevada Correctional Center in Carson City. Exhibit X summarizes overtime payments by facility for the past three years.

Exhibit X

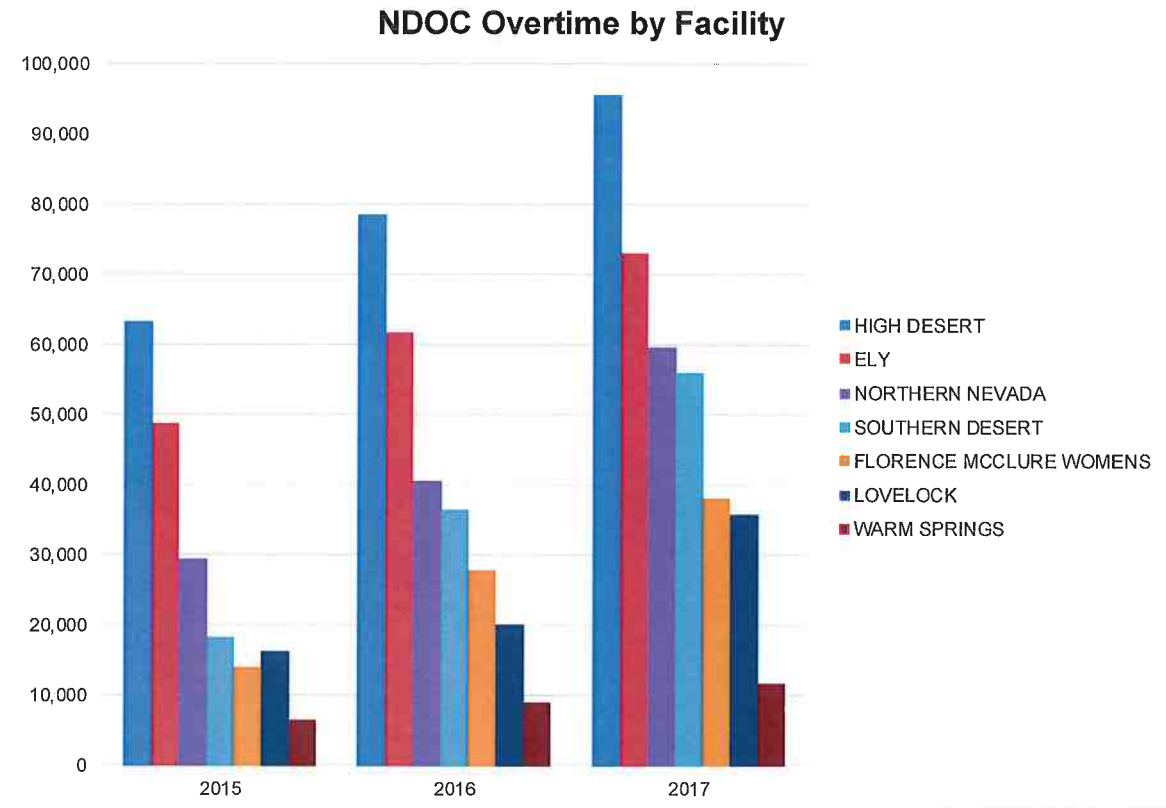


Table Note: Southern Nevada Correctional Center is closed and was not included in totals as it was immaterial (<\$2500).

Acknowledgments

We express appreciation to NDOC, Department of Public Safety, and Capitol Police staff for their cooperation and assistance throughout the audit.

Contributors to this report included:

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Executive Branch Auditor

Appendix B

Department of Corrections Response and Implementation Plan

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(702) 486-9912



State of Nevada
Department of Corrections

Brian Sandoval
Governor

James Dzurenda
Director

John Borrowman
Deputy Director
Support Services

September 21, 2017

Steve Weinberger, Administrator
State of Nevada, Governor's Finance Office
Division of Internal Audits
209 East Musser Street, Suite 302
Carson City, Nevada 89701

Mr. Weinberger,

Thank you for the opportunity to meet with your audit staff in pursuit of recommendations to better manage the overtime within the Department of Corrections (NDOC). Your audit team was courteous, professional, and accommodating. NDOC is in receipt of the audit team's report and provides this response.

