



Ohio Auditor of State Special Investigations Unit



Case Closing Memo

Case Name: City of Lorain
Case #: 2023-CA13751
Lorain County / Northeast Region
Investigative Team: FAM Yoder & Investigator Greg Kopniske
Memo Date: October 6, 2023

Background:

On April 26, 2023, SATF considered a complaint regarding payroll concerns in the utilities department, law department, and police department and determined to open a preliminary audit and investigation. During the course of our preliminary audit and investigation a fourth payroll complaint in the fire department was brought to our attention.

Work Performed:

We obtained pertinent records including union contracts, payroll ordinances, payroll reports and department policies. We also conducted multiple interviews with city officials and financial auditors from Zupka and Associates. The results of our work are broken down by department as follows:

Utilities Department

The allegations in the utilities department centered around concerns of improper and excessive overtime and higher position pay. The Lorain Police Department (PD) was also conducting their own investigation into the same allegations and provided SIU with a copy of their investigative report.

A review of the union contract governing hours of work and overtime for the employees in the utilities department revealed confusing and inconsistent language regarding higher position pay and overtime eligibility. The information we uncovered showed the City may not be handling overtime and higher position pay consistently within the utilities department, but we did not find evidence to support criminal charges. A review of the extensive Lorain PD report shows the same conclusion.

Law Department

In the course of the financial audit, payroll discrepancies were discovered for the assistant law director and prosecutor positions. Auditors from Zupka and Associates were not provided with all of the requested time sheets for the audit scope. They were provided with only three timesheets and one of the full-time individuals had been paid for working 40 hours per week, while the timesheet reflected less than 40 hours. There were also instances where part-time employees had reported working in excess of 40 hours per week.

At the time of the complaint, all non-elected employees of the law department were governed by the payroll ordinance for all classified and unclassified non-bargaining unit employees which categorized the positions as hourly and non-salaried. However, the appointment letters for the assistant law director and prosecutor positions reflected they were salaried workers.

Per the Law Director, timesheets had been destroyed in error by the current office manager in December 2022. Additionally, law department timesheets only reflected the number of hours worked in the office and were not an accounting on the total number of hours worked per week. On September 18, 2023, council passed an ordinance clarifying the assistant law director and prosecutor positions were salaried and overtime exempt.

Due to the lack of time sheets prior to December 2022, the existing time sheets not recording the same information as the payroll system, and the recently clarified position that the assistant law directors and prosecutors are salaried employees, criminal charges are not warranted.

Police Department

The Lorain County Prosecutor's office referred this portion of the complaint as they had a conflict of interest. The referred complaint alleged the Police Chief (Chief) was not taking leave time for hours which he was not working, and subordinates were receiving higher position pay as acting chief. During the course of our investigation another incident occurred where the Chief was on vacation in Florida while a high-profile officer-involved shooting of a dog occurred. The following pay period, the Chief's payroll was submitted with no vacation hours reflected.

The Chief is an overtime exempt, salaried employee who typically works four ten-hour days, Monday through Thursday although the actual hours worked varies greatly depending on workload. Since the Chief is a salaried employee, his hours worked are entered every week as 40 hours regardless of the actual amount of work performed for that pay period. Documentation does not exist to denote the hours of work the Chief actually performs.

When the Chief is not on-duty, but still available to be reached if needed, no acting chief is needed. For times when the Chief is not available such as vacations, trainings, personal appointments, etc, one of the Captains serves as acting chief and is eligible to receive higher position pay (HPP). According to the Law Director, the Chief is the sole authority of when an acting chief is needed.

The officer-involved dog shooting incident occurred while the Chief was on vacation in Florida. According to the Chief, Law Director and an Assistant Law Director, the incident garnered wide-spread attention requiring an extensive amount of work for the Chief that week. The Law Director and Assistant Law Director confirmed the Chief performed the required work while he was in Florida. Chief McCann provided documentation he maintained which reflected he worked 37 hours while in Florida.

Since the Chief is a salaried employee and is not required to document his hours worked, it was not possible to substantiate the allegation that Captains were improperly receiving HPP, and the Chief was not using leave time. Regarding the allegation when the Chief was on vacation, documentation was provided showing he did perform work while in Florida. Criminal charges are not warranted for either allegation.

Fire Department

During the course of our investigation, we learned of significant payroll discrepancies in the Fire Department by Zupka and Associates. Specifically, fire department personnel who had separated from the City's employment in 2022 may have been improperly compensated for their unused leave time.

After a review of the union contract and interviewing the fire department payroll clerk, it was determined that errors had been made, but they were due to the complicated nature of fire department payroll policies and not considered criminal.

Recommendation:

We consulted with SIU legal on all of the allegations and it was determined there was insufficient evidence to seek criminal charges. We recommend referring all of the fire department payroll issues and our findings back to the financial audit region to consider if any findings for recovery or other non-compliance/management recommendations are necessary, and the preliminary audit and investigation be closed.

Respectively submitted,
FAM Cara Yoder
Investigator Greg Kopniske