The report does not indicate NDOC is performing any duty that is not required for the safety and security of the staff, public, and inmate. The report also does not consider if the workload assigned to legislatively approved posts exceeds the legislatively designed workload of those posts, if some portion of the workload is not supported with legislatively approved posts to complete, and if NDOC is able to safely or legally reject or refuse to complete any portion of the workload. Instead, the report focuses on redistributing the current workload over existing staff, reassessing the staffing needs for only the workload assigned to legislatively approved posts without consideration of the workload not supported with legislatively approved posts, and filling vacant authorized positions with non-traditional employees to support the workload. The following provides some background on the issues and responses to the recommendations.

The report indicates NDOC paid \$15.5 million for overtime in state fiscal year 2017. The report makes recommendations that may reduce that total by as much as \$1.8 million. Given NDOC must complete a portion of the workload without a corresponding legislatively approved post, and given the required workload (assigned and unassigned to a post) exceeds the capacity of the current staffing, and given the

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Association of State Correctional Administrators (ASCA) recommends 399 additional correctional officers to complete the workload safely and securely, NDOC requires overtime from existing staff and regularly exhausts the list of employees volunteering to work overtime to complete the workload and must mandate overtime of unwilling employees.

Recommendation #1:

Scheduling overtime based on hours worked, not hours paid

NDOC does not agree with this recommendation.

Correctional Officer Practices Resulting in Overtime Paid Without Working a Full Week

Correctional officers are POST certified. Most of the correctional officer training is mandated to maintain their peace officer certification or other federal requirements like the Prison Rape Elimination Act (PREA) and state requirements. This training must be completed regardless if NDOC is unable to schedule training when it would not generate overtime for coverage. Given the mandatory annual training requirements for all correctional officers and civilian staff within NDOC, the flow of training must be maintained throughout the year. While NDOC adjusts schedules to avoid overtime when staffing is available or reduces inmate programming to accommodate staffing shortfalls, training cannot be regularly deferred just to avoid overtime. Attending mandatory training is not a factor an employee should need to consider to maintain eligibility to volunteer for overtime. Scheduled training is independent from an employee's decision to volunteer for overtime and should not be a reason to exclude the employee.

Accrual of annual leave is a limited benefit and an employee must use annual leave to avoid a use or lose condition. It is in the best interest of the agency to encourage employees to use annual leave throughout the entire calendar year and avoid a compaction of annual leave requests at the end of the calendar year. If an employee chooses to extend their weekend by taking the following Monday off as paid annual leave, the recommendation is to prohibit that employee from volunteering for overtime during the following weekend. Using annual leave adjacent to a weekend off should have no bearing on an employee volunteering to work overtime on a subsequent and unrelated weekend.

If the assertion is an employee is "gaming" the system by getting paid annual leave on Monday and overtime on Saturday for only working 40 hours, this could only occur up to the employee's accrued annual leave balance, which has been established as a limited benefit and a requirement to use by the end of the year. If the employee must choose between using annual leave on Monday or volunteering for a completely unrelated overtime shift on the following weekend, it would artificially defer the use of annual leave until later in the calendar year but not avoid the eventual use of the leave. By compacting the annual leave requests to later in the calendar year, the challenge of finding an eligible volunteer is exacerbated and will result in mandating more unwilling employees to work overtime. Regardless if a volunteer is used or an unwilling employee is mandated to work the overtime, the shift must be covered with overtime. Other examples of using annual leave follow the same principles.

However, employees are not capped on the number of accrued sick leave hours, do not have a use or lose condition applied by the state, and actually get paid for substantial balances upon termination. Using sick leave is generally at the employee's discretionary. Recognizing this difference, NDOC already has a policy and practice to prohibit employees who use sick leave from volunteering for overtime for the remainder of the pay period (Reference: Administrative Regulation 326.03, 5).

If NDOC is unable to find an eligible employee to volunteer for overtime when needed, NDOC must mandate an unwilling employee to work overtime. Clearly, allowing an employee to volunteer for overtime is better than mandating an unwilling employee to work the same shift at no cost savings to the state. The recommendation would not reduce overtime, would reduce the pool of eligible volunteers willing to work overtime, and would increase the frequency of mandating an unwilling employee to work overtime. This will have a detrimental impact on employee morale without reducing overtime or generating any savings.

Finally, the recommendation is calculated on implementation at NDOC facilities near full staffing levels. However, full staffing levels do not recognize the workload that is not assigned to a legislatively approved post or workload that exceeds the levels designed for the legislatively approved post. This will be discussed in greater detail in recommendation #3.

Lack of Long Term Scheduling May Increase Use of Overtime

NDOC allows officers to bid for shifts, awarding the shift for the entirety of the year. With the bid process, officers are solicited to submit their leave requests for the entirety of the year, which NDOC uses to schedule staffing for the entire year. Stated another way, NDOC schedules for an entire calendar year using the known information. Leave requests will always continue to be received throughout the year. These are accommodated to the degree possible with limits on how many officers may be on leave at the same time and rejecting requests exceeding those limits. NDOC adjusts the annual schedules for each particular two week period to recognize additional leave requests as they are received to minimize overtime. While not finalized until two weeks prior to being effective, the majority of the schedule was identified during the bid process and used to generate an anticipated schedule for the entire year and only changed to recognize new requests.

Finally, the recommendation is based on implementation at NDOC facilities near full staffing levels. However, full staffing levels do not recognize the workload that is not assigned to a legislatively approved post or workload that exceeds the levels intended for the legislatively approved post. This will be discussed in greater detail in recommendation #3.

Recommendation #2:

Establish a strategy to encourage increased number of overtime volunteers, including conducting a DHRM climate survey

NDOC agrees with this recommendation and will pursue a climate study focused on this outcome, subject to availability of the Department of Administration -- Division of Human Resources Management.

As demonstrated in NDOC's response to the first recommendation, NDOC adopts liberal policies and practices to encourage volunteers for overtime while restricting those areas that may be manipulated for abuse. The report's first recommendation to adopt more restrictive policies on eligibility to volunteer for overtime is contrary to achieving the intended outcome of this second recommendation. However, the opportunity to use a climate study to further explore how to increase volunteers for overtime is a constructive recommendation worth pursuing.

In response to Exhibit III, the existence of staff with little or no overtime is understandable. The list is comprised of the names of all of the correctional officers who work or have worked for NDOC during SFY17. Of those employees, some new employees terminated prior to qualifying to perform overtime assignments (failed academy, failed performance, etc.) and some employees are assigned to areas not compatible with working a post in an Institution (training personnel, remote location, Central Transportation, etc.). NDOC continues to use Central Transportation staff for more of the scheduled and recurring Institution transportation workload and cross-utilize officers between facilities to increase the volunteer pool and reduce the impact of mandatory overtime but there are limits to how these resources can be used effectively.

NDOC concurs with the report that this will not reduce overtime or generate savings but may distribute the overtime more equitably over more employees, reducing the impact of mandatory overtime. But as long as there is no compromise to safety and security, using employees who volunteer for overtime is preferable to mandating overtime, regardless of the frequency for which any particular employee volunteers for overtime or receives in additional compensation.

Recommendation #3:

Reassessing staffing to determine appropriate correctional officer needs at each facility

NDOC agrees with the recommendation to reassess staffing levels but does not agree the assessment will result in a reduction to staffing, a reduction to overtime, or generate savings. Implementation was partially implemented through the SFY18-19 budget request and will continue through the SFY20-21 budget cycle.

NDOC agrees the staffing needs to be reassessed. NDOC recognized the challenges of meeting the demands of the populations and commissioned a study in 2013 to review staffing levels needed to complete the required workload while maintaining the safety and security. In July 2014, the Association for State Correctional Administrators (ASCA) concluded an additional 399 positions were required to perform the NDOC duties safely and securely based on national standards. This study considered the designed workload and resulting legislatively approved staffing. The study also recognized the workload exceeding the designed levels for a legislatively approved post and the workload not assigned to any legislatively approved post.

For instance, the legislatively designed male population is 11,941 inmates assigned to the legislatively approved posts. As of August, NDOC has 12,473 male inmates. The additional population is housed in

unconventional areas not designed for housing inmates. Supervision of the inmates in unconventional areas are less efficient than conventional housing and do not have any legislatively approved posts. In other words, full staffing would not provide any officers to supervise inmates housed in unconventional areas and the legislative design formula does not recognize the inefficiencies of using these areas. Full staffing is insufficient to complete the actual workload.

In addition to the absence of legislatively approved posts, NDOC also completes workload that is in excess of what was designed for legislatively approved posts. For instance, FMWCC has 4 legislatively approved posts assigned to hospital coverage. For every inmate admitted to the hospital, it requires two officers on eight hour shifts around the clock for the duration of the stay. So, one inmate generates a requirement for 2 officers x 3 shifts, or 6 officers per day, which is two more than legislatively approved posts for hospital coverage. This means ANY hospital admission would exceed the legislatively approved posts for hospital coverage and FMWCC routinely exceeds 40 hospital days per month. Recently, the facility had 12 inmates in the hospital for high risk pregnancy. This required 12 inmates x 2 officers x 3 shifts, or 72 officers for a single day and these particular inmates were in the hospital for one to three days (with other inmates rotating into and out of the hospital for other reasons). Clearly, 72 officers substantially exceeded the capacity of the legislatively approved 4 officers for this assigned workload, with the balance completed on voluntary and mandatory overtime by all eligible officers. This same condition exists for all of the NDOC facilities. In other words, full staffing would not provide the necessary officers to supervise these inmates. Full staffing is insufficient to complete the actual workload.

The report states overtime hours paid for by a facility should equal the number of vacant position hours (full staffing). NDOC points out full staffing does not recognize the workload that exceeds the legislative designed assignment to the legislatively approved posts. Full staffing also does not recognize the workload that has not been assigned to a legislatively approved post. As the ASCA study identifies, full staffing would still be 399 positions short of the staffing necessary to complete the workload safely and securely. NDOC agrees the legislatively approved posts need to be reassessed to provide the appropriate number of officers to complete the workload. The ASCA study demonstrates this is not a reduction to hours of service and that full staffing is not a sufficient standard for the workload. Portions of the ASCA study were implemented in the SFY18-19 budget and will continue to be considered for future budget requests.

Even with the overtime hours covering for the vacant hours, the workload exceeds full staffing. The overtime is used to cover the legislatively designed workload and as much of the unassigned workload. But staff have limitations on the number of hours of overtime they can work and often limit the capacity of NDOC to complete the workload. When insufficient staffing is available, the wardens are forced to shut-down programming (which may include recreation, chapel, education, law library, merit credit evidence-based programs, non-emergent medical, etc.) and forced to cell feed general population inmates. This results in disgruntled inmates and generates increases in grievances for denied access to the courts because of the cancellation of the law library, prevention of practicing their religion because chapel or sweat lodge periods were cancelled, inadequate nutrition because of necessary deviations to the menu, medical indifference because of deferred medical procedures, etc. Each grievance or lawsuit

is extremely workload intensive and costly to the NDOC, the Attorney General's Office, and the state of Nevada

Recommendation #4:

Implement part-time or critical needs correctional officer positions for hospital coverage and other needs

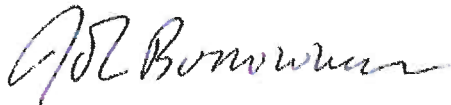
NDOC agrees with this recommendation and will pursue generating a pool of alternative employee resources.

NDOC considered the use of private security officers in the past and will reevaluate the possibility again knowing there are limits to functionality and cost effectiveness. NDOC already uses the critical labor designation option for the rural facilities (with 8 current employees) but will expand the designation to qualify any of our facilities with chronic vacancies when the designation is reconsidered at the February 2018 BOE meeting.

NDOC has not considered the use of part-time employees given the training requirements, scheduling nuances of such a group, and extended daily commute to many of our facilities. However, it would be helpful if NDOC could generate the labor pool and use effectively. NDOC will pursue recruiting for this option by January 2018.

NDOC appreciates the opportunity to openly discuss these issues with the audit team and the public and will pursue potential solutions to better manage overtime. We look forward to the relief these solutions may provide and will report on our progress and success.

Thank you,



John Borrowman
NDOC Deputy Director, Support Services

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Nevada Department of Corrections (NDOC), the Division of Internal Audits categorized the four recommendations contained within this report into one of two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). NDOC should begin taking steps to implement all recommendations as soon as possible. NDOC's target completion dates are incorporated from Appendix B.

Category 2: Recommendations with an anticipated implementation period of more than six months.

<u>Recommendations</u>	<u>Time Frame</u>
1. Schedule overtime pay on hours worked not hours paid. (page 5)	Dec 2018
2. Establish a strategy to encourage increased number of overtime volunteers, including conducting a DHRM climate survey. (page 8)	Dec 2018
3. Reassess staffing to determine appropriate correctional officer needs at each facility. (page 14)	Dec 2018
4. Implement part-time or critical needs correctional officer positions for hospital coverage and other needs. (page 14)	Dec 2018

The Division of Internal Audits shall evaluate the action taken by NDOC concerning report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Executive Branch Audit Committee and NDOC.

